



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

August 2, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Medford Plan Amendment  
DLCD File Number 004-07



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: August 15, 2007**

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  
Suzanne Myers, City of Medford

<paa> ya/

Enclosure: Revised Staff Report dated May 3, 2007 with Exhibits; Ordinance No. 2007-100

In person  electronic  mailed

**FORM 2**

**DLCD**

# Notice of Adoption

DATE STAMP

**DEPT OF**

**JUL 27 2007**

**LAND CONSERVATION AND DEVELOPMENT**

For DLCD Use Only

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

Jurisdiction: **City of Medford**

Local file number: **DCA-06-045**

Date of Adoption: **5/17/2007**

Date Mailed: **7/23/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **March 2007**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

This amendment to Final PUD Plan review makes the process of determining whether a Final PUD Plan conforms with the approved Preliminary PUD Plan a ministerial action similar to the current final subdivision plat review process. It designates ministerial actions as Class "E" plan authorizations. Ministerial actions are distinguished from administrative actions in that ministerial actions do not involve discretion in the decision.

Does the Adoption differ from proposal? Please select one

Same

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD # 004-07 (15983)**

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**DLCD file No.** \_\_\_\_\_

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

Jackson County Planning

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Local Contact: **Suzanne Myers**

Phone: (541) 774-2387 Extension:

Address: **200 South Ivy Street**

Fax Number: **541-774-2464**

City: **Medford**

Zip: **97501-**

E-mail Address: **suzanne.myers@cityofmedford.org**

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### **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 Complete Copies** (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - **ATTENTION: PLAN AMENDMENT SPECIALIST**.

ORDINANCE NO. 2007-100

AN ORDINANCE amending Chapter 10 of the Medford Code by amending sections 10.012, 10.051, 10.102, 10.122, 10.135, 10.150, 10.155, 10.157, 10.163, 10.175, 10.220, 10.230, 10.235, 10.240, and 10.245, and adding section 10.241, pertaining to review of Final Planned Unit Development (PUD) Plan applications, making such review a ministerial staff-level decision with appeal rights to the Planning Commission.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. Section 10.012 of the Medford Code is amended to read as follows:

10.012 Definitions, Specific.

When used in this chapter, the following terms shall have the meanings as herein ascribed:

\* \* \*

**Ministerial Decisions.** Decisions by the Planning Director that involve review based on clear and objective standards. Such decisions do not involve public notice or a hearing prior to the decision and, unless otherwise provided, do not allow for local appeal of the decision.

\* \* \*

Section 2. Section 10.051 of the Medford Code is amended to read as follows:

10.051 Appeals.

\* \* \*

Class "E" Ministerial Decisions are final and, with the exception of Final PUD Plan applications, are not appealable under the Medford Land Development Code or any other provision of the Medford Code.

Section 3. Section 10.102 of the Medford Code is amended to read as follows:

10.102 Plan Authorizations.

A plan authorization is a specific planning and development review process which sets forth specific conditions for development consistent with the policies, standards and criteria of the Comprehensive Plan and this chapter. Plan authorizations are categorized as follows:

Plan Authorization	Procedural Class
Major Comprehensive Plan Amendment	"A"
Land Development Code Amendments (includes major zoning map amendments)	"A"
Minor Comprehensive Plan Amendment	"B"

Annexations	"B"
Vacations	"B"
Transportation Facility Development	"B"
Zone Changes	"C"
Planned Unit Development	"C"
Conditional Use Permits	"C"
Exceptions	"C"
Land Divisions	"C"
Site Plan and Architectural Review	"C"
Historic Review	"C"
Administrative Decisions	"D"
Ministerial Decisions (non-discretionary)	"E"
Final PUD Plan	"E"
* * *	

Section 4. Section 10.122 of the Medford Code is amended to read as follows:

10.122 Authority of the Planning Commission.

The Planning Commission is hereby designated as the approving authority for the following actions:

	Plan Authorization	Class
1.	Zone Changes, except when applied by the City concurrent with annexation	"C"
2.	Planned Unit Developments, Preliminary PUD Plan	"C"
3.	Conditional Use Permits	"C"
4.	Exceptions	"C"
5.	Land Divisions, Tentative Plats	"C"
* * *		

Section 5. Section 10.135 of the Medford Code is amended to read as follows:

10.135 Planning Director Authority.

The Planning Director is hereby designated as the approving authority for final plats, final PUD plans and for the development permit. The Planning Director shall also be responsible for the administration and enforcement of this chapter.

Section 6. Section 10.150 of the Medford Code is amended to read as follows:

10.150 General Procedural Requirements.

There are five (5) procedural classifications employed in the administration of this chapter:

CLASS "A"	Legislative actions (major comprehensive plan amendments, code changes, major zoning map amendments)
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CLASS "B"	Council-approved quasi-judicial decisions (annexations, except as provided in Section 10.199, vacations, minor comprehensive plan map amendments, appeals, transportation facility development)
CLASS "C"	Other quasi-judicial decisions (zone changes, preliminary PUD plans, conditional use permits, exceptions, site plan and architectural review, land division tentative plats, historic review)
CLASS "D"	Administrative decisions
CLASS "E"	Non-discretionary, ministerial decisions (final plat, final PUD plan)

Each of the above procedural classifications is subject to the specified due process and administrative requirements of this chapter.

Section 7. Section 10.155 of the Medford Code is amended to read as follows:

10.155 Due Process.

In addition to the application review requirements of Section 10.175, Application Review Procedure, there are eight (8) basic due process elements applicable to Class "A", Class "B" and Class "C" procedural classifications. The due process requirements are:

- (1) Notification
- (2) Disclosure
- (3) Conflict of Interest
- (4) Hearing
- (5) Cross-Examination
- (6) Action and Decision Time
- (7) Findings
- (8) Record

Section 8. Section 10.157 of the Medford Code is amended to read as follows:

10.157 Notification, Publication and On-Site Posting.

- (1) Publication. Unless otherwise indicated notification of all proposed actions shall be published in a newspaper of general circulation prior to the scheduled meeting date before the approving authority. The schedule of publication for each type plan authorization shall be as follows:

Plan Authorization Class	Publication Schedule
***	
"C" (Zone changes, preliminary PUD plans, conditional use permits, exceptions)	Shall be published in a newspaper of general circulation no later than ten days prior to the scheduled meeting date before the approving authority.
***	

Section 9. Section 10.163 of the Medford Code is amended to read as follows:

10.163 Action and Decision Time.

Action on all plan authorizations shall be taken within the time herein prescribed. For all Class "A", Class "B" and Class "C", the Planning Department shall, within five (5) working days of the decision date, provide written notification to the applicant and all persons who testify orally or in writing on the plan authorization. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.

Section 10. Section 10.175 of the Medford Code is amended to read as follows:

10.175 **Application Review Procedure.**

Each procedural classification is subject to four (4) application review procedures as follows:

- (1) Application, General
- (2) Referral and Review
- (3) Application Form
- (4) Criteria

Section 11. Section 10.220 of the Medford Code is amended to read as follows:

10.220 Class "C" Actions.

Class "C" actions are comprised of the following plan authorizations:

- (1) Zone Changes
- (2) Planned Unit Development, Preliminary PUD Plan
- (3) Conditional Use Permit
- (4) Exceptions
- (5) Site Plan and Architectural Review
- (6) Land Divisions, Tentative Plats
- (7) Historic Review

Section 12. Section 10.230 of the Medford Code is amended to read as follows:

10.230 Planned Unit Development (PUD) - General Provisions.

\* \* \*

C. Stepped Process: Consolidated Applications Authorized: Approval of a PUD shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as the first step and approval of a Final PUD Plan by the Planning Director as the second step. As used in MLDC 10.230 through 10.245, the Planning Director shall mean the Director of the Medford Planning Department or his/her designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan.

E. Common Elements: A multi-family residential PUD must include a minimum of 20% of the land

area as common area unless otherwise modified by the Planning Commission. This common area shall be for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

1. If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Director before recording in the official records of Jackson County.

2. If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Director and the Planning Director shall have no authority under this Subsection to require changes thereto.

3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.

4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan pursuant to Subsection 10.235(A)(3)(e) or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

\* \* \*

Section 13. Section 10.235 of the Medford Code is amended to read as follows:

10.235 Preliminary PUD Plan - Application Procedures.

A. Application for a Preliminary PUD Plan: An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in his/her discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon the size and nature of the PUD. If an application for a PUD is accepted by the City as complete under ORS 227.178 but the application does not contain all of the items listed below, the missing items shall be deemed to have been waived by the Planning Director. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

1. Current assessor map with the boundaries of the proposed PUD identified.



2. Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.287. Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.235(A)(3)(f), 10.230(D)(7) and 10.230(D)(8). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets. It is further provided that:

\* \* \*

C. Approval Criteria for Preliminary PUD Plan: The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:

\* \* \*

5. If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.230(D)(7)(c), the applicant shall alternatively demonstrate that either: 1) demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or 2) the property can be supplied by the time of development with the following Category "A" public facilities which can be supplied in sufficient condition and capacity to support development of the proposed use:

- a. Public sanitary sewerage collection and treatment facilities.
- b. Public domestic water distribution and treatment facilities.
- c. Storm drainage facilities.
- d. Public streets.

Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.

6. If the Preliminary PUD Plan includes uses proposed under Subsection 10.230(D)(7)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.248.

\* \* \*

D. Conditions: If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions authorized under Section 10.291, it may attach conditions to the approval which are determined to be reasonably necessary to ensure:

1. The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.

2. Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.296.

3. The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved modifications.

4. There are appropriate safeguards to protect the public health, safety and general welfare.

5. There will be ongoing compliance with the standards and criteria in this Section.

6. To guarantee that streets, public facilities and utilities can be appropriately extended from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.

\* \* \*

F. Postponed Preliminary PUD Plan Approval for Building Architecture: When the approval of architectural plans for buildings in the PUD has been postponed under Subsection 10.235(A)(2)(c), no Final PUD Plan shall be approved until the architecture of buildings has been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to MLDC 10.230(G), and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.

\* \* \*

Section 14. Section 10.240 of the Medford Code is amended to read as follows:

10.240 Final PUD Plan - Application Procedures.

A. Application for a Final PUD Plan: Application for a Final PUD Plan shall be on forms supplied by the City. The Final PUD Plan shall contain in final form all information and materials required by Subsection 10.235(A) unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.235(C). As appropriate, the Final PUD Plan shall incorporate all conditions imposed in the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with 10.240(G), Approval Criteria for Final PUD Plan, including compliance with the conditions of approval.

\* \* \*

C. Phased PUD: The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Subsection shall prevent the Planning Director from approving a Final PUD Plan in phases provided that the Planning Director approves a phasing plan pursuant to Subsections 10.235(A)(3)(e) and 10.230(E)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensures that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first

phase, Final PUD Plans must be filed with the City for any subsequent phases.

\* \* \*

F. Final Plat for Land Division: Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Director.

G. Approval Criteria for Final PUD Plan: A Final PUD Plan shall be approved by the Planning Director if the Director concludes that compliance exists with each of the following criteria:

1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Subsection 10.230(E).

2. The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all conditions imposed by the Planning Commission which were attached to the approval of the Preliminary PUD Plan.

The Planning Director in his/her discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.

Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets, sewer or storm drain to serve the successive phases.

A Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following are found to apply. If such inconsistencies are identified, an application for revision to the Preliminary PUD Plan shall be required:

a. The exterior boundaries of the PUD have changed except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,

b. The number of housing units has increased,

c. The number of housing units has decreased by more than 5%,

d. Modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.230(D).

Section 15. Section 10.241 of the Medford Code is added to read as follows:

10.241 Action and Decision Time: Appeal Rights: Final PUD Plan.

A. Upon submittal of the Final PUD Plan application to the Planning Director, the date of receipt shall be indicated on each copy of the materials submitted. Within thirty 30 days of receipt, the Planning Director shall determine whether the application as submitted, along with the required information, is complete as per this chapter. If the Planning Director fails to provide notice to the

applicant in writing within 30 days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.

B. If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Director shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (a) all of the missing information; (b) some of the missing information and written notice from the applicant that no other information will be provided; or (c) written notice from the applicant that none of the missing information will be provided.

C. Within 25 working days after an application is deemed complete, the Planning Director shall approve or disapprove the Final PUD Plan and acknowledge compliance with all conditions of the Preliminary PUD Plan. If the Final PUD Plan is not substantially consistent with the Preliminary PUD Plan and all conditions thereto, the Planning Director may disapprove the Final PUD Plan, and require the applicant to apply for a revision to the Preliminary PUD Plan. Upon disapproval of any Final PUD Plan, the Planning Director shall return the Final PUD Plan to the applicant together with a final order of denial setting forth the reasons for such denial and advising the applicant of the applicant's appeal rights pursuant to Section 10.241(E).

D. Upon approval by the Planning Director, the Planning Director shall prepare and sign a final order of approval.

E. Within 14 days of the date of the final order for denial, an applicant may submit a written notice of appeal to the Planning Department. The notice of appeal shall be signed by the appellant or his agent and shall contain:

(1) An identification of the decision sought to be reviewed, including the date of decision; and

(2) A statement of the specific grounds upon which the appellant relies as a basis for appeal.

Within 30 days of the Planning Department receiving the notice of appeal, the Planning Department shall set the appeal as a written communication before the Planning Commission. The Planning Commission, on appeal, shall review the application for Final PUD Plan approval de novo, pursuant to the provisions of 10.240(G) and shall approve or deny said application. Appellant shall not have the right to a public hearing on appeal. The decision of the Planning Commission upon appeal is final.

Section 16. Section 10.245 of the Medford Code is amended to read as follows:

10.245 Revision or Termination of a PUD.

A. Revision of a Preliminary or Final PUD Plan: The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:

\* \* \*

2. Consolidated Procedure: At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.

\* \* \*

4. De minimis Revisions: Notwithstanding Subsection 10.230(G), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that he/she determines are de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code. The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Planning Director of the Final PUD Plan. Revisions that are de minimis shall not require public notice, public hearing or an opportunity to provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a Class 'C' Procedure or such other procedure as may be permitted by law.

B. Termination of a PUD: A PUD may be terminated by action of the Planning Commission subject to the following procedures:

1. If substantial development of the PUD has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(1). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the land covered by the approved PUD and which also constitutes more than 50% of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

\* \* \*

PASSED by the Council and signed by me in authentication of its passage this 17 day of May, 2007.

ATTEST: /s/Glenda Owens  
City Recorder

/s/Gary H. Wheeler  
Mayor

APPROVED May 17, 2007.

/s/Gary H. Wheeler  
Mayor

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

City of Medford

May 3, 2007

### REVISED STAFF REPORT

**File No.:** DCA-06-045 - Land Development Code Amendment (Major Class 'A' Legislative) Revisions to Final PUD Plan Review Ordinance

**Applicant:** City of Medford

**Request:** Consideration of amendments to *Medford Land Development Code* sections 10.012; 10.051; 10.102; 10.122; 10.135; 10.150; 10.155; 10.157; 10.163; 10.175; 10.220; 10.230; 10.235; 10.240; and 10.245, and creating new section 10.241, relating to review of Final Planned Unit Development (PUD) Plan applications, making such review a ministerial staff-level decision with appeal rights to the Planning Commission.

#### BACKGROUND:

This proposed amendment to Final PUD Plan review makes the process of determining whether a Final PUD Plan conforms with the approved Preliminary PUD Plan a ministerial action similar to the current final subdivision plat review process. It designates ministerial actions as Class "E" plan authorizations. Ministerial actions are distinguished from administrative actions in that ministerial actions do not involve discretion in the decision. The proposal allows 30 days to check the submitted materials for completeness, and then 25 days to approve or deny the Final PUD Plan based on substantial consistence with the Preliminary PUD Plan approved by the Planning Commission. The proposal also allows the Planning Director to forward a Final PUD Plan at his/her discretion to the Planning Commission for a recommendation as to whether it is in substantial consistence with the Preliminary PUD Plan.

After Planning Commission discussions, section 10.241 was revised to allow for the appeal of a Final PUD Plan review decision to the Planning Commission. Ministerial decisions are generally not appealable, as reflected in the proposal, but with Final PUD Plan review decisions being the exception. Section 10.240 G. was modified to emphasize what constitutes a substantially consistent Final PUD Plan with the approved Preliminary PUD Plan. Very minor adjustments were made to the wording in the ordinance after the Planning Commission Study Session of September 11, 2006.

Note that the *Land Development Code* defines plan authorizations by category. Class "A" are City Council-approved legislative actions, i.e., major Comprehensive Plan amendments, code changes, etc. Class "B" are City Council-approved quasi-judicial actions, i.e., annexations, minor General Land Use Plan Map amendments, transportation facility improvements, etc. Class "C" are those quasi-judicial actions delegated to the Planning Commission, i.e., zone changes, PUDs, conditional use permits, exceptions, land divisions, etc. Class "D" are administrative actions having some discretion taken by the Planning Director or designee. The new Class "E" identifies ministerial actions, such as shed and fence permit reviews, which have no discretion involved in the decision.

This proposal is part of the Planning Department's efforts to streamline processes and reduce workload for the Planning Commission, staff, and applicants. An initial work program was developed to address the increasing workload and to begin implementing the recommendations of the *Land Development Review System Assessment and Improvement Plan* prepared in 2004 and ongoing. The work program was developed after consultation with the City Council, the Planning Commission, developers, and the Chamber of Commerce. One of the components of the work program was to make Final PUD Plan review a ministerial action rather than one that requires Planning Commission review.

**AMENDED LAND DEVELOPMENT CODE LANGUAGE:**

The attached Exhibit 'A' provides the proposed code revision language. Words to be deleted are ~~struck through~~ and words to be added are underlined.

**RELEVANT SUBSTANTIVE CRITERIA:**

For Class 'A' Major Legislative Amendments, *Medford Land Development Code* Section 10.182, Application Form, requires findings that address the following:

- (1) Identification of all applicable Statewide Planning Goals.
- (2) Identification and explanation of the goals and policies of the Comprehensive Plan considered relevant to the decision.
- (3) Statement of the facts relied upon in rendering the decision, if any.
- (4) Explanation of the justification of the decision based on the criteria, standards, and facts.

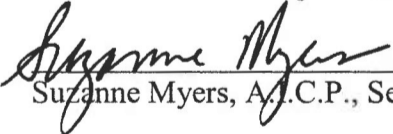
**FINDINGS:**

The proposed Findings of Fact and Conclusions of Law (Exhibit 'B'), are, by this reference, incorporated as a part of this report. A discussion of the proposal relative to the approval criteria listed above is included in the Findings.

**RECOMMENDED ACTION:**

The Medford Planning Commission, at the regular meeting of February 22, 2007, voted to initiate and forward a favorable recommendation to the City Council for DCA-06-045 per the Staff Report dated February 14, 2007, including:

- Exhibit 'A' Proposed Final PUD Plan Review Amendment, dated February 14, 2007
- Exhibit 'B' Findings of Fact and Conclusions of Law, dated February 14, 2007
- Exhibit "C" Excerpt of CPAC Meeting Minutes of January 24, 2006

  
 \_\_\_\_\_  
 Suzanne Myers, A.I.C.P., Senior Planner

Reviewed By: \_\_\_\_\_  
 Robert O. Scott, A.I.C.P., Planning Director

**PLANNING COMMISSION AGENDA:** February 22, 2007

**MEDFORD LAND DEVELOPMENT CODE  
PROPOSED FINAL PUD PLAN REVIEW AMENDMENT  
DRAFT OF FEBRUARY 14, 2007  
Exhibit "A"**

**10.012 Definitions, Specific.**

When used in this chapter, the following terms shall have the meanings as herein ascribed:

**Ministerial Decisions.** Decisions by the Planning Director that involve review based on clear and objective standards. Such decisions do not involve public notice or a hearing prior to the decision and, unless otherwise provided, do not allow for local appeal of the decision.

**10.051 Appeals.**

Any person with standing may appeal to the City Council any Type "C" or "D" decision of an approving authority (Planning Commission, Site Plan and Architectural Commission, and Planning Director) which approves conditionally, approves, or disapproves a development permit, or plan authorization, as per Section 10.102, Plan Authorizations, of this chapter, or Building Permit by filing a written notice together with the requisite filing fee with the city recorder, within twenty-one (21) days after development permit or plan authorization approval or disapproval by the approving authority.

A person has standing if the person: (1) appeared in the initial proceedings orally or in writing; and (2) was entitled to a right of notice and hearing prior to the decision to be reviewed, or is aggrieved by the decision, or has interests adversely affected by the decision.

Class "E" Ministerial Decisions are final and, with the exception of Final PUD Plan applications, are not appealable under the Medford Land Development Code or any other provision of the Medford Code.

**10.102 Plan Authorizations.**

A plan authorization is a specific planning and development review process which sets forth specific conditions for development consistent with the policies, standards and criteria of the Comprehensive Plan and this chapter. Plan authorizations are categorized as follows:

<b>Plan Authorization</b>	<b>Procedural Class</b>
Major Comprehensive Plan Amendment	"A"
Land Development Code Amendments (includes major zoning map amendments)	"A"
Minor Comprehensive Plan Amendment	"B"
Annexations	"B"



Vacations	"B"
Transportation Facility Development	"B"
Zone Changes	"C"
Planned Unit Development	"C"
Conditional Use Permits	"C"
Exceptions	"C"
Land Divisions	"C"
Site Plan and Architectural Review	"C"
Historic Review	"C"
Administrative Decisions	"D"
Ministerial Decisions (non-discretionary)	"E"
Final PUD Plan	"E"

The development permit application will identify the required plan authorization(s) necessary for issuance of a development permit. The applicant for a development permit, at the time of application or any time thereafter, may request approval of any one or combination of required plan authorizations as identified on the development permit application.

[Amd. Sec. 3, Ord. No. 5820, March 19, 1987; Amd. Sec. 1, Ord. No. 7659, June 2, 1994.]

**10.122 Authority of the Planning Commission.**

The Planning Commission is hereby designated as the approving authority for the following actions:

	<b>Plan Authorization</b>	<b>Class</b>
1.	Zone Changes, except when applied by the City concurrent with annexation	"C"
2.	Planned Unit Developments, <u>Preliminary PUD Plan</u>	"C"
3.	Conditional Use Permits	"C"
4.	Exceptions	"C"
5.	Land Divisions, Tentative Plats	"C"

The Planning Commission shall also act as the advisory agency to the City Council for all Class "A" and Class "B" actions, except annexations as set forth in Section 10.111, Authority of the City Council.

It shall further be the responsibility of the Planning Commission to:

- (1) Study and report on all proposed code amendments referred to it by the City Council. When reviewing any such proposed amendments, the Planning Commission shall submit its recommendation and findings to the City Council.
- (2) Review this chapter and report on same to the City Council at least once every five (5) years commencing on the date of enactment of this chapter. Specifically the Planning Commission shall:
  - (a) Analyze the extent to which development has occurred in the city as compared to the projected growth per the Comprehensive Plan.

- (b) Recommend any changes in the mapping of zoning districts as determined necessary to accommodate the expected twenty-year growth as determined by the Comprehensive Plan.

[Amd. Sec. 2, Ord. No. 6265, Dec. 15, 1988; Amd. Sec. 3, Ord. No. 7659, June 2, 1994; Amd. Sec. 1, Ord. No. 2002-95, June 20, 2002; Amd. Sec. 1, Ord. No. 2003-284, Nov. 6, 2003.]

**10.135 Planning Director Authority.**

The Planning Director is hereby designated as the approving authority for final plats, final PUD plans and for the development permit. The Planning Director shall also be responsible for the administration and enforcement of this chapter.

[Amd. Sec. 3, Ord. No. 6265, Dec. 15, 1988.]

**10.150 General Procedural Requirements.**

There are ~~three (3)~~ five (5) procedural classifications employed in the administration of this chapter:

CLASS "A"	Legislative actions (major comprehensive plan amendments, code changes, major zoning map amendments)
CLASS "B"	Council-approved quasi-judicial <u>decisions</u> (annexations, except as provided in Section 10.199, vacations, minor comprehensive plan map amendments, appeals, transportation facility development)
CLASS "C"	Other quasi-judicial <u>decisions</u> (zone changes, <del>planned-unit developments</del> <u>preliminary PUD plans</u> , conditional use permits, exceptions, site plan and architectural review, land division tentative plats, historic review)
CLASS "D"	<u>Administrative decisions</u>
CLASS "E"	<u>Non-discretionary, ministerial decisions (final plat, final PUD plan)</u>

Each of the above procedural classifications ~~are~~ is subject to the specified due process and administrative requirements of this chapter.

[Amd. Sec. 6, Ord. No. 5820, March 19, 1987; Amd. Sec. 8, Ord. No. 7659, June 2, 1994; Amd. Sec. 3, Ord. No. 2002-95, June 20, 2002.]

**10.155 Due Process.**

In addition to the ~~administrative~~ application review requirements of Section 10.175, ~~Administrative Application Review Procedure~~, there are eight (8) basic due process elements applicable to ~~each procedural classification~~ Class "A", Class "B" and Class "C" procedural classifications. The due process requirements are:

- (1) Notification
- (2) Disclosure
- (3) Conflict of Interest
- (4) Hearing
- (5) Cross-Examination
- (6) Action and Decision Time

- (7) Findings
- (8) Record

**10.157 Notification, Publication and On-Site Posting.**

(1) Publication. Unless otherwise indicated notification of all proposed actions shall be published in a newspaper of general circulation prior to the scheduled meeting date before the approving authority. The schedule of publication for each type plan authorization shall be as follows:

<b>Plan Authorization Class</b>	<b>Publication Schedule</b>
"A" (a <u>A</u> ll)	Ten (10) days prior to the scheduled meeting date before the advisory agency. Ten (10) days prior to the scheduled public hearing date before the approving authority.
"B" (Annexation)	Once each week for two successive weeks prior to the day of the hearing before the approving authority. Notice shall also be posted in four (4) public places in the city for a like period.
"B" (Vacations)	Once a week for two (2) consecutive weeks prior to the date of the hearing before the approving authority. Within five (5) days after publication of the first notice, the City Recorder shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed "Notice of Street Vacation", "Notice of Plat Vacation" or "Notice of Plat and Street Vacation" as the case may be; the notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.

<p>"B" (Minor Comp. Plan Amendments [quasi-judicial], transportation facility development)</p>	<p>Shall be published in a newspaper of general circulation no later than ten (10) days prior to the scheduled meeting date before the approving authority.</p>
<p>"C" (Zone changes, <del>preliminary planned-unit developments</del> PUD plans, conditional use permits, exceptions)</p>	<p>Shall be published in a newspaper of general circulation no later than ten days prior to the scheduled meeting date before the approving authority.</p>
<p>"C" (site plan and architectural review, land divisions and historic review)</p>	<p>Shall be posted in a public place no later than five (5) days prior to the scheduled meeting date before the approving authority.</p>

(2) On-Site Posting The applicant shall post public notice signs on the project site for any proposed Class "B" or "C" land use action (except vacations and annexations) according to the following:

- (a) Type and contents of sign – Notice signs (18 inch x 24 inch), available from the City of Medford Planning Department at the time of application shall be used to post the subject property. It shall be the applicant's responsibility to obtain the appropriate number of signs prior to the beginning of the required posting schedule. The applicant shall also be responsible for writing legibly on the sign in indelible ink, the description of the proposed land use action, the date of the public hearing, and the City of Medford file number for the proposed land use action.
- (b) Location and number of signs – A posted notice sign must be placed on each existing street frontage of the project site. If a frontage is over 600 feet long, a notice sign is required for each 600 feet, or fraction thereof. Notice signs must be posted within 10 feet of a street lot line and must be visible to pedestrians and motorists. Notice signs may not be posted in a public right-of-way, unless the land use action specifically pertains to a public right-of-way. If posting must occur in the right-of-way, care should be taken to comply with MLDC Section 10.735 Clear View of Intersecting Streets.
- (c) Sign posting schedule – It shall be the applicant's responsibility to post the required sign(s) 21 days prior to each public hearing date, assure that the signs remain posted until the final decision has been made by the approving authority, and remove the posted signs within 10 days following the final decision.
- (d) Signed statement required with application – Each application for a land use action which requires posting of the subject property shall be accompanied by a statement to be signed by the applicant. The statement shall indicate that the applicant is aware of the posting requirements, agrees to be responsible for posting the property as required by this section, and agrees to the consequences of failing to post the property as required.

(e) Consequences of failing to post the property as required – Failure to post the signs as required by this section is a violation of the Medford *Land Development Code*.  
[Amd. Sec. 2, Ord. No. 5986, Oct. 1, 1987; Amd. Sec. 1, Ord. No. 6014, Nov. 5, 1987; Amd. Sec. 10, Ord. No. 7659, June 2, 1994; Amd. Ord. No. 2004-58, March 18, 2004.]

**10.163 Action and Decision Time.**

Action on all plan authorizations shall be taken within the time herein prescribed. For all Class "A", Class "B" and Class "C", ~~the~~ Planning Department shall, within five (5) working days of the decision date, provide written notification to the applicant and all persons who testify orally or in writing on the plan authorization. The notice shall indicate the date that the decision will take effect, the approval's expiration date, and the final date for appeal.

[Amd. Sec. 14, Ord. No. 7659, June 2, 1994.]

**10.175 ~~Administrative~~ Application Review Procedure.**

Each procedural classification is subject to four (4) ~~administrative~~-application review procedures as follows:

- (1) Application, General
- (2) Referral and Review
- (3) Application Form
- (4) Criteria

**10.220 Class "C" Actions.**

Class "C" actions are comprised of the following plan authorizations:

- (1) Zone Changes
- (2) Planned Unit Development, Preliminary PUD Plan
- (3) Conditional Use Permit
- (4) Exceptions
- (5) Site Plan and Architectural Review
- (6) Land Divisions, Tentative Plats
- (7) Historic Review

[Amd. Sec. 29, Ord. No. 7659, June 2, 1994.]

**10.230 Planned Unit Development (PUD) - General Provisions.**

- A. **Purpose and Intent:** The PUD approach permits flexibility to allow creative and imaginative urban development that would otherwise not be possible under the strict requirements of this Code. The intent is to promote more efficient use of urban land and urban services while protecting natural features, creating common open space, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.
- B. **Acreage Limitation:** PUDs must contain one acre or more at the time of application filing.
- C. **Stepped Process:** Consolidated Applications Authorized: Approval of a PUD by ~~the Planning Commission~~ shall be a two-step process involving approval of a Preliminary PUD Plan by the Planning Commission as the first step and approval of a Final PUD Plan by the Planning Director as the second step. As used in

MLDC 10.230 through 10.245, the Planning Director shall mean the Director of the Medford Planning Department or his/her designee. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan.

D. **Modified Application of Standards Authorized.** To fulfill the purpose and intents of the standards set forth in Section 10.230(A), authority is herewith granted for the approval of PUDs which vary from the strict standards of this Code. The nature and extent of potential modifications shall be limited to the categories below described, provided that the City, in approving such modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:

1. **Lots and Parcels:** Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.
2. **Yards, Setbacks and Building Height:** Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.
3. **Parking, Bicycle and Pedestrian Standards:** Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.
4. **Frontage, Access, Landscaping and Signs:** Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.
5. **Streets Generally:** Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners pursuant to Subsection 10.239(E), provided:
  - a. Whether adjacent to or within a PUD, collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the comprehensive plan.
  - b. City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.
  - c. The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.
6. **Private Streets:** Private streets may vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect, intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:
  - a. With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city-standard streets.
  - b. The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.

- c. Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.
7. **Allowed Uses; Housing Types:** The following uses and housing types shall be permitted as part of a PUD subject to the following:
- a. In addition to permitted uses, any portion of a PUD may contain any housing type listed in Subsection 10.314(1-3). In approving housing types, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.838 (“Special Use Regulations”).
  - b. Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to 10.925 “Conditional uses within Riparian Corridors”.
  - c. Use(s) not permitted in the underlying zone may, nevertheless, be permitted and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.248. However, this provision shall not apply where the land outside the PUD which is nearer than 200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.
8. **Mixed Land Use Designations.** Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.
- E. **Common Elements:** A multi-family residential PUD must include a minimum of 20% of the land area as common area unless otherwise modified by the Planning Commission. This common area shall be for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets. Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

1. If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning ~~Commission~~ Director before recording in the official records of Jackson County.
  2. If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning ~~Commission~~ Director and the Planning ~~Commission~~ Director shall have no authority under this Subsection to require changes thereto.
  3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning ~~Commission~~ Director for approval as part of the Final PUD Plan before recording in the official records of Jackson County.
  4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan pursuant to Subsection 10.235(A)(3)(~~de~~) or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.
  5. Land shown on the Final Development Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:
    - a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.
    - b. To an association of owners created pursuant to ORS Chapters 94 or 100 or as otherwise created under Subsection 10.230(E)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.
  6. If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.
- F. **PUDs Exempt from Site Plan and Architectural Review:** PUDs approved under this Section shall be exempt and there shall be no requirement to apply separately for Site Plan and Architectural Review or to demonstrate compliance



with the criteria in Section 10.290. However, the Planning Director in his/her discretion may forward a Preliminary PUD Plan or proposed revisions thereto to the Site Plan and Architectural Commission for review. When forwarded by the Planning Director, the Site Plan and Architectural Commission shall have authority to review the PUD plans and make recommendations to the Planning Commission.

- G. **Delegation of Authority:** The Planning Commission may delegate authority to the Site Plan and Architectural Commission or to the Planning Director to approve in its name the plans for buildings or any other element of a PUD or revisions thereto after the Planning Commission has approved the Preliminary PUD Plan. The authority delegated by the Planning Commission under this Subsection shall be delimited in conditions attached to the approval. Notwithstanding any other provision of this Code and subject to an applicant's written request, the approval of delegated matters, where eligible, shall be procedurally treated as an Expedited Land Division pursuant to ORS 197.360 through 197.380, as amended. Lacking a written request from the applicant, approval of delegated matters shall be subject to a Class "C" Procedure as set forth in Article II.
- H. **Building Permits: Development and Operation of a PUD:** All building and construction plans submitted to the City for the purpose of obtaining building and other site improvement permits shall be consistent with the approved Final PUD Plan. The development and operation of the PUD shall conform in all respects with the approved Final PUD Plan.
- I. **Residential Density:**
  - (1) **Residential Density Calculation.** Minimum and maximum permitted residential densities in PUDs shall be calculated pursuant to 10.708, except, in PUDs having residential and non-residential land uses within a residential zoning district, including mixed-use buildings as defined herein, the minimum and maximum number of dwelling units shall be calculated using the gross area of the residentially zoned land including any to be occupied by non-residential uses. "Natural unbuildable areas" may be excluded at the developer's option as provided in 10.708.
  - (2) **Residential Density Bonus.** In PUDs larger than 5 acres, the residential density may be increased by up to 20% more than the maximum density permitted by (1) above.

[Amd. Sec. 34, Ord. No. 7659, June 2, 1994; Amd. Sec. 1, Ord. No. 8393, June 19, 1997; Amd. Sec. 2, Ord. No. 98-67, Apr. 2, 1998; Amd. Sec. 2, Ord. No. 2002-94, June 20, 2002; Amd. Sec. 10, Ord. No. 2004-259, Dec. 16, 2004; Amd. Sec. 1, Ord. No. 2005-97, June 2, 2005.]

#### 10.235 Preliminary PUD Plan - Application Procedures.

- A. **Application for a Preliminary PUD Plan:** An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in his/her discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon

the size and nature of the PUD. ~~As used in this Section, the Planning Director shall mean the Director of the Medford Planning Department or his/her designee.~~ If an application for a PUD is accepted by the City as complete under ORS 227.178 but the application does not contain all of the items listed below, the missing items shall be deemed to have been waived by the Planning Director. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

1. Current assessor map with the boundaries of the proposed PUD identified.
2. Preliminary PUD Plan (16 copies) and supplemental materials conforming to the Site Plan and Architectural Review application requirements in Section 10.287. Additionally, such plans shall include preliminary plans for providing public water and sanitary sewer service. The Preliminary PUD Plan shall indicate boundaries within the property which distinguish areas devoted to different land uses pursuant to Subsections 10.235(A)(3)(ef), 10.230(D)(87) and 10.230(D)(98). Where different land uses are separated by streets, railroad rights-of-way, drainage channels or other water courses, the centerlines of such features shall be their boundaries. One copy of the Preliminary PUD Plan shall be a reduced size suitable for photocopy. If a tentative plat for a land division is submitted concurrently with a Preliminary PUD Plan, the Preliminary PUD Plan and tentative plat shall be on separate sheets. It is further provided that:
  - a. Unless otherwise required in this Code, architectural plans for single family detached dwellings and landscaping plans for lots occupied by single family detached dwellings are not subject to review or approval as part of a PUD. However, nothing shall prevent an applicant from supplying architectural or landscaping plans for single family detached housing as a means to comply with one or more approval criteria.
  - b. If private or non-city standard street lighting is proposed, a street lighting plan shall be provided which provides a detail of the proposed lighting fixture(s). The Preliminary PUD Plan shall indicate the location of proposed private or non-city-standard light fixtures.
  - c. An applicant may postpone the submission and approval of architectural plans for proposed buildings and to have such plans approved later as a separate matter under Subsection 10.235(F) after the Preliminary PUD Plan has been approved. When the approval of architectural plans has been postponed, the Preliminary PUD Plan shall show a conceptual footprint for each planned building and each building footprint shall be separately enclosed by a dashed line which shall be called and labeled a building envelope. Building envelopes shall reasonably anticipate and define the maximum extent of the footprint for each building in the PUD.

3. A narrative description of the PUD which shall cover:
    - a. The rationale for planning this development as a PUD.
    - b. The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or which will be held in common ownership.
    - c. A listing of all modified applications of the Code that are proposed, followed by a brief explanation which covers the nature of, extent of, and reason for each modification.
    - d. If one or more signs are intended to vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed modifications.
    - e. A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.
    - f. The gross acreage devoted to the various proposed land uses and housing types.
  4. Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.235(C).
  5. The names and mailing addresses of the owners of land located within 200 feet of the exterior boundary of the whole PUD. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each property.
- B. **Action on an Application for a Preliminary PUD Plan:** The Planning Commission may approve, approve with conditions or deny a Preliminary PUD Plan.
- C. **Approval Criteria for Preliminary PUD Plan:** The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:
1. The proposed PUD:
    - a. preserves an important natural feature of the land, or
    - b. includes a mixture of residential and commercial land uses, or
    - c. includes a mixture of housing types in residential areas, or
    - d. includes open space, common areas, or other elements intended for common use or ownership, or
    - e. is otherwise required by the Medford Land Development Code.
  2. The proposed PUD complies with the applicable requirements of this Code, or
    - a. the proposed modified applications of the Code are related specifically to the implementation of the rationale for the PUD as described in Section 10.235(A)(3)(a), and
    - b. the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and
    - c. the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the

function, safety, or efficiency of the circulation system or the development as a whole.

3. The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:
    - a. Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.
    - b. Public Facilities Strategy pursuant to ORS 197.768 as amended.
    - c. Limited Service Area adopted as part of the Medford Comprehensive Plan.
  4. The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.
  5. If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.230(D)(87)(c), the applicant shall alternatively demonstrate that either: 1) demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or 2) the property can be supplied by the time of development with the following Category "A" public facilities which can be supplied in sufficient condition and capacity to support development of the proposed use:
    - a. Public sanitary sewerage collection and treatment facilities.
    - b. Public domestic water distribution and treatment facilities.
    - c. Storm drainage facilities.
    - d. Public streets.Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.
  6. If the Preliminary PUD Plan includes uses proposed under Subsection 10.230(D)(87)(c), approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.248.
  7. If approval of the PUD application includes the division of land or the approval of other concurrent development permits applications as authorized in Subsection 10.230(C), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional development applications.
- D. **Conditions:** If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions authorized under Section 10.291, it may attach conditions to the approval which are determined to be reasonably necessary to ensure:
1. The Final PUD Plan will be substantially consistent with the approved Preliminary PUD Plan and specifications related thereto.

2. Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.296.
  3. The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved modifications.
  4. There are appropriate safeguards to protect the public health, safety and general welfare.
  5. There will be ongoing compliance with the standards and criteria in this Section.
  6. To guarantee that streets, public facilities and utilities can be appropriately extended from ~~One~~ one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.
- E. **Revised Plans:** In instances where approval conditions result in substantial, complex or unpredictable changes to a proposed Preliminary PUD Plan, the Planning Commission, as a condition of Preliminary PUD Plan approval, may require an applicant to incorporate the changes into a revised Preliminary PUD Plan. When required, the revised plans shall be approved by the Planning Commission and when approved, the revised plans shall become the approved Preliminary PUD Plan and any conditions satisfied by the revised plans shall be stricken or appropriately altered.
- F. Postponed Preliminary PUD Plan Approval for Building Architecture: When the approval of architectural plans for buildings in the PUD has been postponed under Subsection 10.235(A)(2)(c):
- ~~1.~~ 1. ~~No Final PUD Plan shall be approved until the architecture of buildings has been approved by the Planning Commission, or by the Site Plan and Architectural Commission pursuant to MLDC 10.230(G), and the Final Order for such approval has been appended to the earlier approval of the Preliminary PUD Plan.~~
  - ~~2.~~ 2. ~~At the discretion of the Planning Commission, the approval of architectural plans for buildings can occur as a one-step procedure when combined with the submittal of a Final PUD Plan which incorporates the building(s) and the landscaping and other site improvements which surround the building(s).~~
- G. **Engineering Construction Plans:** Engineering construction plans, profiles, details and specifications for all public facility and utility improvements shall be prepared by a qualified engineer registered in Oregon. The engineering plans shall be approved by the City before the start of construction. Unless specifically authorized by the Planning Commission in the Preliminary PUD Plan approval, all public facilities and utilities shall be designed and constructed in accordance with the standards and procedures of the City or other public entity to which ownership will be conveyed.

The procedures for engineering design, plan approval and inspection shall in all respects be the same as for land divisions under this Code.

[Amd. Sec. 5, Ord. No. 8393, June 19, 1997; Amd. Sec. 2, Ord. No. 2005-97, June 2, 2005.]

**10.240 Final PUD Plan - Application Procedures.**

- A. **Application for a Final PUD Plan:** Application for a Final PUD Plan shall be on forms supplied by the City. The Final PUD Plan shall contain in final form all information and materials required by Subsection 10.235(A) unless certain items are or have been waived by the Planning Director as therein provided. However, there shall be no burden to demonstrate compliance with the criteria in Subsection 10.235(C). As appropriate, the Final PUD Plan shall incorporate all conditions imposed in the Preliminary PUD Plan approval. The application for a Final PUD Plan shall include a written narrative explaining how the Final PUD Plan complies with 10.240(G), Approval Criteria for Final PUD Plan, including compliance with the conditions of approval.
- B. **Time Limit for Preliminary PUD Plan Approval:** Preliminary PUD Plan approval shall be valid for 3 years and may not be extended. The three-year period shall be the date the Final Order approving the Preliminary PUD Plan was signed by the Planning Commission Chairperson. If a Preliminary PUD Plan is appealed, the three-year period shall begin on the date on which all appeals were resolved, including the resolution of all issues on remand. Within the three-year time period, an application for a Final PUD Plan must be filed for the entire site or for the first phase if the PUD has been approved for phased development.
- C. **Phased PUD:** The Final PUD Plan may be submitted for the entire project or for each phase consistent with the approved Preliminary PUD Plan. If a Preliminary PUD Plan was not approved as a phased project, nothing in this Subsection shall prevent the ~~Planning Commission~~ Director from approving a Final PUD Plan in phases provided that the ~~Planning Commission~~ Director approves a phasing plan pursuant to Subsections 10.235(A)(3)(de) and 10.230(E)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensures that essential services such as roads, fire access, storm drain, and sewer are available to serve each successive phase. After Final PUD Plan approval for the first phase, Final PUD Plans must be filed with the City for any subsequent phases.
- D. **Time Limit Between Phases:** After Final PUD Plan approval for the first phase of a PUD having approved multiple phases, and for each successive phase thereafter, no more than 5 years shall lapse between the approvals of phases. If more than five years pass between the Final PUD Plan approvals of any two PUD phases after the first phase, the Planning Commission may, without the consent of the owners of the PUD, initiate action to terminate undeveloped portions of the PUD under Subsection 10.245(B).
- E. **Binding Effect; Previously Approved PUDs:** A PUD Plan approval shall run with the land and shall be binding upon all successors in interest in all land within the whole PUD. It is further provided that a Preliminary PUD Plan approval shall remain in full force and effect unless the approval expires or is terminated by action of the City pursuant to Subsection 10.245(B). Preliminary plans submitted

prior to the adoption date of this ordinance, and final plans resulting from those preliminary plans, are subject to the regulations for PUDs in effect at the time the preliminary plan application was submitted.

F. **Final Plat for Land Division:** Application for the approval of a Final PUD Plan may occur before or concurrent with the approval of a final plat for a land division. However, no building permits shall be issued by the City and no buildings intended for human occupancy shall be constructed and no lot shall be sold until the Final PUD Plan has been approved by the Planning Commission Director.

G. **Approval Criteria for Final PUD Plan:** A Final PUD Plan shall be approved by the Planning Commission Director if ~~it~~ the Director concludes that compliance exists with each of the following criteria:

1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Subsection 10.230(E).
2. The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and with any and all the conditions imposed by the Planning Commission, if any, which were attached to the approval of the Preliminary PUD Plan.

The Planning Director in his/her discretion may forward a Final PUD Plan to the Planning Commission for written clarification regarding whether the Final PUD Plan is substantially consistent with the Preliminary PUD Plan. When forwarded by the Planning Director, the Planning Commission shall have authority to review the PUD plans and advise the Planning Director.

Modification of a phasing plan shall be considered substantially consistent with the Preliminary PUD Plan unless the revised phasing plan affects the provision of essential services such as public streets, sewer or storm drain to serve the successive phases. An applicant may seek written clarification from the Planning Director or Planning Commission regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being substantially consistent.

A ~~In no instance shall a~~ Final PUD Plan shall be found to be inconsistent with the Preliminary PUD Plan when any of the following are found to apply. ~~be approved if any of the below described inconsistencies with the approved Preliminary PUD Plan are found to exist.~~ If such inconsistencies are identified, these shall result in thean application for revision to the Preliminary PUD Plan shall be required: ~~need to approve a revision to the Preliminary PUD Plan.~~

- a. The exterior boundaries of the PUD shall ~~not~~ have changed except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed,
- b. The number of housing units shall ~~not be~~ has increased,

- c. The number of housing units shall not ~~has~~ be decreased by more than 5%,
- d. ~~There shall be no M~~modifications to the provisions of this Code have been included which were not approved as part of the Preliminary PUD Plan under Section 10.230(D).

[Amd. Sec. 10, Ord. No. 8393, June 19, 1997; Amd. Sec. 3, Ord. No. 2005-97, June 2, 2005.]

**10.241 Action and Decision Time: Appeal Rights: Final PUD Plan.**

- A. Upon submittal of the Final PUD Plan application to the Planning Director, the date of receipt shall be indicated on each copy of the materials submitted. Within thirty 30 days of receipt, the Planning Director shall determine whether the application as submitted, along with the required information, is complete as per this chapter. If the Planning Director fails to provide notice to the applicant in writing within 30 days of receipt, the application shall be deemed complete. For purposes of this section, the date of notice to the applicant shall be the date of mailing.
- B. If it is determined that the application is incomplete or otherwise does not conform to the provisions of this chapter, the Planning Director shall notify the applicant in writing to submit the missing material. The application shall be deemed complete upon receipt of (a) all of the missing information; (b) some of the missing information and written notice from the applicant that no other information will be provided; or (c) written notice from the applicant that none of the missing information will be provided.
- C. Within 25 working days after an application is deemed complete, the Planning Director shall approve or disapprove the Final PUD Plan and acknowledge compliance with all conditions of the Preliminary PUD Plan. If the Final PUD Plan is not substantially consistent with the Preliminary PUD Plan and all conditions thereto, the Planning Director may disapprove the Final PUD Plan, and require the applicant to apply for a revision to the Preliminary PUD Plan. Upon disapproval of any Final PUD Plan, the Planning Director shall return the Final PUD Plan to the applicant together with a final order of denial setting forth the reasons for such denial and advising the applicant of the applicant's appeal rights pursuant to Section 10.241(E).
- D. Upon approval by the Planning Director, the Planning Director shall prepare and sign a final order of approval.
- E. Within 14 days of the date of the final order for denial, an applicant may submit a written notice of appeal to the Planning Department. The notice of appeal shall be signed by the appellant or his agent and shall contain:
  - (1) An identification of the decision sought to be reviewed, including the date of decision; and
  - (2) A statement of the specific grounds upon which the appellant relies as a basis for appeal. Within 30 days of the Planning Department receiving the notice of appeal, the Planning Department shall set the appeal as a written communication before the Planning Commission. The Planning Commission, on appeal, shall review the application for Final PUD Plan



approval de novo, pursuant to the provisions of 10.240(G) and shall approve or deny said application. Appellant shall not have the right to a public hearing on appeal. The decision of the Planning Commission upon appeal is final.

**10.245 Revision or Termination of a PUD.**

A. **Revision of a Preliminary or Final PUD Plan:** The expansion or modification of a PUD approved under earlier PUD ordinances of the City or the revision of a Preliminary or Final PUD Plan shall follow the same procedures required for initial approval of a Preliminary PUD Plan in this Section, provided:

1. **Applicant for Revision; Filing Materials; Procedures:** An application to revise an approved PUD Plan shall be on forms supplied by the City. The application form shall bear the signature of the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD and who are also the owner(s) of land and improvements within the PUD which constitute more than 50% of the total assessed value of vacant portion of the PUD. For changes deemed by the Planning Director to be minor but not de minimis, the Planning Director shall exercise appropriate discretion under Subsection 10.235(A) to limit or waive the submittal of filing materials deemed to be excessive, repetitive or unnecessary based upon the scope and nature of the proposed PUD revisions. PUD revisions shall follow the same procedures used for initial approval of a Preliminary PUD Plan.
2. **Consolidated Procedure:** At the discretion of the Planning Director, revisions to an approved PUD Plan may be consolidated into a single procedure, the effect of which will be the approval of both a Preliminary PUD Plan and Final PUD Plan by the Planning Commission.
3. **Burden of Proof; Criteria for Revisions:** The burden of proof and supporting findings of fact and conclusions of law for the criteria in Subsections 10.235(C) or 10.240(G), as applicable, shall be strictly limited to the specific nature and magnitude of the proposed revision. However, it is further provided that the design and development aspects of the whole PUD may be relied upon in reaching findings of fact and conclusions of law for the criterion at Subsection 10.235(C)(5). It is further provided that before the Planning Commission can approve a PUD Plan revision, it must determine that the proposed revision is compatible with existing developed portions of the whole PUD.
4. **De minimis Revisions:** Notwithstanding Subsection 10.230(G), the Planning Director may approve revisions to an approved Preliminary or Final PUD Plan that he/she determines are de minimis. Proposed revisions shall be considered de minimis if the Planning Director determines the changes to be slight and inconsequential and will not violate any substantive provision of this Code. The Planning Director's written approval of a de minimis revision(s) shall be appended to the Final Order of the Planning Commission or Final Approval of the Planning Director of the Final PUD Plan. Revisions that are de minimis shall not require public

notice, public hearing or an opportunity to provide written testimony. However, if, while the record is open, any party requests in writing to be notified of future de minimis revisions of a Preliminary PUD Plan, then all de minimis revisions of a Preliminary PUD Plan shall be subject to review as a Class 'C' Procedure or such other procedure as may be permitted by law.

**B. Termination of a PUD:** A PUD may be terminated by action of the Planning Commission subject to the following procedures:

1. If substantial development of the PUD has not occurred or if no lots or units therein have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(1). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the land covered by the approved PUD and which also constitutes more than 50% of the total assessed value of land and improvements of the PUD. Upon receipt of a valid petition, the Planning Commission shall consider the matter in open meeting and shall declare the PUD terminated. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same. When the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.
2. If substantial development of the PUD has occurred or if lots or units within the PUD have been sold, the PUD may be terminated as provided in this Subsection 10.245(B)(2). Termination proceedings may be initiated by filing with the City a written petition signed by the owner(s) who control a majority interest in more than 50% of the vacant land covered by the approved PUD which also constitutes more than 50% of the total assessed value of vacant land within the PUD. If there is an association of owners established within the boundaries of the whole PUD, the owner(s) petitioning for termination of the PUD shall also supply the City with the correct mailing address of the association which shall be notified along with others entitled to notice under this Subsection. Upon receipt of the petition, the Planning Commission shall give public notice of the proposed PUD termination and conduct a public hearing on the matter. Notice and public hearing shall be subject to Class "C" Procedure. The Planning Commission shall declare the PUD terminated if it concludes that the termination will not produce greater than minimal harm to the public health, safety or general welfare. The Planning Commission's termination of a PUD shall be evidenced by a Final Order declaring the same and after the Final Order is signed the PUD shall be terminated and previous PUD Plan approvals shall be considered void and of no further effect. Termination of a PUD shall not affect other land use actions taken by the City which concern the PUD property.

[Amd. Sec. 37, Ord. No. 7659, June 2, 1994; Amd. Sec. 15, Ord. No. 8393, June 19, 1997.]

**PROPOSED FINDINGS**

BEFORE THE PLANNING COMMISSION  
AND CITY COUNCIL  
FOR THE CITY OF MEDFORD  
JACKSON COUNTY, OREGON

IN THE MATTER OF AMENDING )  
SECTIONS 10.012; 10.051; 10.102; 10.122; )  
10.135; 10.150; 10.155; 10.157; 10.163; 10.175; )  
10.220; 10.230; 10.235; 10.240; AND 10.245, )  
AND CREATING NEW SECTION 10.241, )  
RELATING TO REVIEW OF FINAL )  
PLANNED UNIT DEVELOPMENT (PUD) )  
PLAN APPLICATIONS OF THE MEDFORD )  
LAND DEVELOPMENT CODE )

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
File No. DCA-06-045  
Exhibit 'B'  
February 14, 2007**

City of Medford, Applicant

**PROCEDURAL BACKGROUND**

Amendment of the *Medford Land Development Code* is categorized as a procedural Class 'A' legislative action by the *Medford Land Development Code*. Sections 10.180 through 10.184 provide the process and standards for such amendments.

**RELEVANT SUBSTANTIVE CRITERIA**

For Class 'A' Major Amendments, *Medford Land Development Code* Section 10.182, "Application Form", requires the following information to be prepared by the City:

- (1) Identification of all applicable Statewide Planning Goals.
- (2) Identification and explanation of the goals and policies of the *Comprehensive Plan* considered relevant to the decision.
- (3) Statement of the facts relied upon in rendering the decision, if any.
- (4) Explanation of the justification of the decision based on the criteria, standards, and facts.

**COMPLIANCE WITH STATEWIDE PLANNING GOALS**

**Applicable Statewide Planning Goals:**

- GOAL NO. 1: Citizen Involvement
- GOAL NO. 2: Land Use Planning

Upon investigation, it has been determined that Statewide Planning Goals 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 are not applicable to this action. Goals 15, 16, 17, 18, and 19 are not applicable in Medford as these pertain to the Willamette River Greenway and ocean-related resources.

**GOAL 1: CITIZEN INVOLVEMENT - To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.**

#### FINDINGS OF FACT

Goal 1 requires the City to have a citizen involvement program that sets the procedures by which a cross-section of citizens will be involved in the land use planning process, including participation in identifying public goals, developing policy guidelines, and evaluating alternatives in the revision of the *Comprehensive Plan*, and in the inventorying, mapping, and analysis necessary to develop the plan content and implementation strategies. They must also be given the opportunity to participate in the development, adoption, and application of legislation to carry out a comprehensive plan. Goal 1 requires providing an opportunity to review proposed amendments prior to the public hearing, and any recommendations must be retained and receive a response from policy-makers. The rationale used to reach land use policy decisions must be available in the written record.

The City of Medford has an established citizen involvement program consistent with Goal 1 that includes review of proposed legislative *Land Development Code* amendments by the Citizens Planning Advisory Committee, the Planning Commission, and the City Council in study sessions, regular meetings, and public hearings. Affected agencies and interested persons are also invited to review and comment on such proposals, and meeting and hearing notices are published in the local newspaper. This process has been adhered to in the development of the proposed amendment.

The Medford Planning Commission met in study session workshops to discuss and formulate the proposal. The draft document was made available for review by affected agencies, departments, and interested persons. The Citizen's Planning Advisory Committee (CPAC) reviewed the amendment at a regular meeting. The Planning Commission reviewed the amendment at a regular meeting making a recommendation to the City Council, and the City Council conducted an appropriately noticed and conducted legislative public hearing on the proposal. The amendment does not place new limitations on permitted uses, and is therefore not subject to Measure 56 noticing requirements.

#### CONCLUSIONS OF LAW

The process used by the City of Medford to facilitate and integrate citizen involvement in this proposal is consistent with the City's acknowledged *Comprehensive Plan* and Statewide Planning Goal 1.

**GOAL 2: LAND USE PLANNING - To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.**

#### FINDINGS OF FACT

Goal 2 and its implementing *Oregon Administrative Rules* (OAR) and *Oregon Revised Statutes* (ORS) require City land use actions to be consistent with the adopted *Comprehensive Plan*, which must include identification of issues and problems, inventories, and other factual information for each applicable Statewide Planning Goal, and evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. Comprehensive plans must state how the Statewide Planning Goals are to

be achieved. The plan must contain specific implementation strategies that are consistent with and adequate to carry out the plan, and which are coordinated with the plans of other affected governmental units. Implementation strategies can be management strategies such as ordinances, regulations and project plans, and/or site or area-specific strategies such as construction permits, public facility construction, or provision of services. Comprehensive plans and implementation ordinances must be reviewed and revised on a periodic cycle to take into account changing public policies and circumstances. "Major" (legislative) revisions occur when changes are proposed that affect a large area or many different ownerships, or the entire City.

The proposal affects the City's land use planning process in a minor way relative to review of Final PUD Plans. It makes the process a ministerial action. It designates ministerial actions as Class "E" plan authorizations. The proposal allows 30 days to check the submitted materials for completeness, and then 25 days to approve or deny the Final PUD Plan based on substantial consistence with the Preliminary PUD Plan approved by the Planning Commission. The proposal also allows the Planning Director to forward a Final PUD Plan at his/her discretion to the Planning Commission for a recommendation as to whether it is in substantial consistence with the Preliminary PUD Plan.

This proposal is an attempt to revise a process that implements *Comprehensive Plan* policies, to take into account changing circumstances and provide an effective and efficient review process.

#### **CONCLUSIONS OF LAW**

The City's efforts in this proposal to assure that *Land Development Code* provisions properly implement the adopted policies of the acknowledged *Medford Comprehensive Plan* and the Statewide Planning Goals are consistent with and needed to comply with Statewide Planning Goal 2.

#### **COMPLIANCE WITH THE CITY OF MEDFORD *COMPREHENSIVE PLAN***

##### **Applicable *Medford Comprehensive Plan* Goals, Policies, and Implementation Strategies:**

**Housing Element Policy 4-B:** The City of Medford's approval standards, special conditions, and procedures regulating the development of needed housing shall be clear and objective, and shall not have the effect of discouraging needed housing through unreasonable cost or delay.

**Housing Element Policy 5-C:** To provide greater flexibility and economy of land use, the *City of Medford Land Development Code* shall provide opportunities for alternative housing types and patterns, planned developments, mixed uses, and other innovations that reduce development costs and increase density.

#### **FINDINGS OF FACT**

The proposed *Land Development Code* amendments implement policies and strategies adopted in the *Comprehensive Plan* that assure that innovative development can be allowed through flexible Planned Unit Development procedures, and that such a process is as clear and objective

as possible. The proposal is intended to assure that review of Planned Unit Development applications, including those having residential uses, occurs in the most effective and efficient manner possible, while producing an outcome that reflects the community vision.

**CONCLUSIONS OF LAW**

The City's efforts in this proposal to carry out the adopted policies and strategies of the acknowledged *Comprehensive Plan* related to review of new development sought as a Planned Unit Development are consistent with and necessary to comply with the above-noted *Comprehensive Plan* Goals, Policies, and Implementation Strategies.

**SUMMARY**

This proposed *Land Development Code* amendment is necessary to do the following: Meet the Goals, Policies of the *Comprehensive Plan* by continuing and enhancing the City's efforts to assure that flexible innovative development can be permitted and that such processes are the most efficient while assuring a high standard; satisfy the requirements of the Statewide Planning Goals, including that of adequate public input opportunities, by properly implementing the *Comprehensive Plan*; and to overcome the demonstrable ineffectiveness of current procedures to achieve these goals.