



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

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 008-06

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: 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
Bianca Petrou, City of Medford

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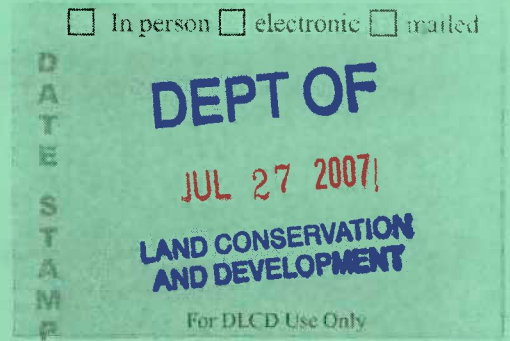
Enclosures: Staff Report dated October 31, 2006 including Exhibit "A"; Ordinance 2006-279

In person electronic mailed

FORM 2

DLCD

Notice of Adoption



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

Jurisdiction: **City of Medford**

Local file number: **DCA-06-297**

Date of Adoption: **12/7/2006**

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

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: 10/16/2006

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amendments to Medford Land Development Code Sections 10.012, 10.314, 10.702, and 10.703 to eliminate the allowance for residential pad lots.

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 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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 # 008.06 (15631)

DLCD file No. _____

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

None

Local Contact: **Bianca Petrou**

Phone: (541) 774-2386 Extension:

Address: **200 South Ivy Street**

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

City: **Medford**

Zip: **97501**

E-mail Address: **bianca.petrou@cityofmedford.org**

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. 2006-279

AN ORDINANCE amending Chapter 10 of the Code of Medford by amending sections 10.012, 10.314, 10.702 and 10.703 to eliminate the allowance for residential pad lots.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

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

10.012 Definitions, Specific.

* * *

Pad Lot Development. A **non-residential** development created by a land division that provides tax lots within a common area where the lot-lines of such tax lots are located near common or exterior building walls, ~~but which may also include private outdoor yard space.~~

* * *

Section 2. Section 10.314 of the Code of Medford is amended to read as follows:

10.314 Permitted Uses in Residential Land Use Classification.

The following table sets forth the uses allowed within the residential land use classification by zoning district. Uses not identified herein are not allowed. (See Article I, Section 10.012, Specific Definitions, for the definition of each listed use.)

These symbols indicate the status of each listed use:

“P” = Permitted Use.

“C” = Conditional Use; permitted subject to approval of a Conditional Use Permit. (See Article II, Sections 10.246 - 10.250.)

“X” = Prohibited Use .

“s” = Special Use (See Article V, Sections 10.811- 10.900, Special Use Regulations)

“EA” = Permitted Use if in an EA (Exclusive Agriculture) overlay district.

“PD” = Permitted Use if in a PD (Planned Development) overlay district.

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PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS	SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section
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1. SINGLE-FAMILY
RESIDENTIAL

2. MULTIPLE-
FAMILY
RESIDENTIAL

3. SPECIAL
RESIDENTIAL
DEVELOPMENTS

(a) Planned Unit Development	X	PD	PD	PD	PD	PD	PD	PD	10.230-245 & 10.356
(b) Condominium/Pad Lot Development	X	P	P	P	P	P	P	P	10.702-703
(eb) Mobile Home Park	X	X	X	Cs	Cs	Cs	X	X	10.860-896

Section 3. Section 10.702 of the Code of Medford is amended to read as follows:

10.702 Lot Area and Dimensions.

(3) A new residential lot may exceed the maximum lot area only under the following circumstances:

(a) When an existing residence and associated yard area, containing improvements and established landscaping, occupy a larger area; or,

(b) When a portion of the lot is unbuildable for a reason beyond the control of the developer (i.e., due to creeks, oversized easements, etc.);—The additional acreage, or fraction thereof, may not exceed the amount of unbuildable area.

Section 4. Section 10.703 of the Code of Medford is amended to read as follows:

10.703 Pad Lot Development. When a land division creates tax lots within a common area, the following standards shall apply:

A. Purpose.

It is the purpose of this Section to provide a process for the creation of tax lots within a

common area for non-residential uses. This Section is not intended to provide relief from the strict standards elsewhere established in this Code.

B. Development Standards.

~~(1) A residential pad lot development shall be permitted only when the area of the project site is less than the minimum area required for a planned unit development; a nonresidential pad lot development is not subject to this restriction.~~

~~(2)(1) All lot-lines created within the common area shall be located along a common or exterior building wall, or within four (4) feet of an exterior building wall, unless the approving authority (Planning Commission) allows a greater distance for special purposes, such as incorporating adjacent private outdoor yard space.~~

~~(3)(2) The parent parcel shall meet the minimum lot area and dimensions for the zoning district and proposed use.~~ **site development standards established in Section 10.721.**

~~(4)(3) All pad lot developments, including single family residential pad lots, shall be approved~~ **obtain** by the Site Plan and Architectural **Review approval** ~~Commission~~ prior to the tentative plat **application** being accepted for review by the Planning Commission.

~~(5)(4) A pad lot development shall be identified as such on both the tentative and final plats, and on~~ **the site plan submitted** for the project. At the time of recording of the final plat, Covenants, Conditions, and Restrictions (CC&Rs) shall be approved by the City and recorded. The recorded CC&Rs shall provide:

(a) That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the development, such as common portions of buildings, parking areas, access, landscaping, etc., and share equitable in the cost of such upkeep.

(b) An association for the purpose of governing the operation of the common interests.

(c) Maintenance access easements on individual lots where necessary for the purpose of property maintenance and repair.

(d) The specific rights of, or limitations on, individual lot owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the association.

PASSED by the Council and signed by me in authentication of its passage this 7 day of December, 2006.

ATTEST: Gwendolyn Owens
City Recorder

[Signature]
Mayor

APPROVED December 7, 2006.

[Signature]
Mayor

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

City of Medford

October 31, 2006

STAFF REPORT

File No.: DCA-06-297 - Land Development Code Amendment (Major Class 'A' Legislative)
Elimination of allowance for residential pad lots

Applicant: City of Medford

Request: Consideration of amendments to *Medford Land Development Code* sections 10.012, 10.314, 10.702, and 10.703 to eliminate the allowance for residential pad lots.

BACKGROUND:

Currently, the City Code permits pad lots for residential development under one acre and for non-residential development of any size. A pad lot development is defined in the *Medford Land Development Code* as:

“A development created by a land division that provides tax lots within a common area where the lot-line of such tax lots are located near common or exterior building walls, but which may also include private outdoor yard space.”

At one time, pad lots were only permitted for commercial or industrial development. The allowance for pad lots to be applied to residential development occurred as a result of a property owner request to allow for the individual financing of three separate four-plexes on one lot. When this allowance was codified, there was no limit set on the size for a parent parcel for a residential pad lot development. Later, when a large single-family residential pad lot development became problematic, the Planning Commission recommended that **residential** pad lot developments be limited to less than the size required for a Planned Unit Development (PUD), which is currently one acre. PUD's allow modified application of the Code (variances from or exceptions to the standards) only when approved by the Planning Commission. Allowing pad lots as part of a PUD (or only as an exception) gives the Planning Commission the discretion to impose conditions or deny the development, if they are not convinced that there is a benefit provided in allowing the creation of pad lots.

Staff has seen an increasing number of applications for small residential pad lot developments, and has had a growing concern over the impacts to existing neighborhoods, as well as the impacts on the future residents of the pad lot developments. As a result, on April 10, 2006, Planning staff brought the issue to the attention of the Planning Commission. The Planning Commission agreed with staff that the allowance for residential pad lots should be eliminated, as did the Housing Commission and the Citizen's Planning Advisory Commission.

The primary problem with pad lot development is that it allows for the creation of substandard lots. Since pad lots do not have to meet any development standards (lot width, depth, coverage, street frontage, and area), it has become a very attractive option for developers. As more developers and their agents have become aware of the allowance for pad lots with no

discretionary limitations available to the Commissions, the **standards** for the division of parcels under one acre have become more like **guidelines**. Frequently, the parcels less than one acre in size that can use the residential pad lot allowance are found in existing neighborhoods. When pad lots are approved, it allows development that is not consistent with existing development patterns in the neighborhood. A good example of this is when there is a vacant lot in a single-story, single-family neighborhood, and a vacant lot allows a maximum density of two or three units. Using Code standards, only one single-family residence would be allowed which is in keeping with the existing neighborhood. By using pad lots, however, two or three single-family residences may be allowed. Since the developer still needs to provide required parking and access, they often find that the only way they can fit the additional single-family residences on the lot is by making them two-story. Some of the adjacent property owners may testify at the public hearing that this development is not compatible with surrounding development, but because pad lots on parcels under one acre are outright permitted by Code, the Commission does not have the authority to use discretion in its approval of the development.

Staff believes there are some misconceptions concerning the benefits of residential pad lots, and the following is an attempt to dispel or qualify some of those benefits:

1. *Pad lots allow for the creation of common area giving the property owners more yard space and amenities.* This might be true if the common area created "usable" yard space, but more often than not, due to the small size of the parent parcel, most of the common area must be used for providing vehicle access and parking. In addition, when shared property is created, it requires the creation of a Homeowners' Association which some believe creates a hardship on property owners, particularly when it is made up of only two or three property owners. As a result, when pad lots are sold the new property owners frequently fence off part of the common area for private yard space, or they end up asking the City to approve a property line adjustment so they can incorporate some of the common area into their private space.

2. *Pad lots provide affordable housing.* It makes sense that purchasing substandard lots would be less expensive than purchasing standard lots, but one should remember that in purchasing the pad lot, the property owner must also absorb some of the cost of the common area. Add to that the cost of homeowner association dues for the upkeep of the common area, and these homes sound a little less affordable. If the City wants to provide for affordable housing by allowing smaller lots, it would be better to develop standards and criteria for allowing those smaller lots to assure that they really do provide both affordable housing and housing that meets a standard for single-family residential development. Otherwise, the allowance for substandard lots should be allowed only using the City's exception process which provides the commissions with the opportunity to apply conditions and use discretion in the approval of them to assure compatibility with adjacent development.

3. *Pad lots allow developers to create separate ownership within common areas without having to go through the State's cumbersome condominium process.* State law allows for the creation of condominiums, so there is another option available to property owners to allow separate ownership on one property. The reason many developers say they use the City's pad lot process instead of the State's condominium process is because the State's process is very cumbersome and expensive in that it requires attorneys to be involved in drafting the common ownership

agreements. Staff believes that the State's process is important when common ownership is involved, and the City does not have the resources or expertise to deal with these issues. By allowing residential pad lots, the City may be creating problems for future property owners by subverting the State's condominium process.

4. *Pad lots allow rentals to be converted to homeownership opportunities, and this provides for better maintenance of the property.* There have been a number of applications for pad lot developments that propose to take **existing** houses or duplexes located on a single lot and dividing the lot into pad lots so that each dwelling unit can be sold individually. Since the current ordinance does not prohibit pad lot developments from being applied to existing residential developments, these residential developments have been allowed to be divided. Some Council members have voiced concern over the conversion of rental units to condominiums for individual sale, and the creation of pad lots allows the same thing, only more easily and with less legal protection for future property owners.

5. *Pad lots are necessary to allow for infill development.* Generally, infill development is development of small parcels of land within an area that is already developed. Frequently, these parcels have been passed over for development because they are difficult to develop because of the existing development on adjacent land, because there are natural features or easements on the site that must be protected, or because the lot is oddly shaped. The pad lot allowance was not originally created to allow for infill development, but it makes sense that they are being used for infill development, since pad lots essentially eliminate the need to meet standards. However, as stated earlier, it is important that there be some assurance that infill development will be compatible with the surrounding development or neighborhood. To assure this the City must provide special standards for infill development, or provide a method for providing relief from standards when they render a lot unbuildable or cause undue hardships on the owner of the property. The City currently provides both of these. Minimum Access Street and flag-lot standards were developed specifically to provide relief for owners of small infill lots, and the Exception criteria were recently revised to make it easier to use in cases where a lot has special characteristics that warrant relief from Code standards. Additionally, Planning staff is monitoring the types of exceptions being requested and granted for infill development to determine whether there are commonly requested exceptions that should be codified to provide relief for certain problem lots. Pad lots are **not necessary** to allow for infill development.

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:

Initiate the amendment and forward a favorable recommendation to the City Council for DCA-06-297 per the Staff Report dated October 31, 2006, including:

- Exhibit 'A' Proposed Code Changes to Eliminate the Allowance for Residential Pad Lots dated October 31, 2006
- Exhibit 'B' Findings of Fact and Conclusions of Law, dated October 31, 2006
- Exhibit 'C' Excerpt of CPAC Meeting Minutes of November 7, 2006 (to be distributed later).
- Exhibit 'D' Excerpt of Housing Commission Minutes of November 1, 2006 (to be distributed later).



Bianca Petrou, A.I.C.P., Assistant Planning Director

Reviewed By:



Robert O. Scott, A.I.C.P., Planning Director

PLANNING COMMISSION AGENDA: November 9, 2006

PERMITTED USES IN RESIDENTIAL ZONING DISTRICTS	SFR 00	SFR 2	SFR 4	SFR 6	SFR 10	MFR 15	MFR 20	MFR 30	Special Use or Other Code Section
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**2.MULTIPLE-
FAMILY
RESIDENTIAL**

(a) Duplex Dwelling - Interior Lot	X	X	X	P	Ps	Ps	Ps	Ps	10.713 & 10.820
(b) Duplex Dwelling - Corner Lot	X	X	P	P	Ps	Ps	Ps	Ps	10.713 & 10.820
(c) Multiple-Family, Multiplex, or Apartment Dwelling	X	X	X	X	P	P	P	P	10.714
(d) Townhouse/Rowhouse Dwelling	X	X	X	X	P	P	P	X	10.712

**3.SPECIAL
RESIDENTIAL
DEVELOPMENTS**

(a) Planned Unit Development	X	PD	PD	PD	PD	PD	PD	PD	10.230-245 & 10.356
(b) Condominium/Pad Lot Development	X	P	P	P	P	P	P	P	10.702-703
(eb) Mobile Home Park	X	X	X	Cs	Cs	Cs	X	X	10.860-896

10.702 Lot Area and Dimensions.

Each lot shall have an area, width, frontage, and depth consistent with that prescribed in this Article for the housing type, or commercial or industrial district in which the development, or the portion thereof, is situated, except in the following situations:

(1) Within a planned unit development, a condominium project, as defined by ORS 100.005, or a pad lot development, as defined herein, the approving authority (Planning Commission) may permit tax lots and common areas to be of an area, width, frontage, or depth different from such prescribed minimum or maximum lot area or dimensions.

(2) For a condominium project, as defined by ORS 100.005, the minimum lot area and dimensions shall apply to the parent parcel only.

(3) A new residential lot may exceed the maximum lot area only under the following circumstances:

(a) When an existing residence and associated yard area, containing improvements and established landscaping, occupy a larger area; or,

(b) When a portion of the lot is unbuildable for a reason beyond the control of the developer (i.e., due to creeks, oversized easements, etc.); ~~the additional acreage, or fraction thereof, may not exceed the amount of unbuildable area.~~

10.703 Pad Lot Development. ~~When a land division creates tax lots within a common area, the following standards shall apply:~~

A. Purpose

It is the purpose of this Section to provide a process for the creation of tax lots within a common area for non-residential uses. This Section is not intended to provide relief from the strict standards elsewhere established in this Code.

B. Development Standards

~~(1) A residential pad lot development shall be permitted only when the area of the project site is less than the minimum area required for a planned unit development; a nonresidential pad lot development is not subject to this restriction.~~(2)

(1) All lot-lines created within the common area shall be located along a common or exterior building wall, or within four (4) feet of an exterior building wall, unless the approving authority (Planning Commission) allows a greater distance for special purposes, ~~such as incorporating adjacent private outdoor yard space.~~

~~(3)~~(2) The parent parcel shall meet the minimum lot area and dimensions for the zoning district and proposed use. site development standards established in Section 10.721.

~~(4)~~(3) All pad lot developments, ~~including single-family residential pad lots,~~ shall be approved obtain by the Site Plan and Architectural Review approval Commission prior to the tentative plat application being accepted for review by the Planning Commission.

~~(5)~~(4) A pad lot development shall be identified as such on both the tentative and final plats, and on the site plan submitted for the project. At the time of recording of the final plat, Covenants, Conditions, and Restrictions (CC&Rs) shall be approved by the City and recorded. The recorded CC&Rs shall provide:

(a) That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the development, such as common portions of buildings, parking areas, access, landscaping, etc., and share equitable in the cost of such upkeep.

(b) An association for the purpose of governing the operation of the common interests.

(c) Maintenance access easements on individual lots where necessary for the purpose of property maintenance and repair.

(d) The specific rights of, or limitations on, individual lot owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the association.

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; 10.314; 10.702; AND)
10.703 OF THE MEDFORD *LAND*)
DEVELOPMENT CODE TO ELIMINATE THE)
ALLOWANCE FOR RESIDENTIAL PAD)
LOTS.)
)
)

**FINDINGS OF FACT
CONCLUSIONS OF LAW**
File No. DCA-06-297
Exhibit 'B'
October 31, 2006

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
- GOAL NO. 10: Housing

Upon investigation, it has been determined that Statewide Planning Goals 3, 4, 5, 6, 7, 8, 9, 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 on November 21, 2006, and the Housing Commission reviewed the amendment at a regular meeting on November 1, 2006. The Planning Commission reviewed the amendment at a regular meeting on November 9, 2006 making a recommendation to the City Council, and the City Council conducted an appropriately noticed and conducted legislative public hearing on the proposal.

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 implementing ordinances must be reviewed and revised on a periodic cycle to take into account changing public policies and circumstances, and to assure they are achieving the desired outcome. "Major" (legislative) revisions occur when changes are proposed that affect a large area, many different ownerships, or the entire City.

Pad lots do not have to meet many of the lot development standards (lot width, depth, coverage, street frontage, and area). The reason this change is being considered is because it has become apparent that pad lot development is being used to allow the creation of substandard lots. As more developers and their agents have become aware of the allowance for pad lots with no discretionary limitations available to the Commissions to assure compatibility with adjacent development, the **standards** for the division of parcels under one acre have become more like **guidelines**. By eliminating the allowance for residential pad lots the City will again be requiring that lot division follows standards that allow the Planning Commission to make a decision based on the same policy framework that is followed for all other residential land divisions.

CONCLUSIONS OF LAW

The City's efforts in this proposal are to assure that *Land Development Code* provisions properly implement the adopted policies of the acknowledged *Medford Comprehensive Plan* and the Statewide Planning Goals. This amendment will assure that all land divisions follow the same process for establishing compatibility with adjacent development.

GOAL 10: HOUSING – To provide for the housing needs of the citizens of the State.

FINDINGS OF FACT

One type of housing ownership that the State has determined to be needed by the citizens of the State is that of separate homeownership within common areas. While the City's residential pad lot process allows for separate ownership within common areas, State law allows another option for providing this type of ownership by allowing for the creation of condominiums. The reason many developers say they use the City's pad lot process is because the State's process is very cumbersome and expensive in that it requires attorneys to be involved in drafting the common ownership agreements. The City believes that it is important to follow the State's process when common ownership is involved, because the City does not have the resources or expertise to deal with these issues. By allowing residential pad lots, the City may be creating problems for future property owners by subverting the State's condominium process.

CONCLUSION

The Statewide need to provide housing with separate ownership within a common area is available through the State's condominium process, therefore, eliminating the allowance for pad lot developments within the City of Medford will not eliminate the ability to provide a needed housing type in the City of Medford.

COMPLIANCE WITH THE CITY OF MEDFORD *COMPREHENSIVE PLAN*

Applicable *Medford Comprehensive Plan* Goals, Policies, and Implementation Strategies that encourage the protection of existing neighborhoods:

Housing Goal 1: To enhance the quality of life of all residents of the City of Medford by promoting a distinctive community character and superior residential environment, emphasizing the unique natural setting of the community.

Housing Policy 1-B: The City of Medford shall promote the preservation of the existing housing stock and existing neighborhoods through continued support of programs related to housing rehabilitation and neighborhood revitalization.

FINDINGS OF FACT

Frequently, the parcels less than one acre in size that can use the residential pad lot allowance are found in existing neighborhoods. When pad lots are approved, it allows development that is not consistent with existing development patterns in the neighborhood. A good example of this is when there is a vacant lot in a single-story, single-family neighborhood, and a vacant lot allows a maximum density of two or three units. By applying the standards for lot development, only one single-family residence would be allowed in keeping with the existing neighborhood. By using pad lots, however, two or three single-family residences may be allowed. Since the developer still needs to provide required parking and access, they often find that the only way they can fit the additional single-family residences on the lot is by making them two-story and turning them so that they do not face the street as many of the houses in the existing neighborhood. The new development pattern is often not similar to nor compatible with the existing neighborhood. Because the pad lots are permitted outright with no additional criteria that require compatibility, there is nothing that the Planning Commission or Site Plan and Architectural Commission can do to require compatibility.

CONCLUSION

The allowance for residential pad lots does not encourage the preservation of existing neighborhoods nor does it promote a superior residential environment, therefore, it does not comply with Housing Element Goal 1 or Housing Element Policy 1-B, and it should be eliminated.

Applicable *Medford Comprehensive Plan* Goals, Policies, and Implementation Strategies that encourage the provision of usable open space:

Housing Policy 1-C: The City of Medford shall encourage the provision and conservation of open space throughout the community.

Housing Implementation 1-D (1): Review the *Land Development Code* to assure that the standards and requirements relating to multiple-family development do not inhibit innovative design, but, at the same time, require an adequate level of aesthetics and amenities, particularly neighborhood compatibility and functional open space, including useful private outdoor living areas.

FINDINGS OF FACT

Pad lots allow for the creation of common area which could be used to provide usable open space for the adjacent property owners, however, most of the time, due to the small size of the parent parcel, most of the common area must be used for providing vehicle access and parking. The City does not consider vehicle access and parking open space for the purpose of recreational amenities. In addition, when shared property is created, it requires the creation of a Homeowners' Association which some believe creates a hardship on property owners, particularly when it is made up of only two or three property owners. As a result, when pad lots are sold the new property owners frequently fence off part of the common area for private yard space, or they end up asking the City to approve a property line adjustment so they can incorporate some of the common area into their private space. Often this private outdoor space is still very small compared to that which would be required using the standard lot requirements.

CONCLUSION

Pad lot developments do not generally provide open space that meets the intent of Housing Policy 1-C or Housing Implementation 1-D, therefore the pad lot provision should be eliminated.

Applicable Medford Comprehensive Plan Goals, Policies, and Implementation Strategies that encourage the provision affordable housing:

Housing Goal 4: To provide equal opportunity for safe, decent, sanitary, and affordable housing for all residents of the City of Medford, regardless of age, race, color, religion, mental or physical disability, sex, sexual orientation, marital or family status, or national origin, in conformance with the federal Fair Housing Act of 1988 and the Americans with Disabilities Act of 1990.

Housing Goal 5: To ensure opportunity for the provision of adequate housing units in a quality living environment, at types and densities that are commensurate with the financial capabilities of all present and future residents of the City of Medford.

Housing 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

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patterns, planned developments, mixed uses, and other innovations that reduce development costs and increase density.

Housing Goal 6: To ensure opportunity for the provision of Medford's fair share of the region's needed housing types, densities, and prices, with sufficient buildable land in the city to accommodate the need.

FINDINGS OF FACT

All of the above Housing Element Goals, Policies and Implementation Strategies address the need to provide affordable housing. Primarily, the City provides for the need for affordable housing by assuring that an adequate supply of land is available in all residential land use designations. In addition, the City allows accessory dwelling units on all single-family lots in the City, and it allows multi-family development in most commercial zones to assure an adequate supply of affordable housing.

Pad lot developments allow for the creation of substandard lots. It makes sense that substandard lots would be less expensive than standard lots, but one should remember that in purchasing a pad lot, the property owner must also absorb some of cost of the common area which surrounds it. When the cost of the required of homeowner association dues for the upkeep of the common area is added, these homes become less affordable. If the City wants to provide for affordable housing by allowing smaller lots, it would be better to develop standards and criteria for allowing those smaller lots to assure that they really do provide both affordable housing and housing that meets a standard for single-family residential development. Otherwise, the allowance for substandard lots should be allowed only using the City's exception process which provides the Commissions with the opportunity to apply conditions and use discretion in the approval of them to assure compatibility with adjacent development.

CONCLUSION

The City provides for the development of affordable housing within the City through different means, and the allowance for pad lot developments was not originally created to as one of those means. Pad lots do not necessarily provide affordable housing and elimination of the allowance for pad lot developments will not significantly limit the opportunities to provide affordable housing, therefore, this amendment is in compliance with the above *Comprehensive Plan* Goals, Policies, and Implementation Strategies.

Applicable *Medford Comprehensive Plan* Goals, Policies, and Implementation Strategies that promote increased density and compatible infill development:

Housing Policy 2-A: The City of Medford shall strive to prevent sprawl and provide a compact urban form that preserves livability and adjacent resource lands.

Housing Implementation 5-A (1): Establish a system for reviewing all residential projects for compliance with the *Housing Element* goals and policies, including achievement of maximum permitted densities, and prepare a yearly report to decision makers.

Housing 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.

Housing Implementation 5-C (3): Investigate methods for promoting a mix of dwelling types in new residential areas, and compatible higher density infill and redevelopment in existing residential areas.

FINDINGS OF FACT

Generally, infill development is the development of small parcels of land within an area that is already developed. Frequently, these parcels have been passed over for development because they are difficult to develop due to existing development on adjacent land, natural features or easements on the site that must be protected, or the odd shape of the lot. The pad lot allowance was not originally created to allow for infill development, but it makes sense that they are being used for infill development, since pad lots essentially eliminate the need to meet standards. However, as stated in Housing Implementation 5-C(3) it is important that there be some assurance that infill development will be compatible with the surrounding development or neighborhood. To assure this, the City must provide special standards for infill development or provide a method for providing relief from standards when they render a lot unbuildable or cause undue hardships for the owner of the property. The City currently provides both of these. Minimum Access Street and flag-lot standards were developed specifically to provide relief for owners of small infill lots, and the Exception criteria were recently revised to make it easier to use in cases where a lot has special characteristics that warrant relief from Code standards. Additionally, Planning staff is monitoring the types of exceptions being requested and granted for infill development to determine whether there are standard exceptions that should be codified to provide relief for certain problem lots.

CONCLUSION

The City provides for minimum access streets, flag lots, and exceptions to standards which assist in the development of infill and hard-to-develop properties. Pad lots are not the only method, nor do they provide a means of allowing infill development that assures compatibility with adjacent development, therefore; eliminating the allowance for pad lots will not eliminate the ability to develop infill lots.

Applicable *Medford Comprehensive Plan* Policy that encourages the provision of affordable housing for both renters and homeowners:

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Housing Policy 5-B: The City of Medford shall continue to assist regional housing agencies, nonprofit organizations, private developers, and other entities in their efforts to provide affordable housing for renters and homeowners, and the homeless.

FINDINGS OF FACT

There have been a number of applications for pad lot developments that propose to take **existing** houses or duplexes located on a single shared lot and dividing the lot into pad lots so that each dwelling unit can be sold individually. Generally, when more than one unit is located on a lot, at least one of them is rented. Since the current ordinance does not prohibit pad lot developments from being applied to existing residential developments, these residential developments have been allowed to be divided. Some Council members have voiced concern over the conversion of rental units to condominiums for individual sale, because it removes rentals from an already tight rental market. The creation of pad lots allows the same thing, only more easily and with less legal protection for future property owners. If the allowance for pad lots is eliminated, there will still be the opportunity to convert rental units to homeownership, but not without following the condominium laws mandated by the State.

CONCLUSION

Pad lots allow rentals to be converted to homeownership opportunities which removes rental units from what may become a limited rental market, thereby, counteracting efforts to provide affordable housing for renters as required by Housing Policy 5-B.

SUMMARY

This proposed *Land Development Code* amendment is necessary to properly implement the *Comprehensive Plan* and *Statewide Planning Goals*; and to overcome the demonstrable ineffectiveness of current procedures to achieve the goals, while providing a high level of compatibility with existing development.