



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



NOTICE OF ADOPTED AMENDMENT

12/01/2008

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 021-08

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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Monday, December 15, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Praline McCormack, City of Medford
Gloria Gardiner, DLCD Urban Planning Specialist

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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-08-085**

Date of Adoption: **11/20/2008**

Date Mailed:

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/30/2008

☐ 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".

Amendment to the Medford Land Development Code to amend Section 10.133 relating to Site Plan and Architectural Commission Membership, to amend Sections 10.261, 10.269, and 10.292 relating to expiration of Historic, Tentative Plat, and Site Plan approvals. Also includes general housekeeping revisions (to correct errors and omissions) to Article II.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<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 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 021-08 (17162)

DLCD file No. _____

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

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

Phone: **(541) 774-2380** Extension:

Address: **200 S. Ivy**

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

City: **Medford** Zip: **97501-**
praline.mccormack@cityofmedford.org

E-mail Address:

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. 2008-236

AN ORDINANCE amending Chapter 10 of the Medford Code by amending Sections 10.102, 10.110, 10.133, 10.135, 10.146, 10.150, 10.157, 10.182, 10.196, 10.201, 10.205, 10.208, 10.227, 10.257, 10.261, 10.269, 10.279, 10.287 and 10.292 pertaining to Site Plan and Architectural Commission membership; and expiration of Historic, Tentative Plat and Site Plan approvals.

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. 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
* * *	
Minor Historic Review	"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 (1) or combination of required plan authorizations as identified on the development permit application.

Section 2. Section 10.110 of the Medford Code is amended to read as follows:

10.110 Designation of Approving Authority.

This article designates the authority to act on planning and development requests as required by this chapter to five (5) approving authorities as follows:

* * *

~~4. Historic Commission~~ **Landmarks and Historic Preservation Commission**

* * *

Section 3. Section 10.133 of the Medford Code is amended to read as follows:

10.133 Membership of the Site Plan and Architectural Commission.

The Site Plan and Architectural Commission shall consist of nine (9) voting members appointed by the mayor, as follows:

(1) Appointment Criteria.

(a) One (1) member shall be a Planning Commissioner nominated by the Planning Commission chairperson. One (1) member shall be a licensed architect, one (1) shall be a licensed professional engineer, one (1) shall be a licensed landscaping professional, and one (1) shall be a

licensed contractor. When selecting persons to fill the remaining four (4) positions, preference should be given to applicants who have training or experience closely related to the licensed positions. The Site Plan and Architectural Commission ~~will~~ **may** review the applications and **may** make recommendations to the Mayor regarding appointments.

(b) Members shall reside within the City of Medford. At the Mayor's discretion, an appointment to any of the four (4) professional/licensed positions may be an individual who, in lieu of having a valid license in the profession, possesses a comparable combination of skill, education, training and experience related to the respective professional licensing category.

(2) Term of Office. Site Plan and Architectural Commissioner terms shall be for a period of four (4) years, with the exception of the member of the Planning Commission, whose initial term shall be for a period of two (2) years. Subsequent Planning Commissioner terms shall be for one (1) year if reappointed. Said terms shall begin on February 1 of each year with not more than two (2) terms expiring in the same year, exclusive of the Planning Commissioner. A member may be removed by the City Council, after a hearing, for misconduct or nonperformance of duty. Any vacancy shall be filled by the City Council for the unexpired term of the member being replaced.

Section 4. 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, **minor historic review** and for the development permit. The Planning Director shall also be responsible for the administration and enforcement of this chapter.

Section 5. Section 10.146 of the Medford Code is amended to read as follows:

10.146 Referral Agencies, Distribution.

* * *

Numerical references in the Schedule refer to the following:

1. When the proposal is within, ~~or abutting~~, **or affecting** the referral agency's jurisdiction.
2. When the proposal is within, or abutting the Airport Approach or Airport Radar Overlay Districts.
3. ~~When the proposal is within the Bear Creek Overlay District.~~
- 4 3. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.
- 5 4. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.
- 6 5. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.

* * *

SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

AGENCY	A	B	C	D	E	F	G	H	I	J	K	L
CITY DEPTS.												
Building Safety	X	X	X	X	X	X	X	X	X	X	X	
City Attorney	X	X	X	X	X	X	X	X	X	X	X	X
City Manager	X	X	X	X								
Engineering Division	X	X	X	X	X	X	43		X	X	X	X
Fire	X	X	X	X	X	X	43		X	X	X	
Parks & Recreation	X	X	X	X	X	X	43		X	X	X	
Parks Director	54	54	54	54	54	54	54	54	54	54	54	54
Planning	X	X	X	X	X	X	X	X	X	X	X	X
Police	X		X	X	X	X			X	X	X	
Public Works	X	X	X	X	X	X	43		X	X	X	
AGENCY	A	B	C	D	E	F	G	H	I	J	K	L
Water Commission	X	X	X	X	X	X	43		X	X	X	X
OTHER AGENCIES												
CPAC*	X	X	X									
Cable Television Co.			X	X	X	X	43		X	X	X	X
City of Central Point	1	1	1	1	1	1	1	1	1	1	1	1
City of Phoenix	1	1	1	1	1	1	1	1	1	1	1	1
DLCD*	X	X	X									
DSL*							3,65	65	65	65	65	65
Garbage Company				X	X							
Jackson Co. Health Dept.				X						X		
Jackson Co. Planning	X	X	X					1	1		1	
MID*	1		1	1	1		43		1	1		
Natural Gas Company			X	X	X	X	43		X	X	X	X
ODFW*							3,65	65	65	65	65	65
ODOT*	X		1	1		1	43		1	1	1	1
Power Company			X	X	X	X	43		X	X	X	X

AGENCY	A	B	C	D	E	F	G	H	I	J	K	L
RRVID*	1		1	1	1		4 3		1	1		
RV - Medford Airport*	1		1			1	2	2	2	2	2	
RVS*	1		1	1	1	1	4 3		1	1	1	
RVTD*	X		1	1	1	X	4 3		1	1	X	X
Medford 549C Schools	1		1	1		1	4 3		1	1		
Superintendent	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4
Phoenix-Talent Schools	1		1	1		1	4 3		1	1		
Superintendent	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4
Telephone Company			X	X	X	X	4 3		X	X	X	X
U.S. Post Office									X	X	X	X
Urban Renewal Agency			1		1	1	1	1	1	1	1	1
Water Districts	1		1	1		1			1	1		

*Acronyms:

CPAC	Citizens' Planning Advisory Committee
DLCD	Oregon Department of Land Conservation and Development
DSL	Oregon Department of State Lands
MID	Medford Irrigation District
ODFW	Oregon Department of Fish and Wildlife
ODOT	Oregon Department of Transportation
RRVID	Rogue River Valley Irrigation District
RV- Medford Airport	Rogue Valley International-Medford Airport
RVS	Rogue Valley Sewer Services
RVTD	Rogue Valley Transportation District

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 "E" Non-discretionary, ministerial decisions (final plat, final PUD plan, **minor historic review**)

* * *

Section 7. 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

"B" (Annexation)

Once each week for two (2) 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 (2) 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.

* * *

"C" (Zone changes, preliminary PUD plans, conditional use permits, exceptions)

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.

* * *

(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 **where the City shall post the public notice signs**) according to the following:

* * *

(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 **ten (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 **ten (10)** days following the final decision.

* * *

Section 8. Section 10.182 of the Medford Code is amended to read as follows:

10.182 Application Form.

An application containing the following information shall be prepared by the City:

(1) Identification of all applicable Statewide **Planning Goals and Guidelines**.

* * *

Section 9. Section 10.196 of the Medford Code is amended to read as follows:

10.196 Application Form.

An application for annexation shall contain the following information:

* * *

(4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way, ~~on a computer disk, in either IBM compatible Word or ASCH format~~ **in electronic form per the instructions of the City of Medford Planning Department.**

* * *

Section 10. Section 10.201 of the Medford Code is amended to read as follows:

10.201 Application Form.

Petitioners or persons requesting council initiation of a vacation shall file an application. A vacation application shall contain the following items:

* * *

(2) Legal description of area proposed to be vacated ~~on a computer disk in either IBM compatible WordPerfect or ASCH format~~ **in electronic form per the instructions of the City of Medford Planning Department.**

* * *

(6) Findings prepared by the applicant or applicant's representative **that address the approval criteria in Section 10.202, Vacation Criteria.**

///

Section 11. Section 10.205 of the Medford Code is amended to read as follows:

10.205 Application, Transportation Facility Development.

Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.251. However, the City shall follow the procedure prescribed below in Sections 10.206 through 10.208 in authorizing such projects. ~~Once the City has adopted a Transportation Systems Plan (TSP), all~~ transportation projects must be consistent with ~~that plan~~ **the adopted Transportation System Plan (TSP).**

~~Once the City has adopted a Transportation Systems Plan, all~~ Land use issues decided at the time of approval of the TSP do not have to be reexamined at the time of project development.

Section 12. Section 10.208 of the Medford Code is amended to read as follows:

10.208 City Council Action on Transportation Facility Development.

The City Council shall hold a quasi-judicial public hearing to review the preliminary project plan and the Planning Commission report and shall adopt a resolution or ordinance approving, modifying or disapproving such preliminary plan(s). The resolution or ordinance shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The resolution or ordinance shall contain findings demonstrating compliance with the *Comprehensive Plan* ~~which will include~~ **and the Transportation Systems Plan when adopted.** The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.

Section 13. Section 10.227 of the Medford Code is amended to read as follows:

10.227 Zone Change Criteria.

The approving authority (Planning Commission) shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) below:

(1) The proposed zone is consistent with the ~~Oregon Transportation Planning Rule (OAR 660)~~ **Transportation System Plan (TSP)** and the General Land Use Plan Map designation. ~~(When the City of Medford's Transportation System Plan (TSP) is adopted, a~~ A demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.)

Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.

(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:

(i) if at least **seventy percent (70%)** ~~percent~~ of the area proposed to be rezoned exceeds a slope of **fifteen percent (15%),**

- (ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.
- (b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one **(1)** of the following conditions must exist:
 - (i) At least one **(1)** parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or
 - (ii) The area to be rezoned is five (5) acres or larger; or
 - (iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five (5) acres.
- (c) For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:
 - (i) The overall area of the C-N zoning district shall be three (3) acres or less in size and within, or abutting on at least one **(1)** boundary, residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.
 - (ii) The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.
 - (iii) The overall area of the C-R zoning district shall be over three (3) acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential and I-H zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
- (d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:
 - (i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is

ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.

(e) For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one **(1)** or more of the following criteria:

- (i) The subject property has been sited on the General Land Use Plan Map with a GLUP Map designation that allows for only one **(1)** zone;
- (ii) At least **fifty percent (50%)** of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above;
- (iii) At least **fifty percent (50%)** of the subject property's boundaries abut properties that contain one **(1)** or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or
- (iv) Notwithstanding the definition of "abutting" in **MLDC Section 10.012** and for purposes of determining suitability under Section (1)(e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least **sixty (60)** feet in width.

(2) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the **MLDC Land Development Code** and Goal 3, Policy 1 of the ~~Comprehensive Plan~~ **Comprehensive Plan** "Public Facilities Element" and **Transportation System Plan**.

(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.

(b) Adequate streets and street capacity must be provided in one **(1)** of the following ways:

- (i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or

* * *

(iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one **(1)** proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one **(1)** of the following occurs:

- (a) the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two **(2)** years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or

* * *

Section 14. Section 10.257 of the Medford Code is amended to read as follows:

10.257 Historic Review, Application Content.

An application ~~to~~ for Historic Review shall include the information and materials listed below:

* * *

(3) Findings of fact demonstrating compliance with the approval criteria **in Section 10.258, Historic Review, Approval Criteria.**

* * *

Section 15. Section 10.261 of the Medford Code is amended to read as follows:

10.261 Historic Review Approval, Expiration.

Historic Review approvals shall expire within ~~one~~ **two (2)** years following the date of the final order unless work on the authorized improvement or construction has begun or an extension of time has been issued. ~~If a written request for an extension of time is filed with the Planning Department within one year from the date of the final order, the Planning Director shall extend the expiration date for a period of one additional year.~~ Upon written request submitted prior to expiration of the ~~one~~ **two (2)** year extension ~~granted by the Planning Director approval~~, the Landmarks and Historic Preservation Commission may grant an ~~additional~~ extension not to exceed one **(1)** year.

Section 16. Section 10.269 of the Medford Code is amended to read as follows:

10.269 Expiration of Tentative Plat approval.

(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire ~~one (1)~~ **two (2)** years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.276 - 10.280. If a request for an extension of a tentative plat application approval is filed with the Planning Department within ~~one (1)~~ **two (2)** years from the date of the final order, ~~the Planning Director shall, upon written request by the applicant, grant an extension of the expiration date for a period ending two years from the date the final order was signed. Prior to expiration of the one (1) year extension granted by the Planning Director if so requested, the Planning Commission shall grant an additional~~ extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.

* * *

Section 17. Section 10.279 of the Medford Code is amended to read as follows:

10.279 Filing of the Final Plat with Planning Department.

~~Upon execution of all required certificates, the applicant shall cause the final plat to be filed with the~~

planning department for action by the approving authority (Planning Director). No final plat shall be accepted for filing by the planning department unless, in addition to the above, the following is complied with:

(1) An accepted final plat shall be considered by the approving authority (Planning Director) **ten** (10) or more working days following acceptance.

* * *

Section 18. Section 10.287 of the Medford Code is amended to read as follows:

10.287 Application Form.

The application for Site Plan and Architectural Commission review shall contain the following information:

Landscape Plan: Three (3) copies of the landscape plan **scaled 1" = 10' or 1" = 20'** and a reduced copy on an 8-1/2 x 11 inch sheet, that ~~is~~ **are** legible, ~~shall be submitted which indicates~~ the following:

(1) existing natural features on site including **location and species** of all existing trees, with a trunk **six (6) inches** in diameter or greater at four (4) feet in height above the ground, ~~by location and species in order to consider preserving positive natural features,~~

(2) landscaping required by this code, (e.g. frontage landscaping, parking area planter bays and bufferyards),

(3) type of covering for all ground surfaces, (e.g. bark mulch, gravel, paving, native grasses),

(4) proposed ~~plant materials as follows:~~ a. trees, **shrub, and living ground cover:**

a. Locations and **number.**

b. ~~e~~Common and scientific names **including** with genus, species and cultivar, ~~for each proposed tree.~~ An alternate tree species list, **by location**, ~~for all proposed trees is strongly encouraged~~ to allow flexibility during installation.

b. ~~shrubs:~~ Shrub locations and number shall be provided. Alternate shrub species, ~~by location, (e.g.) north side, south side, sun, shade), is required~~ to allow for variability during installation.

c. ~~living ground cover species and locations.~~ Alternate ground cover species shall be ~~proposed to allow for variability during installation.~~

(5) type of automatic irrigation system to be installed,

(6) **manufacturer, model** ~~including type and location of the backflow prevention device~~ **which shall be selected from the Medford Water Commission's list of approved devices.**

Revisions to the landscape plan during installation may be allowed to accommodate the artistic nature of the plan or to allow replacement of plants that are unavailable. Replacement species shall be taken only from the alternate plant species identified on the plan approved by the Site Plan and Architectural Commission. The overall character of the landscape plan shall be maintained. The quantity of shrubs may be adjusted in response to planting size or species type, but shall not be reduced in number by more than **ten percent (10%)** ~~percent~~. In no case shall the quantity of shrubs be reduced below the minimum number required by the code or less than is necessary to cover **eighty-five percent (85%)** ~~percent~~ of the planter area within eight (8) years as specified in Section

10.780(1).

Applicants are encouraged to develop their landscape plans consistent with the City of Medford Landscape Guidelines.

Building Construction: Seventeen (17) copies of a site plan and three (3) sets of the architectural plans clearly and legibly drawn to scale, **with directional labels and** indicating with full dimensions the following information:

(1) Site Plan:

* * *

(e) Existing and proposed off-street parking: location, number, **type of spaces** and/or dimensions of **spaces**, parking area, internal circulation pattern.

(f) Access: pedestrian, vehicular, service, points of ingress and egress.

(g) Loading: location, dimension, number of spaces, **type of space (A or B)**, internal circulation.

* * *

(l) Location **and screening** of mechanical equipment.

(m) Location and screening of outdoor trash bins.

(2) Architectural Plans:

(a) Roof plan.

(b) Floor plan.

(c) Architectural elevations.

(d) Materials **and Colors**.

Section 19. Section 10.292 of the Medford Code is amended to read as follows:

10.292 Expiration of a Site Plan and Architectural Commission approval.

(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire ~~one (1)~~ **two (2)** years from the effective date. Within ~~one (1)~~ **two (2)** years following the effective date, substantial construction must have occurred or an extension of the approval will be necessary. If a request for an extension of a Site Plan and Architectural Commission application approval is filed with the Planning Department within ~~one (1)~~ **two (2)** years from approval of the final order, the ~~Planning Director shall, upon written request by the applicant, grant an extension of the expiration date for a period ending two years from the date the final order was signed. Prior to expiration of the one (1) year extension granted by the Planning Director if so requested, the~~ Site Plan and Architectural Commission shall grant an ~~additional~~ extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.

(2) When it is the developer's intent to complete an approved project in phases, the approving

authority may authorize a time schedule for the issuance of building permits for a period exceeding one (1) year, but in no case shall the total time period for the issuance of building permits be greater than five (5) years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one (1) year from approval of the Site Plan and Architectural Commission application will be required to modify the plans as necessary to avoid conflicts with changes in the ~~Comprehensive Plan~~ **Comprehensive Plan** or this chapter.

PASSED by the Council and signed by me in authentication of its passage this 20 day of November, 2008.

ATTEST: /s/Glenda Owens
 City Recorder

 /s/Gary H. Wheeler
 Mayor

APPROVED November 20, 2008.

 /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
Agenda Item Commentary

Item No.:

Meeting Date: November 20, 2008

Page:

1 of 1

SUBJECT:

An ordinance amending Chapter 10 of the *Municipal Code*, the *Medford Land Development Code*, Section 10.133 relating to Site Plan and Architectural Commission Membership, Sections 10.261, 10.269, and 10.292 relating to expiration of Historic, Tentative Plat, and Site Plan approvals, as well as general housekeeping revisions to Sections 10.102 through 10.296.

INITIATOR:

City of Medford

STAFF INFO. SOURCE:

John W. Hoke, Interim Planning Director
Praline McCormack, Planner II
File No. DCA-08-085

FISCAL IMPACT:

N/A

RECOMMENDATION:

Adopt the ordinance.

BACKGROUND & KEY ISSUES:

The minor amendment to Section 10.133 affects how the process for Site Plan and Architectural Commission appointments are conducted. The wording in this section for the Commission will change from "will" review applications and make recommendations to the Mayor regarding appointments to "may" review applications and make recommendations to the Mayor regarding appointments. This change is being done at the request of the Mayor. Also included in this code amendment is a revision to the expiration dates for approvals of Historic, Tentative Plat and Site Plan and Architectural reviews. Currently, these approvals expire after one year, with a one year extension approved by the Planning Director, and another one year extension approved by the approving authority. The proposed revision will make the initial approval valid for two years, with a one year extension approved by the approving authority. Given the current state of our economy, Staff determined two year approvals would be more appropriate. The remainder of the revisions are housekeeping revisions intended to correct errors and omissions. The proposal meets the approval criteria for *Land Development Code* amendments. The Planning Commission at their meeting of September 25, 2008, voted to recommend City Council approval.

EXHIBITS:

Staff Report to City Council dated October 27, 2008, including Exhibits A – D
Excerpt from Minutes of the August 12, 2008, meeting of the Citizens Planning Advisory Committee
Excerpt from Minutes of the September 25, 2008, meeting of the Planning Commission



CITY OF MEDFORD

PLANNING DEPARTMENT

STAFF REPORT

Date: October 27, 2008

To: City Council

Reviewed By: Suzanne Myers, AICP, Principal Planner *jm*

By: Praline McCormack, Planner II *pm*

Subject: Article II Code Amendments (DCA-08-085)
City of Medford, Applicant

BACKGROUND

Proposal

Consideration of amendment to Medford *Land Development Code* to amend Section 10.133 relating to Site Plan and Architectural Commission Membership, to amend Sections 10.261, 10.269, and 10.292 relating to expiration of Historic, Tentative Plat, and Site Plan approvals, as well as general housekeeping revisions to Article II.

Background

The amendment to Section 10.133 relating to Site Plan and Architectural Commission membership is being done at the request of the Mayor. Given the current economic conditions, Staff determined two year approvals of Historic, Tentative Plat and Site Plan reviews, with a one year extension, are more appropriate. Currently, approvals of these types of applications expire after one year, with a one year extension granted by the Planning Director, and a one year extension granted by the approving authority.

Format of Legislative Amendment

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

Applicable Criteria

Medford *Land Development Code*, Major Legislative Amendments, Section 10.182
(Exhibit B)

Findings

Staff prepared *Findings of Fact and Conclusions of Law* (Exhibit C) to support the proposed legislative amendment. The findings include a discussion of the proposal relative to the approval criteria for legislative amendments. The Findings substantiate compliance with the approval criteria.

Issues/Analysis

The minor amendment to Section 10.133 affects the process for how Site Plan and Architectural Commission appointments are conducted. The wording in this section will change from "will" review applications and make recommendations to the Mayor, to "may" review applications and make recommendations to the Mayor. Also included in this code amendment is a revision to change the expiration dates for approvals of Historic Review (Section 10.261), Tentative Plat (Section 10.269), and Site Plan and Architectural Commission (Section 10.292). Currently, these approvals expire after one year, with a one year extension approved by the Planning Director, and another one year extension approved by the appropriate Commission. The revision will make the initial approval valid for two years, with a one year extension approved by the appropriate Commission. The remainder of the revisions are housekeeping type revisions intended to correct errors, omissions, and to clean up Article II.

RECOMMENDED ACTION

The Medford Planning Commission, at their meeting of September 25, 2008, voted to forward a favorable recommendation for DCA-08-085 as per the Staff Report dated September 16, 2008, including:

EXHIBITS

- A Proposed Legislative Amendment to Article II of the *Land Development Code* dated October 27, 2008
- B Medford *Land Development Code*, Major Legislative Amendments, Section 10.182
- C *Findings of Fact and Conclusions of Law* dated September 16, 2008
- D Comments dated September 12, 2008

PLANNING COMMISSION AGENDA: SEPTEMBER 25, 2008

CITY COUNCIL AGENDA: NOVEMBER 20, 2008

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 <i>Comprehensive Plan</i> Amendment	"A"
<i>Land Development Code</i> Amendments (includes major zoning map amendments)	"A"
Minor <i>Comprehensive Plan</i> 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"
Minor Historic Review	"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 (1) 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; Amd. Sec. 3, Ord. No. 2007-100, May 17, 2007.]

10.110 Designation of Approving Authority.

This article designates the authority to act on planning and development requests as required by this chapter to five (5) approving authorities as follows:

1. The City Council
2. The Planning Commission
3. The Site Plan and Architectural Commission
4. ~~Historic Commission~~ **Landmarks and Historic Preservation Commission**

A
DCA-08-085

5. The Planning Director

[Amd. Sec. 1, Ord. No. 6265, Dec. 15, 1988.]

10.133 Membership of the Site Plan and Architectural Commission.

The Site Plan and Architectural Commission shall consist of nine (9) voting members appointed by the mayor, as follows:

(1) Appointment Criteria.

(a) One (1) member shall be a Planning Commissioner nominated by the Planning Commission chairperson. One (1) member shall be a licensed architect, one (1) shall be a licensed professional engineer, one (1) shall be a licensed landscaping professional, and one (1) shall be a licensed contractor. When selecting persons to fill the remaining four (4) positions, preference should be given to applicants who have training or experience closely related to the licensed positions. The Site Plan and Architectural Commission ~~will~~ **may** review the applications and **may** make recommendations to the Mayor regarding appointments.

(b) Members shall reside within the City of Medford. At the Mayor's discretion, an appointment to any of the four (4) professional/licensed positions may be an individual who, in lieu of having a valid license in the profession, possesses a comparable combination of skill, education, training and experience related to the respective professional licensing category.

(2) **Term of Office.** Site Plan and Architectural Commissioner terms shall be for a period of four (4) years, with the exception of the member of the Planning Commission, whose initial term shall be for a period of two (2) years. Subsequent Planning Commissioner terms shall be for one (1) year if reappointed. Said terms shall begin on February 1 of each year with not more than two (2) terms expiring in the same year, exclusive of the Planning Commissioner. A member may be removed by the City Council, after a hearing, for misconduct or nonperformance of duty. Any vacancy shall be filled by the City Council for the unexpired term of the member being replaced.

[Amd. Sec. 3, Ord. No. 6040, Jan 7, 1988; Amd. Sec. 6, Ord. No. 7659, June 2, 1994; Amd Ord. No. 2001-159, Sept. 6, 2001; Amd. Sec. 2, Ord. No. 2006-13, Jan. 5, 2006; Amd. Ord. No. 2007-99, June 7, 2007.]

10.135 Planning Director Authority.

The Planning Director is hereby designated as the approving authority for final plats, final PUD plans, **minor historic review** 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; Amd. Sec. 5, Ord. No. 2007-100, May 17, 2007.]

10.146 Referral Agencies, Distribution

This Chapter employs the use of referral agencies for the review of those plan authorizations indicated below, as shown on the Schedule which follows:

- A. Major *Comprehensive Plan* Amendment
- B. *Land Development Code* Amendment
- C. Minor *Comprehensive Plan* Amendment
- D. Annexation, except as provided in Section 10.199

- E. Vacation
- F. Zone Change
- G. Conditional Use Permit
- H. Exception
- I. Planned Unit Development
- J. Land Division
- K. Site Plan and Architectural Review
- L. Transportation Facility Development

Numerical references in the Schedule refer to the following:

1. When the proposal is within, ~~or abutting,~~ **or affecting** the referral agency's jurisdiction.
2. ~~When the proposal is within, or abutting the Airport Approach or Airport Radar Overlay Districts.~~
3. ~~When the proposal is within the Bear Creek Overlay District.~~
- 4 3. When the proposal includes new buildings or building additions that are within the referral agency's jurisdiction.
- 5 4. When the proposal is within the Southeast Overlay District and in a Parks or Schools land use category on the Southeast Plan Map.
- 6 5. When the proposal is within or abutting a Greenway General Land Use Plan Map designation.

Referral agencies may be asked to review certain proposals not indicated on the Schedule if, in the judgment of the Planning Director, the agency may have an interest in the proposal.

SCHEDULE OF REFERRAL AGENCY DISTRIBUTION

Comment [CoM1]: Entire schedule has been re-organized

AGENCY	A	B	C	D	E	F	G	H	I	J	K	L
CITY DEPTS.												
Building Safety	X	X	X	X	X	X	X	X	X	X	X	
City Attorney	X	X	X	X	X	X	X	X	X	X	X	X
City Manager	X	X	X	X								
Engineering Division	X	X	X	X	X	X	4 3		X	X	X	X
Fire	X	X	X	X	X	X	4 3		X	X	X	
Parks & Recreation	X	X	X	X	X	X	4 3		X	X	X	
Parks Director	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4	5 4
Planning	X	X	X	X	X	X	X	X	X	X	X	X
Police	X		X	X	X	X			X	X	X	
Public Works	X	X	X	X	X	X	4		X	X	X	

AGENCY	A	B	C	D	E	F	G	H	I	J	K	L
Water Commission	X	X	X	X	X	X	43		X	X	X	X
OTHER AGENCIES												
CPAC*	X	X	X									
Cable Television Co.			X	X	X	X	43		X	X	X	X
City of Central Point	1	1	1	1	1	1	1	1	1	1	1	1
City of Phoenix	1	1	1	1	1	1	1	1	1	1	1	1
DLCD*	X	X	X									
DSL*							3,65	65	65	65	65	65
Garbage Company				X	X							
Jackson Co. Health Dept.				X						X		
Jackson Co. Planning	X	X	X					1	1		1	
MID*	1		1	1	1		43		1	1		
Natural Gas Company			X	X	X	X	43		X	X	X	X
ODFW*							3,65	65	65	65	65	65
ODOT*	X		1	1		1	43		1	1	1	1
Power Company			X	X	X	X	43		X	X	X	X
RRVID*	1		1	1	1		43		1	1		
RV - Medford Airport*	1		1			1	2	2	2	2	2	
RVS*	1		1	1	1	1	43		1	1	1	
RVID*	X		1	1	1	X	43		1	1	X	X
Medford 549C Schools	1		1	1		1	43		1	1		
Superintendent	54	54	54	54	54	54	54	54	54	54	54	54
Phoenix-Talent Schools	1		1	1		1	43		1	1		
Superintendent	54	54	54	54	54	54	54	54	54	54	54	54
Telephone Company			X	X	X	X	43		X	X	X	X
U.S. Post Office									X	X	X	X
Urban Renewal Agency			1		1	1	1	1	1	1	1	1
Water Districts	1		1	1		1			1	1		

***Acronyms:**

CPAC	Citizens' Planning Advisory Committee
DLCD	Oregon Department of Land Conservation and Development
DSL	Oregon Department of State Lands
MID	Medford Irrigation District
ODFW	Oregon Department of Fish and Wildlife
ODOT	Oregon Department of Transportation
RRVID	Rogue River Valley Irrigation District
RV- Medford Airport	Rogue Valley International-Medford Airport
RVS	Rogue Valley Sewer Services
RVTD	Rogue Valley Transportation District

[Amd. Sec. 5, Ord. No. 5820, March 19, 1987; Amd. Sec. 1, Ord. No. 6275, Jan. 5, 1989; Amd. Sec. 7, Ord. No. 7659, June 2, 1994; Amd. Sec. 1, Ord. No. 98-67, Apr. 2, 1998; Amd. Sec. 2, Ord. No. 2002-95, June 20, 2002.]

10.150 General Procedural Requirements.

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

CLASS "A"	Legislative actions (major <i>Comprehensive Plan</i> amendments, code changes, major zoning map amendments)
CLASS "B"	Council-approved quasi-judicial decisions (annexations, except as provided in Section 10.199, vacations, minor <i>Comprehensive Plan</i> 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, minor historic review)

Each of the above procedural classifications 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; Amd. Sec. 6, Ord. No. 2007-100, May 17, 2007.]

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

"A" (All)

Publication Schedule

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 (2) 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 (2) 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.

"B" (Minor Comp. Plan Amendments [quasi-judicial], transportation facility development)

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.

"C" (Zone changes, preliminary PUD plans, conditional use permits, exceptions)

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.

"C" (Site plan and architectural review, land divisions and historic review)

Shall be posted in a public place no later than five (5) days prior to the scheduled meeting date before the approving authority.

(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 **where the City shall post the public notice signs**) 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 **ten (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 **ten (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; Amd. Sec. 8, Ord. No. 2007-100, May 17, 2007.]

10.161 Public Hearing.

The contents of this section shall govern the conduct of all quasi-judicial public hearings before an approving authority. A copy of this section shall be available for public inspection at each quasi-judicial hearing and in the Planning Department. The conduct of public hearings on legislative matters shall be at the discretion of the presiding officer.

(1) **Nature of Hearing.** All parties with standing shall have an opportunity to be heard, to present and rebut evidence before an impartial tribunal, to have the proceedings recorded, and to have a decision rendered in accordance with the facts on record and the law.

The presiding officer of the approving authority shall have authority to:

- (a) Regulate the course and decorum of the meeting.
- (b) Dispose of procedural requests and similar matters.
- (c) Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, questions, and rebuttal testimony.
- (d) Question any person appearing, and allow other members to question any such person.

(e) Waive, at his/her discretion, the application of any rule herein where the circumstances of the hearing indicate that it would be expedient and proper to do so, provided that such waiver does not act to prejudice or deny any party his/her substantial rights as provided herein or otherwise by law.

(f) Take such other action as authorized by the approving authority to appropriately conduct the hearing.

A ruling of the presiding officer may be challenged by any member of that approving authority present at the hearing. The challenge must be seconded. A ruling may be reversed by a majority of the members present and voting. A tie vote upholds the presiding officer's decision.

(2) **Conduct of Participants.** Proceedings shall at all times be orderly and respectful. The presiding officer may refuse to recognize or exclude from the hearing anyone who:

(a) Is disorderly, abusive, or disruptive.

(b) Takes part in or encourages audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive to the hearing.

(c) Testifies without first receiving recognition from the presiding officer and stating his full name and residence.

(d) Presents irrelevant, immaterial, or repetitious evidence.

(3) **Order of Procedure.** The presiding officer shall conduct the hearing in an orderly fashion, within the guidelines set forth herein. The hearing shall proceed in the following manner:

(a) **Commencement:** At the commencement of a hearing under a *Comprehensive Plan* or land use regulation, a statement shall be made to those in attendance that lists the applicable substantive criteria; states that testimony and evidence must be directed toward the criteria described in this subsection or other criteria in the plan or land use regulation which the person believes to apply to the decision; and states that failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue.

(b) **Abstentions, Conflict of Interest and Challenges.** Any member who is disqualified or wishes to abstain from participation in the hearing on a proposal shall identify the reasons for the record and comply with the provisions of Section 10.160, Conflict of Interest, and shall not thereafter participate in the discussion as a member or vote on the proposal. Any challenges to the impartiality shall also be decided at this time.

(c) **Planning Director's Report.** The presiding officer shall request that the Planning Director or staff member report on the criteria and standards and the basic factual evidence applicable to the case and indicate the action required to be taken.

(d) **Applicant's Case.** The presiding officer shall allow the applicant or applicant's representative to present evidence in support of the application. The applicant shall be allowed to produce witnesses on his/her behalf. Other parties in favor of the proposal shall thereafter be allowed to present their evidence. Applicant may then reserve time for rebuttal. The Planning Director may appear as an applicant on a staff proposal.

(e) **Opponent's Case.** The presiding officer shall allow opponents to present evidence in opposition to the proposal. Opponents shall be allowed to produce witnesses in their behalf.

(f) **Questioning of Witnesses.** Cross examination shall be permitted as per Section 10.162, Cross Examination.

(g) **Applicant's Rebuttal if Reserved.**

(h) **Staff Summary and Recommendations.** The Planning Director or staff person may present any additional evidence, comments and recommendations at the close of the hearing.

(i) **Final Discussion.** Upon conclusion of the evidence, members shall be allowed to openly discuss the proposal and further question any party appearing for or against the proposal as necessary.

(j) Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven (7) days after the hearing. Such an extension shall not be subject to the limitations of ORS 227.178.

(k) When the City Council or Planning Commission reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

(l) The failure of the property owner to receive notice as provided in Section 10.158 shall not invalidate such proceedings if the city can demonstrate by affidavit that such notice was mailed. The notice provisions of Section 10.158 shall not restrict the giving of notice by other means, including posting, newspaper publication, radio and television.

(4) **Standing.** A person has the right to appear as a party to a quasi-judicial proceeding if the person: (a) received official written notice of the hearing or was entitled to receive such notice, or (b) has interests which could be adversely affected by the decision.

[Amd. Sec. 4, Ord. No. 6265, Dec. 15, 1988; Amd. Sec. 13, Ord. No. 7659, June 2, 1994.]

10.176 Preapplication Conference.

Prior to applying for a development permit, the applicant may request a preapplication conference with the Planning Department. When requested, a preapplication conference shall be scheduled and shall provide an exchange of information regarding procedural requirements, required planning authorizations, consistency with the *eComprehensive pPlan*, scheduling and such other technical and design assistance as will aid the applicant in preparing a complete application. Upon conclusion of the conference the Planning Department shall provide the applicant with a written summary of the conference.

[Amd. Sec. 19, Ord. No. 7659, June 2, 1994.]

10.182 Application Form.

An application containing the following information shall be prepared by the City:

- (1) Identification of all applicable State-wide **Planning Goals and Guidelines**.
- (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 for the decision based on the criteria, standards, and facts.

10.183 Referral and Review.

After initiation of a Class "A" plan authorization, the Planning Department shall transmit one (1) copy of the proposed legislation to each referral agency for review and comment as per Section 10.146, Referral Agencies Distribution, for Class "A" actions. If the referral agency does not comment within thirty (30) working days, then the referral agency is assumed to have no comment. If requested in writing, by a referral agency, an extension of thirty (30) working days may be granted.

Upon conclusion of the thirty (30) day period, the Planning Department shall study and investigate the request and prepare a Staff Report setting forth a recommended action to the approving authority (City Council) based on compliance with the *Comprehensive Plan* and this chapter and, when required, with the *Statewide Planning Goals and Guidelines*, also setting forth conditions of development, if any, as recommended by the referral agencies.

[Amd. Sec. 21, Ord. No. 7659, June 2, 1994.]

10.187 Class "B", Referral and Review.

Within five (5) working days of accepting a Class "B" application, the Planning Department shall transmit one (1) copy of the application or appropriate sections thereof to each referral agency for review and comment as specifically required of each type of Class "B" application. If a referral agency does not comment within thirty (30) working days, then the referral agency is assumed to have no comment and standard conditions of development will be applied. If requested in writing, by a referral agency or the applicant, an extension of thirty (30) working days may be granted.

Upon conclusion of the thirty (30) day comment period, the Planning Department shall study and investigate the request and prepare a Staff Report setting forth a recommended action based on compliance with the *Comprehensive Plan* and this chapter and also setting forth conditions of development as recommended by the referral agencies.

The advisory agency (Planning Commission) shall consider the request and Staff Report and make a recommendation to the approving authority (City Council).

[Amd. Sec. 24, Ord. No. 7659, June 2, 1994; Amd. Sec. 2, Ord. No. 2004-225, Nov. 18, 2004.]

10.196 Application Form.

An application for annexation shall contain the following information:

- (1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of annexation and existing city limits.
- (2) Assessor's Maps of the proposed annexation area. The assessor's maps shall have identified those parcels for which consents to annex have been acquired and adjacent right-of-way to be annexed.
- (3) Consent to annex forms completed and signed by all consenting property owners within the proposed annexation area.
- (4) Legal metes and bounds or lot and block description of the annexation area including to the centerline of the adjacent right-of-way, on a computer disk, in either IBM-compatible Word or ASCII format in electronic form per the instructions of the City of Medford Planning Department.

- (5) Specific information on each parcel within the proposed annexation area:
 - (a) Current assessed valuation shown on County Assessor's tax rolls.
 - (b) Acreage of both public and private property to be annexed.
 - (c) Map and tax lot number.
 - (6) Addresses of all dwelling units and businesses located within the annexation area and names of all residents and whether they are registered voters.
 - (7) The following information shall be supplied by the applicant:
 - (a) Existing land uses within annexation area.
 - (b) Existing zoning within the annexation area.
 - (c) Existing improvements:
 - water system
 - streets
 - sanitary sewer
 - storm drainage
 - (d) Special Districts within the area:
 - water district
 - irrigation district
 - fire district
 - school district
 - Rogue Valley Sewer Services
 - other
 - (e) A completed Census Information Sheet for all parcels being considered for annexation.
 - (f) Written findings indicating compliance with all of the annexation criteria 1 through 3 contained in Section 10.197, Annexation Criteria.
 - (8) Property owners' (and agents') names, addresses and map and tax lot numbers within 200 feet of the subject site, typed on mailing labels.
- [Amd. Sec. 25, Ord. No. 7659, June 2, 1994; Amd. Sec. 2, Ord. No. 2003-284, Nov. 6, 2003.]

10.201 Application Form.

Petitioners or persons requesting council initiation of a vacation shall file an application. A vacation application shall contain the following items:

- (1) Vicinity Map drawn at a scale of 1" = 1,000' identifying the proposed area of vacation.
- (2) Legal description of area proposed to be vacated ~~on a computer disk in either IBM compatible WordPerfect or ASCII format~~ **in electronic form per the instructions of the City of Medford Planning Department.**
- (3) Assessor's maps of the proposed vacation area identifying abutting and affected properties. The assessor's maps shall identify those parcels for which consents to vacate have been acquired.
- (4) Consent to vacate forms completed and signed by all consenting property owners within the abutting and/or affected area.
- (5) Names and addresses of all abutting and/or affected property owners, including map and tax lot numbers typed on mailing labels.
- (6) Findings prepared by the applicant or applicant's representative **that address the approval**

criteria in Section 10.202, Vacation Criteria.

[Amd. Sec. 27, Ord. No. 7659, June 2, 1994.]

10.205 Application, Transportation Facility Development.

Where the City intends to improve a new or existing street and the improvement is to be built with public funds, the improvement standards set forth in this code are not binding on the City and the City Council may authorize such exceptions to the standards as it deems proper in the exercise of its sole and absolute discretion without regard to the exceptions process of Section 10.251. However, the City shall follow the procedure prescribed below in Sections 10.206 through 10.208 in authorizing such projects. ~~Once the City has adopted a Transportation Systems Plan (TSP), a~~All transportation projects must be consistent with that plan ~~the adopted Transportation System Plan (TSP).~~

~~Once the City has adopted a Transportation Systems Plan, l~~Land use issues decided at the time of approval of the TSP do not have to be reexamined at the time of project development.

[Added, Sec. 46, Ord. No. 7659, June 2, 1994.]

10.208 City Council Action on Transportation Facility Development.

The City Council shall hold a quasi-judicial public hearing to review the preliminary project plan and the Planning Commission report and shall adopt a resolution or ordinance approving, modifying or disapproving such preliminary plan(s). The resolution or ordinance shall identify all exceptions to the design and improvement standards of this Code which are being authorized. The resolution or ordinance shall contain findings demonstrating compliance with the *Comprehensive Plan* ~~which will include and the Transportation Systems Plan when adopted.~~ The City Engineer shall prepare detailed final construction plans and specifications in accordance with such resolution and solicit bids for the construction of the improvements.

[Added, Sec. 49, Ord. No. 7659, June 2, 1994.]

10.222 Class "C", Referral and Review.

Within five (5) working days of a Class "C" application being deemed complete, the Planning Department shall transmit one (1) copy of the application, or appropriate sections thereof, to each referral agency for review and comment as specifically required of each type of Class "C" application.

If the referral agency does not comment within ten (10) working days from the date of acceptance, then the referral agency is assumed to have no comment, and standard conditions of development will be applied. If requested in writing, by a referral agency or the applicant, an extension of ten (10) working days may be granted.

[Amd. Sec. 31, Ord. No. 7659, June 2, 1994; Amd. Sec. 4, Ord. No. 2004-225, Nov. 18, 2004.]

10.223 Reports.

Upon receipt of a Class "C" ~~plan authorization~~ plan application and necessary accompanying data, each referral agency shall make an investigation and submit a written report within fifteen (15) working days, and forward same to the Planning Department clearly specifying any recommended conditions for development approval.

(1) **City Departments, Affected Agencies and Utility Company Reports.** The public works department, water commission and affected public utilities, school districts and other affected agencies having jurisdiction, shall report to the Planning Department as to any recommendations or provisions which in their determination are required for the approval of the development consistent with this code.

(2) **City Engineer's Report.** The city engineer shall investigate and report on existing facilities and make a recommendation on the manner in which the development is to be provided city services. The city engineer shall appropriately condition the development to adequately provide for the drainage of surface water from the land constituting and surrounding the intended land division.

(3) **Fire Department/Water Commission.** The fire department/water commission shall investigate and report on existing facilities and make a recommendation concerning the number and placement of fire hydrants and other fire protection requirements for the proposed development.

(4) **Staff Report.** The Planning Department shall review the design and improvement of the proposed development in relation to the *eComprehensive pPlan*, any applicable specific plans prescribed by law which affects the proposed development and in relation to any and all applicable criteria and standards as set forth in this chapter. The staff report shall either summarize, or incorporate by reference, all departmental, affected agency and utility reports received as specified herein, and shall itemize such conditions as it deems appropriate to be imposed by the approving authority if approval is to be recommended.

[Amd. Sec. 32, Ord. No. 7659, June 2, 1994.]

10.227 Zone Change Criteria.

The approving authority (Planning Commission) shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) below:

(1) The proposed zone is consistent with the ~~Oregon Transportation Planning Rule (OAR-660) Transportation System Plan (TSP)~~ and the General Land Use Plan Map designation. ~~(When the City of Medford's Transportation System Plan (TSP) is adopted, a~~ **A** demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.)

Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below.

(a) For zone changes to SFR-2, the zoning shall be approved under either of the following circumstances:

(i) if at least **seventy percent (70%)** ~~percent~~ of the area proposed to be rezoned exceeds a slope of **fifteen percent (15%)**,

(ii) if other environmental constraints, such as soils, geology, wetlands, and flooding, restrict the capacity of the land to support higher densities.

(b) For zone changes to SFR-6 or SFR-10 where the permitted density is proposed to increase, one **(1)** of the following conditions must exist:

(i) At least one **(1)** parcel that abuts the subject property is zoned the same as the proposed zone, either SFR-6 or SFR-10 respectively; or

- (ii) The area to be rezoned is five (5) acres or larger; or
 - (iii) The subject property, and any abutting parcel(s) that is(are) in the same General Land Use Plan Map designation and is(are) vacant, when combined, total at least five (5) acres.
- (c) For zone changes to any commercial zoning district, the following criteria shall be met for the applicable zoning sought:
- (i) The overall area of the C-N zoning district shall be three (3) acres or less in size and within, or abutting on at least one (1) boundary, residential zoning. In determining the overall area, all abutting property(s) zoned C-N shall be included in the size of the district.
 - (ii) The overall area of the C-C zoning district shall be over three (3) acres in size and shall front upon a collector or arterial street or state highway. In determining the overall area, all abutting property(s) zoned C-C shall be included in the size of the district.
 - (iii) The overall area of the C-R zoning district shall be over three (3) acres in size, shall front upon an arterial street or state highway, and shall be in a centralized location that does not otherwise constitute a neighborhood shopping center or portion thereof. In determining the overall area, all abutting property(s) zoned C-R shall be included in the size of the district. The C-R zone is ordinarily considered to be unsuitable if abutting any residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (iv) The C-H zone shall front upon an arterial street or state highway. The C-H zone may abut the General Industrial (I-G), Light Industrial (I-L), and/or any commercial zone. The C-H zone is ordinarily considered to be unsuitable if abutting any residential and I-H zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
- (d) For zone changes to any industrial zoning district, the following criteria shall be met for the applicable zoning sought:
- (i) The I-L zone may abut residential and commercial zones, and the General Industrial (I-G) zone. The I-L zone is ordinarily considered to be unsuitable when abutting the Heavy Industrial (I-H) zone, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (ii) The I-G zone may abut the Heavy Commercial (C-H), Light Industrial (I-L), and the Heavy Industrial (I-H) zones. The I-G zone is ordinarily considered to be unsuitable when abutting the other commercial and residential zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
 - (iii) The I-H zone may abut the General Industrial (I-G) zone. The I-H zone is ordinarily considered to be unsuitable when abutting other zones, unless the applicant can show it would be suitable pursuant to (1)(e) below.
- (e) For purposes of (1)(c) and (1)(d) above, a zone change may be found to be "suitable" where compliance is demonstrated with one (1) or more of the following criteria:
- (i) The subject property has been sited on the General Land Use Plan Map with a

- GLUP Map designation that allows for only one (1) zone;
- (ii) At least **fifty percent** (50%) of the subject property's boundaries abut zones that are expressly allowed under the criteria in (1)(c) or (1)(d) above;
 - (iii) At least **fifty percent** (50%) of the subject property's boundaries abut properties that contain one (1) or more existing uses which are permitted or conditional uses in the zone sought by the applicant, regardless of whether the abutting properties are actually zoned for such existing uses; or
 - (iv) Notwithstanding the definition of "abutting" in MLDC 10.012 and for purposes of determining suitability under Section (1) (e), the subject property is separated from the "unsuitable" zone by a public right-of-way of at least **sixty** (60) feet in width.

(2) It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the ~~Comprehensive Plan~~ **Comprehensive Plan** "Public Facilities Element." **and Transportation System Plan.**

(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.

(b) Adequate streets and street capacity must be provided in one (1) of the following ways:

- (i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity; or
- (ii) Existing and new streets that will serve the subject property will be improved and/or constructed, sufficient to meet the required condition and capacity, at the time building permits for vertical construction are issued; or
- (iii) If it is determined that a street must be constructed or improved in order to provide adequate capacity for more than one (1) proposed or anticipated development, the Planning Commission may find the street to be adequate when the improvements needed to make the street adequate are fully funded. A street project is deemed to be fully funded when one (1) of the following occurs:

(a) the project is in the City's adopted capital improvement plan budget, or is a programmed project in the first two (2) years of the State's current STIP (State Transportation Improvement Plan), or any other public agencies adopted capital improvement plan budget; or

(b) when an applicant funds the improvement through a reimbursement district pursuant to the MLDC. The cost of the improvements will be either the actual cost of construction, if constructed by the applicant, or the estimated cost. The "estimated cost" shall be 125% of a professional engineer's estimated cost that has been approved by the City, including the cost of any right-of-way acquisition. The method described in this paragraph shall not be used if the Public Works Department determines, for reasons of public safety,

that the improvement must be constructed prior to issuance of building permits.

- (iv) When a street must be improved under (b)(ii) or (b)(iii) above, the specific street improvement(s) needed to make the street adequate must be identified, and it must be demonstrated by the applicant that the improvement(s) will make the street adequate in condition and capacity.

(c) In determining the adequacy of Category A facilities, the approving authority (Planning Commission) may evaluate potential impacts based upon the imposition of special development conditions attached to the zone change request. Special development conditions shall be established by deed restriction or covenant, which must be recorded with proof of recordation returned to the Planning Department, and may include, but are not limited to the following:

- (i) Restriction of uses by type or intensity; however, in cases where such a restriction is proposed, the Planning Commission must find that the resulting development pattern will not preclude future development, or intensification of development, on the subject property or adjacent parcels. In no case shall residential densities be approved which do not meet minimum density standards,
- (ii) Mixed-use, pedestrian-friendly design which qualifies for the trip reduction percentage allowed by the Transportation Planning Rule,
- (iii) Transportation Demand Management (TDM) measures which can be reasonably quantified, monitored, and enforced, such as mandatory car/van pools.

[Amd. Ord. No. 7036, Dec. 5, 1991; Amd. Sec. 1, Ord. No. 1999-88, June 3, 1999; Amd. Sec. 1, Ord. No. 2003-37, Feb. 6, 2003; Amd. Ord. No. 2004-59, March 18, 2004.]

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 (1) acre or more at the time of application filing.

I. Residential Density:

(1) **Residential Density Calculation.** Minimum and maximum permitted residential densities in PUDs shall be calculated pursuant to **Section 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 **Section 10.708**.

(2) **Residential Density Bonus.** In PUDs larger than **five (5)** acres, the residential density may be increased by up to **twenty percent (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; Amd. Sec. 12, Ord. No. 2007-100, May 17, 2007.]

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 **three (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 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)(c) and 10.230(E)(4) as part of the Final PUD Plan approval, and provided further that the phasing plan ensure 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 **five (5)** years shall lapse between the approval of phases. If more than five **(5)** years pass between the Final PUD Plan approval of any two **(2)** 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).

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 **five percent (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).

[Amd. Sec. 10, Ord. No. 8393, June 19, 1997; Amd. Sec. 3, Ord. No. 2005-97, June 2, 2005; Amd. Sec. 14, Ord. No. 2007-100, May 17, 2007.]

10.241 [Repealed, Sec. 11, Ord. No. 8393, June 19, 1997.] [Replaced May 17, 2007]. 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 **thirty** (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 **twenty-five** (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 **fourteen** (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 **thirty** (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.

[Added, Sec. 15, Ord. No. 2007-100, May 17, 2007.]

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 **fifty percent (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 **fifty percent (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.

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 **fifty percent (50%)** of the land covered by the approved PUD and which also constitutes more than **fifty percent (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 **fifty percent (50%)** of the vacant land covered by the approved PUD which also constitutes more than **fifty percent (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; Amd. Sec. 16, Ord. No. 2007-100, May 17, 2007.]

10.249 Mitigation of Impacts.

A development requiring the mitigation of impacts under Section 10.248, Conditional Use Permit Criteria, must do one (1) of the following:

- (1) Preserve unique assets of interest to the community.
- (2) ~~Provide a public facility or public nonprofit service to the immediate area or community.~~
- (3) Otherwise provide for a development that is consistent with the overall needs of the community in a location that is reasonably suitable for the purpose.

10.251 Application, Exception.

The purpose of sSections 10.251, Application for Exception, to 10.253, Criteria for an Exception, is to empower the approving authority (Planning Commission/Site Plan and Architectural Commission) to vary or adapt the strict application of any of the standards of this chapter as contained in Articles IV and V. Exceptions may be appropriate for reasons of exceptional narrowness or shape of a parcel; for reasons of exceptional topographic conditions, extraordinary and exceptional building restrictions on a piece of property; or if strict applications of standards in Articles IV and V would result in peculiar, exceptional, and undue hardship on the owner.

[Amd. Sec. 40, Ord. No. 7659, June 2, 1994.]

10.257 Historic Review, Application Content.

An application to for Historic Review shall include the information and materials listed below:

- (1) Application form.
- (2) All information requested on the application form.
- (3) Findings of fact demonstrating compliance with the approval criteria **in Section 10.258, Historic Review, Approval Criteria.**
- (4) Appropriate fee.

In addition to that listed, the City may require the applicant to submit additional information deemed necessary to take action on an application in accordance with this Code and applicable State laws.

[Added, Sec. 5, Ord. No. 2006-199, Sept. 7, 2006.]

10.258 Historic Review, Approval Criteria.

- (5) Temporary Suspension of a Demolition or Relocation Permit.

(a) In the case of temporary suspension of a demolition or relocation permit by the Landmarks and Historic Preservation Commission, issuance of the permit shall be delayed for a period of 120 days from the date of application for Historic Review or for the demolition or relocation permit, whichever is earlier.

(b) The Landmarks and Historic Preservation Commission may invoke an extension of the

suspension period for an additional period not exceeding **ninety (90)** days if it determines during a subsequent public hearing that there is a program underway that could result in public or private acquisition, or preservation or restoration of such building, structure, object, or site, and that there are reasonable grounds to believe that such a program will be successful.

(c) During the period of suspension, no permit shall be issued for demolition or relocation, nor shall any person demolish or move the building, structure, object, or site.

(d) At the end of the suspension period, if all such programs have been unsuccessful, the Medford Building Safety Director shall issue a demolition or relocation permit as long as the application otherwise complies with all other city ordinances.

[Added, Sec. 6, Ord. No. 2006-199, Sept. 7, 2006.]

10.261 **Historic Review Approval, Expiration.**

Historic Review approvals shall expire within ~~one~~ **two (2)** years following the date of the final order unless work on the authorized improvement or construction has begun or an extension of time has been issued. ~~If a written request for an extension of time is filed with the Planning Department within one year from the date of the final order, the Planning Director shall extend the expiration date for a period of one additional year. Upon written request submitted prior to expiration of the one two (2) year extension granted by the Planning Director approval, the Landmarks and Historic Preservation Commission may grant an additional extension not to exceed one (1) year.~~

[Repealed, Sec. 51, Ord. No. 7659, June 2, 1994; Replaced, Sec. 9, Ord. No. 2006-199, Sept. 7, 2006.]

10.267 **Form of Tentative Plat and Accompanying Data.**

All tentative plats shall be clearly and legibly drawn on tracing paper of good quality and prepared by a civil engineer or land surveyor registered in the State of Oregon. It shall have a dimension of not less than eighteen (18) inches by twenty-four (24) inches, and the scale shall be as follows: **One (1)** inch shall be equal to fifty (50) feet for twenty **(20)** acres or less, and **one (1)** inch shall be equal to one hundred **(100)** feet for all divisions of land over twenty **(20)** acres in area. The tentative plat shall contain the following data:

- (1) Proposed land division name (if a subdivision), date, north ~~point~~ **arrow**, scale, total acreage, and sufficient legal information to define the boundaries of the proposed development.
- (2) A key map located in the upper right hand corner identifying the location of the development relative to section and township lines and to adjacent property and major physical features such as streets, railroads, and waterways.
- (3) Names of abutting property owners on all sides, names and widths of adjoining rights-of-way, topographic features and all public improvements on adjacent property located within ~~two hundred (200)~~ feet of the project boundary.
- (4) Name and address of the owner(s) of record, developer, and engineer or land surveyor registered in the State of Oregon who prepared the tentative plat.
- (5) Locations, names, widths, approximate intersection angle, centerline radii, center line slopes, and improvement section of all streets, highways and other ways in the proposed project.
- (6) Number of lots, dimensions of lots (to the nearest foot), including frontage, width, and area (to

the nearest fifty [50] square feet).

(7) Location and height of all existing structures to remain on property and distance from proposed property lines.

(8) Location and character of all easements existing and proposed by the developer for drainage, sewage and public utilities.

(9) Five (5) foot topographic contours describing the area. Where the grade of any part of the proposed land division exceeds ten percent (10%) percent, or where the development abuts existing developed lots, an overall conceptual grading plan shall be required showing features adjacent to the development within a reasonable distance therefrom which could affect said project.

Where a conceptual grading plan is required it shall show how runoff of surface water from individual lots will be achieved and the ultimate disposal of all development surface waters. All topographic information shall be based on city data.

(10) Location of all creeks, streams and other watercourses, showing top of existing bank and areas subject to inundation as shown on the latest Federal Flood Rate Insurance Maps.

(11) Existing wells and irrigation canals, active or abandoned, and proposed disposition.

(12) Public or common area proposed, if any.

(13) The approximate distance to, and location of, the nearest sanitary sewer main.

(14) Name of the irrigation district, if any, within which the project is located and whether it is currently being assessed.

(15) Name of the school district within which the project is located.

10.269 Expiration of Tentative Plat approval.

(1) Approval of a tentative plat application shall take effect on the date the final order for approval is signed, unless appealed, and shall expire ~~one (1)~~ two (2) years from the effective date unless the final plat has been approved by the Planning Director pursuant to Sections 10.276 - 10.280. If a request for an extension of a tentative plat application approval is filed with the Planning Department within ~~one (1) two (2) years~~ from the date of the final order, the ~~Planning Director shall, upon written request by the applicant, grant an extension of the expiration date for a period ending two years from the date the final order was signed. Prior to expiration of the one (1) year extension granted by the Planning Director if so requested, the Planning Commission shall grant an additional extension not to exceed one (1) additional year.~~ Extensions shall be based on findings that the facts upon which the tentative plat application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.

(2) When it is the developer's intent to record and develop a tentatively platted land division in phases, the approving authority may authorize a time schedule for platting the various phases in periods exceeding one (1) year, but in no case shall the total time period for platting all phases be greater than five (5) years without having to resubmit the tentative plan. Phases platted after the passage of one (1) year from approval of the tentative plat will be required to modify the tentative plat as necessary to avoid conflicts with changes in the *Comprehensive Plan* or this chapter.

[Amd. Sec. 1, Ord. No. 1998-174, Aug. 6, 1998.]

10.277 Form of Final Plat and Data to Appear Thereon.

Where identified by an "X", the final plat of subdivisions and partitions shall conform with the following provisions:

SUBD PART

- | | |
|--------|---|
| X X | e. Lot numbers shall begin with the number "1" and shall continue consecutively throughout the development with no omission or duplications, except that lot numbers in subsequent contiguous development units may expand the numbering sequence of the previous unit providing the commercial name of the development remains unchanged. Each block shall be shown on one (1) sheet when possible. Where adjoining blocks appear on separate sheets, the street adjoining both blocks shall be shown on both sheets, complete with centerline and property line data. |
|--------|---|

All letters and figures within the development shall be conspicuous and solid.

10.279 Filing of the Final Plat with Planning Department.

Upon execution of all required certificates, the applicant **City Engineer** shall cause the final plat to be filed with the planning department for action by the approving authority (Planning Director). No final plat shall be accepted for filing by the planning department unless, in addition to the above, the following is complied with:

- (1) An accepted final plat shall be considered by the approving authority (Planning Director) **ten (10)** or more working days following acceptance.
- (2) The final plat is accompanied by:
 - (a) A blue or black line print thereof;
 - (b) The approved improvement plans signed by the City Engineer;
 - (c) All documents and matters previously submitted to the City Engineer under Section 10.278, Filing of Final Plat with City Engineer.
- (3) All required fees by the developer have been paid.
- (4) A print of the final plat signed off by all affected referral agencies and involved agencies.

The Planning Department shall examine the final plat and accompanying data and shall within five (5) working days determine:

- (a) Whether the land division is substantially the same as shown on the tentative plat with only approved alterations thereof;
- (b) Whether bonds and agreements guaranteeing improvement of all conditions of tentative plat approval have been completed pursuant to Section 10.666, Improvement Agreements, and Section 10.667, Faithful Performance Bond.

[Amd. Sec. 12, Ord. No. 6265, Dec. 15, 1988.]

10.280 Action and Decision Time: Final Plat.

The approving authority (Planning Director) shall within a period of not more than twenty-five (25)

working days after filing with the Planning Department, approve or disapprove the final plat and acknowledge compliance with all conditions of the tentative plat. If the final plat does not conform with all local code requirements applicable at the time of approval of the tentative plat and all rulings made thereunder, the approving authority (Planning Director) may disapprove said plat, or approve it; said approval to become unconditional at such time as said plat is made to comply with the approved tentative plat and such code requirements.

Upon disapproval of any final plat, the approving authority (Planning Director) shall return said plat to the applicant together with a written statement setting forth the reasons for such disapproval.

Upon approval by the approving authority (Planning Director) becoming unconditional, the Planning Director shall sign and have affixed the city seal to the approving authority certificate attached to said plat.

No land division will be recognized as complete until final plat is unconditionally approved by the approving authority (Planning Director) and no title to or interest in any property described in any offer of dedication on the final plat which is accepted by the approving authority (Planning Director) shall pass until recordation of said plat.

Within ten (10) days after recordation of the final plat, the applicant at his own expense shall furnish to the Planning Department one (1) mylar transparency and one (1) blue line print and shall furnish to the City Engineer three (3) blue line copies of the recorded plat and approved improvement plans.

[Amd. Sec. 13, Ord. No. 6265, Dec. 15, 1988.]

10.287 **Application Form.**

The application for Site Plan and Architectural Commission review shall contain the following information:

Landscape Plan: Three (3) copies of the landscape plan **scaled 1" = 10' or 1" = 20'** and a reduced copy on an 8-1/2 x 11 inch sheet, that ~~is~~ **are** legible, ~~shall be submitted which indicatinges~~ the following:

- (1) existing natural features on site including **location and species of** all existing trees, with a trunk ~~six (6) inches in diameter or greater at four (4) feet in height above the ground, by location and species in order to consider preserving positive natural features;~~
- (2) landscaping required by this code, (e.g. frontage landscaping, parking area planter bays and bufferyards),
- (3) type of covering for all ground surfaces, (e.g. bark mulch, gravel, paving, native grasses),
- (4) proposed ~~plant materials as follows:~~ **a. trees, shrub, and living ground cover:**

a. Locations and number.

~~b. e~~**Common and scientific names including with genus, species and cultivar, for each proposed tree.**—An alternate species list, by location, for all proposed trees is strongly encouraged to allow flexibility during installation.

~~b. shrubs: Shrub locations and number shall be provided. Alternate shrub species, by location, (e.g.) north side, south side, sun, shade), is required to allow for variability during installation.~~

~~c. living ground cover species and locations. Alternate ground cover species shall be proposed to allow for variability during installation.~~

- (5) type of automatic irrigation system to be installed,
(6) **manufacturer, model including type** and location of the backflow prevention device **which shall be selected from the Medford Water Commission's list of approved devices.**

Revisions to the landscape plan during installation may be allowed to accommodate the artistic nature of the plan or to allow replacement of plants that are unavailable. Replacement species shall be taken only from the alternate plant species identified on the plan approved by the Site Plan and Architectural Commission. The overall character of the landscape plan shall be maintained. The quantity of shrubs may be adjusted in response to planting size or species type, but shall not be reduced in number by more than **ten percent (10%) percent**. In no case shall the quantity of shrubs be reduced below the minimum number required by the code or less than is necessary to cover **eighty-five percent (85%) percent** of the planter area within eight (8) years as specified in Section 10.780(1).

Applicants are encouraged to develop their landscape plans consistent with the City of Medford Landscape Guidelines.

Building Construction: Seventeen (17) copies of a site plan and three (3) sets of the architectural plans clearly and legibly drawn to scale, **with directional labels and** indicating with full dimensions the following information:

(1) Site Plan:

- (a) Lot dimensions.
- (b) All proposed and existing buildings and structures: location, size, height, proposed use.
- (c) Public and private yards and open space between buildings.
- (d) Walls and fences: location, height and material.
- (e) Existing and proposed off-street parking: location, number **and type** of spaces and/or dimensions of **spaces**, parking area, internal circulation pattern.
- (f) Access: pedestrian, vehicular, service, points of ingress and egress.
- (g) Loading: location, dimension, number of spaces, **type of space (A or B)**, internal circulation.
- (h) Lighting: location and general nature, hooding devices.
- (i) Street dedication and improvements.
- (j) Drainage plan.
- (k) Location of existing public improvements including streets, curbs, sidewalks, street trees, utility poles, light fixtures, traffic signs and signals, and such other data as may be required to permit the Site Plan and Architectural Commission to make the required findings.
- (l) Location **and screening** of mechanical equipment.
- (m) Location and screening of outdoor trash bins.

(2) Architectural Plans:

- (a) Roof plan.
- (b) Floor plan.
- (c) Architectural elevations.
- (d) Materials **and Colors**.

[Amd. Sec. 1, Ord.No. 7786, Dec. 15, 1994; Amd. Sec. 2, Ord. No. 1998-75, Apr. 16, 1998.]

10.292 Expiration of a Site Plan and Architectural Commission approval.

(1) Approval of a Site Plan and Architectural Commission application shall take effect on the date the final order for approval is signed, unless appealed and shall expire ~~one (1)~~ **two (2)** years from the effective date. Within ~~one (1)~~ **two (2)** years following the effective date, substantial construction must have occurred or an extension of the approval will be necessary. If a request for an extension of a Site Plan and Architectural Commission application approval is filed with the Planning Department within ~~one (1)~~ **two (2)** years from approval of the final order, the ~~Planning Director shall, upon written request by the applicant, grant an extension of the expiration date for a period ending two years from the date the final order was signed.~~ Prior to expiration of the ~~one (1) year extension granted by the Planning Director if so requested,~~ the Site Plan and Architectural Commission shall grant an ~~additional~~ extension not to exceed one (1) additional year. Extensions shall be based on findings that the facts upon which the Site Plan and Architectural Commission application was first approved have not changed to an extent sufficient to warrant refiling of the application. All approvals made prior to the adoption of this ordinance shall expire one (1) year from the date of adoption of this ordinance, notwithstanding permitted extensions and previous phasing authorizations.

(2) When it is the developer's intent to complete an approved project in phases, the approving authority may authorize a time schedule for the issuance of building permits for a period exceeding one (1) year, but in no case shall the total time period for the issuance of building permits be greater than five (5) years without having to resubmit a new application for Site Plan and Architectural Commission review. Phases developed after the passage of one (1) year from approval of the Site Plan and Architectural Commission application will be required to modify the plans as necessary to avoid conflicts with changes in the ~~Comprehensive Plan~~ **Comprehensive Plan** or this chapter.

[Added, Sec. 2, Ord. No. 1998-174, Aug. 6, 1998.]

10.296 Issuance of Building Permits.

All applications for a building permit, wherein site plan and architectural review have been required, shall be consistent with the site and architectural plans as approved by the Site Plan and Architectural Commission and all conditions of approval imposed thereon and shall be accompanied by an accurate and correct site plan.

Security for Street Improvements: If all the required street improvements, as specified in the conditions of site plan and architectural approval, **have not been satisfactorily completed before application for a building permit**, the developer shall enter into a written agreement with the City in a form acceptable to the City Attorney specifying that within one **(1)** year (or such other period of time as agreed upon by the commission) all improvement work shall be completed in accord with this code and the applicable approved improvement plans and specifications, and that said developer shall warrant the materials and workmanship of said improvements in good condition and repair for an additional period of one **(1)** year from date of satisfactory completion and notification of same by the City. The agreement shall be approved and signed by the Planning Director or other person designated by the City Manager.

Said agreement shall in substance provide:

(1) That if the developer shall fail to complete said improvements in accord with the terms of the agreement, the City may complete the same and recover full cost and expense thereof from the

developer;

(2) For the inspection of all improvements by the city engineer and the reimbursement to the City of all costs of inspection;

(3) For the indemnification of the City, its council members, officers, boards, commissioners and employees from claims of any nature arising or resulting from the performance of any acts required by the City to be done in accord therewith.

(4) As a consideration for the foregoing and any other provisions of said agreement, the agreement by the city to accept the said street, storm drains and easements in which they lie at such time as the developer has fully complied with all the terms of said agreement and has satisfactorily completed his one (1) year warranty period.

In addition to the foregoing, said agreement may contain such other and further terms, covenants, conditions or provisions as the parties agree upon.

The developer shall file with the agreement, to secure his full and faithful performance thereof, one (1) or a combination of the following:

(a) A surety bond executed by a surety company authorized to transact business in the State of Oregon.

(b) Cash.

(c) An irrevocable letter of credit, assignment of deposit or loan disbursement agreement from a bank or savings and loan association.

The security shall be in an amount determined by the commission as sufficient to cover the cost of the improvements, engineering, inspection and incidental expenses, and must be approved by the City Attorney as to form.

Upon satisfactory completion of all improvements and acceptance thereof by the City, the amount of the security shall be reduced to twenty percent (20%) of the original sum and shall remain in effect until all deficiencies in construction and maintenance discovered and brought to the attention of the developer and surety during the one-year warranty period have been corrected to the satisfaction of the City.

Whenever a failure to perform under said agreement has not been corrected to the satisfaction of the City within thirty (30) days after notice by mail to the developer and surety at the addresses given in the security agreement, the City may thereafter, without further notice, declare the security forfeited and cause all required construction, maintenance or repair to be done.

Agreement for Completion of Other Improvements:

If all other required improvements specified in the conditions of site plan and architectural approval have not been satisfactorily completed before application for a building permit, the permit shall not be issued unless the owner and all other parties having an interest in the property enter into a written agreement with the City. The agreement shall be in a form acceptable to the City Attorney and shall specify that, within six (6) months after signing the agreement or such longer time period as specified by the Site Plan and Architectural Commission, all improvement work shall be completed according to the approved plans. The Planning Director or other person designated by the City Manager shall sign the agreement on behalf of the City. When the agreement is recorded in the Official Records of Jackson County, the burdens of the agreement shall run with the title of the affected property. The property affected by the agreement shall be the property depicted on the approved site plan. The

agreement shall provide that, if the work is not completed in accordance with its terms within the allotted time, the property may not thereafter be occupied or used until all deficiencies are corrected. The agreement shall provide for enforcement by the City through a civil suit for injunction and provide that the prevailing party shall be awarded costs and reasonable attorney's fees. When made in substantial compliance with this section, such an agreement shall be enforceable according to its terms, regardless of whether it would be enforceable as a covenant at common law.



City of Medford

DCA-08-085

Exhibit B

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.

CITY OF MEDFORD
EXHIBIT # **B**
File # **DCA-08-85**

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

IN THE MATTER OF AMENDING)
SECTION 10.133 OF THE MEDFORD)
LAND DEVELOPMENT CODE RELATING)
TO SITE PLAN AND ARCHITECTURAL)
COMMISSION MEMBERSHIP; AND)
AMENDING SECTIONS 10.261, 10.269,)
AND 10.292 RELATING TO EXPIRATION)
OF HISTORIC, TENTATIVE PLAT, AND)
SITE PLAN APPROVALS, AS WELL AS)
GENERAL HOUSEKEEPING REVISIONS)
TO ARTICLE II.)

FINDINGS OF FACT
CONCLUSIONS OF LAW

File No. DCA-08-085

Exhibit 'C'

September 16, 2008

City of Medford, Applicant

PROCEDURAL BACKGROUND

Amendment of the *Medford Land Development Code* is categorized as a procedural Class 'A' legislative action. 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

C
DCA-08-85

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 amendments.

The draft document was made available for review by the public (via the internet), affected agencies, departments, and interested persons. The Citizen's Planning Advisory Committee (CPAC) reviewed the amendment at a regular meeting on August 12, 2008. The Planning Commission reviewed the amendment at a regular meeting on September 25, 2008, making a recommendation to the City Council, and the City Council conducted an appropriately noticed legislative public hearing on the proposal on November 20, 2008. 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 development permits, 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 property ownerships or the entire City.

The proposal affects the City's land use planning process in a minor way relative to Site Plan and Architectural Commission membership, and the expiration of Historic, Tentative Plat, and Site Plan approvals. Furthermore, this proposal has no significant effect upon *Comprehensive Plan* policies.

CONCLUSIONS OF LAW

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

COMPLIANCE WITH THE CITY OF MEDFORD COMPREHENSIVE PLAN

There are no *Comprehensive Plan* Goals, Policies or Implementation measures that relate to the proposed changes to the *Land Development Code*.

SUMMARY

The proposed *Land Development Code* amendment can be found to be consistent with the Goals and Policies of the *Comprehensive Plan* by continuing the City's efforts to assure that the City business licensing process is the most efficient. The amendment also can be found to be consistent with 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.

**City of Medford
Draft Article II Amendment – DCA-08-085
Comments Received
September 12, 2008**

Comments	Agency/Interested Party Date Received
<p>I would like to submit this letter in support of the proposed Chapter 10 Revisions to Article II Code Amendment.</p> <p>I spoke before the Planning Commission regarding the expiration of a Tentative Plat approval and the expiration of a Site Plan and Architectural Review approval and believe the code amendment modifying the length of time for these approvals from one year to two years is a positive action.</p> <p>With the current economic conditions we are experiencing at this time, I would request consideration to apply the time periods for expiration of these approvals for Tentative Plat and to SPAC review to include any approvals in effect on the date of adoption of this ordinance, effectively adding a year one extension, retroactively, to existing approvals.</p> <p>Thank you for your consideration and the prompt action on this proposed Code Amendment.</p> <p>Regards,</p> <p>Scott Sinner, President Scott Sinner Consulting, Inc.</p>	<p>Scott Sinner</p> <p>August 21, 2008</p>

FILED
D
DCA-08-85

FINAL MEETING MINUTES

CITY OF MEDFORD CITIZENS' PLANNING ADVISORY COMMITTEE TUESDAY, August 12, 2008

The regular meeting of the Citizens' Planning Advisory Committee was called to order by Chairperson Curtis Folsom at 6:35 p.m. in Room 340, Medford City Hall.

ROLL CALL

Members, officials, staff and guests in attendance were:

Curtis Folsom, Chairperson	Jim Howe, member
Gerald Anderson, member	Christine Lachner, member
Bruce Bauer, member	Heather Casey, guest
Royal Blake, member	
Karen Blair, member	
Elwin Fordyce, member	Jill Stout, City Councilor
Rick Foster, member	Kathy Helmer, Planner

1.0 APPROVAL OF MINUTES – Meeting of July 22, 2008.

The minutes were approved as written.

2.0 REPORTS

2.1 Staff

Kathy Helmer provided a handout which showed the projects being worked on by the Long Range Planning Division. She explained the different projects, and reviewed the steps in the amendment process at the bottom of the sheet. There was some discussion about the need to involve citizens more and earlier in the process. A member noted that the web site is not citizen friendly; it is hard to navigate. A member said that his concern is that some important issues are never addressed. Citizens do not know the consequences of actions; things are not put for a vote to the citizens. CPAC is a vehicle for involvement, but it is not working so well. Perhaps the state has a group that could share information on how best to run a CPAC.

2.2 City Council

A member suggested that City Council should have a study session on the economic impacts of decisions to expand the urban growth boundary.

2.3 Commissions

A member said that CPAC needs a Planning Commission Liaison at its meetings.

2.4 Committees and Subcommittees

2.4.1 Comprehensive Plan Subcommittee. Gerald Anderson expressed his frustration with the Planning Department's response to the subcommittee proposal. Kathy Helmer responded by explaining the process that is followed and why. Gerald said that the proposal was clear and ready to be sent on. Gerald moved to send the material to City Council. Bruce Bauer seconded the motion. Some members suggested that it would be good to expand on certain aspects of the proposal. Gerald

did not agree with the need for further clarification. Karen brought up the idea of requesting a study session with City Council. Curtis Folsom said that they had not been adequately prepared for the study session with the Planning Commission. Jim Howe suggested that if all parties agreed that there was a problem with the Comprehensive Plan, then there would be plenty of avenues for making that change happen. Elwin Fordyce said that the government reserves scores of acres for nesting owls but nesting humans get only 1400 square feet.

Members agreed that they would address City Council on this proposal at the beginning of the meeting during the Oral Requests and Communications agenda item. Curtis said that they should address the issues raised by the Planning Dept. Jim Howe said that the speaker should make it clear that they didn't want the City to stop everything and redo it all at once.

Gerald's motion was revised to: CPAC will send the letter and materials to City Council for their review and request an opportunity to explain the proposal.

The vote was eight (8) in favor and one (1) in opposition. Curtis will revise the letter slightly and email the materials and letter to Kathy who will email it to Glenda for City Council.

2.4.2 Sidewalks. Jim Howe said that this item should be taken off the agenda. He does not know what there is to do. There seems to be no interest by the Bicycle Pedestrian Advisory Committee or City Council to do anything differently, so he doesn't see any point in working on it.

2.5 Special Reports: There were none.

3.0 OLD BUSINESS

3.1 Review of Notification Amendment Proposal...Rooney.

This item will be taken off the agenda. Rick Foster said that this proposal should move ahead; he would be willing to work on this. Christine Lachner said that they would bring it to the next meeting. Kathy will look for the final draft that was approved and send it to Rick.

3.2 Proposal to Revise the Comprehensive Plan.

This item was covered under the Reports section.

4.0 NEW BUSINESS

4.1 Announcements

There were no announcements. Jim Howe again brought up the need to have a study session with City Council to better understand the impact of growth. Would it be possible to identify a speaker that would speak to those costs of growth? Jim noted that cities are going bankrupt all over the country. Gerry asked if there was a staff person who looks long-term at revenue streams over 20 years. It was noted that some kinds of development are extremely expensive. Curtis suggested that there be a New Business agenda item at the next meeting to focus on the main issues to discuss at such a study session. Elwyn Fordyce noted that it is expensive to develop because are so sparsely populated with respect to density.

4.2 Applications under consideration

Members had no comments on the following applications:
DCA-08-085 Miscellaneous Amendments



CP-08-051 Haynes Comprehensive Plan Amendment
DCA-08-102 Revision of SE Overlay District
PUD-08-068/ZC-08-069 Generations
LDS-08-080 Annapolis Estate Subdivision

Re: PUD-07-271, several concerns were expressed. Parking spaces are so distant from the homes that they are unlikely to be used. The street is not wide enough to provide for parking, but members said that people would park on the street, thus blocking circulation. If an emergency vehicle needed to pass, their path might be blocked by all the on-street illegal parking. Members have often seen this occur. Members could see nothing innovative in the design of the development and questioned why it was a PUD. Bruce Bauer moved (and Royal Blake seconded) that CPAC recommend that the Planning Commission not approve PUD-07-021/LDS-07-274/ZC-07-273) because: 1) it is neither creative nor imaginative in its use of land; and, 2) there are issues with inadequate parking and concerns that emergency vehicles will not be able to maneuver on the development's narrow street which does not provide parking space. The motion passed with eight (8) votes in favor and zero (0) votes opposed and one (1) abstaining.

Members were also concerned about the amendments to Chapter 8 regarding Home Occupations. Members noted that there were some significant differences between what had been in the section on Home Occupations in Chapter 10 and what was proposed for Chapter 8. They were concerned that residential areas would have business signs everywhere and that the outward appearance of homes would change too much, affecting neighborhoods. They noted that other cities in Oregon regulate signs in residential neighborhoods and wondered why Medford could not. They were concerned that eliminating the limitation on the total square footage used for the home occupation in a residence would result in entire homes being used for business.

Jim Howe moved (and Bruce Bauer seconded) that CPAC recommend there be further discussion of the proposed amendments to Chapter 8 on Home Occupation Business Licenses before City Council considers passing them because CPAC has major concerns about the impact of these changes on neighborhoods, especially unregulated signs and businesses in residential areas. The motion passed with eight (8) votes in favor and one (1) vote opposed.

4.3 Other

There were no other topics for discussion.

5.0 GENERAL DISCUSSION

5.1 Other

There was no additional discussion, given the hour.

6.0 ADJOURNMENT

The meeting was adjourned at 8:35 PM.

Submitted by

Kathy Helmer, Planner IV



MINUTES Planning Commission Meeting September 25, 2008

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

<u>Commissioners</u>		<u>Staff</u>
David McFadden, Chair	Norm Nelson	Bianca Petrou, Assistant Planning Director
Allen Potter	Tony Cabler	Kelly Akin, Senior Planner
Jared Hokanson	Tim Jackle	Lori Cooper, Sr. Assistant City Attorney
Jerry Shean arrived at 5:33 p.m.		John Patterson, Fire Inspector
Brita Entenmann		Larry Beskow, City Engineer
Robert Tull		Kristy Grieve, Recording Secretary

10. Roll Call

20. Consent Calendar/Written Communications:

- 20.1 LDP-08-099 Final Order for tentative plat approval of a 2-lot partition of a 4.54 acre parcel located at the northeast corner of Crater Lake Avenue and Ford Drive, within a County LI (Light Industrial) zoning district. Lott Auto Ventures, Applicant (Neathamer Surveying, Inc., Agent)

New Consideration Items

- 20.2 DCA-08-085 Consideration of amendment to the Medford Land Development Code to revise Section 10.133 relating to Membership of the Site Plan and Architectural Commission (SPAC), revise Sections 10.261, 10.269, and 10.292 relating to Expiration of Historic Review, Tentative Plats, and Site Plan and Architectural Commission approvals, and general housekeeping revisions to Article II.

Motion: Approve Consent Calendar Items 20.1 through 20.2

Moved by: Commissioner Nelson Seconded by: Commissioner Potter

Voice Vote: Motion passed, 8 – 0 (Commissioner Shean was not yet present)

Commissioner Shean arrived at the meeting.

The following item was pulled off the consent calendar for discussion:

- 20.3 DCA-04-229 Land Development Code Amendment (Major Class 'A' Legislative) proposing new sections on a Hillside Protection Overlay District and related amendments to Sections 10.012, 10.727 and 10.728.

Commissioner Tull noted that the new handout from Kathy Helmer dated September 25, 2008 needs to be incorporated into the findings.

Kathy Helmer, Long Range Planner reviewed the handout and the new revisions that were proposed during Monday's Planning Commission Study Session.

Commissioner Tull was concerned the current proposal limited zoning in the HPO to SFR-2 and 4 only. He thought that any zoning should be allowed, and the impacts be mitigated through engineering standards. He passed out a handout with new language he proposed to replace the language in Section 10.399 that dealt with zone changes on page 2 of Exhibit A (20.3-7) regarding the SFR-2 and SFR-4 zoning.

There was much discussion regarding engineering standards, zoning, and increased density. Mr. Beskow, City Engineer, spoke about impacts that higher density zoning could have, and other concerns of the Engineering Department in regards to increasing the density, other than what is proposed.