



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

AMENDED NOTICE OF ADOPTED AMENDMENT

December 12, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

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



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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: December 27, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Marguerite Nabeta, DLCD Regional Representative
Roland Signett, City of Durham

<paa> ya

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

In person electronic mailed

DATE STAMP

DEPT OF
DEC 10 2007
LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Durham**

Local file number: **577-07**

Date of Adoption: **10/23/2007**

Date Mailed: **12/4/07**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **7/3/2007**

- | | |
|---|---|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

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

Amends the Durham Land Use Code Multiple Family (MF) Residential District to create a Multi-Family Design Overlay district (MD) that provides density and height bonuses. The overlay can be applied to land in the MF District at the request of the owner and upon approval by the City of a map amendment. The proposed amendment also makes detached single family dwellings, which are now permitted outright in the MF zone, a conditional use and adds "Live/work dwelling units" as a conditional use.

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

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <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"/> |

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

004-07(16235)

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. _____

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

City of Durham

Local Contact: **Roland Signett**

Phone: (503) 639-6851 Extension:

Address: **17160 SW Upper Boones Ferry Rd**

Fax Number: **503-598-8595**

City: **Durham**

Zip: **97224**

E-mail Address: **cityofdurham@comcast.net**

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. 240-07

**AN ORDINANCE AMENDING THE CITY OF DURHAM
COMPREHENSIVE LAND USE CODE
CHAPTER II, ARTICLE 2, SECTION 1 – DEFINITIONS
AND
ARTICLE 3, SECTION 2 – MULTIPLE FAMILY RESIDENTIAL DISTRICT**

Whereas, the Council finds that the existing Multiple Family Residential District does not include incentives to encourage high quality multi-family development, so there is a public need to create the Multi-Family Design Overlay district (MD) that establishes density and height bonuses for the provision of additional amenities and high value improvements; and

Whereas, the Council finds that the MD overlay district enables a wider variety of housing types within the City of Durham, which may help the City better meet Metro's housing goals; and

Whereas, the MD overlay district is not being applied to any specific locations as part of this ordinance, and will instead be applied to specific sites through a subsequent map amendment process. The potential impact to public facilities and services and transportation will be determined when the overlay district is applied to a specific site through the map amendment process;

NOW, THEREFORE,

THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:

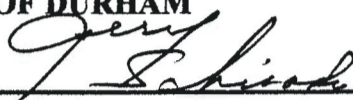
Section 1. AMENDMENT OF COMPREHENSIVE LAND USE CODE CHAPTER II, ARTICLE 2, SECTION 1 – DEFINITIONS AND ARTICLE 3, SECTION 2 – MULTIPLE FAMILY RESIDENTIAL DISTRICT. The Durham Comprehensive Land Use Code, as amended, is further amended to adopt the text amendments attached hereto as Exhibit A.

Section 2. FINDINGS. The City Council adopts as its findings and conclusions in support of this amendment, the application and burden of proof submitted by TCR Pacific Northwest Acquisitions, LP in July 2007, and the Staff Reports dated 8-28-07 and 9-18-07, all incorporated herein by reference.

Section 3. EFFECTIVE DATE. This Ordinance is effective 30 days after its passage.

First Reading: 9-25-07
Second Reading: 10-23-07

CITY OF DURHAM

By: 
Gery Schirado, Mayor

ATTEST:


Roland Signett, City Administrator/Recorder

EXHIBIT A
AMENDMENTS TO DURHAM LAND USE CODE
INCLUDES STAFF RECOMMENDATIONS AND PROPOSED REFINEMENTS

The requested amendments to Section II are shown below. New proposed language is double-underlined and existing language proposed to be deleted is shown with ~~striketrough~~

CITY OF DURHAM COMPREHENSIVE LAND USE CODE CHAPTER II

ARTICLE 2 - DEFINITIONS OF WORDS

SECTION 1 - Definitions

Live/work Dwelling - A dwelling in which a business may be operated on the ground floor. Permitted live/work housing types include single-family detached houses, townhouses, and multiple-family units.

ARTICLE 3 - ZONING DISTRICTS

SECTION 2 - Multiple Family Residential District (MF) - The MF District is intended to be applied either where such development has substantially occurred or where such development is desirable to occur owing to the availability of public services and separation from potentially conflicting land use activities. Table I shows those uses which are permitted outright, permitted by Conditional Use Permit, and permitted by Temporary Permit in the MF District. Table 2 shows development standards for the MF District.

TABLE 1
Uses Permitted Outright, By Conditional Use Permit,
and by Temporary Permit in Residential Districts

| | Single Family | Multiple Family |
|--|--|--|
| Uses Permitted Outright | Single Family Detached and Attached | Single Family Detached |
| | Home Occupation Residential Home | Single Family Attached Dwelling Residential Home Multiple Family Units |
| Uses permitted by Conditional Use Permit | Child Care Facility as part of a dwelling Community Utility Structure Greenhouses | Child Care Facility Community Utility Structure Home Occupation Greenhouses <u>Live/work dwelling units</u> Single Family-Detached |
| Uses Permitted by Temporary Permit | Real Estate and Construction Offices in Conjunction with PRD Occupant Owned Open Storage of: a. More than two (2) licensed vehicles b. Any motorized vehicle not in running condition c. Vehicles regulated by Public Utilities Commissioner | Real Estate and Construction Offices |

TABLE 2
Development Standards for Residential Districts

| STANDARDS | SINGLE FAMILY | MULTIPLE FAMILY |
|---|------------------------------------|--------------------------|
| Density | Variable | 16 Units per gross acre* |
| Minimum lot size | 0,000 square feet w/o PRD approval | variable |
| Minimum Yards: | | |
| Front | 30 feet | 30 feet* |
| Side | 10 feet | 10 feet* |
| Rear | 20 feet | 15 feet* |
| Corner | 20 feet | 20 feet* |
| Building Height | 35 feet | 35 feet* |
| Minimum Lot Frontage on a Public Street (non-Cul-de-sac) | 40 feet | 60 feet |
| Minimum Lot Frontage on a Cul de-sac Street | 20 feet | 40 feet |
| Services Required: | | |
| Sewer | Required | Required |
| Public Water Supply | Required | Required |
| Storm Drainage Features | Required | Required |
| Development Review Process | Required | Required |
| Recreational Allocation per Sub-Section A.4. & approved by Design Review Board | Subdivision Only | Required |
| * Standard can be modified pursuant to Sub-Section B – Multi-family Design Overlay. | | |

SUB-SECTION A. - Supplemental Standards Applicable to All Residential Districts:

1. Projections into Yards:

The following projections shall be allowed provided they do not conflict with public utility easements:

- a) Cornices, eaves, belt courses, sills, canopies, or other similar features not including bay windows or vertical projections, may extend or project into a required side yard not more than two (2) inches for one (1) foot of width of such side yard and may extend or project into a required rear or front yard not more than thirty (30) inches. Fireplace chimneys may also extend into a required front, side, or rear yard not more than twenty (20) inches provided the width of such yard is not reduced to less than three (3) feet.
- b) Open porches or balconies, not more than thirty (30) inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet and may extend into a required front yard not more than thirty (30) inches.
- c) A fence, lattice work, screen, or wall, not more than six (6) feet in height may be located in any required yard, unless the adjoining land use is not residential, in which case maximum height may be regulated by the Planning Commission under application for planned development or variance.

2. Corner Vision:

- a) Corner lots shall have no sight obstruction between three (3) feet and ten (10) feet in height measures from street grade located closer than twenty (20) feet from the street corner in any direction.

3. Accessory Height:

- a) Chimneys, radio and television aerials may extend ~~about thirty five (35) feet to a maximum height of fifty (50) feet~~ 15 feet above the allowed building height.

4. Recreational Allocation:

For purposes of implementing the policies of the Durham Plan, all subdivisions and multi-family development proposals, excluding planned residential developments, shall allocate at least five percent (5%) of the gross site area for recreational use. Subdivisions, multi-family development proposals, and planned residential developments shall pay a systems development charge for public parks in an amount determined by City Council.

The allocation of land for recreational use and a systems development charge will be required in addition to a dedication of any land designated as part of the Greenway network as shown in the Durham Plan.

Improvements on the land which is allocated for recreational use may be determined by the Design Review Board, provided that such improvements cost not more than the amount of the systems development charge, which will provide the funding source for said improvements.

The City shall assume management responsibility of recreational land if such land is included in the Durham Plan as part of the City's Greenway network. The City may assume management responsibility of other recreational land outside of the designated Greenway network.

SUB-SECTION B. - Multi-Family Design (MD) Overlay District:

1. Purpose. The density and height bonuses provided by the Multi-Family Design Overlay District are intended to enable a variety of housing types within the City of Durham and to encourage multi-family development which are high quality and provide amenities to residents and the community.
2. Applicability. Requests to apply the Multi-Family Design Overlay District to a property within the Multiple Family District are processed as a Quasi-Judicial Zone Map Amendment.
3. Setbacks
 - a. Along SW Boones Ferry Road and SW Lower Boones Ferry Road, which are identified as Major Arterials in the 1996 Durham Comprehensive Plan, front setbacks may be reduced to zero where the subject property is not abutting a single family residential district and parcels adjacent to the subject property are permitted to have reduced front setbacks.
 - b. Within a multi-parcel development, setbacks to lot lines internal to the development may be reduced to zero when adjacent to another parcel under the same ownership which is being developed as part of the same development.
4. Density and height bonuses are provided in Table 3. When the Overlay District is applied, as a condition of approval and in consideration of the size of the subject site, its location and other attributes, the City shall limit the total number and/or type of density and height bonuses for which the property may qualify, according to the following criteria:
 - a. For sites located on either SW Boones Ferry Road or SW Lower Boones Ferry Road (streets which are identified as Major Arterials in the 1996 Durham Comprehensive Plan):
 - 1) Maximum density bonuses shall not exceed 44 units per gross acre.
 - 2) Demonstrate availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protection.

- 3) Provide a traffic impact analysis, prepared by a licensed traffic engineer, which includes appropriate mitigation measures.
 - 4) Demonstrate compatibility with adjacent single-family residential zoning districts.
- b. For sites not located on either SW Boones Ferry Road or SW Lower Boones Ferry Road:
- 1) Maximum density bonuses shall not exceed 16 units per gross acre
 - 2) Maximum building height shall not exceed 35 feet.
 - 3) Demonstrate availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protection.
 - 4) Provide a traffic impact analysis, prepared by a licensed traffic engineer, which includes appropriate mitigation measures.
 - 5) Demonstrate compatibility with adjacent single-family residential zoning districts.

TABLE 3

Density and Building Height bonuses for Multi-Family Residential Developments within the MD Overlay District

| <u>Standards</u> | <u>Density Bonus and Height Bonus*</u> |
|--|---|
| <u>Private Open Space meeting the requirements of Sub-Section B5, below</u> | <u>2 Units per gross acre and 2 feet of building height</u> |
| <u>Security Provisions meeting the requirements of Sub-Section B6, below</u> | <u>6 Units per gross acre and 3 feet of building height</u> |
| <u>Property Operations meeting the requirements of Sub-Section B7, below</u> | <u>4 Units per gross acre and 2 feet of building height</u> |
| <u>Multi-Level Structured Parking meeting the requirements of Sub-Section B8, below</u> | <u>30 Units per gross acre and 15 feet of building height</u> |
| <u>The following Design Details meeting the requirements of Sub-Section B9, below:</u> | |
| <u>a) Roof Form</u> | <u>2 Unit per gross acre and 1 foot of building height</u> |
| <u>b) Horizontal and Vertical Façade Articulation</u> | <u>3 Unit per gross acre and 1 foot of building height</u> |
| <u>c) Durable Materials</u> | <u>2 Unit per gross acre and 1 foot of building height</u> |
| <u>Ecologically Sensitive and Sustainable Practices meeting the requirements of Sub-Section B10, below</u> | <u>6 Unit per gross acre and 5 feet of building height</u> |
| <u>* Available density bonuses are described in units per gross acre of the site area that are allowed in addition</u> | |

| Standards | Density Bonus and Height Bonus* |
|---|---------------------------------|
| <u>to the density permitted by the base zone.</u> | |

5. Private Open Space – 50% of ground-floor housing units have front or rear patios or decks measuring at least 40 square feet. 50% upper-floor housing units have balconies or porches measuring at least 40 square feet. Private open space areas are oriented toward common open space areas and away from adjacent single family residences, trash receptacles, parking and drives to the greatest extent practicable.
6. Security Provisions – The proposed development includes pre-wiring for the installation of individual security systems in all ground floor dwelling units and gated structured parking entries.
7. Property Operations – Commitment to use professional on-site management and leasing companies in the operation of the project as defined by companies with experience in operating Class A multifamily properties of 200 units or greater.
8. Multi-level Structured Parking – The proposed development meets code required parking ratios via above or below grade, concrete or steel constructed structured parking for 90% of all units.
9. Design Details – Through the Design Review process the applicant shall demonstrate how the proposed development qualifies for each of the requested multi-family density and height bonuses in this subsection in a way that promotes the goal of encouraging high quality multi-family developments. The proposed development provides high quality design features including the following (see Figures for an illustration of these features):
 - a. Roof lines:
 - i. Goal: Create visual interest.
 - ii. Method: If applicable to the design, utilize aspects such as, but not limited to, dormers, varied gables, articulated and/or significant eaves, roof plane offsets, varied parapets, multiple roof lines, etc. Furthermore, if present, rooftop mechanical equipment shall be screened from ground level view (see Figure 1).
 - b. Horizontal and Vertical Façade Articulation:
 - i. Goal: Provide visual interest, create a human scale, reduce the apparent bulk of large buildings or facades by breaking them down into smaller components.
 - ii. Method: Horizontal and Vertical Façade Articulation is encouraged to include a combination of aspects including, but not limited to: a change of materials, color, texture or pattern, a change of structural expression, use of bays and recesses, varied window form or details, breaks in building or roof elevation, use of a belt course or signage band (see Figure 2).

c. Durable Materials:

- i. Goal: Ensure quality of design is maintained through time
- ii. Method: The use of proven exterior materials such as, but not limited to, cementitious, brick, wood, metal, composites are encouraged.

10. Ecologically Sensitive and Sustainable Practices

- a. Green Development - A proposed development that accomplishes, provides for and/or creates, as defined by the US Green Building Council's latest revision to their LEED program (or a current industry recognized guideline or checklist of ecologically sensitive and sustainable principles and practices), a minimum of 4 of the following:
 - i. Sustainable Site Aspects
 - ii. Water Efficiency Aspects
 - iii. Energy & Atmosphere Aspects
 - iv. Materials and Resources Aspects
 - v. Indoor Environmental Quality Aspects
 - vi. Innovation & Design
- b. Bicycle Parking – The proposed development provides secure, covered bicycle parking for all residents at a ratio of 0.75 bicycle parking space per one (1) dwelling unit.
- c. Access to Transit – The proposed development is within 2,000 feet of a major transit stop, such as a bus park and ride, rail station or similar facility providing frequent, multi-line transit service and provides for good pedestrian connectivity to that location.

If projects attain a USGBC LEED Certified or better rating (or current industry equivalent), they shall be considered to be accomplishing the requirements of this section.

Figure 1: Multi-Family Design Features – Roof lines

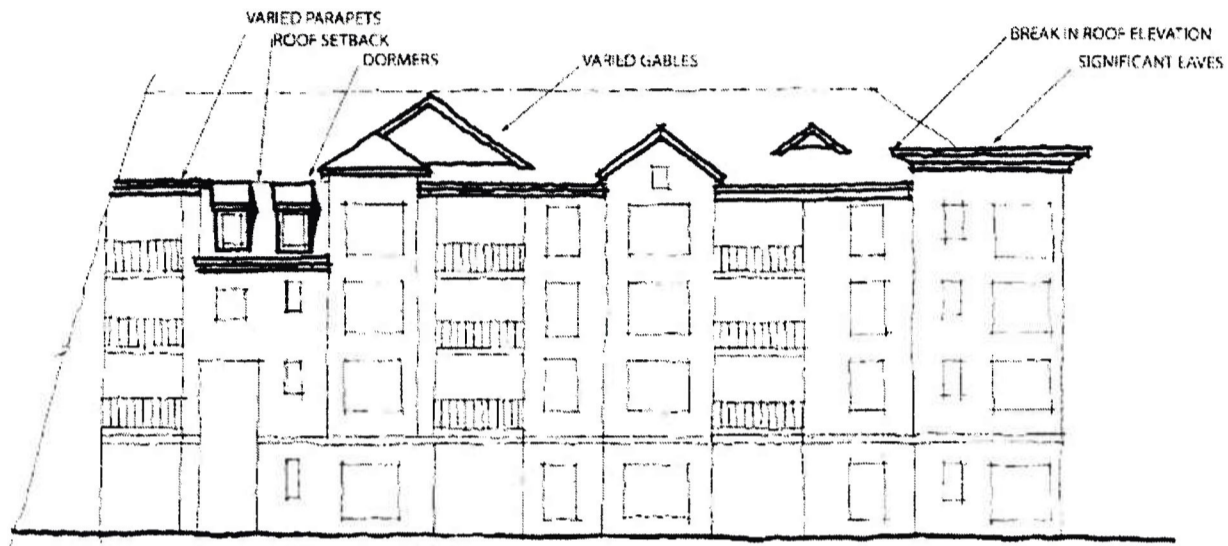
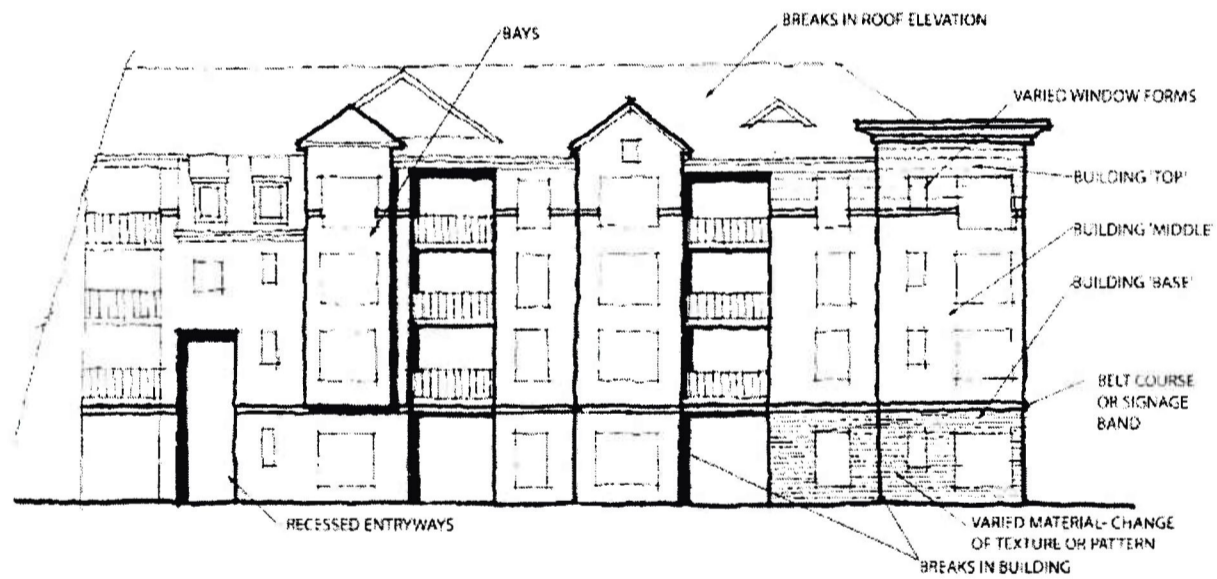


Figure 2: Multi-Family Design Features – Vertical and Horizontal Building Articulation



SUB-SECTION C. - Supplemental Standards Applicable Live/Work Dwelling:

1. Live/work dwellings are permitted by a Conditional Use Permit in the MF District. As part of a live/work dwelling, no building, structure, or land shall be used except for the following commercial activities:

- a. Offices, studios, or clinics of accountants, architects, artists, management consultants, and physicians or other practitioners of the healing arts;
 - b. Offices of administrative, editorial, educational, financial, government, insurance, real estate, religious, research, scientific or statistical organizations; or
 - c. Other office related type of uses found similar to the above by the Planning Commission.
2. In addition to complying with the Conditional Use standards and criteria in Chapter IV, Article 2, Section 2.C., Live/work dwellings will permitted only if:
- a. The live/work dwelling is located on a major arterial and the commercial or office space has visibility, signage and access from the street;
 - b. Not more than 1,000 square feet of the live/work dwelling shall be used in the conduct of the commercial activity and the non-residential activity shall be limited to the ground floor;
 - c. No commercial activity shall be conducted in any accessory building;
 - d. The non-residential activity is of a scale and/or type that few visitors, other than employees, have reason to come to the premises; and
 - e. Any need for parking generated by the conduct of the commercial activity shall meet off-street parking requirements as prescribed in this Code, providing that such parking shall not locate in the front yard.



City of Durham

17160 SW Upper Boones Ferry Rd.
cityofdurham@comcast.net

email:

P.O. Box 23483, Durham, Oregon 97281 (503) 639-6851 Fax
(503) 598-8595

Roland Signett – City Administrator Linda Smith – Administrative Assistant

STAFF MEMORANDUM

TO: City Council

FROM: K.J. Won, AICP
City Planner

DATE: September 18, 2007

RE: **Planning Commission Referral to Adopt a Proposed Multiple Family Design Overlay District (MD) et. al. Durham File No. 578-07.**

Planning Commission Public Hearing

On September 4, 2007, the Planning Commission held a public hearing to consider proposed text amendments to the Durham Comprehensive Land Use Code (CLUC), including the creation of a new multi-family design overlay. (See staff report dated August 28, 2007 and “*Plan Text Amendment Application*” submitted by TCR Pacific Northwest Acquisitions L.P. attached as Exhibit A.) The Commission received a letter in support of the proposal from Centercal Properties, LLC dated August 31, 2007 (attached with Exhibit A). No verbal citizen testimony in favor of or in opposition to the proposal was submitted during the hearing.

The city planner summarized the staff report, and the applicant’s representative made a presentation that generally agreed with the staff report, except for three suggested changes as follows:

Allow a Somewhat Greater Density Bonus

The applicant suggested that a maximum density bonus of 44 dwelling units (D/U’s) per acre be allowed on parcels greater than two acres and having no adjacent single family residential development.

Allow Reduced Setbacks on Major Arterials Only, Where Appropriate

The applicant suggested that reduced setbacks be allowed on Major Arterial streets (does not include Upper Boones Ferry Road, Bridgeport Road or Findlay Road) and only if adjacent parcels are permitted to have reduced setbacks.

□ Allow Live-Work Units Where Appropriate

The applicant suggested allowing live-work units along Major Arterials with specific limits on size and uses.

Planning Commission Decision

Following the applicant's presentation, the Commission deliberated the proposed code amendments and determined that they would provide a community benefit consistent with the required approval criteria. Therefore, the Commission voted unanimously in favor of a motion directing City staff to work with the applicant regarding resolution of the three suggested changes, as may be incorporated into the staff recommendation for referral to City Council. (See Planning Commission meeting minutes for September 4, 2007 attached as Exhibit B.)

Staff Recommendation

After the Planning Commission hearing, the City staff met with the applicant's representative and resolved the three suggested changes as follows:

□ Higher Density Bonus

The City staff agreed with the applicant that a higher density bonus would be appropriate for multi-family properties located on Major Arterial streets. According to the City's street classification, there are only two Major Arterial streets in Durham – SW Boones Ferry Road and SW Lower Boones Ferry Road. Therefore, the higher density bonus would be limited only to the small number of sites that have frontage on Boones Ferry Road and Lower Boones Ferry Road.

The majority of sites in Durham are not located on either of these streets, and the density bonus for sites in the main part of town would not be allowed to exceed 16 D/U's per acre. This approach would be more consistent with the core property locations in Durham and more compatible with the present community character.

The issue is resolved as explained above by revising SUB-SECTION B, paragraph 4a. and 4b. as shown in the proposed code text entitled "*Amendments to Durham Land Use Code Includes Staff Recommendations*"

and Proposed Refinements", dated September 2007 and attached with Exhibit A.

□ Reduced Setbacks

The applicant is proposing reduced setbacks for properties located on Major Arterial streets, which as previously discussed would apply only to SW Boones Ferry Road and SW Lower Boones Ferry Road. This proposal addresses the staff concern about not allowing reduced setbacks for sites located in the Upper Boones Ferry corridor, which has established landscaping in the front setback area. In addition, the reduced setbacks would not be allowed for sites abutting a Single Family Residential District and must be adjacent to properties permitted to have reduced front setbacks.

The issue is resolved as explained above by revising SUB-SECTION B, paragraph 3a. as shown in the proposed code text entitled "*Amendments to Durham Land Use Code Includes Staff Recommendations and Proposed Refinements*", dated September 2007 and attached with Exhibit A.

□ Live-Work Units

The applicant is proposing that live-work dwelling units be limited to commercial office uses and be subject to other requirements including location on a Major Arterial street, i.e., SW Boones Ferry Road and SW Lower Boones Ferry Road, and similar code provisions prescribed for a home occupation. These proposed revisions address the staff concerns.

The issue is resolved as explained above by adding SUB-SECTION C, - Supplemental Standards Applicable Live/Work Dwelling as shown in the proposed code text entitled "*Amendments to Durham Land Use Code Includes Staff Recommendations and Proposed Refinements*", dated September 2007 and attached with Exhibit A.

In conclusion, the Planning Commission has referred the subject CLUC text amendments, including the three suggested changes as discussed above, for City Council review and adoption. The revised staff recommendation is that the proposal as submitted with Exhibit A and entitled "*Amendments to Durham Land Use Code Includes Staff Recommendations and Proposed Refinements*", dated September 2007 is the final version as recommended by the Commission.

If the Council concurs with the Planning Commission recommendation, it should direct the City Attorney to draft an ordinance for Council adoption that will enact the proposed amendments.



City of Durham

17160 SW Upper Boones Ferry Rd.

email:

cityofdurham@comcast.net

P.O. Box 23483, Durham, Oregon 97281 (503) 639-6851

Fax

(503) 598-8595

Roland Signett – City Administrator Linda Smith – Administrative Assistant

STAFF REPORT

August 28, 2007

APPLICATION FILE #: 578-07

REQUEST: Approval of a text amendment to the Durham Comprehensive Land Use Code (CLUC) Multiple Family (MF) Residential District to create a Multiple family Design Overlay district (MD) that provides density and height bonuses. The proposed amendment would further amend the text to change detached single family dwelling from an outright use to a conditional use and permit live/work dwelling units as a conditional use.

APPLICANT: Trammel Crow, Northwest
630 NW 10th Avenue
Portland, OR 97209

AUTHORIZATION: Chapter VI, Article 1, Comprehensive Land Use Code,
Revised December 1995

I. PROPOSED TEXT AMENDMENTS

The applicant's proposal is attached as Exhibit A and includes a written abstract that explains the purpose and intent of the text amendments as follows:

“The proposed amendments create a Multi-Family Design Overlay district (MD). It is intended to encourage high quality multi-family development by establishing density and height bonuses for the provision of additional amenities and high value improvements. As proposed, the MD overlay can only be applied to land within the Multiple family Residential District (MF).”

The MD overlay would only be applied at the request of the property owner and upon approval by the City of a quasi-judicial plan map amendment to apply the Multi-Family Design Overlay District. The procedures for quasi-judicial map amendments are outlined in Durham Comprehensive Land Use Code Chapter VI, Article 2 – Quasi-Judicial Actions. Once approved, the City’s zoning map would be amended to indicate the “MF—MD” designation.

In addition, the proposed amendment makes detached single family dwellings, which are currently permitted outright in the MF zone, a conditional use. It also adds “Live/work dwelling units” as a conditional use in the MF zone.”

(Source: Page 1, Abstract, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

The requested text amendments are described on pages 3-11 in the application (Exhibit A) and are summarized as follows:

- Amend Chapter II, Article 3, Section 2, Table 1
 - Remove “*Single Family Detached*” from the Uses Permitted Outright to the Uses Permitted by Conditional Use Permit category in the Multiple Family District.
 - Add “*Live/work dwelling units*” to the Uses Permitted by Conditional Use Permit category in the Multiple Family District.
- Amend Chapter II, Article 3, Section 2, Table 2
 - Designate the development standards for the Multiple Family District pertaining to density, minimum yards, and building height with a footnote that reads:

*“*Standard can be varied pursuant to Sub-Section B – Multi-Family Design Overlay.”*
- Amend Chapter II, Article 3, Section 2, SUB-SECTION A

- Revise paragraph 3 a) to read:

“a) Chimneys, radio and television aerials may extend 15 feet above the allowed building height.”

- Revise the first and second paragraphs of paragraph 4 to read:

“4. Recreational Allocation:

For purposes of implementing the policies of the Durham Plan, all subdivisions and multi-family development proposals, excluding planned residential developments, shall allocate at least five percent (5%) of the gross site area for recreational use. For the purposes of this subsection, recreational use areas can include active and passive outdoor recreation facilities and indoor recreational facilities, such as exercise and arts and crafts spaces. The use of recreational facilities may be limited to the residents of the development. Subdivisions, multi-family development proposals, and planned residential developments shall pay a systems development charge for public parks in an amount determined by City Council.

The allocation of and for recreational use and a system development charge will be required in addition to a dedication of any land designated as part of the Greenway network as shown in the Durham Plan. However, it may be counted toward the required landscaping.”

- Amend Chapter II, Article 3, Section 2

Add SUB-SECTION B – Multi-Family Design (MD) Overlay District as described on pages 7-11 in the application (Exhibit A). As shown on Table 3 (page 8), density and building height bonuses for multi-family developments having the MD Overlay would be allowed subject to meeting the following standards:

- Private open space meeting the requirements of Sub-Section B5;
- Security provision meeting the requirements of Sub-Section B6;
- Property operations meeting the requirements of sub-Section B7;
- Multi-level structured parking meeting the requirements of Sub-Section B8;
- Design details meeting the requirements of Section B9 regarding roof form, horizontal and vertical façade articulation, and durable materials;

- Ecologically sensitive and sustainable practices meeting the requirements of Sub-Section B10.

The proposed density bonuses may be allowed in addition to the density permitted by the Multiple Family Residential District, i.e., 16 dwelling units per gross acre.

II. FINDINGS

Chapter VI, Article 1, Section 3 specifies that the applicant's request to amend the CLUC address the following review criteria:

1. Abstract stating the general purpose of the petition

As mentioned earlier, the applicant has provided an abstract that states the general purpose of the proposed text amendments (See Exhibit A).

2. Words, terms, sections, articles, chapters, or ordinances proposed for change, replacement, elimination or addition, using specific citations and references.

The specific code text proposed for amendment is listed by the ordinance article and section as shown in the attached application, i.e., "*III. Requested Amendments*" (Exhibit A). The new proposed language is double-underlined, and the existing language proposed to be deleted is shown with a strikethrough.

3. Maps, tables or sketches showing how petition would affect specific properties, areas, locations and land uses of the City.

The application contains a map (Figure 1 in Exhibit A) showing properties in Durham that are presently designated for multi-family development. The proposed text amendments would directly affect these properties having MF zoning.

4. How the proposed change would comply with statewide planning goals.

The application provides an analysis with the applicable statewide planning goals as follows:

Goal 1 – Citizen Involvement

"Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Durham plan amendment process, which ensures that there is adequate opportunity for citizen involvement and participation through the Planning Commission and City Council hearings."

(Source: Page 12, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The proposed amendment process includes an adequate opportunity for citizen participation consistent with Goal 1.

Goal 2 – Land Use Planning

“Statewide Planning Goal 2 addresses the process for land use planning. It requires coordination between cities and other governments and government agencies. The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Durham process, which ensure coordination and citizen involvement. The amendment is consistent with Statewide Planning Goal 2.”

(Source: Page 12, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The planning staff concurs with the applicant’s comments regarding Goal 2.

Goal 10 – Housing

“This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential increase in multi-family dwelling units will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment enables a wider variety of housing types within the City of Durham and will encourage multi-family development which are high quality and which provide amenities to residents and the community. The amendment is consistent with Statewide Planning Goal 10.”

(Source: Page 12, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The applicant is correct in stating that the proposed MD Overlay district is not being assigned to any property with adoption of this ordinance. Nevertheless,

some assessment can still be made regarding the potential density increase for the two sites presently zoned for multiple family development in Durham. The two MF sites are identified as follows:

- White Birches Apartments located at the southeast corner of Upper Boones Ferry Road and Findlay Road and occupying approximately 1.78 acres;
- Tualatin View Apartments located on the east side of Boones Ferry Road adjoining the Tualatin River and occupying approximately 13.16 acres.

The maximum density standard presently allowed in the MF District is 16 dwelling units per gross acre. The White Birches Apartment site is developed with 13 dwelling units, i.e., 12 fourplex dwellings and one single family dwelling. The maximum density allowed under the current standard would be 28 dwelling units.

The Tualatin View Apartment site is presently developed with 210 dwelling units, which represents the maximum density allowed for the site based on the current code standard.

According to the proposed density bonus provisions, the total bonuses possible would amount to 55 units per gross acre and 30 ft. of additional building height. The total density bonuses would be allowed in addition to the base zone density, which would result in a maximum density of 71 dwelling units per acre. The maximum building height with the bonus provisions could result in a 65-ft. tall building, compared to a 35-ft. maximum height currently permitted in the MF District.

Assuming that both MF sites were to be redeveloped based on the maximum density bonus provisions explained above, the potential number of multi-family dwelling units that could be developed on each site is shown as follows:

- White Birches Site: 126 dwelling units
- Tualatin View Site: 934 dwelling units

Conceptually, the proposed MD District Overlay could accommodate needed housing types as intended by Goal 10. This objective should be balanced with the need to maintain the integrity of the existing housing stock, with specific reference to the community's single family housing. The maximum density bonus provisions could increase the project density by a factor exceeding 4 times the current MF density standard, which would appear out-of-character for most Durham properties. Therefore, it would seem appropriate to consider adopting specific approval criteria that would limit the overall project density

to be more compatible with the community character and yet still satisfy Goal 10. This approach is discussed further under paragraph 5 below.

Goal 11 – Public Facilities and Services

“Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential impact to public facilities and services will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment enables multi-family developments which are potentially higher density and which therefore make more efficient use of public facilities and services. The amendment is consistent with Statewide Planning goal 11.”

(Source: Pages 12 and 13, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The necessary public facilities and services would appear to be available for serving higher density development as may be allowed under the proposed density bonuses. A response from the City Engineer regarding public facilities is provided as follows:

“I find that basic utilities are available at or near the lands currently zoned MF. Adequacy of the capacity to serve a development will need to be evaluated by the respective utility and is dependent on the number of dwelling units in the planned development. Size increases, if required, can be accommodated. Both MF zones within Durham are within the Tigard Water Department service boundary and are provided sanitary sewer service by Clean Water Services.”

(Source: Memorandum dated August 27, 2007 from David Evans and Associates Inc. attached as Exhibit B.)

As indicated in the City Engineer’s comments, public utilities are available, and their adequacy would need to be evaluated by the appropriate agency based on a specific development plan. So the proposed density bonuses would appear consistent with Goal 11.

Goal 12 – Transportation

“The goal aims to provide “a safe, convenient and economic transportation system.” The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential impact to transportation facilities will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment makes multi-family developments which are potentially higher density and which therefore make more efficient use of public transportation. In addition, the proposed amendments provide bonuses for “green” developments which provide good bicycle parking and access to transit. The amendment is consistent with Statewide Planning Goal 12.”

(Source: Page 13, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

As discussed under the previous Goal 10 housing analysis, the increased dwelling unit count that could result from applying the total density bonuses to existing MF sites would be a very substantial amount. The traffic impact associated with the increased density would likewise be substantial, and performing a traffic impact analysis should be established as a criterion for approving an application to assign the MF Overlay District to a particular property. In doing so, the potential impact to transportation facilities can be more precisely determined, as well as the suitable mitigation measures. This approach would be consistent with the intent of Goal 12 to provide a “safe, convenient and economic transportation system.”

Goal 13 – Energy

“Goal 13 declares that “land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy. Based upon sound economic principles.” The proposed amendments provide bonuses for “green” development which implement ecologically sensitive and sustainable principles and practices. The amendment is consistent with Statewide Planning Goal 13.”

(Source: Page 13, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The planning staff would concur with the applicant's comments pertaining to Goal 13.

Goal 14 – Urbanization

“This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. The MD Overlay District is not being applied to any specific locations as part of this ordinance. However, the proposed amendment enables multi-family developments, which are potentially higher density, and which therefore make more efficient use of urban lands and encourages compact urban form. The amendment is consistent with Statewide Planning Goal 14.”

(Source: Page 13, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The City has adopted a land use plan to meet its MF residential land needs. Nevertheless, one of the primary objectives of Goal 14 is to encourage an efficient land use pattern. The proposed density bonuses would accommodate higher density multi-family developments that would result in a more efficient use of land, i.e., compact urban form, that would be consistent with Goal 14.

5. How the public is best served with implementation of the proposed change.

As explained in the applicant's written statement:

“The proposed amendment may help the City to better meet its housing goals. The City's Comprehensive Plan found that the City was unable to meet its original Metro housing target of an additional 262 dwelling units. In response, Metro has since decreased its target for the City to 243 units. However, the proposed amendment enables multi-family developments, which are potentially higher density, and which therefore make more efficient use of urban lands. These amendments may help the city to better contribute to the regional effort of increasing the development capacity of land within the Urban Growth Boundary (UGB).”

(Source: Page 14, Analysis of Conformance with Statewide Planning Goals, Amendments to MF Zone, submitted by Trammel Crow, Northwest July 2007.)

Staff Response

The City has previously adopted plan amendments to comply with Metro's Regional Functional Plan. Title 1 of the Metro plan established a long term target for new housing developments in Durham. As noted in the applicant's statement above, Metro reduced the original target for Durham by 19 dwelling units. This reduction was due to the City's limited capacity of vacant residential land to develop new housing given existing density standards.

In view of the existing vacant land supply and zone densities, the City may fall short of achieving the regional housing target. Therefore, the proposed density bonus provisions would assist the City in reaching the target, albeit a more modest density increase would suit this purpose. Also, consideration for compatibility with Durham's community character as earlier discussed under Goal 10 should be a factor.

The proposed Sub-Section B 4. does specify that the City may limit the total number and/or type of density for which the property may qualify. In order to establish suitable limits in the amount of bonuses that would be permitted for the property, it would be appropriate to specify the following criteria:

a. Site Area Having Two Acres or Less

- 1) Maximum density bonuses shall not exceed 16 units per gross acre.
- 2) Demonstrate availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protection.
- 3) Provide a traffic impact analysis including appropriate mitigation measures prepared by a licensed traffic engineer.

b. Site Area Greater than Two Acres

- 1) Maximum density bonuses shall not exceed 32 units per gross acre.
- 2) Demonstrate availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protection.
- 3) Provide a traffic impact analysis including appropriate mitigation measures prepared by a licensed traffic engineer.

In addition, other proposed code amendments are reviewed as follows:

- Amendment to Chapter II, Article 3, Section 2, Table 1

- Remove “*Single Family Detached*” from the Uses Permitted Outright to the Uses Permitted by Conditional Use Permit category in the Multiple Family District.

Staff Response

This amendment would make a single family detached house a conditional use rather than a use permitted outright in the Multiple Family District. The intent of this amendment would be to prioritize multi-family and similar housing types over detached single family dwellings in the MF District. It is noted that one single family detached dwelling located in the White Birches site would be made a nonconforming use by this amendment.

- Add “*Live/work dwelling units*” to the Uses Permitted by Conditional Use Permit category in the Multiple Family District.

Staff Response

The applicant has provided a report describing live/work accommodation (See Exhibit C.). In reviewing the document, it would appear that certain land use issues would need to be addressed such as:

- Appropriate employment activities for Live/Work;
- Appropriate locations for Live/Work;
- Protection of employment land;
- Size of Live/Work schemes;
- Configuration of Live/Work.

In some respects, the live/work concept appears similar to the mixed-use type of development, i.e., commercial retail uses occupying the ground floor with dwelling units located on the upper stories. The City’s land use code does not provide for mixed-use development, and it would seem prudent to gain a more informed understanding of the live/work development concept before adding it as a conditional use in the MF District.

□ Amendment to Chapter II, Article 3, Section 2, SUB-SECTION A

- Revise paragraph 3 a) to read:

“a) *Chimneys, radio and television aerials may extend 15 feet above the allowed building height.*”

Staff Response

The existing code language appears somewhat ambiguous. The proposed amendment clearly specifies that aeriols may extend 15 ft. above the allowed building height (35 ft.), which amounts to the same maximum height (50 ft.) prescribed under the current code.

- Revise the first and second paragraphs of paragraph 4 to read:

“4. Recreational Allocation.”

For purposes of implementing the policies of the Durham Plan, all subdivisions and multi-family development proposals, excluding planned residential developments, shall allocate at least five percent (5%) of the gross site area for recreational use. For the purposes of this subsection, recreational use areas can include active and passive outdoor recreation facilities and indoor recreational facilities, such as exercise and arts and crafts spaces. The use of recreational facilities may be limited to the residents of the development. Subdivisions, multi-family development proposals, and planned residential developments shall pay a systems development charge for public parks in an amount determined by City Council.

The allocation of and for recreational use and a system development charge will be required in addition to a dedication of any land designated as part of the Greenway network as shown in the Durham Plan. However, it may be counted toward the required landscaping.”

Staff Response

The amendment would allow active and passive outdoor recreation facilities and indoor recreational facilities to count towards the five percent recreational use requirement. The use of the recreational facilities may be limited to the residents of the development. These provisions would seem reasonable and to a large extent could be said to fulfill the original intent and purpose of the requirement.

However, the amendment to allow the Greenway to be counted toward the required landscaping could possibly detract from the desired appearance of a project. The minimum landscape requirement is 20 percent of the site area. Typically, the Greenway would be located at the rear of the development and not even be visible to the public view. The Greenway could occupy a significant area that would reduce the amount of landscape

area that could be better located elsewhere within the development. The City Engineer shares a similar concern in this regard (See Exhibit B.).

□ Amendment to Chapter II, Article 3, Section 2

Add SUB-SECTION B – Multi-Family Design (MD) Overlay District as described on pages 7-11 in the application (Exhibit A). As shown on Table 3 (page 8), density and building height bonuses for multi-family developments having the MD Overlay would be allowed subject to meeting the following standards:

- Private open space meeting the requirements of Sub-Section B5;
- Security provision meeting the requirements of Sub-Section B6;
- Property operations meeting the requirements of sub-Section B7;
- Multi-level structured parking meeting the requirements of Sub-Section B8;
- Design details meeting the requirements of Section B9 regarding roof form, horizontal and vertical façade articulation, and durable materials;
- Ecologically sensitive and sustainable practices meeting the requirements of Sub-Section B10.

Staff Response

SUB-SECTION B is the primary amendment text that establishes the density and building height bonuses. The planning staff has earlier suggested density bonus criteria for limiting the number of bonuses for which the property may qualify. The proposed bonuses for density and building height appear to be consistent with the particular design standard, although the structured parking bonus does appear on the high side due to the construction cost.

The setback provisions under paragraph 3.a. of SUB-SECTION B should be further addressed. First, it should be noted that Bridgeport Road is classified as a Major Collector under the Durham Plan and Code, not a Major Arterial as listed in the amendment text. Second, the provision to allow a zero front yard when the property is not abutting a single family residential district would eliminate the opportunity to landscape a prime location within the development, which has been a long-standing hallmark in Durham. The City Engineer shares this concern and has also noted that the MF site on Findlay Road has the sidewalk very near the property line (which would allow little if any landscape buffer).

III. RECOMMENDATION

Based on the foregoing findings, the planning staff concludes that the proposed code amendments, with certain revisions as specified below, would be consistent with the required approval criteria. Therefore, it is recommended that the Planning Commission adopt a motion that contains a recommendation to City Council for approving the proposed code amendments, including the following revisions:

1. Remove the proposed “*Live/work dwelling units*” from the Uses Permitted by Conditional Use Permit category in the Multiple Family District. (If the Planning Commission would prefer to pursue this type of development, the City staff should be directed to do so.)
2. Delete the proposed sentence that reads: “*However, it may be counted toward the required landscaping.*” in the second paragraph of paragraph 4. Recreation Allocation, in Chapter II, Article 3, Section 2, SUB-SECTION A.
3. Remove the proposed paragraph 3.a. of SUB-SECTION B pertaining to zero setbacks.
4. Amend the proposed text in paragraph 4. of SUB-SECTION B to read as follows:

“4. Density and height bonuses are provided in Table 3. As a condition of approval and in consideration of the size of the subject site, its location and other attributes, the City shall limit the total number and/or type of density bonuses for which the property may qualify according to the following criteria:

a. Site Area Having Two Acres or Less

- 1) Maximum density bonuses shall not exceed 16 units per gross acre.*
- 2) Demonstrate availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protection.*
- 3) Provide a traffic impact analysis including appropriate mitigation measures prepared by a licensed traffic engineer.*

b. Site Area Greater than Two Acres

- 1) Maximum density bonuses shall not exceed 32 units per gross acre.*

- 2) *Demonstrate availability of adequate public facilities and services, including public water, sanitary sewer, storm drainage, police and fire protection.*
- 3) *Provide a traffic impact analysis including appropriate mitigation measures prepared by a licensed traffic engineer.*

In addition, the City may limit the total number and/or type of height bonuses for which the property may qualify.”

AMENDMENTS TO

**CHAPTER II, ARTICLE 3, SECTION 2
MULTIPLE FAMILY RESIDENTIAL DISTRICT**

**PLAN TEXT AMENDMENT
APPLICATION**

SUBMITTED TO:

CITY OF DURHAM

SUBMITTED BY:

**TCR PACIFIC NORTHWEST
ACQUISITIONS L.P.**

JULY 2007

**Amendment to Chapter II, Article 3
Section 2 - Multiple Family Residential District
Plan Text Amendment Application**

TABLE OF CONTENTS

I. APPLICATION FORMS

Figure 1: Properties Currently Zoned MF

II. ABSTRACT, STATING THE GENERAL PURPOSE OF PETITION

III. REQUESTED AMENDMENTS

IV. ANALYSIS OF CONFORMANCE WITH STATEWIDE PLANNING GOALS

V. ASSESSMENT OF PUBLIC BENEFIT

VI. ANALYSIS OF CONFORMANCE WITH APPLICABLE CRITERIA

- A. The petition for land use change meets the definition of such change described in this Code.
- B. The change affects a class of property(ies) or persons.
- C. The change is consistent with statewide and regional planning goals.

I.

APPLICATION FORMS

A. CITY OF DURHAM DEVELOPMENT APPLICATION FORMS

The required City of Durham Development Application Form is provided on the following page. In addition to this form, the application provides findings of fact and exhibits which fulfill the applicable criteria of the Durham Comprehensive Land Use Code. The applicable criteria were identified by City of Durham staff. The contents of this application have been compiled by the project team, which consists of experts in the fields of land use and architecture.

Durham Comprehensive Land Use Code Chapter VI, Article I establishes the procedures for legislative land use actions. As required by SECTION 3 of this chapter, this application includes the following information:

- ◆ Abstract, stating the general purpose of petition and maps, tables or sketches showing how petition would affect specific properties, areas, locations and land uses of the City (**Section II**).
- ◆ Words, terms, sections, articles, chapters, or ordinances proposed for change, replacement, elimination or addition, using specific citations and references (**Section III**).
- ◆ How the proposed change would comply with statewide planning goals (**Section IV**).
- ◆ How the public is best served with implementation of proposed change (**Section V**).

In addition, this application addresses SECTION 9 - Findings Required for Legislative Action as follows:

- ◆ Analysis of conformance with applicable criteria (**Section VI**).
 - The petition for land use change meets the definition of such change described in this Code.
 - The change affects a class of property(ies) or persons.
 - The change is consistent with statewide and regional planning goals.

City of Durham

P.O. Box 23483 Durham, Oregon 97281-3483

LAND USE ACTION APPLICATION

FILE NUMBER: _____

NAME OF APPLICANT: Angelo Planning Group on behalf of TCR Pacific NW Acquisitions L.P.

ADDRESS: 921 SW Washington Street, Portland, Oregon 97205

BUSINESS PHONE: 503-227-3673 FAX: 503-227-3679

CONTACT PERSON: Cathy Corliss

TAX MAP / LOT NUMBER(S): Application applies to all property zoned Multiple Family Residential (MF)

LOCATION OF PROPERTY: _____ ATTACH MAP(S) SHOWING AREA & SITE LOCATION

PLEASE SUBMIT 15 COPIES OF ALL DOCUMENTS AND MAPS WITH THIS APPLICATION .

- Pre-Hearing Conference _____
- Community Development Conference _____
- Development Review _____
- Office Park Development _____
- Industrial Park Development _____
- Business Park Development _____
- Conditional Use _____
- Variance _____
- Temporary Permit _____
- Subdivision or Major Partitioning _____
- Minor Partitioning _____
- Non-Conforming Use _____
- Street Creation /Vacation (not with subdivision or major partitioning) _____
- Other Plan Text Amendment to the Multiple Family Zone _____

TOTAL FEES DUE: _____

DATE SUBMITTED: _____ ATTEST: _____
CITY RECORDER

BY: _____
 APPLICANT APPLICANT

 PROPERTY OWNER PROPERTY OWNER

II.

ABSTRACT

A. GENERAL PURPOSE OF THE PETITION

This Plan Text Amendment (PTA) is an application by the Angelo Planning Group on behalf of TCR Pacific NW Acquisitions L.P. to amend the City of Durham Comprehensive Land Use Code Chapter II, Article 3, Section 2 - Multiple Family Residential District.

The proposed amendments create a Multi-Family Design Overlay district (MD). It is intended to encourage high quality multi-family development by establishing density and height bonuses for the provision of additional amenities and high value improvements. As proposed, the MD overlay can only be applied to land within the Multiple Family Residential District (MF).

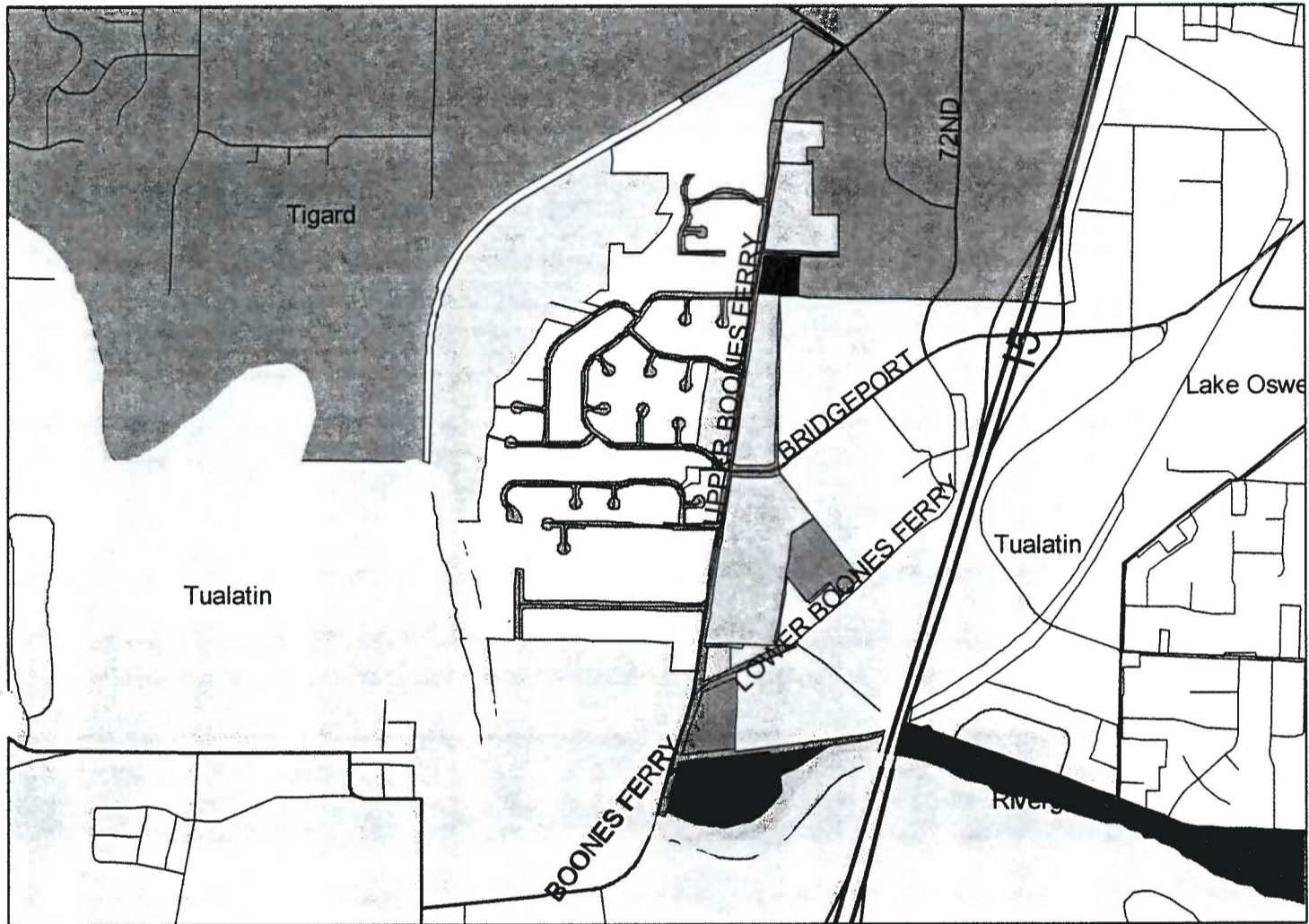
The MD overlay would only be applied at the request of the property owner and upon approval by the City of a quasi-judicial plan map amendment to apply the Multi-Family Design Overlay district. The procedures for quasi-judicial map amendments are outlined in Durham Comprehensive Land Use Code Chapter VI, Article 2 - Quasi-Judicial Actions. Once approved, the City's zoning map would be amended to indicate the "MF-MD" designation.

In addition, the proposed amendment makes detached single family dwellings, which are currently permitted outright in the MF zone, a conditional use. It also adds "Live/work dwelling units" as a conditional use in the MF zone.

B. AFFECTED PROPERTIES

Adoption of the proposed text amendments only creates the Multi-family Design Overlay District. It does not apply the overlay district to any specific parcels. The overlay district could only be applied to existing and future MF zoned lands through a subsequent plan text amendment. Existing MF zoned lands are shown in Figure 1.

Figure 1: Properties Currently Zoned Multiple Family Residential (MF)



III.

REQUESTED AMENDMENTS

Amendment to Durham Land Use Code

The requested amendments to Section II are shown below. New proposed language is double-underlined and existing language proposed to be deleted is shown with ~~striketrough~~

CITY OF DURHAM COMPREHENSIVE LAND USE CODE CHAPTER II

ARTICLE 3 - ZONING DISTRICTS

SECTION 2 - Multiple Family Residential District (MF) - The MF District is intended to be applied either where such development has substantially occurred or where such development is desirable to occur owing to the availability of public services and separation from potentially conflicting land use activities. Table I shows those uses which are permitted outright, permitted by Conditional Use Permit, and permitted by Temporary Permit in the MF District. Table 2 shows development standards for the MF District.

TABLE 1
 Uses Permitted Outright, By Conditional Use Permit,
 and by Temporary Permit in Residential Districts

| | Single Family | Multiple Family |
|--|--|--|
| Uses Permitted Outright | Single Family Detached and Attached | Single Family Detached |
| | Home Occupation Residential Home | Single Family Attached Dwelling Residential Home Multiple Family Units |
| Uses permitted by Conditional Use Permit | Child Care Facility as part of a dwelling Community Utility Structure Greenhouses | Child Care Facility Community Utility Structure Home Occupation Greenhouses <u>Live/work dwelling units</u> <u>Single Family-Detached</u> |
| Uses Permitted by Temporary Permit | Real Estate and Construction Offices in Conjunction with PRD Occupant Owned Open Storage of: a. More than two (2) licensed vehicles b. Any motorized vehicle not in running condition c. Vehicles regulated by Public Utilities Commissioner | Real Estate and Construction Offices |
| | | |

TABLE 2
Development Standards for Residential Districts

| STANDARDS | SINGLE FAMILY | MULTIPLE FAMILY |
|---|------------------------------------|--------------------------|
| Density | Variable | 16 Units per gross acre* |
| Minimum lot size | 0,000 square feet w/o PRD approval | variable |
| Minimum Yards: | | |
| Front | 30 feet | 30 feet* |
| Side | 10 feet | 10 feet* |
| Rear | 20 feet | 15 feet* |
| Corner | 20 feet | 20 feet* |
| Building Height | 35 feet | 35 feet* |
| Minimum Lot Frontage on Public Street (non-Cul-de-sac) a | 40 feet | 60 feet |
| Minimum Lot Frontage on a Cul de-sac Street | 20 feet | 40 feet |
| Services Required: | | |
| Sewer | Required | Required |
| Public Water Supply | Required | Required |
| Storm Drainage Features | Required | Required |
| Development Review Process | Required | Required |
| Recreational Allocation per Sub-Section A.4. & approved by Design Review Board | Subdivision Only | Required |
| * Standard can be varied pursuant to Sub-Section B – Multi-family Design Overlay. | | |

SUB-SECTION A. - Supplemental Standards Applicable to All Residential Districts:

1. Projections into Yards:

The following projections shall be allowed provided they do not conflict with public utility easements:

- a) Cornices, eaves, belt courses, sills, canopies, or other similar features not including bay windows or vertical projections, may extend or project into a required side yard not more than two (2) inches for one (1) foot of width of such side yard and may extend or project into a required rear or front yard not more than thirty (30) inches. Fireplace chimneys may also extend into a required front, side, or rear yard not more than twenty (20) inches provided the width of such yard is not reduced to less than three (3) feet.
- b) Open porches or balconies, not more than thirty (30) inches in height and not covered by a roof or canopy, may extend or project into a required rear yard not more than four (4) feet and may extend into a required front yard not more than thirty (30) inches.
- c) A fence, lattice work, screen, or wall, not more than six (6) feet in height may be located in any required yard, unless the adjoining land use is not residential, in which case maximum height may be regulated by the Planning Commission under application for planned development or variance.

2. Corner Vision:

- a) Corner lots shall have no sight obstruction between three (3) feet and ten (10) feet in height measures from street grade located closer than twenty (20) feet from the street corner in any direction.

3. Accessory Height:

- a) Chimneys, radio and television aerials may extend ~~about thirty five (35) feet to a maximum height of fifty (50) feet~~ 15 feet above the allowed building height.

4. Recreational Allocation:

For purposes of implementing the policies of the Durham Plan, all subdivisions and multi-family development proposals, excluding planned residential developments, shall allocate at least five percent (5%) of the gross site area for recreational use. For the purposes of this subsection, recreational use areas can include active and passive outdoor recreation facilities and indoor recreational facilities, such as exercise and arts and crafts spaces. The use of recreational facilities may be limited to the residents of the development. Subdivisions, multi-family development proposals, and planned residential developments shall pay a systems development charge for public parks in an amount determined by City Council.

The allocation of land for recreational use and a systems development charge will be required in addition to a dedication of any land designated as part of the Greenway network as shown in the Durham Plan. However, it may be counted toward the required landscaping.

Improvements on the land which is allocated for recreational use may be determined by the Design Review Board, provided that such improvements cost not more than the amount of the systems development charge, which will provide the funding source for said improvements.

The City shall assume management responsibility of recreational land if such land is included in the Durham Plan as part of the City's Greenway network. The City may assume management responsibility of other recreational land outside of the designated Greenway network.

SUB-SECTION B. - Multi-Family Design (MD) Overlay District:

1. Purpose. The density and height bonuses provided by the Multi-Family Design Overlay District are intended to enable a variety of housing types within the City of Durham and to encourage multi-family development which are high quality and provide amenities to residents and the community.
2. Applicability. Requests to apply the Multi-Family Design Overlay District to a property within the Multiple Family District are processed as a Quasi-Judicial Map Amendment.
3. Setbacks
 - a. Along the major arterials Lower Boones Ferry Road and Bridgeport Road, front setbacks may be reduced to zero when the subject property is not abutting a single family residential district.
 - b. Within a multi-parcel development, setbacks to lot lines internal to the development may be reduced to zero when adjacent to another under the same ownership and being developed as part of the same development.
4. Density and height bonuses are provided in Table 3. For subject sites which are two (2) acres or less in size, as a condition of approval and in consideration of the size of the subject site, its location and other attributes, the City may limit the total number and/or type of density and height bonuses for which the property may qualify.

TABLE 3

Density and Building Height bonuses for Multi-Family Residential Developments within the MD Overlay District

| <u>Standards</u> | <u>Density Bonus and Height Bonus Available**</u> |
|--|---|
| <u>Private Open Space meeting the requirements of Sub-Section B5, below</u> | <u>2 Units per gross acre and 2 feet of building height</u> |
| <u>Security Provisions meeting the requirements of Sub-Section B6, below</u> | <u>6 Units per gross acre and 3 feet of building height</u> |
| <u>Property Operations meeting the requirements of Sub-Section B7, below</u> | <u>4 Units per gross acre and 2 feet of building height</u> |
| <u>Multi-Level Structured Parking meeting the requirements of Sub-Section B8, below</u> | <u>30 Units per gross acre and 15 feet of building height</u> |
| <u>The following Design Details meeting the requirements of Sub-Section B9, below:</u> | |
| <u>a) Roof Form</u> | <u>2 Unit per gross acre and 1 foot of building height</u> |
| <u>b) Horizontal and Vertical Façade Articulation</u> | <u>3 Unit per gross acre and 1 foot of building height</u> |
| <u>c) Durable Materials</u> | <u>2 Unit per gross acre and 1 foot of building height</u> |
| <u>Ecologically Sensitive and Sustainable Practices meeting the requirements of Sub-Section B10, below</u> | <u>6 Unit per gross acre and 5 feet of building height</u> |
| <u>Total Bonuses Possible: Additional 55 units per gross acre and 30 feet of building height potential</u> | |
| <u>** Available density bonuses are described in units per gross acre of the site area that are allowed in addition to the density permitted by the base zone.</u> | |

5. Private Open Space – 50% of ground-floor housing units have front or rear patios or decks measuring at least 40 square feet. 50% upper-floor housing units have balconies or porches measuring at least 40 square feet. Private open space areas are oriented toward common open space areas and away from adjacent single family residences, trash receptacles, parking and drives to the greatest extent practicable.
6. Security Provisions – The proposed development includes pre-wiring for the installation of individual security systems in all ground floor dwelling units and gated structured parking entries.

7. Property Operations – Commitment to use professional on-site management and leasing companies in the operation of the project as defined by companies with experience in operating Class A multifamily properties of 200 units or greater.
8. Multi-level Structured Parking – The proposed development meets code required parking ratios via above or below grade, concrete or steel constructed structured parking for 90% of all units.
9. Design Details – The proposed development provides high quality design features including the following (see Figures for an illustration of these features):
 - a. Roof lines:
 - i. Goal: Create visual interest.
 - ii. Method: If applicable to the design, utilize aspects such as, but not limited to, dormers, varied gables, articulated and/or significant eaves, roof plane offsets, varied parapets, multiple roof lines, etc. Furthermore, if present, rooftop mechanical equipment shall be screened from ground level view (see Figure 1).
 - b. Horizontal and Vertical Façade Articulation:
 - i. Goal: Provide visual interest, create a human scale, reduce the apparent bulk of large buildings or facades by breaking them down into smaller components.
 - ii. Method: Horizontal and Vertical Façade Articulation is encouraged to include a combination of aspects including, but not limited to: a change of materials, color, texture or pattern, a change of structural expression, use of bays and recesses, varied window form or details, breaks in building or roof elevation, use of a belt course or signage band (see Figure 2).
 - c. Durable Materials:
 - i. Goal: Ensure quality of design is maintained through time
 - ii. Method: The use of proven exterior materials such as, but not limited to, cementitious, brick, wood, metal, composites are encouraged.
10. Ecologically Sensitive and Sustainable Practices
 - a. Green Development - A proposed development that accomplishes, provides for and/or creates, as defined by the US Green Building Council's latest revision to their LEED program (or a current industry recognized guideline or checklist of ecologically sensitive and sustainable principles and practices), a minimum of 4 of the following:
 - i. Sustainable Site Aspects
 - ii. Water Efficiency Aspects
 - iii. Energy & Atmosphere Aspects
 - iv. Materials and Resources Aspects

v. Indoor Environmental Quality Aspects

vi. Innovation & Design

- b. Bicycle Parking – The proposed development provides secure, covered bicycle parking for all residents at a ratio of 0.75 bicycle parking space per one (1) dwelling unit.
- c. Access to Transit – The proposed development is within 1/3 of a mile of a major transit stop, such as a bus park and ride, rail station or similar facility providing frequent, multi-line transit service and provides for good pedestrian connectivity to that location.

If projects attain a USGBC LEED Certified or better rating (or current industry equivalent), they shall be considered to be accomplishing the requirements of this section.

Through the Design Review process the applicant shall demonstrate how the proposed development qualifies for each of the requested multi-family density and height bonuses in described in this Section in a way that promotes the goal of encouraging high quality multi-family developments.

Figure 1: Multi-Family Design Features – Roof lines

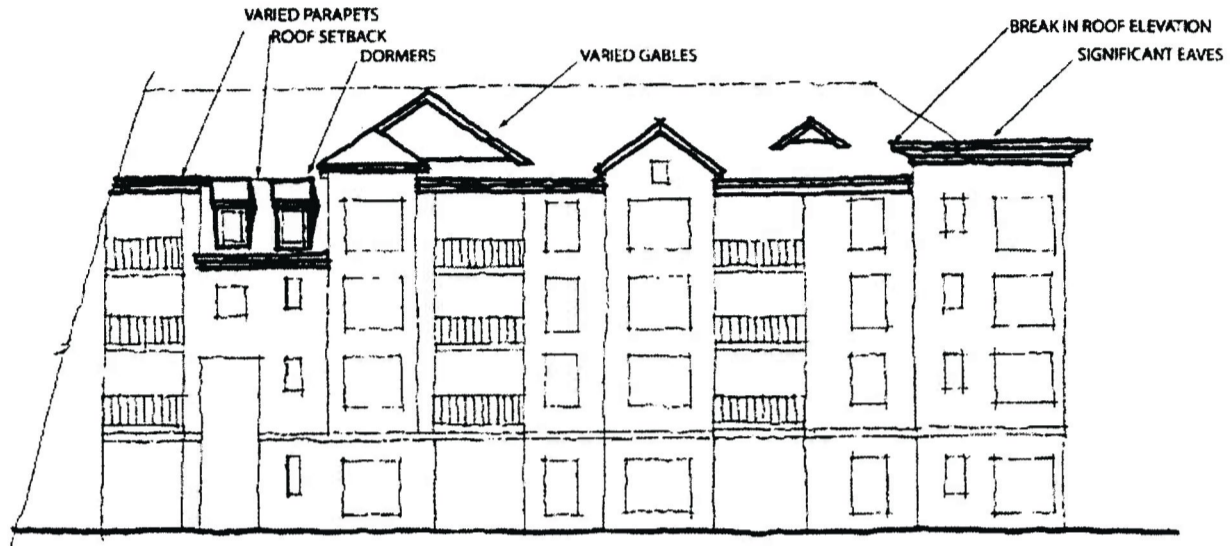
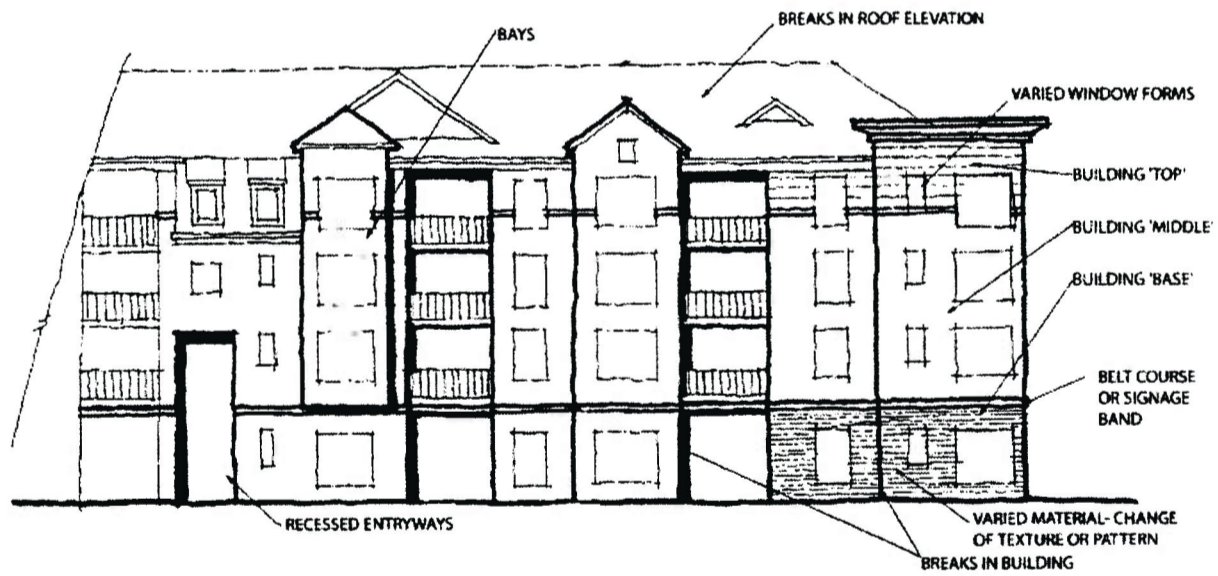


Figure 2: Multi-Family Design Features – Vertical and Horizontal Building Articulation



III.

ANALYSIS OF CONFORMANCE WITH STATEWIDE PLANNING GOALS

The following Statewide Planning Goals are applicable to the proposed amendment:

1. CITIZEN INVOLVEMENT Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Durham plan amendment process, which ensures that there is adequate opportunity for citizen involvement and participation through the Planning Commission and City Council hearings.

2. LAND USE PLANNING Statewide Planning Goal 2 addresses the process for land use planning. It requires coordination between cities and other governments and government agencies. The proposed amendment has been reviewed through the post acknowledgement plan amendment process and the City of Durham process, which ensure coordination and citizen involvement. The amendment is consistent with Statewide Planning Goal 2.

10. HOUSING This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential increase in multi-family dwelling units will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment enables a wider variety of housing types within the City of Durham and will encourage multi-family development which are high quality and which provide amenities to residents and the community. The amendment is consistent with Statewide Planning Goal 10.

11. PUBLIC FACILITIES AND SERVICES Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential impact to public facilities and services will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment enables multi-family developments which are potentially higher

density and which therefore make more efficient use of public facilities and services. The amendment is consistent with Statewide Planning Goal 11.

12. TRANSPORTATION The goal aims to provide "a safe, convenient and economic transportation system." The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential impact to transportation facilities will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment enables multi-family developments which are potentially higher density and which therefore make more efficient use of public transportation. In addition, the proposed amendments provide bonuses for "green" developments which provide good bicycle parking and access to transit. The amendment is consistent with Statewide Planning Goal 12.

13. ENERGY Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles." The proposed amendments provide bonuses for "green" developments which implement ecologically sensitive and sustainable principles and practices. The amendment is consistent with Statewide Planning Goal 13.

14. URBANIZATION This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. The MD Overlay District is not being applied to any specific locations as part of this ordinance. However, the proposed amendment enables multi-family developments, which are potentially higher density, and which, therefore make more efficient use of urban lands and encourage a compact urban form. The amendment is consistent with Statewide Planning Goal 14.

Finding - Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules (OARs).

V. ASSESSMENT OF PUBLIC BENEFIT

The proposed amendment may help the City to better meet its housing goals. The City's Comprehensive Plan found that the City was unable to meet its original Metro housing target of an additional 262 dwelling units. In response, Metro has since decreased its target for the City to 243 units. However, the proposed amendment enables multi-family developments, which are potentially higher density, and which, therefore make more efficient use of urban lands. These amendments may help the City to better contribute to the regional effort of increasing the development capacity of land within the Urban Growth Boundary (UGB).

The MD Overlay District is not being applied to any specific locations as part of this ordinance. The potential increase in multi-family dwelling units will be determined when the overlay district is applied to a specific site through the map amendment process. However, the proposed amendment enables a wider variety of housing types within the City of Durham and will encourage multi-family development which are high quality and which provide amenities to residents and the community. The potential impact to public facilities and services and transportation will be determined when the overlay district is applied to a specific site through the map amendment process. The proposed amendments also provide bonuses for "green" developments, which implement ecologically sensitive and sustainable principles and practices, and which provide good bicycle parking and access to transit.

Finding - Granting the proposed amendment at this time is in the public interest.

VI. ANALYSIS OF CONFORMANCE WITH APPLICABLE CRITERIA

Durham Comprehensive Land Use Code Chapter VI, Article I establishes the procedures for legislative land use actions. SECTION 9 specifies the findings required for legislative action. This section states that in recommending adoption of any land use change, the Planning Commission shall find the following:

- A. The petition for land use change meets the definition of such change described in this Code.

Chapter SECTION I defines a land use action as “Any action affecting the land use designations, findings, and/or policies identified in the Durham Comprehensive Plan shall be deemed a land use action; administration of all land use actions shall be as outlined by the Code.” The propose amendment to the Durham Comprehensive Land Use Code meets this definition as it would affect the Multiple-Family (MF) land use designation in terms of the potential intensity of development permitted.

Finding – The amendment meets the definition of a land use change.

- B. The change affects a class of property(ies) or persons.

Adoption of the proposed text amendments creates the Multi-family Design Overlay District. It does not apply the overlay district to any specific parcels. The overlay district could be applied to existing and future MF zoned lands through a subsequent plan text amendment. Properties zoned Multiple-Family (MF) residential, either currently or in the future, represent the class of properties affected by the proposed change.

Finding – The change affects a class of properties.

C. The change is consistent with statewide and regional planning goals.

As described in Section III of this application (Analysis of Conformance with Statewide Planning Goals), the proposed amendment is consistent with the following applicable Statewide Planning Goals: Goal 1-Citizen Involvement, Goal 2-Land Use Planning, Goal 10-Housing, Goal 11-Public Facilities and Services, Goal 12-Transportation, Goal 13-Energy, and Goal 14-Urbanization. Goals 3, 4, 5, 6, 7, 8, 9, 15, 16, 17, and 18 are not applicable.

In addition, the proposed amendment is consistent with regional planning goals as described in the Urban Growth Management Functional Plan, Title 1 (Requirements for Housing and Employment Accommodation). As stated in Section 3.07.110, "One goal of the Framework Plan is the efficient use of land. Title 1 intends to use land within the UGB efficiently by increasing its capacity to accommodate housing and employment." The proposed amendment may help the City to better meet its housing goals. The proposed amendment enables multi-family developments, which are potentially higher density, and which, therefore make more efficient use of urban lands. These amendments may help the City to better contribute to the regional effort of increasing the development capacity of land within the Urban Growth Boundary.

Finding - Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable regional planning goals.

City of Durham
17160 SW Upper Boones Ferry
Durham, OR 97224



PACKAGE SERVICES



Att.: Plan Amendment Specialist
DLCD
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540

PACKAGE SERVICES