

ORDINANCE 357-2018

AN ORDINANCE AMENDING THE HUBBARD DEVELOPMENT CODE TO PERFORM MISCELLANEOUS CODE CLEAN-UP AND CONSISTENCY WITH THE OREGON REVISED STATUTES

FINDINGS

A. On August 8, 2017, the Hubbard City Council, by vote, authorized the Hubbard Planning Commission to initiate a package of miscellaneous amendments to the Hubbard Development Code.

B. The Hubbard Planning Commission held a series of work sessions on proposed amendments to the Hubbard Development Code throughout the 2017 and 2018 calendar years.

C. On July 17, 2018, the Hubbard Planning Commission opened a duly-noticed public hearing on planning file #LA 2017-01. Upon staff's recommendation, the Planning Commission voted to continue the public hearing to the next regularly scheduled meeting of the Planning Commission which was August 21, 2018.

D. On August 14, 2018, the Hubbard City Council open a duly-noticed public hearing on planning file #LA 2017-01. Upon staff's recommendation and pending recommendation from the Hubbard Planning Commission, the City Council voted to continue the public hearing to the next regularly scheduled meeting of the Hubbard City Council which was September 11, 2018.

E. On August 21, 2018, the Hubbard Planning Commission held a continued public hearing on planning file #LA 2017-01. At the hearing the public was given a full opportunity to be present and heard on the matter. In consideration of information provided by staff and the public, and upon deliberation, the Planning Commission voted to recommend to the Hubbard City Council the adoption of the staff report findings and the approval of the code amendments, as revised.

F. On September 11, 2018, the Hubbard City Council held a continued public hearing on planning file #LA 2017-01. At the hearing the public was given a full opportunity to be present and heard on the matter. In consideration of the recommendation by the Hubbard Planning Commission, information provided by staff and the public, and upon deliberation, the City Council voted to adopt the staff report findings and the approve the package of code amendments, as revised by the Planning Commission.

BASED ON THE FINDINGS, THE CITY OF HUBBARD ORDAINS AS FOLLOWS:

Section 1. The Hubbard City Council does hereby adopt those certain findings of fact and supporting documentation as included within the staff report dated August 30, 2018 attached hereto as Exhibit A and by this reference made a part hereof.

Section 2. The Hubbard City Council does hereby adopt the amendments to the Hubbard Development Code attached hereto as Exhibit A to the staff report, and by this reference and made a part hereof.

Section 3. The first reading of this ordinance was conducted on October 9, 2018 and was passed and adopted by the City Council on October 9, 2018 by the following vote.

AYES: _____

NAYS: _____

ABSENT: _____

WHEREUPON, the Mayor declared the motion to be carried and the ordinance adopted.

Passed and approved by the City Council of the City of Hubbard this 9th day of October, 2018.

Charles Rostocil, Mayor

ATTEST:

Vickie L. Nogle, MMC
Director of Administration/City Recorder

Approved by the City Attorney:

Beery Elsner and Hammond LLP

**STAFF REPORT
TO THE HUBBARD CITY COUNCIL**

REPORT DATE: August 30, 2018

HEARING DATE: September 11, 2018 *CONTINUED FROM AUGUST 14, 2018*

FILE NO.: Legislative Amendment #LA 2017-01

APPLICANT: City of Hubbard

SUMMARY: A package of miscellaneous amendments to the Hubbard Development Code, initiated in 2017 to ensure consistency with the Oregon Revised Statutes (ORS), clarify land use procedures, refine redundant or conflicting code sections, and correct code reference section numbers.

CRITERIA:

1. Hubbard Development Code
2. Hubbard Comprehensive Plan, 2013
3. Oregon Statewide Planning Goals

EXHIBITS:

Exhibit A: Proposed amendments to the HDC in table format
Exhibit B: Staff Memos from the August 22, 2017, November 21, 2017, June 19, 2018 work sessions.

I. BACKGROUND:

File #LA 2017-01 contains a variety of code amendments which resulted from discussions at both the Hubbard Planning Commission and City Council during the 2017 calendar year. The impetus for a package of amendments to the Hubbard Development Code arose initially from discussions regarding temporary uses, shipping containers, and manufactured home park spacing standards. The package of code amendments was then expanded to include a number of clean-ups, corrections, clarifications, and updated references to the Oregon Revised Statutes (ORS).

II. PROCEDURE & TIMELINE:

Pursuant to the Hubbard Development Code Section 3.101.04, Rewriting the City’s Development Code is a Type IV Action. A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot request a Type IV action. It must be initiated by City staff, Planning Commission or City Council. Public notice and hearings are provided in a Type IV process.

Planning Commission discussions related to this package of code amendments are found in the minutes of the regularly scheduled meetings of May 16, 2017, July 18, 2017, August 22, 2017, September 19, 2017, and June 19, 2018. Many of the topics discussed in 2017 work sessions have been incorporated into this package of code amendments.

On August 8, 2017, the Hubbard City Council included within their approved consent agenda Item (E) “Approval for the Planning Commission to move forward to update the Hubbard Development Code.” This City Council vote initiated the Type IV Action, Legislative Amendment file # LA 2017-01.

The Planning Commission was scheduled to hold the first public hearing for file# LA 2017-01 on July 17, 2018. At that meeting the Planning Commission opened the hearing and voted to continue the hearing to the next regularly scheduled meeting of the Planning Commission, at the recommendation of the City Planner. Consequently, at the publicly noticed City Council public hearing date of August 14, 2018, the City Council opened the public hearing and voted unanimously to continue the hearing to the next regularly scheduled meeting of the City Council, which is September 11, 2018, awaiting recommendation from the Planning Commission.

The Planning Commission held the continued public hearing on August 21, 2018 and voted unanimously to recommend that the City Council adopt the findings of the staff report and the proposed code amendments, as revised by the Planning Commission, following the public hearing and deliberation. Minor revisions requested by the Planning Commission were limited to details pertaining to play area provisions in multi-family developments as well as correcting the name of a local manufactured home park within a staff memo from 2017, included within Exhibit B. All revisions requested by the Planning Commission on August 21, 2018 have been incorporated into the package of code amendments, attached as Exhibit A for the City Council's consideration.

The City Council is scheduled to hold a public hearing on this file on September 11, 2018 for a final decision on file # LA 2017-01. Following the City Council's decision, an enacting ordinance may be read on October 9, 2018.

Notice of the public hearings before both the Planning Commission and City Council was provided to the Oregon Department of Land Conservation and Development (DLCD) initially on May 31, 2018, which was 47 days prior to the first scheduled public hearing and 75 days prior to the final scheduled public hearing.

A public notice which included the scheduled dates for both the Planning Commission and City Council public hearings was published in the Woodburn Independent newspaper, a regional newspaper with weekly circulation in Hubbard, on July 4, 2018. This was 13 days prior to the first scheduled public hearing and 41 days prior to the final scheduled public hearing.

III. ANALYSIS OF APPLICABLE CRITERIA:

1. HUBBARD DEVELOPMENT CODE (HDC)

3.102 COMPREHENSIVE PLAN AND DEVELOPMENT CODE TEXT AMENDMENTS, COMPREHENSIVE PLAN MAP AMENDMENTS, AND ZONE CHANGES

3.102.03 Criteria for Approval

B. Development Code amendments and zone change proposals shall be approved if the applicant provides evidence substantiating the following:

- 1. Approval of the request is consistent with the Comprehensive Plan and the Comprehensive Plan map designation and most effectively carries out the Plan goals and policies considering all alternatives, and*

STAFF FINDINGS: As the Development Code serves to implement the goals and policies of the Comprehensive Plan and the Comprehensive Plan Map land use designations through adopted zoning districts, development standards, and land use procedures, staff finds that the code amendments contained within this clean-up package, file # LA 2017-01 are consistent with the Hubbard Comprehensive Plan. The proposed code amendments serve to clarify confusing language, correct section references, refine procedures, and bring the HDC into compliance with the Oregon Revised Statutes (ORS). Staff finds that this criterion is met.

- 2. The property and affected area is presently provided with adequate public facilities, services, and transportation to support uses allowed within the requested zone, or such facilities, services provided concurrently with the development of the property.*

STAFF FINDINGS: The recommended code amendments do not pertain to a specific property or area. None of the amendments propose to weaken any existing development requirements related to the provision of adequate infrastructure. Staff finds this criterion does not apply to file # LA 2017-01.

3. The proposed amendment is consistent with the purpose of the Code's subject section and article.

STAFF FINDINGS: Staff finds that the proposed amendments are consistent with the purpose of each of the impacted Code sections.

In summary, staff finds that the criteria included within Section 3.102 of the Hubbard Development Code are met.

2. CITY OF HUBBARD COMPREHENSIVE PLAN, 2013

Land Use Goal: To provide adequate lands to service the needs of the projected population to the year 2029, and to ensure the conversion of property to urban uses in an orderly and timely manner.

STAFF FINDINGS: The purpose of the Hubbard Development Code (HDC) is to implement the Hubbard Comprehensive Plan through the delineation of zone districts consistent with the six Comprehensive Plan land use designations, as well as the approval and enforcement of uses allowed outright or conditionally within each of the districts. The Hubbard Development Code contains specific decision criteria and submittal requirements ensuring that details relating to infrastructure capacity and natural hazards, and the like are fully identified and considered prior to granting development approvals. The Hubbard Development Code also details specific land use application types and procedural steps to guide every application received by the City within state-mandated timeframes, ensuring due process and affording sufficient public participation in the decision-making process.

As such, staff finds that the miscellaneous amendments included within this package serve to clarify and correct the existing code language, but do not substantially change the existing content or intent of the HDC. Staff finds that the proposed code amendments are consistent with the Hubbard Comprehensive Plan. This criterion is met.

3. OREGON STATEWIDE PLANNING GOALS & GUIDELINES

GOAL 1: CITIZEN INVOLVEMENT OAR 660-015-0000(1) "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

STAFF FINDINGS: Hubbard Planning Commission discussions related to this package of code amendments are found in the agendas and minutes of the regularly scheduled meetings of May 16, 2017, July 18, 2017, August 22, 2017, September 19, 2017, and June 19, 2018. Staff reports that informed those discussions are attached as Exhibit B.

The Planning Commission was scheduled to hold the first public hearing for file# LA 2017-01 on July 17, 2018. At that meeting the Planning Commission opened the hearing and voted to continue the hearing to the next regularly scheduled meeting of the Planning Commission, at the recommendation of the City Planner. Consequently, at the publicly noticed City Council public hearing date of August 14, 2018, the City Council opened the public hearing and voted unanimously to continue the hearing to the next regularly scheduled meeting of the City Council, which is September 11, 2018, awaiting recommendation from the Planning Commission.

The Planning Commission held the continued public hearing on August 21, 2018 and voted unanimously to recommend that the City Council adopt the findings of the staff report and the proposed code amendments, as revised by the Planning Commission, following the public hearing and deliberation. Minor revisions requested by the Planning Commission were limited to details pertaining to play area provisions in multi-family developments as well as correcting the name of a local manufactured home park within a staff memo from 2017, included within

Exhibit B. All revisions requested by the Planning Commission on August 21, 2018 have been incorporated into the package of code amendments, attached as Exhibit A for the City Council's consideration.

The City Council is scheduled to hold a public hearing on this file on September 11, 2018 for a final decision on file # LA 2017-01. Following the City Council's decision, an enacting ordinance may be read on October 9, 2018.

Notice of the public hearings before both the Planning Commission and City Council was provided to the Oregon Department of Land Conservation and Development (DLCD) initially on May 31, 2018, which was 47 days prior to the first scheduled public hearing and 75 days prior to the final scheduled public hearing.

A public notice which included the scheduled dates for both the Planning Commission and City Council public hearings was published in the Woodburn Independent newspaper, a regional newspaper with weekly circulation in Hubbard, on July 4, 2018. This was 13 days prior to the first scheduled public hearing and 41 days prior to the final scheduled public hearing.

Staff finds that this criterion is met.

GOAL 2: LAND USE PLANNING OAR 660-015-0000(2) "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."

STAFF FINDINGS: The proposal does not involve exceptions to the Statewide Goals. Goal 2 supports clear and thorough local procedures.

The factual basis for a decision on this file #LA 2017-01 was generated over the course of several work sessions, through the accompanying staff reports for those work sessions, included as Exhibit B. Recommendations and discussion within the staff reports include frequent references to the Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR) as the authority on land use definitions, policies, and procedures.

Staff finds that this criterion is met.

GOAL 3: AGRICULTURAL LANDS OAR 660-015-0000(3) "To preserve and maintain agricultural lands."

STAFF FINDINGS: Staff finds that this criterion does not apply.

GOAL 4: FOREST LANDS OAR 660-015-0000(4) "To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

STAFF FINDINGS: Staff finds that this criterion does not apply.

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES OAR 660-0150000(5) "To protect natural resources and conserve scenic and historic areas and open spaces."

STAFF FINDINGS: Staff finds that this criterion does not apply.

GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY OAR 660-015-0000(6) "To maintain and improve the quality of the air, water and land resources of the state."

STAFF FINDINGS: As no significant changes are proposed to impact existing natural resource considerations, staff finds that this criterion does not apply.

GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS “To protect people and property from natural hazards.”

STAFF FINDINGS: As no significant changes are proposed to impact existing natural hazard considerations, staff finds that this criterion does not apply.

GOAL 8: RECREATIONAL NEEDS OAR 660-015-0000(8) “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.”

STAFF FINDINGS: Minor amendments are proposed to confirm existing code language relating to the storage of recreational vehicles (RVs) on private property by striking conflicting standards which were intended to be removed in a previous round of amendments to the HDC. Minor amendments are also proposed to clarify existing play area provisions within multi-family developments. Staff finds that this criterion is met.

GOAL 9: ECONOMIC DEVELOPMENT OAR 660-015-0000(9) “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

STAFF FINDINGS: Explicit development standards and a transparent decision process are critical factors in the ease with which developers can bring new economic development projects to fruition in Hubbard. The proposed amendments continue to support infrastructure capacity and land supply related to local economic development. Further, the amendments are intended to clarify code language for ease of use by both City staff and potential developers. Staff finds that the code amendments can be found to support and not be detrimental to Goal 9 Economic Development. This criterion is met.

GOAL 10: HOUSING OAR 660-015-0000(10) “To provide for the housing needs of citizens of the state.”

STAFF FINDINGS: No amendments within the proposed package are anticipated to limit the development of housing beyond the existing code language. The Hubbard Comprehensive Plan housing goals state that the City will strive to increase the local housing supply and variety of options to a range of income levels. Staff finds that the proposed language can be found to support and not be detrimental to Goal 11 Housing. This criterion is met.

GOAL 11: PUBLIC FACILITIES AND SERVICES OAR 660-015-0000(11) “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

STAFF FINDINGS: As no changes are proposed to impact existing public facility requirements, staff finds that this criterion does not apply.

GOAL 12: TRANSPORTATION OAR 660-015-0000(12) “To provide and encourage a safe, convenient and economic transportation system.”

STAFF FINDINGS: Staff finds that this criterion does not apply.

GOAL 13: ENERGY CONSERVATION OAR 660-015-0000(13) “To conserve energy. 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.”

STAFF FINDINGS: Staff finds that this criterion does not apply.

GOAL 14: URBANIZATION OAR 660-015-0000(14) The purpose of Goal 14 is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

STAFF FINDINGS: While no specific development is proposed with these code amendments, staff finds that the proposed language is generally supportive of Goal 14. This criterion does not apply.

GOAL 15: WILLAMETTE RIVER GREENWAY OAR 660-015-0005; GOAL 16: ESTUARINE RESOURCES OAR 660-015-0010(1); GOAL 17: COASTAL SHORELANDS OAR 660-015-0010(2); GOAL 18: BEACHES AND DUNES OAR 660-015-0010(3); GOAL 19: OCEAN RESOURCES OAR 660-015-0010(4) STAFF

STAFF FINDINGS: The proposed Code amendment does not involve land within the Willamette Greenway, identified estuarine, coastal shorelands, beach, or ocean areas. Staff finds that Statewide Goals 15 through 19 do not apply.

IV. CONCLUSIONS & RECOMMENDATION:

Staff finds that the proposed development code amendments included within file # LA 2017-01 meet the pertinent review criteria included within the 1) Hubbard Development Code, 2) the Hubbard Comprehensive Plan, and the 3) Oregon Statewide Planning Goals & Guidelines, as presented.

Staff and the Planning Commission recommend that the City Council adopt the findings included in the staff report and approve the proposed Development Code Amendments of file #LA 2017-01, as attached in Exhibit A.

V. CITY COUNCIL ACTION:

The City Council may take one of the following actions:

- A. Motion to adopt the findings included in the staff report and approve the Development Code Amendments as presented in file # LA 2017-01.
- B. Motion to adopt the findings included in the staff report and approve the Development Code Amendments in file #LA 2017-01, modified by the City Council, as stated...
- C. Motion to continue the public hearing to a date and time certain and state the additional information that is needed to allow for a future decision.
- D. Motion to deny the proposed Development Code Amendments.

The following table provides the mark-up of the code amendments in the left-hand column and the associated discussion in the right-hand column.

Language which is proposed to be added is underlined. Language which is proposed to be removed is ~~struckthrough~~. All other text is existing. Bold text is existing bolded in the HDC. Only HDC sections which are impacted by the package of code amendments are included in the table.

AMENDMENTS	DISCUSSION
<p>1.200 DEFINITIONS</p> <p>Expedited Land Division: <u>As defined in Oregon Revised Statute 197.360 (1).</u> An expedited land division is an action of the City that (a) includes land that is zoned for residential uses and is within the urban growth boundary, (b) is solely for the purposes of residential use, including recreational open space uses accessory to residential use, (c) does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goal that protect open spaces, scenic and historic areas, and natural resources, (d) satisfies minimum street or other right of way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules, and (e) creates enough parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.</p> <p>An expedited land division is a land division that will create three or fewer parcels under ORS 92.101 and meets the criteria set forth for an action under (a) and (d) above.</p> <p>Major Partition: See Partition and Subdivision.</p> <p>Minor Partition: See Partition.</p> <p>Partition: Generally, any division of property which creates three or fewer parcels within the same calendar year and which does not create or extend a public street for access. <u>Specifically, as defined in Oregon Revised Statutes 92.010.</u></p>	<p>← Propose updating the definition of “Expedited Land Division” by referring to Oregon Revised Statute (ORS) 197.360(1) which defines the term. The current definition in the HDC is not consistent with ORS 197.360 because the 2015 Legislature changed the definition and the provisions for expedited land divisions. As proposed, referring only to ORS 197.360(1) will mean the HDC will not need to be amended every time the Legislature changes the definition.</p> <p>← Propose clarifying there is only a “partition,” not a “major partition” and a “minor partition.” The major and minor partition approach was deleted from the Oregon Revised Statutes about 25 years ago. Additionally, propose updating the definition of “Partition” by referring to ORS 92.010 which defines the term in greater detail.</p>

<p>Quasi-Judicial Review: A decision affecting land use within the City which requires the interruption and/or amendment of existing standards or maps contained in this Ordinance. Quasi-Judicial decisions are heard by the Planning Commission. The decision of the Planning Commission is final except when the decision would necessitate an amendment to this Ordinance. In those cases, the Planning Commission decision is forwarded as a recommendation to the City Council for a final decision. Quasi-judicial review is required for Variances, Conditional Use Permits, Partitions, Subdivisions, Planned Unit Developments, Comprehensive Plan and Zone Changes, and Urban Growth Boundary Amendments.</p>	<p>← Propose deleting the definition of “quasi-judicial” as it is inconsistent with the case, Strawberry Hill 4-Wheelers v. Benton County (Oregon Supreme Court, 1979) which sets forth the 3 criteria to determine if an application is quasi-judicial or legislative. The ORS does not define “quasi-judicial.”</p>
<p>2.101 R-1 DISTRICT</p> <p>2.101.02 Permitted Uses</p> <p>B. Duplex or townhouse dwelling on a corner lot or on lots as approved by the Planning Commission as part of an application for a subdivision or planned unit development. <u>No more than half of the corner lots at any one intersection shall be devoted to duplex or townhouse lots.</u></p> <p>2.101.05 Development Standards</p> <p>A. Off-Street Parking: The required number of parking spaces and shall be as specified in Section 2.203. Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. Manufactured homes located in manufactured home parks are required to install either a garage or carport.</p> <p>H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with <u>Section 2.203.10, RV Parking Standards, and</u> the following standards:</p>	<p>← Language restricting the number of corner lots at an intersection with duplexes or townhouses is relocated from Section 2.208.03 Land Divisions Section, where it was not intended for subdivisions in all zones. It is intended for the R-1 zone because duplexes are allowed on any lot in the R-2 and R-3 Zones.</p> <p>← The last sentence of Subsection A, Off-Street Parking, states, “Manufactured homes located in manufactured home parks are required to install either a garage or carport.” Propose deleting the prior quoted sentence because manufactured home parks are not allowed as a permitted or conditional use in the R-1 District, therefore, the provision is not needed in that zone.</p> <p>← Subsection H addresses RV parking in the R-1 District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending H to add a reference to Section 2.203.10, RV Parking Standards.</p>
<p>2.102 R-2 DISTRICT</p> <p>2.102.01 Purpose</p> <p>The purpose of the R-2 District is to provide areas for the development of a mixture of single-family, townhouse, and duplex uses, <u>and manufactured home parks as a</u></p>	<p>← The purpose section does not include manufactured home parks, but manufactured home parks are allowed as a conditional use in 2.102.03, D. Propose amending the purpose section to include manufactured home parks for consistency with the uses.</p>

conditional use, at a density no greater than 8 units per acre. The R-2 zone is consistent with the Medium Density Residential Comprehensive Plan designation.

2.102.05 Development Standards

H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with Section 2.203.10, RV Parking Standards, and the following standards:

← Subsection H addresses RV parking in the R-2 District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending H to add a reference to Section 2.203.10, RV Parking Standards.

2.103 R-3 DISTRICT

2.103.05 Development Standards

All development in the R-3 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

E. Outdoor Play Area Requirements. Multi-family dwellings with ~~four (4)~~ five (5) or more units shall provide a minimum of 500 square feet, fenced and equipped play area, plus 50 square feet for each bedroom, or a like-sized adult leisure area if the development accommodates no children under 16 years of age. Play areas shall be separate from front and side yard setback requirements.

← Subsection E addresses Play Area Requirements for multi-family projects. Propose changing applicability from four (4) or more units to five (5) or more consistent with the City of Salem and others. No change to size calculation of play area is proposed.

← In previous Planning Commission work session discussions, it was not clear what “separate from setbacks” meant. Staff believes that the intention of the code was “in additional to” or “outside of” the required setbacks. To clarify this language, staff recommends striking this section and addressing in the subsections 1-9 below. Several codes from other communities were referenced to generate the proposed clarifying language with safety as a priority.

- 1. Play areas shall be centrally located and visible from dwelling units.
- 2. Play areas shall be furnished with properly-maintained play equipment, benches, seat walls, picnic tables, or similar amenities, in a manner which incorporates safety into the design.
- 3. A minimum 30-inch tall fence shall be installed to separate play area(s) from any parking lot, drive aisle, or street.
- 4. Play areas shall not be located within front or side yard setbacks.
- 5. Play areas shall not be located in storm water detention areas.
- 6. Total required play area may be broken into multiple locations, if dimensions of each play area meet a minimum of 20 feet on all sides, resulting in a 400 square foot minimum area.
- 7. Landscaping included within or around the perimeter of a play area may be counted toward the overall minimum landscape requirement of the development.

8. If development accommodates no children under 16 years of age by covenant, an adult leisure area of the same size shall be provided. Subsection 3 fencing shall not apply to an adult leisure area.

9. Outdoor play areas shall not count toward overall lot coverage.

J. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with Section 2.203.10, RV Parking Standards, and the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:

- a. The additional space shall not be allowed if it creates a traffic sight obstruction.
- b. The additional space has an all-weather surface and be drained to prevent standing water.

2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.

4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

← Propose amending J to include reference to Section 2.203.10, RV Parking Standards.

2.104 RC DISTRICT

2.104.02 Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RC District:

A. The following residential and non-commercial uses are permitted in the RC District:

B. The following commercial uses are permitted, subject to the Site Development Review procedures of Section 3.105, and the development standards listed in Section 2.104.05 (G), and Section 2.300, Supplemental Development Standards For Special Uses:

2.104.03 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

A. Commercial Uses listed in 2.104.02 (B), operating before 7:00 AM or after 10:00 pm.

2.104.05 Development Standards

All development in the RC District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

G. Commercial Uses shall comply with the following standards:

4. Uses operating before 7:00 AM or after 10:00 PM shall be a conditional use subject to the provision of Section 3.103.

E. Outdoor Play Area Requirements. Multi-family dwellings with ~~four (4)~~ five (5) or more units shall provide a minimum of 500 square feet, fenced and equipped play area, plus 50 square feet for each bedroom., or a like-sized adult leisure area if the development accommodates no children under 16 years of age. Play areas shall be separate from front and side yard setback requirements.

1. Play areas shall be centrally located and visible from dwelling units.

2. Play areas shall be furnished with properly-maintained play equipment, benches, seat walls, picnic tables, or similar amenities, in a manner which

← Add the reference for the development standards of the RC zone (G) as well as the title of section 2.300.

← The list of permitted uses in the RC District are divided into Subsection A for residential and other non-commercial uses and Subsection B for commercial uses. But the conditional use section (2.104.03, A) requires a conditional use permit be obtained for “uses operating in the RC District between 10 p.m. and 7 a.m.” Staff believes it is not the intent of the code to require a conditional use permit for single family homes, duplexes, and other similar non-commercial uses in order to operate after 10pm. It was not intended to apply to all uses, rather just the commercial uses. This can be corrected by requiring only the commercial uses in Subsection B to go through the conditional use permit process if they wish to operate between 10:00 p.m. and 7:00 a.m.

← The above revision is further evidenced and supported by 2.104.05(G), which states that the commercial uses permitted outright per 2.104.02(B) can operate after 10 p.m. and before 7:00 a.m. provided a conditional use permit has been approved.

← The text drafted here is identical to the Outdoor Play Area Requirements offered for consideration and discussion in the R3 Zone above.

incorporates safety into the design.

3. A minimum 30-inch tall fence shall be installed to separate play area(s) from any parking lot, drive aisle, or street.

4. Play areas shall not be located within front or side yard setbacks.

5. Play areas shall not be located in storm water detention areas.

6. Total required play area may be broken into multiple locations, if dimensions of each play area meet a minimum of 20 feet on all sides, resulting in a 400 square foot minimum area.

7. Landscaping included within or around the perimeter of a play area may be counted toward the overall minimum landscape requirement of the development.

8. If development accommodates no children under 16 years of age by covenant, an adult leisure area of the same size shall be provided. Subsection 3 fencing shall not apply in an adult leisure area.

9. Outdoor play areas shall not count toward overall lot coverage.

J. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with Section 2.203.10, RV Parking Standards, and the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:

- a. The additional space shall not be allowed if it creates a traffic sight obstruction.
- b. The additional space has an all-weather surface and be drained to prevent standing water.

2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and

← Subsection J, addresses RV parking in the RC District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending J to add a reference to Section 2.203.10, RV Parking Standards.

<p>approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.</p> <p>3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.</p> <p>4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.</p>	
<p>2.105 MANUFACTURED HOME PARK DISTRICT (MH)</p> <p>2.105.01 Purpose</p> <p>The purpose of the MH District is to provide opportunities for manufactured home parks <u>and manufactured home subdivisions</u> at a density no greater than 8 units per acre. The MH District is consistent with the Medium Density Residential Plan designation.</p> <p>2.105.02 Permitted Uses</p> <p>Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the MH District:</p> <p>A. <u>Manufactured homes in subdivisions and the conversion of a manufactured home park to a manufactured home subdivision, in accordance with ORS 92.830 to 92.845.</u></p> <p>B. Manufactured home parks</p> <p>C. Residential care home and facility</p> <p>D. Group Child Day Care Homes and Centers</p> <p>E. Home occupation, subject to the provisions of Section 2.303</p> <p>F. Parks and open space areas</p> <p>G. Accessory structure</p>	<p>← The purpose section does not include manufactured homes in subdivisions, but manufactured homes in subdivisions are allowed at the top of the list of outright permitted use in 2.105.01(A). Recommend inserting “manufactured homes in subdivisions” into the purpose statement to be thorough.</p> <p>← Propose language for consistency with ORS 92.830 to 92.845, the conversion of a manufactured home park to a manufactured home subdivision. The 2003 Legislature passed House Bill (HB) 3245 allowing manufactured home parks to be converted to subdivisions. Each space would be converted to a subdivision lot and the infrastructure (sewer, water and storm drainage lines) would be owned and maintained by a newly created Home Owners Association (HOA). Park facilities such as a community hall, swimming pool, open space, etc. would be on property owned and maintained by the HOA. Only manufactured homes could be placed on the new subdivision lots. HB 3245 was codified in ORS 92.830 – 92.845.</p>

<p>2.105.04 Dimensional Standards</p> <p>The following dimensional standards shall be the minimum requirements for all development in the MH District except for modification permitted under Section 2.402, General Exceptions.</p> <p>B. <u>Manufactured Home Parks – Minimum Area Requirements</u></p> <p>1. Minimum park size : Three (3) acres <u>One (1) acre</u></p> <p>D. <u>Replacement manufactured dwelling units shall comply with the setback and separation requirements set forth in Section 2.105, or where Section 2.105 is silent on a setback or separation requirement, shall comply with the Oregon Manufactured Dwelling and Park Specialty Code.</u></p>	<p>← Recommend consistency with ORS 197.314(5) which sets a minimum lot size for a MH Park at 1 acre.</p> <p>← To address situations where an old unit is proposed to be replaced with a new unit that is wider and or longer than the old unit, thereby creating setback and/or separation issues. Recommend requiring replacement units to comply with the setback and separation requirements set forth in Section 2.105, or where Section 2.105 is silent on a setback or separation requirement, to comply with the Oregon Manufactured Dwelling and Park Specialty Code.</p>
<p>2.106 COMMERCIAL DISTRICT (C)</p> <p>2.106.02 Permitted Uses</p> <p>J. Church <u>Place of Worship, subject to Section 2.308.</u></p> <p>2.106.03 Conditional Uses</p> <p>The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:</p> <p>A. Church</p> <p>BA. Except as provided in Section 2.304, any commercial service or business activity otherwise permitted, involving the processing of materials which is essential to the permitted use and which processing of materials is conducted wholly within an enclosed building.</p> <p>CB. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications towers and/or antennas.</p> <p>DC. Automotive repair</p>	<p>← The term “church” was replaced by “Place of Worship, subject to Section 2.308” in the ADU code revisions, Hubbard file # LA 2018-01. Retain as a Permitted Use.</p> <p>← The C District lists “church” as both a permitted use and as a conditional use; therefore, recommend deleting church as a conditional use and renumber the remaining conditional uses listed.</p>

<p>2.106.05 Development Standards</p> <p>All developments in the Commercial District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:</p> <p>E. Design Site Development Review. All new development and expansion of an existing structure or use in the Commercial District shall be subject to the Site Development Review procedures of Section 3.105. Development in the C District shall be reviewed in accordance with the provisions of Section 3.105, Site Development Review.</p>	<p>← Propose changing “Design Review” to “Site Development Review” to provide consistency within HDC. That is the correct name of the application type and fee.</p> <p>← Section 3.105 Site Development Review provides the “Applicability” criteria. Details about applicability do not belong here. This should be only a reference to the appropriate section.</p>
<p>2.202 STREET STANDARDS</p> <p>2.202.03 General Provisions</p> <p>K. Clear Vision Areas. Clear vision areas shall be maintained <u>in accordance with Section 2.209.07 of the Code.</u> on corner lots at the intersection of all public streets and at the intersections of a public street with a private street, alley, or driveway which serves more than three parcels. No structure or planting shall be permitted within a clear vision area which would impede visibility between a height of 36 inches and 9 feet above the curb grade of the intersecting streets. Clear vision areas are as defined in Section 1.200 (definitions), 2.203.07(K) and 2.209.07.</p>	<p>← Clear Vision Areas are described or defined in four different sections of the HDC:</p> <p>1.200 Definitions 2.202.03 Street Standards, General Provisions 2.203.07 Parking and Loading Area Dev. Requirements 2.209 Yard and Lot Standards</p> <p>To resolve this issue, propose simplified language to be used in both section 2.202.03(K) and 2.203.07(K), with reference to the full dimensional standards to be consolidated in section 2.209.07.</p>
<p>2.203 OFF-STREET PARKING AND LOADING</p> <p>2.203.07 Parking and Loading Area Development Requirements</p> <p>K. Clear Vision Areas. Clear vision areas shall be maintained <u>in accordance with Section 2.209.07 of the Code.</u> on corner lots at the intersection of all public streets and at the intersections of a public street with a private street, alley, or driveway that serves more than three parcels. No structure, object, or planting shall be permitted within a clear vision area that would impede visibility between a height of 36 inches and 9 feet above the curb grade or the intersecting streets. Clear vision areas shall extend a set distance in accordance with Section 2.209.07 of the Code.</p>	<p>← Clear Vision Areas are described or defined in four different sections of the HDC. To resolve this issue, propose simplified language to be used in both section 2.202.03(K) and 2.203.07(K), with reference to the full dimensional standards to be consolidated in section 2.209.07.</p>

2.203.10 Recreational Vehicle Parking

Recreational vehicle spaces shall meet the following use and development standards. The term "recreational vehicle space" means the portion of a lot where a single recreational vehicle is parked and occupied or intended to be parked and occupied.

A. The space shall have an all-weather surface and be drained to prevent standing water.

B. If the space is occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a recreational vehicle park.

C. Unless located in a recreational vehicle park no permanent electrical, water or sewer connections are permitted, nor shall the space be rented or leased for consideration.

~~D. The space shall not be located in any required yard areas.~~

← Recreational Vehicle Parking, provides 4 requirements for parking RV's. Subsection 2.203.10, D, states an RV parking space "...shall not be located in any required yard areas." Thus an RV cannot be parked in a front, side or rear yard. However, the R-1, R-2, R-3 and RC Districts allow RVs to be parked in front, side and rear yards.

For example, the R-1 District, 2.101.05, H, 1, Development Standards, states: "Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage."

In the previous work session, the Planning Commission and City Staff stated that the HDC had been updated to allow RV parking in yard areas, and that this Section 2.203.10 had not been revised with that amendment. It should therefore be deleted.

2.207 SITE AND LANDSCAPING DESIGN

2.207.04 General Provisions

~~C. The Planning Commission may grant the applicant credit for landscaping to be done in the public right-of-way provided the elements set forth for the granting of a variance are met by the applicant. It shall not be necessary to hold a public hearing to grant this credit. The Planning Commission shall consider the need for future use of the right-of-way for street purposes when granting approval for credit under this Section.~~

← This section of the code pertains to landscaping. The title should reflect only that. Site Development Review is addressed in a different section. Propose striking "Site and" from title.

← Generally, required landscaping should be on the land where the development is located. When the landscaping is on private property it is clear who is responsible for it and who maintains it. When landscaping is in a public right-of-way, it is not clear who is responsible for it and who maintains it.

Further, the process to allow landscaping in the ROW is flawed as it requires a variance but then says the Planning Commission need not hold a public hearing. The HDC variance approval criteria are subjective and discretion must be exercised in making the decision. The parties who believe they may be negatively affected by

<p>D. The landscape design shall incorporate existing significant trees and vegetation preserved on the site. <u>as determined by the decision authority.</u></p> <p>2.207.07 Street Trees</p> <p>A. Street trees shall be planted for all developments that are subject to Subdivision or Site Development Review, unless otherwise waived by the Public Works Superintendent for utility purposes. Plantings of street trees shall generally follow construction of curbs and sidewalks, however, the City may defer tree planting until final inspection of completed dwellings to avoid damage to trees during construction. The planting and maintenance of street trees shall conform to the following standards and guidelines and any applicable road authority requirements:</p> <p style="padding-left: 40px;">2. Spacing and Location. Street trees shall be planted within the street right-of-way within existing and proposed parkway strips, except when utility easements occupy these areas. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity and, at a minimum, the planting area shall contain 16 square feet, or typically, 4 feet by 4 feet.</p> <p style="padding-left: 40px;">In general, trees shall be spaced no more than 30 <u>20</u> feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. All street trees shall be placed outside utility easements.</p>	<p>the decision should be afforded the ability to comment on the variance and the decision makers should be afforded the ability to know what the concerns are.</p> <p>Therefore, Subsection (C) is proposed to be deleted with the result that required landscaping must be on private property and the flawed process is no longer needed.</p> <p>← In Subsection (D) it is not clear what “significant trees and vegetation” is, but this could present an impediment to development. Proposed language allows for discretion of decision authority such that a variance would not be required for reasonable development of site.</p> <p>← This subsection (A)(2) says street trees should be no greater than 30 feet apart, but the Hubbard Municipal Code references 20 feet. Propose changing the Development Code’s 30 foot figure to be consistent with the Municipal Code’s 20 foot figure.</p>
<p>2.208 DEVELOPMENT STANDARDS FOR LAND DIVISIONS</p> <p>2.208.03 Standards for Lots or Parcels</p> <p>A. Minimum lot area. Minimum lot area shall conform to the requirements of the</p>	<p>← The standard restricting the number of corner lots at an intersection with duplexes or townhouses is not intended for subdivisions in all zones. It is intended for the R-1 zone only, because duplexes are allowed on any lot in the R-2 and R-3 Zones. Further, it is out of place as</p>

<p>zoning district in which the parcel is located.</p> <p>No more than half of the corner lots at any one intersection shall be devoted to duplex or townhouse lots.</p>	<p>a use restriction included within a dimensional standard code section. Proposed language strikes this from the Land Divisions section, and adds it to the 2.101.02 Permitted Uses Section of the R-1 Zone.</p>
<p>2.209 YARD AND LOT STANDARDS</p> <p>2.209.07 Vision Clearance</p> <p><u>Vision Clearance shall be maintained in clear vision areas on the corners of lots located at the intersection of public streets and at the intersections of a public street with a private street, alley, or driveway. No structure, object, or planting shall be permitted within a clear vision area that would impede visibility between a height of 36 inches and 9 feet above the curb grade or the intersecting streets. Clear vision areas shall extend a set distance as follows:</u></p> <p>A. Vision clearance for corner lots shall be a minimum of 20 feet.</p> <p>B. Vision clearance for street-alley intersections shall be a minimum of ten (10) feet.</p> <p>C. Vision clearance for driveway approaches shall be a minimum of ten (10) feet.</p> <p>Vision clearance, as defined in this ordinance, shall be provided in accordance with the following diagram:</p>	<p>← Propose pointing both Section 2.202.03(K) and Section 2.203.07(K) here to this Section as the primary location for clear vision area dimensional standards.</p> <p>Propose adding the language removed from the other two sections defining the Clear Vision Area location and height here, so it is all in one place.</p>
<p>2.403 USES PERMITTED IN ALL ZONES</p> <p>2.403.01 <u>Scope Permitted Uses</u></p> <p>The following uses and activities are permitted in all zones:</p> <p>A. p Placement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains and detention basins within rights-of-way by public agencies and utility companies for telephone, TV cable or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, waste waters, sewage and rainwater subject to specific requirements per separate zone district;</p>	<p>← Propose replacing “Scope” with “Permitted Uses” because “Scope” is an inappropriate section title. Subsections A – E address permitted uses, therefore the title should be “Permitted Uses.”</p> <p>← Capitalize Subsections A-E.</p>

<p>B. ¶ <u>R</u>ailroad tracks and related structures and facilities located within rights-of-way controlled by railroad companies;</p> <p>C. § <u>S</u>urfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-way controlled by a public agency; and</p> <p>D. e <u>E</u>xpansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan – ;</p> <p>E. A non-conforming structure and/or use may be continued although not in conformity with the regulations for the zone in which the structure and /or use is located – ; <u>and</u></p> <p><u>F. A use that is not listed as a permitted or conditional use in the zoning district that is applied to a property cannot be located on the property for any period of time.</u></p>	<p>← Propose subsection (F) to confirm that a use not allowed either outright or conditionally in a zone shall not be allowed as a temporary use in a zone.</p>
<p>3.100 APPLICATION REQUIREMENTS AND REVIEW CRITERIA</p> <p>3.101 SUMMARY OF APPLICATION TYPES AND REVIEW</p> <p>All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.</p> <p>3.101.01 Type I Action, Level 1 and Level 2</p> <p>A. A Type I , Level 1, action is a ministerial review process without a public hearing in which City staff apply clear and objective standards that do not allow much discretion. Public notice is provided as required for a Type I Action, Section 3.201.01. Appeal is to the Planning Commission. The following action is processed under the Type I procedure:</p> <p>A.1. <u>Property Line Adjustment;</u></p> <p><u>2. Sign Permits</u></p>	<p>← This code section previously omitted sign permits and flood plain development permits as application types. Proposed adding them to this ministerial review, consistent with procedures described in HDC sections 2.110.14 Floodplain Administration and 2.206 Signs.</p>

3. Flood Plain Development Permit

~~B. Home occupation (unless referred to the Planning Commission for review as a Type II action).~~

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~~C. Minor Variance~~

B. A Type I , Level 2, action is a limited land use decision in which the Planning Commission apply clear and objective standards. The Planning Commission makes a decision on the application but does not conduct a public hearing, unless specifically required by this Ordinance. Public notice is provided as required for a Type I Action, Section 3.201.01 if no public hearing is conducted. Public notice is provided as required by Section 3.202.02 if a public hearing is conducted. Appeal is to the City Council. The following actions are processed under the Type I, Level 2, procedure:

1. Home occupation (unless referred to the Planning Commission for review as a Type II action).

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2. Minor Variance

~~D.3. Partitions~~

4. Any of the Type 1 Level 1 actions where discretion is required

3.101.02 Type II Actions

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

A. Conditional Use Permit

B. Non-Conforming Uses and Structures

C. Planned Unit Development

← Propose moving Home Occupations and Minor Variances from Type I Level 1 to Type I Level 2 for Planning Commission review because Type 1 Level 1 should only have clear and objective approval criteria. Home Occupation and Minor Variance approval criteria include subjective approval criteria.

← Propose adding “and structures” for consistency with HDC Section 3.110.

D. Similar Uses

E. Major Variances

F. Subdivisions

G. Site Development Review

H. Home Occupation (if referred to the Planning Commission)

3.101.03 Type III Actions

A Type III Action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. The Planning Commission has an advisory role. Public notice is provided and public hearings are held at the Planning Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

A. Annexation

B. Comprehensive Plan Text and Map Amendments (quasi-judicial)

C. Development Code Text Amendments (quasi-judicial)

D. Vacation of public right-of-way

E. Zone Map Change (quasi-judicial)

3.101.04 Type IV Actions

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot request a Type IV action. It must be initiated by City staff, Planning Commission or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

A. Rewriting the City's Comprehensive Plan document (legislative)

B. Rewriting the City's Development Code (legislative)

← Minor variances are address under the Type I Level 2 review type, so only Major variances would fall into the Type II category here.

← Propose adding “quasi-judicial” here and “legislative” below to clearly differentiate between these four actions which are listed as both Type III and Type IV Actions, depending upon the applicant and the extent of the amendments.

C. Creating City Plan documents (e.g. Public Facilities Plan)

D. City-wide changes to the Comprehensive Plan map (legislative)

E. City-wide changes to the Zone District map (legislative)

3.101.05 Applicability

Unless otherwise stated elsewhere, the provisions of Sections 3.101.06 - 3.101.10 apply to Type I, II, III, and IV applications.

3.101.06 Additional Information and Fees

A. Where a traffic impact analysis, wetland determination and/or delineation, or geo-technical analysis is determined by city staff to be needed for the decision authority to determine compliance with approval criteria, the analysis, report or study shall be included in the application materials submitted to the city.

B. The failure to submit the required fee with an application, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect and the application shall not be accepted, or where it has been accepted, it shall be returned.

3.101.07 Multiple Applications

Applications for more than one action for the same property may, at the applicant's request, be reviewed and decided concurrently. Multiple applications involving different processing Types shall be reviewed and decided using the higher processing Type.

3.101.08 Meet Criteria for Approval

An application may be granted only if the application complies with, or through the imposition of conditions can comply with, the applicable decision criteria.

3.101.09 Conditions of Approval

← Propose several additional sections detailing application requirements and review criteria.

A. Conditions of approval for Type I, II, III and IV actions may be imposed by the decision authority to:

1. Ensure compliance with the Hubbard Development Code requirements, Oregon Revised Statutes, and Oregon Administrative Rules;

2. Ensure compliance with the decision criteria;

3. Address potential or actual affects or impacts created by the proposed application;

4. Protect the public health, safety and general welfare.

B. The conditions may address the location, construction, size and shape of any element of a development regulated by the Hubbard Development Code and Hubbard Public Works Construction Standards.

C. The conditions may require submitting additional information, reports and studies.

D. Where the appeal period for a decision has lapsed and the decision is final, a request to change or alter a condition of approval shall be submitted as a new application and fee using the same process that was used for the original decision.

3.101.10 Pre-application Conference

A pre-application conference is strongly recommended, but not required. Where a pre-application conference application is submitted, it shall be made on forms provided by the city. The fee shall be payable at the time the application is submitted to the city and shall be as set forth by resolution of the City Council.

3.102 COMPREHENSIVE PLAN AND DEVELOPMENT CODE TEXT AMENDMENTS, COMPREHENSIVE PLAN MAP AMENDMENTS, AND ZONE CHANGES

3.102.01 Process

Quasi-Judicial Comprehensive Plan and Development Code text amendments, and Comprehensive Plan Map and Zone District Map amendments, and zone changes will be reviewed in accordance with the Type III review procedures in Section 3.201.

← Subsection 3.102.01, Process, is proposed to be amended to clarify that Quasi-judicial CP and HDC text changes, and CP Map and Zone District Map changes are Type III actions covered in 3.102, and that Legislative CP and HDC text changes and the CP Map and Zone District Map changes are a Type IV action covered in 3.201.

~~City-wide changes to the~~ Legislative Comprehensive Plan and Development Code text amendment and Comprehensive Plan Map and Zone District Map amendments documents or maps will be reviewed in accordance with Type IV review procedures in 3.201.

3.102.02 Application and Fee

An application for a ~~zone change~~ quasi-judicial Comprehensive Plan and Development Code text amendment and a Comprehensive Plan Map and Zone District Map amendment shall be filed with the City Recorder and accompanied by the appropriate fee and/or deposit. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

3.102.03 Submittal Requirements

The following information shall be submitted as part of a complete application.

A. A statement indicating the current text or map designation/zone and the proposed text or map designation/zone.

B. For map amendments, state the size in acres and square feet of the area to be re-designated or rezoned.

C. A written narrative explaining why the text or map amendment is proposed.

D. A written narrative explaining how the applicable approval criteria in Section 3.102.04 are met.

3.102.04 Criteria for Approval

A. Comprehensive Plan text and map amendments ~~shall~~ may be approved if the applicant provides evidence substantiating the following:

1. eConformance with the applicable Statewide Planning Goals,
2. eConformance with the goals and policies of the Plan or demonstration of a change in circumstances that would necessitate a change in the goal and/or policy,
3. aA demonstration of public need for change, and

4. ~~a~~A demonstration that the proposed amendment will best meet the identified public need versus other available alternatives.

B. Development Code text amendments and zone change Zoning District Map amendment proposals ~~shall~~ may be approved if the applicant provides evidence substantiating the following:

1. ~~a~~Approval of the request is consistent with the Comprehensive Plan and the Comprehensive Plan map designation and most effectively carries out the Plan goals and policies considering all alternatives, and

2. ~~t~~The property and affected area is presently provided with adequate public facilities, services, and transportation to support uses allowed within the requested zone, or such facilities, services provided concurrently with the development of the property.

3. The proposed amendment is consistent with the purpose of the Code's subject section and article.

~~C.4.~~ ~~t~~The natural features of the site are conducive to the proposed zone district.

3.103 CONDITIONAL USE PERMITS

3.103.03 Criteria for Approval

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

A. The use is listed as a conditional use in the underlying district;

B. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography and location of improvements and natural features;

C. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use;

D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district; and

~~E. the proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.~~

3.103.04 Submittal Requirements

A. The following information shall be submitted as part of a complete application for a Conditional Use Permit:

1. Site Analysis, when applicable to the request and the site.

a. Existing site topography;

b. Identification of areas exceeding 10% slopes;

c. Site drainage, areas of potential flooding;

d. Areas with significant natural vegetation;

e. Existing structures, roadway access and utilities;

f. Existing and proposed streets, bikeways, and pedestrian facilities within 200 feet; and

g. A traffic impact analysis if requested by the City Engineer.

2. Site Plan, when applicable to the request and the site.

a. Proposed grading and topographical changes;

b. The location of existing and proposed structures and their setbacks;

c. Vehicular, pedestrian, and bikeway circulation patterns, parking, loading and service areas;

d. Proposed access to public roads and highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;

← Propose striking (E) requirement for CUP applicant to address Hubbard Comprehensive Plan goals and policies because the Code inherently implements the Comprehensive Plan goals and policies, to save the applicant time, and to save staff time from reviewing the Comprehensive Plan to ensure that the applicant addressed the pertinent sections and writing findings for each.

← No subsection currently calls for a site plan or any specific information to be included in the application materials such as is found for the Site Development Review Applications in Section 3.105.05. Without a site plan the staff and decision authority will not know the location of buildings, parking, landscaping, access points, etc., or know the existing or proposed setbacks.

<p><u>e. Site drainage, sanitary sewer system, and water supply system.</u></p> <p><u>f. Proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;</u></p> <p><u>g. Proposed fencing or other fabricated barriers, together with their heights and setbacks; and</u></p> <p><u>h. Proof of ownership and signed authorization for the proposed development, if applicant is not the owner of the site;</u></p> <p>3.103.04-3.103.05 Expiration of Approval--Standards for Extension of Time</p> <p>3.103.05-3.103.06 Discontinuance of a Conditional Use</p>	
<p>3.111 PROPERTY LINE ADJUSTMENTS</p> <p>3.111.02 Process</p> <p>A. A property line adjustment application <u>shall be signed by all impacted property owners, and</u> may be submitted by the one property owner, contract purchaser or an authorized agent of the owner or contract purchaser.</p> <p>B. A property line adjustment application is processed as a Type I procedure pursuant to Section 3.101.01, except the adjustment of a property line of ten (10) percent or less by mutual consent of property owners does not require city approval provided the adjustment in no way increases the degree of nonconformity of any parcel and the lots have not had conditions previously imposed upon them by the City of Hubbard.</p> <p>3.111.03 Submittal Requirements</p> <p>A. In addition to the completed application form, the applicant shall also submit:</p> <p>1. A map, <u>drawn to scale, that shows showing the configuration and size in square feet and acres of each parcel property before and after the proposed adjustment.</u></p>	<p>← All impacted property owners should sign the PLA application, not just the one applicant.</p> <p>← The PLA process says under certain circumstances a PLA need not be reviewed by the city. Staff strongly recommends all PLA's be reviewed by the city to ensure nonconformities are not increased or created.</p> <p>← Propose adding detail to the information needed for Property Line Adjustment submittal requirements.</p>

<p>2. A map, <u>drawn to scale, showing:</u> that shows the configuration of each parcel after the proposed adjustment.</p> <ul style="list-style-type: none"> a. <u>The location of buildings on the properties, and the setbacks from those buildings to the property line(s) before and after the proposed adjustment;</u> b. <u>If a property will be split-zoned after the adjustment, show where the zone boundary is located before the adjustment and the distance from existing property line(s) and from the adjusted property line(s) to the zone boundary; and</u> c. <u>Existing and proposed easements on each property.</u> 	
<p>3.200 ADMINISTRATIVE PROCEDURES</p> <p>3.201 GENERAL PROCEDURES</p> <p>3.201.01 Procedure for Type I Review</p> <p>G. All administrative land use decisions of the City Recorder may be appealed to the Planning Commission, if such an appeal is filed within <u>twelve (12)</u> ten (10) days from the date of the decision, pursuant to the provisions of Section 3.205 for appeals.</p> <p>3.201.03 General Procedures for Type IV Actions</p> <p>B. Public hearings are initially scheduled before the Planning Commission.</p> <p>3. Notice of the time, place and purpose of the Planning Commission's hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than ten (10) <u>twenty (20)</u> days prior to the date of the hearing.</p>	<p>← The ten (10) day appeal period here is inconsistent here with the twelve (12) day appeal period in Section 3.205 Appeal Provisions.</p> <p>← While ORS 197 requires only a ten (10) day published notice prior to the first evidentiary hearing, cities often defer to the longer notice periods to ensure public participation at the Planning Commission level, and so that any potential issues are out on the table.</p> <p>HDC Section 3.202.03 Public Notice Requirements already calls for a Type IV Action Planning Commission public hearing to be published in a newspaper at least 20 days prior to the date of the hearing, so this amendment would be consistent with the later Section.</p>
<p>3.202 PUBLIC NOTICE REQUIREMENTS</p> <p>3.202.02 Type II and Type III Actions</p> <p>A. Written notice of the initial public hearing shall be mailed at least twenty (20) days prior to the hearing date to the applicant and the owners of property within</p>	

<p>100 feet of the boundaries of the subject property.</p> <p>If the application requires two or more hearings, written notice may be mailed ten (10) days before the first hearing,</p> <p>3.202.03 Type IV Action</p> <p>Public notice for Type IV actions may be initiated using a media notification as stated in letters A. and B. (as follows) or using letter C. separately.</p> <p>A. Public notice for public hearings conducted by the Planning Commission on all proposed amendments to this Ordinance and on all legislative amendments to the Comprehensive Plan and Zoning Maps shall be given by publication of a notice in a newspaper of general circulation in the City not less than twenty (20) days prior to the date of the hearing.</p> <p>B. Public notice for public hearings conducted by City Council following Planning Commission action shall be as specified in Section 3.202.03.A.</p> <p>C. Public notice for both hearings, the Commission's and the Council's, may be given by publication in a newspaper of general circulation under one notice when not less than ten (10) <u>twenty (20)</u> days before the Commission's hearing, and not less than twenty (20) days prior to Council's hearing.</p>	<p>← Continuing with the appropriate amount of notice for public hearings, it should be twenty (20) days, whether it is one hearing or two.</p> <p>← Continuing with the consistency in published notice for Type IV Actions from the previous section, the minimum amount of notice for either the Planning Commission public hearing and/or the Planning Commission and City Council public hearings should be twenty (20) days.</p>
<p>3.203 PUBLIC HEARING BEFORE THE PLANNING COMMISSION</p> <p>3.203.01 General Provisions</p> <p>A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Ordinance shall be initially heard by the Planning Commission, within sixty (60) days of the receipt of an application which is complete as specified in Section 3.201</p> <p>B. The Planning Commission may continue a public hearing for additional information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.</p> <p>G. An issue which may be the basis for an appeal to the Land Use Board of Appeals</p>	<p>← Propose striking the unnecessary 60-day deadline, given the State's 120-day rule for land use actions. It is not clear why an application would have to be heard within 60 days. There is also no penalty attached for missing the deadline.</p> <p>← Propose striking the limitation upon a continued hearing occurring more than 60 days beyond the initial hearing date, as this provision does not recognize that an applicant for a Type II or Type III Action could request an extension to the 120-day period.</p>

(LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the City Council or Planning Commission, and the parties, an adequate opportunity to respond to each issue.

H. For Type II and III Actions: It is the responsibility of the applicant to raise constitutional or other issues relating to any proposed conditions of approval. The failure of the applicant to raise such issues with sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an action for damages in circuit court.

← Subsection H does not apply to legislative actions. Propose clarifying that they apply only to quasi-judicial actions.



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CITY OF HUBBARD PLANNING COMMISSION

TO: Hubbard Planning Commission
FROM: Jim Jacks, Interim City Planner
SUBJECT: Development Code Update
DATE: August 22, 2017

I. BACKGROUND

At the July 18, 2017 Planning Commission meeting those in attendance were introduced to a list of proposed amendments, but the actual language changes were not available. The proposed language amendments are included here, although staff will continue to identify additional amendments and an additional staff report will be provided to you prior to the meeting or handed out at the meeting.

II. STAFF REVIEW

The following proposed amendments include some larger issues and some detailed items. The larger issue relates to the Type I – IV system in Chapter 3 of the Development Code and the processes for decisions where discretion is, or is not, exercised in making the decision based on objective or subject approval criteria.

ITEM 1. Chapter 3. Objective approval criteria mean no discretion is exercised in making the decision and, therefore, no notice to surrounding property owners is needed and no appeal is provided. Subjective approval criteria mean discretion must be exercised in making the decision and, therefore, notice to surrounding property owners and the opportunity to appeal is required.

For example, 3.101.01 says the Type I, Level I, process is for actions with clear and objective approval standards and then 3.101.01, B, lists Home Occupation as a Type I, Level I, action, but the Home Occupation approval standards at 2.303.01, A – K, include subjective approval criteria.

Similarly, 3.101.01 says the Type I, Level I, process is for actions with clear and objective approval standards and then 3.101.01, B, lists Minor Variance as a Type I, Level I, action, but the Minor Variance approval standards at 3.104.04, A, 1 – 5, include subjective approval criteria.

The format of Section 3.101.01 to 3.101.04 should be updated as well as the substantive lists of the Type I – IV actions.

The existing language in 3.101.01 follows (Type I Action, Level 1 and Level 2):

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

3.101.01 Type I Action, Level 1 and Level 2

A Type I, Level 1, action is a ministerial review process without a public hearing in which City staff apply clear and objective standards that do not allow much discretion. Public notice is provided as required for a Type I Action, Section 3.201.01. Appeal is to the Planning Commission. The following action is processed under the Type I procedure:

- A. Property Line Adjustment;
- B. Home occupation (unless referred to the Planning Commission for review as a Type II action).
- C. Minor Variance

A Type I, Level 2, action is a limited land use decision in which the Planning Commission apply clear and objective standards. The Planning Commission makes a decision on the application but does not conduct a public hearing, unless specifically required by this Ordinance. Public notice is provided as required for a Type I Action, Section 3.201.01 if no public hearing is conducted. Public notice is provided as required by Section 3.202.02 if a public hearing is conducted. Appeal is to the City Council. The following actions are processed under the Type I, Level 2, procedure:

- D. Partitions

End of existing language for 3.101.01.

The proposed language follows.

All development permits and land use actions are processed under the City's administrative procedures. There are four types of actions, each with its own procedures.

3.101.01 Type I Action

Type I actions are reviewed and decided by the City staff. They are divided into four categories:

- A. Type I-A actions are reviewed and decided by City staff based on objective standards that allow for no interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision provided they do not require an interpretation or the exercise of policy or legal judgment. Notice of the decision is provided consistent with Section 3.202.XX. There is no appeal. The following are Type I-A actions:
 - 1. Property Line Adjustment
 - 2. Sign Permit
 - 3. Floodplain Development Permit
- B. Type I-B actions are reviewed and decided by City staff based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Conditions may be placed on the decision. Notice of the decision is provided consistent with Section 3.202.XX. Appeal is to the Planning Commission. The following are Type I-B actions:
 - 1. Minor Variance.
 - 2. Home Occupation.

3. Property Line Adjustment with discretion.
4. Sign Permit with discretion.
5. Floodplain Development Permit with discretion.
6. Similar Use/Ordinance Interpretation as part of a Type I-B application.
7. Similar Use/Ordinance Interpretation not part of an application.

End of proposed language.

The existing language in 3.101.02 follows (Type II Actions):

3.101.02 Type II Actions

A Type II action is a quasi-judicial review in which the Planning Commission applies a mix of objective and subjective standards that allow considerable discretion. Public notice and a public hearing is provided. Section 3.202 lists the notice requirements. Appeal of a Type II decision is to the City Council. The following actions are processed under a Type II procedure:

- A. Conditional Use Permit
- B. Non-Conforming Uses
- C. Planned Unit Developments
- D. Similar Uses
- E. Variances
- F. Subdivisions
- G. Site Development Review
- H. Home Occupation (if referred to the Planning Commission)

End of existing language for 3.101.02.

The proposed language follows.

3.101.02 Type II Actions

- A. Type II-A actions are reviewed and decided by the Planning Commission based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Notice of the public hearing is provided consistent with Section 3.202.XX. Conditions may be placed on the decision. Appeal is to the City Council. The following are Type II actions:
 1. Conditional Use Permit.
 2. Non-Conforming Uses and Structures.
 3. Planned Unit Development.
 4. Major Variance.
 5. Similar Use/Ordinance Interpretation as part of a Type II application.
 6. Similar Use/Ordinance Interpretation not part of an application.

- B. Type II-B actions are Limited Land Use actions reviewed and decided by the Planning Commission based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Notice of the opportunity to comment is provided consistent with Section 3.202.XX. Conditions may be placed on the decision. Notice of the decision is provided consistent with Section 3.202.XX. Appeal is to the City Council. The following is a Type II-B action:

1. Subdivision.
- C. Type II-C actions are Expedited Land Division actions reviewed and decided by the Planning Commission based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Notice of the opportunity to comment is provided consistent with Section 3.202.XX. Conditions may be placed on the decision. Notice of the decision is provided consistent with Section 3.202.XX. Appeal is to the Referee. The following is a Type II-C action:
1. Partition.

End of proposed language.

The existing language in 3.101.03 follows (Type III Actions):

3.101.03 Type III Actions

A Type III Action is a quasi-judicial process in which the City Council applies a mix of objective and subjective standards. The Planning Commission has an advisory role. Public notice is provided and public hearings are held at the Planning Commission and City Council. Section 3.202 lists the notice requirements. Appeal of the decision is to the Land Use Board of Appeals (LUBA). The following actions are processed under a Type III procedure:

- A. Annexation
- B. Comprehensive Plan Text and Map Amendments
- C. Development Code Text Amendments
- D. Vacation
- E. Zone Change

End of existing language for 3.101.03.

The proposed language follows.

3.101.03 Type III Actions

- A. Type III actions are reviewed and decided by the City Council based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. The Planning Commission makes a recommendation to the City Council. Public notice of the Planning Commission and City Council public hearings is provided consistent with Section 3.20120XX. Conditions may be placed on the decision. Appeal is to the Oregon Land Use Board of Appeals (LUBA). The following are Type-III actions:
 1. Annexation.
 2. Comprehensive Plan Text and Map Amendments (quasi-judicial).
 3. Development Code Text Amendment and Zone Map Change (quasi-judicial).
 4. Vacation of public rights-of-way, and Subdivision and Partition Plats.
 5. Similar Use/Ordinance Interpretation as part of a Type III Application.
 6. Similar Use/Ordinance Interpretation not part of an application.

End of existing language for 3.101.03.

The existing language in 3.101.04 follows (Type IV Actions):

3.101.04 Type IV Actions

A Type IV action is a legislative review in which the City considers and enacts or amends laws and policies. Private parties cannot request a Type IV action. It must be initiated by City staff, Planning Commission or City Council. Public notice and hearings are provided in a Type IV process. The following actions are processed under a Type IV procedure:

- A. Rewriting the City's Comprehensive Plan document
- B. Rewriting the City's Development Code
- C. Creating City Plan documents (e.g. Public Facilities Plan)
- D. City-wide changes to the Comprehensive Plan map
- E. City-wide changes to the Zone District map

End of existing language for 3.101.04.

The proposed language follows.

3.101.04 Type IV Actions

- A. Type IV actions are legislative actions reviewed and decided by the City Council based on objective and subjective standards that allow interpretation or the exercise of policy or legal judgment. Private parties cannot apply for a Type IV action. Type IV actions shall be initiated by City staff, the Planning Commission, or the City Council. The Planning Commission makes a recommendation to the City Council. Public notice of the Planning Commission and City Council public hearings is provided consistent with Section 3.202.XX. Conditions may be placed on the decision. Appeal is to the Oregon Land Use Board of Appeals (LUBA) unless the decision is to deny a legislative action and then there is no appeal in accordance with Oregon Revised Statute 197.620. The following are Type-IV actions:
 - 1. Comprehensive Plan Map or Text Amendments (legislative).
 - 2. Zone Map Change or Zone Code Text Amendments (legislative).
 - 3. Similar Use/Ordinance Interpretation as part of a Type IV Application.
 - 4. Similar Use/Ordinance Interpretation not part of an application

ITEM 2. The C District lists churches as permitted and conditional uses (2.106.02, J and 2.106.03, A).

The proposed amendment follows.

2.106.03 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

~~A. Church~~

~~BA. Except as provided in Section 2.304, any commercial service or business activity otherwise permitted, involving the processing of materials which is essential to the permitted use and which processing of materials is conducted wholly within an enclosed building~~

~~CB. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications towers and/or antennas~~

~~DC. Automotive repair~~

ITEM 3. The C District lists site development requirements as “design” requirements. Site development standards are, typically, setbacks, building height, minimum lot size, parking, landscaping, whereas “design” standards are, typically, architectural in nature.

The proposed amendment follows.

2.106.05 Development Standards

No change to A – D.

E. ~~Design~~ **Site Development** Review. All new development and expansion of an existing structure or use in the Commercial District shall be subject to the Site Development Review procedures of, Section 3.105.

ITEM 4. Definitions: Update the definition of Expedited Land Division to be consistent with Statute (ORS 197.360).

The proposed amendment follows.

Expedited Land Division: An expedited land division is an action of the City that (a) includes *only* land that is zoned for residential uses and is within the urban growth boundary, (b) is solely for the purposes of residential use, including recreational *or* open space uses accessory to residential use, (c) does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goal that protect open spaces, scenic and historic areas, and natural resources, (d) satisfies minimum street or other right-of way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules, and (e) *will result in development that either (1) creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site or (2) will be sold or rented to households with incomes below 120 percent of the median family income for the county in which the project is built. Expedited land division includes land divisions that create three or fewer parcels under ORS 92.010 to 92.192 and meet the criteria set forth in a – e, above.*

ITEM 5. Definitions: Clarify there is only a “partition,” not a major and minor partition. The major and minor partition approach was deleted from Statute some time ago.

The proposed amendment follows.

~~Major Partition: See Partition and Subdivision.~~

~~Minor Partition: See Partition.~~

Partition: Any division of property which creates three or fewer parcels within the same calendar year and which does not create or extend a public street for access.

Partitioning land: Dividing land to create not more than three parcels of land within a calendar year, but does not include:

(a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;

(b) Adjusting a property line as property line adjustment is defined in this section;

(c) Dividing land as a result of the recording of a subdivision or condominium plat;

(d) Selling or granting by a person to a public agency or public body of property for state highway, county road, city street or other right of way purposes if the road or right of way complies with the applicable comprehensive plan and ORS 215.213 (2)(p) to (r) and 215.283 (2)(q) to (s). However, any property sold or granted for state highway, county road, city street or other right of way purposes shall continue to be considered a single unit of land until the property is further subdivided or partitioned; or

(e) Selling or granting by a public agency or public body of excess property resulting from the acquisition of land by the state, a political subdivision or special district for highways, county roads, city streets or other right of way purposes when the sale or grant is part of a property line adjustment incorporating the excess right of way into adjacent property. The property line adjustment shall be approved or disapproved by the applicable local government. If the property line adjustment is approved, it shall be recorded in the deed records of the county where the property is located.

ITEM 6. Definitions: Delete definition of “quasi-judicial” as it is inconsistent with the LUBA case, Strawberry Hill 4-Wheelers v. Benton County which set forth the 3 criteria to determine if an application is quasi-judicial or legislative.

The proposed amendment follows.

~~Quasi-Judicial Review: A decision affecting land use within the City which requires the interruption and/or amendment of existing standards or maps contained in this Ordinance. Quasi-Judicial decisions are heard by the Planning Commission. The decision of the Planning Commission is final except when the decision would necessitate an amendment to this Ordinance. In those cases, the Planning Commission decision is forwarded as a recommendation to the City Council for a final decision. Quasi-judicial review is required for Variances, Conditional Use Permits, Partitions, Subdivisions, Planned-Unit Developments, Comprehensive Plan and Zone Changes, and Urban Growth Boundary Amendments.~~

ITEM 7. RV parking standards are in five locations and there is no reference in each location to the other locations. The standards are in the R-1, R-2, R-3 and R-C Districts and in the Off-Street Parking and Loading Chapter. The Of-Street parking section includes requirements that are not in the R-1, R-2 or R-C regulations. Generally, all the standards for an issue are at one location in a Code, but in this case the proposed amendments include adding a statement in the R-1, R-2, R-3 and R-C sections that refer to the additional regulations in the Off-Street parking section.

The following sections address RV parking:

Section 2.203, Off-Street Parking and Loading, Subsection 2.203.10, Recreational Vehicle Parking.

Section 2.101.05, H, R-1 District, Development Standards.

Section 2.102.05, H, R-2 District, Development Standards.

Section 2.103.05, J, R-3 District, Development Standards.

Section 2.102.05, J, R-C District, Development Standards.

The proposed amendment follows. Note, only the R-1 District language is shown here, but the same amendment is proposed in the R-2 and R-C Districts.

2.101.05 Development Standards

All development in the R-1 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

A - G. No change.

H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:

- a. The additional space shall not be allowed if it creates a traffic sight obstruction.
- b. The additional space has an all-weather surface and be drained to prevent standing water.

2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.

4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

5. The parking shall also comply with Section 2.203.10, Recreational Vehicle Parking.

End of proposed amendment.

The following is Section 2.203.10, Off-Street Parking and Loading. It is shown because Subsection D (see underlining below) says an RV space cannot be located in any required yard areas, but as shown above, the R-1, R-2, R-3 and R-C District standards allow RV parking in the side, rear and front yards (2.101.05, H, 1).

2.203.10 Recreational Vehicle Parking Recreational vehicle spaces shall meet the following use and development standards. The term "recreational vehicle space" means the portion of a lot where a single recreational vehicle is parked and occupied or intended to be parked and occupied.

A. The space shall have an all-weather surface and be drained to prevent standing water.

B. If the space is occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a recreational vehicle park.

C. Unless located in a recreational vehicle park no permanent electrical, water or sewer connections are permitted, nor shall the space be rented or leased for consideration.

D. The space shall not be located in any required yard areas.

End of proposed amendment.

Staff recommends the Commission discuss the inconsistency regarding allowing, or not, RV's in front, side and rear yards.

ITEM 8. RC District: There is no reference in the Permitted Use section limiting uses to operating between 7 a.m. and 10 p.m. The Conditional Use section requires a conditional use permit be obtained if a use operates after 10 p.m. or before 7 a.m.

It is assumed the R-C permitted uses listed in 2.104.02, A, are not intended to follow a 10 p.m. to 7 a.m. operational limitation.

The proposed amendment follows.

2.104.02 Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RC District:

A. No change.

B. The following commercial uses are permitted, *provided their hours of operation are not before 7 a.m. nor after 10 p.m. and are* subject to the Site Development Review procedures of Section 3.105 and the development standards listed in Section 2.300:

1. Professional office
2. Retail trade and service operation having a maximum floor area of 2,500 square feet
3. Restaurant, except those with drive-through facilities

2.104.03 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

A. Uses operating before 7:00 AM or after 10:00 PM

B. Public facility, government structure, or communications towers for emergency services

C. Cemeteries

End of proposed amendment.

ITEM 9. 2.105, Manufactured Home District (MH). The purpose says the district is for manufactured home parks (where the land is under one owner and the spaces are rented), but the standards refer to parks and subdivisions. The Zone Map shows the MH is on properties where Country Estates, Hoodview Estates, Hubbard Mobile Estates and Sherwood Mobile **Manor** are located, and those developments are manufactured home parks. But, based on the language in Section 2.105 the MH Zone could be applied to other properties and a manufactured home subdivision could be developed.

Section 2.105.04, B, 1, calls for manufactured home parks to be at least 3 acres, but ORS 197 calls for manufactured parks to be as small as 1 acre, thus a proposed amendment changes the 3 acre figure to 1 acre.

The proposed amendments follow.

2.105.01 Purpose

The purpose of the MH District is to provide opportunities for manufactured home parks *and manufactured home subdivisions* at a density no greater than 8 units per acre, *and other uses*. The MH District is consistent with the Medium Density Residential Plan designation.

2.105.02 Permitted Uses. No change.

2.105.03 Conditional Uses. No change.

2.105.04 Dimensional Standards

The following dimensional standards shall be the minimum requirements for all development in the MH District except for modifications permitted under Section 2.402, General Exceptions.

A. Subdivision - Minimum Area Lot Area and Density Requirements

1. Single-family dwelling 5,000 square feet
2. One duplex 7,000 square feet
3. Maximum density 8 units per acre
4. Minimum Yard Setback Requirements
 - a. Front Yard 15 feet --Setback to garage 20 feet
 - b. Rear Yard -- One Story 10 feet -- More than one story 15 feet
 - c. Side Yards (interior) 5 feet Side Yards (adjacent to street) 15 feet

B. Manufactured Home Parks - Minimum Area Requirements

1. Minimum park size ~~Three (3)~~ *one (1)* acre-s-
2. Minimum space size 5,000 square feet
3. Minimum Yard Setback Requirement - The manufactured home park shall be set back 20 feet from all property lines.

C. Maximum Structure Height/Subdivision. Lots of Record, and Parks

1. Principle Structure 35 feet

2. Accessory Structure 20 feet

2.105.05 Manufactured Home Park Development Standards. No change.

2.105.06 Process. No change.

End of proposed amendment.

ITEM 10. 2.207.04, C, Landscaping, allows the landscaping that is required to be on a private property to be in the public right-of-way (ROW). Required landscaping should be on the land where the development is located. When the landscaping is on private property it is clear who is responsible for it. When landscaping is in a public right-of-way, it is not clear who is responsible for it. The process to allow landscaping in the ROW is flawed as it requires a variance but then says no hearing is required. Subsection C is proposed to be deleted.

2.207.04, D, is not clear, thus it is proposed to be clarified. Subsection D is proposed to be amended to clarify if saving "significant trees and vegetation" is required or optional.

It is not clear if it intends that all significant trees and vegetation be preserved or if only the significant vegetation the applicant wants to retain must be preserved. If it is the former, then it begs the question, what is "significant trees and vegetation?" The Code does not define "significant trees and vegetation." It is common for development codes to use 6 inch diameter four feet above grade.

It is not clear how a requirement would "play out" when it would not allow any significant vegetation to be removed. It may be likely that a site could have older trees or a wonderful example of a native plant and if such vegetation must be incorporated into the landscape plan, it may present a significant impediment to development. For example, the city, county or ODOT may desire an access at a given location, but an older tree is at that location. Or, in a subdivision a proposed public street, water line, sewer line or other private or public facility may best be located where the significant vegetation is located. The only way around the requirement would be to apply for a concurrent variance to remove the significant vegetation.

Subsection D is proposed to be amended to state, "The landscape design shall incorporate existing significant trees and vegetation as determined by the decision authority.

The proposed amendments follow.

2.207.04 General Provisions

A and B. No change.

~~C. The Planning Commission may grant the applicant credit for landscaping to be done in the public right of way provided the elements set forth for the granting of a variance are met by the applicant. It shall not be necessary to hold a public hearing to grant this credit. The Planning Commission shall consider the need for future use of the right of way for street purposes when granting approval for credit under this Section.~~

D. The landscape design shall incorporate existing significant trees and vegetation ~~preserved on the site~~ *as determined by the decision authority.*

End of proposed amendment.

ITEM 11. 2.207.07, A, 3, Street Trees, says street trees should be no greater than 30 feet apart, but the Municipal Code references 20 feet.

The proposed amendment is to make the Development Code the same as the Municipal Code, i.e., 20 feet. The amendment language is not shown as it is clear from the prior sentence.

ITEM 12. 2.208.03, A, Subdivision Standards, says, “No more than half of the corner lots at any one intersection shall be devoted to duplex or townhouse lots.” The quoted language relates to the use of the property and should be moved to the residential districts, i.e., the R-1 District, where permitted uses are listed, or it should be stated at both locations. It would appear the language is not applicable to the R-2 and R-3 Districts where duplexes are allowed on any lot. Propose moving the language to the R-1 District as shown below.

The proposed amendment follows.

2.208.03 Standards for Lots or Parcels [Development Standards for Land Divisions]

A. Minimum lot area. Minimum lot area shall conform to the requirements of the zoning district in which the parcel is located.

~~No more than half of the corner lots at any one intersection shall be devoted to duplex or townhouse lots.~~

2.101.02 Permitted Uses [R-1 Zone]

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-1 zone:

A. Single-family dwelling unit, including a manufactured home, except that a manufactured home shall not be placed within an acknowledged historical district nor adjacent to a historic landmark.

B. Duplex or townhouse dwelling on a corner lot or on lots as approved by the Planning Commission as part of an application for a subdivision or planned unit development. ***No more than half of the corner lots at any one intersection shall be devoted to duplex or townhouse lots.***

End of proposed amendment.

ITEM 13. The clear vision standards are at 2.202.03, k and 2.209.07 and 2.203.07, K. It would be good to have all the clear vision standards at one location.

The proposed amendments are not shown here as additional time is needed to combine the various provisions and determine where they should be placed.



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CITY OF HUBBARD PLANNING COMMISSION

TO: Hubbard Planning Commission
FROM: Jim Jacks, Interim City Planner
SUBJECT: Development Code Update
DATE: November 21, 2017

I. BACKGROUND

The purpose of this staff report is to address all the proposed amendments to the Hubbard Development Code the Planning Commission has discussed at its several work sessions in 2017.

At the August 22 Planning Commission work session a 12-page staff report with Items 1 – 13 was in the packet of materials for the work session. At the work session an additional staff report with 20 additional proposed changes was handed out (Items 14 – 33). The Commission decided to address the additional 20 items at the September 19 work session. This staff report includes those additional 20 items.

Additional Issue From the August 22 Work Session

At the August 22 work session city staff indicated there were questions in the past about mobile home parks and the regulations that should apply when a mobile home is replaced. The city planner indicated the Manufactured Home District (MH) at Section 2.105 in the Hubbard Development Code (HBC) was not clear because it addresses manufactured homes in manufactured home parks as well as manufactured homes on individual lots.

State Statute requires Development Codes to allow a manufactured home on any property where a “stick-built” home is allowed. The HDC is consistent with State Statute by allowing manufactured homes as a permitted use in all the Districts that allow “stick-built” homes, i.e., the R-1, R-2, R-3 and RC Districts.

In addition to the R-1, R-2, R-3 and RC Districts, the HDC also includes the Manufactured Home District (MH) (Section 2.105). The MH District’s purpose statement says the purpose is “...to provide opportunities for manufactured home parks...” But Section 2.105 also allows manufactured homes in subdivisions and a few other miscellaneous non-commercial uses.

If the MH District, Section 2.105, is intended to regulate the development of manufactured home parks, the District’s list of permitted uses should not also allow regular subdivisions and a few other miscellaneous non-commercial uses. The standards should all relate to manufactured home parks.

Manufactured homes in subdivisions are regulated by the standards in the R-1, R-2, R-3 and RC

Districts, as well as Section 2.208 regarding Land Divisions (subdivisions and partitions).

The language in the Manufactured Home District (MH) should be amended to keep the regulations for Manufactured Home Parks and to delete the language about Manufactured Home Subdivisions and the few other miscellaneous non-commercial uses.

This staff report does not propose the exact language of such an amendment, but assuming the Commission agrees that the MH District should be amended to keep the regulations for Manufactured Home Parks and to delete the language about Manufactured Home Subdivisions and the few other miscellaneous non-commercial uses, such language will be drafted for the public hearing for the HDC amendments.

II. CONTINUED STAFF REVIEW OF THE HCD

The following 20 proposed amendments to the Hubbard Development Code are the same as were shown in the handout at the August 22 Commission work session. Note the August 22 version of the handout included a miss-numbering at Item 17 (there were two 17's) and this version corrects that error.

ITEM 14. Chapter 3, Application Requirements and Review Procedures, includes each of the types of land use applications and sets forth their requirements. Several of the Sections addressing land use applications do not state what must be included in the application materials submitted to the city.

Section 3.101 establishes the Type I – IV system which categorizes land use actions depending on the decision authority and whether discretion is exercised in making the decision. Subsection 3.101.01 covers Type I actions. Subsection 3.101.02 covers Type II actions. Subsection 3.101.03 covers Type III actions. Subsection 3.101.04 covers Type IV actions.

Additional subsections are proposed to be added as follows.

3.101.05 *Applicability*

Unless otherwise stated elsewhere, the provisions of Sections 3.101.06 - 3.101.10 apply to Type I, II, III, and IV applications.

3.101.06 *Additional Information and Fees*

A. *Where a traffic impact analysis, wetland determination and/or delineation, or geo-technical analysis is determined by city staff to be needed for the decision authority to determine compliance with approval criteria, the analysis, report or study shall be included in the application materials submitted to the city.*

B. *The failure to submit the required fee with an application, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect and the application shall not be accepted, or where it has been accepted, it shall be returned.*

3.101.07 *Multiple Applications*

Applications for more than one action for the same property may, at the applicant's request, be reviewed and decided concurrently. Multiple applications involving different processing Types shall be reviewed and decided using the higher processing Type. For example, a concurrent application for Type I and Type II actions shall be reviewed and decided using the Type II process.

3.101.08 *Meet Criteria For Approval*

An application may be granted only if the application complies with, or through the imposition of conditions can comply with, the applicable decision criteria.

3.101.09 *Conditions of Approval*

A. *Conditions of approval for Type I, II, III and IV actions may be imposed by the decision authority to:*

- 1. Ensure compliance with the Hubbard Development Code requirements, Oregon Revised Statutes and Oregon Administrative Rules;*
- 2. Ensure compliance with the decision criteria;*
- 3. Address potential or actual affects or impacts created by the proposed application;*
- 4. Protect the public health, safety and general welfare.*

B. *The conditions may address the location, construction, size and shape of any element of a development regulated by the Hubbard Development Code and Hubbard Public Works Construction Code, including, but not limited to:*

- 1. Access, accessway and driveway facilities;*
- 2. Berms, buffers and screening;*
- 3. On-site and off-site public and private sanitary sewer, water and storm drain facilities;*
- 4. On-site and off-site public and private street, curb, gutter, sidewalk, street signage, street striping, street signals, and street tree planting strip facilities;*
- 5. The dedication of on-site and off-site rights-of-way and easements;*
- 6. Fencing;*
- 7. Landscaping;*
- 8. Setbacks;*
- 9. Structures and buildings; and*
- 10. Other elements determined by the decision authority.*

C. *The conditions may require submitting additional information, reports and studies including, but not limited to:*

- 1. Traffic impact analysis;*
- 2. Wetland determination and/or delineation;*
- 3. Geo-technical analysis;*

D. *Where the appeal period for a decision has lapsed and the decision is final, a request to change or alter a condition of approval shall be submitted as a new application and fee using the same process that was used for the original decision.*

3.101.10 Pre-application Conference

A pre-application conference is strongly recommended, but not required. Where a pre-application conference application is submitted, it shall be made on forms provided by the city. The fee shall be payable at the time the application is submitted to the city and shall be as set forth by resolution of the City Council.

End of proposed amendment.

ITEM 15. Chapter 3, Application Requirements and Review Procedures, Section 3.102 addresses applications where the text of the Comprehensive Plan (CP) or the Hubbard Development Code (HDC) is proposed to be amended, and where the CP Map or the Zone Map is proposed to be amended.

Subsection 3.102.01, Process, is proposed to be amended to clarify that Quasi-judicial CP and HDC text changes, and CP Map and Zone District Map changes are Type III actions covered in 3.102, and that Legislative CP and HDC text changes and the CP Map and Zone District Map changes are a Type IV action covered in 3.201.

The proposed amendment follows.

3.102.01 Process

Quasi-judicial Comprehensive Plan and Development Code text amendments ~~–~~ ***and*** Comprehensive Plan ***Map*** and Zone District ~~–~~ ***Map*** amendments ~~–~~ ***and zone changes*** will be reviewed in accordance with the Type III review procedures in Section 3.201.

~~City-wide changes to the Plan and Code documents or maps~~ ***Legislative Comprehensive Plan and Development Code text amendments and Comprehensive Plan Map and Zone District Map amendments*** will be reviewed in accordance with ***the*** Type IV review procedures in ***Section*** 3.201.

3.102.02 Application and Fee

An application for a ~~zone change~~ ***quasi-judicial Comprehensive Plan and Development Code text amendment and a Comprehensive Plan Map and Zone District Map amendment*** shall be filed with the City Recorder and accompanied by the appropriate fee and/or deposit. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section.

3.102.03 Submittal Requirements

The following information shall be submitted as part of a complete application.

A. A statement indicating the current text or map designation/zone and the proposed text or map designation/zone.

B. For map amendments, state the size in acres and square feet of the area to be re-designated or rezoned.

- C. *A written narrative explaining why the text or map amendment is proposed.*
- D. *A written narrative explaining how the applicable approval criteria in Section 3.102.04 are met.*

3.102.04 Criteria for Approval

A. Comprehensive Plan *text* and map amendments ~~shall~~ *may* be approved if the applicant provides evidence substantiating the following:

1. ~~e~~Conformance with the applicable Statewide Planning Goals,
2. ~~e~~Conformance with the goals and policies of the Plan or demonstration of a change in circumstances that would necessitate a change in the goal and/or policy,
3. ~~a~~A demonstration of public need for change, and
4. ~~a~~A demonstration that the proposed amendment will best meet the identified public need versus other available alternatives.

B. Development Code *text* amendments and ~~zone change~~ *Zoning District Map amendments* ~~proposals shall~~ *may* be approved if the applicant provides evidence substantiating the following:

1. ~~a~~Approval of the request is consistent with the Comprehensive Plan and the Comprehensive Plan map designation and most effectively carries out the Plan goals and policies considering all alternatives, and
2. ~~t~~The property and affected area is presently provided with adequate public facilities, services, and transportation to support uses allowed within the requested zone, or such facilities, services provided concurrently with the development of the property.
3. The proposed amendment is consistent with the purpose of the Code's subject section and article.

~~e~~ 4. ~~t~~The natural features of the site are conducive to the proposed zone district.

End of proposed amendment.

ITEM 16. Chapter 3, Application Requirements and Review Procedures, Section 3.103, addresses Conditional Use Permits (CUP). Subsection 3.103.03, Criteria For Approval, calls for the applicant to provide evidence substantiating the 5 listed approval criteria are met.

Approval Criterion 3.103.03, E, calls for the applicant to address "...applicable goals and policies of the Comprehensive Plan which apply to the proposed use."

This criterion requires the applicant to go through the whole Comp Plan, including the TSP, Economic Opportunities Analysis, etc., looking for any goals or policies that might apply and then have to address them. The staff then would have to write a finding and conclude the applicant's search found all the

applicable items in the Comp Plan and the CUP is consistent with each one. Staff recommends the HDC not require a CUP to be consistent with the goals and policies in the Comp Plan because the approval criteria already cover the issues, i.e., characteristics of the site, timeliness given existing public facilities, and not alter the character of the area. Rather than have the applicant look for applicable Goals and Policies, if there are any particular Comp Plan Goals and Policies that apply directly to Conditional Uses, they could be listed here as approval criteria. If there no Goals and Policies that apply directly to Conditional Uses, the Comp Plan Goals and Policies should not be an approval criterion. Staff believes Criterion E should be deleted. In a “Big Picture” sense, the Comp Plan policies are implemented by the requirements in the Development Code. For example, all the Land Division requirements and other Development Code requirements should ensure that development is consistent with the Comp Plan Policies.

The proposed amendment follows.

3.103.03 Criteria for Approval

Conditional Use Permits shall be approved if the applicant provides evidence substantiating that all the requirements of this Ordinance relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:

- A. the use is listed as a conditional use in the underlying district;
- B. the characteristics of the site are suitable for the proposed use considering size, shape, location, topography and location of improvements and natural features;
- C. the proposed development is timely, considering the adequacy of transportation systems, public facilities and services, existing or planned for the area affected by the use;
- D. the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district; and
- ~~E. the proposal satisfies any applicable goals and policies of the Comprehensive Plan which apply to the proposed use.~~

End of proposed amendment.

ITEM 17. Chapter 3, Application Requirements and Review Procedures, Section 3.103, addresses Conditional Use Permits (CUP). Subsection 3.103.03, Criteria For Approval, calls for the applicant to provide evidence substantiating the 5 listed approval criteria are met. No Subsection calls for a site plan or any specific information to be included in the application materials such as is found for the Site Development Review Applications in Section 3.105.05. Without a site plan the staff and decision authority will not know the location of buildings, parking, landscaping, access points, etc., or know the existing or proposed setbacks.

The following amendment proposes adding a new Subsection setting forth what items must be included in a CUP application.

The proposed amendment follows. Note: the current language in 3.103.04 is renumbered and is below.

3.103.04 *Submittal Requirements*

A. The following information shall be submitted as part of a complete application for a Conditional Use Permit:

1. Site Analysis, when applicable to the request and the site.

- a. existing site topography;***
- b. identification of areas exceeding 10% slopes;***
- c. site drainage, areas of potential flooding;***
- d. areas with significant natural vegetation;***
- e. existing structures, roadway access and utilities;***
- f. existing and proposed streets, bikeways, and pedestrian facilities within 200 feet; and***
- g. a traffic impact analysis if requested by the City Engineer.***

2. Site Plan, when applicable to the request and the site.

- a. proposed grading and topographical changes;***
- b. the location of existing and proposed structures and their setbacks;***
- c. vehicular, pedestrian, and bikeway circulation patterns, parking, loading and service areas;***
- d. proposed access to public roads and highways, bikeways, pedestrian facilities, railroads or other commercial or industrial transportation systems;***
- e. site drainage, sanitary sewer system, and water supply system.***
- f. proposed landscape plan, to include appropriate visual screening and noise buffering, where necessary, to ensure compatibility with surrounding properties and uses;***
- g. proposed fencing or other fabricated barriers, together with their heights and setbacks; and***
- h. proof of ownership and signed authorization for the proposed development, if applicant is not the owner of the site;***

End of proposed amendment.

ITEM 18. Chapter 3, Application Requirements and Review Procedures, Section 3.103.05 addresses extensions of time for approvals. The following amendments clarify there is only one extension; there are no *significant* changes; adding a new letter D indicating a request for extension stays the 1-year approval period; adding a new letter E for the extension decision appeal; the appeal fee is paid by the appellant, not the applicant; and the request for extension can be submitted up to the date the approval lapses.

Regarding the deadline to submit a time extension, if the project is really close to getting done and if the applicant can just keep working on it, the project will be done on time. With a 30 day requirement, the applicant may have to stop working on the project and spend time filling out an application for extension which then will require staff to review it, write findings showing the extension criteria have been met, mail a notice of decision, wait for the appeal period to pass and then the extension is finally final. Neither the applicant or the city would be harmed if the request for extension could be submitted up until the approval period lapses, and both the applicant and city could save time by not having to address the extension application process.

The proposed amendment follows.

3.103.05 Expiration of Approval--Standards for Extension of Time

A. Conditional use permit approval shall be effective for a period of two (2) years from the date of

approval. If the conditional use has not begun within the two (2) year period, the approval shall expire.

B. Conditional use permit approval shall be voided immediately if the use established on site does not substantially conform to the approval granted by the Planning Commission.

C. The Planning Commission may, upon written request by the applicant and payment of the required fee, grant one (1) ~~additional~~ extension for a period not to exceed one (1) year, provided ~~that~~:

1. No substantive changes are made to the approved application;
2. The applicant explains specifically why an extension is needed;
3. There have been no *significant* changes in the facts or applicable policies or ordinance provisions on which the original approval was based; and
4. The applicant can show intent to establish the conditional use on the site within the one (1) year extension period.

D. Upon submittal of an extension request in accordance with Subsection C, above, the 2-year approval period is stayed until the extension decision and any appeals are resolved.

E. If approved, property owners within 100 feet of the subject property shall be notified of the extension by mail. Those so noticed may obtain a ***City Council*** public hearing on the extension by filing a ***an appeal of the extension decision*** request in writing within twenty (20) days of the notice date. The public hearing shall follow the notice requirements and procedures for Type II actions. The ~~cost of notification and any required public hearing~~ ***appeal fee*** shall be borne by the applicant ***appellant***. Requests for extension of approval shall be submitted in writing ~~thirty (30) days prior~~ ***and may be submitted up*** to the expiration date of the approval period.

End of proposed amendment.

Section 3.103.05 addresses discontinuances. It is proposed to re-number 3.103.05 to be 3.103.06.

The proposed amendment follows.

3.103.05 ~~.05~~ ***.06*** Discontinuance of a Conditional Use

Discontinuance of a conditional use for a period of six (6) consecutive months shall render the conditional use permit approval null and void.

End of proposed amendment.

ITEM 19. Chapter 3, Application Requirements and Review Procedures, Section 3.105, addresses Variances, and following Sections address Site Development Review, Partitions, Subdivisions, Similar Uses, Nonconforming Uses and Property Line Adjustments.

Similar to the above for CUP's, staff recommends similar amendments, when they are appropriate, to the Variance, Site Development Review, Partition, Subdivision, Similar Use, Nonconforming Use and Property Line Adjustment Subsections.

The amendments are not shown here as they would be repetitive.

ITEM 20. Chapter 3, Application Requirements and Review Procedures, Section 3.108, addresses Expedited Land Division (ELD). The Legislature changed the ELD regulations and process. The new provisions must be amended into the HDC.

The proposed amendments are not shown here as they follow the new State Statutes. Generally, an ELD is still and ELD, but some of the details of the regulations and process are new.

ITEM 21. Chapter 3, Application Requirements and Review Procedures, Section 3.111 addresses Property Line Adjustments (PLA). Section 3.111.02, Process, Subsection B, addresses the PLA process and says under certain circumstances a PLA need not be reviewed by the city. Staff strongly recommends all PLA's be reviewed by the city to ensure nonconformities are not increased or created.

The proposed amendment follows.

3.111.02 Process

A. A property line adjustment application *shall be signed by the property owners and* may be submitted by ~~the~~ *one* property owner, contract purchaser or an authorized agent of the owner or contract purchaser.

B. A property line adjustment application is processed as a Type I-A procedure pursuant to Section 3.101.01, ~~except the adjustment of a property line of ten (10) percent or less by mutual consent of property owners does not require city approval provided the adjustment in no way increases the degree of nonconformity of any parcel and the lots have not had conditions previously imposed upon them by the City of Hubbard.~~

End of proposed amendment.

ITEM 22. Chapter 3, Application Requirements and Review Procedures, Section 3.111 addresses Property Line Adjustments (PLA). Section 3.111.03, Submittal Requirements, requires a "before" and "after" map be submitted. Section .03 is proposed to be amended to add requirements to show the size in square feet and acres of each parcel before and after the adjustment; to show where buildings are located on the properties and the setbacks from those buildings to the line(s) proposed to be adjusted; if a property will be split-zoned after the adjustment, show where the zone boundary is located and the distance from each adjusted property line to the zone boundary; and show any existing easements on each parcel and any proposed easements on each parcel.

NOTE: The current language allows a PLA to result in a property that is split-zoned, i.e., part of the property is in one zone and another part is in another zone. **The Planning Commission should consider if split-zoned properties should be allowed to be created through the PLA process.**

Typically, split-zoned properties present difficulties when being sold and when being developed. The city is not as concerned about the situation where a property is sold, but when a split-zoned property is proposed for development, often a zone change is needed and, depending on the underlying Comprehensive Plan Map designation, a Comp Plan Map amendment may be needed.

A concept behind long range land use planning is that land should be "shovel ready" and, often, a split-zoned property is not "shovel ready."

The proposed amendment follows.

3.111.03 Submittal Requirements

A. In addition to the completed application form, the applicant shall also submit:

1. A map , *drawn to scale*, ~~that shows~~ *showing* the configuration *and size in square feet and acres* of each ~~parcel~~ *property* before *and after* the proposed adjustment.

2. A map , *drawn to scale*, ~~that shows the configuration of each parcel after the proposed adjustment~~ *showing*:

a. The location of buildings located on the properties and the setbacks from those buildings to the property line(s) before and after the proposed adjustment;

b. Where a property will be split-zoned after the adjustment, show where the zone boundary is located before the adjustment and the distance from existing property line(s) and from the adjusted property line(s) to the zone boundary; and

c. Show existing and proposed easements on each property.

End of proposed amendment.

ITEM 23. Chapter 3.200, Administrative Procedures, Section 3.201.01, Procedure For Type I Review, addresses procedures for Type I reviews, but does not break the processes into Type I, Level 1 and Type I, Level 2, consistent with Section 3.101.

The processes are different because Type I, Level 1 actions (proposed to be Type I-A) do not include the exercise of judgment and, therefore, do not need notice of an application mailed to nearby property owners for their comments and there is no possibility of appeal.

On the other hand a Type I, Level 2 actions (proposed to be Type I-B) include the exercise of judgment and, therefore, need notice of an application mailed to nearby property owners for their comments, or if no advance notice is provided, a notice of the decision and the opportunity to appeal must be afforded.

Staff proposes Section 3.201.01 for Type I actions be re-written to reflect the needed procedural changes.

The amendments are not shown here as they are procedural.

ITEM 24. Similar to Item 22, Chapter 3.200, Administrative Procedures, Section 3.202.01, Public Notice Requirements For Type I Actions, addresses notices for Type I reviews, but does not break the processes into Type I, Level 1 and Type I, Level 2, consistent with Section 3.101.

The processes are different because Type I, Level 1 actions (proposed to be Type I-A) do not include the exercise of judgment and, therefore, do not need notice of an application mailed to nearby property owners for their comments and there is no possibility of appeal.

On the other hand a Type I, Level 2 actions (proposed to be Type I-B) include the exercise of judgment and, therefore, need notice of an application mailed to nearby property owners for their comments, or if no advance notice is provided, a notice of the decision and the opportunity to appeal must be afforded.

Staff proposes Section 3.202.01 for Type I actions be re-written to reflect the needed procedural changes.

The amendments are not shown here as they are procedural.

ITEM 25. Chapter 3.200, Administrative Procedures, Section 3.202.03, Public Notice Requirements For Type IV Actions, addresses notices for Type IV reviews, but is not consistent with Section 3.201.03, General Procedures For Type IV Action.

Section 3.202.03, A, calls for a Planning Commission public hearing notice to be published in a newspaper at least 20 days prior to the date of the hearing, but Section 3.201.03, General Procedures For Type IV Actions, calls for calls for a Planning Commission public hearing notice to be published in a newspaper at least 10 days prior to the date of the hearing.

Oregon Revised Statute 197 allows a notice 10 days prior to the first evidentiary hearing (the Planning Commission) when a second hearing is required (City Council) such as is required for a Type IV action. Generally, however, cities defer to the longer notice period to ensure as much participation at the Planning Commission level and reduce the likelihood that citizens will miss the Commission hearing and end up attending the Council hearing. It is better to get as many issues out on the table at the Commission level so the Commission can address them and include conditions of approval in the recommendation to the Council. Then, at the Council hearing, the Council can avail themselves of the Commission's work and not have to address an issue for the first time at the Council hearing.

Staff recommends the inconsistency be resolved in favor of a 20-day published notice prior to the Commission hearing.

ITEM 26. Similar to Item 24, Chapter 3.200, Administrative Procedures, Section 3.202.03, Public Notice Requirements For Type IV Actions, addresses notices for Type IV reviews, but is not consistent within itself because Section 3.201.03, General Procedures For Type IV Action, Subsection A calls for a 20-day published notice and Subsection C which allows only one published notice for both the Commission and Council hearings when "not less than 10 days before the Commission's hearing and not less than 20 days prior to the Council's hearing."

Again, the language is not clear and it should be cleared up with a 20-day published notice prior to the Commission hearing and a 20-day published notice prior to the Council hearing.

Alternatively, the Code could be amended to allow one published notice of both the Commission and Council hearings at least 20-days prior to the Commission hearing.

ITEM 27. Chapter 3.200, Administrative Procedures, Section 3.203, Public Hearing Before the Planning Commission, Subsection 3.203.01, General Provisions, addresses Commission hearings. Subsection 3.203.01, A, calls for a Commission hearing no less than 60 days after the submittal of a land use action which requires a hearing before the Commission.

That means quasi-judicial actions such as subdivisions as well as Type IV actions must be heard within 60 days. The 60-day deadline seems unnecessary given the 120-day rule and seems unnecessarily short given the wide range of applications it applies to. For example, it is not clear why a Commission hearing on a Type IV action would have to be heard within 60 days.

Another consideration is, what if the hearing occurs on the 61st day? There is no penalty attached to missing the deadline. Clearly, an application would not be automatically approved if the deadline is

missed – other HDC sections say an application must be heard and other sections say approval cannot be granted unless the criteria are met.

Staff recommends 3.203, A, be significantly revised to delete the unnecessary 60-day period.

ITEM 28. Chapter 3.200, Administrative Procedures, Section 3.203, Public Hearing Before the Planning Commission, Subsection 3.203.01, General Provisions, addresses Commission hearings. Subsection 3.203.01, B, allows the Commission to continue a hearing for no more than 60 days beyond the initial hearing date. This provisions does not recognize that an applicant for a Type II or III action may ask for the 120-day period to be extended to allow time to resolve critical elements of the proposal.

Another consideration is, what if the hearing is continued for more than 60 days? There is no penalty attached. Clearly, an application would not be automatically approved if the continuance is for more than 60 days – other HDC sections say an application must be heard and other sections say approval cannot be granted unless the criteria are met.

Staff recommends 3.203, B, be significantly revised to delete the unnecessary 60-day limit.

ITEM 29. Chapter 3.200, Administrative Procedures, Section 3.203, Public Hearing Before the Planning Commission, Subsection 3.203.01, General Provisions, addresses Commission hearings. Subsection 3.203.01, D, says a Type II Commission decision is final unless appealed to the Council.

Staff recommends D be deleted as it is redundant of other procedural sections that say the same thing. Setting forth appeal provisions is a section about how the Commission must conduct its hearings is not good code writing.

ITEM 30. Chapter 3.200, Administrative Procedures, Section 3.203, Public Hearing Before the Planning Commission, Subsection 3.203.01, General Provisions, addresses Commission hearings. Subsection 3.203.01, F, says written notice of the Commission’s decision shall be mailed within 7 days of the decision to affected individuals.

Staff recommends F be deleted as it is redundant of other procedural sections that say notice of a Commission decision must be sent with an appeal period deadline in the notice.

ITEM 31. Chapter 3.200, Administrative Procedures, Section 3.203, Public Hearing Before the Planning Commission, Subsection 3.203.01, General Provisions, addresses Commission hearings. Subsection 3.203.01, G and H, include ORS 197.763 requirements for quasi-judicial actions, but the ORS provisions don’t apply to Legislative actions. The HDC language makes them apply to Legislative actions which is counter to State Statute.

Staff recommends G and H be amended to clarify they apply only to quasi-judicial actions.

ITEM 32. Chapter 3.200, Administrative Procedures, Section 3.203, Public Hearing Before the Planning Commission, Subsection 3.203.01, General Provisions, addresses Commission hearings. Subsection 3.203.01, I, calls for Type I decisions to be heard by the Commission, but Type I. Level I actions (proposed to be Type I-A actions) cannot be appealed because no judgment is exercised in making the decision.

Staff recommends I be amended to clarify that it does not apply to Type I, Level I (Type I-A) actions.

Staff additionally recommends I be deleted because it is redundant of other sections that set forth the

procedures for Type I, II, III and IV actions.

ITEM 33. Chapter 3.200, Administrative Procedures, Section 3.207, Type IV Actions, Subsection 3.207.01, Initiation, states the Commission and Council can initiate a Type IV actions. This section is not consistent with other sections which state the staff can also initiate Type IV actions. It can be expeditious for staff to initiate Type IV actions. Staff does not need to wait for the next Commission or Council meeting which, depending on the issue, can save up to four weeks time.

Staff recommends 3.207.01 be amended to be consistent with other sections that allow staff to initiate Type IV actions.



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CITY OF HUBBARD PLANNING COMMISSION

TO: Hubbard Planning Commission
FROM: Holly Byram, City Planner & Jim Jacks, MWVCOG Planner
SUBJECT: Development Code Update
DATE: June 19, 2018

I. PURPOSE

The purpose of this staff report is to address the proposed amendments to the Hubbard Development Code (HDC) that the Planning Commission discussed at several work sessions in 2017. At the June 19, 2018 work session, the Commission can make changes to the proposed amendments. The Planning Commission hearing for the amendments is scheduled for July 17, 2018. If the Commission desires a second work session on July 17, instead of a public hearing, a second work session can occur on July 17 and the hearing would be on August 21.

In Section III, below, the proposed amendments are listed in the numerical order of the sections in the HDC. The list of amendments explains the proposed changes.

In Attachment 1 to this staff report, the “mark-up” language is shown in the numerical order of the sections in the HDC with the language to be deleted in ~~strikeout~~ and the language to be added in ***bold italics***.

II. BACKGROUND

The origin of the proposed amendments to the Hubbard Development Code (HDC) started in late 2016 with an inquiry about whether a temporary self-service storage facility (SSSF) using ocean-going containers was allowed on a property in the Commercial (C) Zone. The C Zone does not list SSSF's as a permitted or conditional use, therefore, whether the use is temporary or permanent is irrelevant.

The City asked staff to prepare an amendment to the HDC clarifying that a use that is not a permitted or conditional use in a zone cannot be allowed in that zone on a temporary basis due to it being described as a temporary development. Such an amendment is listed on p. 10, under Section 2.403.02, Uses Permitted in All Zones.

In addition to the above, in 2017 it was clear the HDC had not been updated in many years. For example, the HDC included a 10 day appeal period for land use decisions, but the State Statute calls for a minimum 12 day appeal period and the HDC had not been amended to require 12-days.

In 2017 another issue was whether the City would initiate a process to adopt downtown design standards for an area that would be designated as the downtown. The downtown discussion did not result in direction to staff to prepare downtown design standards.

The 2017 Legislature passed Senate Bill 1051 which, among other things, required all cities of 2,500 or greater population to allow, not later than July 1, 2018, accessory dwelling units (ADU) in residential zones that allow detached single family dwellings. The ADU issue has been addressed under a separate process due to the July 1 deadline.

Additional Issue From the August 22, 2017 Work Session

At the August 22 Planning Commission work session city staff indicated there were questions in the past about manufactured home parks and the regulations that should apply when a manufactured home is replaced, including the appropriate setbacks and separation between units. The city planner indicated the Manufactured Home District (MH) at Section 2.105 in the HBC was not clear because it addresses manufactured homes in manufactured home parks as well as manufactured homes on individual lots.

State Statute (ORS 197.303 – “needed housing”) requires Development Codes to allow a manufactured home on any property where a “stick-built” home is allowed. The HDC is consistent with State Statute by allowing manufactured homes as a permitted use in all the Districts that allow “stick-built” homes, i.e., the R-1, R-2, R-3 and RC Districts. Manufactured homes in subdivisions are regulated by the standards in the R-1, R-2, R-3 and RC Districts, as well as Section 2.208, Land Divisions (subdivisions and partitions).

In addition to the R-1, R-2, R-3 and RC Districts, the HDC includes the Manufactured Home District (MH) (Section 2.105). The MH District’s purpose statement says the purpose is “...to provide opportunities for manufactured home parks....” It does not say the purpose is to allow manufactured homes on regular subdivision lots, but the MH District also allows manufactured homes in subdivisions. Also, it allows several other miscellaneous non-commercial uses, i.e., residential care home, residential care facility, group child day care home, group child day care center, home occupation, parks and open space area, and accessory structures (garages, shops, storage).

If the MH District, Section 2.105, is intended to regulate the development of manufactured home parks per the purpose section, the District’s list of permitted uses should not also allow regular subdivisions and the few other miscellaneous non-commercial uses. All the standards in Section 2.105 should relate to manufactured home parks.

If the language in the Manufactured Home District (MH) is to be amended, the Planning Commission should first discuss whether the MH District is intended to address only manufactured home parks or if it is intended to also address subdivisions and the other miscellaneous non-commercial uses.

Note, the Medium Density Residential (R-2) District and the High Density Residential (R-3) District allow manufactured home parks as a conditional use, subject to meeting the manufactured home park standards in the MH District (MH).

In the absence of a Planning Commission discussion and due to the time and cost involved in major amendments to the MH District, this staff report proposes only minor amendments to Section 2.105, MH District.

III. LIST OF PROPOSED AMENDMENTS

1.200 DEFINITIONS

1. 1.200, Definitions. Propose updating the definition of “Expedited Land Division” by referring to Oregon Revised Statute (ORS) 197.360(1) which defines the term. The current definition in the HDC is not consistent with ORS 197.360 because the 2015 Legislature changed the definition and the provisions for expedited land divisions. As proposed, referring only to ORS 197.360(1) will mean the HDC will not need to be amended every time the Legislature changes the definition.
2. 1.200, Definitions. Propose clarifying there is only a “partition,” not a “major partition” and a “minor partition.” The major and minor partition approach was deleted from the Oregon Revised Statute 92 about 25 years ago. There does not appear to be any reason to retain the terms “major partition” and “minor partition.” Additionally, propose updating the definition of “Partition” by referring to ORS 92.010(7) which defines the term. The current definition in the HDC is not consistent with ORS 92.010 because 92.010 includes two terms, i.e., “Partition” and “Partitioning land” and the HDC’s definition isn’t the same as the ORS definition of either “Partition” or “Partitioning land.”
3. 1.200, Definitions: Propose deleting the definition of “quasi-judicial” as it is inconsistent with the case, Strawberry Hill 4-Wheelers v. Benton County (Oregon Supreme Court, 1979) which sets forth the 3 criteria to determine if an application is quasi-judicial or legislative. The ORS does not define “quasi-judicial.”

2.101 R-1 DISTRICT

4. 2.101.05, R-1 District, Development Standards. The last sentence of Subsection A, Off-Street Parking, states, “Manufactured homes located in manufactured home parks are required to install either a garage or carport.” Propose deleting the prior quoted sentence because manufactured home parks are not allowed as a permitted or conditional use in the R-1 District, therefore, the provision is not needed.
5. 2.101.05, R-1 District, Development Standards. Subsection H, addresses RV parking in the R-1 District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending H to add a reference to Section 2.203.10, RV Parking Standards.

2.102 R-2 DISTRICT

6. 2.102.01, R-2 District, Purpose. The Purpose section says the purpose is “...to provide areas for the development of a mixture of single-family, townhouse, and duplex uses....” The purpose section does not include manufactured home parks, but manufactured home parks are allowed as a conditional use in 2.102.03, D. Propose amending the purpose section to include manufactured home parks to be consistent with the R-2 District allowing manufactured home parks as a conditional use.

Note, the High Density Residential (R-3) District also allows manufactured home parks as a conditional use, but the R-3 District’s purpose statement is not the same as the R-2 District’s purpose statement, therefore the above proposed amendment to the R-3 District’s purpose statement is not needed.

7. 2.102.05, R-2 District, Development Standards. Subsection H, addresses RV parking in the R-2 District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending H to add a reference to Section 2.203.10, RV Parking Standards.

2.103 R-3 DISTRICT

8. 2.103.05, R-3 District, Development Standards. Subsection E, addresses Play Area Requirements for multi-family projects with 4 or more units requires a minimum of 500 square feet (22.4' by 22.4'), fenced and equipped play area, plus 50 square feet for each bedroom, and states, "Play areas shall be separate from front and side yard setback requirements." (emphasis added) It is not clear what "separate" means. Does it mean play areas cannot be in a required front or side yard, or does it mean they can be in a required front or side setback area (they would not need to be set back from the front and side property lines)?

The Commission has not discussed the above in a prior work session. Staff recommends the Commission discuss the meaning of "separate" and provide guidance to staff so the requirement can be clarified. The proposed "mark-up" language in Attachment 1, does not show any change because the Commission has not advised staff what to do.

Staff's experience is that play areas can be in required setback areas and the required equipment would not be subject to the setback standards.

9. 2.103.05, R-3 District, Development Standards. Subsection J, addresses RV parking in the R-3 District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending J to add a reference to Section 2.203.10, RV Parking Standards.

2.104 R-C DISTRICT

10. 2.104.02, RC District, Permitted Uses. The list of permitted uses in the RC District are divided into Subsection A for residential and miscellaneous uses and Subsection B for commercial uses. Subsection A for residential and miscellaneous uses does not limit the uses to operating only between 7 a.m. and 10 p.m. – they are allowed to operate 24-hours. Subsection B for commercial uses, again, does not limit the uses to operating only between 7 a.m. and 10 p.m. But the conditional use section (2.104.03, A) requires a conditional use permit be obtained for any use operating in the RC District between 10 p.m. and 7 a.m.

The above could be read that the following permitted uses listed in 2.104.02, A, cannot operate between 10 p.m. and 7 a.m., unless they obtain a conditional use permit:

- All residential uses (2.104.02, A, 1 – 3).
- Bed and breakfast establishment (2.104.02, A, 4).
- Residential care home and facility (2.104.02, A, 5).
- Day care facilities (2.104.02, A, 6).
- Home occupation (2.104.02, A, 7).
- Residential accessory structure or use (2.104.02, A, 8).
- Parks and open space areas (2.104.02, A, 1 – 3).
- Church (2.104.02, A, 10).
- Residential PUD (2.104.02, A, 11).

There does not appear to be justification for the above listed permitted uses to obtain a conditional use permit to operate from 10 p.m. to 7 a.m. It appears the intent is for the conditional use permit requirement to apply only to the permitted commercial uses listed in 2.104.02, B.

The inconsistency between the permitted use section and the conditional use section is proposed to be corrected by requiring only the commercial uses in Subsection B, not the residential permitted uses in Subsection A, to go through the conditional use permit process if they wish to operate between 10:00 p.m. and 7:00 a.m. Also note, 2.104.05, G, includes the requirement that the commercial uses permitted outright per 2.104.02, B, can operate after 10 p.m. and before 7:00 a.m. provided a conditional use permit has been approved.

Section 2.104.05, G, contains several standards for commercial uses in the RC District to meet. The lead-in sentence to the list of commercial permitted uses, 2.104.02, B, makes no reference to 2.104.05, G, but it should. Propose amending 2.104.02, B, to refer to 2.104.05, G, so it is clear that the listed commercial uses must meet the requirements of 2.104.05, G.

11. 2.104.03, RC District, Conditional Uses. Following-up on the above, the lead-in sentence for the RC District conditional use section (2.104.03, A) states a conditional use must be obtained for any use in the RC District that operates from 10 p.m. to 7 a.m.

Propose amending 2.104.03, A, Conditional Uses, to clarify the commercial uses in 2.104.02, B, can operate between 10 p.m. and 7 a.m. provided a conditional use permit is obtained.

12. 2.104.05, RC District, Development Standards. Subsection J, addresses RV parking in the RC District, and lists 4 standards, but does not mention complying with Section 2.203, Off-Street Parking and Loading, especially 2.203.10, RV Parking Standards. Propose amending J to add a reference to Section 2.203.10, RV Parking Standards.

2.105 MANUFACTURED HOME PARK DISTRICT (MH)

2.105.02, A, MH District, Permitted Uses. The Purpose Section says the purpose is "...to provide opportunities for manufactured home parks...." The purpose section does not include manufactured homes in subdivisions, but manufactured homes in subdivisions are allowed as a permitted use in 2.105.01, A. Similarly, the purpose section does not include the several other uses that are listed a permitted uses.

There is an inconsistency between the purpose statement and the remainder of the MH District's provisions. The inconsistency is, the purpose statement mentions only Manufactured Home Parks, but the remainder of the MH District's sections allow many other uses and establishes standards for the other uses. It would be a major work task to make the MH District true to its purpose statement, i.e., delete all the uses and provisions not related to manufactured home parks.

The Commission has not discussed whether the MH District should regulate only MH Parks, or if it should continue to allow many other uses and retain the standards for the many other uses. Because such a discussion could be time consuming and would necessarily need to address the issue that the Oregon Manufactured Dwelling and Park Specialty Code is intended to apply Statewide and not be usurped by local manufactured home park standards.

At this time staff proposes only three amendments.

13. The first is to amend Section 2.105.02, Permitted Uses, to allow as a permitted use, consistent with ORS 92.830 to 92.845, the conversion of a manufactured home park to a manufactured home

subdivision. The 2003 Legislature passed House Bill (HB) 3245 allowing manufactured home parks to be converted to subdivisions. Each space would be converted to a subdivision lot and the infrastructure (sewer, water and storm drainage lines) would be owned and maintained by a newly created Home Owners Association (HOA). Park facilities such as a community hall, swimming pool, open space, etc. would be on property owned and maintained by the HOA. Only manufactured homes could be placed on the new subdivision lots. HB 3245 was codified in ORS 92.840 – 92.845.

14. The second proposed amendment relates to ORS 197.314(5) which sets a minimum lot size for a MH Park at 1 acre. Staff proposes amending Section 2.105.04, B, 1, to replace the reference to 3 acres as the minimum for a MH Park with one acre as set forth in ORS 197.314(5).

15. The third proposed amendment relates to city staff expressing concern about situations in the past where an old unit is proposed to be replaced with a new unit and the new unit is wider and or longer than the old unit thereby creating setback and/or separation issues. Staff proposes to amend Section 2.105.04, Dimensional Standards, to add a new Subsection 2.105.04, D, to require replacement units to comply with the setback and separation requirements set forth in Section 2.105, or where Section 2.105 is silent on a setback or separation requirement, to comply with the Oregon Manufactured Dwelling and Park Specialty Code.

Manufactured Home Park Discussion

In the event the Commission wants to pursue further amendments to the MH District, the following discussion is provided.

A manufactured home park is where the land is under one owner and the spaces are rented. One deed describes the entirety of the MH Park. There is no deed for each space. A manufactured home, not a “stick-built” home, is placed on each space and it is rented from the manufactured home park operator, or it is owned by the party renting the space.

The area where a home is located is called a “space,” not a lot because a “space” in a MH Park can only be rented, not sold, and a subdivision lot is owned by the party named on the lot’s deed.

The name of the district is “Manufactured Home Park District” and most of the district’s standards are related to manufactured home parks. The Zone Map shows the MH District is applied only to properties with manufactured home parks, i.e., Country Estates, Hoodview Estates, Hubbard Mobile Estates and Sherwood Mobile Manor.

It appears the MH District is intended to apply only to manufactured home parks, but the District’s language also refers to manufactured home subdivisions and several other uses. A manufactured home subdivision is a regular subdivision, except conditions, covenants and restrictions (CCR’s) are recorded by the developer to ensure only manufactured homes are placed on the lots. The result is, each lot is sold as would be the case for a regular subdivision, but the owner of the lot must place a manufactured home, not a “stick-built” home, on the lot. Such subdivisions are called Manufactured Home Subdivisions.

Consistent with Oregon Revised Statute 197.314 which requires any city zone that allows a stick-built dwelling on a lot to also allow a manufactured home on a lot in that zone, the R-1, R-2, R-3 and RC Districts allow manufactured homes on lots in those zones.

In addition to manufactured home parks being allowing in the MH District, the R-2 and R-3 Districts allow manufactured home parks as a conditional use, provided the parks are developed in accordance with the manufactured home park standards in the MH District.

If desired by the Planning Commission, Section 2.105.02, MH District, Permitted Uses, could be amended as follows.. The Purpose Section says the purpose is "...to provide opportunities for manufactured home parks...." The purpose section does not include the following additional uses listed as permitted uses in 2.105.02:

- 2.105.02, C. Residential care home and residential care facility.
- 2.105.02, D. Group child day care home and group child day care center.
- 2.105.02, E. Home occupation, subject to the provisions of Section 2.303.
- 2.105.02, F. Parks and open space areas.
- 2.105.02, G. Accessory structure.

Even though the above are now listed as permitted uses in the MH District, before any of the listed uses could be allowed in a manufactured home park, the park owner/operator would have to consent (the owner of the manufactured home park property must sign any land use application applicable to the park's property).

For one of the uses to locate on an existing manufactured home park space, the original city approved manufactured home park plan would have to be amended to show one or more manufactured home spaces being deleted to allow the above uses to locate on one or more spaces that originally contained a manufactured home.

For one of the uses to locate on a space in a proposed new manufactured home park, the manufactured home park application would have to show the use and that the city and/or State requirements for the use can be met. The sewer, water, private street and storm drainage systems would need to be capable of serving the additional use. The sewer, water, storm drainage and street infrastructure would be private, not public, because the subject property would be a privately owned and operated manufactured home park.

As part of an overall review of the MH District, other amendments would likely be needed to bring the MH District into conformance with State Statutes, Oregon Administrative Rules and the Oregon Manufactured Dwelling and Park Specialty Code (OMDPSC).

The OMDPSC, Section 1.2, Authority, states:

1-2 Authority

1-2.1 Code Preemption. The Building Codes Division adopts this code under the authority of ORS 446.062, 446.155, 446.185, 446.200, 446.230, 446.240, 446.400, and 455.040. This code is a statewide preemptive code, and is the minimum acceptable and maximum required in the state of Oregon. Except as provided in ORS 455.040 or specifically referenced within this code, no municipality shall enforce any other code, standard, rule, regulation, or ordinance regarding the regulation of manufactured dwellings, manufactured dwelling parks, mobile home parks, and combination parks in Oregon.

Based on the above, the proposed amendments to the MH District must follow the OMDPSC. There are many amendments and they are not individually identified here.

End of the MH Park discussion.

2.106 COMMERCIAL DISTRICT (C)

16. 2.106.03, A. Commercial District, Conditional Uses. The C District lists churches as a permitted

use (2.106.02, J) and as a conditional use (2.106.03, A). Propose deleting churches as a conditional use (2.106.03, A), renumber the remaining conditional uses, and retain places of worship as a permitted use in the C District (2.106.02, J). There appears to be no reason for churches to be a conditional use because they would appear to present no greater impact than the wide range of commercial uses permitted outright in the C District. Also, propose replacing “church” with “place of worship” to be consistent with the terminology in ORS 227.500, Use of Real Property For Religious Activity; City Regulation of Real Property Used For Religious Activity.

17. 2.106.05, E, Commercial District, Development Standards. The title for Subsection E is “Design Review,” and goes on to require all development in the C District to go through Site Development Review. Proposed changing “Design Review” to “Site Development Review” to provide consistency within 2.106.05, E, and because “design” typically refers to architectural design and “site development” typically refers to setbacks, building height, minimum lot size, parking, landscaping, which are the type of standards reviewed in the Site Development Review (SDR) Application process.

Additionally, propose replacing the language in 2.106.05, E, with a short statement that refers to the language in the Site Development Review Chapter, Section 3.105. Section 3.102.03 covers the type of development that must go through the SDR process and it is inappropriate for the Commercial District to also state what is subject to the SDR process. And, the language in 2.106.05, E, is not consistent with the detailed language in 3.105.03, Site Development Review, Applicability of Provisions.

2.202 STREET STANDARDS

Clear Vision Area Standards.

Similar to the above discussion regarding manufactured home park standards, the following discussion points out the Clear Vision regulations could be addressed, and this staff report identifies the issues, but the time has not been taken to craft amended language.

The clear vision standards are at Section 2.202.03, K (Street Standards), Section 2.203.07, K. (Off-Street Parking and Loading) and Section 2.209.07 (Yard and Lot Standards). The language at 2.202.03, K and 2.203.07, K is similar, but not the same. The language at 2.209.07 is the measurement standards, which are not in the previous two sections.

To correct the situation, amendments could combine all the clear vision standards into Section 2.209.07 (Yard and Lot Standards) to ensure clarity and consistency. Additionally, 2.202.03, K, and 2.203.07, K, could be amended to delete the current language and add language referring to the clear vision standards in 2.209.07.

2.203 OFF-STREET PARKING AND LOADING

18. 2.203, Off-Street Parking and Loading, Subsection 2.203.10, Recreational Vehicle Parking, provides 4 requirements for parking RV's. Subsection 2.203.10, D, states an RV parking space “...shall not be located in any required yard areas.” Thus an RV cannot be parked in a front, side or rear yard.

The R-1, R-2, R-3 and RC Districts, allow RV's to be parked in front, side and rear yards. For example, the R-1 District, 2.101.05, H, 1, Development Standards, states:

“1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage.”

The Commission has not discussed whether RV's, etc., should be allowed to park in the front, side and rear yards. Staff recommends the Commission discuss the inconsistency regarding allowing RV's, etc. in front, side and rear yards. The proposed "mark-up" language allows them to park in the front, side and rear yards which is consistent with the R-1, R-2, R-3 and RC District language.

Staff will craft the appropriate amended language based on the Commission's direction.

2.207 SITE AND LANDSCAPING DESIGN

19. 2.207, Section Title. As now written the Section title leads the reader to think this section includes regulations for Site Design and Landscaping Design. Site Design is typically considered to be showing where the buildings, parking, access and other elements of the built environment will be located on the subject property, not the placement of plant materials. Landscape Design is typically considered to be showing the plant species and where the plant materials will be located on the subject property.

Section 2.207 does not include any regulations regarding the location of buildings, parking, access and other elements of the built environment on the subject property, therefore it is proposed that "Site and" be deleted from the title of Section 2.207.

20. 2.207.04, C, Landscaping, allows the Planning Commission to approve landscaping that is required to be on a private property to be in the public right-of-way (ROW). Required landscaping should be on the land where the development is located. When the landscaping is on private property it is clear who is responsible for it and who maintains it. When landscaping is in a public right-of-way, it is not clear who is responsible for it and who maintains it.

The process to allow landscaping in the ROW is flawed as it requires a variance but then says the Planning Commission need not hold a public hearing. The variance approval criteria are subjective and discretion must be exercised in making the decision. The parties who believe they may be negatively affected by the decision should be afforded the ability to comment on the variance and the decision makers should be afforded the ability to know what the concerns are.

Subsection C is proposed to be deleted with the result that required landscaping must be on private property and the flawed process is no longer needed.

21. 2.207.07, A, 3, Landscaping, Street Trees, says street trees should be no greater than 30 feet apart, but the Municipal Code references 20 feet. Propose changing the Development Code's 30 foot figure to be the same as the Municipal Code's 20 foot figure.

2.403 USES PERMITTED IN ALL ZONES

22. Section 2.403.01, Scope. Propose replacing "Scope" with "Permitted Uses" because "Scope" is an inappropriate title. Subsections A – E address permitted uses, therefore the title should be "Permitted Uses."

23. Section 2.403.01, Permitted Uses. To clarify that a use cannot be located on a property if it is not listed as a permitted or conditional use in the zoning district that is applied to the property, propose a new Subsection 2.403.01, A, stating, a use cannot be located on a property if it is not listed as a permitted or conditional use.

ATTACHMENT 1

The “mark-up” version of the proposed amendments follows in the numerical order of the sections in the HDC with the language to be deleted in ~~strikeout~~ and the language to be added in ***bold italics***.

Current language in the HDC that is not shown below is not proposed to be changed. In some cases, however, language in the HDC that is not proposed to be changed is shown to provide context for the proposed changed language.

1.200 DEFINITIONS

~~Expedited Land Division: An expedited land division is an action of the City that (a) includes land that is zoned for residential uses and is within the urban growth boundary, (b) is solely for the purposes of residential use, including recreational open space uses accessory to residential use, (c) does not provide for dwellings or accessory buildings to be located on land that is specifically mapped and designated in the comprehensive plan and land use regulations for full or partial protection of natural features under the statewide planning goal that protect open spaces, scenic and historic areas, and natural resources, (d) satisfies minimum street or other right of way connectivity standards established by acknowledged land use regulations or, if such standards are not contained in the applicable regulations, as required by statewide planning goals or rules, and (e) creates enough parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site.~~

~~An expedited land division is a land division that will create three or fewer parcels under ORS 92.101 and meets the criteria set forth for an action under (a) and (d) above. ***As defined in Oregon Revised Statute 197.360 (1).***~~

~~Major Partition: See Partition and Subdivision.~~

~~Minor Partition: See Partition.~~

~~Partition: Any division of property which creates three or fewer parcels within the same calendar year and which does not create or extend a public street for access. ***As defined in Oregon Revised Statute 92.020 (7).***~~

~~Quasi-Judicial Review: A decision affecting land use within the City which requires the interruption and/or amendment of existing standards or maps contained in this Ordinance. Quasi-Judicial decisions are heard by the Planning Commission. The decision of the Planning Commission is final except when the decision would necessitate an amendment to this Ordinance. In those cases, the Planning Commission decision is forwarded as a recommendation to the City Council for a final decision. Quasi-judicial review is required for Variances, Conditional Use Permits, Partitions, Subdivisions, Planned Unit Developments, Comprehensive Plan and Zone Changes, and Urban Growth Boundary Amendments.~~

2.101 R-1 DISTRICT

2.101.05 Development Standards

All development in the R-1 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

A. Off-Street Parking: The required number of parking spaces and shall be as specified in Section 2.203. Parking requirements for residential units, including "stick-built" and manufactured homes, require the construction of a garage. ~~Manufactured homes located in manufactured home parks are required to install either a garage or carport.~~

B – G. No change.

H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with **Section 2.203.10, RV Parking Standards, and** the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:
 - a. The additional space shall not be allowed if it creates a traffic sight obstruction.
 - b. The additional space has an all-weather surface and be drained to prevent standing water.
2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.
3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.
4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

2.102 R-2 DISTRICT

2.102.01 Purpose

The purpose of the R-2 District is to provide areas for the development of a mixture of single-family, townhouse, and duplex uses , **and manufactured home parks as a conditional use**, at a density no greater than 8 units per acre. The R-2 zone is consistent with the Medium Density Residential Comprehensive Plan designation.

2.102.05 Development Standards

All development in the R-2 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

A – G. No change.

H. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with **Section 2.203.10, RV Parking Standards, and** the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:

a. The additional space shall not be allowed if it creates a traffic sight obstruction.

b. The additional space has an all-weather surface and be drained to prevent standing water.

2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.

4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

2.103 R-3 DISTRICT

2.103.05 Development Standards

All development in the R-3 District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

A – D. No change.

E. Play Area Requirements. Multi-family dwellings with four (4) or more units - minimum 500 square feet, fenced and equipped play area, plus 50 square feet for each bedroom, or a like-sized adult leisure area if the development accommodates no children under 16 years of age. Play areas shall be separate from front and side yard setback requirements.

Note: In the above list of proposed changes, staff asked for guidance on the meaning of “separate.” No change is shown here because the Commission has not yet discussed the language and provided guidance to staff as to its meaning.

F – I. No change.

J. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with **Section 2.203.10, RV Parking Standards, and** the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:

a. The additional space shall not be allowed if it creates a traffic sight obstruction.

b. The additional space has an all-weather surface and be drained to prevent standing water.

2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.

4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

2.104 RC DISTRICT

2.104.02 Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RC District:

A. No change.

B. The following commercial uses are permitted, subject to the Site Development Review procedures of Section 3.105 , and the development standards listed in **Section 2.104.05, G, and** Section 2.300 , **Supplemental Development Standards For Special Uses:**

1.- 3. No change.

2.104.03 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

A. Uses **listed in 2.104.02, B**, operating before 7:00 AM or after 10:00 pm.

B and C. No change.

2.104.05 Development Standards

All development in the RC District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

A – D. No change.

E. Play Area Requirements. Multi-family dwellings with four (4) or more units - minimum 500 square feet, fenced and equipped play area, plus 50 square feet for each bedroom, or a like-sized adult leisure area if the development accommodates no children under 16 years of age. Play areas shall be separate from front and side yard setback requirements.

Note: In the list of proposed changes, staff asked for guidance on the meaning of “separate.” No change is shown here because the Commission has not yet discussed the language and provided guidance to staff as to its meaning.

F – I. No change.

J. Parking for recreational vehicles, trailers, boats and other similar vehicles shall comply with **Section 2.203.10, RV Parking Standards, and** the following standards:

1. Recreational vehicles, trailers, boats and other similar vehicles may be parked in the side yard, rear yard and front yard allowed for each dwelling unit in the driveway area leading to its garage. Also, one additional space shall be allowed in that area in front of the required side yard located closest to the driveway subject to the following conditions:

a. The additional space shall not be allowed if it creates a traffic sight obstruction.

b. The additional space has an all-weather surface and be drained to prevent standing water.

2. Parking for recreational vehicles, trailers, boats and other similar vehicles may be permitted in other portions of the front yard area subject to review and approval of the Planning Commission in accordance with the Variance procedures of Section 3.104.

3. Recreational vehicles, trailers, boats and other similar vehicles shall not be parked within public rights-of-way.

4. All driveways shall be designed and constructed in conformance with the most current Public Works Design Standards.

2.105 MANUFACTURED HOME PARK DISTRICT (MH)

2.105.02 Permitted Uses

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the MH District:

A. Manufactured homes in subdivisions **and the conversion of a manufactured home park to a manufactured home subdivision, in accordance with ORS 92.830 to 92.845.**

B. Manufactured home parks

C. Residential care home and facility

D. Group Child Day Care Homes and Centers

E. Home occupation, subject to the provisions of Section 2.303

F. Parks and open space areas

G. Accessory structure

2.105.04 Dimensional Standards

The following dimensional standards shall be the minimum requirements for all development in the MH District except for modification permitted under Section 2.402, General Exceptions.

A. No change.

B. Manufactured Home Parks – Minimum Area Requirements

1. Minimum park size : ~~Three (3) acres~~ **One (1) acre**
2. Minimum space size : 5,000 square feet
3. Minimum Yard Setback ~~Requirement~~ : The manufactured home park shall be set back 20 feet from all property lines.

C. No change.

D. Replacement manufactured dwelling units shall comply with the setback and separation requirements set forth in Section 2.105, or where Section 2.105 is silent on a setback or separation requirement, shall comply with the Oregon Manufactured Dwelling and Park Specialty Code.

2.106 COMMERCIAL DISTRICT (C)

2.106.03 Conditional Uses

The following uses are permitted as conditional uses, provided that such uses are approved in accordance with Section 3.103:

~~A. Church~~

BA. Except as provided in Section 2.304, any commercial service or business activity otherwise permitted, involving the processing of materials which is essential to the permitted use and which processing of materials is conducted wholly within an enclosed building.

CB. Public and private utility buildings and structures such as electric substations, telephone exchanges, and communications towers and/or antennas.

~~DC.~~ Automotive repair

2.106.05 Development Standards

All developments in the Commercial District shall comply with the applicable provisions of Section 2.200 of this Ordinance. In addition, the following specific standards shall apply:

A – D. No change.

E. Design *Site Development* Review. ~~All new development and expansion of an existing structure or use in the Commercial District shall be subject to the Site Development Review procedures of Section 3.105.~~ **Development in the C District shall be reviewed in accordance with the provisions of Section 3.105, Site Development Review.**

G. No change.

2.203 OFF-STREET PARKING AND LOADING

2.203.10 Recreational Vehicle Parking

Recreational vehicle spaces shall meet the following use and development standards. The term "recreational vehicle space" means the portion of a lot where a single recreational vehicle is parked and occupied or intended to be parked and occupied.

- A. The space shall have an all-weather surface and be drained to prevent standing water.
- B. If the space is occupied by an occupied recreational vehicle for more than 120 days in any calendar year, the space shall be located in a recreational vehicle park.
- C. Unless located in a recreational vehicle park no permanent electrical, water or sewer connections are permitted, nor shall the space be rented or leased for consideration.

D. The space shall not be located in any required yard areas. RETAIN OR DELETE.

As noted in the list of proposed amendments, no amendment to 2.203.10, D, above, is proposed because the Planning Commission has not discussed the issue.

2.207 ~~SITE AND LANDSCAPING DESIGN~~

2.207.04 General Provisions

A and B. No change.

~~C. The Planning Commission may grant the applicant credit for landscaping to be done in the public right-of-way provided the elements set forth for the granting of a variance are met by the applicant. It shall not be necessary to hold a public hearing to grant this credit. The Planning Commission shall consider the need for future use of the right-of-way for street purposes when granting approval for credit under this Section.~~

D. No change.

2.207.07 Street Trees

A. Street trees shall be planted for all developments that are subject to Subdivision or Site Development Review, unless otherwise waived by the Public Works Superintendent for utility purposes. Plantings of street trees shall generally follow construction of curbs and sidewalks, however, the City may defer tree planting until final inspection of completed dwellings to avoid damage to trees during construction. The planting and maintenance of street trees shall conform to the following standards and guidelines and any applicable road authority requirements:

1. Caliper Size. The minimum diameter or caliper size at planting, as measured 4 feet above grade shall be two (2) inches.
2. Spacing and Location. Street trees shall be planted within the street right-of way within existing and proposed parkway strips, except when utility easements occupy these areas. Street tree spacing shall be based upon the type of tree(s) selected and the canopy size at maturity and, at a minimum, the planting area shall contain 16 square feet, or typically, 4 feet by 4 feet.

In general, trees shall be spaced no more than ~~30~~ **20** feet apart, except where planting a tree would conflict with existing trees, retaining walls, utilities and similar physical barriers. All street trees shall be placed outside utility easements.

3 and 4. No change.

B and C. No change.

2.403 USES PERMITTED IN ALL ZONES

2.403.01 ~~Scope~~ Permitted Uses

The following uses and activities are permitted in all zones:

A. ~~p~~ **P**lacement and maintenance of underground or above ground wires, cables, pipes, guys, support structures, pump stations, drains and detention basins within rights-of-way by public agencies and utility companies for telephone, TV cable or electrical power transmission, or transmission of natural gas, petroleum products, geothermal water, water, waste waters, sewage and rainwater subject to specific requirements per separate zone district;

B. ~~r~~ **R**ailroad tracks and related structures and facilities located within rights-of-way controlled by railroad companies;

C. ~~s~~ **S**urfaced travel lanes, curbs, gutters, drainage ditches, sidewalks, transit stops, landscaping and related structures and facilities located within rights-of-way controlled by a public agency; ~~and~~

D. ~~e~~ **E**xpansion of public right-of-way and widening or adding improvements within the right-of-way, provided the right-of-way is not expanded to more width than prescribed for the street in the Public Facilities segment of the Comprehensive Plan ~~—~~ ;

E. A non-conforming structure and/or use may be continued although not in conformity with the regulations for the zone in which the structure and /or use is located ~~—~~ ; **and**

F. A use that is not listed as a permitted or conditional use in the zoning district that is applied to a property cannot be located on the property for any period of time.