

## **Chapter 4 Applications and Review Procedures**

**4.0 – Administration of Land Use and Development Permits**

**4.1 – Types of Applications and Review Procedures**

**4.2 – Development Review and Site Design Review**

**4.3 – Land Divisions and Lot Line Adjustments**

**4.4 – Conditional Use Permits**

**4.5 – Master Planned Developments**

**4.6 – Modifications to Approved Plans and Conditions of Approval**

**4.7 – Land Use District Map and Text Amendments**

**4.8 – Code Interpretations**

**4.9 – Miscellaneous Permits**

**4.10 – Traffic Naming and Streets Property Numbering**

### **4.0 - Administration of Land Use and Development Permits.**

#### **4.0.100 Introduction.**

Chapter 4 provides all of the application requirements and procedures for obtaining permits required by this code. Please refer to Table 4.1.2 in Chapter 4.1 for a key to determining which land use permits and procedures are required, and the decision-making body for a particular type of permit application.

# Chapter 4.1 Types of Applications and Review Procedures

## Sections:

- 4.1.100 - Purpose
- 4.1.200 - Description of Permit Procedures
- 4.1.300 - Type I Procedure
- 4.1.400 - Type II Procedure
- 4.1.500 - Type III Procedure
- 4.1.600 - General Provisions
- 4.1.700 - Special Procedures
- 4.1.800 - Neighborhood Meetings
- 4.1.900 – Traffic Impact Study

### 4.1.100 Purpose.

The purpose of this chapter is to establish standard decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way.

### 4.1.200 Description of Permit/Decision-making Procedures.

All land use and development permit applications, except building permits, shall be decided by using the procedures contained in this Chapter. General procedures for all permits are contained in Section 4.1.700. Specific procedures for certain types of permits are contained in Sections 4.1.200 through 4.1.600. The procedure "type" assigned to each permit governs the decision-making process for that permit. There are three types of permit/decision-making procedures: Type I, II, and III. These procedures are described in subsections A-C below. In addition, Table 4.1.200 lists all of the city's land use and development applications and their required permit procedure(s).

- A. **Type I Procedure (Ministerial).** Type I decisions are made by a City Official or someone that he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying city standards and criteria requires no use of discretion; ·
- B. **Type II Procedure.** Type II decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type II decisions generally use discretionary approval criteria.
- C. **Type III Procedure (Legislative).** Type III procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, & comprehensive plan amendments which apply to entire districts). Type III matters are considered initially by the Planning Commission, which makes a recommendation to the City Council, and with final decisions made by the City Council.

**Table 4.1.200**

**Summary of Development Decisions/Permit by Type of Decision-making Procedure**

<b>Action</b>	<b>Decision Type</b>	<b>Applicable Criteria and Standards for Review</b>
Access Permit (public street)	Type I	Chapters 3.1, 4.2, 4.3
Annexation	Type III	Comprehensive Plan and city/county intergovernmental agreement(s), as applicable
Building Permit	N/A	Building Code
Code Interpretation	Type II	Chapter 4.8
Code Amendment	Type III	Chapter 4.7
Comprehensive Plan Amendment	Type III	Comprehensive Plan
Conditional Use Permit	Type II	Chapter 4.4
Flood Plan Development Permit	Type I	Building Code (requires Sensitive Land development permit first)
Master Planned Development	Type II	Chapter 4.5
Modification to Approval	Type II	Chapter 4.6
Land Use District Map Change		
Quasi-Judicial (no plan amendment required)	Type II	Chapter 4.7
Legislative (plan amendment required)	Type III	Chapter 4.7
Lot Line Adjustment	Type I	Chapter 4.3
Non-Conforming Use or Developmental Confirmation	Type I	Chapter 5.2
Partition	Type II	Chapter 4.3
Sensitive Lands Permit	Type II	[Chapter 3.7]
Sign Permit	Type I	Chapter 3.6
New Street	Type I	Chapter 4.1
Existing Streets	Type I or II	Chapter 4.1
Development Review	Type I	Chapter 4.2, Building Code
Site Design Review		
Type II	Type II	Chapter 4.2
Subdivision	Type II	Chapter 4.3
Temporary Use Permit	Type II	Chapter 4.9
Traffic Impact Study	Type I	Chapter 4.10
Transportation Facilities and Improvements	Type II	Chapter 4.4
Tree Removal	Type I/II	Chapter 3.2 (may require Sensitive Land development permit first)
Variance		
Class A	Type I	Chapter 5.1
Class B	Type II	Chapter 5.1
Class C	Type II	Chapter 5.1

\*The city shall send ODOT written notice for all Type II and III applications.

#### 4.1.300 Type I Procedure (Ministerial).

##### **A. Application Requirements.**

1. Application Forms. Type I applications shall be made on forms provided by the City Official.
2. Application Requirements. Type I applications shall:
  - a. Include the information requested on the application form;
  - b. Address the criteria in sufficient detail for review and action; and
  - c. Be filed with the required fee.

**B. Administrative Decision Requirements.** The City Official's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the City Official shall approve, approve with conditions, or deny the requested permit or action. The City Clerk will provide a list of applications to the Planning Commission and City Council. A written record of the decision shall be provided to the applicant and kept on file at city hall.

**C. Final Decision.** The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision may be appealed to the Planning Commission by any party to the decision, according to the procedures for a Type II review.

**D. Effective Date.** The decision is effective the day after it is final.

##### **E. Notice of Decision.**

1. Within five business days after the City Staff or designee signs the decision, a Notice of Decision shall be posted on the property and sent by mail to:
  - a. Any person who submits a written request to receive notice;
  - b. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
  - c. Any City-recognized neighborhood group or association whose boundaries include the site;
  - d. Umatilla County and any other governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City
2. The City Official or designee shall cause an affidavit of mailing and posting of the notice to be prepared and made part of the file. The affidavit shall show the date the notice was mailed and posted, and the names and addresses of the people to whom it was mailed.

**4.1.300 Type I Procedure (Ministerial).** *(continued)*

3. The Type I Notice of Decision shall contain:
  - a. A brief description of the applicant's proposal and the City's decision to approve or deny the proposal;
  - b. The address or other brief geographic description of the property proposed for development;
  - c. A statement of where the City's decision can be obtained;
  - d. The date the decision shall become final, unless appealed;
  - e. A statement that the applicant and any persons who are adversely affected or aggrieved by the decision may appeal the decision; and
  - f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process.

#### **4.1.400 Type II Procedure (Quasi-Judicial).**

**A. Pre-application Conference.** A pre-application conference may be requested by an applicant for Type II applications. The requirements and procedures for a pre-application conference are described in Section 4.1.600 C.

**B. Application Requirements.**

1. Application Forms. Type II applications shall be made on forms provided by the Planning Commission.
2. Content. Type II application shall:
  - a. Include the information requested on the application form;
  - b. Be filed with copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria in sufficient detail for review and action.
  - c. Be accompanied by the required fee;
  - d. The records of the Umatilla County Department of Assessment and Taxation are the official records for determining ownership. The city shall prepare (for a fee noted on the city's fee list) the public notice. The city shall use the most current assessment records to produce the notice list.
  - e. Include an impact study for all Type II applications. The impact study shall quantify and assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet city standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the city, the city shall either (1) include in the written decision evidence that shows the required property dedication is roughly proportional to the projected impacts of the development on public facilities and services, or (2) delete the dedication as a condition of approval.

**4.1.400 Type II Procedure (Quasi-Judicial).** *(continued)*

**C. Notice of Hearing.**

1. Mailed notice. Notice of a Type II application hearing or Type I appeal hearing shall be given by the City Recorder in the following manner.
  - a. At least 20 days before the hearing date, notice shall be mailed to;
    - (1) The applicant and all owners or contract purchasers of record of the property which is the subject of the application.
    - (2) All property owners of record within 100 feet of the subject site.
    - (3) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175;
    - (4) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development.
    - (5) Any person who submits a written request to receive a notice;
    - (6) For appeals, the appellant and all persons who provided testimony or submitted written comments; and
    - (7) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
    - (8) Umatilla County and any other governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city and other agencies that were noticed or provided comment.
  - b. The City official shall have an affidavit of notice be prepared and made part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the person who must receive notice.
  - c. At least 14 business days before the hearing, notice of the hearing shall be printed in the newspaper of general circulation within the city. The newspaper affidavit of publication of the notice shall be made part of the administrative record;
  - d. At least 14 business days before the hearing, the applicant shall post notice of the hearing, on the property per Subsection 2 below. The applicant shall prepare and submit an affidavit of posting of the notice shall be made part of the administrative record.
2. Content of the Notice. Notice of appeal for a Type I Ministerial decision or a Type II hearing to be mailed, posted & published per Subsection I above shall contain the following information:
  - a. The nature of the application and the proposed land use or uses which could be authorized for the property;
  - b. The applicable criteria and standards from the development code (s) that apply to the application;
  - c. The street address or other easily understood geographical references to the subject property;
  - d. The date, time, and location of the public hearing;

#### **4.1.400 Type II Procedure (Quasi-Judicial).** *(continued)*

- e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Boards of Appeal.
- f. The name of a city representative to contact and the telephone number where additional information on the application may be obtained;
- g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Weston City Hall at no cost and that copies shall be provided at a reasonable cost;
- h. A statement that a copy of the city's staff report and recommendations to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
- i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings.
- j. The following notice: "Notice to mortgagee, lienholder, vendor, or seller. The city of Weston Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

#### **D. Conduct of the Public Hearing.**

- 1. At the commencement of the hearing, the hearings body shall state to those in attendance that:
  - a. The applicable approval criteria and standards that apply to the application or appeal;
  - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
  - c. A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;
  - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.

#### **4.1.400 Type II Procedure (Quasi-Judicial).** *(continued)*

2. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
3. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the city in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection E of this section;
  - a. When the Planning Commission re-opens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
  - b. An extension of the hearing or record granted pursuant to Section D is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;
  - c. If requested by the applicant, the city shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives the right. The applicant's final submittal shall be part of the record but shall not include any new evidence.
  - d. The record shall contain all testimony and evidence that is submitted to the city and the hearings body and not rejected;
  - e. The hearings body may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice; it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;
  - f. The review authority shall retain custody of the record until the city issues a final decision.
4. Participants in the appeal of a Type I Ministerial decision or a Type II hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section 6 below) as reasonable possible. However, the public has a countervailing right of free access to public officials. Therefore;
  - a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly.

#### 4.1.400 Type II Procedure (Quasi-Judicial). *(continued)*

- b. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
  - c. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  - d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
  - e. If a member of the hearings body abstains or is disqualified, the city shall provide a substitute in a timely manner subject to the impartiality rules in Section 6;
  - f. Any member of the public may raise conflict of interest issues prior to or during the hearing. To which the member of the hearings body shall reply in accordance with this section.
5. Ex parte communications.
- a. Members of the hearings body shall not:
    - (1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Section 5 above;
    - (2) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
  - b. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
    - (1) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
    - (2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
  - c. A communication between city staff and the hearings body is not considered an ex parte contact.

#### 4.1.400 Type II Procedure (Quasi-Judicial). *(continued)*

6. Presenting and receiving evidence.
  - a. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
  - b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section D;
  - c. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the hearings body may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

#### **E. The Decision Process.**

1. Basis for decision. Approval or denial of an appeal of a Type I Ministerial decision or a Type II application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the city as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type I Ministerial Appeal or Type II action shall be filed by the Planning Commission within ten business days after the close of the deliberation.

- F. Notice of Decision.** Written notice of a Type I Ministerial Appeal decision or a Type II decision shall be mailed to the applicant and to all participants of record within five business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

#### **4.1.400 Type II Procedure (Quasi-Judicial).** *(continued)*

- G. Final Decision and Effective Date.** The decision of the hearings body on any Type I Ministerial or any Type II application is final for purposes of appeal on the date it is mailed by the city. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type I Ministerial applications on appeal to the City Council shall be the same as for the initial hearing.

#### **4.1.500 Type III Procedure (Legislative).**

- A. Pre-Application Conference.** A pre-application conference may be requested by the applicant for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 4.1.700.C.
- B. Timing of Requests.** The City shall review proposed Type III actions no more than twice yearly, based on the city's approved schedule for such actions.
- C. Application Requirements.**
1. Application forms. Type III applications shall be made on forms provided by the City.
  2. Submittal Information. The application shall contain:
    - a. The information requested on the application form;
    - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
    - c. The required fee; and
    - d. Five copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
- D. Notice of Hearing.**
1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type III applications, except annexations where only a hearing by the City Council is required.
  2. Notification requirements. Notice of public hearings for the request shall be given by the City in the following manner:
    - a. At least 20 days, but not more than 40 days, before the date of the first hearing on an ordinance that proposes to amend the comprehensive plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:

#### 4.1.500 Type III Procedure (Legislative). (continued)

- (1) Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
  - (2) Any affected governmental agency.
  - (3) Recognized neighborhood groups or associations affected by the ordinance;
  - (4) Any person who requests notice in writing;
  - (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
  - (6) Owners of airports shall be notified of a proposed zone change in accordance with ORS 227.175.
- b. At least 10 days before the scheduled Planning Commission public hearing date, and 10 days before the City Council hearing date, notice shall be published in a newspaper of general circulation in the city.
  - c. The City shall:
    - (1) For each mailing of notice, file an affidavit of mailing in the record as provided by Subsection a; and
    - (2) For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection b.
  - d. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
  - e. Notifications for annexation shall follow the provisions of this Chapter and ORS I 99.
3. Content of notices. The mailed and published notices shall include the following information:
    - a. The number and title of the file containing the application, and the address and telephone number of the City office where additional information about the application can be obtained;
    - b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
    - c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
    - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the City and available at City Hall (See subsection E below); and
    - e. Each mailed notice required by section D shall contain the following statement: "Notice to mortgagee, lienholder, vendor, or seller: The Weston Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

#### 4.1.500 Type III Procedure (Legislative). (continued)

4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
  - a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
  - b. Published notice is deemed given on the date it is published.

#### **E. Hearing Process and Procedure.**

1. Unless otherwise provided in the rules of procedure adopted by the hearings body:
  - a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
    - (1) Regulate the course, sequence, and decorum of the hearing;
    - (2) Direct procedural requirements or similar matters; and
    - (3) Impose reasonable time limits for oral presentations.
  - b. No person shall address the Commission or the Council without:
    - (1) Receiving recognition from the presiding officer; and
    - (2) Stating their full name and address.
  - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the hearings body, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:
  - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
  - b. The City Planning Commission and City Engineer's report and other applicable staff reports shall be presented;
  - c. The public shall be invited to testify;
  - d. The public hearing may be continued to allow additional testimony or it may be closed; and
  - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

#### 4.1.500 Type III Procedure (Legislative). (continued)

- F. Continuation of the Public Hearing.** The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- G. Decision-Making Considerations.** The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:
1. Approval of the request is consistent with the Statewide Planning Goals;
  2. Approval of the request is consistent with the Comprehensive Plan; and
  3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.
- H. Approval Process and Authority.**
1. The Planning Commission shall:
    - a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
    - b. Within 14 business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the City Official.
  2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the City Official before the Council public hearing on the proposal. The City Official shall send a copy to each Council member and place a copy in the record.
  3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 60 days of its first public hearing on the proposed change, the Planning Commission shall:
    - a. Report the failure together with the proposed change to the City Council; and
    - b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
  4. The City Council shall:
    - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;

#### 4.1.500 Type III Procedure. (continued)

- b. Consider the recommendation of the Planning Commission; however, it is not bound by the Commission's recommendation; and
- c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

#### **I. Vote Required for a Legislative Change.**

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

**J. Notice of Decision.** Notice of a Type III decision shall be mailed to the applicant, all participants of record, the Department of Land Conservation and Development and Umatilla County within five business days after the City Council decision is filed with the Planning Commission. The city shall also provide notice to all persons as required by other applicable laws.

**K. Final Decision and Effective Date.** A Type III decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

#### **L. Record of the Public Hearing.**

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record.
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.
3. The official record shall include:
  - a. All materials considered by the hearings body;
  - b. All materials submitted by the Planning Commission or any other party to the hearings body regarding the application;
  - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
  - d. The final ordinance;
  - e. All correspondence; and
  - f. A copy of the notices which were given as required by this Chapter.

#### 4.1.600 General Provisions.

- A. 120-day Rule.** The city shall take final action on permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type III legislative decisions - plan and code amendments under ORS 227.178.)
- B. Time Computation.** In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.
- C. Pre-application Conferences.**
1. Participants. When a pre-application conference is requested, the applicant shall meet with the City Official and his/her designee(s); including the City Engineer and any other consultants.
  2. Information provided. At such conference, the City Official shall:
    - a. Cite the comprehensive plan policies and map designations applicable to the proposal;
    - b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
    - c. Provide available technical data and assistance which will aid the applicant;
    - d. Identify other governmental policies and regulations that relate to the application; and
    - e. Reasonably identify other opportunities or constraints concerning the application.
  3. Disclaimer. Failure of the City Official or his/her designee to provide any of the information required by this Section C shall not constitute a waiver of any of the standards, criteria or requirements for the application;
  4. Changes in the law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

#### 4.1.600 General Provisions. (continued)

#### **D. Applications.**

1. Initiation of applications:
  - a. Applications for approval under this chapter may be initiated by:
    - (1) Order of City Council;
    - (2) Resolution of the Planning Commission;
    - (3) The city engineer;
    - (4) A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.
  - b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf
2. Consolidation of proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision utilizing the higher procedure type.
  - a. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Planning Commission, or the City Official.
  - b. When proceedings are consolidated:
    - (1) The notice shall identify each application to be decided;
    - (2) The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
    - (3) Separate findings and decisions shall be made on each application.
3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:
  - a. Acceptance. When an application is received by the city, the City Official shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:
    - (1) The required form;
    - (2) The required fee;
    - (3) The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

#### 4.1.600 General Provisions. (continued)

b. Completeness.

- (1) Review and notification. After the application is accepted, the City Official shall review the application for completeness. If the application is incomplete, the City Official shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information;
- (2) When application deemed complete for review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the City Official of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Official in (1), above. For the refusal to be valid, the refusal shall be made in writing and received by the City Official no later than 14 business days after the date on the City Official letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on 31st day after the City Official first accepted the application.
- (3) Standards and criteria that apply to the application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.
- (4) Coordinated Review. The city shall also submit the application for review and comment to the City Engineer and any other appropriate consultant at the City's sole discretion; ODOT, County, State, and federal agencies.

4. Changes or additions to the application during the review period. Once an application is deemed complete:

- a. All documents and other evidence relied upon by the applicant shall be submitted to the City Official at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received and transmitted to the hearings body, but may be too late to include with the staff report and evaluation;
- b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see "d", below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the city shall take one of the following actions, at the choice of the applicant:

#### 4.1.600 General Provisions. (continued)

- (1) Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
  - (2) Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section A., above) on the existing application. If the applicant does not consent, the city shall not select this option;
  - (3) Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The city will complete its decision-making process without considering the new evidence;
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

#### **E. City Officials Duties.** The City Official shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the city's comprehensive plan, and implementing ordinance provisions;
2. Accept all development applications which comply with Section 4.1. 7.
3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report should also provide a recommended decision of: approval; denial; or approval with specific conditions that ensure conformance with the approval criteria;
4. Prepare a notice of the proposal decision:
  - a. In the case of an application subject to a Type I review process, the City Official shall make the staff report and all case-file materials available at the time that the notice of the decision is issued.
  - b. In the case of an application subject to a hearing (Type II or III process), the City Official shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed.
5. Administer the hearings process.
6. File notice of the final decision in the city's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law;

#### **4.1.600 General Provisions. (continued)**

7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision maker(s) on the application; and
8. Administer the appeals and review process.

#### **C. Amended Decision Process.**

1. The purpose of an amended decision process is to allow the City Official to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.
2. The City Official may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new IO-day appeal period shall begin on the day the amended decision is issued.
3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.
4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures utilized for the original approval. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

**D. Re-submittal of Application Following Denial.** An application which has been denied, or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final city action is made denying the application, unless there is substantial change in the facts or a change in city policy which would change the outcome, as determined by the City Council

#### **4.1.700 Special Procedures.**

- A. Expedited Land Divisions.** An Expedited Land Division ("ELD") shall be defined and may be used as in ORS 197.360, which is expressly adopted and incorporated by reference here.
1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;
  2. Review procedure. An ELD shall be reviewed in accordance with the procedures in ORS 197.365.
  3. Appeal procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375., 4.1.800 Neighborhood Meetings.

#### **4.1.800 Neighborhood Meetings.**

- A. **Neighborhood Meeting Requirement.** Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input and exchange information about the proposed development. In some cases, the City Official may require the applicant to meet with a city-recognized neighborhood association or group prior to accepting an application as complete. A Neighborhood Meeting is optional for development applications that are likely to have neighborhood or community-wide impacts (e.g., traffic, parking, noise, or similar impacts), as determined by the City Official.

#### **4.1.900 Traffic Impact Study.**

## Chapter 4.2 Development Review and Site Design Review

### Sections:

**4.2.100 – Purpose**

**4.2.200 – Applicability**

**4.2.300 – Development Review Approval Criteria**

**4.2.400 – Site Design Review – Application Review Procedure**

**4.2.500 – Site Design Review – Application Submission Requirements**

**4.2.600 – Site Design Review Approval Criteria**

**4.2.700 – Bonding and Assurances**

**4.2.800 – Development in Accordance With Permit Approval**

### **4.2.100 Purpose.**

The purpose of this Chapter is to:

- A. Provide rules, regulations and standards for efficient and effective administration of sit development review;
- B. Carry out the development pattern and plan of the city and its comprehensive plan policies;
- C. Promote the public health, safety and general welfare;
- D. Lessen or avoid congestion in the streets, and secure safety from fire, flood, pollution and other dangers;
- E. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage;
- F. Encourage the conservation of energy resources; and
- G. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

### **4.2.200 Applicability.**

Development Review or Site Design Review shall be required for all new developments and modifications of existing developments described below. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing, and similar maintenance and repair shall be exempt.

#### **4.2.200 Applicability.** *(continued)*

- A. Site Design Review.** Site Design Review is a discretionary review conducted by the Planning Commission and City Planner without a public hearing. (See Chapter 4.1 for review procedure.) It applies to all developments in the city, except those specifically listed under "B" (Development Review). Site Design Review ensures compliance with the basic development standards of the land use district (e.g., building setbacks, lot coverage, maximum building height), as well as the more detailed design standards and public improvement requirements in Chapters 2 and 3.
- B. Development Review.** Development Review is a non-discretionary or "ministerial" review conducted by the Planning Commission and City Engineer without a public hearing. (See Chapter 4.1 for review procedure.) It is for less complex developments and land uses that do not require site design review approval. Development Review is based on clear and objective standards and ensures compliance with the basic development standards of the land use district, such as building setbacks, lot coverage, maximum building height, and similar provisions of Chapter 2. Development Review is required for all of the types of development listed below, except that all developments in sensitive land areas shall also use the development review procedures for those districts.
1. Single-family detached dwelling (including manufactured homes on lots and parcels created prior to the adoption of this ordinance);
  2. A single duplex, up to two single family attached (townhome) units, or a single triplex which is not being reviewed as part of any other development, and accessory parking on the same lot;
  3. Building additions of not more than 200 square feet, and Minor Modifications to development approvals as defined by Chapter 4.6;
  4. Any proposed development which has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 4.4 - Conditional Use Permits.
  5. Home occupation, subject to review under Chapter 4.9;
  6. Temporary use, except that temporary uses shall comply with the procedures and standards for temporary uses as contained in Chapter 4.9;
  7. Accessory structures with less than 600 square feet of floor area, including accessory dwellings;
  8. Other developments, when required by a condition of approval.

#### **4.2.300 Development Review Approval Criteria.**

Development Review shall be conducted only for the developments listed in Section 4.2.200.B above, and it shall be conducted as a Type I procedure as described in Section 4.1.300. Prior to issuance of building permits, the following standards shall be met:

1. The proposed land use is permitted by the underlying land use district (Chapter 2);

#### **4.2.300 Development Review Approval Criteria. (continued)**

2. The land use, building/yard setback, lot area, lot dimension, density, lot coverage, building height and other applicable standards of the underlying land use district and any sub-district(s) are met (Chapter 2);
3. The standards in Section 3.2.200 Landscape Conservation, 3.2.300 New Landscaping; 3.2.500 Fences and Walls and 3.3 Vehicle and Bicycle Parking are met;
4. All applicable building and fire code standards are met; and
5. The approval shall lapse, and a new application shall be required, if a building permit has not been issued within one year of Development Review approval, or if development of the site is in violation of the approved plan or other applicable codes.

#### **4.2.400 Site Design Review – Application Review Procedure.**

- A. Site Design Review shall be conducted as a Type II or a Type III procedure (as specified in "B" below), using the procedures in Chapter 4.1, and using the approval criteria contained in Section 4.2.500.
- B. **Site Design Review - Determination of Type II Applications.** Applications for Site Design Review shall be subject to Type II or Type III review, based on the following criteria:
  1. Residential buildings with 3 or fewer dwelling units shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.300. Residential buildings with more than 3 units shall be reviewed as a Type III application.
  2. Commercial, industrial, public/semi-public, and institutional buildings with 5,000 square feet of gross floor area or less shall be reviewed as a Type II application, except when Development Review is allowed under Section 4.2.300. Commercial, industrial, public/semi-public, and institutional buildings with more than 5,000 square feet of gross floor area shall be reviewed as a Type III application.
  3. Developments with more than one building (e.g., two duplex buildings or an industrial building with accessory workshop) shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1 and 2, above.
  4. Developments with 4 or fewer required off-street vehicle parking spaces in conformance with Chapter 3.3 shall be reviewed as Type II applications, and those with more than 4 off-street vehicle parking spaces shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-3 (above) and 5-6 (below).
  5. Developments involving the clearing and/or grading of 1/2 acre or a larger area shall be reviewed as Type III applications, notwithstanding the provisions contained in subsections 1-5 (above) and subsection 6 (below).
  6. All developments in designated sensitive land districts shall be reviewed as Type III applications.

#### **4.2.500 Site Design Review – Application Submission Requirements.**

All of the following information is required for Site Design Review application submittal:

- A. General Submission Requirements.** The applicant shall submit an application containing all of the general information required by Section 4.1.400 (type II application) or Section 4.1.500 (Type III application). The type of application shall be determined in accordance with subsection A of Section 4.2.400.
- B. Site Design Review Information.** An application for site design review shall include the following additional information, as deemed applicable by the Planning Commission.
1. Site analysis map. At a minimum the site map shall contain the following:
    - a. The applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the city, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions and gross area shall be identified;
    - b. Topographic contour lines at intervals determined by the city;
    - c. Identification of slopes greater than 5 percent;
    - d. The location and width of all public and private streets, drives, sidewalks, pathways, rights-of-way, and easements on the site and adjoining the site;
    - e. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the city, County, or State as having a potential for geologic hazards;
    - f. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the city or any natural resource regulatory agencies as requiring protection;
    - g. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
    - h. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
    - i. The location, size and species of trees and other vegetation having a caliper (diameter) of 4 inches or greater at four feet above grade;
    - j. North arrow, scale, names and addresses of all persons listed as owners on the most recently recorded deed.
    - k. Name and address of project designer, engineer, surveyor, and/or planner, if applicable.
    - l. Other information, as determined by the Planning Commission. The city may require studies or exhibits prepared by qualified professionals to address specific site features.

#### 4.2.500 Site Design Review – Application Submission Requirements. *(continued)*

2. Proposed site plan. The site plan shall contain the following information, if applicable:
  - a. The proposed development site, including boundaries, dimensions, and gross area;
  - b. Features identified on the existing site analysis map, which are proposed to remain on the site.
  - c. Features identified on the existing site map, if any, which are proposed to be removed or modified by the development;
  - d. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
  - e. The location and dimensions of all existing and proposed structures, utilities, pavement and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
  - f. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
  - g. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, if applicable);
  - h. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
  - i. Loading and service areas for waste disposal, loading and delivery;
  - j. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements, as applicable;
  - k. Location, type, and height of outdoor lighting;
  - l. Location of mail boxes, if known;
  - m. Name and address of project designer, if applicable.
  - n. Location of bus stops and other public or private transportation facilities.
  - o. Locations, sizes, and types of signs.
  - p. Other information determined by the Planning Commission. The city may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, noise, environmental features, natural hazards, etc.), in conformance with this Code.

#### 4.2.500 Site Design Review – Application Submission Requirements. *(continued)*

3. Architectural drawings. The Planning Commission may request architectural drawings showing one or all of the following:
  - a. Building elevations (as determined by the Planning Commission) with building height and width dimensions;
  - b. Building materials, colors and type.
  - c. The name of the architect or designer.
4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required.
5. Landscape plan. A landscape plan may be required and at the direction of the Planning Commission shall show the following:
  - a. The location and height of existing and proposed fences and other buffering or screening materials;
  - b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
  - c. The location, size, and species of the existing and proposed plant materials (at time of planting);
  - d. Existing and proposed building and pavement outlines;
  - e. Specifications for soil at time of planting, irrigation if plantings are not drought-tolerant (may be automatic or other approved method of irrigation) and anticipated planting schedule.
  - f. Other information as deemed appropriate by the Planning Commission. For example, an arborist's report may be required for sites with mature trees that are protected under Section 3.2.Landscape, Street Trees, Fences and Walls of this Code.
6. Sign drawings shall be required in conformance with the city's Sign Code (Chapter 3.6).
7. Copies of all existing and proposed restrictions or covenants.
8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Section 4.2.600 Approval Criteria.
9. Traffic Impact Study. Section 660-12-045 (2) (e) of the Transportation Planning Rule requires that jurisdictions develop a process that allows them to apply conditions to development proposal in order to minimize impacts to the transportation facilities.

#### 4.2.500 Site Design Review – Application Submission Requirements. *(continued)*

- a. Proposed land use actions, new developments and/or redevelopment will need review from the local reviewing jurisdiction and ODOT when one or more of the following occur:
  - (1) Change in zoning or a plan amendment designation;
  - (2) Construction of a new building;
  - (3) Increase in floor space on an existing building;
  - (4) Division or consolidation of property boundaries;
  - (5) Change in character of the traffic using the approach;
  - (6) Change in internal circulation or design; or
  - (7) Reestablishment of a property use where such use has been disconnected for a period of two years or more; and
  - (8) Results in one or more of the following effects:
    - a. The site traffic volume generation increases by 100 vehicles or more, in the peak hour, or creates operational problems on the adjacent roadway;
    - b. The peak hour volume of a particular movement to and from the highway increase by 20% or more;
    - c. Use of the approach by vehicles exceeding the 20,000 pound gross vehicle weight increases by 10 vehicles or more per day;
  - (10) The location of the approach does not meet minimum site distance requirement or is located where vehicles entering or leaving the property is restricted or such vehicles queue or hesitate on the highway, creating a safety hazard; or
  - (11) A change in internal traffic patterns that may cause safety problems such as back up onto the highway or traffic crashes in the approach throat area.
  - (12) The effects of proposed land use actions can be determined, but field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT.
  - (13) Review of proposed land use action might require modifications to a driveway approach or roadway or Traffic Impact Study.
- b. A Traffic Impact Study shall be required with required by ODOT as set forth in OAR 734-051-0180 including when:
  - (1) Any proposed development is expected to generate vehicle trips that equal or exceed 600 daily trips or 100 hourly trips;
  - (2) Any proposed zone change or comprehensive plan change; or
  - (3) Any proposed development or land use action indicates operation or safety concerns along a state highway.
- c. A Traffic Impact Study shall be prepared by a professional engineer in accordance with OAR 734-051-180.

#### **4.2.600 Site Design Review Approval Criteria.**

The review authority shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:

- A. The application is complete, as determined in accordance with Chapter 4.1 - Types of Applications and Section 4.2.500, above.
- B. The application complies with the all of the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;
- C. The applicant shall be required to upgrade any existing development that does not comply with the applicable land use district standards, in conformance with Chapter 5.2, Non-Conforming Uses and Development;
- D. The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:
  - 1. Chapter 3.1 -Access and Circulation;
  - 2. Chapter 3.2- Landscaping, Significant Vegetation, Street Trees, Fences and Walls;
  - 3. Chapter 3 .3 -Automobile and Bicycle Parking;
  - 4. Chapter 3.4- Public Facilities and Franchise Utilities;
  - 5. Chapter 3.5 - Surface Water Management;
  - 6. Chapter 3.6 - Other Standards (Telecommunications Facilities, Solid Waste Storage, Environmental Performance, Signs), as applicable.
- E. Conditions required as part of a Land Division (Chapter 4.3), Conditional Use Permit (Chapter 4.4), Master Planned Development (Chapter 4.6), Specific Area Plan (Chapter 2.5), or other approval shall be met.
- F. Exceptions to criteria D.1-6, above, may be granted only when approved as a Variance (Chapter 5.3).

#### 4.2.700 Bonding and Assurances.

- A. **Performance Bonds for Public Improvements.** On all projects where public improvements are required, the city shall require a bond in an amount not greater than 100% or other adequate assurances as a condition of site development approval in order to guarantee the public improvements;
- B. **Release of Performance Bonds.** The bond or assurance shall be released when the City Council finds the completed project conforms to the site development approval, including all conditions of approval.
- C. **Completion of Landscape Installation.** Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the City Council or a qualified landscape architect is filed with the City Recorder assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the city to complete the installation.
- D. **Business License Filing.** The applicant shall ensure that all business occupants of the completed project, whether permanent or temporary, shall apply for and receive a city business license prior to initiating business.

#### 4.2.800 Development in Accordance With Permit Approval.

Development shall not commence until the applicant has received all of the appropriate land use and development approvals (i.e., site design review approval, land division plat approval and building permits. Construction of public improvements shall not commence until the city has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The city may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements, in accordance with Section 4.2.7. Development Review and Site Design Review approvals shall be subject to all of the following standards and limitations:

- A. **Modifications to Approved Plans and Developments.** Minor modifications of an approved plan or existing development, as defined in Chapter 4.6, shall be processed as a Type I procedure and require only Development Review. Major modifications, as defined in Chapter 4.6, shall be processed as a Type II procedure and shall require site design review. For information on Type I, Type II and Type IU procedures, please refer to Chapter 4.1. For Modifications approval criteria, please refer to Chapter 4.6.
- B. **Approval Period.** Development Review and Site Design Review approvals shall be effective for a period of one year from the date of approval. The approval shall lapse if:
  - 1. A building permit has not been issued within a one-year period; or
  - 2. Construction on the site is in violation of the approved plan.

#### 4.2.800 Development in Accordance With Permit Approval. *(continued)*

C. **Extension.** The Planning Commission may, upon written request by the applicant, grant an extension of the approval period not to exceed one year; provided that:

1. No changes are made on the original approved site design review plan;
2. The applicant can show intent of initiating construction on the site within the one year extension period;
3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and
4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within one year of site design approval was beyond the applicant's control.

D. **Phased Development.** Phasing of development may be approved with the Site Design Review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with the Site Design Review application.
2. The Planning Commission shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than 2 years without reapplying for site design review.
3. Approval of a phased site design review proposal requires satisfaction of all of the following criteria:
  - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase.
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require Planning Commission approval. Temporary facilities shall be approved only upon city receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 4.2.400. A temporary public facility is any facility not constructed to the applicable city or district standard, subject to review by the City Engineer.
  - c. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as part of the approved development proposal and
  - d. An application for phasing may be approved after Site Design Review approval as a modification to the approved plan, in accordance with the procedures for minor modifications (Chapter 4.6).

## **Chapter 4.3 Land Divisions and Lot Line Adjustments**

### **Sections:**

**4.3.100 – Purpose**

**4.3.110 – General Requirements**

**4.3.120 – Approvals Process**

**4.3.130 – Preliminary Plat Submission Requirements**

**4.3.140 – Approval Criteria: Preliminary Plat**

**4.3.150 – Variances Authorized**

**4.3.160 – Final Plat Submission Requirements and Approval Criteria**

**4.3.170 – Public Improvements**

**4.3.180 – Performance Guarantees**

**4.3.190 – Filing and Recording**

**4.3.200 – Replatting and Vacation Plats**

**4.3.210 – Lot Line Adjustments**

### **4.3.100 Purpose.**

The purpose of this chapter is to:

- A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments.
  - 1. Subdivisions involve the creation of four or more lots from one parent lot, parcel or tract, within one calendar year.
  - 2. Partitions involve the creation of three or fewer lots within one calendar year.
  - 3. Lot line adjustments involve modifications to lot lines or parcel boundaries which do not result in the creation of new lots (includes consolidation of lots).
- B. Carry out the city's development pattern, as envisioned by the Comprehensive Plan.
- C. Encourage efficient use of land resources, full utilization of urban services, and transportation options.
- D. Promote the public health, safety and general welfare through orderly and efficient urbanization.
- E. Lessen or avoid traffic congestion, and secure safety from fire, flood, pollution and other dangers.
- F. Provide adequate light and air, prevent overcrowding of land, and facilitate adequate provision for transportation, water supply, sewage and drainage; and resources.
- G. Encourage the conservation of energy resources.

#### 4.3.110 General Requirements.

- A. Subdivision and Partition Approval Through Two-step Process.** Applications for subdivision or partition approval shall be processed through a two-step process: the preliminary plat and the final plat.
1. The preliminary plat shall be approved before the final plat can be submitted for approval consideration; and
  2. The final plat shall include all conditions of approval of the preliminary plat.
- B. Compliance With ORS Chapter 92.** All subdivision and partition proposals shall be in conformance to state regulations set forth in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- C. Future Re-division Plan.** When subdividing or partitioning tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size allowed by the underlying land use district), the city shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted which identifies:
1. Potential future lot division(s) in conformance with the housing and density standards of Chapter 2;
  2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;
  3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the city or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.
- D. Lot Size Averaging.** Single family residential lot size may be averaged to allow lots less than the minimum lot size in the Residential district, as long as the average area for all lots is not less than allowed by the district. No lot created under this provision shall be less than 50% of the minimum lot size allowed in the underlying district. For example, if the minimum lot size is 5,000 square feet, the following three lots could be created from a 15,000 square foot parcel: 4,000 square feet, 5,000 square feet, and 6,000 square feet.
- E. Temporary Sales Office.** A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 4.9.100, Temporary Uses.
- F. Minimize Flood Damage.** All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway. Development in a 100-year flood plain shall comply with Federal Emergency Management Agency requirements, including filling to elevate structures above the base flood elevation. The applicant shall be responsible for obtaining such approvals from the appropriate agency before city approval of the final plat.

#### 4.3.110 General Requirements. *(continued)*

- G. Determination of Base Flood Elevation.** Where a development site consists of three or more lots, or is located in or near areas prone to inundation, and the base flood elevation has not been provided or is not available from another authoritative source, it shall be prepared by a qualified professional, as determined by the City Staff or designee.
- H. Need for Adequate Utilities.** All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to prevent or minimize flood damage to the extent practicable.
- I. Need for Adequate Drainage.** All subdivision and partition proposals shall have adequate surface water drainage provided to reduce exposure to flood damage. Water quality or quantity control improvements may be required; and
- J. Floodplain, Park, and Open Space Dedications.** Where land filling and/or development is allowed within or adjacent to the 100-year flood plain outside the zero-foot rise flood plain, and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the city may require the dedication of sufficient open land area for a greenway adjoining or within the flood plain. When practicable, this area shall include portions at a suitable elevation for the construction of a pedestrian/bicycle pathway within the flood plain in accordance with the city's adopted trails plan or pedestrian and bikeway plans, as applicable. The city shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, consistent with Chapter 3.4, and Section 3.4.000.D in particular.

#### 4.3.120 Approval Process.

- A. Review of Preliminary Plat.** Review of a preliminary plat with 2 or 3 lots (partition) shall be processed by means of a Type II procedure, as governed by Section 4.1.400. Preliminary plats with more than 3 lots (subdivision) shall be processed with a Type III procedure under 4.1.500. All preliminary plats shall be reviewed using approval criteria contained in Section 4.3.140. An application for subdivision may be reviewed concurrently with an application for a Master Planned Development under Chapter 4.5.
- B. Review of Final Plat.** Review of a final plat for a subdivision or partition shall be processed by means of a Type I procedure under Section 4.1.300, using the approval criteria in Section 4.3.160.
- C. Preliminary Plat Approval Period.** Preliminary plat approval shall be effective for a period of three (3) years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted to the city for approval within a two (2)-year period.
- D. Modifications and Extensions.** The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 4.6 - Modifications. The City Staff or designee shall, upon written request by the applicant and payment of the required fee, grant one extension of the approval period not to exceed one (1) year; provided that:

#### **4.3.120 Approval Process.** *(continued)*

1. Any changes to the preliminary plat follow the procedures in Chapter 4.6;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties;
4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and
5. The extension request is made before expiration of the original approved plan.

#### **E. Phased Development.**

1. The city may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be greater than two (2) years without reapplying for a preliminary plat;
2. The criteria for approving a phased land division proposal are:
  - a. Public facilities shall be constructed in conjunction with or prior to each phase;
  - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require City Council approval. Temporary facilities shall be approved only upon city receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 4.3.180. A temporary public facility is any facility not constructed to the applicable city or district standard;
  - c. The phased development shall not result in requiring the city or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and
  - d. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

#### **4.3.130 Preliminary Plat Submission Requirements.**

- A. General Submission Requirements.** For Type II subdivisions (8 lots or fewer) and partitions, the applicant shall submit an application containing all of the information required for a Type II procedure under Section 4.1.400. For Type III subdivisions (more than 9 lots), the application shall contain all of the information required for a Type III procedure under Section 4.1.500, except as required for Master Planned Neighborhood Developments:
1. Master Planned Development (Residential District only). Submission of a master plan, as provided in Chapter 2 shall be required for:

#### 4.3.130 Preliminary Plat Submission Requirements. *(continued)*

- a. Parcels, and development sites with more than one parcel, in the Residential District which are 40 acres or larger; and
- b. The Master Plan shall be approved either prior to, or concurrent with, the preliminary plat application.

**B. Preliminary Plat Information.** In addition to the general information described in Subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

1. General information:
  - a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in the county in which it is located (please check with County surveyor);
  - b. Date, north arrow, and scale of drawing;
  - c. Location of the development sufficient to define its location in the city, boundaries, and a legal description of the site;
  - d. Names, addresses and telephone numbers of the owners, designer, and engineer or surveyor if any, and the date of the survey; and
  - e. Identification of the drawing as a "preliminary plat".
2. Site analysis:
  - a. Streets: Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;
  - b. Easements: Width, location and purpose of all existing easements of record on and abutting the site;
  - c. Utilities: Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;
  - d. Ground elevations shown by contour lines at 5-foot vertical intervals for ground slopes exceeding 10 percent and at 2-foot intervals for ground slopes of less than 10 percent. Such ground elevations shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than 6 percent;

#### **4.3.130 Preliminary Plat Submission Requirements.** *(continued)*

- e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);
  - f. Potential natural hazard areas, including any flood plains, areas subject to high water table, landslide areas, and areas having a high erosion potential;
  - g. Sensitive lands, including wetland areas, streams, wildlife habitat, and other areas identified by the city or natural resource regulatory agencies as requiring protection. (See also, Chapter 3. 7 and relevant portions of the Comprehensive Plan.);
  - h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainage ways, canals and ditches;
  - i. Designated historic and cultural resources on the site and adjacent parcels or lots;
  - j. The location, size and species of trees having a caliper (diameter) of 5 inches or greater at four feet above grade in conformance with Chapter 3.2;
  - k. North arrow, scale, name and address of owner;
  - l. Name and address of project designer, if applicable; and
  - m. Other information, as deemed appropriate by the Planning Commission. The city may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.
3. Proposed Improvements:
- a. Public and private streets, tracts, driveways, open space and park land: location, names, right-of-way dimensions, approximate radius of street curves; and approximate finished street center line grades. All streets and tracts which are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;
  - b. Easements: location, width and purpose of all easements;
  - c. Lots and private tracts (e.g., private open space, common area, or street): approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all lots and tracts;
  - d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use; potential location of future buildings;
  - e. Proposed improvements required by Chapter 3 (Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);

#### 4.3.130 Preliminary Plat Submission Requirements. *(continued)*

- f. Preliminary location of development showing that future buildings can meet dimensional standards of base zone;
  - g. The proposed source of domestic water;
  - h. The proposed method of sewage disposal, and method of surface water drainage and treatment if required;
  - i. The approximate location and identity of other utilities, including the locations of street lighting fixtures;
  - j. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with the Oregon Department of Transportation related to proposed railroad crossing(s);
  - k. Changes to navigable streams, or other water courses. Provision or closure of public access to these areas shall be shown on the preliminary plat, as applicable.
  - l. Identification of the base flood elevation for development of more than \_\_ lots or \_\_ acres, whichever is less. Written evidence of initiation of a Federal Emergency Management Agency (FEMA) flood plain map amendment shall be required when development is proposed to modify a designated 100-year flood plain. FEMA approval of the amendment shall be a condition of city land use approval.
  - m. Evidence of written notice to the Oregon Department of Transportation (ODOT) for any development requiring access to a highway under the State's jurisdiction; and
  - n. Evidence of written notice to the applicable natural resource regulatory agency (ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands, as identified in Chapter 3.7.
4. Traffic Impact Study. Section 660-12-045 (2) (e) of the Transportation Planning Rule requires that jurisdictions develop a process that allows them to apply conditions to development proposal in order to minimize impacts to the transportation facilities.
- a. Proposed land use actions, new developments and/or redevelopment will need review from the local reviewing jurisdiction and ODOT when one or more of the following occur:
    - (1) Change in zoning or a plan amendment designation;
    - (2) Construction of a new building;
    - (3) Increase in floor space on an existing building;
    - (4) Division or consolidation of property boundaries;
    - (5) Change in character of the traffic using the approach;
    - (6) Change in internal circulation or design; or
    - (7) Reestablishment of a property use. Where such use has been disconnected for a period of two years or more; and
    - (8) Results in one or more of the following effects:

#### **4.3.130 Preliminary Plat Submission Requirements. (continued)**

- (9) The site traffic volume generation increases by 100 vehicles or more, in the peak hour, or creates operational problems on the adjacent roadway;
  - (10) The peak hour volume of a particular movement to and from the highway increase by 20% or more;
  - (11) Use of the approach by vehicles exceeding the 20,000 pound gross vehicle weight increases by 10 vehicles or more per day;
  - (12) The location of the approach does not meet minimum site distance requirement or is located where vehicles entering or leaving the property is restricted or such vehicles queue or hesitate on the highway, creating a safety hazard; or
  - (13) A change in internal traffic patterns that may cause safety problems such as back up onto the highway or traffic crashes in the approach throat area.
  - (14) The effects of proposed land use actions can be determined, but field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT.
  - (15) Review of proposed land use action might require modifications to a driveway approach or roadway or Traffic Impact Study
- b. A Traffic Impact Study shall be required with required by ODOT as set forth in OAR 734-051-0180 including when:
- (1) Any proposed development is expected to generate vehicle trips that equal or exceed 600 daily trips or 100 hourly trips;
  - (2) Any proposed zone change or comprehensive plan change; or
  - (3) Any proposed development or land use action indicates operation or safety concerns along a state highway.
  - (4) Traffic Impact Study shall be prepared by a professional engineer in accordance with OAR 734-051-180.

#### **4.3.140 Approval Criteria: Preliminary Plat.**

- A. General Approval Criteria.** The city may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:
1. The proposed preliminary plat complies with all of the applicable Development Code sections and other applicable ordinances and regulations. At a minimum, the provisions of this Chapter, and the applicable sections of Chapter 2.0 (Land Use Districts) and Chapter 3.0 (Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 5.0 (Exceptions);
  2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;

#### 4.3.140 Approval Criteria: Preliminary Plat. *(continued)*

3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat; and
4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat.

**B. Housing Density.** The subdivision meets the city's housing development standards in Chapter 2 Land Use Districts.

**C. Block and Lot Standards.** All proposed blocks (i.e., one or more lots bound by public streets), lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Chapter 2), and the standards of Chapter 3.1, Section 2.J - Street Connectivity and Formation of Blocks.
2. Setbacks shall be as required by the applicable land use district (Chapter 2).
3. Each lot shall conform to the standards of Chapter 3.1 - Access and Circulation.
4. Landscape or other screening may be required to maintain privacy for abutting uses. Also see Chapter 2 - Land Use Districts, and Chapter 3.2 - Landscaping.
5. In conformance with the Uniform Fire Code, a 20-foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way or approved access drive. Also see Chapter 3.1- Access and Circulation.
6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement to ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.

**D. Conditions of Approval.** The city may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the city for the purpose of controlling access to adjoining undeveloped properties. Also see Chapter 3.4.000.D (Public Facilities).

#### 4.3.150 Variances Authorized.

Variation from the standards of this Chapter shall be processed in accordance with Chapter 5.1 - Variances. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

#### 4.3.160 Final Plat Submission Requirements and Approval Criteria

- A. Submission Requirements.** Final plats shall be reviewed and approved by the city prior to recording with Umatilla County. The applicant shall submit the final plat within 1 year of the approval of the preliminary plat as provided by Section 4.3.120. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the City Staff or designee.
- B. Approval Criteria.** By means of a Type I procedure, the City Recorder and City Engineer shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:
1. The final plat complies with the approved preliminary plat, and all conditions of approval have been satisfied;
  2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer. Alternatively, the developer has provided a performance guarantee in accordance with Section 4.3.180.
  3. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;
  4. The streets and roads held for private use have been approved by the city as conforming to the preliminary plat;
  5. The plat contains a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;
  6. The applicant has provided copies of all recorded homeowners association codes, covenants, and restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
  7. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
  8. Certification by the city or service district that water and sanitary sewer service is available to each and every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the city that such services will be installed in accordance with Chapter 3.4 - Public Facilities, and the bond requirements of Section 4.3.180. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the city;
  9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92; indicating the initial point of the survey,; and giving the dimensions and kind of such monument and its reference to some comer established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.

#### 4.3.170 Public Improvements.

The following procedures apply to subdivisions and partitions when public improvements are required as a condition of approval:

- A. **Public Improvements Required.** Before city approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, the subdivider/partitioner shall provide a performance guarantee, in accordance with Section 4.3.180.

#### 4.3.180 Performance Guarantee.

- A. **Performance Guarantee Required.** When a performance guarantee is required under Section 4.3.170, the subdivider/partitioner shall file an assurance of performance with the city supported by one of the following:
1. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
  2. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the city in writing that it may be terminated; or
  3. Cash.
- B. **Determination of Sum.** The assurance of performance shall be for a sum determined by the city as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. **Itemized Improvement Estimate.** The developer shall furnish to the city an itemized improvement estimate, certified by a registered civil engineer, to assist the city in calculating the amount of the performance assurance.
- D. **Agreement.** An agreement between the city and developer shall be recorded with the final plat that stipulates all of the following:
1. Specifies the period within which all required improvements and repairs shall be completed;
  2. A provision that if work is not completed within the period specified, the city may complete the work and recover the full cost and expenses from the applicant;
  3. Stipulates the improvement fees and deposits that are required.
  4. *(Optional)* Provides for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.

The agreement may be prepared by the city, or in a letter prepared by the applicant. It shall not be valid until it is signed and dated by both the applicant and City Staff or designee.

#### 4.3.180 Performance Guarantee. *(continued)*

- E. When Subdivider Fails to Perform.** In the event the developer fails to carry out all provisions of the agreement and the city has un-reimbursed costs or expenses resulting from such failure, the city shall call on the bond, cash deposit or letter of credit for reimbursement.
- F. Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the city.

#### 4.3.190 Filing and Recording.

- A. Filing Plat with County.** Within 60 days of the city approval of the final plat, the applicant shall submit the final plat to Umatilla County for signatures of County officials as required by ORS Chapter 92.
- B. Proof of Recording.** Upon final recording with the County, the applicant shall submit to the city a mylar copy and JO paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.
- C. Prerequisites to Recording the Plat.**
1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
  2. No plat shall be recorded until it is approved by the County surveyor in the manner provided by ORS Chapter 92.

#### 4.3.200 Replatting and Vacation of Plats.

- A. Replatting and Vacations.** Any plat or portion thereof may be replatted or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. Procedure.** All applications for a replat or vacation shall be processed in accordance with the procedures and standards for a subdivision or partition (i.e., the same process used to create the plat shall be used to replat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process. (See Chapter 4.1 - Types of Applications and Review Procedures.)
- C. Basis for Denial.** A replat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.
- D. Recording of Vacations.** All approved plat vacations shall be recorded in accordance with 4.3.190 and the following procedures:

#### **4.3.200 Replatting and Vacation of Plats.** *(continued)*

1. Once recorded, a replat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
  2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.
- E. After Sale of Lots.** When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.
- F. Vacation of Streets.** All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271.
- G. Accessways.** The city may require accessways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient, and direct pedestrian and bicycle circulation system.

#### **4.3.210 Lot Line Adjustments.**

Lot line adjustments include the consolidation of lots, and the modification of lot boundaries, when no new lots are created. The application submission and approvals process is as follows:

- A. Submission Requirements.** All applications for Lot Line Adjustment shall be made on forms provided by the city and shall include information required for a Type I application, as governed by Chapter 4.1.3. The application shall include a preliminary lot line map identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of significant vegetation as defined and mapped in Section 3.2.2.B-C; Existing Fences and Walls; and any other information deemed necessary by the City Staff or designee or designee for ensuring compliance with city codes.
- B. Approval Process.**
1. Decision-making process. Lot line adjustments shall be reviewed by means of a Type I procedure, as governed by Chapter 4.1.3, using approval criteria contained in subsection C, below.
  2. Time limit on approval. The lot line adjustment approval shall be effective for a period of 1 year from the date of approval, during which time it must be recorded.
  3. Lapsing of approval. The lot line adjustment approval shall lapse if:
    - a. The lot line adjustment is not recorded within the time limit in subsection 2;
    - b. The lot line adjustment has been improperly recorded with Umatilla County without the satisfactory completion of all conditions attached to the approval; or
    - c. The final recording is a departure from the approved plan.

#### **4.3.210 Lot Line Adjustments.** *(continued)*

**C. Approval Criteria.** The City Official shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:

1. No additional parcel or lot is created by the lot line adjustment, however the number of lots or parcels may be reduced;
2. Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions.
3. Access. All lots and parcels comply with the standards or requirements of Chapter 3.1 – Access and Circulation; and
4. Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2).
5. Exemptions from Dedications and Improvements. A lot line adjustment is not considered a development action for purposes of determining whether right-of-way dedication or improvement is required.
6. The proposal may not create non-conforming lots or an existing non-conforming lot more non-conforming.

**D. Recording Lot Line Adjustments.**

1. Recording. Upon the city's approval of the proposed lot line adjustment, the applicant shall record the lot line adjustment with Umatilla County within 60 days of approval (or the decision expires), and submit a copy of the recorded survey map to the city, to be filed with the approved application.
2. Time limit The applicant shall submit a copy of the recorded lot line adjustment survey map to the city within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.

**E. Extension.** The city may, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:

1. No changes are made on the original plan as approved by the city;
2. The applicant can show intent of recording the approved partition or lot line adjustment within the one year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the lot line adjustment conflicts with a code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

# Chapter 4.4 Conditional Use Permits

## Sections:

**4.4.100 – Purpose**

**4.4.200 – Approvals Process**

**4.4.300 – Application Submission Requirements**

**4.4.400 – Criteria, Standards and Conditions of Approval**

**4.4.500 – Additional Development Standards for Conditional Use Types**

### **4.4.100 Purpose.**

There are certain uses that, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "Conditional Uses" in Chapter 2 - Land Use Districts. The purpose of Chapter 4.4 is to provide standards and procedure under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

### **4.4.200 Approvals Process.**

- A. Initial Application.** An application for a new conditional use shall be processed as a Type III procedure (Chapter 4.1.5). The application shall meet submission requirements in Section 4.4.3, and the approval criteria contained in Section 4.4.4.
- B. Modification of Approved or Existing Conditional Use.** Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 4.6 - Modifications.

### **4.4.300 Application Submission Requirements.**

In addition to the submission requirements required in Chapter 4.1, an application for conditional use approval must include the applicable information in A-H below. For a description of each item, please refer to Chapter 4.2.5 - Site Design Review Application Submission Requirements:

- A.** Existing site conditions;
- B.** Site plan;
- C.** Preliminary grading plan;
- D.** A landscape plan;
- E.** Architectural drawings of all structures;

#### **4.4.300 Application Submission Requirements.** *(continued)*

- F.** Drawings of all proposed signs;
- G.** A copy of all existing and proposed restrictions or covenants; and
- H.** Narrative report or letter documenting compliance with all applicable approval criteria in Section 4.4.4.

#### **4.4.400 Criteria, Standards and Conditions of Approval.**

The city shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following standards and criteria:

##### **A. Use Criteria.**

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;
2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and
3. All required public facilities have adequate capacity to serve the proposal.

**B. Site Design Standards.** The criteria for Site Design Review approval (Chapter 4.2.6) shall be met.

**C. Conditions of Approval.** The city may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;
2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;
3. Requiring larger setback areas, lot area, and/or lot depth or width;
4. Limiting the building height, size or lot coverage, and/or location on the site;
5. Designating the size, number, location and/or design of vehicle access points or parking areas;
6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;

#### **4.4.400 Criteria, Standards and Conditions of Approval.** *(continued)*

7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;
8. Limiting the number, size, location, height and/or lighting of signs;
9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;
10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;
11. Requiring and designating the size, height, location and/or materials for fences;
12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or sensitive lands (Chapter 3.7);
13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans. Dedication of land and construction shall conform to the provisions of Chapter 3.1, and Section 3.1.0.D in particular.

**D. Transportation System Facilities and Improvements.** Construction, reconstruction, or widening of highways, roads, bridges or other transportation facilities that are (1) not designated in the city's adopted Transportation System Plan, or (2) not designed and constructed as part of an approved subdivision or partition, are allowed in all Districts subject to a Conditional Use Permit and satisfaction of all of the following criteria:

1. The project and its design are consistent with the city's adopted Transportation System Plan (TSP), or, if the city has not adopted a TSP, consistent with the State Transportation Planning Rule, OAR 660-012 (the TPR").
2. The project design is compatible with abutting land uses in regard to noise generation and public safety and is consistent with the applicable zoning and development standards and criteria for the abutting properties.
3. The project design minimizes environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities, and a site with fewer environmental impacts is not reasonably available. The applicant shall document all efforts to obtain a site with fewer environmental impacts, and the reasons alternative sites were not chosen.
4. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.
5. The project includes provisions for bicycle and pedestrian access and circulation consistent with the comprehensive plan, the requirements of this ordinance, and the TSP or TPR.

#### **4.4.400 Criteria, Standards and Conditions of Approval. (continued)**

- E.** For State transportation facility or improvement projects, the State Department of Transportation ("ODOT") shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 4.4.400.D.2 - 5. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.
- F.** If the city determines that the proposed use or activity or its design is inconsistent with the TSP or TPR, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval. The applicant shall choose one of the following options:
  - 1. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, permanently withdraw the conditional use permit application, or
  - 2. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, withdraw the conditional permit application, apply for a plan/zone amendment, and re-apply for a conditional use permit if and when the amendment is approved, or
  - 3. If the city determination of inconsistency is made prior to a final decision on the conditional use permit application, submit a plan/zoning amendment application for joint review and decision with the conditional use permit application, along with a written waiver of the ORS 227.178 120- day period within which to complete all local reviews and appeals once the application is deemed complete, or
  - 4. If the city determination of inconsistency is part of a final decision on the conditional use permit application, submit a new conditional use permit application, along with a plan/zoning amendment application for joint review and decision.
- G.** A Conditional Use Permit for Transportation System Facilities and Improvements shall be void after three (3) years.

#### **4.4.500 Additional Development Standards for Conditional Use Types.**

- A. Concurrent Variance Application(s).** A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.
- B. Additional Development Standards.** Development standards for specific uses are contained in Chapter 2 - Land Use Districts.

## Chapter 4.5 Master Planned Developments

### Sections:

**4.5.100 – Purpose**

**4.5.110 – Applicability**

**4.5.120 – Review and Approvals Process**

**4.5.130 – Overlay Zone and Concept Plan Submission**

**4.5.140 – Overlay Zone and Concept Plan Approval Criteria**

**4.5.150 – Administrative Procedures**

**4.5.160 – Detailed Development Plan Submission Requirements**

**4.5.170 – Detailed Development Plan Approval Criteria**

**4.5.180 – Development Review and Building Permit Approvals**

### **4.5.100 Purpose.**

**A. Purpose.** The purposes of this Section are to:

1. Implement the Development standards of Chapter 2, Section 2 .1, Residential, by providing a means for master planning large development sites;
2. Encourage innovative planning that results in more mixed use development, improved protection of open spaces, and transportation options and site phasings of development;
3. Encourage developments that recognize the relationship between buildings, their use, open space, and transportation options, providing varied opportunities for innovative and diversified employment environments;
4. Facilitate the efficient use of land;
5. Promote an economic arrangement of land use, buildings, circulation systems, open space, and utilities;
6. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;
7. Encourage energy conservation and improved air and water quality and;
8. Assist the City in planning infrastructure improvements.

#### **4.5.110 Applicability.**

The master planned development designation is an overlay zone, which may be applied over the city's residential land use district. An applicant may elect to develop a project as a master planned development in compliance with the requirements of this chapter. In addition, the city may require that the following types of development be processed using the provisions of this Chapter:

- A. Subdivisions required to conform to the Master Planned Development standards of Chapter 2.

#### **4.5.120 Review and Approvals Process.**

A. **Review Steps.** There are three required steps to planned development approval:

1. The approval of a planned development overlay zone and concept plan;
2. The approval of a detailed development plan; and
3. The approval of a preliminary subdivision plat(s) and/or site design review application(s).

B. **Approval Process.**

1. The Master Planned Development (PD) overlay zone and Concept Plan shall be reviewed together using the Type II procedure in Section 4.1.400, the submission requirements in Section 4.5.160, and the approval criteria in Section 4.5.170.
2. The detailed development plan shall be reviewed using the Type II procedure in Section 4.1.400, to ensure substantial compliance with the approved concept plan.
3. Preliminary subdivision plats and site design review applications for approved planned developments shall be reviewed using a Type II procedure, as governed by Section 4.2.400.
4. Steps 1-3, above, may be combined in any manner, so long as the decision-making sequence follows that in subsection A, above. Notification and hearings may be combined.
5. The design standards of Chapter 3 apply to all master planned developments. Variances shall conform to the standards and procedures of Chapter 5.1 - Variances.

#### **4.5.130 Overlay Zone and Concept Plan Submission.**

A. **General Submission Requirements.** The applicant shall submit an application containing all of the general information required for a Type II procedure, as governed by Chapter 4.1.400. In addition, the applicant shall submit the following:

#### **4.5.130 Overlay Zone and Concept Plan Submission.** *(continued)*

1. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant.
2. A development schedule indicating the approximate dates when construction of the planned development and its various phases are expected to be initiated and completed.
3. A statement of the applicant's intentions with regard to the future selling or leasing of all or portions of the planned development.
4. Narrative report or letter documenting compliance with the applicable approval criteria contained in Section 4.5.170.
5. Special studies prepared by qualified professionals may be required by the City approval authority to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.

**B. Additional Information.** In addition to the general information described in Subsection "A" above, the concept plan, data, and narrative shall include the following exhibits and information:

1. Existing Conditions map, as defined in Section 4.2.500 - Site Design Review Application Submission Requirements;
2. Conceptual site plan (e.g., general land use, building envelopes, circulation, open space, utility connections, and other information necessary to convey the concept plan);
3. Grading concept (for hillside or sloping properties, or where extensive grading is anticipated);
4. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);
5. Architectural concept (e.g., information sufficient to describe architectural styles, building heights, and general materials);
6. Sign concept (e.g., locations, general size, style and materials of signs);
7. Copy of all existing covenants and restrictions, and general description of proposed restrictions or covenants (e.g., for common areas, access, parking, etc.).

#### **4.5.140 Overlay Zone and Concept Plan Approval Criteria.**

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the overlay zone and concept plan. The City shall make findings that not all of the criteria are satisfied when denying an application.

**A. Comprehensive Plan.** All relevant provisions of the Comprehensive Plan are met.

#### 4.5.140 Overlay Zone and Concept Plan Approval Criteria. *(continued)*

- B. Land Division Chapter.** All of the requirements for land divisions, as applicable, shall be met (Chapter 4.3).
- C. Chapter 2 Land Use and Design Standards.** All of the land use and design standards contained in Chapter 2 for the Industrial Service Commercial District are met, except as modified in Section 4.5.140
- D. Requirements for Common Open Space.** Where common open space is designated, the following standards apply:
1. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument; and
  2. The open space shall be conveyed in accordance with one of the following methods:
    - a. By dedication to the city as publicly owned and maintained open space. Open space proposed for dedication to the City must be acceptable to the City Staff or designee with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities;
    - b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity, with the City retaining the development rights to the property. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.

#### 4.5.150 Administrative Procedures.

- A. Land use district map designation.** After a planned development overlay zone has been approved, the land use district map shall be amended in accordance with Chapter 4.6, to indicate the approved planned development designation for the subject development site. The approval of the planned development overlay zone shall not expire.
- B. Time limit on filing of detailed development plan.** Within three (3) years after the date of approval of the concept plan, the applicant or his or her successor shall prepare and file with the City a detailed development plan, in conformance with Section 4.5 .160.
- C. Extension.** The City shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year provided that:
1. No changes have been made on the original conceptual development plan as approved;
  2. The applicant can show intent of applying for detailed development plan review within the one year extension period;
  3. There have been no changes to the applicable Comprehensive Plan policies and ordinance provisions on which the approval was based; and
  4. The extension request is made before expiration of the original approval period.

#### **4.5.160 Detailed Development Plan Submission Requirements.**

The contents of the detailed development plan shall be determined based on the conditions of approval for the concept plan. At a minimum, the detailed development plan shall identify the final proposed location of all lots, tracts, parcels, open space, rights-of-way, building envelopes and other features prior to approval of a development permit (e.g., Land Division, Development Review, Site Design Review, etc.). The detailed development plan shall be reviewed using a Type III procedure.

#### **4.5.170 Detailed Development Plan Approval Criteria.**

The City shall approve the detailed development plan upon finding that the final plan conforms to the concept plan and required conditions of approval. Minor changes to the approved concept plan may be approved with the detailed plan, consistent with the following criteria:

- A. Increased residential densities or lot coverage by no more than 15 percent, when such change conforms to the Comprehensive Plan;
- B. A reduction to the amount of open space or landscaping by no more than 10 percent;
- C. An increase in lot coverage by buildings or changes in the amount of parking by no more than 15 percent. Greater changes require a major modification (Chapter 4.6);
- D. No change in land use shall be permitted without approving a major modification to the concept plan (Chapter 4.6);
- E. No change which places development within environmentally sensitive areas or areas subject to a potential hazard shall be approved without approving a major modification to the concept plan (Chapter 4.6); and
- F. The location of buildings, proposed streets, parking lot configuration, utility easements, landscaping or other site improvements shall be as proposed on the concept plan, or as modified through conditions of approval. Changes in the location or alignment of these features by more than 100 feet shall require approval of a major modification, in conformance with Chapter 4.6.
- G. Other substantial modifications made to the approved conceptual development plan shall require approval of either a minor modification or major modification, in conformance with Chapter 4.6.

#### **4.5.180 Development Review and Building Permit Approvals.**

Upon receiving detailed development plan approval, the applicant may apply for a development permit (e.g., Land Division, Development Review, Site Design Review, etc.). Building permits shall not be issued until all required development permits have been issued and appeal periods have ended.

- A. Chapter 4.2 applies to developments requiring Development Review or Site Design Review.
- B. Chapter 4.3 applies to Land Divisions.

**4.5.180 Development Review and Building Permit Approvals. (continued)**

- C. **Streamlined review option.** Preliminary subdivision plats and site design review applications for approved master planned developments may be reviewed using a Type II procedure, rather than the conventional Type II procedure. This shall be the applicant's option. The variation from the standard procedures of Chapter 4.2 - Site Design Review, and Chapter 4.3 - Land Divisions is intended to streamline review of projects that have received planned development approvals, since those projects have previously been subject to public review and hearings.

## Chapter 4.6 Modifications to Approved Plans and Conditions of Approval

### Sections:

4.6.100 – Purpose

4.6.200 – Applicability

4.6.300 – Major Modifications

4.6.400 – Minor Modifications

### 4.6.100 Purpose.

The purpose of this Chapter is to provide an efficient process for modifying land use decisions an approved development plans, in recognition of the cost and complexity of land development and the need to conserve city resources.

### 4.6.200 Applicability.

- A. This Chapter applies to all development applications approved through the provisions of Chapter 4, including:
1. Site Design Review approvals;
  2. Subdivisions, Partitions, and Lot Line Adjustments;
  3. Conditional Use Permits;
  4. Master Planned Developments; and
  5. Conditions of approval on any of the above application types.
- B. This Chapter does not apply to land use district changes, text amendments, temporary use permits, or other permits.

### 4.6.300 Major Modifications.

- A. **Major Modification Defined.** The Planning Commission shall determine that a major modification(s) request is required if one or more of the changes listed below are proposed:
1. A change in land use;
  2. An increase in the number of dwelling units, greater than 25% more than original application.

#### **4.6.300 Major Modifications.** *(continued)*

3. Changes in the type and/or location of access ways, drives or parking areas that affect off-site traffic;
4. An increase in the floor area proposed for non-residential use by more than 15 percent where previously specified;
5. A reduction of more than 10% percent of the area reserved for common open space and/or usable open space;
6. A reduction to specified setback requirements by more than 10% percent, or to a degree that the minimum setback standards of the land use district cannot be met; or
7. Changes similar to those listed in 1-6, which are likely to have an adverse impact on adjoining properties.

**B. Major Modification Request.** An applicant may request a major modification as follows:

1. Upon the City Official determining that the proposed modification is a major modification, the applicant shall submit an application for a major modification.
2. The modification request shall be subject to the same review procedure (Type I or II) and approval criteria used for the initial project approval; however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. Notice shall be provided in accordance with the applicable review procedure.

#### **4.6.400 Minor Modifications.**

**A. Minor Modification Defined.** Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Section 4.6.3, above, shall be considered a minor modification.

**B. Minor Modification Request.** An application for approval of a minor modification is reviewed using the Type of procedure in Section 4.1.300. A minor modification shall be approved, approved with conditions, or denied by the City Official based on written findings on the following criteria:

1. The proposed development is in compliance with all applicable requirements of the Development Code; and
2. The modification is not a major modification as defined in Section 4.6.300, above.

# Chapter 4.7 Land Use District Map and Text Amendments

## Sections:

- 4.7.100 – Purpose
- 4.7.200 – Legislative Amendments
- 4.7.300 – Quasi-Judicial Amendments
- 4.7.400 – Conditions of Approval
- 4.7.500 – Record of Amendments
- 4.7.600 – Transportation Planning Rule Compliance

### 4.7.100 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this Code and the land use district map. These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law. Copies of map changes shall be kept in Chapter 6.0 of this code.

### 4.7.200 Legislative Amendments.

Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV procedure in Chapter 4.1, Section 5 and shall conform to Section 4.7.600

### 4.7.300 Quasi-Judicial Amendments.

A. **Quasi-Judicial Amendments.** Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision. Quasi-judicial map amendments shall follow the Type II procedure, as governed by Chapter 4.1.400, using standards of approval in Subsection "D" below. The approval authority shall be as follows:

1. The Planning Commission shall review and render a decision on land use district map changes that do not involve comprehensive plan map amendments;
2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and
3. The Planning Commission shall make a recommendation to the City Council on an application for a land use district change that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

#### **4.7.300 Quasi-Judicial Amendments. (continued)**

**B. Criteria for Quasi-Judicial Amendments.** A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the Statewide Planning Goals;
2. Approval of the request is consistent with the Comprehensive Plan; and
3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.
4. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property is the subject of the application and the applicable provisions of Section 4.7.6.

#### **4.7.400 Conditions of Approval.**

A quasi-judicial decision may be for denial, approval, or approval with conditions. A legislative decision may be approval or denial.

#### **4.7.500 Record of Amendments.**

The City Official or designee shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

#### **4.7.600 Transportation Planning Rule Compliance.**

- A. When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. Significant means the proposal would:
1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of "collector" street classification, requiring a change in the classification to an "arterial" street, as identified by the city's Transportation System Plan; or
  2. Change the standards implementing a functional classification system; or
  3. Allow types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or

**4.7.600 Transportation Planning Rule Compliance.** *(continued)*

4. Reduce the performance standards of the facility below the minimum acceptable level identified in the Transportation System Plan.
- B. Amendments to the comprehensive plan and land use standards that significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and performance standards of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;  
or
  2. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the Transportation Planning Rule; or,
  3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation.

# Chapter 4.8 Code Interpretations

## Sections:

4.8.100 – Purpose

4.8.200 – Code Interpretation Procedure

### 4.8.100 Purpose.

Some terms or phrases within the Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

### 4.8.200 Code Interpretation Procedure.

- A. **Requests.** A request for a code interpretation ("interpretation") shall be made in writing to the City Official.
- B. **Decision to Issue Interpretation.** The Planning Commission shall have the authority to review a request for an interpretation following a Type I procedure as set forth in Section 4.1.400.
- C. **Declining Requests for Interpretations.** The Planning Commission is authorized to issue or decline to issue a requested interpretation. Basis for declining may include, but is not limited to, a finding that the subject Code section affords only one reasonable interpretation and the interpretation does not support the request. The Planning Commission decision to issue or decline to issue an interpretation is final when the decision is mailed to the party requesting the interpretation and the decision is not subject to any further local appeal.
- D. **Written Interpretation.** If the Planning Commission decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation and any other person who specifically requested a copy of the interpretation.
- E. **Appeals.** The applicant and any party who received such notice or who participated in the proceedings through the submission of written or verbal evidence of an interpretation may appeal the interpretation to the City Council. The appeal may be initiated by filing a notice of appeal with the City Council pursuant to Chapter 4.1.400.G.
- F. **Appeal Procedure.** City Council shall hear all appeals of a Planning Commission interpretation as a Type II action pursuant to Chapter 4.1.400, except that written notice of the hearing shall be provided to the applicant, any other party who has filed a notice of appeal, and any other person who requested notice.
- G. **Final Decision/Effective Date.** The decision of the City Council on an appeal of an interpretation shall be final and effective when it is mailed to the applicant. If an appeal of the City Council's decision is filed, the decision remains effective unless or until it is modified by the Land Use Board of Appeals or a court of competent jurisdiction.
- H. **Interpretations On File.** The city shall keep on file a record of all code interpretations.

# Chapter 4.9 Miscellaneous Permits

## Sections:

**4.9.100 – Temporary Use Permits**

**4.9.200 – Special Exemptions for Temporary Mobile Home Placement (Adopted 9/16/02)**

### **4.9.100 Temporary Use Permits.**

Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Three types of temporary uses require permit approval (See A, B and C):

- A. Seasonal and Special Events.** These types of uses may occur only once in a calendar year and for no longer a period than 30 days. Using the Type II procedure under Chapter 4.1.400, the city shall approve by Ordinance 4-113 conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:
1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);
  2. The applicant has proof of the property owner's permission to place the use on his/her property;
  3. Customers and employees of the temporary use shall utilize no parking that is needed by the property owner to meet their minimum parking requirement under Chapter 3 .3 - Vehicle and Bicycle Parking;
  4. The use provides adequate vision clearance, as required by Chapter 3.1.200, and shall not obstruct pedestrian access on public streets;
  5. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.1.200 - Vehicular Access and Circulation;
  6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner in which other uses allowed outright in the district do not affect the adjoining use; and
  7. The use is adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits.)

#### 4.9.100 Temporary Use Permits. (continued)

**B. Temporary Sales Office or Model Home.** Using a Type I procedure under Section 4.1.400, the city may approve, approve with conditions or deny an application for the use of any real property within the city as a temporary sales office, offices for the purpose of facilitating the sale of real property, or model home in any subdivision or tract of land within the city, but for no other purpose, based on the following criteria:

1. Temporary sales office;
  - a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold; and
  - b. The property to be used for a temporary sales office shall not be permanently improved for that purpose.
2. Model house:
  - a. The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
  - b. The model house shall be designed as a permanent structure that meets all relevant requirements of this Code.

**C. Temporary Building.** Using a Type II procedure, as governed by Section 4.1.400, the city may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the city as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;
2. The primary use on the property to be used for a temporary trailer is already developed;
3. Ingress and egress are safe and adequate when combined with the other uses of the property; as required by Chapter 3.1.200- Vehicular Access and Circulation;
4. There is adequate parking for the customers or users of the temporary use as required by Chapter 3,3 -Bicycle and Vehicle Parking;
5. The use will not result in vehicular congestion on streets;
6. The use will pose no hazard to pedestrians in the area of the use;
7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;
8. The building complies with applicable building codes;
9. The use can be adequately served by sewer or septic system and water, if applicable. (The applicant shall be responsible for obtaining any related permits); and
10. The length of time that the temporary building will be used *does not exceed 6 months*. When a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit.

#### 4.9.200 Special Exceptions for Temporary Mobile Home Placement.

- A. Purpose:** The purpose of this section is to establish special exceptions for temporary mobile home placement. These exceptions are intended to provide a means for modifying mobile home placement requirements in cases where a strict adherence to them might cause unusual or undue hardship to a citizen and contravene the goals of the Comprehensive Plan for the City. **UNDUE HARDSHIP** shall refer to unique and temporary conditions that exist which justify the need for temporary housing on a given lot or parcel such as a dwelling for seasonal farm labor, aged or disabled family members, domestic employees or similar dwelling needs of a temporary nature that relate to the use of the principal use on the property in question. Nothing in this section shall be construed to require the granting of such special exception.
- B. Circumstances for granting exception:** A mobile home may be temporarily located on a building site or lot under the following circumstances:
1. Where there exists a personal, but not necessarily financial, hardship on the part of the applicant, whereby it is necessary to have someone living on the same premises as the applicant's dwelling or mobile home.
- C. Conditions:** The following conditions shall be applied by the Planning Committee in evaluating an application for special exception for temporary mobile home placement.
1. Approval shall clearly set forth the conditions under which the temporary mobile home placement is allowed;
  2. Approval shall be for a period of one year which may be renewed. However, the mobile home shall be removed 30 days after the original need has ceased;
  3. The Planning Commission may require doctor's certification for applications or renewals based upon family member dependency due to medical reasons;
  4. The location of a temporary mobile home on a parcel of land shall not be considered a separate dwelling site and the lot area, frontage and access requirements of the applicable zoning district shall not apply; however, temporary dwellings shall be billed for city utility services separately.
  5. In granting a special exception for temporary mobile home placement, the Planning Commission may impose additional reasonable conditions to meet the purposes of this section and the goals and policies of the Comprehensive Plan. Guarantees and evidence of compliance with conditions may be required.
- D. Penalty:** A penalty may/shall be imposed if a citizen is not in compliance with conditions set forth by the Planning Commission. Penalty imposed will be no less than \$50 and no more than \$100 every 30 days after non-compliance is determined. Said fine will be upon the discretion of the Municipal Judge.

#### 4.9.200 Special Exceptions for Temporary Mobile Home Placement.

- A. *Purpose.* The purpose of this section is to establish special exceptions for temporary mobile home placement. These exceptions are intended to provide a means for modifying mobile home placement requirements in cases where a strict adherence citizen and contravene the goals of the Comprehensive Plan for the County. **UNDUE HARDSHIP** shall refer to unique and temporary conditions that exist which justify the need for temporary housing on a given lot or parcel such as a dwelling for seasonal farm labor, aged or disabled family members, domestic employees or similar dwelling needs of a temporary nature that relate to the use of the principal use on the property in question. Nothing in this section shall be construed to require the granting of such special exception.
- B. *Circumstances for granting exception.* A mobile home may be temporarily located on a building site or lot under the following circumstances:
- (1) Where there exists a personal, but not necessarily financial, hardship on the part of the applicant, whereby it is necessary to have someone living on the same premises as the applicant's dwelling or mobile
- C. *Conditions.* The Following conditions shall be applied by the Planning Commission in evaluating an application for the special exception for temporary mobile
- (1) Approval shall clearly set forth the condition under which the temporary mobile home placement is allowed.
  - (2) Approval shall be for a period of one year which may be renewed. However, the mobile home shall be removed 30 days after the original need has ceased;
  - (3) The Planning Commission may require doctor's certification for applications based upon family member dependency due to medical reasons;
  - (4) The location of a temporary mobile home on a parcel of land shall not be considered a separate dwelling site and the lot area, frontage and access requirements of the applicable zoning district shall not apply;
  - (5) In granting a special exception for temporary mobile home placement, the Planning Commission may impose additional reasonable conditions policies of the Compressive Plan. Guarantees and evidence of compliance with conditions may be required. (Ord. 83-4, passed 5-9-83)

## Chapter 4.10 Traffic Impact Study

### Sections:

**4.10.100 – Purpose**

**4.10.200 – When Required**

**4.10.300 – Traffic Impact Study Requirements**

**4.10.400 – Approval Criteria**

### **4.10.100 Purpose.**

The purpose of this section of the code is to implement Section 660-012-0045 (2) (e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This Chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.

### **4.10.100 General**

#### **4.10.110 Purpose and Authority**

**A.** The City of Weston is responsible for determining new street names, re-naming City-owned streets, and making logical address assignments and re-assignments as policy recommends within the City limits. Address assignments within the incorporated City are not the responsibility of the Postal Service but of the incorporated City.

**B.** The City has developed standards, procedures, and guidelines to meet this responsibility. Street naming and property addressing shall conform to the City of Weston Street Naming and Property Addressing Guidelines, a document published separately.

**C.** The City Recorder or Public Works Director shall make property address assignments and street naming assignments in accordance with the requirements of this ordinance. The City Council shall approve renaming of existing streets in accordance with the requirements of this ordinance.

#### **4.10.120 Responsibility**

**A.** The City Recorder, Public Works Director, or his/her designee, shall make property address assignments and street naming assignments utilizing, as appropriate, the City of Weston Street Naming and Property Addressing Guidelines.

**B.** The City Recorder is responsible for maintaining a log of address/street name conflicts. The Planning Commission shall review the street name log annually and shall make recommendations for correction to the Council, as needed.

**C.** The City is responsible for posting and maintaining public street signs reflecting the commonly used name for all City-owned streets unless the intersection abuts a County street or State highway.

**D.** The property owner (or homeowner's association, when applicable) is responsible for posting and maintaining the property number (address) and for posting and maintaining any private street signs.

#### **4.10.130 Application**

The City of Weston Street Naming and Property Addressing Guidelines shall apply to all property addresses and street naming assignments and reassignments within the Weston city limits. Regardless of original assignment, all properties annexed by the City of Weston are subject to this ordinance.

#### **4.10.200 When Required Procedures and Standards**

**A. When a Traffic Impact Study is Required.** A Traffic Impact Study shall be prepared and submitted to the City with the application, for review by the City and the Oregon Department of Transportation, when the following apply:

1. The development application involves one or more of the following actions:
  - a. A change in zoning or a plan amendment designation; or
  - b. An increase in floor area of an existing building, that requires Site Design Review in accordance with Section 4.2.500; or
  - c. A land division or a consolidation of property boundaries that creates a new street or changes access to an existing street; or
  - d. Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway; and
2. The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, crash history, Institute of Transportation Engineers Trip Generation manual; and information and studies provided by the local reviewing jurisdiction and/or ODOT:
  - a. An increase in site traffic volume generation by 150 Average Daily Trips (ADT) or more; or
  - b. An increase in ADT volume of a particular movement and from the State highway by 20% or more: or
  - c. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day: or
  - d. The location of the access driveway does not meet minimum site distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard: or
  - e. A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area.

#### **4.10.210 Purpose and Authority**

**A.** Names for new public and private streets shall be determined by the City Recorder or Public Works Director in accordance with the policies as set forth in the City of Weston Street Naming and Property Addressing Guidelines. Names shall be approved by the City Council by resolution.

**B.** Names for new streets shall be assigned by the City under the Type I procedure in conjunction with approval of construction drawings and Final Plat for a land division or by separate recorded street dedication document when there is no plat to be recorded. Such names shall be recorded only after prior written approval or signature by the City Recorder or Public Works Director and approval by Council.

#### **4.10.220 Renaming of Existing Public Streets or Assignment of a Name to a Public Street Platted without a Name**

- A. A public City street may be named or renamed following a Type II or Type III procedure.
- B. A proposed street re-naming may be initiated by either of the following:
  - 1. Resolution of the Council
  - 2. Resolution of the Planning Commission

#### **4.10.230 Property Numbering**

Property numbering and building identification shall be determined by the City Recorder or Public Works Director according to the policies as set forth in the City of Weston Street Naming and Property Addressing Guidelines.

#### **4.10.240 Posting of Site, Property, or Building Address**

- A. A property owner shall post the address as assigned by the City.
  - 1. For new construction, the property and/or individual building address shall be posted on a temporary sign of a size as determined by the Manager prior to or at the time of Building permit issuance.
  - 2. Such temporary posting shall be consistent with the provisions of Section 3.6.500, with the exception of time limit, which may be extended until final approval of the affected building.
  - 3. The permanent address shall be posted prior to occupancy of the building in a location and manner as approved by the City Recorder or Public Works Director. No occupancy shall be issued until the address is posted in accordance with the approved addressing plan.
- B. An assigned property and/or building number shall be posted on the building.
  - 1. If a number is painted with reflective paint on the curb, it shall be located no further than 3 feet away from the driveway apron.
  - 2. Posting of the address on a mailbox or curb shall be considered supplementary to the posting on a building wall and shall not be considered a complete posting of the property address.
- C. A corrected address shall be posted within 15 days either before or after the effective date on the Official Notification.

#### **4.10.310 Violation and Penalties**

- A. No property may be occupied, no Certificate of Occupancy may be knowingly issued, and no final inspection may be performed until the subject property has been properly assigned an address and the address has been correctly and clearly posted in accordance with this ordinance.
- B. A person violating a provision of this ordinance shall be subject to a fine of not more than \$500. A violation shall be considered a separate violation for each day it continues.
- C. Violations of this ordinance shall constitute a nuisance, which may be abated by appropriate Proceedings.

#### 4.10.300 Traffic Impact Study Requirements.

- A. **Preparation.** A Traffic Impact Study shall be prepared by a professional engineer in accordance with OAR 734-051-180.
- B. **Transportation Planning Rule Compliance.** See Section 4.7.600.

#### 4.10.400 Approval Criteria.

- A. **Criteria.** When a Traffic Impact Study is required, approval of the development proposal requires satisfaction of the following criteria:
1. The Traffic Impact Study was prepared by a professional engineer in accordance with OAR 734-05-180; and
  2. If the proposed development shall cause one or more of the effects in Section 4.10.200A.5. above, or other traffic hazard or negative impact to a transportation facility, the Traffic Impact Study includes mitigation measures satisfactory to the City Engineer, and ODOT when applicable; and
  3. The proposed site design and traffic and circulation design and facilities, for all transportation modes, including any mitigation measures, are designed to:
    - a. Have the least negative impact on all applicable transportation facilities; and
    - b. Accommodate and encourage non-motor vehicular modes of transportation to the extent practicable; and
    - c. Make the most efficient use of land and public facilities as practicable; and
    - d. Provide the most direct, safe and convenient routes practicable between on-site destinations, and between on-site and off-site destinations; and
    - e. Otherwise comply with applicable requirements of the City of Weston Development Code, including Chapters 3.1 Access and Circulation, 3.2. Landscaping, 3.3 Vehicle and Bicycle Parking, 3.4 Public Facilities Standards, (3.5 Surface Water Management,) and 3.8 Loading Standards.
- B. **Conditions of Approval.** The City may deny, approve, or approve the proposal with appropriate conditions.

