

ORDINANCE NO. 828

AN ORDINANCE RELATING TO LAND USE AND AMENDING THE SCAPPOOSE MUNICIPAL CODE TITLE 17 (LAND USE AND DEVELOPMENT)

WHEREAS, through the application of the Land Use and Development Code, the public and City staff have found that the Scappoose Municipal Code Title 17 could be improved by removing ambiguous and conflicting language, adding clarifying text, reorganizing multiple sections, and updating the Land Use and Development Code; and

WHEREAS, the proposed amendments would revise several chapters of the Land Use and Development Code for clarity and to streamline approval processes; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, the Planning Commission held a hearing on the application on June 13, 2013 and the City Council held a hearing on the application on July 1, 2013; and

WHEREAS, City Council finds that the amendments are in the public interest; now therefore,

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

Section 1. Title 17 of the Scappoose Municipal Code is hereby amended as indicated in Exhibit A, attached hereto and hereby incorporated by reference.

Section 2. In support of this ordinance, the City Council adopts the recommendation of the Scappoose Planning Commission and the findings of fact in the Staff Report dated June 26, 2013, attached hereto as Exhibit B.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

PASSED AND ADOPTED by the City Council this 15th day of July, 2013, and signed by the Mayor and City Recorder in authentication of its passage.

CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: July 1, 2013
Second Reading: July 15, 2013

Attest: 

Susan M. Reeves, MMC, City Recorder

Exhibit A of Ordinance No. 828 – Amendments to Scappoose Municipal Code Title 17

In the text below, only those sections with amendments are listed. Language to be omitted is ~~strikethrough~~, and proposed language additions are double underlined.

Chapter 17.22

AMENDMENTS TO THE TITLE, COMPREHENSIVE PLAN, AND MAPS

Sections:

17.22.010 Purpose.

17.22.020 Legislative amendments.

17.22.030 Quasi-judicial amendments.

17.22.040 Approval criteria.

17.22.050 Transportation planning rule compliance.

17.22.060 Record of amendments.

17.22.010 Purpose. The purpose of this chapter is to set forth the standards and purposes governing legislative and quasi-judicial amendments to this title, the acknowledged comprehensive plan, and the related maps. Amendments may be necessary from time to time to reflect changing community conditions, to correct mistakes, or to address changes in the law.

17.22.020 Legislative amendments. Legislative amendments shall be in accordance with the procedures and standards set forth in Chapter 17.160. A legislative application may be approved or denied.

17.22.030 Quasi--judicial amendments. Quasi-judicial amendments shall be in accordance with the procedures set forth in Chapter 17.162 and the following:

A. The commission shall make a recommendation to the Council to approve, approve with conditions or deny an application for a quasi-judicial comprehensive plan map amendment or zone changes, ~~based on the following:~~

- ~~1. The applicable comprehensive plan policies and map designation;~~
- ~~2. The change will not adversely affect the health, safety and welfare of the community;~~
- ~~3. The applicable standards of this title or other applicable implementing ordinances; and~~
- ~~4. Evidence of change in the neighborhood or community or a mistake or inconsistency with the comprehensive plan or zoning map as it relates to the subject property.~~

B. The council shall decide the applications on the record.

C. A quasi-judicial application may be approved, approved with conditions, or denied.

17.22.040 Approval criteria. Planning commission review and recommendation, and Council approval, of an ordinance amending the comprehensive plan, the zoning map, or this title shall be based on the following criteria:

A. If the proposal involves an amendment to the comprehensive plan, the amendment is consistent with the Statewide Planning Goals and relevant Oregon Revised Statutes and Administrative Rules;

B. The proposal is consistent with the comprehensive plan (although the comprehensive plan may be amended concurrently with proposed changes in zoning or this title), the standards of this title, or other applicable implementing ordinances;

C. The change will not adversely affect the health, safety, and welfare of the community;

D. The proposal either responds to changes in the community or it corrects a mistake or inconsistency in the comprehensive plan, the zoning map, or this title; and

E. The amendment conforms to Section 17.22.050.

17.22.050 Transportation planning rule compliance. Proposals to amend the comprehensive plan or zoning map shall be reviewed to determine whether they significantly affect a transportation facility pursuant to Oregon Administrative Rule (OAR) 660-012-0060 (Transportation Planning Rule - TPR). Where the City, in consultation with the applicable roadway authority, finds that a proposed amendment would have a significant effect on a transportation facility, the City shall work with the roadway authority and the applicant to modify the request or mitigate the impacts in accordance with the TPR and applicable law.

17.22.060 Record of amendments. The city recorder shall maintain a record of amendments to the text and maps of this title and the comprehensive plan in a format convenient for the use of the public and in accordance with Chapter 17.40.

Chapter 17.26

DEFINITIONS

“Accessory building” means a detached subordinate building, the use of which is clearly incidental to that of the existing principal building and is located on the same lot with the principal building. Accessory buildings may include garages, carports, sheds, greenhouses, storage buildings, and similar structures.

“Building” means any structure ~~greater than one hundred twenty square feet or ten feet in height,~~ having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, foods or materials of any kind or nature.

“Building official” means a person duly authorized by a municipality and the State of Oregon with responsibility for the administration and enforcement of the State Building Code in the municipality, or his duly authorized representative. ~~(Oregon Revised Statutes 456.806(1)).~~

“Building type” means:

- A. 1. Nonresidential: buildings not designed for use as human living quarters.
 - a. Detached. A single main building, freestanding and structurally separated from other buildings.
 - b. Attached. Two or more main buildings placed side by side so that some structural parts are touching one another, located on a lot or development site or portion thereof.
2. Residential.

a. Single-family detached dwelling: any detached structure designed for occupancy by one family. One dwelling unit is a freestanding and structurally separated from any other dwelling unit or buildings, located on a lot or planned unit development site.

b. Duplex or two-family dwelling: any building designed to be occupied by two families living independently of each other, and containing two kitchens. The two dwelling units placed so that some structural parts are in common and are located on a single lot or planned unit development site.

c. Multifamily dwelling: any building or portion thereof designed or used for occupancy by three or more families living independently of each other and containing independent kitchens. A structure containing at least three dwelling units in any vertical or horizontal arrangement placed so that some structural parts are in common and are located on a single lot or planned unit development site.

d. Accessory dwelling unit: a self-contained secondary unit ~~that does not contain a kitchen and is~~ with a separate entrance and kitchen used in conjunction with an existing single-family detached dwelling.

“Day care home” means a day care facility located in a single-family residence that is certified by the state of Oregon to care for no more than ~~twelve~~ sixteen children at any given time.

“Flag lot” means a lot located behind a ~~frontage~~ another lot, plus a strip out to the street for an access drive. A flag lot results from the subdivision or partitioning of a lot or parcel which is more than twice as large as the minimum allowed in the underlying zone, but has insufficient frontage to allow two dwellings to front along a public street.

“Height” means the vertical distance of a structure measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the structure. Projections such as chimneys, spires, domes, elevator shaft housings, towers excluding TV dish receivers, aerials, flag poles and other similar objects not used for human occupancy, are not subject to the building height limitations of this title if located outside the ~~airport overlay zone~~ Public Use Airport Safety and Compatibility Overlay Zone.

“Lot” means a unit of land that is created by a subdivision or partition of land ~~and is owned by or under the lawful control and in the lawful possession of one ownership.~~ “Lot,” “parcel,” and “property” may be used interchangeably in this title to refer to a separate property regardless of its derivation.

“Lot line” means the property line bounding a lot.

Lot Line, Front. “Front lot line” means in the case of an interior lot, a property line which abuts the street; in the case of a corner, through lot or flag lot, the ~~shortest~~ shorter of the two property lines which abut the street or access way or from which primary vehicular access to the property is gained.

Lot Line, Rear. “Rear lot line” means the property line most distant from and generally opposite the front property line.

Lot Line, Side. “Side lot line” means any lot boundary not a front or rear property line.

“Lot of record” means a plot of land that was not created through an approved subdivision or partition lawfully created lot which existed but which was created by deed or other instrument recorded prior to 4/4/83 (the effective date of this title).

Lot, Through. ~~“Through lot” means an interior lot of record which has both frontages frontage on two parallel or approximately parallel streets.~~

~~“Owner” means any person, agent, firm or corporation having a legal or equitable interest in the property, or, when there is a recorded land sales contract in place, the purchaser of the land. Owner, Contract Purchaser Deemed. A person or persons purchasing property under contract, for the purposes of this title shall be deemed to be the owner or owners of the property covered by the contract. The planning commission or the council may require satisfactory evidence of such contract of purchase.~~

~~“Road,” or See “street,” means a public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.~~

~~Street, Private. “Private street” means an access way which is under private ownership and provides access to no more than three dwelling units or primary structures.~~

~~“Yard” means an open space unobstructed from the ground upward except as otherwise provided in this title.~~

~~1. Yard, Back. “Back yard” means a yard between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the foundation of a building.~~

~~2. Yard, Corner Side. “Corner side yard” means a yard extending from the front yard to the rear lot line on the street side of a corner lot.~~

~~3. Yard, Front. “Front yard” means a yard between the side lot lines and measured horizontally at right angles to the front lot line from the front lot line to the nearest point of the foundation of a building.~~

~~2. “Rear yard” means a yard between side lot lines, measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of the building.~~

~~4. Yard, Side. “Side yard” means a yard between the front and rear yards, measured horizontally and at right angles to the side lot lines from the side lot line to the nearest point of the foundation of a building.~~

~~4. “Street side yard” means a side yard on the street side of a corner lot.~~

Chapter 17.44 R-1 LOW DENSITY RESIDENTIAL

17.44.050 Dimensional requirements.

B. The minimum lot width shall not be less than fifty feet, except the minimum lot width at front property line on the arc of an approved full cul-de-sac shall not be less than thirty feet. Flag lots shall provide a minimum of twenty-five feet of frontage along a public right-of-way.

C. The minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of twenty feet;
2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;
3. Side yard setbacks shall total a minimum of fifteen feet with one setback not less than ten feet, which shall be on the street side for corner lots.~~any street side setback no less than ten feet and one internal side setback not less than ten feet~~ The side setbacks for an accessory building located behind a residence shall be five feet each;
4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for an accessory building shall be five feet;

Chapter 17.50

R-4 MODERATE DENSITY RESIDENTIAL

17.50.050 Dimensional requirements.

B. The minimum lot width shall be fifty feet, except the minimum lot width front property line on the arc of an approved full cul-de-sac shall not be less than thirty feet. Flag lots shall provide a minimum of twenty-five feet of frontage along a public right-of-way.

C. The minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of fifteen feet;
2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;
3. Side yard setbacks shall total a minimum of fifteen feet with one setback not less than ten feet, which shall be on the street side for corner lots.~~any street side setback no less than ten feet. Internal lots shall have one side setback no less than ten feet~~ The side setbacks for an accessory building located behind a residence shall be five feet;
4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for an accessory building shall be five feet.

Chapter 17.54

MH MANUFACTURED HOUSING

17.54.050 Dimensional requirements.

B. The minimum lot width shall be fifty feet, except the minimum lot width front property line on the arc of an approved full cul-de-sac shall not be less than thirty feet. Flag lots shall provide a minimum of twenty-five feet of frontage along a public right-of-way.

C. The minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of fifteen feet;
2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;
3. Side yard setbacks shall total a minimum of fifteen feet with one setback not less than ten feet, which shall be on the street side for corner lots.~~any street side setback no less than ten~~

~~feet. Internal lots shall have one side setback not less than ten feet~~ The side setbacks for an accessory building located behind a residence shall be five feet;

4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for an accessory building shall be five feet.

Chapter 17.56

A-1 HIGH DENSITY RESIDENTIAL

17.56.050 Dimensional requirements.

B. The minimum lot width is fifty feet. Flag lots shall provide a minimum of twenty-five feet of frontage along a public right-of-way.

C. The minimum setback requirements are as follows:

1. The front yard setback shall be a minimum of fifteen feet;

2. The front of garages or carports shall be located a minimum of twenty feet from the property line where access occurs;

3. Side yard setbacks shall total a minimum of fifteen feet with one setback not less than ten feet, which shall be on the street side for corner lots, any street side setback no less than ten feet and internal side setback no less than five feet The side setbacks for an accessory building located behind a residence shall be five feet;

4. The rear yard setback shall be a minimum of twenty feet, except the minimum rear yard setback for accessory buildings shall be five feet.

Chapter 17.62

C GENERAL COMMERCIAL

17.62.030 Permitted uses. In the general commercial zone, activities shall be conducted within an enclosed structure or building and are subject to Chapter 17.120, Site Development Review. Only the following uses and their accessory uses are permitted outright:

[...]

X. ~~Public safety and support facilities~~ and public support facilities;

Chapter 17.77

PL-I PUBLIC LANDS--INSTITUTIONAL

17.77.030 Permitted uses. In the PL-I zone, only the following uses and their accessory uses are permitted outright, and are subject to the provisions of Chapter 17.120, Site Development Review:

A. Public schools, and their accompanying sports facilities and fields;

B. Government office buildings, centers, stations, training facilities and similar structures utilized for local, state, regional and federal agencies including, but not limited to, a city hall, courthouse, library, post office, police station, fire station, ranger station, correctional facility, armory, museum or health facility;

C. Facilities for public assembly including, but not limited to, public plaza or square;

D. Public cemetery, crematory, mausoleum or mortuary;

E. Public support facilities.

Chapter 17.78
PL-U PUBLIC LANDS--UTILITY

17.78.030 Permitted uses. In the PL-U zone, only the following uses and their accessory uses are permitted outright, and are subject to the provisions of Chapter 17.120, Site Development Review:

- A. Public water system structures, including, but not limited to treatment plants, storage reservoirs, pump stations or other major facilities associated with the supply or distribution of water;
- B. Public sewerage or drainage way system structures, including, but not limited to, pump stations, or sewage or storm water treatment plants;
- C. Public work shops, road shops, yards, and equipment and material storage yards;
- D. Public support facilities.

Chapter 17.79
PL-R PUBLIC LANDS--RECREATION

17.79.030 Permitted uses. In the PL-R zone, only the following uses and their accessory uses are permitted outright, and are subject to the provisions of Chapter 17.120, Site Development Review:

- A. Public recreation facilities including neighborhood and community parks, park plazas, multi-use trails with associated trail access points and trailheads, campgrounds and other similar uses;
- B. Public support facilities.

Chapter 17.81
PLANNED DEVELOPMENT OVERLAY (PD)

17.81.080 Tentative plan.

B. Procedures.

4. Tentative Plan Expiration Date. Within one year following the effective date of approval of a tentative plan, the general plan and program shall be submitted, and shall incorporate any modification or condition required by approval of the tentative plan. The ~~planning services manager~~planner may, upon written request by the applicant, grant an extension of the expiration date of up to six months, upon a written finding that the facts upon which the approval was based have not changed to an extent sufficient to warrant re-filing of the tentative plan, and after finding that no other development approval would be affected.

17.81.090 Final plan. Following approval of the general plan by the city council, the applicant shall prepare a final plan which shall be submitted to the ~~planning services manager~~planner to check for compliance with the approved general plan.

A. If the final plan is found to be in compliance, it shall be so certified by the ~~planning services manager~~planner. The final plat with all documents relating to dedications, improvements, agreements, restrictions and associations which shall constitute the final plan shall be recorded at Columbia County.

B. Land division regulations shall be met if the property is to be divided or streets are to be dedicated.

C. All public site dedications, development rights to open spaces or other dedications for the entire site or approved staged portion shall be recorded prior to the issuance of any building permit.

D. Final copies of all approved articles governing operation and maintenance shall be placed on file with the planning division prior to the issuance of any building permit.

E. An approved PD shall be identified on the zoning districts map in addition to the existing underlying district. For example, if a PD is approved in an area zoned R-4, the symbol identifying the PD area shall be shown as R-4PD on the zoning map.

17.81.100 Changes and modifications

B. Minor Changes.

1. Minor changes in the general plan may be approved by the ~~planning services manager~~planner, provided that such changes:

Chapter 17.84

SENSITIVE LANDS--FLOODING

17.84.015 Definitions.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of its market value before the damage occurred.

“Substantial improvement” means any repair, rehabilitation, addition, reconstruction or other improvement of a structure, that includes the cumulative value of all building permits, and the cost of which equals or exceeds ~~twenty-five~~fifty percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

17.84.140 Standards. In Zone A, Zone AE, and Zone AO, the following standards are required:

E. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to one foot or more above base flood elevation. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall either be certified by a registered professional engineer or shall meet or exceed the following minimum criteria:

1. A minimum of two openings with a net area of not less than ~~one two~~one square ~~inch~~inches for every square foot of enclosed area subject to flooding shall be provided;
2. The bottom of all openings shall be no higher than one foot above grade;

3. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters; and
4. Screening, fencing or otherwise obstructing open areas between pillars on pile or pillar foundations shall be prohibited.

17.84.170 Regulations pertaining to fill. A. No filling operations of any kind shall be allowed in the floodway.

B. No fill in floodway fringe areas shall be allowed unless the net effect of excavation and filling operations (on-site) constitutes no positive change in fill volume, as certified by a registered professional engineer. ~~An application for fill in the floodway fringe shall require implementation of special permit requirements of the development permit (see Section 17.84.200).~~

C. Fill shall be allowed under city fill permit procedures in shaded Zone X and shall not be regulated by this Chapter.

D. No structure shall be built nor any excavation grading, nor filling shall be done within the one hundred-year flood plain without first meeting the requirements of this chapter regulating construction, alteration, repair and moving of buildings.

17.84.200 Special regulations for development in the Scappoose Creek floodway fringe (Zones A, AE, and AO). A. Proposed development or substantial improvement in the Scappoose Creek floodway fringe shall conform with applicable general and specific standards in Section 17.84.140, and special standards in Zone AO (Sections 17.84.190 and 17.84.200);

~~B. In addition to the application requirements for the specific proposal, the development application shall contain a registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred-year event as it exists on the current FIRM Flood Insurance Rate Map or create additions that would be detrimental to adjacent or neighboring properties.~~

17.84.250 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. For applications proposing encroachments on the floodway, ~~a~~ registered professional engineer's certification that the proposed project will not cause a rise in base flood elevation during a one hundred-year event as it exists on the current FIRM Flood Insurance Rate Map or create additions that would be detrimental to adjacent or neighboring properties;

Chapter 17.92 ACCESSORY DWELLING UNITS

17.92.020 Development standards. In addition to other standards of this code, ADU's shall comply with the following development standards:

H. A minimum six-foot hedge or site-obscuring fence may be required by the ~~planning services manager~~ planner to buffer a detached ADU from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas of adjacent properties.

Chapter 17.93 WIRELESS COMMUNICATIONS FACILITIES

17.93.050 Design standards. A. Where permitted, antenna support structures shall be constructed and installed as far away from existing buildings on adjoining land as is reasonably possible, and in no event within any required yard or set-back area or nearer than twenty-five feet to any publicly held land, residential structure or accessory building on adjoining land, or railroad right-of-way.

B. The area around the base of antenna support structures (including any equipment enclosure) is to be fenced, with a sight-obscuring fence a minimum of six feet in height. The fenced area is to be surrounded by evergreen shrubs (or a similar type of evergreen landscaping), placed within a landscaped strip a minimum of ten feet in width. In the event that placement of a proposed antenna support structure and/or equipment enclosure is located in a unique area within a subject site that would not benefit from the addition of landscaped screening, the ~~planning services manager~~planner may require that the applicant submit a landscape plan illustrating the addition of a proportional landscape area that will enhance the subject site either at a building perimeter, parking lot or street frontage, adjacent to or within the subject site. Typically, three strand barbed wire is proposed above any sight-obscuring fence or barrier. Although barbed wire is permitted, no concertino (razor) wire shall be installed atop any fence or barrier.

C. All antenna support structures, antenna and antenna arrays, and associated facilities shall be finished in a nonreflective neutral color.

D. No antenna support structure shall be permitted to be constructed, installed or erected within one thousand feet of any other antenna support structure that is owned, operated or occupied by the same wireless communications service. Exceptions to this standard may be permitted by the ~~planning services manager~~planner if, after reviewing evidence submitted by the service provider, he finds: (1) that a closer spacing is required in order to provide adequate wireless communication service to the subject area; and (2) the service provider has exhausted all reasonable means of co-locating on other antenna support structures that may be located within the proposed service area. An appeal of the ~~planning services manager~~planner's decision may be made to the planning commission provided such appeal is filed with the public works department within fifteen days of the manager's decision. Appropriate fees, as set by city council resolution, shall accompany the appeal.

17.93.060 Co-location of antennas and antenna support structures.

A. Co-location shall be required unless demonstrated to be infeasible to the satisfaction of the ~~planning services manager~~planner or planning commission. Evidence submitted to demonstrate such shall consist of the following:

1. That no existing antenna support structures or alternative antenna support structures are located within the geographic area which meet the applicant's engineering requirements; or
2. That existing antenna support structures and alternative antenna support structures are not of sufficient height to meet applicant's engineering requirements; or
3. That existing antenna support structures and alternative antenna support structures do not have sufficient structural strength to support applicant's proposed antennas or antenna arrays and related equipment; or
4. That an applicant's proposed antennas or antenna arrays would cause detrimental electromagnetic interference with nearby antennas or antenna arrays, or vice-versa; or
5. That there are other limiting factors, such as inadequate space for a second equipment shelter, that render existing antenna support structures or alternative antenna support structures unsuitable.

B. All wireless communications service providers shall cooperate with other wireless communications service providers in co-locating additional antennas or antenna arrays on antenna support structures and/or alternative antenna support structures. The following co-location requirements shall apply:

1. All antenna support structures shall be designed so as to not preclude co-location;
2. In the event co-location is represented to be infeasible, the city may retain a technical expert in the field of telecommunications engineering to verify if colocation at the site is not feasible, or is feasible given the design configuration most accommodating to colocation. The cost for such a technical expert will be at the expense of the applicant;
3. A wireless communications service provider shall exercise good faith in co-locating with other providers and sharing antenna sites, provided that such shared use does not technically impair their ability to provide wireless communications service, and provided that a provider is not utilizing co-location requirements as unfair economic advantage over providers seeking to locate within the city of Scappoose. Such good faith shall include sharing of technical information to evaluate the feasibility of co-location. In the event that a dispute arises as to whether a provider has exercised good faith in accommodating other providers, the city may require a third party technical study at the expense of either or both of such providers;
4. The city of Scappoose may deny a building or conditional use permit to the applicant for a wireless facility who has not demonstrated a good faith effort to colocate on an existing wireless communication facility. Determination of "good faith effort" shall be the responsibility of the ~~planning services manager~~planner.

17.93.080 Antenna support structures--Removal when no longer used. Any antenna support structure that has had no antenna or antenna array mounted upon it for a period of one hundred eighty successive days, or if the antenna or antenna array mounted thereon are not operated for a period of one hundred eighty successive days, shall be considered abandoned, and the owner thereof shall remove such structure and any accompanying equipment enclosure within ninety days from the date of written notice from the City. During such ninety days, the owner may apply, and, for good reason, be granted an extension of time on such terms as the ~~planning services manager~~planner or building official shall determine. If such structure and equipment enclosure are not so removed, the city may seek and obtain a court order directing such removal and imposing a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal.

Chapter 17.96

LOTS--EXCEPTIONS AND ADDITIONAL SETBACKS

17.96.080 Projections into required yards. A. Cornices, eaves, belt courses, sills, canopies or similar architectural features may extend or project into a required yard not more than thirty-six inches provided the width of such yard is not reduced to less than three feet.

B. Fireplace chimneys may project into a required yard not more than three feet provided the width of such yard is not reduced to less than three feet.

C. Open porches, or decks or balconies not more than thirty-six inches in height ~~and not covered by a roof or canopy,~~ may extend or project into a required rear or side yard provided such natural yard area is not reduced to less than three five feet, ~~and the deck is screened from~~

~~abutting properties and~~ Open porches or decks not covered by a roof or canopy may extend into a required front yard not more than five feet.

Chapter 17.100

LANDSCAPING, SCREENING AND FENCING

17.100.100 Screening--Special provisions. A. if four or more off-street parking spaces are required under this title, off-street parking adjacent to a public street shall provide a minimum of four square feet of landscaping for each lineal foot of street frontage. Such landscaping shall consist of landscaped berms or shrubbery at least two feet in height, which shall be dispersed adjacent to the street as much as practical. Additionally, one tree which shall provide a canopy of at least three hundred square feet upon maturity shall be provided for each fifty lineal feet of street frontage or fraction thereof. Landscaped parking areas may include special design features which effectively screen the parking lot areas from view. These design features may include the use of landscaped berms, decorative walls, and raised planters. Landscape planters may be used to define or screen the appearance of off-street parking areas from the public right-of-way. Materials to be installed shall achieve a balance between low lying and vertical shrubbery and trees,

~~B. Screening of loading~~ Loading areas and outside storage ~~is required according to specification in Section 17.100.090~~ shall be screened from public view from public streets and adjacent properties by means of sight-obscuring landscaping, fences, walls or other means. The screen shall have a minimum height of six feet and the planning commission may require a taller screen depending on the location and height of the loading or storage area.

C. Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area, shall be screened from view by placement of a solid wood fence, masonry wall or evergreen hedge between five and eight feet in height. All refuse materials shall be contained within the screened area.

Chapter 17.106

OFF-STREET PARKING AND LOADING REQUIREMENTS

17.106.030 Minimum off-street parking requirements.

C. Commercial Uses.

16. Medical and dental 1 space per ~~400~~ 250 square feet of gross floor area

Chapter 17.120

SITE DEVELOPMENT REVIEW

17.120.050 Phased development. A. The planning commission ~~shall~~ may approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.

B. ~~All of the~~ The following criteria shall be satisfied in order to approve a phased site development review proposal:

1. All underground utilities ~~are constructed during the initial phase of the development and the remaining public facilities are~~ shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

2. The development and occupancy of any phase ~~is~~ shall not be dependent on the use of temporary public facilities. A temporary public facility is ~~any~~ an interim facility not constructed to the applicable city or district standard; and

3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required by an approved development proposal.

17.120.070 Major modification to approved plans or existing development. A. An applicant may request approval of a modification to an approved plan or existing development by:

1. Providing the planner with a reproducible copy of the proposed modified site development plan; and

2. A narrative which indicates the rationale for the proposed modification addressing the changes listed in subsection B of this section.

B. The planner shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten percent or more in dwelling unit density, or lot coverage for residential development;

2. A change in the ratio or number of different types of dwelling units;

3. A change that requires additional on-site parking in accordance with Chapter 17.106;

4. A change in the use as defined by the Uniform Building Code;

5. An increase in the height of the building(s) by more than twenty percent;

6. A change in the type and location of access ways and parking areas where off-site traffic would be affected;

7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed ~~twenty~~ fifty vehicles per day;

8. An increase in the floor area proposed for a nonresidential use by more than ten percent;

9. A reduction in the area reserved for common open space and/or usable open space which reduces the open space area;

10. A reduction of project amenities where specified in the site plan:

a. Recreational facilities,

b. Screening, and/or

c. Landscaping provisions;

11. A change in land use; and

12. A modification to the conditions imposed at the time of site development review approval which are not the subject of subdivisions (B) (1) through (11) of this subsection.

C. Upon determining that the proposed modification to the site development plan is a major modification, the applicant shall submit a new site development review application and receive planning commission approval prior to any issuance of building permits.

17.120.090 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the development permit proposal and necessary data or narrative which explains how the proposal conforms to the standards; and
2. Site development plans drawn to a standard engineering scale; ;
- ~~3. A list of the names and addresses of all persons who are property owners of record within two hundred feet of the site.~~

Chapter 17.130
CONDITIONAL USE

17.130.040 Phased development or existing development. A. The planning commission ~~shall~~ may approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for conditional use review.

B. The following criteria shall be satisfied in order to approve ~~for approving~~ a phased conditional use review proposal ~~is that all of the following are satisfied:~~

1. All underground utilities ~~The public facilities shall be~~ shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. A temporary public facility is ~~any~~ an interim facility not constructed to the applicable city or district standard; and

3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required by an approved development proposal.

17.130.050 Approval standards and conditions.

B. An enlargement or alteration of an existing conditional use shall be subject to the ~~development review provisions set forth in Chapter 17.120~~ approval standards of this Chapter.

17.130.060 Major modification. A. An applicant may request approval of modification to an approved plan by:

1. Providing the planner a reproducible copy of the proposed modified conditional use plan; and
2. A narrative addressing the proposed changes as listed in subsection B of this section.

B. The planner shall determine that a major modification(s) will result if one or more of the following changes are proposed:

1. An increase of ten percent or more in dwelling unit density, or lot coverage for residential development;
2. A change in the ratio or number of different types of dwelling units;
3. A change that requires additional on-site parking in accordance with Chapter 17.106;
4. A change in the use as defined by the Uniform Building Code;
5. An increase in the height of the building(s) by more than twenty percent;
6. A change in the type and location of access ways and parking areas where off-site traffic would be affected;
7. An increase in vehicular traffic to and from the site and the increase can be expected to exceed ~~twenty~~ fifty vehicles per day;

8. An increase in the floor area proposed for a nonresidential use by more than ten percent;
 9. A reduction in the area reserved for common open space and/or usable open space;
 10. A reduction of project amenities where specified in the site plan:
 - a. Recreational facilities,
 - b. Screening, and/or
 - c. Landscaping provisions,
 11. A change in land use, and
 12. A modification to the conditions imposed at the time of conditional use approval which are not the subject of subdivisions (B) (1) through (11) of this subsection.
- C. Upon the planner determining that the proposed modification to the conditional use plan is a major modification, the applicant shall submit a new application for conditional use approval.

17.130.080 Application submission requirements. A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Copies of the development permit proposal and necessary data or narrative which explains how the proposal conforms to the standards; and
2. Site development plans drawn to a standard engineering scale; and
- ~~3. A list of the names and addresses of all persons who are property owners of record within two hundred feet of the site; and~~

Chapter 17.134 VARIANCE

17.134.010 Purpose. The purpose of this chapter is to provide standards for the granting of variances from the applicable zoning requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of the land, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship, except that no use variances shall be granted.

17.134.020 Administration and approval process.

A. The applicant for a variance shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Minor Variance.

~~1.~~ 1. The planner may approve, approve with conditions, or deny any application for a minor variance in accordance with Chapter 17.162. The planner shall apply the standards set forth in Section 17.134.030, when reviewing an application for a variance. Minor variances are small changes from the title requirements and which will have a minor impact on adjacent property owners. Specifically, minor variances include:

~~a~~ 1. Deviation from any minimum property development standard or equal area by not more than ten percent;

~~b~~ 2. Expansion of a conditional or nonconforming use by not more than fifteen percent of the gross building volume.

~~2. Upon receipt of the application form and payment of fifty percent of the usual application fee for a variance, the planner shall render a decision within ten working days, or the decision may be deferred to the planning commission. Additional information may be requested~~

to arrive at a decision; and, if so, the decision shall be rendered within ten working days following the submission of such information.

~~3. Should a minor variance be granted by administrative action, a notice of the variance decision and reasoning shall be mailed to all property owners abutting the subject property, exclusive of any public rights of way, soliciting comments or objections. If any written objections to the proposed variance are received within ten working days of the mailing, a public hearing shall be required in accordance with Chapter 17.162. If no objections to the variance are received within the ten-day period, the variance shall become effective at the end of that period.~~

C. The planning commission shall approve, approve with conditions, or deny any application for a major variance in accordance with Chapter 17.162. The planning commission shall apply the standards set forth in Section 17.134.030 when reviewing an application for a variance. Specifically, a major variance is any variance not defined as a minor variance.

17.134.030 Criteria for granting a variance. The planning commission or planner shall approve, approve with conditions, or deny an application for a variance based on finding that the following criteria are satisfied. Minor variances shall satisfy criteria (A) through (C) and major variances shall satisfy criteria (A) through (E):

A. The proposed variance will not be materially detrimental to the purposes of this title, be in conflict with the policies of the comprehensive plan, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity;

~~B. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of the lot size, shape or topography or other circumstances over which the applicant has no control;~~

B. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

~~C.~~ Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms, or parks will not be adversely affected any more than would occur if the development were located as specified in the title; ~~and~~

D. Exceptional or extraordinary conditions apply to the property that do not apply generally to other properties in the same zone or vicinity, which conditions are a result of the lot size, shape or topography or other circumstances over which the applicant has no control; and

E. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

Chapter 17.141 HERITAGE TREES

17.141.010 Purpose. The city is now benefitted by trees which because of their age, size, type, historical association or horticultural value are of special importance to the city. The purpose of this chapter is to provide an opportunity for public and private entities to identify and protect these trees.

17.141.020 Heritage tree designation. ~~The urban forestry advisory board shall prepare or cause to be prepared as soon as possible after passage of this ordinance and annually thereafter, a~~

~~list of trees within the city, which~~ Trees may be designated as “heritage trees” because of their age, size, type, historical association or horticultural value, ~~are of special importance to the city.~~ No tree standing on private property shall be designated a “heritage tree” without the consent of the property owner. The consent of the property owner shall bind all successors, heirs and assigns. ~~Upon recommendation of the urban forestry advisory board and~~ consent of the property owner, the city manager may designate such a tree a “heritage tree”, provided that the tree’s health, aerial space and open ground area for the root system have been certified as sufficient by ~~a qualified arboriculturist~~ Certified Arborist.

17.141.030 Removal of heritage tree designation. ~~Upon recommendation of the urban forestry advisory board, the~~ The city manager may remove the designation of any tree as a heritage tree if ~~the city manager urban forestry advisory board~~ finds that such designation is no longer appropriate.

17.141.040 Maintenance of heritage trees. When a tree is designated as a heritage tree, a plaque so signifying may be placed near the tree. The public works department shall maintain all heritage trees located on city property or on public rights of way within the city. It shall be the duty of every owner of property upon which a heritage tree is standing to maintain that tree. ~~The city urban forestry advisory board~~ may give advice and assistance to the property owners regarding proper maintenance of heritage trees.

17.141.050 Removal of ~~hazardous~~ heritage trees. For purposes of tree removal, all heritage trees, whether located on public or private land, shall be subject to the limitations and requirements of the Scappoose Municipal Code 17.140, Public land tree removal.

Chapter 17.150

LAND DIVISION--SUBDIVISION

17.150.020 General provisions.

H. All subdivision proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points. A circulation plan is conceptual in that its adoption does not establish a precise alignment. An applicant for a subdivision is required to submit a circulation plan unless the applicant demonstrates to the ~~planning services manager~~ planner one of the following:

17.150.030 Administration and approval process. A. Subdivision proposals shall be processed according to the procedures in Chapter 17.164.

B. Final action, including the resolution of all appeals and review on the land division application, shall be taken within one hundred twenty days after the application is deemed complete.

C. The planner shall:

1. Schedule a limited land use decision pursuant to Chapter 17.164 to be held by the planning commission within sixty days from the time the complete application is filed and shall provide a notice of the hearing;

2. Furnish ~~one copy~~ copies of the proposed tentative plan to ~~affected city staff~~ the community development director, the city engineer, and the police chief;

3. Furnish ~~one copy~~ copies of the tentative plan and supplemental material to: affected government agencies or utilities in accordance with Chapter 17.164; and

~~_____ a. The Columbia County land development services, if the proposed subdivision is adjacent to a county road and access to the county road is desired by the applicant (this agency will be given at least five days to review the plan, suggest revisions, and return the plans to the city);~~

~~_____ b. The Oregon Department of Transportation (ODOT), if the proposed subdivision is adjacent to a state highway and access to the state highway is desired by the applicant (this agency will be given at least five days to review the plan, suggest revisions, and return the plans to the city);~~

~~_____ c. Scappoose rural fire district;~~

~~_____ d. The Port of St. Helens, if applicable;~~

~~_____ e. The Scappoose school district;~~

~~_____ f. The Columbia County soil conservation district, if applicable;~~

~~_____ g. Scappoose drainage district, if applicable;~~

~~_____ h. Portland & Western Railroad, if applicable;~~

~~_____ i. ODOT Rail Division, if applicable;~~

~~_____ j. Any other affected agencies as identified by the planner; and~~

4. Incorporate staff recommendations into a report to the planning commission.

D. The planner shall mail notice of the tentative plan proposal to persons who are entitled to notice.

E. The planning commission shall approve, approve with conditions, or deny any application for tentative plan. The planning commission shall apply the standards set forth in Section 17.150.060 when reviewing an application for a subdivision.

F. An applicant may request approval of a modification to an approved tentative plan prior to final plat approval by:

1. Submitting an application for modification of approval and providing the ~~planning services manager~~ planner with a reproducible copy of a revised tentative plan or illustration of the proposed modification accompanied by a written narrative detailing the rationale for the proposed modification;

2. The ~~planning services manager~~ planner shall determine whether the proposed change is a major or minor modification. Generally, any modification that alters the tentative plan by more than ten percent in regard to the proposed number of lots, or makes significant language changes within conditions of approval, shall be considered a major modification, and is subject to the administration and approval process detailed within this section; the approval authority shall be the planning commission. A minor modification shall be approved, approved with conditions or denied following the ~~planning services manager~~ planner's review based on findings that:

a. No title provisions will be violated; and

b. The modification is not a major modification.

17.150.050 Phased development. A. The planning commission may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than two years without submitting a final plat for each completed phase.

In no case ~~will~~ shall the total time for construction of the development exceed ~~seven~~ five years. The planning commission may require a new application for a tentative plan for subsequent phases following the final plat approval.

B. The following criteria shall be satisfied in order to approve ~~for approving~~ a phased subdivision proposal ~~are~~:

1. All underground utilities ~~The public facilities~~ shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. ~~For purposes of this subsection, a~~ temporary public facility is an interim facility not constructed to the applicable city or district standard; and

~~3. Construction of all underground utilities for the development shall be included in the initial phase of the development;~~

43. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as a part of the approval of the tentative plan.

C. The application for phased development approval shall be heard concurrently with the tentative plan application and the decision may be appealed in the same manner as the tentative plan.

17.150.070 Application submission requirements-- Tentative plan.

A. All applications shall be made on forms provided by the planner and shall be accompanied by:

1. Seven copies of the tentative plan map and required data or narrative. A reproducible copy of the tentative plan and required data or narrative may be substituted for the seven required copies; and

~~2. A list of the names and addresses of all persons who are property owners of record within one hundred feet of the site; and~~

~~3~~2. The required fee.

B. The tentative plan map and data or narrative shall include the following:

20. Unless specifically exempted by the ~~planning services manager~~ planner, a neighborhood circulation plan that conceptualizes future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points.

Chapter 17.152

LAND DIVISION--MAJOR AND MINOR LAND PARTITIONS AND PROPERTY LINE ADJUSTMENT

17.152.030 General provisions.

G. All land partition proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to parcels within five hundred feet of the subject site.

Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths and destination points. A circulation plan is

conceptual in that its adoption does not establish a precise alignment. An applicant for a partition is required to submit a circulation plan unless the applicant demonstrates to the ~~planning services manager~~planner one of the following:

17.152.040 Administration and approval process. A. The applicant of a partition or property line adjustment proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.

B. Any application for a major or minor land partition or property line adjustment shall be in conformity with all state regulations set forth in ORS Chapter 92, Subdivision and Partitions.

C. No lot or parcel to be created through the partitioning process shall be sold until approval and filing of the final partition plat.

D. Upon receipt of a completed application, the planner shall furnish copies of the proposed tentative plan to affected city departments and affected government agencies or utilities in accordance with Chapter 17.164. ~~Partitions shall be processed according to Chapter 17.164. The approval authority for a major partition shall be the planning commission.~~

E. Upon receipt of a completed application for a major partition, the planner shall:

1. Schedule a limited land use decision pursuant to Chapter 17.164, to be held by the planning commission within sixty days from the time the complete application is filed and shall provide a notice of the hearing;

~~2. Furnish one copy of the proposed tentative plan to the public works director and the police chief;~~

~~3. Furnish one copy of the tentative plan and supplemental material to:~~

~~_____ a. The Columbia County land development services, if the proposed partition is adjacent to the UGB or has county road access,~~

~~_____ b. The Oregon Department of Transportation (ODOT), if the proposed partition is adjacent to a state highway and access to the state highway is desired by the applicant (these agencies will be given at least five days to review the plan, suggest revisions, and return the plans to the city);~~

~~_____ c. The Scappoose rural fire district,~~

~~_____ d. Any other affected agencies as determined by the planner;~~

~~42.~~ Incorporate all staff recommendations into a staff report to the planning commission;

~~53.~~ The planning commission shall approve, approve with conditions, or deny any application for tentative plan. The planning commission shall apply the standards set forth in Section 17.152.070 when reviewing an application for a partition.

F. Upon receipt of a completed application for a minor partition partition or property line adjustment, the planner shall process according to Chapter 17.164 and the planner shall be the approval authority.

G. An applicant may request approval of a modification to an approved preliminary partition plan prior to final partition plat approval by:

1. Submitting an application for modification of approval and providing the ~~planning services manager~~planner with a reproducible copy of a revised preliminary plan or illustration of the proposed modification accompanied by a written narrative detailing the rationale for the proposed modification;

2. The ~~planning services manager~~planner shall determine whether the proposed change is a major or minor modification. Generally, any modification that alters the preliminary plan by making significant language changes within conditions of approval, shall be considered a major

modification, and is subject to the administration and approval process detailed within this section, the approval authority shall be the planning commission. A minor modification shall be approved, approved with conditions or denied following the ~~planning services manager~~planner's review based on findings that:

- a. No title provisions will be violated;
- b. The modification is not a major modification.

17.152.060 Phased development. A. The planning commission may approve a time schedule for developing a partition in phases, but in no case shall the actual construction time period for any phase be greater than two years without submitting the final plat for each completed phase. In no case shall the total time for construction of the development exceed five years. The planning commission may require a new application for a tentative plan for subsequent phases following the final plat approval.

B. ~~The following criteria shall be satisfied in order to approve for approving a phased site development review partition proposal~~ are:

1. ~~All underground utilities~~The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

2. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities. ~~For purposes of this subsection, a~~A temporary public facility is an interim facility not constructed to the applicable city or district standard; and

~~3. Construction of all underground utilities for the development shall be required in the initial phase of the development;~~

~~4.~~3. The phased development shall not result in requiring the city or other property owners to construct public facilities that were required as a part of the approval of the tentative plan.

C. The application for phased development approval shall be heard concurrently with the tentative plan application and the decision may be appealed in the same manner as the tentative plan.

17.152.090 Property line adjustments. A. ~~Within forty five days of receipt of a completed application for a property line adjustment, the planner shall approve, approve with conditions or deny a request for a property line adjustment in writing based on findings that the criteria stated are satisfied as follows~~An application for a property line adjustment shall meet the following criteria:

1. An additional parcel is not created by the property line adjustment, and the existing parcel as reduced in size by the adjustments is not reduced below the minimum lot size established by the zoning district. Where an existing lot of record does not satisfy the minimum area requirement for the zone, a property line adjustment may be permitted provided the adjustment does not increase the degree of nonconformity;

2. By reducing the lot size, the lot or structures(s) on the lot will not be in violation of the site development or zoning district regulations for that district; and

3. The resulting parcels are in conformity with the dimensional standards of the zoning district. Where an existing lot of record does not satisfy the dimensional requirements for the zone, a property line adjustment may be permitted provided the adjustment does not increase the degree of nonconformity.

B. A property line adjustment is not considered a development action for purposes of determining whether floodplain, greenway or right-of-way dedication may be required;

~~C. Final Action for Property Line Adjustment.~~

~~1. The planner shall approve or deny an application. The planner shall apply the standards set forth in this section when reviewing an application for a property line adjustment.~~

~~2. The planner shall mail notice of the completed property line adjustment approval to the owners of the parcels involved in the proposal and to the owners of abutting properties.~~

~~3. The decision of the planner may be appealed to the planning commission.~~

17.152.100 Preliminary application submission requirements.

B. The preliminary partition map and necessary data or narrative shall include the following:

11. Unless specifically exempted by the ~~planning services manager~~ planner, a neighborhood circulation plan that conceptualizes future street plans and lot patterns to parcels within five hundred feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points.

~~D. Upon receipt of an application, the planner shall review it for compliance with the requirements for submittal (see subsections A and B of this section). If the application is found to be incomplete, the planner shall within thirty days notify the applicant of the reasons therefore and advise the applicant of the requirements for an acceptable application.~~

~~D.~~ Upon acceptance of a complete application, the planner shall transmit copies of the preliminary land partition application or property line adjustment map to affected city staff and other the public works director as well as other potentially affected government agencies and utilities in accordance with Chapter 17.164 where necessary.

~~F.~~ The planner shall review the proposal for compliance with the provisions of this title and coordinate the review conducted by affected agencies and applicable districts for compliance with applicable regulations.

~~G. The planner shall review the proposed property line adjustment for compliance with the provisions of this title, and shall issue a decision to owners of the involved parcels, abutting property owners, and affected service providing agencies with regard to the compliance of the application with respect to all applicable approval criteria. If the planner believes that existing utilities may be affected by the proposed adjustment, the planner may defer making a decision on the application until the affected service providing agencies have been given an opportunity to review and comment upon the proposal. In addition, an affected agency may request an amended decision within ten days of the issuance of a decision for which comments were not requested, if the agency finds that utilities may be affected by the proposed adjustment.~~

~~H. Following the review of the land partition or property line adjustment by the applicable agencies, the applicant will be advised of the status of the proposal and of any additional information which shall be required prior to the filing of a final land partition plat or property line adjustment map and shall be notified of conditions to be attached to the approval.~~

~~I.~~ Except as provided in ORS 92.040, the review of the tentative plan or property line adjustment does not guarantee the applicant that the final application for a land partition or property line adjustment will be approved nor that additional information or revisions will not be required by the city.

Chapter 17.154
STREET AND UTILITY IMPROVEMENT STANDARDS

17.154.030 Streets.

P. Joint mailbox facilities shall be provided in all residential developments, with each joint mailbox serving at least two dwelling units.

1. Joint mailbox structures shall be placed adjacent to roadway curbs and shall comply with provisions of the Americans with Disabilities Act and implementing federal and state regulations;

2. Proposed locations of joint mailboxes shall be designated on a copy of the tentative plan, and shall be approved by the U.S. Post Office prior to plan approval; and

3. Plans for the joint mailbox structures to be used shall be submitted for approval by the planner prior to final approval.

~~S. Street names are subject to the approval of the Scappoose rural fire district and street name signs shall be required as specified in the city's public works design standards.~~

17.154.150 Installation/permit fee. A. No land division improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans have been approved by the city, and all applicable fees paid.

~~B. The inspection fee is required to defray in whole or in part the cost and expenses incurred by the city in connection with the improvement, and such fee may be a sum up to ten percent of the estimated cost of such subdivision improvement. The fee shall be limited to the actual costs and shall include, but not be limited to, inspection, plan review, special consultant fees and project administration costs.~~

Chapter 17.160
PROCEDURES FOR DECISION MAKING--LEGISLATIVE

17.160.025 Notice requirements.

C. Notice of legislative public hearings shall be given by the planner in the following manner:

1. At least ~~forty~~thirty-five days before the ~~final~~initial hearing on adoption of any proposal to amend the comprehensive plan or to adopt a new land use regulation, notice shall be sent to the ~~LCDC~~Department of Land Conservation and Development;

Chapter 17.162
PROCEDURES FOR DECISION MAKING--QUASI-JUDICIAL

17.162.020 Application process.

H. The application shall:

1. Include the information requested on the application form;
2. Address appropriate criteria in sufficient detail for review and action; and
3. Be accompanied by the required fee; ~~and~~

~~4. Include a list of names and addresses of all persons who are surrounding property owners of record within two hundred feet. The records of the Columbia County department tax assessors office shall be the official records for determining ownership.~~

17.162.025 Noticing requirements. A. Notice of a pending quasi-judicial public hearing shall be given by the planner in the following manner:

1. At least twenty days prior to the scheduled hearing date, or if two or more hearings are scheduled, ten days prior to the first hearing, notice shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

b. All property owners of record or the most recent property tax assessment roll within:
~~_____ i. Within two three hundred feet of the property which is the subject of the notice, plus any properties abutting proposed off-site improvements, where the subject property is wholly or in part within the urban growth boundary;~~

~~_____ ii. Within two hundred fifty feet of the property which is the subject of the notice where the subject property is outside the urban growth boundary and not within a farm or forest zone;~~

~~_____ iii. Within five hundred feet of the property which is the subject of the notice where the subject property within a farm or forest zone;~~

~~_____ iv. If the adjoining property(s) subject to the notice are excessively large lots, the notice of hearing shall be provided to a minimum of two adjoining property owners in each lot side direction;~~

c. Any governmental agency affected by the decision, which may include any of the following: ~~which has entered into an intergovernmental agreement with the city which includes provision for such notice;~~

i. Columbia County Land Development Services;

ii. Columbia County Road Department;

iii. Oregon Department of Transportation (ODOT);

iv. ODOT Rail Division;

v. Portland & Western Railroad;

vi. Scappoose Rural Fire Protection District;

vii. Port of St. Helens;

viii. Oregon Department of Aviation;

ix. Scappoose School District;

x. Columbia County Soil Conservation District;

xi. Scappoose Drainage Improvement Company; or

xii. Any other affected agencies as identified by the planner;

d. Acknowledged neighborhood planning organizations, if active;

e. Any person who requests, in writing; and

f. The appellant and all parties to an appeal.

2. At least thirty-five days before the initial hearing on adoption of any proposal to amend the comprehensive plan map or zoning map, notice shall be sent to the Department of Land Conservation and Development;

23. Notice of a hearing on a proposed zone change for a manufactured home park shall be given to tenants of that manufactured home park at least twenty days but no more than forty days prior to the hearing; and

43. The planner shall cause an affidavit of mailing of notice to be filed and made a part of the administrative record.

17.162.090 Approval authority responsibilities. A. The planner shall have the authority to approve, deny or approve with conditions the following applications:

1. Interpretations subject to Section 17.01.050;
2. Determination of parking requirements for unlisted uses;
3. Determination of access, egress and circulation plan (not subject to planning commission approval) pursuant to public works design standards;
4. Sign, sign exception, and sign variance pursuant to Chapter 17.114;
5. Minor variance pursuant to Chapter 17.134;
6. Type I home occupation pursuant to Chapter 17.142;
7. Sensitive land permits (for applications not subject to planning commission approval) pursuant to Chapter 17.84, Chapter 17.85, Chapter 17.86, and Chapter 17.89; and
8. Public land tree removal not associated with timber harvesting and clearing from designated public recreation areas.

B. The planner may refer any application for review to the planning commission.

C. The planning commission shall conduct a public hearing in the manner prescribed by this chapter and shall have the authority to approve, approve with conditions, approve with modifications or deny the following development applications:

1. Recommendations for applicable comprehensive plan and zoning district designations to city council for lands annexed to the city;
2. A quasi-judicial comprehensive plan map amendment except the planning commission's function shall be limited to a recommendation to the council. The commission may transmit its recommendation in any form and a final order need not be formally adopted;
3. A quasi-judicial zoning map amendment shall be decided in the same manner as a quasi-judicial plan amendment;
4. Conditional use pursuant to Chapter 17.130;
5. Major variance pursuant to Chapter 17.134;
6. Sensitive land permits and variances pursuant to Chapter 17.84, Chapter 17.85, and Chapter 17.86 for applications requiring planning commission action;
7. Type II home occupation pursuant to Chapter 17.142;
8. Historic overlay district exterior alteration and new construction applications pursuant to Chapter 17.82;
9. Public land tree removal associated with timber harvesting and clearing from designated public recreation areas;
10. Authorization of Similar Use pursuant to Chapter 17.43;
11. Fence or fence/berm combination greater than eight feet in height;
- ~~12.~~ Appeal of a decision made by the planner; and
- ~~13.~~ Any other matter not specifically assigned to the planner, or the city council under this title.

D. Upon appeal or recommendation, the city council shall conduct a public hearing in the manner prescribed by this chapter and shall have the authority to approve, deny or approve with conditions the following development applications:

1. Annexations and the formal imposition of plan and zone designations made to lands annexed to the city;
2. Appeals of quasiQuasi-judicial plan and zone amendments, including overlay zones;

3. Creation, modification or removal of a historic overlay designation or demolition of a historic site, structure or landmark pursuant to Chapter 17.82;

34. Matters referred to the council by the planning commission;

45. Review of decisions of the planning commission, whether on the council's own motion or otherwise.

17.162.120 Notice of decision by the planner. A. Notice of the planner's decision on an application pursuant to Section 17.162.090(A) shall be given by the planner in the following manner:

1. Within five days of signing the proposed decision, notice shall be sent by mail to:
 - a. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - b. All surrounding property owners or record of property within ~~two~~ three hundred feet of the property for ~~lot line adjustments~~, administrative variances and sensitive lands;
 - c. All owners of record of property immediately abutting a site for home occupations;
 - d. The applicant for a planner's interpretation or a planner's decision regarding an extension of approval;
 - e. The recognized neighborhood planning organization;
 - f. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the city which includes provision for such notice; and
 - g. Any person who requests notice in writing.

Chapter 17.164

PROCEDURES FOR DECISION MAKING--LIMITED LAND USE DECISIONS

17.164.030 Application process.

H. The application shall:

1. Include the information requested on the application form;
2. Address appropriate criteria in sufficient detail for review and action; and
3. Be accompanied by the required fee; ~~and~~
- ~~4. Include a list of names and addresses of all persons who are surrounding property owners of record within one hundred feet. The records of the Columbia County Department Tax Assessors office shall be the official records for determining ownership.~~

17.164.130 Notice requirements. A. The planner shall provide written notice to owners of property within ~~one~~ two hundred feet of the entire contiguous site for which the application is made, plus any properties abutting proposed off-site improvements. The list shall be compiled from the most recent property tax assessment roll.

J. Notice shall also be given by the planner to any governmental agency affected by the decision, which may include any of the following:

1. Columbia County Land Development Services;
2. Columbia County Road Department;
3. Oregon Department of Transportation (ODOT);

4. ODOT Rail Division;
5. Portland & Western Railroad;
6. Scappoose Rural Fire Protection District;
7. Port of St. Helens;
8. Oregon Department of Aviation;
9. Scappoose School District;
10. Columbia County Soil Conservation District;
11. Scappoose Drainage Improvement Company; or
12. Any other affected agencies as identified by the planner.

Exhibit B of Ordinance No. 828

DCTA1-13

June 26, 2013

“Housekeeping” Development Code Amendments

CITY OF SCAPPOOSE STAFF REPORT

Request: Amend the Development Code to correct definitions and update application review procedures; clarify setback and flag lot rules; add public support facilities as permitted uses in several zones; change floodplain development rules to match National Flood Insurance Program standards; update landscape screening requirements; update parking requirements for medical/dental uses; edit terminology and phrasing; and delete redundant text.

Applicant: City of Scappoose

PROPOSAL & RATIONALE

The City of Scappoose proposes to clarify and update several chapters of the Development Code. The overall purpose of the amendment is to improve the usability of the code by correcting errors, removing redundancies in application procedures, complying with Oregon statutory changes, and matching the standards of the National Flood Insurance Program.

Below is a list of chapters affected by the application plus brief descriptions of the effect of the amendment on those chapters.

Chapters	Effect of amendment
1. Chapter 17.22 (Amendments to the Title, Comprehensive Plan, and Maps)	Provides clarity on the approval criteria for the affected applications including the applicability of the Transportation Planning Rule in some instances.
2. Chapter 17.26 (Definitions)	Removes inconsistencies among definitions, improves usability, and updates the Code to match applicable state law. Examples include ensuring that the definition of “accessory building” matches the standards in Chapter 17.92 (Accessory Dwelling Units) and updating the definition of a “day care home” to indicate that the facilities may care for up to 16 children in accordance with state of Oregon rules (ORS 657A.280 and 657A.440 and OAR 414-350-0000).

“Housekeeping” Development Code Amendments

Chapters	Effect of amendment
3. Chapter 17.44 (R-1 Low Density Residential), Chapter 17.50 (R-4 Moderate Density Residential), Chapter 17.54 (MH Manufactured Housing), & Chapter 17.56 (A-1 High Density Residential)	Specifies minimum frontage for a flag lot, clarifies language for side setbacks on corner lots, and reduces side setbacks for accessory buildings located behind a residence to 5 feet each.
4. Chapter 17.62 (C General Commercial), Chapter 17.77 (PL-I Public Lands--Institutional), Chapter 17.78 (PL-U Public Lands--Utility), & Chapter 17.79 (PL-R Public Lands--Recreation)	Adds public support facilities as permitted uses (“Public support facilities” are defined in Chapter 17.26 as services which are necessary to support uses allowed outright in the underlying zone and involves only minor structures such as power lines and poles, phone booths, fire hydrants, as well as bus stops, benches and mailboxes which are necessary to support principal development).
5. Chapter 17.81 (Planned Development Overlay), Chapter 17.92 (Accessory Dwelling Units), & Chapter 17.93 (Wireless Communications Facilities)	Substitutes the term “planner” for the phrase “planning services manager.”
6. Chapter 17.84 (Sensitive Lands--Flooding)	Amends the floodplain regulations to match National Flood Insurance Program standards regarding substantial damage, substantial improvements, area of flood openings, and no-rise certifications for developments in the floodway. The changes would delete the provision for no-rise certifications in the floodway fringe since the Code already prohibits fill in the floodplain unless the net effect of excavation and filling operations maintains floodwater storage capacity.
7. Chapter 17.96 (Lots--Exceptions and Additional Setbacks)	Changes provisions to allow decks/porches to extend further into side or rear setbacks.
8. Chapter 17.100 (Landscaping, Screening and Fencing)	Adds a minimum height for loading area screening along with a provision that circumstances may lead to a requirement for a taller screen.
9. Chapter 17.106 (Off-Street Parking and Loading Requirements)	Requires additional parking for new medical and dental uses, using figures within the range listed in the American Planning Association’s “Parking Standards” book.

“Housekeeping” Development Code Amendments

Chapters	Effect of amendment
10. Chapter 17.120 (Site Development Review) & Chapter 17.130 (Conditional Use)	Updates the rules regarding phased developments to ensure that adequate infrastructure is installed in conjunction with each phase, to raise the threshold from twenty to fifty vehicles per day for what constitutes a “major modification” of a development, and to remove the requirement for an applicant to provide names and addresses of neighboring property owners (since City staff now has access to this information electronically).
11. Chapter 17.134 (Variance)	Delete redundant procedural information and identifies different approval criteria for minor variances and major variances.
12. Chapter 17.141 (Heritage Trees)	Deletes references to the Urban Forestry Advisory Board (which is no longer active) and grants power to the city manager to remove the designation of heritage tree designations.
13. Chapter 17.150 (Land Division--Subdivision) & Chapter 17.152 (Land Division--Major and Minor Land Partitions and Property Line Adjustment)	Substitutes the term “planner” for the phrase “planning services manager,” deletes redundant procedural provisions more appropriately located in Chapter 17.164 (Procedures for Decision Making--Limited Land Use Decisions), and updates the rules regarding phased developments to ensure that adequate infrastructure is installed in conjunction with each phase.
14. Chapter 17.154 (Street and Utility Improvement Standards)	Clarifies the regulations for joint mailbox structures and delete redundant provisions.
15. Chapter 17.160 (Procedures for Decision Making--Legislative)	Corrects the timeline for notifying DLCD to match current Oregon Administrative Rules.
16. Chapter 17.162 (Procedures for Decision Making--Quasi-Judicial)	Removes the requirement for an applicant to provide names and addresses of neighboring property owners (since City staff now has access to this information electronically), increases the notice radius from 200 to 300 feet, adds requirements to provide notice to owners of properties abutting off-site improvements, and updates procedural information.
17. Chapter 17.164 (Procedures for Decision Making--Limited Land Use Decisions)	Removes the requirement for an applicant to provide names and addresses of neighboring property owners (since City staff now has access to this information electronically), increases the notice radius from 100 to 200 feet, adds requirements to provide notice to owners of properties abutting off-site improvements, and updates procedural information.

PUBLIC NOTICE

Notice of the proposed amendments to the Development Code was published in the newspaper on May 31, June 7, June 21, and June 28, 2013. Staff has received no written comments from the public regarding this application.

RECOMMENDATION

Based on the applicable statutes, rules, comprehensive plan provisions and implementing ordinances, staff and the Planning Commission recommend adoption of the proposed amendments by the City Council.

FINDINGS OF FACT

1. The following Statewide Planning Goals have been considered by the City of Scappoose in the formation of the language contained within this request:

Goal 1: Citizen Involvement

Objective: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:

This application complies with the citizen involvement processes included in the City's acknowledged Comprehensive Plan and Development Code, which is consistent with Statewide Planning Goal 1. The Planning Commission and City Council hold public hearings on the proposal prior to adopting any amendments to the Scappoose Municipal Code. Notice of the proposal and hearings was published in the local newspaper on May 31, June 7, June 21, and June 28, 2013. The City also follows the procedures required by ORS 227.186 (Ballot Measure 56) for notification of the owners of property proposed to be directly affected by the changes. For this application, as the changes do not limit or prohibit land uses previously allowed in the affected zone, no mailed notice is required under this statute.

Citizens may submit written or verbal testimony regarding the proposed amendments. This process allows for citizens to communicate their input into the Development Code amendment review conducted by the City. For this application, the Planning Commission's hearing date was June 13, 2013, while the City Council's hearing date is July 1, 2013. This process complies with the Goal.

Goal 2: Land Use Planning

Objective: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding:

The proposal to amend the Development Code is consistent with the City's regulations regarding legislative land use decisions. Legislative decisions require a Planning

“Housekeeping” Development Code Amendments

Commission recommendation to the City Council, which then makes a decision based on stated findings. The Planning Commission and City Council hearings are open to the public.

The procedural requirements for the proposed Development Code amendment are contained in the Scappoose Municipal Code, which involve assessment of the application’s merits, notice to affected parties, and public hearings. The proposal is to perform multiple text changes to update definitions and application review procedures; clarify setback and flag lot rules; add public support facilities as permitted uses in several zones; change floodplain development rules to match National Flood Insurance Program standards; update landscape screening requirements; update parking requirements for medical/dental uses; edit terminology and phrasing; and delete redundant text. Notice of the proposed amendment has been provided to the Oregon Department of Land Conservation and Development (DLCD) as required. DLCDC has not submitted comments. The City’s decision is based on findings of fact. This action complies with Goal 2.

Goal 7: Areas Subject to Natural Hazards

Objective: To protect people and property from natural hazards.

Finding:

The City participates in the National Flood Insurance Program and has adopted the Sensitive Lands--Flooding chapter of the Development Code to minimize public and private losses due to flooding. The City has close to 160 acres of floodplain and nearly 250 individual parcels that are partially or entirely located within the floodplain.

Membership within the National Flood Insurance Program (NFIP)—and the availability of flood insurance for City residents—requires the City to manage its floodplain in ways that meet or exceed standards set by the Federal Emergency Management Agency (FEMA). The proposals would relax some of the City’s floodplain regulations to align with NFIP standards and remove some of the existing arbitrary provisions that exceed NFIP standards but create burdens for property owners.

The proposal to update the floodplain development standards is consistent with avoidance of natural disasters and hazards under Goal 7.

Statewide Planning Goals 3-6 & 8-19 are not applicable to this application.

2. The following Goals and Policies from the Scappoose Comprehensive Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

GENERAL GOALS OF THE CITY OF SCAPPOOSE FOR LAND USES

19) Citizen participation will continue to be an important element of the City's land use planning process. Besides public hearings held by the Planning Commission and City Council, the City shall utilize the local newspaper and radio station to keep populace

informed of land use issues. The City shall also publish quarterly a summary of past and future activities.

Finding:

Notice of the proposed amendment to the Development Code has been published in the local newspaper to inform citizens of the opportunity to participate in the review and decision-making process. The applicable GENERAL GOAL OF THE CITY OF SCAPPOOSE FOR LAND USES is satisfied.

GOAL FOR HAZARD AREAS

It is the goal of the City of Scappoose to:

1) Protect against all loss of life or property by closely regulating construction, investment and activities in designated hazard areas.

POLICIES FOR HAZARD AREAS

1) Prohibit development on lands within the 100-Year Floodplain, on slopes exceeding 20 percent, on lands with recognized drainage problems, and on lands with soils classified by the SCS as having severe building constraints, unless a showing that design and construction techniques can eliminate potential loss of life and property, specifically:

A) All development within the 100-Year Floodplain shall conform to the standards set by HUD, and the proposal for development shall be approved by the City Engineer.

Finding:

Amending the Development Code to update the floodplain development regulations ensures conformance with NFIP requirements and provides additional clarity on review procedures. The applicable GOAL AND POLICIES FOR HAZARD AREAS is satisfied.

3. The following sections of Title 17 of the Scappoose Municipal Code (Scappoose Development Code) Plan have been considered by the City of Scappoose in the formation of the language contained within this proposal:

Chapter 17.160 PROCEDURES FOR DECISION MAKING—LEGISLATIVE

17.160.120 The standards for the decision. *A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:*

- 1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes Chapter 197;*
- 2. Any federal or state statutes or rules found applicable;*
- 3. The applicable comprehensive plan policies and map; and*
- 4. The applicable provisions of the implementing ordinances.*

B. Consideration may also be given to:

Proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

*“Housekeeping” Development Code Amendments***Finding:**

The Planning Commission’s recommendations and the City Council’s decisions are based on applicable statewide planning goals and guidelines, federal and state statutes and rules, Comprehensive Plan policies, and provisions of the Scappoose Municipal Code, as detailed in the findings. The City has publicized the proposed amendments and held hearings in accordance with applicable laws. The City is amending the Development Code to improve usability and to streamline approval procedures. Section 17.160.120 is satisfied.