



CITY OF PHILOMATH

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Mission: To promote ethical and responsive municipal government which provides its citizenry with high quality municipal services in an efficient and cost-effective manner.

PLANNING COMMISSION

January 16, 2024

6:00 PM

M E E T I N G A G E N D A

1. **CALL TO ORDER**
2. **APPROVAL OF MINUTES**
 - 2.1. December 18, 2023
3. **NEW BUSINESS**
 - 3.1. Election of Chair and Vice-Chair
4. **UNFINISHED BUSINESS**
 - 4.1. Development Code Layout, Applications, and Review Procedures
5. **ANNOUNCEMENTS & STAFF UPDATES**
 - 5.1. Staff Update
 - 5.2. Next Regular Meeting: February 20, 2024, at 6:00 PM
6. **ADJOURNMENT**

This meeting is being held in-person at the City Hall Council Chambers, and the public is invited to attend. Public comments and testimonies will still be available via electronic participation. City meetings are live streamed at: <https://www.youtube.com/@cityofphilomath204>. This is a public page; no account or user fee is required.

Given two business days' notice, an interpreter can be provided for the hearing impaired or those with limited proficiency in English. Contact the City Manager's Office to make interpreter arrangements or to participate electronically.

Opportunities to Comment

Methods:

1. Appear in person and submit speaker form
2. Sign up to speak via Zoom by contacting the City Manager's Office
3. Email written comments to the City Manager's Office
4. Deliver written comments to the City Manager's Office
5. Mail written comments to the City Manager's Office

City Manager's office; 541-929-6148; cityhall@philomathoregon.gov; PO Box 400, Philomath, OR 97370

Must be received by:

- Meeting call to order
- 4:00 p.m. the day of the meeting
- 12:00 p.m. the day of the meeting
- 12:00 p.m. the day of the meeting
- 12:00 p.m. the day of the meeting

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1 PHILOMATH PLANNING COMMISSION
2 REGULAR MEETING MINUTES
3 Philomath City Hall Council Chambers
4 December 18, 2023
5

6 **1. CALL TO ORDER - ROLL CALL**

7 Meeting called to order at 6:00 p.m. by Chair Gary Conner
8

9 **Present:**

10 Gary Conner
11 John Barlow (arrived at 6:34 p.m.)
12 Hayley Green
13 Van Hunsaker
14 Josiah Jessen
15 Timothy Melott
16 Darlene Rose
17 Ruth Causey, City Council liaison
18

Absent:

19 **Staff Present:**

20 Chris Workman, City Manager
21 Chase Burghgrave, Associate Planner
22 Ruth Post, City Recorder
23

24 **2. APPROVAL OF MINUTES**

25 **2.1 September 18, 2023**

26 **2.2 October 2, 2023**
27

28 Action: Approve September 18, 2023 minutes as presented.

29 Motion/Second: Commissioner Hunsaker/Commissioner Rose

30 Vote: Action APPROVED 6-0 (Yes: Green, Hunsaker, Jessen, Melott, Rose and
31 Conner; No: None).
32

33 Action: Approve October 2, 2023 minutes as presented.

34 Motion/Second: Commissioner Hunsaker/Commissioner Rose

35 Vote: Action APPROVED 6-0 (Yes: Green, Hunsaker, Jessen, Melott, Rose and
36 Conner; No: None).
37

3. UNFINISHED BUSINESS

38 **3.1 Development Code Update Project revised schedule**

39 Start Time: 6:03 p.m.

- 40 • Chair Conner recapped the status of the project and noted the change in direction to
41 include residential code in the review to be presented to the public at the same time
42 as commercial and industrial.
- 43 • Maximizing public interaction through inclusion of the residential amendments
44 described.
- 45 • Capacity to achieve the proposed timeline discussed, including groundwork already
46 completed.
- 47 • Need to address parking as part of the timeline discussed, including implications of
48 the Climate Friendly and Equitable Communities (CFEC) report.
- 49 • Inclusion of review of amendments and clarifications in the timeline suggested.
- 50 • New OAR 660-012-0440 regarding parking within proximity to transit introduced as a
51 new issue to be addressed.
- 52 • Accelerated meeting schedule during winter 2024 discussed, beginning with the first
53 Monday in March adding first Monday to schedule through May.

1
2 **3.2 Climate Friendly and Equitable Communities report review**

3 Start Time: 6:28 p.m.

- 4 • Planner Burghgrave reviewed the background in the staff memorandum and
5 introduced the report.
6 • Timeline to send report to state for comments reviewed by City Manager Workman.
7 • Commissioner John Barlow arrived at 6:34 p.m.
8 • Staff expectation to submit to recommend Site B to DLCDC for designation as Climate
9 Friendly Area (CFA).
10 • Definition and inclusion of CFA discussed.
11 • Required designation of CFA based on community size discussed.
12 • Potential requirement for pedestrian improvements to access Marys River Park
13 discussed.

14 **4. ANNOUNCEMENTS & STAFF UPDATES**

15 Start Time: 6:47 p.m.

16 **4.1 Planning Commissioner Terms Expiring; applications being accepted**

- 17 • Terms for Commissioners Jessen and Hunsaker expiring December 31, 2023.
18 • Continuity of commissioners on the current code project discussed and methods of
19 providing feedback to the Council suggested.
20

21 **4.2 Staff Update**

- 22 • Brief discussion about upcoming construction projects.
23 • Update on methane testing and stormwater drainage at Millpond Crossing
24 development provided by CM Workman.
25 • Status of various commercial and industrial projects discussed.
26

27 **4.3 Next Regular Meeting: Tuesday, January 16, 2023, at 6:00 PM**

- 28 • Meeting date confirmed.
29

30 **5. ADJOURNMENT**

31 Meeting adjourned at 6:56 p.m.

32
33 SIGNED:

ATTEST:

34
35 _____
36 Gary Conner, Chair

Ruth Post, MMC, City Recorder



Philomath Planning Commission Agenda Item Summary

Title/Topic: Selection of a New Chair and Vice-Chair

Meeting Date: January 16, 2024
Commission Lead: Gary Conner
Staff Contact: Chris Workman

ISSUE STATEMENT:

At its first meeting of the year, the city planning commission shall elect by ballot a chairman and vice-chairman who shall be members appointed by the city council and who shall hold office at the pleasure of the planning commission (PMC 2.30.050).

BACKGROUND:

According to the Oregon Planning Commission Handbook published by Department of Land Conservation and Development (DLCD)/Oregon Chapter of the American Planning Association (OAPA) in 2015, the responsibilities of the Planning Commission Chair include:

- Conduct meeting (the only task that is the sole responsibility of the chair)
- Diffuse hostility
- Elicit relevant testimony
- Keep commission on track
- Ensure participation among all commissioners
- Lead commission to conclusions
- Define issues
- Promote planning
- Set agenda (joint function with planning staff)

The Vice-Chair assumes these duty in the Chair's absence.

Commissoiners have traditionally nominated another member or volunteered themselves to serve as chair for the year. Once all nominations and volunteers have been made, a vote is taken.

If more than two nominees or volunteers are received, it is recommended to have two rounds of voting. In the first round, each commissioner votes for their top two choices and the votes are tallied. The two individuals with the most votes move forward to the second round of voting. In the second round, each commissioner has one vote and the votes are tallied to come to a decision. This two-round process ensures the chair has been selected by a majority of the commission.

Following selection of a chair person, the same process is repeated for the selection of a vice-chair.

All votes are recorded for public record. Because the commission is meeting through video conference, voting will be done orally by simply saying "aye" when a vote for each nominee or volunteer is called for.

Last year's chair will lead this process.

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Philomath Planning Commission Agenda Item Summary

Title/Topic: Development Code Update Project revised schedule

Meeting Date: January 16, 2024
Commission Lead: Gary Conner
Staff Contact: Chase Burghgrave

Issue Statement:

This memo is an update on city staff's progress in updating the city development code. Draft of development code table of contents, application types, and review procedures has been provided.

BACKGROUND

In April of this year, the Planning Commission began the task of updating the city's development code. This work will continue through 2024, with plans to finish updating the commercial, industrial, and residential development requirements, as well as the code provisions associated with the application and approval processes.

Up until now, the focus has been on zoning maps and commercial/industrial land allowed use tables and development standards. Staff continues to work through the development code changes discussed over this past year.

At the Planning Commission's last meeting in October, staff proposed the residential and non-residential allowed use tables be merged together into one table. This was to address the number of mixed uses that the new code and zoning will allow and make it easier to locate all the tables within the document. Similarly, staff is recommending that before public hearings on the commercial and industrial code are held, the Commission takes time to do some public outreach and needed amendments to the residential zoning map and development code. The result would be a more complete update to the code prior to presenting it to the public, which would remove uncertainty and frustration. We want to avoid the inability to answer questions related to residential properties during commercial/industrial proceedings, so we'll do them all at once, over the course of multiple meetings and public hearings.

If the Commission is comfortable with this new recommendation, staff proposes the following timeline for review, outreach, and approval:

January -Proposed Code Layout, Applications and Review Procedures

February –Allowed Use table and Commercial Development Criteria

March –Commercial Industrial Development Criteria

April –Residential Zoning Map

May –Residential Development Criteria

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Title 18

ZONING

Chapters:

Division 1. Introduction

- 18.05 How to Use the Development Code**
- 18.10 General Administration**
- 18.20 Enforcement**
- 18.30 Land Use District Administration**
- 18.15 Definitions**

Division 2. Applications and Review Procedures

- 18.100 Introduction**
- 18.105 Types of Applications and Review Procedures**
- 18.110 Development Review and Site Design Review**
- 18.115 Land Divisions and Lot Line Adjustments**
- 18.120 Conditional Use Permits**
- 18.155 Variances (reword division description as use here)**
- 18.160 Nonconforming Uses and Developments**
- 18.125 Master Planned Developments**
- 18.130 Modifications to Approved Plans and Conditions of Approval**
- 18.135 Annexations and Amendments**
- 18.140 Code Interpretations**
- 18.145 Miscellaneous Permits**

Division 3. Land Use Districts

- 18.25 Establishment of Zones**
- 18.xx Allowed Uses**
- 18.xx Development Standards (sqft, density, width, depth, height, % coverage, fencing, landscaping, setbacks, build-to line)**
- 18.xx**
- 18.35.090 Architectural standards,**
- 18.xx Building Material Standards.**

- 18.35 Residential Districts**
- 18.40 Commercial Districts**
- 18.45 Industrial Districts**
- 18.50 Public Districts**
- 18.55 Overlay Districts**

Division 4. Design Standards

- 18.60 Design Standard Administration**
- 18.65 Access and Circulation**
- 18.70 Landscaping**
- 18.72 Fences, Hedges and Walls**
- 18.75 Vehicle and Bicycle Parking**
- 18.80 Public Facilities Standards**

- 18.85 Hillside and Erosion Control Overlay**
- 18.90 Other Standards**
- 18.95 Regulating Placement of Signs**

Division 5. Exceptions to Code Standards

- 18.10 Introduction**
- 18.20 Residential**
- 18.30 Commercial**
- 18.40 Industrial**
- 18.50 Other**

Chapter 18.100

INTRODUCTION

Sections:

18.100.010 Introduction.

18.100.010 Introduction.

Division 4 provides all of the application requirements and procedures for obtaining permits required by this title. Please refer to Table 18.105.020 in Chapter 18.105 PMC for a key to determining which land use permits and procedures are required, and the decision-making body for a particular type of permit application. [Ord. 720 § 7[4.0.1], 2003.]

Chapter 18.105

TYPES OF APPLICATIONS AND REVIEW PROCEDURES

Sections:

18.105.010 Purpose.

18.105.020 Description of permit/decision-making procedures.

18.105.025 Exclusions from permits.

18.105.030 Type I procedure (ministerial).

18.105.040 Type II procedure (administrative; code interpretation, modification to approval, partition, Type II site design review, final subdivision plat review, temporary use, tree removal, Class B variance).

18.105.050 Type III procedure (quasi-judicial; conditional use, master planned development, modification of approval, sensitive lands, Type III site design review, subdivision, temporary use, class c variance).

18.105.060 Type IV procedure (legislative; annexation, code amendment, comprehensive plan amendment, land use district map change).

18.105.070 General provisions.

18.105.080 Special procedures.

18.105.090 Neighborhood meetings.

18.105.010 Purpose.

The purpose of this chapter is to establish standard decision-making procedures that will enable the city, the applicant, and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. [Ord. 720 § 7[4.1.1], 2003.]

18.105.020 Description of permit/decision-making procedures.

All land use and development permit applications, except building permits and temporary use permits, shall be decided by using the procedures contained in this chapter. General procedures for all permits are contained in PMC 18.105.070. Specific procedures for certain types of permits are contained in PMC 18.105.020 through 18.105.060. The procedure type assigned to each permit governs the decision-making process for that permit. There are four types of permit/decision-making procedures: Type I, II, III, and IV. These procedures are described in subsections (A) through (D) of this section. In addition, Table 18.105.020 lists all of the city's land use and development applications and their required permit procedure(s).

A. Type I Procedure (Ministerial). Type I decisions are made by the planning official, or someone he or she officially designates, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria, and applying city standards and criteria requires no use of discretion;

B. Type II Procedure (Administrative). Type II decisions are made by the planning official with public notice and an opportunity for a public hearing. The appeal of a Type II decision is heard by the planning commission;

C. Type III Procedure (Quasi-Judicial). Type III decisions are made by the planning commission after a public hearing, with appeals reviewed by the city council. Type III decisions generally use discretionary approval criteria; and

D. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes and comprehensive plan amendments that apply to entire districts, and annexations). Type IV matters are considered initially by the planning commission with final decisions made by the city council.

Table 18.105.020

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

Access Permit (Public Street)	Type I	Chapters 18.65, 18.110 and 18.115 PMC
Annexation	Type IV	Comprehensive plan and city/county intergovernmental agreement(s)
Building Permit	N/A	Building code
Code Interpretation	Type II	Chapter 18.140 PMC
Code Amendment	Type IV	Chapter 18.135 PMC
Comprehensive Plan Amendment	Type IV	Comprehensive plan
Conditional Use Permit	Type III	Chapter 18.120 PMC
Floodplain Permit	Type I	Building code (requires sensitive land development permit first)
Home Occupation Permit	Type I	Chapter 18.145 PMC
Master Planned Development	Type III	Chapter 18.125 PMC
Modification to Approval	Type II/III	Chapter 18.130 PMC
Land Use District Map Change	Type IV	Chapter 18.135 PMC
Lot Line Adjustment	Type I	Chapter 18.115 PMC
Nonconforming Use	Type II	Chapter 18.160 PMC
Partition	Type II	Chapter 18.115 PMC
Sensitive Lands Permit	Type III	Chapter 18.85 PMC
Sign Permit	Type I	Chapter 18.95 PMC
Development Review	Type I	Chapter 18.110 PMC, building code
Site Design Review		
Type II	Type II	Chapter 18.110 PMC
Type III	Type III	Chapter 18.110 PMC
Subdivision	Type II/III	Chapter 18.115 PMC
Temporary Use Permit	Type II/III	Chapter 18.145 PMC
Tree Removal	Type I/II	Chapter 18.70 PMC (may require sensitive land development permit first)
Variance		
Class A	Type I	Chapter 18.155 PMC
Class B	Type II	Chapter 18.155 PMC
Class C	Type III	Chapter 18.155 PMC

*Note: The chapters referenced above in the right-hand column describe the types of land uses and development activity that require permits under each type of decision-making procedure.

[Ord. 875 § 1 (Exh. A), 2023; Ord. 720 § 7[4.1.2], 2003.]

18.105.025 Exclusions from permits.

The following activities are permitted in each land use district but are excluded from the requirement of obtaining a land use permit. Exclusion from the permit requirement does not exempt the activity from otherwise complying with applicable standards, conditions, and other provisions of the Philomath development code.

A. Operation, maintenance, and repair of existing transportation facilities identified in the transportation system plan;

B. Dedication of right-of-way, authorization of construction, and the construction of transportation facilities and improvements, where the improvements are planned improvements identified in the transportation system plan or are otherwise consistent with clear and objective dimensional standards;

C. Changes in transit services. [Ord. 832 § 20, 2018.]

18.105.030 Type I procedure (ministerial).

A. Application Requirements.

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

B. Administrative Decision Requirements. The planning official's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the planning official shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

C. Final Decision. The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The decision is the final decision of the city. It cannot be appealed to city officials.

D. Effective Date. The decision is effective the day after it is final. [Ord. 720 § 7[4.1.3], 2003.]

18.105.040 Type II procedure (administrative; code interpretation, modification to approval, partition, Type II site design review, final subdivision plat review, temporary use, tree removal, Class B variance)

A. Preapplication Conference. A preapplication conference is required for Type II applications. Preapplication conference requirements and procedures are in PMC 18.105.070.

B. Application Requirements.

1. Application Forms. Type II applications shall be made on forms provided by the city.
2. Submittal Information. The application shall:
 - a. Include the information requested on the application form;
 - b. Include a pertinent title report;
 - c. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
 - d. Be accompanied by the required fee; and
 - e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system (pursuant to traffic impact study requirements in PMC 18.80.020(V)), including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet city standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this title requires the dedication of real property to the city, the applicant shall either

specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Notice of Application for Type II Administrative Decision.

1. Before making a Type II administrative decision, the planning official shall mail notice to:
 - a. All owners of record of real property within 250 feet of the subject site;
 - b. All city-recognized neighborhood groups or associations whose boundaries include the site;
 - c. Any person who submits a written request to receive a notice; and
 - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city. The city may notify other affected agencies, as appropriate, for review of the application.
2. Notice and application shall be posted to the city website.
3. A sign shall be posted on the property directing the public to the city website and City Hall for additional information and opportunities to provide comment at least 14 calendar days prior to the decision date.

D. Administrative Decision Requirements. The planning official shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the planning official shall approve, approve with conditions, or deny the requested permit or action.

E. Notice of Decision.

1. Within five days after the planning official signs the decision, a notice of decision shall be posted on the property and sent by mail to:
 - a. Any person who submits a written request to receive notice, or provides comments during the application review period;
 - b. The applicant and all owners or contract purchasers of record of the site which is the subject of the application;
 - c. Any city-recognized neighborhood group or association whose boundaries include the site;
 - d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the city, and other agencies that were notified or provided comments during the application review period.
2. The planning official shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.
3. The Type II notice of decision shall contain:
 - a. A description of the applicant's proposal and the city's decision on the proposal (i.e., may be a summary);
 - b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;
 - c. A statement of where the city's decision can be obtained;
 - d. The date the decision shall become final, unless appealed;

e. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;

f. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and

g. A statement that unless appellant (the person who files the appeal) is the applicant, the hearing on the appeal shall be limited to the specific issues identified in the written comments submitted during the comment period. Additional evidence related to the notice of appeal (see subsection (G)(2)(a) of this section) may be submitted by any person during the appeal hearing, subject to any rules of procedure adopted by the planning commission.

F. Final Decision and Effective Date. A Type II administrative decision is final for purposes of appeal when it is mailed by the city. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

G. Appeals. A Type II administrative decision may be appealed to the planning commission as follows:

1. The following people have legal standing to appeal a Type II administrative decision:

a. The applicant; or

b. Any other person who participated in the proceeding by submitting written comments.

2. Appeal Procedure.

a. Any person with standing to appeal, as provided in subsection (G)(1) of this section, may appeal a Type II administrative decision by filing a notice of appeal according to the following procedures:

i. A notice of appeal shall be filed with the planning official within 14 days of the date the notice of decision was mailed;

ii. The notice of appeal shall contain:

(A) An identification of the decision being appealed, including the date of the decision;

(B) A statement demonstrating the person filing the notice of appeal has standing to appeal;

(C) A statement explaining the specific issues raised on appeal;

(D) If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period; and

(E) Filing fee.

3. The city shall establish the amount of the filing fee. The maximum fee for an initial hearing shall be the city's cost for preparing and for conducting the hearing, or the statutory maximum, whichever is less.

a. The appeal of a Type II administrative decision by a person with standing shall be limited to the specific issues raised during the written comment period, as provided under subsection (C) of this section, unless the planning commission allows additional evidence or testimony concerning any other relevant issue. The planning commission may allow such additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II administrative appeals by encouraging persons with standing to submit their specific concerns in writing during the comment period. The written comments received during the comment period will usually limit the scope of issues on appeal. Only in extraordinary circumstances should new issues be considered by the planning commission on appeal of a Type II administrative decision.

b. Type III notice and hearing procedures shall be used for all Type II administrative appeals, as provided in PMC 18.105.050(C) through (G).

H. Appeal to City Council. The decision of the planning commission regarding an appeal of a Type II administrative decision is the final decision of the city unless appealed to city council. An appeal to city council shall follow the same notification and hearing procedures as for the planning commission appeal. [Ord. 875 § 1 (Exh. A), 2023; Ord. 832 § 21, 2018; Ord. 720 § 7[4.1.4], 2003.]

18.105.050 Type III procedure (quasi-judicial; conditional use, master planned development, modification of approval, sensitive lands, Type III site design review, subdivision, temporary use, class c variance).

A. Preapplication Conference. A preapplication conference is required for all Type III applications. The requirements and procedures for a preapplication conference are described in PMC 18.105.070(C).

B. Application Requirements.

1. Application Forms. Type III applications shall be made on forms provided by the city;

2. Content. Type III applications shall:

a. Include the information requested on the application form;

b. Include a letter or narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and action;

c. Be accompanied by the required fee; and

d. Include an impact study for all Type III applications and a traffic impact study for land use actions pursuant to PMC 18.80.020(V). The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet city standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this title requires the dedication of real property to the city, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

C. Required Hearings. A minimum of one hearing before the planning commission is required for all Type III applications, except as required in PMC 18.105.070(D)(2), Consolidated Proceedings.

D. Notice of Hearing.

1. Notice Provided. Notice of a Type III application hearing or Type II appeal hearing shall be given by the planning official in the following manner:

a. Mailed. At least 14 calendar days before the hearing date, notice shall be mailed per subsection (D)(3) of this section to:

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

ii. All property owners of record within 250 feet of the site;

iii. Any governmental agency that has entered into an intergovernmental agreement with the city which includes provision for such notice, or who is otherwise entitled to such notice;

- iv. Any neighborhood or community organization recognized by the city council and whose boundaries include the property proposed for development;
 - v. Any person who submits a written request to receive notice;
 - vi. For appeals, the appellant and all persons who provided testimony; and
 - vii. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
- b. Posted Sign on Property. At least 14 calendar days before the hearing, the city shall post a sign giving notice of the hearing on the property at each access point and at least every 250 feet along the public right-of-way. The sign shall direct the public to the city website and City Hall for additional information and opportunities to provide comment.
- c. Posted on City Website. At least 14 calendar days before the hearing, notice shall be posted of the hearing on the official city website per subsection (D)(3) of this section.
2. Affidavit of Notice. The planning official shall:
- a. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection (D)(1)(a) of this section; and
 - b. For each posted notice, file an affidavit of posting in the record as provided by subsection (D)(1)(b) of this section; and
 - c. For each notice posted on the city's website, file in the record an affidavit of posting as provided by subsection (D)(1)(c) of this section
3. Content of Notice. Notice of appeal of a Type II administrative decision or a Type III hearing to be mailed or posted per subsection (D)(1) of this section shall contain the following information:
- a. The number and title of the file containing the application;
 - b. A description of the location of the proposal including street address reasonably calculated to give notice of the location of the geographic area;
 - c. A description of the proposal in enough detail for people to determine that a change is proposed;
 - d. The date, time, and location of the public hearing;
 - e. The applicable criteria and standards from the development code(s) that apply to the application;
 - f. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue means that an appeal based on that issue cannot be filed with the state Land Use Board of Appeals;
 - g. The name of a city representative to contact and the telephone number where additional information on the application may be obtained;
 - h. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies shall be provided at a reasonable cost;
 - i. A statement that a copy of the city's staff report and recommendation to the planning commission shall be posted on the official city website and available for review at no cost at least seven calendar days before the hearing, and that a copy shall be provided on request at a reasonable cost;

j. A general explanation of the requirements to submit testimony and the procedure for conducting public hearings; and

k. The following notice: “Notice to mortgagee, lienholder, vendor, or seller: The City of Philomath development code requires that if you receive this notice it shall be promptly forwarded to the purchaser.”

E. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the city council:

a. The presiding officer of the planning commission shall have the authority to:

- i. Regulate the course, sequence, and decorum of the hearing;
- ii. Direct procedural requirements or similar matters; and
- iii. Impose reasonable time limits for oral presentations.

b. No person shall address the commission without:

- i. Receiving recognition from the presiding officer; and
- ii. Stating their full name and residence address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the commission shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and that the decision will be the final decision of the commission, appealable to the city council;

b. The staff report shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The body’s deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

3. At the commencement of the hearing, the planning commission shall state to those in attendance that:

a. The applicable approval criteria and standards that apply to the application or appeal;

b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;

c. A statement that failure to raise an issue with sufficient detail to give the planning commission and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue; and

d. Before the conclusion of the initial evidentiary hearing, any participant may ask the planning commission for an opportunity to present additional relevant evidence or testimony that is within the scope

of the hearing. The planning commission shall grant the request by scheduling a date to finish the hearing (a continuance) per subsection (E)(4) of this section, or by leaving the record open for additional written evidence or testimony per subsection (E)(5) of this section.

4. Continuation of the Public Hearing. The planning commission may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

If the planning commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence.

5. Record Open. If the planning commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the city in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the planning commission shall reopen the record to allow any person to raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue;

a. When the planning commission or hearings officer reopens the record to admit new evidence or testimony, any person may raise new issues which relate to that new evidence or testimony;

b. An extension of the hearing or record granted pursuant to subsection (E)(4) of this section is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant;

c. If requested by the applicant, the city shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.

6. The Record.

a. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record.

b. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

c. The official record shall include:

i. All materials considered by the planning commission;

ii. All materials submitted by the planning official to the planning commission regarding the application;

iii. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;

iv. All correspondence; and

v. A copy of the notices that were given as required by this chapter.

d. The planning commission may take official notice of judicially cognizable facts under the applicable law. If the review authority takes official notice, it must announce its intention and allow persons participating in the hearing to present evidence concerning the noticed facts;

e. The review authority shall retain custody of the record until the city issues a final decision.

7. Conflict of Interest. Participants in the appeal of a Type II administrative decision or a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and prehearing ex parte contacts (see subsection (E)(8) of this section) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

a. A member of the planning commission shall not participate in any proceeding in which they or any of the following has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;

b. Disqualification of a member of the planning commission due to contacts may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

c. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

d. If a member of the planning commission abstains or is disqualified, the city shall provide a substitute in a timely manner subject to the impartiality rules of this section;

e. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the members of the planning commission shall reply in accordance with this section.

8. Ex Parte Communications.

a. Members of the planning commission shall not:

i. Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice as provided in this section; or

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials;

b. At the beginning of the public hearing, planning commission members shall disclose the substance of any prehearing ex parte contacts concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;

c. No decision or action of the planning commission shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first

hearing following the communication during which action shall be considered or taken on the subject of the communication;

d. Disqualification of a member of the planning commission due to conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

e. A communication between city staff and the planning commission is not considered an ex parte contact.

9. Presenting and Receiving Evidence.

a. The planning commission may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in subsection (E)(5) of this section;

c. Members of the planning commission may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the hearing and an opportunity is provided to dispute the evidence. In the alternative, a member of the planning commission may visit the property to familiarize him or herself with the site and surrounding area, but not to independently gather evidence. In the second situation, at the beginning of the hearing, he or she shall disclose the circumstances of the site visit and shall allow all participants to ask about the site visit.

F. Approval Process and Authority.

1. Basis for Decision. Approval or denial of an appeal of a Type II administrative decision or a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the city as a whole.

2. Findings and Conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.

3. Form of Decision. The planning commission shall issue a final written order containing the findings and conclusions stated in subsection (F)(2) of this section, which either approves, denies, or approves with specific conditions. The planning commission may also issue appropriate intermediate rulings when more than one permit or decision is required.

4. Decision-Making Time Limits. A final order for any Type II administrative appeal or Type III action shall be filed with the planning official within 10 business days after the close of the deliberation.

G. Notice of Decision. Written notice of a Type II administrative appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within five business days after the planning commission decision. Failure of any person to receive mailed notice shall not invalidate the decision; provided, that a good faith attempt was made to mail the notice.

H. Final Decision and Effective Date. The decision of the planning commission on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the city. The decision is effective on the day after the appeal period expires, 14 days after the notice of decision is mailed.

I. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the city council. The notification and hearings procedures for Type III applications on appeal to the city council shall be the same as for

the initial hearing. [Ord. 875 § 1 (Exh. A), 2023; Ord. 833 § 7, 2018; Ord. 832 § 22, 2018; Ord. 720 § 7[4.1.5], 2003.]

18.105.060 Type IV procedure (legislative; annexation, code amendment, comprehensive plan amendment, land use district map change).

A. Preapplication Conference. A preapplication conference is required for all Type IV applications. The requirements and procedures for a preapplication conference are described in PMC 18.105.070(C).

B. Application Requirements.

1. Application Forms. Type IV applications shall be made on forms provided by the city.
2. Content. Type IV applications shall:
 - a. Include the information requested on the application form;
 - b. Include a map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
 - c. Be accompanied by the required fee; and
 - d. Include a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards in sufficient detail for review and action.

C. Required Hearings. A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications, except as required in PMC 18.105.070(D)(2), Consolidated Proceedings.

D. Notice of Hearings.

1. Notice Provided. Notice of a Type IV application public hearing or Type III appeal hearing shall be given by the planning official in the following manner:
 - a. Mailed. At least 14 calendar days, but not more than 40 days, before the date of each hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - i. Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a comprehensive plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
 - ii. The applicant and all owners or contract purchasers of record of the property which is the subject of the application;
 - iii. All property owners of record within 400 feet of the site;
 - iv. Any governmental agency that has entered into an intergovernmental agreement with the city which includes provision for such notice, or who is otherwise entitled to such notice;
 - v. Any neighborhood or community organization recognized by the city council and whose boundaries include the property proposed for development;
 - vi. Any person who submits a written request to receive notice;
 - vii. For appeals, the appellant and all persons who provided testimony; and
 - viii. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

- b. Posted on City Website. At least 14 calendar days before the scheduled planning commission public hearing date, and 14 calendar days before the city council hearing date, notice shall be posted on the official city website.
- c. Posted in Public. For Type IV applications, not less than five calendar days or more than 15 calendar days prior to the public hearings, notice shall be posted at four public places within the city.
- d. Notice to News Outlets. At least 14 calendar days before the scheduled planning commission public hearing date, and 14 calendar days before the city council hearing date, notice shall be provided to news outlets that regularly cover the city.
- e. Posted Sign on Property. When specific properties are involved in the application (i.e. annexation, zone change), at least 14 calendar days before the hearing, the city shall post a sign giving notice of the hearing on the property at each access point and at least every 250 feet along the public right-of-way. The sign shall direct the public to the city website and City Hall for additional information and opportunities to provide comment.
- f. The Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments at least 35 calendar days before the first public hearing at which public testimony or new evidence will be received.
- g. In those instances where an approved annexation would create an island of unincorporated property, those affected property owners shall be notified of this potential.

E. Hearing Process and Procedure.

- 1. Unless otherwise provided in the rules of procedure adopted by the city council:
 - a. The presiding officer of the planning commission and of the city council shall have the authority to:
 - i. Regulate the course, sequence, and decorum of the hearing;
 - ii. Direct procedural requirements or similar matters; and
 - iii. Impose reasonable time limits for oral presentations.
 - b. No person shall address the commission or the council without:
 - i. Receiving recognition from the presiding officer; and
 - ii. Stating their full name and residence address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
- 2. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the commission and of the council shall conduct the hearing as follows:
 - a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision that will be made is a recommendation to the city council or the final decision of the council;
 - b. The staff report shall be presented;
 - c. The public shall be invited to testify;

- d. The public hearing may be continued to allow additional testimony or it may be closed; and
 - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.
3. At the commencement of the hearing, the planning commission or city council shall state to those in attendance that:
- a. The applicable approval criteria and standards that apply to the application or appeal;
 - b. A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations which the person testifying believes to apply to the decision;
 - c. A statement that failure to raise an issue with sufficient detail to give the planning commission or city council and the parties an opportunity to respond to the issue means that no appeal may be made to the State Land Use Board of Appeals on that issue; and
 - d. Before the conclusion of the initial evidentiary hearing, any participant may ask the planning commission or city council for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The planning commission or city council shall grant the request by scheduling a date to finish the hearing (a continuance) per subsection (E)(4) of this section, or by leaving the record open for additional written evidence or testimony per subsection (E)(5) of this section.
4. Continuation of the Public Hearing. The planning commission may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.
- If the planning commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence.
5. If the planning commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the city in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the planning commission shall reopen the record to allow any person to raise new issues which relate to the new evidence, arguments, testimony or criteria for decision-making which apply to the matter at issue;
- a. When the planning commission or hearings officer reopens the record to admit new evidence or testimony, any person may raise new issues which relates to that new evidence or testimony;
 - b. An extension of the hearing or record granted pursuant to subsection (E)(4) of this section is subject to the limitations of ORS 227.178 (120-day rule), unless the continuance or extension is requested or agreed to by the applicant;
 - c. If requested by the applicant, the city shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence.

F. Decision-Making Considerations. The recommendation by the planning commission and the decision by the city council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under ORS Chapter 197 (for comprehensive plan amendments only);

2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;
3. Any applicable intergovernmental agreements; and
4. Any applicable comprehensive plan policies and provisions of this title that implement the comprehensive plan. Compliance with Chapter 18.135 PMC shall be required for comprehensive plan amendments and land use district map and text amendments.

G. Approval Process and Authority.

1. The planning commission shall, after notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.
2. Any member of the planning commission who votes in opposition to the planning commission's majority recommendation may file a written statement of opposition with the planning official before the council public hearing on the proposal. The planning official shall send a copy to each council member and place a copy in the record.
3. If the planning commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within 75 days of its first public hearing on the proposed change, the planning official shall:
 - a. Report the failure together with the proposed change to the city council; and
 - b. Provide notice, and put the matter on the city council's agenda, of a public hearing to be held. The commission shall take no further action.
4. The city council shall:
 - a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application;
 - b. Consider the recommendation of the planning commission; however, it is not bound by the commission's recommendation; and
 - c. Act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

H. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.
 - a. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the city council decision is filed with the planning official. The city shall also provide notice to all persons as required by other applicable laws.
 - b. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

I. Conflict of Interest. Participants in the appeal of a Type III hearing or a Type IV hearing are entitled to an impartial review authority as free from potential conflicts of interest as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

1. A member of the planning commission or city council shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: Their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
2. Disqualification of a member of the planning commission or city council due to conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
3. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;
4. If a member of the planning commission or city council abstains or is disqualified, the city shall provide a substitute in a timely manner subject to the impartiality rules of this section;
5. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the members of the planning commission or city council shall reply in accordance with this section.

J. Presenting and Receiving Evidence.

1. The planning commission or city council may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
2. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in subsection (E)(5) of this section.

K. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record.
2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.
3. The official record shall include:
 - a. All materials considered by the planning commission;
 - b. All materials submitted by the planning official to the planning commission regarding the application;
 - c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
 - d. The final ordinance;
 - e. All correspondence; and
 - f. A copy of the notices that were given as required by this chapter. [Ord. 875 § 1 (Exh. A), 2023; Ord. 833 § 8, 2018; Ord. 799 § 15, 2015; Ord. 720 § 7[4.1.6], 2003.]

18.105.070 General provisions.

A. One-Hundred-Twenty-Day Rule. The city shall take final action on permit applications that are subject to this chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The 120-day rule does not apply to Type IV legislative decisions under ORS 227.178.)

B. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.

C. Preapplication Conferences.

1. Participants. When a preapplication conference is required, the applicant shall meet with the planning official or his/her designee(s).

2. Information Provided. At such conference, the planning official shall:

- a. Cite the comprehensive plan policies and map designations applicable to the proposal;
- b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;
- c. Provide available technical data and assistance that will aid the applicant;
- d. Identify other governmental policies and regulations that relate to the application; and
- e. Reasonably identify other opportunities or constraints concerning the application.

3. Disclaimer. Failure of the planning official or his/her designee to provide any of the information required by this subsection (C) shall not constitute a waiver of any of the standards, criteria or requirements for the application.

4. Changes in the Law. Due to possible changes in federal, state, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

D. Applications.

1. Initiation of applications:

a. Applications for approval under this chapter may be initiated by:

- i. Order of city council;
- ii. Resolution of the planning commission;
- iii. The planning official;
- iv. A record owner of property (person(s) whose name is on the most recently recorded deed) or contract purchaser with written permission from the record owner.

b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidated Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

a. When proceedings are consolidated:

- i. The notice shall identify each application to be decided;
- ii. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions; and
- iii. Separate findings and decisions shall be made on each application.
- iv. Approval of each application shall be contingent upon the approval of all the components of the consolidated application.

3. Check for Acceptance and Completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When the city receives an application, the planning official shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

- i. The required form;
- ii. The required fee;
- iii. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

i. After the application is accepted, the planning official shall review the application for completeness. If the application is incomplete, the planning official shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days to submit the missing information.

ii. When Application Deemed Complete for Review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the planning official of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the planning official in (D)(3)(b)(i) of this section. For the refusal to be valid, the refusal shall be made in writing and received by the planning official no later than 14 days after the date on the city's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the thirty-first day after the planning official first accepted the application.

iii. Standards and Criteria that Apply to the Application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first accepted.

4. Changes or Additions to the Application During the Review Period. Once an application is deemed complete:

a. All documents and other evidence relied upon by the applicant shall be submitted to the planning official at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by the planning official, and transmitted to the planning commission, but may be too late to include with the staff report and evaluation;

- b. When documents or other evidence are submitted by the applicant during the review period, but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application;
- c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see subsection (D)(4)(d) of this section), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change;
- d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the city shall take one of the following actions, at the choice of the applicant:
 - i. Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;
 - ii. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (subsection (A) of this section) on the existing application. If the applicant does not consent, the city shall not select this option;
 - iii. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The city will complete its decision-making process without considering the new evidence;
- e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Planning Official's Duties. The planning official shall:

- 1. Prepare application forms based on the criteria and standards in applicable state law, the city's comprehensive plan, and implementing ordinance provisions;
- 2. Accept all development applications that comply with this section;
- 3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance with the criteria. The staff report should also provide a recommended decision of approval, denial, or approval with specific conditions that ensure conformance with the approval criteria;
- 4. Prepare a notice of the proposal decision:
 - a. In the case of an application subject to a Type I or II review process, the planning official shall make the staff report and all case file materials available at the time that the notice of the decision is issued;
 - b. In the case of an application subject to a hearing (Type III or IV process), the planning official shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case file materials available when notice of the hearing is mailed, as provided by PMC 18.105.040(C) (Type II), 18.105.050(D) (Type III), or 18.105.060(D) (Type IV);
- 5. Administer the hearings process;

6. File notice of the final decision in the city's records and mail a copy of the notice of the final decision to the applicant, all persons who provided comments or testimony, persons who requested copies of the notice, and any other persons entitled to notice by law;

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

8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the planning official to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The planning official may issue an amended decision after the notice of final decision has been issued, but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 10 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new 10-day appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures contained in Chapter 18.130 PMC. All other requested changes to decisions that do not qualify as minor or major modifications shall follow the appeal process.

G. Resubmittal of Application Following Denial. An application that has been denied, or an application that was denied and, which on appeal or review has not been reversed by a higher authority, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 12 months from the date the final city action is made denying the application unless there is substantial change in the facts or a change in city policy which would change the outcome, as determined by the planning official. [Ord. 841 § 14, 2020; Ord. 833 § 9, 2018; Ord. 720 § 7[4.1.7], 2003.]

18.105.080 Special procedures.

A. Expedited Land Divisions. An expedited land division (ELD) shall be defined and may be used as in ORS 197.360 which is expressly adopted and incorporated by reference here.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit his/her right to use it;

2. Review Procedure. An ELD shall be reviewed in accordance with the procedures in ORS 197.365;

3. Appeal Procedure. An appeal of an ELD shall be in accordance with the procedures in ORS 197.375. [Ord. 720 § 7[4.1.8], 2003.]

18.105.090 Neighborhood meetings.

Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input and exchange information about the proposed development. In some cases, the planning official may require the applicant to meet with a city-recognized neighborhood association or group prior to accepting an application as complete. A neighborhood meeting is required for the following types of applications:



CITY OF PHILOMATH

Activity Report/Ongoing Projects

January 16, 2024

1. Received an application for a Class C Variance for a setback adjustment at 514 Fawn Lane.
2. Staff approved P23-14 for an Automotive Repair & Diagnostics Shop at 120 S 10th Street.
3. Building permits issued for December 2023 were as follows:

Single Family Residential.....	0
Residential Structural (other)	1
Residential Electrical.....	3
Residential Mechanical	4
Residential Plumbing	3
Residential Manufactured Dwelling	0
Residential Demo.....	0
Commercial Structural	2
Commercial Electrical	1
Commercial Mechanical.....	1
Commercial Plumbing.....	1
Commercial Alarm/Suppression.....	0
Commercial Demo	0

Commercial permits are for Pioneer Telephone, Philomath Scout Lodge, and Dirt Road Brewing.