



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

CITY HALL COUNCIL CHAMBERS

980 Applegate Street

December 16, 2019

6:00 p.m.

MEETING AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
 - 3.1 November 12, 2019
 - 3.2 November 18, 2019
- 4. NEW BUSINESS**
 - 4.1 Public hearing on PC19-10
382 N 7th Street / 12-6-11AD #1900
Applicant: Kevin Sullivan
Class C Variance for rear yard setback
 - 4.2 PC19-10 Discussion and possible decision
 - 4.3 Urban Fringe Agreement discussion
- 5. OLD BUSINESS**
 - 5.1 2040 Comprehensive Plan Advisory Group update
 - 5.2 Development Code & Annexation Amendments (PC19-08 & PC19-09)
 - A) City Council decision review
 - B) Major/Minor Modifications: PMC 18.130
 - C) Recreational Park code considerations: PMC 18.50.010, 9.15.025 & 18.45
- 6. OTHER BUSINESS**
 - 6.1 Communication expectations between Commission, Council & Staff
 - 6.2 Setting meeting dates: January and February 2020 holiday conflicts
- 7. ADJOURNMENT**

NEXT MEETING

January 2020 – TBD

**CITY OF PHILOMATH
PLANNING COMMISSION
SPECIAL MEETING
November 12, 2019**

Philomath Fire & Rescue Meeting Room
1035 Main Street

CALL TO ORDER:

The special meeting was called to order at 5:00 p.m. by Vice-Chair Lori Gibbs at Philomath Fire & Rescue Meeting Room, 1035 Main Street, Philomath, Oregon.

ROLL CALL:

Planning Commission: Lori Gibbs, Jeannine Gay, Joseph Sullivan, Steve Boggs, Peggy Yoder, and David Stein (5:02 p.m. via teleconference).

Staff: City Manager Chris Workman and City Recorder Ruth Post.

Absent: Commissioner Gary Conner.

NEW BUSINESS:

City Council formation of 2040 Comprehensive Plan Advisory Group -- Vice-Chair Gibbs requested that Mr. Workman provide an overview of the agenda item. Mr. Workman explained that, on his recommendation, the City Council formed the committee at their last meeting. He noted there is a memorandum in the current council agenda packet regarding specifics of the committee. He stated the memorandum explains the process and role that the technical advisory committee will have in the Comprehensive Plan update process. He reviewed the technical advisory grant that the city applied for through DLCD in October. The intent of the grant is to pay for a consultant to compile the four reports needed for a Comprehensive Plan update: housing needs analysis, buildable land inventory, economic opportunity analysis and Main Street plan. He estimated it would take up to three months to compile those. Once the technical data is collected, he added, the process approved by the City Council is for the completed analysis to go to the Planning Commission and City Council for public hearings, round tables, and town halls for public outreach. The results of the outreach discussion would lead to the new Comprehensive Plan policies for approval by the Planning Commission and City Council. He stated the advisory group would primarily review the reports compiled by the consultant. Mr. Workman stated the City Council directed him to reach out to individuals about serving and he collected the names of nine people for the City Council to consider. He added that his thought was for the technical advisory committee to include more people in the overall process.

Vice Chair Gibbs related the process to the Transportation Plan that was just completed using a consultant with a technical advisory committee review before it came to the Planning Commission for review and approval.

Commissioner Yoder questioned if this was the same grant that they had met with Laura Buell about earlier this year. Mr. Workman explained that was a different grant and process for update of the Development Code document, while this grant would be for the Comprehensive Plan update. He noted the grant hasn't been awarded yet, but wanted to be ready to move forward if it is awarded. Commissioner Yoder thought this would have been a good topic for the Planning Commission to discuss at the October meeting that was cancelled. She questioned that some of the proposed committee appointees don't even live in Philomath and she'd hope that was taken into account before the City

Council approves the list. Mr. Workman noted that the City Council memorandum for the November 12 meeting had been updated to complete the missing names.

Commissioner Sullivan stated, whether the Planning Commission agrees or not, the City Council did approve the formation of the advisory group and questioned what, if anything, the Planning Commission wanted to do in the form of a recommendation to the Council. He cited ORS 227.090 Powers and duties of commission. He stated there was nothing wrong or illegal about the city manager making recommendations to the City Council but felt the best outcome was for the Planning Commission to be appointed as the advisory committee. Commissioner Boggs suggested taking a couple of appointees from the Planning Commission to the advisory group. Commissioner Sullivan reviewed Section I. Citizen Involvement in the Comprehensive Plan and the requirement to have a Committee of Citizen Involvement (CCI). He noted that, in small communities, the city is allowed to make the CCI out of another committee and was surprised to discover that the Planning Commission also acts as Philomath's CCI. He stated his biggest issue was with the list of people to be appointed and felt that action should be stopped. He stated it is the Planning Commission's job to say that this should be an open process with applications, advertisement, and selection. He stated the Planning Commission should have that input.

Commissioner Yoder likened the process to applying for a position on the Planning Commission. There was discussion about applicants having to be interviewed and the feeling that a member of the Planning Commission would have some input on the City's future growth. She felt that interested people should apply for the advisory group. Commissioner Sullivan noted that during the Planning Commission interview process he had emphasized that the Comprehensive Plan is out of date and would take steps to help update it. He felt this was why he was appointed.

Commissioner Gibbs supported the committee consisting of people who live within the city but agreed that involving more people broadens the number of people that touch it. Chair Stein stated this issue wasn't on his radar when he made the decision to cancel the October meeting and agreed that the Planning Commission should have some representation on the advisory group. He agreed that the Planning Commission could function as the advisory group but it would increase the amount of work the Planning Commission has to do, which could have disadvantages. He noted that the Planning Commission could be considered not entirely representative of Philomath and establishing a technical advisory group could do a better job.

Commissioner Gay questioned if a technical advisory committee would have an advantage over the Planning Commission. She felt things were pushed very fast and it was unknown to some what was being done. She suggested the committee needs representation from the Planning Commission, citizens and a couple of business people but didn't think an application process would be the best way to go.

Commissioner Sullivan suggested the Planning Commission conduct a well-publicized process and select three appointees with one Planning Commission representative.

Mr. Workman explained that the thinking was for the advisory committee to involve more people in the process. He noted the goal of having some of the people on the proposed list become more involved in city planning. He added that, aside from the school district, Georgia Pacific is the largest employer in the city and the goal would be to have them at the table to help develop policies related to industrial property, with similar reasons for involving the school district and Chamber business community. Commissioner Sullivan stated he hadn't looked at the list and wouldn't mind if they were chosen to

appoint. He added he doesn't object to the people on the proposed list, just the way they were chosen without Planning Commission involvement.

Commissioner Gibbs questioned how long this committee would be active. Mr. Workman reminded the Commission that the grant hasn't actually been awarded yet but would anticipate a six to nine month process. He stated the general outline per DLCD is for an initial meeting with the consultant who then completes each report, the technical advisory committee reviews each report and provides input, repeating the process as each of the four required analysis reports is completed. Commissioner Yoder felt this was work the Planning Commission should be doing.

Commissioner Sullivan reviewed Section IX of the Comprehensive Plan that covers plan amendment and update. Commissioner Yoder questioned the process if the grant isn't awarded. Mr. Workman explained that the current budget does include \$20,000 to begin the Comprehensive Plan update. He reviewed the city's master plans that have now been updated and the Comprehensive Plan is on the city's radar to update next. He stated even if the grant isn't awarded, the process will be able to begin, just possibly with only one analysis report this year. He noted the grant would be nice because it would make it possible to complete all four reports in the coming year.

Commissioner Yoder stated she hadn't had an opportunity to read the City Council memorandum because she'd only just found out about the committee. Commissioner Gibbs questioned how much time appointees would be expected to devote. Mr. Workman estimated four to six meeting over a six to nine month period would be involved. He added that his intent in the recommendations was to get a cross-section of representatives invested in Philomath's future. He added that his intent was never to exclude the Planning Commission. He likened this to staff level work; but rather than just have staff review the analysis, he thought it was better to have a small technical advisory committee perform the analysis review.

Commissioner Sullivan proposed congratulating the City Council on thinking about this and applying for the grant and requesting that they please either appoint the Planning Commission or let the Commission select the appointees. Commissioner Yoder suggested asking the Council to hold off on the appointments and allow the Planning Commission further time for review.

Chair Stein felt the best option was to request the Council take no action until their next meeting in December, which would allow the Planning Commission time to consider the options and frame their recommendation. He felt there should be a Commission representative on the technical committee and agreed that not everyone on the committee needs to be a city resident. He agreed that a Georgia Pacific manager could have a lot to add. He added that a lot of people who speak to the Council don't live within the city limits but have a lot to offer. He suggested if the Council won't delay their decision to request at least one member of the Planning Commission be appointed.

Commissioner Sullivan distributed a proposed memorandum to the Council that he had previously drafted for the Commission to review. Commissioner Boggs stated he approved with requesting the Council delay their decision. Commissioner Yoder stated she liked Option 2 offered in the handout. Commissioner Gibbs stated she saw nothing wrong with the representatives from the different types of groups on the list. There was additional discussion about the work to be performed and the impact of the representatives. Mr. Workman stated there was no specific number of committee members to be appointed and all of the proposed members on the list have agreed to serve. Chair Stein didn't feel that four people was a sufficient number. Commissioner Sullivan reasoned that he had suggested four

because he's been working on ways to get traction on the Comprehensive Plan update and had come up with four after a conversation with the city attorney.

There was discussion about next steps, the upcoming City Council meetings schedule, and scheduling a Planning Commission meeting. There was discussion about rescheduling the regular November 18 meeting that had been previously cancelled and submitting something to the City Council for their November 25 meeting.

Mr. Workman offered potential options for addressing the November 12 City Council discussion on the agenda item, including suggesting to the Mayor for the Council to table their discussion until the November 25 meeting. Versions of a proposed motion were discussed.

MOTION: Commissioner Sullivan moved, Commissioner Boggs second, the Planning Commission deliver the proposed memorandum, amending the final paragraph to request the City Council postpone a decision on Agenda #H.01 until the Planning Commission is able to make a recommendation at the November 25 City Council meeting. Motion APPROVED 6-0 (Yes: Boggs, Gay, Gibbs, Stein, Sullivan and Yoder; No: None.)

ADJOURNMENT:

Vice Chair Gibbs adjourned the meeting at 5:58 p.m.

**PHILOMATH PLANNING COMMISSION
MINUTES**

November 18, 2019

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2
3
4
5
6 **1. CALL TO ORDER:** Chair Stein called the meeting to order at 6:00 pm. at the City Hall
7 Council Chambers, 980 Applegate Street, Philomath, Oregon.

8
9 **2. ROLL CALL:**

10 **Present:** Chair David Stein, Commissioners Steve Boggs, Gary Conner (via
11 teleconference at 6:03 p.m.), Jeannine Gay, Lori Gibbs, Joseph Sullivan, and Peggy Yoder.

12
13 **Staff:** Chris Workman City Manager; Deputy City Attorney David Coulombe; and City
14 Recorder Ruth Post.

15
16 **Guest:** City Councilor Doug Edmonds.

17
18 **Absent:** None.

19
20 **3. APPROVAL OF MINUTES**

21 **3.1 Minutes of September 16, 2019**

22
23 **MOTION:** Commissioner Yoder moved, Commissioner Gibbs second, to approve the minutes
24 of September 16, 2019, as presented. Motion APPROVED 6-0 (Yes: Boggs, Gay, Gibbs, Stein,
25 Sullivan, and Yoder; No: None).

26
27 *(Commissioner Conner joined the meeting at 6:03 p.m.)*

28
29 **4. BUSINESS**

30 **4.1 2040 Comprehensive Plan Advisory Group involvement** – Commissioner Yoder
31 stated her belief of the outcome of the Planning Commission's (PC) meeting on November 12
32 was that the Commission should be an integral part of the advisory committee. After
33 discussion, it was agreed that having the entire Commission plus the proposed appointees
34 would create too large of a committee at 16 members. Commissioner Yoder proposed any
35 members of the PC who want to serve on the committee should be allowed but it shouldn't be a
36 total of more than 7 members.

37
38 Chair Stein suggested reducing the nine proposed appointees and add a couple of PC
39 members for a mix of PC and the proposed members. Commissioner Yoder stated she would
40 prefer to see the committee consist of more citizens, and it should be a mix.

41
42 Commissioner Sullivan noted they are making a recommendation to the City Council, but the
43 root issue is that it is unclear what the deliverable expectations are for the committee. It would
44 be helpful to know specifically what they are going to be doing. Chair Stein summarized his
45 understanding, including if City gets the grant, a consultant will be hired who will prepare the
46 reports and report back to the advisory committee with the consultant's findings and the
47 advisory committee will provide feedback. The consultant will adjust accordingly and the
48 reports will move on for approval. Commissioner Sullivan stated he understands what the
49 consultant will do but doesn't understand the role of the committee. Chair Stein explained the
50 use of citizens in helping to direct the study because they know the town. There was discussion
51 about the time commitment of the advisory committee members. Commissioner Sullivan stated
52 there are lots of rules for the PC but how this committee will work doesn't seem to be defined.

53 Chair Stein stated it seems pretty clear that the committee will meet anywhere from four to six
54 times and will then be disbanded.
55

56 Commissioner Yoder questioned if this committee will have the same constraints as the PC
57 regarding ex parte contact. Mr. Workman stated the committee will not be setting policy or
58 making a land use decision, so ex parte contact won't apply. He stated it will, however, be
59 subject to public meetings law.
60

61 Commissioner Gay questioned if the consultants would be paid by the report. Mr. Workman
62 explained he hasn't previously hired this particular type of consultant before but his expectation
63 is that it will be a matter of hiring a firm to gather the data and write each report. Commissioner
64 Gay had concerns that consultants don't know the city or the history. There was additional
65 discussion about the expectations of the consultant and the cost. Mr. Workman noted that if
66 staff has to do the work, it will take much longer. Commissioner Gay expressed her concern for
67 having to pay money to a consultant when all of that work was performed for the current
68 comprehensive plan and now someone has to be paid to do it all again. There was discussion
69 about the funds the City has budgeted to begin this process. Commissioner Conner stated he
70 has familiarity with this type of work and explained the process is to select a consultant and
71 negotiate a price. Commissioner Boggs stated the PC should be involved in this process just
72 the same as the standing committees that the City Council serve on.
73

74 Mr. Workman suggested adding a couple more names from the PC to make 11 on the
75 committee. Chair Stein commented that the problem with the draft list is there are nine people
76 and seven are business people. He felt this was too many business people. Commissioner
77 Sullivan stated the desirability as a business person to be on the committee and impact
78 business policies. He felt this should be a more democratic process.
79

80 There was discussion about the likelihood of receiving the grant. Mr. Workman stated the
81 information he has received is promising but not a sure thing. He was doubtful that the City
82 would get the full \$50,000 requested, but noted the City does have \$20,000 budgeted this year
83 towards the project. He expects to receive a final decision within a couple of weeks and would
84 like to get the project kicked off in January. He further explained the need to have discussions
85 with the consultant to determine which reports are a priority to get done first and this may be
86 somewhat dependent on what types of funding may be available now and in the future.
87

88 Chair Stein requested a timeline. Mr. Workman explained the timetables aren't necessarily set
89 and will be impacted by the consultant. Chair Stein questioned if there was a need to rush into
90 establishing a committee. Mr. Workman described a timeline of a couple of weeks to receive
91 the grant response, two to four weeks to get the consultant on board, and the committee
92 beginning meetings after that.
93

94 Commissioner Yoder stated she would like to see an application process for committee
95 members. Mr. Workman explained this process was based on the City Council's direction.
96 Commissioner Yoder questioned if other options were considered by the Council. Councilor
97 Edmonds stated the Council did consider other options and decided to use this one. He
98 suggested the PC put their recommendation together for the Council to consider.
99

100 Chair Stein questioned how many members of the PC were interested in serving on the
101 committee and how many other types of people they would recommend. Commissioner
102 Sullivan stated he only knew one name on the list, Troy Muir; and with an open process, he
103 could feel good about the list. He suggested the process should start over. Councilor Edmonds
104 encouraged the PC to make that recommendation to the Council. He added that the Council is
105 responsible for directing the City Manager to complete the comprehensive plan and this is their
106 committee.

107
108 Commissioner Gibbs felt there is no perfect mix. She did think it was worthwhile to have a
109 couple of PC members on the committee but also saw the benefit of having the different
110 representation from the community. Commissioner Sullivan stated this was the cornerstone of
111 the comprehensive plan and this committee would decide where we're going to start. Chair
112 Gibbs stated she does think this commission should have a role.
113

114 Commissioner Sullivan recommended asking the Council to use some type of open process.
115 Commissioner Yoder stated it sounded like the Council had already had that discussion and
116 chose not to go that way. Commissioner Sullivan emphasized going to the Council with their
117 recommendation.
118

119 Mr. Coulombe explained the Council has the power of the City Charter to determine process
120 and it's not the PC's job to direct them. He stated appointment power is not within the PC's
121 purview and they appear to be getting bogged down on a piece of the process that they have
122 no authority over. Commissioner Sullivan confirmed that the PC understands they have no
123 authority. Mr. Coulombe noted the PC and citizens can make suggestions regarding process
124 but it's up to the Council to make the decision.
125

126 **MOTION:** Commissioner Boggs moved, Commissioner Gibbs second, to recommend to the
127 City Council to add a minimum of two Planning Commission members to the Comprehensive
128 Plan Advisory Group. Commissioner Yoder explained she would vote no because she wants to
129 add more than two. There was additional discussion about the motion stating a minimum.
130 Motion APPROVED 5-1 (Yes: Sullivan, Boggs, Gibbs, Yoder and Stein; No: Gay, Abstain:
131 Conner.)
132

133 There was discussion about having two people who wanted to participate. Chair Stein,
134 Commissioner Yoder and Commissioner Sullivan said they would be willing to participate in the
135 committee. Mr. Workman suggested he could just add the information about the Planning
136 Commission's meeting to the Council memorandum along with the three names or that the
137 Commission could draft a separate document with its own recommendation. There was
138 consensus for him to include it in his memorandum.
139

140 *Chair Stein called a recess at 6:46 p.m. and reconvened at 6:54 p.m.*
141

142 **4.2 Planning Commission rights, responsibilities and functions** – Chair Stein noted the
143 agenda packet contains state statute and city code directions on what the PC does and doesn't
144 do. He added that the name, Planning Commission, suggests they do a lot of planning but that
145 isn't what they really do.
146

147 In response to a question from Commissioner Boggs, Mr. Workman explained that the City
148 does not presently have a Traffic & Safety Committee. He stated although the code provides
149 for one, there hasn't been one established since he's been with the City. Commissioner Yoder
150 stated she was surprised to see the assignments in PMC 2.30.080 Public Facilities. She stated
151 the City has parks that have never come before the PC. Commissioners Sullivan and Boggs
152 stated agreement. Commissioner Sullivan added there were a number of things the PC is
153 supposed to be doing that they're not. There was discussion about parks and any that have
154 been created. Mr. Workman noted the Parks Master Plan was reviewed by the PC before it
155 was sent to the Council for adoption. There was discussion about the ODOT medians in the
156 highway.
157

158 Commissioner Sullivan suggested the PC should remind the Council that these things are in
159 the code and the PC would like to be involved. There was additional discussion about the
160 recent property donation for use as a memorial park in memory of Paul Cochran. Mr. Workman
161 stated the process was only beginning and the Parks Advisory Board would likely be
162 responsible for a lot of the design and planning. Commission Sullivan stated the PC needs to
163 respectfully remind the Council that it is their job to make plans for the City on future growth,
164 parks, and buildings. Chair Stein noted that Section 2.30.090 says the Council may call on the
165 PC, not shall. Ms. Post pointed out that Chapter 2.30 of the code was adopted in 1987 and the
166 Parks Advisory Board has been added since that time. She suggested it may be as simple as
167 the code needs to be amended to correct which body is responsible for certain activities.
168

169 **MOTION:** Commissioner Sullivan moved, Commissioner Yoder second, that the City Council
170 should consider whether the Planning Commission should be consulted when starting actions
171 that could lie within the Planning Commission's scope of responsibility. Motion APPROVED 7-0
172 (Yes: Boggs, Conner, Gay, Gibbs, Stein, Sullivan and Yoder. No: None).
173

174 Commissioner Sullivan reported he had a discussion with the City Attorney, City Manager and
175 Mayor regarding the comprehensive plan kickoff and there is obviously some steam behind it.
176 He believes there should be work on a vision to come up with a picture of what the community
177 wants for the next 20-plus years and that the PC should get together and begin work on that.
178 Chair Stein suggested that during the public discussions surrounding the 2040 plan would be a
179 good time to discuss that.
180

181 Chair Stein recommended that all members of the PC should have a copy of the Oregon
182 Planning Commission Handbook and Mr. Workman offered to get copies distributed.
183

184 **5. ADJOURNMENT:**

185 There being no further business, Chair Stein adjourned the meeting at 7:20 p.m.
186

187 SIGNED:

ATTEST:

188

189 _____
190 David Stein, Chair

Ruth Post, MMC, City Recorder



STAFF REPORT

Date:	December 9, 2019
Nature of Applicant:	Variance to allow a five (5) foot rear yard setback
Applicant / Owner:	Kevin Sullivan
Property Location:	382 N 7th Street / Tax Lot 1900 on Assessor Map 12-6-11AD
Applicable Criteria:	Chapter 18.155.040(C) 2.b of the PMC, Class C Variance
Zoning Designation:	R-1 (Low Density Residential)
Staff Contact:	Patrick Depa, Associate Planner
File Number:	PC19-10

VARIANCE REQUESTED:

The applicant is applying for a variance to allow for a five (5) foot rear yard setback where fifteen (15) feet is required. Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property and which are not applicable to other properties in the vicinity.

BACKGROUND:

1. The lot is located on the west side of N 7th Street.
2. The previous house was built in 1929 and was positioned directly at the front property line with zero setback. The house did have basement walk outs to rear and side of the house.
3. There is a ten (10) foot drop in grade from the front lot line at N. 7th Street to the back property line of the lot.
4. N. 7th Street is currently compacted gravel with an 80-foot wide public right-of-way.
5. The proposed vehicle access would be diagonal to accommodate the grade changes.
6. The setback of the structure to the south is currently ten feet. The total side yard setback, if approved, would be fifteen feet.
7. The setback to an accessory structure to the west is currently twenty-five feet. The total setback, if approved, would be thirty feet.
8. The property to the north is an access drive to the home directly behind and to the west of the subject property.

COMMENTS:

No comments were submitted prior to the submittal of the staff report.

FINDINGS OF FACT APPLYING ORDINANCE CRITERIA:

18.155.040 Class C Variance. Class C variances may be granted if the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district).

Approvals Process and Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:

- a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;

The development code encourages standards intended to orient building closer to the streets to promote human scale development, slow traffic down, and encourage walking in neighborhoods. Furthermore, the code addresses required setbacks for front and rear yards to encourage public safety and neighborhood security. A reduced rear yard setback of only five feet would create blind spots and decrease safety. Light and circulation would also be compromised with the reduced setback. The proposed variance would be in conflict with these standards.

- b. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);

The applicant's property has a steep grade, made evident from the drop in elevation from the front of the lot to the rear of the lot. The previous home was located at the front of the lot and street and had a basement that was integrated into the grade change. The side and rear elevations did have access to the basement or lower ground floor. The slope on the lot is roughly 15% and does not rise to the 20% level that hillside and erosion control methods are required but, the design of the proposal is in conflict with other property layouts in the area.

- c. 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 reasonable economic use of the land;

The primary use of this property is a residential home, which will remain as a permitted use and is not affected by this request. The city standard that allows the construction of a single family home will stay intact and permit the reasonable and economic use of the property as a residence.

- d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;

The proposed setback places the structure in conflict with the majority of the homes or structures along this stretch of N 7th Street. The lot coverage of a home at the lowest area of the lot, with very little area for water to permeate the ground before it migrates onto adjacent properties, may be a problem if an engineered solution cannot be met. This request may have a detrimental effect to the uniformed appearance of the existing streetscape along N 7th Street and may cause ponding of water on this property and on adjacent properties causing public health concerns if certain drainage issues are not addressed.

- e. The hardship is not self-imposed; and

We have not seen or heard of any different home styles or models that may fit the existing dimensions of this lot to determine if there are alternatives to this proposal. The proposed placement of a home five feet from the rear property line instead of being placed where it is permitted or at a distance that is permitted does qualify as “self-imposed”.

- f. The variance requested is the minimum variance that would alleviate the hardship.

The city’s development code already allows for a 10% reduction in setbacks through a Class A variance (equivalent to a 1.5’ in the case of a 15’ setback) but, the applicant is requesting a total of 66.5% reduction. A reduced front yard setback may be more appropriate in a residential neighborhood in which the homes are closer to the road right-of-way, which is the case here. The applicant could also seek smaller building footprint home styles to achieve a larger setback.

RECOMENDATION/CONDITIONS:

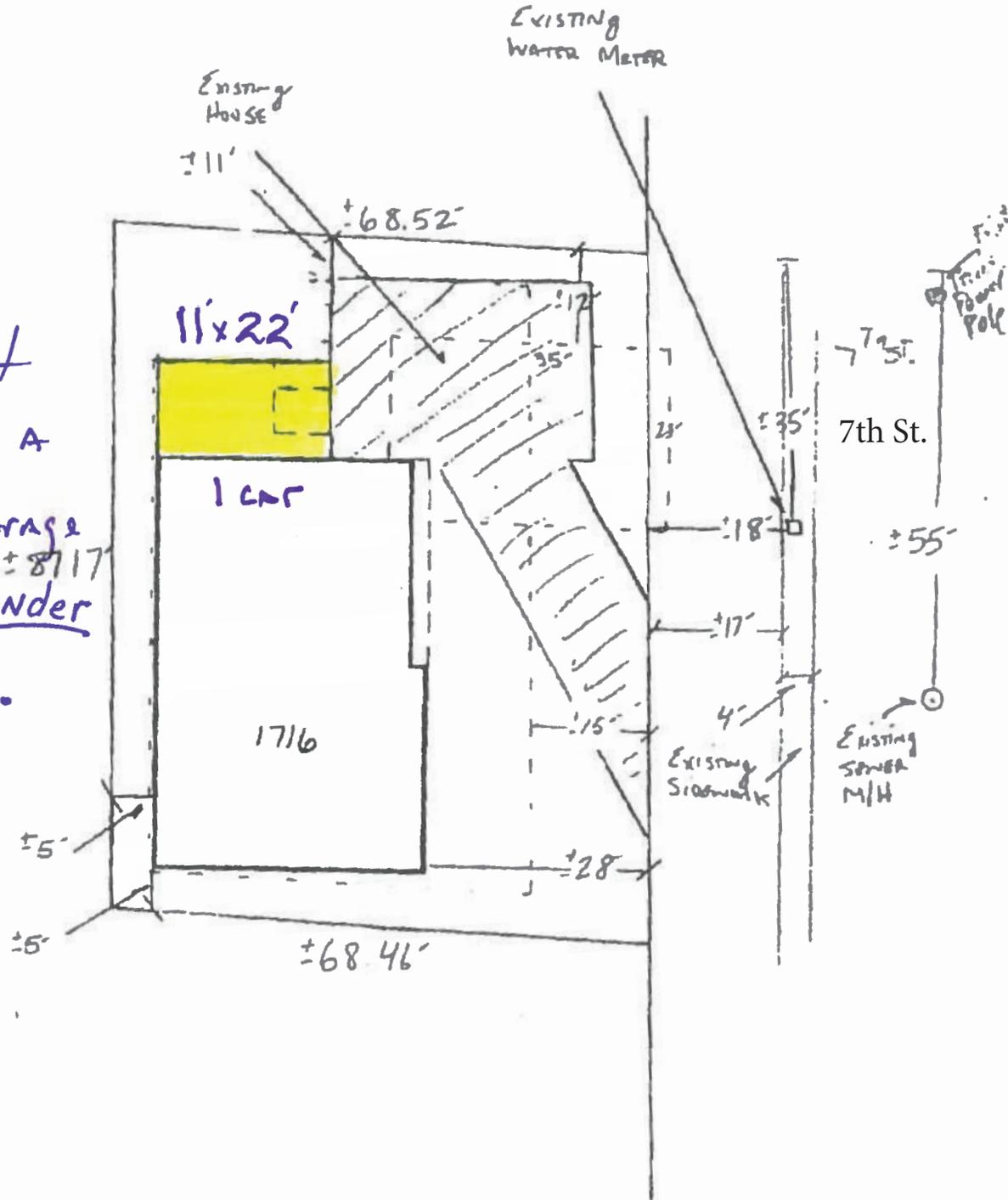
Staff recommends the variance be **denied**, finding that the approval criteria has not been met.

If the Planning Commission disagrees with the findings, it may choose to approve the variance by establishing its own findings to satisfy the criteria. If the Planning Commission chooses to approve the application, staff recommends the following conditions:

- 1. The applicant shall submit plans to public works for review that ensures no additional storm water will flow onto the neighboring property than it has historically.**
- 2. The applicant shall create a minimum 5' wide flat area adjacent to the public right-of-way to ensure that when the road is approved and sidewalks are installed that the private property will not have a steep drop off along the public to private property line.**

Alternatively, at the applicant's request, the Commission may choose to table this discussion and consider a front yard setback variance, recognizing that when N 7th Street develops, it will only require a 50' right-of-way, adding 15' of front yard property to this and other adjacent lots. The front yard setback would be more temporary in nature, and likely result in a more favorable analysis in a revised staff report.

Applicant
proposing a
one car garage
to remain under
the 35%.





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Fee: \$1,080

CLASS C VARIANCE APPLICATION

Applicant(s)

Name: Kevin Sullivan Contact Phone: 541-929-3330

Mailing Address: 5350 Worth Way, Philomath, OR 97370

E-mail: kpadraic@gmail.com

Name: _____ Contact Phone: _____

Mailing Address: _____

E-mail: _____

Interest in Property (Owner, Purchaser, Agent, etc.): Owner

Other individuals you would like to be notified concerning this application:

<u>Name</u>	<u>Address</u>	<u>E-mail</u>
<u>Susannah Sullivan</u>	<u>24465 Gellatly Way</u>	<u>susie.sullivan@alyrica.net</u>
_____	_____	_____
_____	_____	_____

General Property Information

Street Address: 382 N. 7th St.

Assessor's Map: 12611ADO Tax Lot: 12611ADO1900 Zoning: Residential - 1

Existing Structures: None

Current area and use(s) of the Property: Current area is .13 acres, use will be residential

Describe the Variance being requested:

Due to the particularly steep topography at the front of the stated plot, it is requested that housing be erected five feet from the rear of the property boundary, in variance to the code of 15 feet.

Required Application Information

A detailed description of the present use of the property and the proposed variance, including:

- The current use of the property
- A description of the variance being requested, including a response to each of the applicable criteria that would support the granting of the variance

A map of the property, drawn to scale, that contains the following information.

- The property boundaries and the location and use of all buildings and other improvements on the property
- A north arrow and the scale of the map
- Any other information necessary in reviewing the variance for compliance with the criteria

ADDITIONAL RESPONSIBILITIES OF THE APPLICANT

It is the responsibility of the applicant to determine if wetlands are present on the property and to contact the appropriate state and federal permitting agencies prior to applying for a development permit from the City. If hydric soils are present on the property or if the property contains a wetland designated on the National Wetlands Inventory Map, the applicant must submit documentation to the City that: (1) A permit has been applied for from the Oregon Division of State Lands; or (2) The Division of State Lands has determined that no permit is necessary for the project.

City staff will assist the applicant in determining if the property contains hydric soils or is identified on the National Wetlands Inventory Map, but the City has no responsibility for determining if wetlands are present or if a state or federal permit is required.

Signature(s)

I hereby certify that the information contained in this application is accurate to the best of my knowledge; and that the proposed use would not violate any deed restrictions attached to the property. This application must be signed by all owners of the property, or a statement authorizing the applicant to act for the owner must accompany the application.



11-7-19
Date

Date

General Information

The Planning Commission may grant variances from the requirements of the Philomath Municipal Code where the applicant shows that, owing to special and unusual circumstances related to a specific property, the literal application of the standards of the applicable land use district would create a hardship to development which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district); except that no variances to “permitted uses” shall be granted. In granting a Variance, the Planning Commission may attach conditions which it finds necessary to protect the best interest of the surrounding property or vicinity and otherwise achieve the purposes of the Philomath Municipal Code.

Class C Variance Applicability

- 1) The variance standards are intended to apply to individual platted and recorded lots only.
- 2) An applicant who proposes to vary a specification standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure.
- 3) A variance shall not be approved which would vary the “permitted uses” of a land use district.

Class C Variance Approvals Process and Criteria.

- 1) Class C variances shall be processed using a Type III procedure, as governed by Chapter 18.105.050 of the Philomath Municipal Code (PMC), using the approval criteria in subsection 2, below. In addition to the application requirements contained in Chapter 18.105.050 of the PMC, the applicant shall provide a written narrative or letter describing his/her reasoning for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 2.
- 2) The City shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 - b. A hardship to development exists which is peculiar to the lot size or shape, topography, sensitive lands, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
 - c. 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 reasonable economic use of the land;
 - d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
 - e. The hardship is not self-imposed; and
 - f. The variance requested is the minimum variance that would alleviate the hardship.

Processing Information

This application will be reviewed at a public hearing before the Planning Commission. Surrounding property owners will be notified of the application and given an opportunity to submit evidence and testify at the hearing. The City will also send notices of the hearing and final decision to the applicant, affected government agencies, owners of land within 250 feet of the boundaries of the property, and all other persons who participate in the proceedings. If the application is approved, Conditions of Approval specified in the Notice of Decision must be satisfied within the time specified in the approval.

Anyone who submitted written testimony or oral testimony to the Planning Commission may appeal a decision of the Planning Commission to the City Council by filing an appeal application with the City within 14 days of the decision.

For Office Use Only

Date Application Received: 11/14/19 Receipt Number: 54264 By: RB

File Number Assigned: PC19-10 Date Application Deemed Complete: _____

Variance Request for 382 N. 7th St. Setback
for review by the Philomath Planning Commission

November 7th 2019
from Kevin Sullivan

Proposed Variance:

After purchasing the property at 382 N. 7th Street and attempting to engineer a single family dwelling, it has come to my attention that due to the unusual topography of the property consisting of a large drop along the front, building with the usual setbacks will, in this circumstance, require a dwelling impractical by nature and undesirable in it's design.

Since it is my belief that a variance of 10 feet will not in any way deviate from the stated purpose (PMC 18.35.030) of a building set back by retaining the space for a private yard, keeping building separation (the dwelling in the rear adjacent lot is sufficiently distant so as not to infringe upon privacy) for fire protection/security, and not detracting from building maintenance, sunlight or air circulation, it is requested that the Philomath Planning Commission make a variance for the minimum rear yard setback from 15 feet, to five feet.

Topographical Property Description:

The property addressed as 382 fronts Philomath's North 7th street for it's breadth of 81.17 feet, and continues back from the street for approximately 68 feet and 6 inches. Bordering the West facing property boundary (along the street), is a steep hill of nearly 9 feet in drop, and between one and six feet in slope. The property then levels out slightly, still dropping until the back of the property so that the total disparity between the front and rear of the yard is between nine and 11 feet along the entirety of the property

Legal Property Description:

The East 68.38 feet of even width of the following described property:

The North half of the following described lands:

Beginning at the Northwest corner of the David Henderson Donation Land Claim No. 46, in Township 12 South, Range 6 West of the Willamette Meridian, Benton County, Oregon; running thence South 0°10' West along the West line of said Claim, which is the West line of the City of Philomath, 175 feet; thence South 84°17' East 258.38 feet to a point on the West line of "A" Street in Philomath, Oregon, which is 369.5 feet distant from the Southeast corner of Block 9 in Philomath; and running thence Northerly along the West line of "A" Street, 174.34 feet to the North line of said Donation Land Claim No. 46



382 N 7th
Looking NE of site

382 N. 7th St.
Looking West with
old dwelling on right



382 W. 7th St.
Looking SW down hill



PROPOSED CHANGES TO THE ZONING CODE

Plan Approvals

18.10.050. Validity of approved plans and ~~P~~re-existing approvals.

A. Developments, including subdivisions, projects requiring development review or site design review approval, or other development applications for which approvals were granted, are subject to the following: prior to the effective date of the ordinance codified in this title, may occur pursuant to such approvals; except that modifications to development approvals shall comply with Chapter 18.130 PMC, Modifications to Approved Plans and Conditions of Approval.

1. **Start of Construction.** Site plan approval is valid for a period of eighteen (18) months from the date of approval. Building permits must be issued and physical construction as set forth below must commence within the eighteen (18) month period.

2. **Extensions.** Upon written application prior to expiration, the planning commission, or city council, as applicable, may authorize an extension of the time limit of the site plan approval for an additional one (1) year. The extension shall be based on evidence from the applicant that the development has a likelihood of commencing construction within the extension period. The planning commission, or city council, as applicable, may require compliance with any amendments to the zoning ordinance adopted since the date of the original approval.

3. **Expiration of Site Plan Approval.** In cases where ~~at least 25% of~~ the construction authorized by a site plan approval is not complete within ~~eighteen (18)~~ thirty-six (36) months of site plan approval or granting of an extension, unless otherwise specified in a development agreement, the site plan approval shall automatically become null and void and all rights thereunder shall terminate.

Commented [CW1]: removed

Commented [CW2]: changed to thirty-six (36)

Commented [CW3]: added clause

B. Amendment of development approvals shall comply with Chapter 18.130 PMC, Modifications to Approved Plans and Conditions of Approval.

BC. All development proposals received by the city after the adoption of this title shall be subject to review for conformance with the standards under this title or as otherwise provided by state law. [Ord. 734 § 1, 2005; Ord. 720 § 7[1.2.5], 2003.]

Manufactured Home Parks

18.35.100 Special standards for certain uses.

D. Manufactured Home Park. Manufactured home parks are allowed on parcels of five (5) acres ~~one acre~~ or larger, subject to compliance with subsections (D)(1) through (D)(5) of this section:

1. Allowed Uses. Single-family residences, manufactured home park manager's office, home occupations, and accessory structures, which are necessary for the operation and maintenance of the manufactured home park (e.g., landscape maintenance).
2. Space. The minimum size pad or space for each home is 2,500 square feet; provided that the overall density of the park does not exceed 12 units per acre. Each space shall be at least 30 feet wide and 40 feet long, in accordance with ORS 446.100(1)(c).
3. Setbacks and Building Separation. The minimum setback between park structures and abutting properties is 10 feet. The minimum setback between park structures and public street right-of-way is 15 feet. At least a 10-foot separation shall be provided between all dwellings. Dwellings shall be placed a minimum of 14 feet apart where flammable or combustible fuel is stored between units. Park structures shall be placed no closer than five feet to a park street or sidewalk/pathway. An accessory structure shall not be located closer than six feet to any other structure or dwelling, except that a double carport or garage may be built which serves two dwellings. When a double carport/garage is built, the carport/garage shall be separated from all adjacent structures by at least three feet.
4. ~~Perimeter~~ Landscaping/Buffering. Manufactured home parks shall be landscaped as follows:
 - a. When manufactured homes are oriented with their back or side yards facing a public right-of-way, the ~~city may require installation of fencing and~~ planting of a six-foot wide landscape buffer between the right-of-way and a manufactured home park ~~is required~~ for the privacy and security of residents or aesthetics of the streetscape.
 - b. The park shall provide landscape screening along the park boundary abutting adjacent properties.
 - c. The landscaping screening shall consist of evergreen trees or shrubs of a minimum three (3) feet in height, which are spaced so they provide a semi-continuous screen at maturity. Alternative screening devices subject to prior approval may be utilized if they conceal the manufactured home park as effectively as the required landscaping described above and provided the screening is kept in good repair.
 - d. Exposed ground surfaces in all parts of the manufactured home park shall be paved, covered with stone or other solid material, or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe, efficient manner.
 - e. Minimum 20% of the site shall be dedicated to open space, excluding roads, and shall be designated on the site plan. Should recreational areas also be proposed, these shall also be shown on the plans.
5. House Design (~~Parks Smaller Than Three Acres~~): Manufactured homes in parks ~~smaller than 3 acres~~ shall meet the following design standards, consistent with ORS 197.314(6):
 - a. The manufactured home shall have a pitched roof with a slope not less than three feet in height for each 12 feet in width (14 degrees). ~~;-and~~

~~b. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar or superior to the exterior siding and roof material used on nearby residences (e.g., horizontal wood or wood appearance siding is considered superior to metal siding and roofing).~~

6. Streets and Sidewalks. All streets within the park shall be constructed and paved in accordance with city standards for local roads as outlined in the City's Transportation System Plan (TSP) unless other standards are approved by the Planning Commission. The manufactured home park shall be provided with a walk system in conformance with city requirements. Two (2) access points shall be provided to a major street to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of interior park streets shall be interpreted as satisfying this requirement.

7. On Site Sales. The business of selling or storing new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home development to be used and occupied on that site may be sold by a licensed dealer and/or broker. This section shall not prohibit the sale of a used manufactured home by a resident of an owner the manufactured home development provided the development permits the sale.

Commented [CW4]: "a resident" replaced with "an owner"

Commented [CW5]: removed

8. Signage. There shall be a maximum of two (2) sixteen (16) square foot monument signs per street frontage with an entrance that shall bear the name and address of the manufactured home park. Such signs shall be located ten (10) feet from the lot line/right-of-way line and shall comply with Chapter 18.95 Regulating Placement of Signs.

Multi-family in Commercial Zones

18.40.090
Special
standards for
certain uses.

Residential in
Commercial
District
Table
18.40.020

-Asterisk
added after to
"Multifamily" in
the C-1,
directing
multifamily in
all commercial
zones to the
specials
standards
section of the
code.

-Change "the
O-R zone" to
"a commercial
zone"

PHILOMATH MUNICIPAL CODE		18.40.020
Table 18.40.020 Land Uses and Building Types Allowed in the Commercial Districts		
C-1 Central Commercial	C-2 General Commercial	O-R Office/Residential
<p>Allowed Uses</p> <p>(A) Bank or financial institution. (B) Church. (C) Day care centers, including family day care homes. (D) Drive-in or drive-through facilities.* (E) Funeral parlor. (F) Fraternal lodge. (G) Membership club. (H) Multifamily and row housing.* (I) Retail sales and service establishments that do not require the outside storage of goods, supplies or equipment not otherwise identified in this section. (J) Offices. (K) Professional offices. (L) Public buildings and uses including public park, post office, public office, fire station, public community center, public parking lot, and public library. (M) Residences, provided they are in conjunction with another use that is allowed or allowed by an approved conditional use permit. Residences must be located above the allowed use. (N) Recreation vehicles, including travel trailers, camping trailers, fifth-wheel trailers, motor homes, and/or other vehicles designed for temporary occupancy may not be stored or occupied in the zone. (O) Residential care facility. (P) Restaurants including takeout only establishments. (Q) Taverns. (R) Sidewalk displays.</p>	<p>Allowed Uses</p> <p>(A) All uses allowed in the C-1 zone. (B) Assembly of products. (C) Automobile or trailer sales and service. (D) Car wash. (E) Motels. (F) Service station and vehicle repair shop.</p> <p>Conditional Uses</p> <p>(A) Light manufacturing.</p>	<p>Allowed Uses</p> <p>(A) Church, nonprofit religious or philanthropic institution. (B) Office. (C) Home occupation; subject to PMC 18.145.020. (D) Multifamily dwelling.** (E) Family day care home or facility. (F) Parking lot. (G) Residential or child care home or facility.</p> <p>Conditional Uses</p> <p>The planning commission may grant a conditional use permit for the following uses:</p> <p>(A) Research laboratories. (B) Tower, water tank, or similar structure in conjunction with a building or buildings on the same lot. (C) Funeral parlor. (D) Pharmacy. (E) Community center. (F) Governmental structure or use of land, including park, playground, fire or police station, library, or City Hall. (G) Nursing home, rest home, retirement home, residential care facility, convalescent hospital or similar facility. (H) Membership club. (I) Public and private schools.</p>
<p>Uses marked with an asterisk (*) are subject to the standards in PMC 18.40.090, Special standards for certain uses. Home occupations and temporary uses are subject to the standards in Chapter 18.145 PMC. ** Multifamily dwellings in the O-R zone are subject to the standards of the R-3 zone in Chapter 18.35 PMC. [Ord. 799 § 7, 2015; Ord. 737 § 1, 2006; Ord. 734 § 1, 2005; Ord. 720 § 7[2.2.110], 2003.]</p>		

A. Residential Uses. Higher density residential uses, such as multifamily buildings and attached townhomes, are allowed to encourage housing near employment, shopping and services. All residential developments shall comply with the standards in subsections (A)(1) through (A)(6) of this section, which are intended to require mixed-use development;

conserve the community's supply of commercial land for commercial uses; provide for designs which are compatible with a storefront character; avoid or minimize impacts associated with traffic and parking; and ensure proper management and maintenance of common areas. Residential uses that existed prior to the effective date of the ordinance codified in this title are exempt from this section.

1. Mixed-Use Development Required. Residential uses shall be allowed only when part of a mixed-use development (residential with commercial or public/institutional use). Both vertical mixed-use (housing above the ground floor), and horizontal mixed-use (housing on the ground floor) developments are allowed, subject to the standards in subsections (A)(2) through (A)(6) of this section.
2. Limitation on Street-Level Housing. No ~~more than 50 percent of a single~~ street frontage may be occupied by residential uses. This standard is intended to reserve storefront space for commercial uses and public/institutional uses; it ~~does not limits~~ residential uses to above the street level on upper stories or behind street-level storefronts. For parcels with street access at more than one level (e.g., sloping sites with two street frontages), the limitation on residential building space shall apply to all street frontages. Minimal street frontage may be given for stairways or access corridors to residential uses.

Temporary Storage

18.40.090 Special standards for certain uses.

H. Parking of semi-truck and/or tractor/trailers shall not exceed five calendar days outside of industrial zones.

1. Long-term storage of tractor/trailers is allowed in industrial zoned districts.
2. All parking or storage of tractor/trailers for more than 5 calendar days shall be screened from public view and adjacent residentially zoned properties with a fence or landscaping no less than six (6) feet tall.
3. Temporary parking of tractor/trailers not approved in this section may apply for a temporary permit through the Planning Commission.

Commented [CW6]: added phrase "outside of industrial zones"

Commented [CW7]: added phrase "or landscaping"

Urban Tree Canopy

Chapter 18.70 LANDSCAPING, ~~AND~~ STREET TREES AND URBAN FOREST

Sections:

- 18.70.010 Purpose.
- 18.70.020 Landscape conservation.
- 18.70.030 New landscaping.
- 18.70.040 Street trees.
- 18.70.050 Repealed.

~~18.70.060 Urban Canopy: Application for tree removal permit.~~

Commented [CW8]: removed (section no longer exists)

- [18.70.060 Mitigation.](#)
- [18.70.070 Public nuisance definition.](#)
- [18.70.080 Notice required for nuisances.](#)
- [18.70.090 Violation and penalty.](#)

18.70.010 Purpose.

The purpose of this chapter is to promote community health, safety and welfare by protecting natural vegetation, ~~and~~ setting development standards for new landscaping and street trees, maintaining the urban canopy through a tree removal system and laying out a process for handling nuisance trees and vegetation. Together, these elements of the natural and built environment contribute to the visual quality, environmental health and character of the community. Trees provide climate control through shading during summer months and wind screening during winter. Trees and other plants can also buffer pedestrians from traffic. Walls, fences, trees and other landscape materials also provide vital screening and buffering between land uses. Landscaped areas help to control surface water drainage and can improve water quality, as compared to paved or built surfaces.

~~This chapter is organized into the following sections:~~

~~PMC 18.70.020, Landscape conservation, prevents the indiscriminate removal of significant trees and other vegetation, including vegetation associated with streams, wetlands and other protected natural resource areas. This section cross-references Chapter 18.55 PMC, which regulates development of sensitive lands.~~

~~PMC 18.70.030, New landscaping, sets standards for and requires landscaping of all development sites that require site design review. This section also requires buffering for parking and maneuvering areas, and between different land use districts. Note that other landscaping standards are provided in Division 2, Land Use Districts, for specific types of development.~~

~~PMC 18.70.040, Street trees, sets standards for and requires planting of trees along all streets for shading, comfort and aesthetic purposes. [Ord. 779 § 2, 2012; Ord. 734 § 1, 2005; Ord. 720 § 7{3.2.1}, 2003.]~~

18.70.020 Landscape conservation.

A. Applicability. All new developments or existing sites two (2) acres or larger, containing significant vegetation, as defined in subsection (B) of this section, shall comply with the standards of this section. The purpose of this section is to incorporate significant native vegetation into the landscapes of development and protect significant vegetation that is subject to requirements for sensitive lands (Chapter 18.55 PMC). The use of mature, native vegetation within developments is a preferred alternative to removal of vegetation and replanting. Mature landscaping provides summer shade and wind breaks, and allows for water conservation due to larger plants having established root systems.

Commented [CW9]: new language added

F. Exemptions. The protection standards in subsection (D) of this section shall not apply in the following situations:

1. Dead, Diseased, and/or Hazardous Vegetation. Vegetation that is dead or diseased, or poses a hazard to personal safety, property or the health of other trees, may be removed. Prior to tree removal, the applicant shall provide a report from a certified arborist or other qualified professional to determine whether the subject tree is diseased or poses a hazard, and any possible treatment to avoid removal, except as provided by subsection (F)(2) of this section.
2. Emergencies. Actions made necessary by an emergency, such as tornado, windstorm, flood, freeze, utility damage or other like disasters, in order to prevent imminent injury or damage to persons or property or restore order, and it is impractical due to circumstances to apply for a permit.

3. Agriculture, Commercial Tree Farm or Orchard. Tree removal or transplanting occurring during use of land for commercial agriculture, orchard(s), or tree farm(s) for nursery or Christmas tree production.
4. Tree removal by the city or a utility within easements, rights-of-way, or on public lands.
5. Abatement of a nuisance as defined in Chapter 9.15.070 PMC or trees owned by the City.

18.70.040 Street trees.

F. Restrictions. No person, except a city employee, contractor hired by the city, or the electrical utility and their authorized agents, shall perform any of the following without first obtaining a permit from the city:

1. Plant, cut, tap, carve, top, remove or transplant any tree, shrub or other plant located in the public right-of-way or on city property. This does not prohibit routine care and pruning; [Ord. 618 § 5, 1993.]
2. Attach any rope, wire, nail, sign, poster or other object to any tree, shrub, or plant located in the public right-of-way or on city-owned property;
3. Dig a tunnel or trench on any public right of way or city-owned or controlled property.

G. Permit Process. Prior to issuing a permit, the city shall ensure that the action proposed conforms to the urban forestry plan and the arboricultural specifications manual. If the city finds that the work performed under the permit is not in conformance with the conditions of the permit, the city may:

1. Nullify the permit;
2. Issue a written work order that the applicant cease and desist all work for which the permit was issued;
3. Impose penalties as defined in this chapter; and
4. Charge to the applicant the cost of steps taken to correct damage done. [Ord. 791 § 3, 2015; Ord. 618 § 4, 1993.]

18.70.050 Fences and walls.

Repealed by Ord. 779. [Ord. 720 § 7[3.2.5], 2003.]

18.70.070 Public nuisance definition.

As defined in PMC 9.15.070. [Ord. 618 § 6, 1993.]

18.70.080 Notice required for nuisances.

Written notice shall be personally provided by door hanger, direct contact or sent by registered mail to the property owner.

- A. The notice shall describe the kind of tree, shrub, or other plant, its location on the property, and the reason for declaring it a nuisance.
- B. The notice shall include suggested actions that may be taken to abate the nuisance.
- C. The notice shall require the elimination of the nuisance no less than 15 days after the notice is sent unless the nuisance is considered a hazard at which point a lesser time of elimination shall be imposed depending on the risk hazard.
- D. The city may have the nuisance abated after 15 days and file the cost of abatement as a lien against the property. [Ord. 791 § 4, 2015; Ord. 618 § 7, 1993.]

18.70.090 Violation and penalty.

Any person who violates any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violations in the municipal court, shall be subject to a fine for each separate offense not to exceed \$500.00 or three times the appraised value of the tree(s) or vegetation, whichever is greater. Each day during which any violation of the provisions of this chapter shall occur or continue shall be a separate offense.

If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree, shrub, or other plant located on city-owned or controlled property is caused, the cost of repair or replacement of such plant shall be borne by the party in violation.
The appraised value of trees shall be determined using methods described in the latest revision of "Valuation of Trees, Shrubs, and Other Plants," as published by the International Society of Arboriculture. [Ord. 618 § 8, 1993.]

Parking

18.75.030 Vehicle parking standards.

The minimum number of required off-street vehicle parking spaces (i.e., parking that is located in parking lots and garages and not in the street right-of-way) shall be determined based on the standards in subsection (A) of this section. The number of required off-street vehicle parking spaces shall be determined in accordance with the following standards. Off-street parking spaces may include spaces in garages, carports, parking lots, and/or driveways if vehicles are not parked in a vehicle travel lane (including emergency or fire access lanes), public right-of-way, pathway or landscape area. ~~For calculating parking spaces, a two-car garage shall be calculated as one parking space towards the parking requirement and a three-car garage shall be calculated as two parking spaces towards the parking requirement.~~ Credit shall be allowed for "on-street parking," as provided in subsection (B) of this section.

Commented [CW10]: removed

A. Vehicle Parking – Minimum Standards.

1. Residential Uses.

- a. Accessory Dwelling. None required. ~~One space per unit.~~
- b. Manufactured Home Parks. Same as for single-family detached housing.
- c. Multifamily and Single-Family Attached Housing.
 - i. Studio units or one-bedroom units less than 500 square feet: one space/unit.
 - ii. One-bedroom units 500 square feet or larger: one and one-half spaces/unit.
 - iii. Two-bedroom units: one and three-quarters spaces/unit.
 - iv. Three-bedroom or greater units: two spaces/unit.
 - v. Retirement complexes: one space per unit.
- d. Senior Housing. Same as for retirement complexes.
- e. Single-Family and Duplex Housing. ~~A minimum of two parking spaces shall be provided for each detached single-family dwelling or manufactured home on an individual lot with two bedrooms or less.~~
 - i. ~~Three-bedroom dwellings: three four spaces/unit.~~
 - ii. ~~Four-bedroom dwellings or larger: three four spaces/unit.~~

Commented [CW11]: language removed per state law

Commented [CW12]: increased to 4

Commented [CW13]: increased to 4

B. Credit for On-Street Parking. The amount of off-street parking required ~~for commercial and industrial uses~~ shall be reduced by one off-street parking space for every on-street parking space adjacent to the development, which would not obstruct a required clear vision area, nor any other parking that violates any law or street standard. ~~Credit for on-street parking standards shall not be granted for residential uses.~~ On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by city, ODOT and/or county standards. The following constitutes an on-street parking space:

1. Parallel parking, each 24 feet of uninterrupted curb;
2. Forty-five/sixty degree diagonal, each 16 feet of uninterrupted curb;
3. Ninety degree (perpendicular) parking, each 10 feet of uninterrupted curb;
4. Curb space must be connected to the lot which contains the use;

5. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted unless otherwise approved by the city.

C. Parking Location and Shared Parking.

1. Location. Vehicle parking is allowed only on approved parking shoulders (streets), within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this title. Specific locations for parking are indicated in Division 2 for some land uses (e.g., the requirement that parking be located to side or rear of buildings, with access from alleys, for some uses). (See also Chapter 18.65 PMC, Access and Circulation.)

2. Driveways in Front Yards. Front yards shall not be paved, with exception of a maximum sixteen (16) foot wide driveway leading to a garage or dedicated parking pad, except homes with a three (3) car garage may have up to a twenty four (24) foot wide driveway.

(a) Single-family residential parking spaces shall consist of a parking strip, driveway, garage, or combination thereof, and shall be located on the premises they are intended to serve.

(b) Single-family residential parking spaces shall be located on hard or pervious concrete, asphalt or permeable/grass pavers. Lawn and yard areas, other than designated parking areas, shall not be utilized for off-street parking. Driveways shall be required to be concrete if the adjoining street is concrete.

(c) A minimum three (3) foot wide lawn or landscape strip shall be required between the edge of parking area pavement and all lot lines to provide adequate room for drainage, snow storage and privacy screening.

(d) Circular drives shall be prohibited unless driveway access points are separated by an interior distance of seventy (70) feet. A minimum lot width of one hundred (100) feet shall be required.

Consolidated Proceedings

18.105.070 General provisions.

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. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the council, the commission, or the planning official.~~

~~ba.~~ 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

Commented [CW14]: added language from city attorney

PROPOSED CHANGES TO THE ANNEXATION CHAPTER

Chapter 18.135 ANNEXATION

Sections:

- 18.135.010 Purpose.
- 18.135.020 Legislative amendments.
- 18.135.030 Annexations.
- 18.135.040 Record of amendments.
- 18.135.050 Transportation planning rule compliance.

18.135.010 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to this title and the land use district map. These will be referred to as “map and text amendments.” Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law. [Ord. 720 § 7[4.7.1], 2003.]

18.135.020 Legislative amendments.

Legislative amendments are policy decisions made by city council. They are reviewed using the Type IV procedure in PMC 18.105.060. [Ord. 720 § 7[4.7.2], 2003.]

18.135.030 Annexations.

A. Process. The process of annexation of land to the city allows for orderly expansion of the city and for the adequate provision of public facilities and services. The City Charter requires that annexation, and/or extension of city services beyond city boundaries may only be approved by a majority vote of the electorate.

B. Annexation Filing Deadlines.

1. Unless mandated by state law, all annexation requests approved by the city council shall be referred to the voters in accordance with the requirements of this title and ORS Division 222.
2. Annexation elections are scheduled for May and November. Applications for annexation shall be filed with the planning department before 5:00 p.m. on the second Thursday of November for a ballot election in May and before 5:00 p.m. on the second Thursday of May for a ballot election in November.

C. Requirements for Applications. Applications to the city for initiation of annexation proceedings made by individuals shall be on forms provided by the planning official and shall include the following material:

1. Written consent to the annexation signed by the requisite number of affected property owners, electors, or both, to dispense with an election within the territory to be annexed, as provided by state law.
2. A legal description of the property to be annexed.
3. A map of the area to be annexed, including adjacent city territory.
4. Sufficient information for city staff to allow for the completion of an impact analysis on ~~existing and future~~ city services including: existing water supply and facilities, and existing sewer, drainage, transportation and transit, park and school facilities, and city staffing, including but not limited to police, public works, and city administration.

5. Sufficient information for city staff to allow for the completion of an impact analysis on community partner services including: school facilities; library services; fire services; and emergency medical services.

- i. If the applicant asks for agency comment before the hearing and no comments are received, capacity will be presumed to exist for that agency.
- ii. If the applicant asks for comment before the hearing and the agency comments that there are no capacity concerns, capacity will be conclusive as to that agency.
- iii. If the applicant asks for comment before the hearing and the agency comments that capacity does not exist but can exist, the applicant may enter into an agreement with that agency to achieve capacity.

6. In addition, city staff shall project what additional facilities will be required to serve the development described in the conceptual plan and, if necessary, how such facilities will need to be phased in over time. The application shall provide evidence of the need of the proposal by citing data and statistics that support the annexation.

~~7.5.~~ A statement outlining the method and source of financing required to provide additional facilities.

~~8.6.~~ A conceptual development plan shall be provided by the applicant and shall include the following:

- i. A scale drawing of the site showing: the types and intensities of proposed development; existing streets that will be used for access and those streets that may need to be developed for access; the location of watercourses and other significant natural features; location of existing and necessary extension of public water, sanitary sewer, and storm drain facilities; and, existing uses and zoning on adjacent properties.
- ii. The conceptual development plan shall contain sufficient detail on the actual or proposed site uses to allow city staff the opportunity to analyze the development's demand for new public infrastructure systems, as well as assess the impact on existing systems. Staff may develop hypothetical site design scenarios or model development at densities other than those proposed by the applicant to assess impact on public infrastructure.

~~9.7.~~ A statement indicating the type and nature of any comprehensive plan text or map amendments or zoning ordinance or zoning map amendments that may be required to complete the planned development.

~~10.8.~~ The application fee established by the city. In addition to the application fee, the planning official shall require a deposit that is adequate to cover any and all election costs.

D. Review of Application. City staff shall review the application and it shall be deemed complete if it contains the material required under this section.

E. Staff Evaluation. City Staff shall prepare a report that considers information submitted by the applicant as well as other sources of relevant information including but not limited to master utility plans, regional and local transportation system plans, and population studies. The report shall include an updated land use inventory with the development status of all other similarly zoned properties. From this information, a finding shall be made that the city has the capacity to provide required utility services in light of commitments already made to other approved developments. The staff evaluation of the application will endeavor to present a report for the public and review bodies that factually evaluate the proposal and may or may not agree with response information provided by the applicant. An annexation request including a future residential development shall be evaluated by city staff at its maximum possible density.

F. Review Criteria. Annexations shall be reviewed by city staff to assure consistency with the purposes of this chapter, policies of the comprehensive plan, all requirements of all city ordinances, and other

applicable policies and standards adopted by the city council and state of Oregon. In addition, a finding shall be made that the city is capable of providing services to the subject property(ies) commensurate with the needs of existing approved and proposed developments. Specifically, all applications for annexation must satisfy the following criteria:

1. Property to be annexed must be located entirely within the Urban Growth Boundary (UGB) of the City.
2. Property to be annexed is, or upon annexation will be, subject to the City's comprehensive plan.
3. At least one lot or parcel of the property to be annexed must be contiguous to the city limits or separated from the city limits only by a public right of way or a body of water.
4. Annexation of the property must be of benefit to the City and community of Philomath.
5. If the property to be annexed is or has been zoned or used for industrial or agricultural purposes, an inventory of known contaminants and how they will be abated by the applicant must be provided with the application for annexation at the time the application is filed.
6. If the property to be annexed is or has been zoned or used for industrial or agricultural purposes, a Phase I Environmental Assessment by a certified company shall be performed prior to annexation.
7. When property to be annexed exceeds 30 acres of developable land, development of the land must occur in phases, as specified in an annexation agreement between the applicant and the City.
8. Properties that include existing development must have a safe pedestrian route to school within 18 months of annexation.

Any review criteria that cannot be satisfied at the time the application is filed with the City may be satisfied through an annexation agreement between the applicant and the City. Annexation agreements shall be filed with the Benton County Recorder and shall run with the land.

~~G. If any studies are required at the time an annexation application is filed, the City shall contract for the study and the cost of the study shall be added to the application fee paid by the applicant at the time of submittal.~~

Commented [CW1]: This section removed

H.G. Concurrent Application for comprehensive plan map or zoning map amendments. Application(s) for comprehensive plan map and/or zoning map amendments may be made concurrent with an application for annexation of territory. City approval of map amendments may be made contingent upon approval of the annexation.

H.H. Annexation by Consent of All Owners of Land. When all the owners of land in the territory to be annexed consent in writing to the annexation of their land in the territory and file a statement of their consent with the city, the following procedures shall apply:

1. The planning commission shall hold at least one public hearing on the annexation request.
2. Application for said annexation must be filed, with payment of the appropriate fee, not less than 30 days prior to the date of the public hearing.
3. Notice of the public hearing shall be published in a newspaper of general circulation in the city not less than five days or more than 15 days prior to the date of the public hearing. Notice shall also be posted at six public places within the city not less than five days or more than 15 days prior to the date of the public hearing.
4. Written notice of a requested annexation shall be mailed to all owners of the property not less than 20 days prior to the date of the hearing. If the property to be annexed is less than five acres, notice shall be mailed to all owners within 200 feet of the exterior boundary of the subject property. If the property to be annexed is greater than five acres, notice shall be mailed to all owners within 400 feet of the exterior boundary of the subject property. In those instances where

an approved annexation would create an island of unincorporated property, those affected property owners shall be notified of this potential.

5. The public hearing shall be conducted according to the requirements established for Type IV applications.
6. Should the public hearing be continued to a specific date by oral pronouncement prior to the closing of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.
7. Within 45 days following the public hearing, unless a continuance is announced, the commission shall make specific findings of fact. Based on the findings, the commission shall render a decision which shall recommend either that the application be approved and submitted to the voters at the next available election according to the requirements above, or be denied.
 - a. If the commission recommends that the application be granted and set for the election, the commission shall transmit to the council a copy of the application, a scale drawing of the site, the minutes of the public hearing, a tape recording of the meeting, the decision and findings of the commission, and any other materials deemed necessary for a decision by the council.
 - b. If the commission recommends that the application be denied, no further proceedings shall be held by either the commission or council, unless an appeal of the commission's decision is filed by the applicant or by an interested party within 15 calendar days of the commission's decision.
8. Upon receipt of the commission's recommendation of approval, the council shall call for a public hearing on the proposed subject to the notice requirements for a Type IV application.
9. In the event of an appeal of a planning commission decision, the council shall hold a public hearing following the procedures in a Type IV application.

J. Annexation by Non-Unanimous Triple Majority Consent Petition. When more than half, but not all, of the owners of land in the territory to be annexed who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory, the following procedures shall apply:

1. The planning commission shall hold at least one public hearing on the annexation request.
2. Application for the annexation must be filed, with payment of the appropriate fee, not less than 30 days prior to the date of the public hearing.
3. Notice of the public hearing shall be published in a newspaper of general circulation in the city not less than five days or more than 15 days prior to the date of the public hearing. Notice shall also be posted at six public places within the city not less than five days or more than 15 days prior to the date of the public hearing.
4. Written notice of a requested change shall be mailed to all owners of the property not less than 20 days prior to the date of the hearing. If the property to be annexed is less than five acres, notice shall be mailed to all owners within 200 feet of the exterior boundary of the subject property. If the property to be annexed is greater than five acres, notice shall be mailed to all owners within 400 feet of the exterior boundary of the subject property. In those instances where an approved annexation would create an island of unincorporated property, those affected property owners shall be notified of this potential.
5. The public hearing shall be conducted according to the requirements established for a Type IV application.
6. Should the public hearing be continued to a specific date by oral pronouncement prior to the close of such hearing, and such pronouncement shall serve as sufficient notice of such continuance to all applicants, adverse parties, and interested persons.

7. Within 45 days following the public hearing, unless a continuance is announced, the commission shall make specific findings of fact. Based on the findings, the commission shall render a decision that shall recommend either that the application be approved and submitted to the voters at the next available election according to the requirements of subsection (H)(7)(b) of this section, or denied.
8. If the commission recommends that the application be granted and set for the election, the commission shall transmit to the council a copy of the application, a scale drawing of the site, the minutes of the public hearing, a tape recording of the meeting, the decision and findings of the commission, and any other materials deemed necessary for a decision by the council.
9. If the commission recommends that the application be denied, no further proceedings shall be held by either the commission or council, unless an appeal of the commission's decision is filed by the applicant or by an interested party within 15 calendar days of the commission's decision.
10. Upon receipt of the commission's recommendation of approval, the council shall call for a public hearing on the proposed subject to the notice requirements stated for a Type IV application.
11. In the event of an appeal of a planning commission decision, the council shall hold a public hearing following the procedures for a Type IV application.

KJ. Findings and Decision. In the event the city council holds a public hearing on an annexation request, the city council may adopt the planning commission findings for approval or denial of the annexation, supplement the record as appropriate in the circumstances, or reject the findings of the planning commission and adopt new findings.

LK. Health Hazard Annexation. The city shall annex those areas constituting a health hazard in accordance with Oregon Revised Statutes, taking into consideration the ability of the city to provide necessary services. Annexation of areas constituting a health hazard are not subject to voter approval.

ME. Island Annexation. The following policies are adopted for island annexations:

1. The city shall attempt not to create islands of unincorporated territory within the corporate limits of the city. If such an island is created, the city council may set a time for a public hearing for the purpose of determining if the annexation should be submitted to the voters.
2. Written notice to property owners by first class mail will be made prior to annexation to allow for property owner responses. Failure to receive notice shall not in any way invalidate the annexation procedure that may be subsequently undertaken by the city.
3. Annexation of an island shall be by ordinance, subject to approval by the voting majority of the electorate.

NM. Comprehensive Plan and Zoning Designations.

1. The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Philomath comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Philomath comprehensive plan.
2. Simultaneous application for annexation and a zone change is allowed; provided, that the zone change ordinance does not take effect until and unless the property is properly annexed to the city and incorporated within the city limits.

ON. Information on Proposed Annexation. The city newsletter shall be used to present an applicant's conceptual plan along with a summary of the city staff's analysis of the development's impact on

public infrastructure. Other information to be presented shall include a vicinity map, size of the property, its current zoning and zoning upon annexation, a description of any comprehensive plan text or map amendment or zoning ordinance text or map amendment that is required and any other information that may assist in the explanation of the proposal. Annexation information in the city newsletter and on the election ballot shall include the following disclaimer statement:

The conceptual plan associated with this annexation request may change. Any development proposal on this property shall require review and approval by the planning commission at a public hearing. Any future owner of this property who may propose a different development plan must pass through the same plan review process and public hearing. The city is not speaking in favor or against this conceptual plan.

Annexation requests submitted by the city are not required to contain a disclaimer statement.

P. Election Procedures.

1. Pursuant to ORS 222.130(1), the statement of chief purpose in the ballot title for a proposal for annexation shall contain a general description of the boundaries of each territory proposed to be annexed. The description shall use streets and other generally recognized features. Notwithstanding ORS 250.035, the statement of chief purpose shall not exceed 150 words.
2. Pursuant to ORS 222.130(2), the notice of an annexation election shall be given as provided in ORS 254.095 and 254.205, except that in addition the notice shall contain a map indicating the boundaries of each territory proposed to be annexed.
3. Pursuant to ORS 222.111(7), two or more proposals for annexation of territory may be voted upon simultaneously; however, each proposal shall be stated separately on the ballot and voted on separately.

Q. Setting of Boundaries and Proclamation of Annexation. If the annexation is approved, the city council, by resolution or ordinance, shall set the final boundaries of the area to be annexed by a legal description and proclaim the annexation (ORS 222.170(3)).

R. Submission of Annexation Reports. The city shall report all changes in the boundaries of the city to the county clerk, county assessor, and the state of Oregon as required by Oregon Revised Statutes. SR. Exceptions. The city council may authorize an exception to any of the requirements of this section. An exception shall require a favorable vote of six or more council members and findings that indicate the basis for the exception. Any exception so approved shall not be in violation of state law or any applicable provisions of the City Charter.

S. Zoning of Annexed Areas. The city council shall designate all areas annexed to the city with a zone or zones. The city council shall provide notice in accordance with a Type IV application and conduct a public hearing prior to designating city zoning for annexed property. Designation of areas annexed by the city shall be subject to one of the following procedures:

1. If the proposed zoning designation corresponds to the comprehensive plan map designation for the property being annexed, the city council shall conduct a public hearing on the proposed zoning designation for the affected property. Notice for the hearing shall be provided for in accordance with a Type IV application, except all published and mailed notice shall be provided 20 days in advance of the hearing. Following the public hearing, the city council shall adopt an ordinance that assigns the zoning designation for the affected property.
2. If the proposed zoning designation does not correspond to the comprehensive plan map designation for the property being annexed, the proposal shall be reviewed by the planning commission as a comprehensive plan map amendment and zoning map designation pursuant to a Type IV application. Following planning commission review, the city council shall conduct a public hearing. Following the hearing, the city shall adopt an ordinance that designates the zoning

of the affected properties, adopts approved amendments to the comprehensive plan map, if necessary.

3. The city may approve a comprehensive plan map amendment and/or zone designation for property prior to annexation and may specify that the plan map amendment and zone designation shall not become final unless the property is annexed to the city within a specified time.

[T. The City is under no obligation to condemn, exercise eminent domain, or pay for the extension of services to an annexed property.](#) [Ord. 720 § 7[4.7.3], 2003.]

18.135.040 Record of amendments.

The planning official shall maintain a record of amendments to the text of this title and the land use districts map in a format convenient for public use. [Ord. 720 § 7[4.7.4], 2003.]

18.135.050 Transportation planning rule compliance.

A. When a development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-012-0060. Significant means the proposal would:

1. Change the functional classification of an existing or planned transportation facility. This would occur, for example, when a proposal causes future traffic to exceed the capacity of “collector” street classification, requiring a change in the classification to an “arterial” street, as identified by the comprehensive plan/transportation system plan; or
2. Change the standards implementing a functional classification system; or
3. Allow types or levels of land use that would result in levels of travel or access what are inconsistent with the functional classification of a transportation facility; or
4. Reduce the level of service of the facility below the minimum acceptable level identified in the comprehensive plan/transportation system plan.

B. Amendments to the comprehensive plan and land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the transportation system plan. This shall be accomplished by one of the following:

1. Limiting allowed land uses to be consistent with the planned function of the transportation facility;
2. Amending the transportation system plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses consistent with the requirement of the transportation planning rule; or
3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation. [Ord. 720 § 7[4.7.5], 2003.]

Chapter 18.130

MODIFICATIONS TO APPROVED PLANS AND CONDITIONS OF APPROVAL

18.130.010

Purpose.

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve city resources. [Ord. 720 § 7[4.6.1], 2003.]

18.130.020

Applicability.

A. This chapter applies to all development applications approved through the provisions of Division 4, including:

1. Site design review approvals;
2. Subdivisions, partitions, and lot line adjustments;
3. Conditional use permits;
4. Master planned developments; and
5. Conditions of approval on any of the above application types.

B. This chapter does not apply to land use district changes, text amendments, temporary use permits, or other permits. [Ord. 720 § 7[4.6.2], 2003.]

18.130.030

Major modifications.

A. Major Modification Defined. The planning official shall determine that a major modification(s) is required if one or more of the changes listed below are proposed:

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

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

1. When the planning official determines that the proposed modification is a major modification, the applicant shall submit an application for the major modification.
2. The modification request shall be subject to the same review procedure (Type I, II, or III) and approval criteria used for the initial project approval, however, the review shall be limited in scope to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated pathways, lighting and landscaping. Notice shall be provided in accordance with the applicable review procedure. [Ord. 720 § 7[4.6.3], 2003.]

18.130.040

Minor modifications.

A. Minor Modification Defined. Any modification to a land use decision or approved development plan which is not within the description of a major modification as provided in PMC 18.130.030, or provides for reduced impacts, shall be considered a minor modification.

B. Minor Modification Request. An application for approval of a minor modification is reviewed using Type II procedure in PMC 18.105.040. A minor modification shall be approved, approved with conditions, or denied by the planning official based on written findings on the following criteria:

1. The proposed development is in compliance with all applicable requirements of the development code; and

2. The modification is not a major modification as defined in PMC 18.130.030. [Ord. 734 § 1, 2005; Ord. 720 § 7[4.6.4], 2003.]

memo

To: Philomath City Council
From: Councilor Ruth Causey
CC: City Staff
Date: Monday, December 9, 2019
Re: Requested Changes to Philomath Municipal Code

Based on discussions during the November 12 City Council meeting, I would like to request the Council's support in recommending the following changes to the Municipal Code be forwarded to the Planning Commission for review and consideration:

Section 18.50.010 Definitions

"Recreational Vehicle Park" means a place where two or more recreational vehicles are located within 500 feet of one another on a lot, tract or parcel of land under common ownership and having as its primary purpose: A) The renting of space and related facilities for a charge or fee; or B) The provision of space for free in connection with securing the patronage of a person. It does not mean A) An area designated only for picnicking or overnight camping; or B) A manufactured dwelling park or mobile home park. (ORS 197.492)

Section 9.15.025 Use of a recreational vehicle as a dwelling. For purposes of this section...nor more than 10 days total in a 30-day period, except when situated in a Recreational Vehicle Park or on a legally permitted campground where overnight camping is allowed.

Chapter 18.45 INDUSTRIAL DISTRICTS

In order to limit the additional development of RV parks in Philomath, one or both of the following changes are suggested:

- Move RV park facilities from the list of allowed uses to conditional uses under Light Industrial, Heavy Industrial and Industrial Park and zones.
- Add the following to **18.45.070 Special standards for certain uses**: C. RV park facilities. The total number of recreational vehicle spaces in all Recreational Vehicle Parks located within the Urban Growth Boundary shall not exceed [X].



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

CITY HALL COUNCIL CHAMBERS

980 Applegate Street

2020 Meeting Dates

January – TBD (Jan. 20 is MLK Jr. Day)

February – TBD (Feb. 17 is Presidents' Day)

March 16

April 20

May 18

June 15

July 20

August 17

September 21

October 19

November 16

December 21