



Commission Agenda Report

Meeting Date:	November 26, 2019	Primary Staff Contact:	Zac Moody
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Staff Recommendation:	See Below	Estimated Time:	3 hours

ISSUE BEFORE THE COMMISSION

Talent Zoning Code Amendments Discussion (DCA 2019-001)

DISCUSSION

The proposed amendments would adopt changes responding to:

- Oregon Revised Statute, 197.303 for a “clear and objective” review path for all types of housing that does not cause “unreasonable cost or delay” to increase the feasibility and certainty surrounding residential development, and
- Talent’s 2017 Housing Needs Analysis identified a need for more housing to serve all income levels, with greater variety of options beyond traditional single-family detached homes, including townhouses and apartments, and

PROPOSAL

The proposal includes amending Talent Zoning Code Title 18, Chapter 18.10, 18.15, 18.20, 18.25, 18.30, 18.35, 18.40, 18.45, 18.50, 18.90, 18.95, 18.96, 18.105, 18.110, 18.115, 18.150, 18.162, 18.180, 18.190 and the Talent Zoning and Comprehensive Plan Maps, concerning Residential Housing.

APPLICABLE CRITERIA

Talent Zoning Code

- Chapter 18.190 – Administration

Talent Comprehensive Plan

- Element A – Citizen Involvement
- Element B – Parks, Recreation, Open Space and Urban Forestry
- Element D – Transportation
- Element E – Economy
- Element F – Public Facilities
- Element G – Housing



Oregon Land Use Planning Goals

- Goal 10 Housing

Oregon Revised Statutes (ORS)

- ORS 197.303
- ORS 197.307
- ORS 197.480
- ORS 197.485(1)
- ORS 197.610(1) – (6)
- ORS 227.186

Oregon Administrative Rules (OAR)

- OAR 660-008-0015
- OAR 660-012-0060
- OAR 660-018-0020
- OAR 660-015-000

BACKGROUND

This is a continued evidentiary hearing where the Planning Commission will continue its review the proposed changes and can deliberate. During the last meeting on December 3, 2019, the Commission reviewed the following chapters:

Chapter 18.90 – General Provisions
Chapter 18.95 – Residential Lot Standards
Chapter 18.105 – Landscaping
Chapter 18.96 – Multi-Family Housing Design

Changes made to these chapters are noted below and are highlighted in blue in the revised amendments.

Chapter 18.90 – General Provisions

No substantial changes to this chapter. Figure 18.90.050-1 was added for clarity and chapter references were updated to reflect number/section changes.

Chapter 18.95 – Residential Lot Standards

Section 18.95.020(D) was changed to required conformance with the code for changes the increased the floor area of a dwelling by 50% or more, rather than by an increase of 50% of its appraised value. Since floor area is much easier to calculate than appraised value, the provisions of this section as modified would be easier to administer.



Section 18.95.030 (A) was changed to reference a new table of permitted uses in Chapter 18.20 – Land Use Classification rather than each individual zoning district chapter. This change allows for a reader of the zoning code to go to a single location in the code to identify specific uses allowed. It also minimizes discrepancies in what a particular use is called across chapters.

Section 18.95.040 (H) was amended to remove the requirement that all single-family and duplex dwellings have garages. Staff's initial recommendation for this section was to not require garages if the area where the garage would have been required was replaced with an ADU. The idea behind this recommendation was to leverage the garage requirement to secure additional independent living space during the initial construction. Costs of requiring the construction of a garage during initial construction were discussed and it was decided by the Commission to remove the requirement with the hope of reducing overall initial construction costs. Staff noted some concern that this space when not required to be a garage would only encourage the development of additional finished living space, increasing the overall cost of the dwelling. A poll of Planners across the state provided a mixed response to not requiring garages, but overall many Planners thought requiring a garage with the hope of a future conversion would generate the desired result and that the requirement should be removed, if adequate off-street parking was required. Off-street parking requirements in Section 18.110 have been reviewed and amended to ensure adequate off-street parking is available if the garage requirement is removed.

Section 18.95.040 (J) was amended to remove the prohibition of metal roofs on residential structures outside of the Old Town Design District. Amendments to the Old Town Design District to allow metal roof material will be considered separately when Chapter 18.140 – Old Town Design District is amended later next year.

Section 18.95.040 (N) was amended to clarify that conversions of accessory structures to ADUs must be compliant with both setbacks and building codes since many accessory structures are built on property lines and rarely built as conditioned living space.

Section 18.95.042 (B)(2) was amended to clarify that the provisions of this section relate to individual driveways, not shared access driveways that provide access to multiple dwellings. Shared Access standards will be added to Section 18.115 – Access, Circulation and Street Improvements.

Chapter 18.105 – Landscaping, Fencing and Hedges

Section 18.105.050 was completely rewritten to address the lack of clear and objective standards as it related to buffering and screening in commercial and industrial zones. In the previous version, mixed use and multi-family design was amended to have clear and objective standards, but commercial and industrial were more criteria based. The section in its entirety was amended to provide specific buffering requirements for all buffer and screening needs. This proposed change clearly identifies the required buffer location, buffer and screening requirements and clear vision considerations.

Section 18.105.060 is a new section that is intended to replace all sections of the code that address clear vision requirements. The section makes more sense here, rather than in any other section because most clear vision obstructions are a result of landscaping, fencing or required buffers.



Chapter 18.96 – Multi-Family Design Standards

No changes were recommended by the Commission and no changes were made by staff. Much of this language comes from model code developed by other cities with successful implementation of these types of standards.

PUBLIC COMMENT

Over the course of the past several months, the City has received comments from Mr. Laupheimer representing South Talent Neighborhood Association (STNA). On November 26th and December 3rd, additional comments were provided to the Commission from STNA via Mr. Laupheimer.

Comments provided by STNA are as follows:

- Objections to short and unreasonable Notice of Public Hearings
- Failure to legally incorporate specific Talent Comprehensive Plan requirements and policies into the proposed zoning code revisions as mandatory land use permit approval criteria
- Subdivision applications should be subject to Type III (Planning Commission) review not Type II (Community Development Director) review
- Public hearings should be mandated for Type II permit reviews
- Confusing language regarding resolving a land use classification dispute must be clarified
- There is no definition that explains the difference between a “Minor Site Development Plan” and a “Major Site Development Plan”
- Neighborhood meeting requirements should not be eliminated for certain multi-residential permit applications as suggested by staff

Clear and Objective vs Discretionary Review

Since these comments have been repeated several times by STNA but have yet to be addressed, staff is providing some initial comments. However, many of these comments are specific to sections of the proposed code amendments that the Commission has yet to review.

As required by the City’s Comprehensive Plan, all proposed code amendments must be in compliance with the City’s Comprehensive Plan. Comments state that Oregon law requires land use permit approvals to be clear and objective. While this is true, especially as it relates to the housing code amendments, not all code language is clear and objective.

Multiple factors contribute to the need to update the City’s existing land use application approval criteria and procedures for housing and other types of developments. As identified in the City’s Housing Element, Talent will need to accommodate a large number of new homes within our urban growth boundary (UGB) by 2037.

Oregon Revised Statute (ORS) 197.307(4) requires that local governments *adopt and apply clear and objective standards, conditions, and procedures regulating the development of “needed housing.”* This is to ensure that communities do not use discretionary or subjective criteria to deny housing projects. The clear and objective standards, conditions, and procedures can’t discourage housing through *unreasonable cost or delay*. This includes development standards such as setbacks and building height that apply to housing at the time of building permit, as well as land use application



criteria that apply to partitions, subdivisions, site reviews, conditional use permits and planned unit developments that will provide housing.

Cities that have a clear and objective land use application approval path can also adopt alternative or “discretionary” approval criteria. Developers may elect the alternative path to allow greater flexibility in housing development proposals. Talent’s proposed zoning code amendments provide two approval paths: a clear and object path and a discretionary path.

Clear and objective standards are those code requirements with definition or measurement that provide for clear and consistent interpretation of the standard. Code language such as *complementary to, enhance, integrate or incorporate* (without stating how much), and *visually engaging*, are examples of discretionary language found in the current Talent Zoning Code that must be more clearly defined in order to meet the clear and objective requirement. Identifying specific design elements and quantities that must be included in a building design can provide the detail needed for the standard to become clear and objective.

Talent’s land use application approval standards and criteria have not been updated in recent history. Existing approval criteria are perceived by some as barriers to providing the housing our community needs, and others believe they do not do enough to address our community’s values regarding livability, public health and safety, and natural resource protection.

Several legal challenges, through appeals of land use decisions, have tested the clear and objective nature of our approval criteria and often make pre-application analysis difficult and provide unnecessary risk for a project, resulting in a project not moving forward.

The approach to these amendments is to translate discretionary language into clear and objective standards, maintaining the current intent of Talent’s housing-related standards to the greatest extent possible. Applications with clear and objective standards will be processed as a Type II Administrative Review with notice and opportunity for comment. Property owners that choose to work outside of the typical standards and apply more discretionary standards will have their applications processed as a Type III Quasi-Judicial Planning Commission review.

The City and the Commission and its advisory committees have invested many hours meeting and listening to the larger public body to gain a better understanding of the housing needs in the community. Through this process the City has drafted code language with the goal of integrating clear and object language that supports the development of affordable housing, maintains the small-town character of Talent and provides certainty through an administrative process and flexibility through a quasi-judicial process - a win for both developers and neighborhoods.

Site Development Plan Review

Although the provisions of this section have not been presented by staff to the Commission, this section will be discussed in detail this meeting if time permits. Site Development Plan Review as proposed would have two separate review paths. The first path is a Minor Site Development Plan Review, processed as a Type II Review. The second path is a Major Site Development Plan Review, processed as a Type III Review. Uses are currently identified as Type I, II and III or Conditional Use



which is also a Type III Review. As currently written, any use that requires site plan review is identified as Type II or Type III. A new table in Chapter 18.20 identifies uses allowed in every zone with a review type (I, II, III or III/CU).

Neighborhood Meeting Requirements

As noted in STNA's comments, staff has suggested amendments to this section requiring a neighborhood meeting only for subdivisions with 12 lots or greater and for multi-family developments of 20 units or more. Many of these types of development occupy only a very small area. The City's intent in requiring a neighborhood meeting is to include neighbors in the project's design. This is not as likely to be necessary with a small-lot subdivision or smaller multi-family unit. Although required by the City these meetings are not usually attended unless the project has the perception of having an impact on the surrounding community. Without changes to this section, reviews of Type II multi-family dwellings of any size such as a four-unit apartment complex would be subject to this requirement.

PROCESS/PROCEDURE

Included with this staff report is an updated version of the proposed code amendments discussed at the last meeting along with some minor changes suggested by the Commission at the last review. As noted at the last meeting, reviewing the proposed amendments in the order below will help facilitate an efficient review of what is being proposed. Two new chapters were added since the last review. They are: Chapter 18.110 – Off-Street Parking and Chapter 18.115 – Access, Circulation and Street Improvements.

During this meeting, staff will briefly review some suggested modifications from Commission and public from the last meeting and continue the discussion of the other chapters in the following order:

- Chapter 18.162 – Cluster Housing (minor changes on page 3)
- Chapter 18.180 – Manufactured Home Park Standards
- Chapter 18.110 – Off-Street Parking
- Chapter 18.115 – Access, Circulation and Street Improvements
- Chapter 18.150 – Site Plan Review
- Chapter 18.25 – Residential Low Density
- Chapter 18.30 – Residential Medium Density
- Chapter 18.35 – Residential Manufactured Housing
- Chapter 18.40 – Residential High Density
- Chapter 18.45 – Commercial Neighborhood
- Chapter 18.50 – Central Business District
- Chapter 18.190 – Procedures
- Chapter 18.20 – Use Classification
- Chapter 18.15 – Definitions
- Chapter 18.10.060 – Dimensional standards reference chart



RECOMMENDATION

Option 1 – Commission completes its review each remaining chapter. Close the public hearing and deliberate. Following deliberation, direct staff to prepare Findings of Fact and a Final Order consistent with the proposed amendments.

Option 2 – Commission does not complete its review of each remaining chapter. Continue the public hearing.

Staff recommends holding an additional meeting in January on the second Tuesday of the month (January 14, 2020) regardless of the option the Commission chooses. The regular meeting on January 28, 2020 is reserved for discussion on Title 17 as well as a quasi-judicial review for the revocation of a Conditional Use Permit. Both of these issues require a public hearing, therefore there would not be adequate time for additional review of Title 18.

ATTACHMENTS

Index of Amendments (revised 12/5/19)

Draft Zoning Code Amendments

Public Comment