8-3 Division L. Article 9.

TRAFFIC IMPACT STUDY

8-3L.910 PURPOSE AND AUTHORITY

The City will review land use actions and major roadway projects for potential impacts and to ensure that new development contributes to the orderly development of the Talent Transportation System Plan network of roads, bikeways, and pedestrian facilities.

8-3L.920 DEFINITIONS

8-3L.930 APPLICABILITY

A. Transportation Impact Study (TIS) shall be required if any of the following actions exist:

1. A zoning or comprehensive plan map or text amendment is projected to generate 500 or more net daily vehicle trips.

2. A development proposal is projected to generate fifty (50) or more net peak hour trips on an arterial or collector segment or intersection.

3. A land use action or development proposal will impact known safety, congestion or capacity problems.

4. A land use action or development proposal is on a highway segment with special access controls.

8-3L.940 TRAFFIC IMPACT STUDY REQUIREMENTS

A. The TIS shall be prepared by a certified professional transportation engineer acceptable to the City. The engineer must be currently licensed and otherwise qualified to perform the work under applicable professional and community standards and must have no financial interest in the project whatsoever and no past or current pecuniary association of any kind with the developer other than occasional work as an independent contractor performing traffic impact studies. The TIS shall determine the impact of the proposed development on existing and proposed transportation facilities and assess the applicant's plans to mitigate such impacts.

B. **Contents.** The TIS will include the following:

1. Study area. The study area shall be the Area of Influence of the proposed action or development and all segments of the surrounding transportation system where users are likely to experience a change in the quality of traffic flow, including:

    a. All site access intersections
    b. Nearest intersecting collector or arterial street upstream and downstream of the proposed action or development.
    c. Any other collector or arterial street intersection that would experience an increase of fifty (50) additional net peak hour trips.
    d. Additional intersections requested by staff

2. Description of the proposal, phasing, if applicable, time schedule, intended use of the site(s), and intensity of use.

3. Study timeframes

    a. Existing conditions.
    b. Build-out year or completion year of each significant phase of development.
    c. 20-years from existing (for comprehensive plan and zoning amendments).

4. Tables

    a. Trip Generation (including phase breakdown if applicable)
    b. LOS Table (LOS for every analysis scenario at every study area intersection. Report LOS, delay, v/c ratio, 95% vehicle queue, and any additional pertinent analysis results)

5. Figures

    a. Vicinity Map
    b. Site or Tentative Plan Map
    c. Background Traffic Volumes (all study intersections, all analysis years)
    d. Trip Distribution and Assignment
    e. Total (Background + Site Generated) Traffic Volumes (all study intersections, all analysis years)
    6. The stamp and signature of a qualified registered professional Engineer with a license valid in the State of Oregon.

C. The Community Development Director or his/her designee may waive or reduce the scope of the TIS if the impacts from the development area are reasonably known and do not provide reasonable justification for the estimated cost of the

analysis and report preparation. In waiving or limiting the scope of a transportation impact analysis that would otherwise be required by subsection B. above, the Community Development Director or his/her designee shall make a written determination that potentially affected intersections will not fall below the performance standards in the Talent TSP or the intersections have been adequately analyzed already in research and reports available to the City. The Community Development Director or his/her designee shall coordinate with ODOT and/or Jackson County as appropriate prior to waiving or reducing the scope of a transportation impact analysis for any development impacting a state or county maintained roadway.

8-3L.950 ANALYSIS METHODOLOGY

A. All traffic analysis shall be prepared using analysis software programs following the most recent Highway Capacity Manual procedures.

B. Existing condition. The following data shall be collected and reported:

1. An infrastructure inventory shall be conducted that addresses all travel modes (streets as well as pedestrian, bicycle, and transit facilities).

2. Traffic volumes shall be measured within the previous twelve months for the weekday peak traffic period. A weekend peak period analysis shall be required at the discretion of the Community Development Director or his/her designee if weekends are the peak traffic period for either the existing street or the proposed development.

3. Existing peak hour intersection operations shall be evaluated and performance indicators including volume-to-capacity ratio and level of service shall be reported.

C. Background condition. Analysis must include:

1. Background traffic forecasts shall be prepared for the peak hour for the Buildout Year of the proposed project. Background forecasts shall be based on a traffic growth rate agreed upon by the Community Development Director or his/her designee. Trips generated by any permitted development that has not been constructed but has had a Traffic Impact Analysis prepared shall be added to the Background forecasts.

2. Background peak hour intersection operations shall be evaluated and performance indicators including volume-to-capacity ratio and level of service shall be reported.

D. Total condition. Analysis must include:

1. Total traffic forecasts shall be provided for the peak hour for Buildout Year of the proposed project. Total traffic shall be calculated by adding the trips generated by the project to the background traffic forecast. Trip generation estimates for the proposed development shall be based on ITE's Trip Generation Manual latest published edition). The Community Development Director or his/her designee may approve different trip generation rates when trip generation rates are not available in ITE's Trip Generation Manual or different rates are justified. Trips generated by the proposed development shall be logically distributed and assigned to the street system based on analysis of local traffic patterns, the regional travel demand forecasting model, or on alternative methodology approved by the Community Development Director or his/her designee.

2. Total peak hour intersection operations shall be evaluated and performance indicators including volume-to-capacity ratio and level of service shall be reported.

3. Safety considerations shall be evaluated. Potential safety problems resulting from conflicting turning movements between and among driveways, intersections, and internal traffic shall be addressed. Distance to the nearest driveways on both sides of streets fronting the site and in both directions from site access points shall be shown. On-site driveway stacking and queuing impacts shall be assessed. The potential for shared access with adjacent development shall be assessed.

8-3L.960 APPROVAL CRITERIA

A. The Community Development Director's or his/her designee assessment of the TIS will be used as the basis for requiring mitigation and imposing conditions of approval.

1. Intersections.

a. The Community Development Director or his/her designee shall evaluate the intersection analyses provided in the TIS for safety and queuing deficiencies and compliance with the Transportation Planning Rule and the Talent TSP.
b. Intersections under the jurisdiction of the Oregon Department of Transportation shall also be evaluated for compliance with the Oregon Highway Plan.
c. Intersections that do not comply with the criteria listed in those documents may be required to be mitigated.

2. The Community Development Director or his/her designee will determine if the development or study area has adequate transportation facilities to support the proposed land use action or development based on compliance with the operations standards.

3. The Community Development Director or his/her designee shall evaluate the crash histories and crash rates provided to identify any queuing issues.

4. The Community Development Director or his/her designee shall approve all proposed traffic distribution prior to the completion of the traffic study.

8-3L.970 MITIGATION REQUIREMENTS/CONDITIONS OF APPROVAL

A. Mitigation shall ensure that the transportation facilities are providing adequate capacity and safety concurrent with the land use action or development of the property.

B. The City may deny, approve, or approve a land use action or development proposal with appropriate conditions.

C. The TIS shall identify methods of mitigating on-site and off-site deficiencies for present and proposed phases of the land use action or development.

D. Build-out Year, Long-Range Forecast Year, and project phasing impacts shall be considered.

E. Mitigation measures may also include, but are not limited to:

1. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or access ways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.

2. Where the existing transportation system is shown to be burdened by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, construction of sidewalks, bikeways, access ways, paths, or streets that serve the proposed use may be required.

3. Where planned local street connectivity is required to improve local circulation for the betterment of interchange function, local street system improvements will be required.

4. Mitigation measures may also include additional street connections and street extensions, turn lanes, signalization, signal modifications, installation of medians, shared access and other access management strategies, geometric improvements such as lane geometry improvements, and intersection realignments.

F. The TIS shall demonstrate how the recommended mitigations are roughly proportional to the identified impacts.

8-3L.244 GENERAL CRITERIA FOR APPROVAL

In judging whether or not a conditional use permit shall be approved or denied, the Planning Commission shall find that the following criteria are either met, can be met by observance of conditions, or are not applicable. A conditional use may be granted only if:

A. The proposed use is consistent with the City of Talent Comprehensive Plan.

B. The proposed use is consistent with the purpose of the zoning district.

C. The proposed use and development is found to meet the required findings of 8-3L.150, "Required Findings for Approval of Plan," set forth for approval of a site development plan review.

D. The proposed use will not adversely affect the livability, value, and appropriate development of abutting properties and the surrounding area, compared to the impact of uses that are permitted outright. Testimony of owners of property located within two hundred and fifty (250) feet of the boundaries of the property in question shall be considered in making this finding.

E. All required public facilities have adequate capacity to serve the proposal. System Development Charges will be assessed at the time a building permit is issued. Additional SDCs will be assessed for change in use that are more intense than a pre-existing use.

~~E.~~F. The conditional use must include mitigation for any decrease in level of service exceeding City standard or operational safety of the transportation system if the proposal generates more than 500 daily vehicle trips or an additional fifty (50) peak hour trips, per Section 8-3L.9 Traffic Impact Study.

~~F.~~G. The site size, dimensions, location, topography, and access are adequate considering such items as the bulk, coverage or density of the proposed development; the generation of traffic; environmental quality impacts; and health, safety or general welfare concerns.

~~G.~~H. The City of Talent has adequate firefighting equipment to protect the structure, as verified by the Talent Fire Chief, or arrangements have been or will be made by the developer to insure that adequate equipment will be available before the occupancy of the building for any use.

8-3L.246 SPECIAL STANDARDS GOVERNING CONDITIONAL USES

Certain conditional uses shall meet the following standards:

A. Daycares and Preschools

1. At least 75 square feet of outdoor play and socializing area per child or adult shall be provided, but in no case shall the total area be less than 500 square feet.

2. If planned for children, the outdoor plan shall be adequately fenced in order to provide for their safety.

3. If the day care facility is not a residential use as provided in ORS 657A.440, the day care facility shall not be located in a single-family residence.

4. The facility shall be readily accessible for fire and other emergency vehicles.

5. The facility shall meet all applicable state licensing requirements. Proof that these requirements are met shall be provided.

6. Adequate space must be provided on-site to allow for drop-off of the children or adults, preferably a circular drive. L-shaped drives and alley drop-offs may also be approved.

7. Parking areas and ingress-egress points are designed so as to facilitate traffic, bicycle, and pedestrian safety; to avoid congestion; and to minimize curb cuts on arterial and collector streets.

B. Temporary Medical Hardship

1. The mobile home will be occupied by an infirm person, or by one or more individuals engaged in caring for the infirm person, whose infirmity renders that person incapable of maintaining a residence on separate property.

2. The infirmity must be due to physical or mental impairment verified by a written statement from a medical doctor or other responsible individual or agency, which clearly indicates that the infirm person is not capable of maintaining a residence on separate property. Financial hardship, childcare and other convenience arrangements not relating to physical or mental impairment are not considered infirm conditions for which a permit can be issued.

3. The mobile home shall not be occupied until it is connected to the public sewer system.

4. The location of the mobile home will not violate the minimum yard setbacks required in the zone in which it will be located.

5. The applicant has agreed to vacate the mobile home within forty-five (45) days after the unit has ceased to be used for the purpose for which the permit was issued, and to remove the mobile home within ninety (90) days after the unit has ceased to be used for such purpose. In any event, the mobile home shall be removed from the premises by the day of the expiration of the permit unless the permit has been renewed in conformance with subsection F below.

6. A conditional use permit for a temporary mobile home will be valid for one (1) year from the date of issuance and must be renewed on an annual basis, unless a shorter time limit is placed upon the permit by the Planning Commission. The applicant shall be responsible for applying to the Planning Commission for renewal at least thirty (30) days before the expiration date of the permit.

C. Neighborhood Commercial

1. Located on a lot of not more than 12,000 square feet in area and where the exterior appearance has a residential appearance similar to the residences on adjacent properties.

2. Permitted Uses. Uses shall be limited to small-scale establishments that serve the neighborhood or the community that do not exceed 2,000 square feet of floor area and are located at the intersection of a designated arterial and/or collector street. Allowable uses include those allowed in the Community and Broadway Commercial Zoning Districts.

3. Outdoor Activities Prohibited. All business operations except off-street parking and temporary activities associated with an established business shall be conducted entirely within an enclosed building.

4. Automobile-Oriented Uses Prohibited. Prohibited automobile-oriented uses include:

   a. Businesses that repair, sell, rent, store, or service automobiles, trucks, motorcycles, buses, recreational vehicles, boats, construction equipment, and similar vehicles and equipment.
   b. Drive-up, drive-in, and drive-through facilities.

5. Maximum Size. The maximum commercial floor area shall not exceed 2,000 square feet per neighborhood commercial site. There may be up to four neighborhood commercial sites at one intersection (one on each corner).

6. Signs. One sign for each facing street per business or use conducted within the building, not to exceed twenty (20) square feet in area. Signs attached flat against the building shall not project more than twelve (12) inches from the wall nor project above the roof or parapet wall. Freestanding signs shall be located on the property and shall not project beyond the property line.

7. Additional Standards. The Planning Commission may limit the type, extent, and hours of operation of a proposed use and may require additional standards to protect adjacent property owners based upon evidence submitted at the public hearing.

D. Buildings over two-and-a-half (2½) stories or thirty (30) feet in height, whichever is the lesser.

   1. Subject to the provisions of Section 5.01(E)(2) of the Talent Zoning Code.

E. The having, keeping or maintaining of any apiary (beehives) of more than two colonies.

1. The number of colonies is limited to two (2) colonies per legal lot with a minimum of 8,000 sq. ft. of lot area, plus one (1) additional colony per each additional 8,000 sq. ft. of lot area, up to a maximum of four (4) colonies regardless of lot size.

2. Colonies shall be located in the side or rear yard, and set back no less than 10 feet from the nearest property line.

3. Hives shall be placed on property so the general flight pattern of bees does not unduly impact neighboring properties or their inhabitants. If any portion of a hive is located within thirty (30) feet of a public or private property line, a flyaway barrier at least six (6) feet in height shall be established and maintained around the hive. The flyaway barrier shall be located along the property boundary or parallel to the property line, and shall consist of a solid wall, solid fencing material, dense vegetation or combination thereof extending at least ten (10) feet beyond the colony in each direction, so that all honey bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the colony.

4. Colonies shall be maintained in movable-frame hives with adequate space and management techniques to prevent overcrowding.

5. Every beekeeper shall maintain a supply of water for the bees located within 10 feet of each hive. The water shall be in a location that minimizes any nuisance created by bees seeking water on neighboring property.

6. Hives shall be actively maintained. Hives not under human management and maintenance shall be dismantled or removed.

7. In any instance in which a colony exhibits unusually aggressive characteristics or a disposition toward swarming, it shall be the duty of the beekeeper to promptly re-queen the colony with another queen, or the colony will be destroyed.

F. Standards for high impact transportation and recreation facilities such as community centers, fraternal or lodge buildings, sports complexes, bowling alleys, pool halls, stadiums, equestrian arenas, golf courses, swimming pools, heli-ports, heli-stops, and bus or train terminals.

1. Major noise generators shall be located a minimum of 30 feet from residential property lines and shall be screened by a noise attenuating barrier.

2. Transportation facilities must be consistent with or incorporated into the Transportation System Plan (TSP).

3. Major public recreation facilities must be consistent with or incorporated into the Parks, Recreation, and Open Space Plan.

4. A traffic impact ~~and parking study may be required in accordance with the Talent Comprehensive Plan.~~study may be required in accordance with Section 8-3L.9 Traffic Impact Study. A parking study may be required in accordance with the Talent Comprehensive Plan. The development project must include mitigation for any decrease in level of service exceeding City standards or the operational safety of the transportation system.

G. Standards for automobile service stations, automobile wrecking yards and contractor offices and storage yards.

1. All activities associated with automotive repair and service, with the exception of maintenance activities such as pumping gas or changing tires, shall take place within a building constructed to ensure that noise or odor do not disturb the normal operation or livability of neighboring uses.

2. Storage of vehicles to be repaired shall be screened by a sight-obscuring fence, wall, or hedge.

3. There shall be a minimum of a ten (10) foot front yard setback that is landscaped.

4. There shall be a physical barrier between the driving surfaces and pedestrian areas.

5. All areas of the site where vehicles, vehicle parts or equipment will be stored, repaired, or displayed must be paved.

6. The areas around fuel pumps and over underground storage tanks must be paved with concrete.

7. Public restroom facilities must be available within the building.

8. All stormwater runoff must be pretreated with pollution control devices before entering into the public stormwater system.

H. Drive-in, drive-up and drive-through facilities.

1. Drive-up uses may be approved in areas as identified CBH, CH and CI Zoning Districts only and only in these zoning districts along Valley View Road and east of a line drawn perpendicular to South Pacific Highway and west of Bear Creek (refer to attached Drive-up Overlay Map).

2. Drive-up uses in existence at the time of this ordinances adoption or amendments thereof and not within the area identified on the drive up overlay map, are considered legal-conforming uses except for the following circumstances:

a. If such uses are abandoned or the drive-up window function of the business is abandoned for a period of six months, the drive-up window function would not be permitted to re-open.

b. If such uses are substantially altered (40% of the building's exterior walls are modified, added on to, etc.), at least three of the design standards identified below in Section C.5 shall be incorporated into the final site or building design.

3. Drive-up lines, including menu speaker, service window and stacking area shall be to the side or rear of the building with the intent to minimize the visibility of these elements from the public street and adjacent residential dwellings. Infill of existing parking lots along a street's frontage is encouraged.

4. Drive-up menu speakers and service windows shall be at least 200 feet from the nearest residentially zoned property line. Menu speakers shall not have a noise decibel reading greater than 55 decibels at the property line and shall otherwise comply with Talent Ord. #749 relating to unnecessary noises.

5. Drive-up buildings shall have their primary orientation toward the public street rather than the parking area. Building entrances shall be oriented toward the street and shall be accessed from a public sidewalk. Where buildings are located on a corner, the building entrance shall be oriented toward the higher order street or to the lot corner at the intersection of the streets. Buildings shall be located as close to the intersection corner as practicable. Exceptions may be granted for topographic constraints, lot configuration, designs where a greater setback results in an improved

access or for sites with multiple building spaces such as shopping centers where this standard is met by other building storefronts.

6. In addition to the Parking Area Improvements required as part of Article 8-3J.575, parking areas shall be designed to incorporate 5 of the 8 following design elements for visual, aesthetic and environmental relief:

    a. One shade tree per seven parking spaces;
    b. Bio-swale plant and filtration system;
    c. Storm water oil separators;
    d. Decorative landscape walls, max 24" in height;
    e. Porous concrete in "plaza" areas (sidewalks, plaza space, outdoor dining space, etc.);
    f. Mounded earth landscaping;
    g. 15' landscape or hardscape buffer between sidewalk and parking area;
    h. Use light colored paving materials with a high solar reflectance index (SRI) of at least .29 to reduce heat absorption for a minimum of 50% of the parking surface area.

7. Drive-up buildings shall incorporate one square foot of "plaza space" for every 10 square feet of gross floor area. The plaza space must incorporate 3 of the 6 following design elements:

    a. Seating – 1 seat for each 500 square feet of building area;
    b. Shelter or windbreaks for inclement weather;
    c. Trees – 1 tree per 500 square feet of plaza space;
    d. A mixture of areas that provide both sunlight and shade;
    e. Water feature or art (may include decorative surface art);
    f. Outdoor eating areas.

8. Drive-up buildings shall have a minimum first floor area ratio of 35% (building footprint area to lot size area). Plaza space may be considered as part of first floor area, but not greater than 30% of the required floor area ratio.

9. Drive-up buildings shall incorporate transparent window glazing and shall be encouraged to use window awnings in order to reduce heat gain.

10. Drive-up lanes shall either be flat or downhill to minimize excessive fuel consumption and exhaust during the wait in line.

11. Drive-up lanes shall be designed to provide as much natural ventilation as possible to eliminate the buildup of exhaust gases.

12. Drive-up lanes shall provide sufficient stacking to ensure that public rights-of-way, including sidewalks, are not obstructed.

13. Drive-up buildings shall be fixed buildings with standard foundations. No temporary structure such as a vending cart, mobile or trailer is permissible.

14. Areas along the street without building frontage, between the street and the parking area or drive-thru lane, shall be landscaped in order to minimize visibility of vehicles and asphalt.

15. Trash and recycle areas shall be screened from the public right-of-way.

I. Retail Sales of Medical & Recreational Marijuana

1. Establishments vending medical or recreation marijuana shall be located at least 100 feet from a residential zone, 100 feet from a mixed use building with a residential unit, at least 750 feet from a public or private park and at least 1,000 feet from an existing public or private elementary, secondary or career school primarily attended by minors. For purposes of determining the distance between the establishment and the aforementioned areas, within the specified distance means a straight line measurement in a radius extending for specified distance or less in every direction from any point on the boundary line of a residential zone, public or private park or from an existing public or private elementary, secondary or career school primarily attended by minors.

2. No extracts, oils, resins or similar products from marijuana shall be produced on site and the use of open flames for the preparation of any products is prohibited.

3. Marijuana and tobacco shall not be used on property where a sale occurs.

4. Establishment shall have air filtering and ventilation systems that confine odors to the premises.

5. Minors are not allowed on the premises unless they are a medical marijuana cardholder and accompanied by a parent or guardian.

6. Owners, operators and employees who have been convicted of manufacturing or delivering drugs once in the past five years or twice in their lifetime may not operate or own a medical or recreational marijuana retail establishment.

7. Prior to operation, background checks for all owners, operators and employees shall be provided to the City. Not providing required background checks for all owners, operators and employees at any time is grounds for revocation of the conditional use permit.

8. Establishments shall keep financial records that are subject to audit. (if tax is implemented)

9. Establishment shall not have security bars and shall not operate a drive-thru facility.

J. Overnight Recreation Vehicle Parks.

1. The park shall consist of a minimum of one (1) acre.

2. There shall be a minimum of a twenty (20) foot landscaped buffer on all property lines.

3. The public transportation system must be able to support large trucks and trailers.

K. Caretaker or watch person dwelling on the premises of a non-residential use.

1. Only one (1) dwelling may be situated upon a particular piece of property unless approved by the Planning Commission.

2. The dwelling shall be separated by at least ten (10) feet from all other buildings on the property.

3. Setbacks of the dwelling from all property lines shall be the same as for the zone in which the dwelling is located or ten (10) feet whichever is greater.

4. If the home is a manufactured dwelling, it shall be constructed to the State of Oregon Manufactured Dwelling Standards enacted on June 15, 1976 or any subsequent amendments thereto and have the Oregon Insignia of Compliance. It shall be a minimum of twelve (12) feet in width and 40 feet in length. It shall be provided with a kitchen having a sink with hot and cold running water and at least one bathroom equipped with a water closet, lavatory and bathtub and/or shower. A building permit must be submitted and approved by the building inspector to ensure that the manufactured dwelling has been properly placed on and securely anchored to state approved foundation and stabilizing devices.

5. All plumbing fixtures shall be connected to a public water supply system and to a public sewerage disposal system and be equipped with running

water. All water and sewer lines connecting the dwelling with public water and sewer lines shall comply with the standards of the City and Rogue Valley Sewer.

6. If a manufactured dwelling is used, the wheels and tongue or hitch shall be removed within 60 days unless a temporary use permit provides for an extended date.

7. Unless placed upon a continuous permanent foundation, the manufactured dwelling shall be completely enclosed with a continuous concrete wall or skirting which shall consist of non-decaying, non-corroding material extending to the ground or to an impervious surface.

8. Skirting and foundation enclosing walls shall have provisions for ventilation and access to the space under the units as follows:

    a. The walls or skirting shall have a net ventilation area of not less than 1-1/2 square feet for each 25 linear feet of exterior wall.
    b. Openings shall be arranged to provide cross ventilation on opposing sides and shall be protected with corrosion-resistant wire mesh.
    c. All foundation areas shall be provided with a 16x24 inch access way and shall be secured against entry.

9. No additional or accessory buildings shall be permitted in conjunction with a dwelling except as follows:

    a. One carport or garage not to exceed 500 square feet in area.
    b. One covered or uncovered patio not to exceed 300 square feet in area.
    c. One storage building not to exceed 100 square feet in area and which shall be attached to and made a part of a carport or garage and which shall be included as a part of the maximum area provided for the carport or garage.

10. A caretaker residence may be accessory to an existing commercial or industrial use that is in need of protection. The duration of the conditional use may be for the life of the commercial or industrial use and temporary vacancy periods for up to two (2) years. If at the end of the conditional use, the manufactured dwelling is removed from its permanent foundation, the owner of the property shall sign and record a development agreement approved by the City Attorney to remove the foundation and all additions to the manufactured dwelling and permanently disconnect and secure all utilities. The development agreement authorizes the City to perform the

work and place a lien against the property for the cost within 30 days from the date on which the manufactured dwelling is moved from its foundation. This condition shall not apply in the event that another approved manufactured dwelling is placed within 30 days of the original unit's removal.

11. Two (2) off-street parking spaces for the dwelling shall be provided.

L. Wireless Communication Towers

1. The following items shall be provided:

a. A photo of each of the tower and its major components of a similar installation, including a photo montage based on a perception of the surrounding area.
b. A set of manufacturer's specifications of the support structure, antennas, and accessory buildings with a listing of materials being proposed including colors of the exterior materials.
c. A map indicating all structures, land uses and zoning designations within 250 feet of the site boundaries, or 300 feet if the height of the structure is greater than 50 feet.
d. A collocation feasibility study conducted by a third party shall adequately indicate collocation efforts were made and states the reasons collocation can or cannot occur. This study shall include a map showing all existing wireless communication facilities and providers within a five (5) mile radius of the proposed location.

2. Site Design for Wireless Communication Towers:

a. The wireless communication tower (including antenna) shall not exceed 75 ft. A submittal verifying the proposed height and mass shall be prepared by a licensed engineer.
b. Signage for wireless communication facilities shall consist of a maximum of two non-illuminated signs, with a maximum of two square feet each stating the name of the facility operator and a contact phone number.
c. The proposed tower shall be constructed and/or treated in a manner that shall camouflage the structure and reduce its visual impact on the surrounding area. Examples of camouflage design include: camouflage as flag pole, monument, steeple, evergreen, or the integration of rooftop towers onto existing buildings, water towers, etc. Rooftop towers must use materials similar to or that blend in with the structure to which it is attached. Other camouflaged tower structures must be of similar height and

appearance as other similar structures allowed in the zone, e.g. towers camouflaged as light poles or utility poles must be of similar height and appearance as other such poles. The purpose of this criterion is to reduce the visual impact of the tower.

d. The proposed tower shall be set back from any Residential zoning district at least a distance equal to 200% of the height of the tower. In all other scenarios, the setback shall be the same as for other structures in the district, except for front yards which shall be a minimum of 20' in all zones.

e. Any equipment associated with the tower facility shall be enclosed in a shed or building, which shall be adequately screened from view of the public right-of-way and any adjacent residential or commercial property.

f. The proposed tower shall not utilize a back-up generator as a principal power source. Back-up generators may only be used in the event of a power outage.

g. Facilities shall be designed to accommodate at least three providers. On the condition that this additional capacity does not prevent the applicant from adequately screening or camouflaging the use.

h. The perimeter of the Wireless Communication facility shall be enclosed with a security fence or wall. Such barriers shall be landscaped in a manner that provides a natural sight obscuring screen around the barrier to a minimum height of 6 (six) feet.

i. The outer perimeter of the Wireless Communication facility shall have a 10 (ten) foot landscaped buffer zone and shall be maintained by the property owner to ensure proper growth and health of the surrounding vegetation

j. The location of the tower and equipment shall comply with all natural resource protection including those for floodplain, wetlands and steep slopes.

8-3M.150 TYPE-III PROCEDURE (QUASI-JUDICIAL)

A. Pre-application conference. A pre-application conference is required for Type-III applications. Pre-application conference requirements and procedures appear in Section 180(C), below. In addition, the applicant may be required to present his or her development proposal to a city-recognized neighborhood association or group before the City accepts the application as complete.

B. Application requirements.

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

2. Submittal Information. The application shall include:

   a. The information requested on the application form;

   b. Be filed with 3 copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;

   c. Be accompanied by the required fee;

   ~~C.~~d. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application. The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. [Alternatively, the applicant may pay a fee for the City to prepare the public notice mailing];

   e. Include all relevant data and narrative materials to support the land division and/or site plan review application. Data may include an impact study to quantify or assess the effect of the development on public facilities and services. A traffic impact study shall be required if the proposal exceeds the thresholds of Section 8-3L.9 Traffic Impact Study~~generates more than 500 vehicle trips~~. The study ~~shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.~~be consistent with the provisions of Section 8-3L.9. In situations where the Subdivision Code and/or Talent Zoning Code requires the dedication of real property to the City, the applicant shall either specifically

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

8-3M.160 TYPE-IV PROCEDURE: LEGISLATIVE

A. Pre-Application conference. A pre-application conference is required for all Type-IV applications. The requirements and procedures for a pre-application conference are described in Section 180(C).

B. Timing of requests. The City Planner shall not review non-City-sponsored or State-required proposed Type-IV actions more than five times annually, based on a City Council Resolution-approved schedule for such actions.

C. Application requirements.

1. Application forms. Type-IV applications shall be made on forms provided by the City Planner;

2. Submittal Information. The application shall contain:

   a. The information requested on the application form;

   b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);

   c. The required fee; and

   d. Three copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

   e. Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application. The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list. [Alternatively, the applicant may pay a fee for the City to prepare the public notice mailing];

   ~~e.~~f. Include all relevant data and narrative materials to support the land use application. Data may include an impact study to quantify or assess the effect of the requested change on public facilities and services. A traffic impact study shall be required if the proposal exceeds the thresholds of Section 8-3L.9 Traffic Impact Study. The study shall be consistent with the provisions of

Section 8-3L.9.

C. Notice of Hearing.

1. Mailed Notice. Notice of a Type-III application hearing or Type-II appeal hearing (Section 140(E)) shall be given by the City Planner in the following manner:

   a. At least 20 calendar days before the hearing date, notice shall be mailed to:

      (1) The applicant and all owners or contract purchasers of record of the property which is the subject of the application;

      (2) All property owners of record within 250 feet of the site;

      (3) Any governmental agency, which has entered into an intergovernmental agreement with the City and includes provision for such notice, or who is otherwise entitled to such notice.

      (4) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;

      (5) Any person who submits a written request to receive notice;

      (6) For appeals, the appellant, all persons who provided written and oral testimony, and any person adversely affected or aggrieved; and

      (7) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

   b. The City Planner shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was posted on the property and mailed to the persons who must receive notice;

   c. At least 10 days and not more than 14 calendar days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record;

   d. At least 10 days and not more than 14 calendar days before the hearing, the applicant shall post notice of the hearing on the property per Subsection 4 below. The applicant shall prepare and submit an affidavit of posting of the notice, which shall be made part of the administrative record.

2. Content of Notice. Notice of appeal of a Type-II Administrative decision or a Type-III hearing to be mailed, posted, and published per Paragraph 150(C)(1), above, shall contain the following information:

a. The nature of the application and the proposed land use or uses, which could be authorized for the property;

b. The applicable criteria and standards from the development code(s) that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The date, time, and location of the public hearing;

e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;

f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;

g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at City Hall at no cost and that copies shall be provided at a reasonable cost;

h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;

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

j. The following notice: "Notice to mortgagee, lienholder, vendor, or seller: The City of Talent Zoning Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

E. Conduct of the Public Hearing.

1. At the commencement of the hearing, the hearings body shall declare to those in attendance that:

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

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

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

d. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body may grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.

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

3. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the Planning Commission shall reopen the record per subsection E of this section;

   a. When the Planning Commission re-opens the record to admit new evidence or testimony, any person may raise new issues, which relates to that new evidence or testimony;

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

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

4. The record.

a. The record shall contain all testimony and evidence that is submitted to the City and the hearings body and not rejected;

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

c. The review authority shall retain custody of the record until the City issues a final decision.

~~F.~~5. Participants in the appeal of a Type-II Administrative decision or a Type-III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing *ex parte* contacts (see Subsection 6 below) as reasonably possible. However, the public has a countervailing right to hear and present arguments at a public hearing. Therefore:

a. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing *ex parte* contacts (as defined in Subsection 6 below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;

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

c. Disqualification of a member of the hearings body as a result of contacts or conflict may be ordered by a majority of the voting members present. The person who is the subject of the motion may not vote on the motion to disqualify;

d. If all members abstain or are disqualified, those members present who declare their reasons for abstention or disqualification shall not be re-qualified to make a decision;

e. If a member of the hearings body abstains or is disqualified, the City may provide a substitute in a timely manner to make a quorum, subject to the impartiality rules in Subsection 6; and

f. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

~~1.~~6. *Ex parte* communications.

a. Members of the hearings body shall not:

(1) Communicate, directly or indirectly, with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing, except upon giving notice, per Subsection 5 above; and

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

b. No decision or action of the hearings body shall be invalid due to *ex parte* contacts, if the person receiving contact:

(1) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

(2) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between City staff and the hearings body is not considered an *ex parte* contact.

~~2.~~7. Presenting and receiving evidence.

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

b. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Section 150(D), above; and

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

~~G.~~F. The Decision Process.

1. Basis for decision. Approval or denial of an appeal of a Type-II Administrative decision or a Type-III application shall be based on standards and criteria in the Talent Zoning Code, Subdivision Code, and any other applicable ordinances. The standards and criteria shall relate approval or denial of a discretionary development application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations and Comprehensive Plan for the City as a whole;

2. Findings and conclusions. Approval or denial shall be based upon the criteria and

standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

3. Form of decision. The hearings body shall issue a final written order containing the findings and conclusions stated in subsection 2, which approves, denies, or approves with specific conditions. The hearings body may also issue appropriate intermediate rulings when more than one permit or decision is required; and

4. Decision-making time limits. A final order for any Type-II Administrative Appeal or Type-III action shall be written and filed by the City Planner within thirty calendar days after the close of the deliberation.

~~H.~~G. Appeal Procedures. An appeal of a Type-III application to a hearings officer, appointed by the City Council, shall be heard through a *de novo* hearings procedure. Only those with standing to appeal may present arguments, but can submit new evidence into the record. The hearings officer may place conditions of approval to meet the applicable criteria or deny an application based on applicable criteria not met, but must be supported by findings of fact in the record. An appeal of a hearings officer decision may be appealed by those with standing to the state Land Use Board of Appeals within 21 days of the date of the notice of decision or order, which ever is later.

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

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

8-2.260 VEHICULAR ACCESS AND CIRCULATION

A. Intent and Purpose. The intent of this Section is to manage vehicle access to development through a connected street system, while preserving the flow of traffic in terms of safety, roadway capacity, and efficiency. Access shall be managed to maintain an adequate "level of service" and to maintain the "functional classification" of roadways as required by the City's Transportation System Plan. This Section attempts to balance the right of reasonable access to private property with the right of the citizens of the City and the State of Oregon to safe and efficient travel. It also requires all developments to construct planned streets (arterials and collectors) and to extend local streets.

These regulations also further the orderly layout and use of land, protect community character, and conserve natural resources by promoting well-designed road and access systems and discouraging the unplanned subdivision of land.

B. Applicability. This ordinance shall apply to all public streets within the City and to all properties that abut these streets.

C. Access Permit Required. A new or modified connection to a public street requires an Access Permit in accordance with the following procedures:

1. Permits for access to City streets shall be subject to review and approval by the Public Works Director based on the standards contained in this Section and the provisions of Section 250—Transportation Facility Standards. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.

2. Permits for access to State highways shall be subject to review and approval by the Oregon Department of Transportation (ODOT), except when ODOT has delegated this responsibility to the City or Jackson County. In that case, the City or County shall determine whether access is granted based on its adopted standards.

3. Permits for access to County highways shall be subject to review and approval by Jackson County, except where the County has delegated this responsibility to the City, in which case the City shall determine whether access is granted based on adopted County standards.

D. Traffic Study Requirements. The City or other agency with access jurisdiction may require a traffic impact study (TIS) prepared in accordance with Section 8-3L.9 Traffic Impact Study. ~~by a certified professional transportation engineer acceptable to the City. The engineer must be currently licensed and otherwise qualified to perform the work under applicable professional and community standards and must have no financial interest in the project whatsoever and no past or current pecuniary association of any kind with the developer other than occasional work as an independent contractor performing traffic impact studies. The TIS shall determine the impact of the proposed development on existing and proposed transportation facilities and assess the applicant's plans to mitigate such impacts. (See also Section 250— Transportation Facility Standards).~~

~~[amended 4 January 2006; Ord. No. 796]~~

E. Conditions of Approval. The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public or private street.

F. Access Options. When vehicle access is required for development, access shall be provided by one of the following methods (a minimum of 10 feet per lane is required). These methods are "options" to the developer/subdivider.

1. Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.

2. Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., "shared driveway"). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

3. Option 3. Access is from a public street adjacent to the development parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in Subsection G, below.

4. Subdivisions Fronting Onto an Arterial Street. New residential land divisions fronting onto an arterial street shall be required to provide alleys or secondary (local or collector) streets for access to individual lots.

5. Double-Frontage Lots. When a lot has frontage onto two or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street. Except for corner lots, the creation of new double-frontage lots shall be prohibited in the Residential District, unless topographic or physical constraints require the formation of such lots. When double-frontage lots are permitted in the Residential District, a landscape buffer with trees and/or shrubs and ground cover not less than 10 feet wide shall be provided between the back yard fence/wall and the sidewalk or street; and maintenance shall be assured by the owner (i.e., through homeowner's association, etc.).

G. Access Spacing. Driveway access shall be separated from other driveways and public and private street intersections in accordance with the following standards and procedures:

1. Local Streets. A minimum of 10 feet separation (as measured from the sides of the driveway/street) shall be required on local streets (i.e., streets not designated as collectors or arterials), except as provided in Subsection 3, below.

2. Arterial and Collector Streets. Access spacing on collector and arterial streets shall be determined by the Public Works Director. Access to State Highway 99 shall be subject to review and approved by the Oregon Department of Transportation (ODOT), based on the applicable standards contained in the City's Transportation System Plan and policies contained in the *1999 Oregon Highway Plan*.

3. Special Provisions for All Streets. Direct street access may be restricted for some land uses. For example, access consolidation, shared access, and/or access separation greater than that specified by Subsections 1-2, may be required by the City, County or ODOT for the purpose of protecting the function, safety, and operation of the street for all users. (See Subsection I, below.) Where no other alternatives exist, the permitting agency may allow construction of an access connection along the property line farthest from an intersection. In such cases, directional connections (i.e., right in/out, right in only, or right out only) may be required.

H. Number of Access Points. For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot. Alley access is strongly encouraged before other access points are considered; except that two access points may be permitted for two-family and three-family housing on corner lots (i.e., no more than one access per street), and subject to the access spacing standards in Section G, above. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with Subsection I, below, in order to maintain the required access spacing, and minimize the number of access points.

I. Shared Driveways. The number of driveway and private street intersections with public streets may be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

1. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they may be stubbed to adjacent developable parcels to indicate future extension. "Stub" means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. "Developable" means that a parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

2. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.