

Zac Moody

From: ronald.laupheimer@gmail.com
Sent: Monday, March 11, 2019 4:46 PM
To: Zac Moody
Cc: commisionervolkart@icloud.com; Mayor Talent; Sandra Spelliscy
Subject: March 12, 2019 Talent Planning Commission Hearing---Questions re the Talent Code Update Project and 3J Consulting's Memorandum on Draft Code Update Concepts

Mr. Moody---

I have reviewed the February 18, 2019 3J Consulting Memorandum ("Memorandum") to the Talent Planning Commission regarding the Talent Code Update Project ("Project") and 3J's Draft Code Update Concepts which will be discussed at tomorrow evening's Planning Commission meeting and have several questions regarding the Code Update Project's possible effect on any future development applications for the properties west of the railroad tracks. You asked me to address you (not the consultants) regarding any questions I or other citizens might have about the Project and 3J Consulting's Draft Code Update Concepts. Those questions are set forth below.

Some background is needed before my inquiries. You are of course familiar with the opposition and litigation regarding the 201 Belmont Road property owners' recent attempt to develop that property with an ELD Application and avoiding any Talent Planning Commission review. The City, Hearings Officer and Oregon Court of Appeals all rejected such an approach using the ELD statutes.

One of the major arguments the opponents of that Application made was that the Talent Comprehensive Plan in Element F required as mandatory permit approval criteria various standards for any property development west of the railroad tracks and in the Railroad District Master Plan, including specifically mandating 2 accesses to any such property under the 10.2.1 standard of the Plan. The Hearings Officer rejected that argument.

On pages 17-26 of the Hearings Officer's September 5, 2018 Decision and Final Order denying the 201 Belmont Road ELD Application, he explained in detail why the two-access standard was not a Subdivision Code mandatory permit approval criterion and how the City could easily accomplish that result through the use of proper incorporation language.

At a November 29, 2018 meeting, both the City Manager and the Mayor promised all of us members of the South of Talent Neighborhood Association Council ("STNA") present that the incorporating of the two-access standard for west of the railroad tracks development and other Comprehensive Plan Element requirements such as the City's Transportation System Plan (Element D) into the Zoning Code and/or Subdivision Code as mandatory permit approval criteria was going to be part of the Talent Code Update Project. STNA and other members of the public have therefore been

watching when and how that would occur to ensure City follow through on that promise.

With that background in mind and the publication of 3J Consulting's Memorandum, below are my questions:

1. At the top of page 3 of the Memorandum, it states one of the topics under the heading **Code Update Topics--Subdivisions** to include: **"Clarify standard requiring secondary access for subdivision preliminary plats to implement comprehensive plan goal (17.10.050 or 17.10.060)".**

We assume that part of the Project Code Update is to follow through on the City Manager's/Mayor's promise to properly incorporate the Comprehensive Plan's 2-access standard in Section 10.2.1 into the Talent Zoning and/or Subdivision Code as a clear mandatory permit approval criterion like the Hearings Officer explained. If that assumption is not correct, please explain in detail what is meant by the above-noted language.

Additionally, I did not see in 3J Consulting's Memorandum any discussion of the proper incorporation of the other Talent Comprehensive Plan's goals and standards into the Subdivision Code and/or Zoning Code as clear mandatory permit approval criteria for any west of the railroad tracks property development. Where and how will that effort be handled as part of this Talent Code Update Project so that there is no confusion regarding what specific criteria are applicable to any future development proposal?

2. At the bottom of page 2 of the 3J Consulting Memorandum regarding Subdivisions, it states the main goal is to: **"Develop clear and objective standards for subdivision preliminary plat to facilitate a Type II review, including requirement for Type III Planning Commission review in 17.15.010.B, approval criteria in 17.15.030, development standards in 17.10 that defer to Planning Commission discretion."** In other places of the Memorandum, it states this Code Update is to **"ensure Type II [review] path is available for all residential uses."** (See, e.g., the middle of page 8 of the Memorandum under the heading **"Development Review and Procedures"** and the discussion of **"Priority Code Amendments"** on page 2 to reduce the number of Planning Commission Type III reviews wherever possible.) It is clear from the numerous references throughout the Memorandum that reducing the number of land use matters coming before the Talent Planning Commission for decision as part of a Type III review is one of this Project's primary methods of removing any and all so-called "restrictions" to achieving Talent's housing goals.

STNA opposes the reduction of any public notification and full participation in the City's activities, particularly when it involves potential property development issues. We assume such possible lower standard of review will not include possible

development of property west of the railroad tracks because of the unique safety, access and other non-typical concerns related to such property. If that assumption is not correct, please explain how such a lower standard of review could be applicable to the development of any west of the railroad tracks property with all of the major problems associated with those properties.

This Code Update Project is quite significant for all property owners and citizens of Talent. Therefore, I ask you make this email and any response from you part of the record of this effort. Moreover, because of the significance of this Project, I also request a public hearing be held with specific notice to all potentially-affected property owners so they are given a real opportunity to learn about this major code update effort and participate in it.

Thank you in advance to your prompt and detailed response to my inquiries and requests described above.

Ron Laupheimer

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Please consider the environment before printing this email.

March 28, 2019

To: Zac Moody, Community Development Director
Talent Planning Commission

From: Vernon J Davis; RMDavisTrust@gmail.com

re: Housing Code update project

As a Council member of the South Talent Neighborhood Association and as someone who has been significantly involved in the process and litigation associated with an Expedited Land Development (ELD) at 201 Belmont Road, I urge that the following issues be strongly considered during the update process.

- 1) Ensure that the codes are written in such a way that they will withstand legal scrutiny so that they will achieve the intended purpose.

During the appeal process regarding the 201Belmont Road ELD application, it was discovered that aspects of the Comprehensive Plan could not be applied because they were not reflected in housing code. The specifics of the problem can be read in the Hearings Officer report. It would be a waste of time and money to revise the housing codes if they could not be applied when challenged.

- 2) Make the 2 access point rule the default.

The 2019 fire season and the associated disasters in the west provide a lesson that cannot be ignored regarding the necessity of having well developed ingress and egress routes during emergencies. While there may be times when a single access route is feasible without compromising safety, single access should be the exception and not the rule.

- 3) Maintain Type III reviews as the primary and default process.

Talent's goals regarding public participation are ill served by bypassing the Planning Commission. Efficacy in approving housing projects should not come at the expense of safety and public input. While there is a place for Type II reviews, the City and its citizens are best served by taking the time for public scrutiny and input that occurs in the Planning Commission.

To: Talent Planning Commissioners

From: Jim and Rhonda Gleaves, 121 S. Pacific Hwy, Talent

Re: Zoning Code Amendments

Dear Commissioners,

We are owners (and residents) of a property that is part of your Site 12 of properties that might be considered to be rezoned, from commercial to residential.

In support of this rezoning, we note that your 3J Consulting Memorandum (Feb 12, 2019, page 7, see attached) states:

"Mixed-use development on individual sites requires a rare constellation of factors, to be successful."

The Consultants here are casting doubt on the value of Mixed-use zoning, to provide housing.

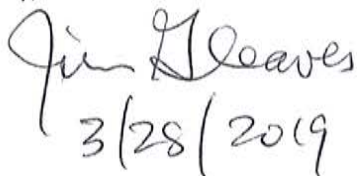
One problem with Mixed-use is that it makes residential construction dependent upon commercial construction. If Talent doesn't see much commercial activity, then Mixed-use zoning will not provide **any** residences.

The Memo then considers a strategy that includes selectively rezoning some commercial properties to residential zoning.

We believe that rezoning commercial properties to residential-only, is the option that will produce actual housing in Talent.

As owner, and resident, of a property that we believe will never be developed commercially, due to configuration and large creek setback, we would like to see Talent change the zoning on our property, to residential. We would be interested in anything from Cottage housing, to High Density.

Sincerely,


3/28/2019

- Permit ground-floor residential use as a temporary use in commercial mixed-use buildings in CBD, HC, and CBH zones with provisions such as: design standards to ensure that the ground floor in new commercial buildings is designed for commercial use, and zoning districts or overlay areas in which these uses are allowed.
 - *Alternative option:* Consider allowing ground-floor residential as a permitted use in commercial districts in limited circumstances, with additional design standards for an engaging and interest façade. Building ground floors to commercial building standards adds considerable expense for residential projects, and newly built “temporary” residential uses are likely to have a 20-50 year lifespan before they could potentially be converted to commercial use, at which point building codes and development needs may be considerably different.
- Develop a new Mixed-Use/High-Density Residential zone that permits vertical or horizontal mixed use, provided that ratios for residential and commercial development are met to prevent sole-purpose residential developments. Explore option for district-wide commercial and residential development ratios, with opportunity to trade between sites similar to a density transfer program.
 - *Alternative option:* This option stems from the HNA finding that there is a surplus of commercial land and a shortage of residential land, leading to the recommendation to expand residential options in existing commercial districts. However, it can be challenging to attract mixed-use development in small and medium-sized cities because of the complexity of financing and building standards, resulting in many sites remaining vacant. While horizontal mixed-use as proposed offers more flexibility than vertical mixed-use requirements, **mixed-use development on individual sites requires a rare constellation of factors to be successful.** The City could also consider a more general, neighborhood-scale mixed-use strategy of selectively rezoning some surplus commercial properties off of the main roads for residential use while retaining commercial zoning along the main roads to allow for a mix of development without requiring individual mixed-use projects. This could free up residential and commercial development of individual projects to proceed at their own pace, each lead by experienced developers in their respective fields, rather than waiting for a developer and development proposal that can do it all at once.

Site Development Standards

- Develop clear and objective landscaping buffer requirements by use or zone, tied to adjacent use or zone. Size landscaping and other buffer requirements to fit within the setbacks required in underlying zones. Use menu of buffering tools including setbacks, berms, fences, trees, and landscaping. (18.105.050)
- Review and consider reductions to parking minimums for some residential types including multifamily residential and new missing middle types. (18.110.060)
 - Reduce minimum parking requirement to no more than two spaces per unit for units of all sizes, and consider reducing minimum parking to one or 1.5 spaces per unit for duplexes, triplexes, four-plexes, townhouses, cottages and apartments. Reduced parking standards free up more land for residential development, rather than parking lots, and minimize the visual impact of parking areas within neighborhoods.
- Develop reduced parking minimums for residential uses in CBD zone that address impacts created by residential uses without making such development infeasible due to site

Pete Young
1409 Talent Ave.
Talent, Oregon 97540
April 25, 2019

Zac Moody,
City of Talent, Community Development Director
110 East Main Street
Talent, OR 97540

Mr. Moody,

I appreciate this opportunity to weigh in on the important Housing Code Updates currently underway. As stated in the Talent Housing Code project, Talent and our region at large are facing a severe "housing availability or affordability problem". I believe the direction the City is moving to update its code is timely and a critical next step. There is too much in the proposed code change that I agree with to list here, but I want to state clearly my excitement to see this unfolding. I'm proud to be part of such a progressive and forward-leaning community.

I believe it's critical to "develop cottage housing standards" and to include cottage housing in Talent's pallet of development options. There are now many examples of successful cottage neighborhoods around the country which model highly efficient use of land while offering quality lifestyle options in support a variety of our City's stated goals- including promoting a strong sense of community within the cottage housing site itself.

I'd like to offer one caution with regards to the following proposed cottage housing standard:

"Orientation: Require two to three sides of the courtyard to be occupied by buildings."

I support a requirement of two but not three sides of the courtyard to be occupied by buildings as three could limit or even preclude cottage development of a narrow site.

Allowing clustered parking via a common parking lot is critical to cottage neighborhood design in order to increase open space and to maximize efficiency of the site's design. I also support reducing the number of required parking stalls in cottage housing, as proposed.

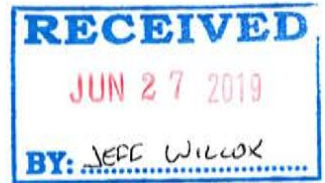
I await further definition of the required legal mechanism for joint ownership of items held in common as opposed to individual ownership of the dwellings.

Finally, I welcome the City's stated interest in amending the flag lot standards which currently limit infill. I strongly support the City in "Developing provisions for shared access ways in place of individual "poles"...and private street standards, common drive standards or other access standards for multiple flag lots that provide emergency access..."

Regards,

Pete Young





Hi Zac,

I continue to be extremely interested in flag lot standard revisions as a part of the new draft housing code updates.

I don't see any new drafts as of 06/27/19 addressing flag lot standards and I'm beginning to wonder if this task is still going to be completed by the end of the month. I'm hoping there are more drafts in the works from 3J Consulting and that this is one of them. I've been waiting 24 years for a common sense approach supporting infill of flag lots in Talent and would be extremely disappointed if this opportunity slips by or is postponed.

Hoping for good news!
Pete Young

Ⓜ Material in 7/25/19 packet

Questions

from Dorian Hasty 7/22/19



"Apartment" – see "Dwelling, multiple-family." means a dwelling unit in a multiple-family structure or building that is typically designed for and utilized as a rental dwelling. A condominium-type dwelling might also be referred to as an apartment, regardless of the ownership status, if it is within a multifamily structure.

"Apartment house" means any building or portion thereof which contains three or more individual dwelling units, regardless of the ownership arrangement.

"Assessor" means the county assessor of Jackson County.

"Basement" means a space wholly or partly underground and having more than one-half of its height, measured from its floor to its ceiling, below the average adjoining finished grade; if the finished floor level directly above a basement is more than six feet above a finished grade at any point, such space shall be considered a "story."

Bedroom. For purposes of this title, the determination of whether a room is a bedroom shall be made by the building official of the city using the then-current building code, but generally it shall be any enclosed room in a dwelling suitable for sleeping purposes containing both a closet and an emergency egress window.

"Boarding house" means any building or portion thereof containing not more than five guest rooms which are occupied, or intended for occupancy, by guests in return for money, goods, labor or otherwise.

} How does this differ from a B & B?

"Buffer" means a means to help reduce or prevent conflicts between incompatible land uses, including, but not limited to: special setbacks; lot coverage and height restrictions; screen plantings, berms, fencing or walls; parks and open space; and natural topography.

"Buildable area" means that portion of a lot excluding the minimum setback areas.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building height" means the vertical distance from the average contact ground level at the front wall of the building to the highest point of the roof surface for flat roofs; to the deck line for mansard roofs; and to the average height between eaves and ridge for gable, hip, and gambrel roofs (see illustration below).



"Dwelling, duplex" means a detached building containing two residential dwelling units on a single lot.

"Dwelling group" means a group of two or more detached buildings used for residential purposes and located on a single tax lot with yard areas shared as common areas for all dwelling group occupants.

"Dwelling, manufactured or factory built," also referred to herein as "manufactured home," refers to residential dwellings or multiple dwelling structures that are constructed in total or large part at a factory and assembled at the site. Such dwellings are constructed to conform to Uniform Building Code standards and do not include a frame, axles or wheels that make them adaptable for highway transport.

"Dwelling, manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was built on or after June 15, 1976, to the standards and requirements of the National Manufactured Home Construction and Safety Standards Act of 1974, or other federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

"Dwelling, mobile home" means a residential dwelling that is constructed primarily in a factory in accordance with manufacturing standards established by the Department of Housing and Urban Development (HUD) for mobile homes, and which is commonly designed with framing, axles, and wheels that permit its transport on public highways. Permanent placement and removal of axles and wheels have no effect on the "mobile home" designation.

"Dwelling, mobile home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Dwelling, multiple-family" means a building or portion thereof, designed or used as a residence by three or more families or individual households, and containing ~~five~~ three or more dwelling units on a single lot. Units may be attached or detached in any configuration.

Commented [ED1]: Is this used? Seems to overlap with "Two or three main buildings on an individual lot" but used inconsistently.

Can the whole concept be replaced with cluster housing, or are there specific situations where this is useful?

I would be OK w/ cluster hsg, unless there are reasons otherwise

Commented [ED2]: Update these definitions to match ORS 446.003.

- 3. Exterior building materials shall be the same basic type, texture and color as those of the primary building.
- 4. Any addition to an existing dwelling shall include an extension of the foundation along the perimeter of the new addition.
- 5. Such additions as porches, awnings, patios, patio covers, decks, or storage sheds may be permitted if designed and constructed as required above. In no case shall a "ramada" be approved. (A ramada is a stationary structure having a roof extending over the dwelling unit, primarily for protection from sun and rain, and usually associated with old deteriorated manufactured homes.)

M. An under-structure drainage system must be constructed to ensure that water does not collect beneath the structure, but drains property to the street or other approved storm drain system.

N. *Accessory Structures.* As defined in TMC 18.90.060 shall meet all setback and building coverage requirements for the zone. However, up to two accessory structures with a combined total area of 200 square feet or less are not required to have rear or side yard setbacks, provided such structures shall be placed at least 40 feet from any right-of-way, shall not exceed 10 feet in height and shall not exceed 20 feet in any horizontal dimension. Storm water from the roof of the exempted structures shall not flow onto the neighboring property. No accessory structure excepted under this provision shall be used as an apiary or for the keeping of livestock, including the housing of bees, swine, horses, chickens or rabbits. Conversion of accessory structures into accessory residential units is prohibited unless in compliance with the zone's standard setbacks. Maintenance of accessory structures without yard setbacks shall be the responsibility of the structure's property owner. [Ord. 868 § 1, 2013; Ord. 817 § 8-3J.240, 2006.]

Just curious —

Why the conformity? Seems to me you would want some variety in units, say, one set back, or a little different.

18.95.045 Additional standards for duplex dwellings.

In addition to the other standards in this chapter, duplexes shall also comply with the following standards.

- A. The exterior finish of the structure must be the same for both units.
- B. The eaves must be uniform for the entire structure.

1. Projects reviewed through the objective process will be evaluated through a Type II site development plan review, pursuant to Chapter 18.150 TMC and shall comply with the design standards in TMC 18.96.030.
2. Projects reviewed through the discretionary process will be evaluated through a Type III site development plan review, pursuant to Chapter 18.150 TMC and shall comply with the design guidelines in TMC 18.96.040.
3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

Standard for ear th quakes?

18.96.030 Design standards.

A. Building orientation and entrances.

1. Building orientation. Multiple-family residential buildings located within 40 feet of a front lot line shall have their primary orientation toward the street.
2. Building entrances. The main entrance(s) of any residential building located within 40 feet of a street must face the front lot line. Main entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. The following exceptions shall apply:
 - a. On corner lots the main building entrance(s) may face either of the streets or be oriented to the corner.
 - b. For buildings that have more than one entrance serving multiple units, only one entrance must meet this requirement.

B. Building mass and façade.

1. Maximum building dimension. The maximum length of any building shall not exceed 150 feet.
2. Windows. Street facades shall contain windows covering a minimum of 15% of the façade on each story.

C. Building Design.

1. Building materials. Permitted building materials shall include:

- What materials are excluded? I would think steel or other metal would be allowable*
- a. Painted or stained wood siding or shingles, fiber cement or composite siding or shingles, or aluminum or vinyl siding that is textured to simulate wood.
 - b. Brick or stone, not including plain concrete or concrete block.
 - c. Stucco.

2. Design features. The primary façade shall incorporate at least three of the following architectural features:

- a. Window trim: minimum four-inch width.
- b. Eaves: overhang of not less than 12 inches.
- c. Decorative top: e.g., cornice or pediment with flat roof or brackets with pitched roof.
- d. Bay window: one per dwelling unit that projects from front elevation by 12 inches.
- e. Dormers: one per dwelling unit.
- f. Balcony: one per dwelling unit.
- g. Other: feature not listed but providing visual relief or contextually appropriate design similar to options a-j, as approved by the planning director through a Type II procedure.

3. Entrances. The main building entrance(s) shall incorporate a minimum of one of the following options:

- a. A covered front porch not less than six feet deep and not less than 30 percent of the width of the building.
- b. A recessed entrance not less than three feet deep.
- c. An awning, canopy or portico not less than six feet deep.

D. Building Articulation. To preclude large expanses of uninterrupted wall surfaces, exterior elevations of buildings shall incorporate design features such as offsets, projections, balconies, bays, windows, entries, porches, porticos, or similar elements. These features shall

F. Common Open Space. Common open space shall be provided in all newly constructed multiple-family developments as follows:

1. A minimum of 20 percent of the gross site area shall be provided in designated and permanently reserved open space. The following may count towards the required open space:

a. Indoor or covered recreation space.

b. Private open space. Private open spaces not more than 5 feet above finished grade shall measure a minimum of 96 square feet with a minimum horizontal dimension for all sides of 6 feet. Private open spaces 5 feet or more above finished grade shall measure a minimum of 48 square feet with a minimum horizontal dimension for all sides of 6 feet.

What is this? Yards, decks or balconies?

c. Natural areas, floodplains, steep slopes greater than 25 percent, may be included provided that such areas do not exceed 25 percent of the required common open space.

d. Required setback and buffer areas.

2. At least one common open space area shall be provided within developments of 12 units or more that has a minimum area size of 750 square feet plus an additional 250 square feet for every 12 units, or portion thereof, over 12 units. The minimum dimension for all sides of the required common open space is 25 feet.

3. The total amount of open space may be reduced by up to 25 percent if the development provides improved open space. Improved open space shall meet the minimum size requirements of TMC 18.96.030.F.2 and incorporate at least one of the following types of features, or combination of features:

a. Covered pavilion

b. Picnic areas with tables and/or benches, including the tables and clear ground space immediately surrounding each table.

c. Ornamental or food gardens.

1. Appropriate screening for rooftop equipment includes parapet walls or architecturally compatible fabricated enclosures such as panels and walls.
2. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment shall be not be located within 5 feet of a front entrance and shall be screened with sight-obscuring materials.

What is the difference between Standards & Guidelines? These seem VERY subjective!

18.96.040 Design guidelines.

A. Building orientation and entrances. Buildings shall be located with the principal façade oriented to the street or a street-facing open space such as a courtyard. Building entrances shall be well-defined and easily identifiable.

B. Building mass and façade. The development shall be designed to reinforce human scale and incorporate transparency through appropriately placed windows that do not compromise residents' privacy.

C. Building design.

1. Building materials. Buildings shall be constructed with architectural materials that provide a sense of permanence and high quality. Street-facing façades shall consist predominantly of a simple palette of long-lasting materials such as brick, stone, stucco, wood and similar siding, and wood and similar shingles.

2. Design features. Buildings with long monotonous exterior walls shall be avoided and shall instead incorporate varied architectural elements and facade materials arranged in a way to provide interest and a harmonious, balanced design.

3. Entrances. Architecturally defined and covered entryways shall be incorporated into the design of buildings.

D. Building articulation. The appearance of building bulk shall be minimized by incorporating changes in wall planes, layering, horizontal datums, vertical datums, building materials, color, and/or fenestration to create simple and visually interesting buildings.

E. Roofline modulation. Building roofs shall be modulated to provide variety and contribute to residential character of the neighborhood.

applicable provisions of this title (e.g., road approach permits along arterial streets or surfacing projects of parking lots), except as provided in subsection (B) of this section, a site development plan for the total parcel or development shall be prepared and submitted to the planning commission for review and approval.

1. Minor Site Development Plan Review shall be reviewed through a Type II process consistent with TMC 18.190.040.

1. Major Site Development Plan Review shall be reviewed through a Type III process consistent with TMC 18.190.050.

B. The requirements of this chapter do not apply to:

1. A modification of a structure which does not change the use or intensity of operation or does not increase the floor area.

2. Accessory dwelling units, single-family dwellings of any type, or duplex dwellings.

C. The requirements of this chapter shall not be construed to be a substitution for more detailed review requirements set forth by this title for any specific zone or use. [Ord. 817 § 8-3L.120, 2006.]

18.150.030 Procedure.

A. *Fee.* Accompanying the requirements of subsection (B) of this section shall be a nonrefundable fee. The amount of the fee shall be established, and may be changed, by general resolution or ordinance by the city council. In addition, the applicant shall be liable for the costs to the city for engineering and legal services rendered by the city engineer and attorney in the reviewing of the documents and plans, conducting inspections and other services necessary to fulfill the requirements and conditions provided for in this chapter.

How is this provision a time line, dead line - taken care of?
 B. ~~Plans and Review~~ The site development plan shall be submitted to the planning office at least 30 days prior to the planning commission meeting at which review is requested. A site development plan shall not be considered "submitted" until the staff advisor determines that the application adequately addresses the required data listed in TMC 18.150.040 and the required findings in TMC 18.150.050. [Ord. 817 § 8-3L.130, 2006.]

18.150.040 Site development plan – Required data.

The site development plan shall be drawn to scale and shall indicate clearly the following information:

- A. Name and address of applicant;
- B. Assessor's map number and tax lot number of the property concerned;
- C. North point and scale of drawing;
- D. Dimensions and orientation of the lot or parcel;
- E. Location, size, height and proposed use of all buildings, both existing and proposed, and relationship to existing development on immediately adjacent properties;
- F. Location, dimensions and layout of all off-street parking and loading facilities, including bicycle parking; internal circulation pattern; access points for pedestrians, bicycles and motor vehicles; required standards and improvements of TMC 18.110.120 and 18.110.130, if any;
- G. Location and nature of exterior lighting;
- H. Location, height and construction materials of walls and fences;
- I. Location, materials and maintenance of proposed landscaping, including the location, names, mature height, crown diameter, and growth rate of mature trees and shade trees;
- J. A plan showing the shadow patterns of all buildings, fences, walls and trees at their mature heights between ~~the hours~~ beginning at 9:00 a.m. and ending at 3:00 p.m. Pacific Standard Time on November 21st existing or proposed on the property; determination of shadow patterns is set forth in TMC 18.125.040(C);
- K. Street improvements;
- L. Yards and open space between buildings and in setbacks;
- M. Proposed method of buffering, where indicated;
- N. Existing natural features, including all trees with a circumference of 14 inches or greater, measured at a point three feet above grade at the base of the tree;

*Can this
provision be
used @
solar panels
on nearby
buildings?*

Y. If approval for relocation is given, and upon issuance of the proper building permits, the applicant shall notify the building official, at least three days prior to the movement of the structure, of the date and time of the move so that the building official can, at the applicant's expense, witness the move to ensure that the approved structure is being relocated. If the building official is not satisfied that the proper structure is being moved he shall take the appropriate steps to ensure that the structure is not brought into the city. [Ord. 817 § 8-3L.140, 2006.]

18.150.045 Required findings for approval of minor site development plan.

Is this all new material (or does it replace old)? If so, why?

After an examination of the site, the review authority shall approve, or approve with conditions, the minor site development plan if all of the following findings are made:

A. All provisions of this chapter and other applicable city ordinances and agreements are complied with;

B. The proposed development will be in conformance with the standards of the zone in which it will be located;

C. The proposed development will be in conformance with the following standards, as applicable:

1. TMC 18.90, General Provisions.
2. TMC 18.95, Residential Lot Improvement Standards.
3. TMC 18.100, Tree Preservation and Protection.
4. TMC 18.105, Landscaping, Fencing and Hedges.
5. TMC 18.110, Off-Street Parking and Loading.
6. TMC 18.115, Access, Circulation and Street Improvements.
7. TMC 18.120, Signs, Billboards and Advertisements.
8. TMC 18.125, Solar Energy and Access.
9. TMC 18.135, Public Trees.

is this defined (or need definition)? See "Dwelling Unit" p. 8 of Definitions

1. The project includes five or more residential units, including assisted living facilities or group homes; residential care facility? OR cluster housing?

2. At least 50% of the residential units will be sold or rented to households with incomes equal to or less than 60% of the median family income for Jackson County or for the state, whichever is greater; and

3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy.

18.190.090 Special procedures.

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

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

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

3. *Appeal Procedure.* An appeal of an ELD shall be in accordance with the procedures in ORS 197.375.

B. *Neighborhood Meeting Requirement.* Applicants shall meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input and exchange information about the proposed development. After a pre-application conference, the applicant shall meet with any adjacent property owners within 250 feet of subject property, prior to the city's acceptance of an application as complete. The city will furnish a form letter to the applicant to be mailed to all property owners within 250 feet of the subject property that provides due notice of the scheduled neighborhood meeting. The applicant shall be responsible for any costs associated with the mailing. The city's intent is to include neighbors in the design process, as well as improving communication among the city, neighbors, and applicant and, as a result, facilitating the public approval process.

A neighborhood meeting shall be required for the following Type III applications:

I think people will complain if they can't weigh in on even small nos.

of affordable housing (NIMBY)



Chapter 17.10 DEVELOPMENT AND DESIGN STANDARDS

17.10.065 Emergency access.

A. Purpose. To ensure adequate emergency access to sites that area constrained by natural features in order to protect public health and safety.

are (?)

B. Applicability. The standards of this section shall apply to development sites with an average slope of 10% or greater.

C. Multiple Access Roads Required. Developments of single-family and duplex dwellings where the number of dwelling units exceeds 30, triplex, quadplex and multiple-family residential projects having more than 100 dwelling units, and where vehicle congestion, adverse terrain conditions or other factors could limit access, as determined by the City, shall be provided with not less than two access roads meeting the requirements of this section.

1. Exception. The requirements for secondary access may be modified as approved by the City where a secondary access road cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar conditions, and an approved alternative means of emergency access is approved by the City.

Such as?
This makes no sense to me! If you need 2nd access, you need it

D. Access Road Design Requirements.

1. Width and Vertical Clearance. Access roads shall have an unobstructed driving surface width of not less than 20 feet and an unobstructed vertical clearance of not less than 13.5 feet.

2. Grade. Emergency access roadway grades shall not exceed 10 percent. Intersections and turnarounds shall have a maximum 5 percent grade with the exception of crowning for water run-off.

3. Turnarounds. Dead end access roads in excess of 150 feet in length shall be provided with a turnaround meeting the specifications of Figure 17.10.065-1.

Figure 17.10.065-1 Design Options for Turnarounds

I would say yes, we need to also consider off-site bottle necks as well (Discussion guide TMC17.10 #4)

17.15.030 Approval criteria – Preliminary plat.

A. *General Approval Criteria.* The city may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with all of the applicable code sections and other applicable ordinances and regulations. At a minimum, the provisions of this chapter and the provisions of the underlying zoning district shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Chapter 18,160 TMC, Variances;
2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;
3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction, and in all other respects; and are consistent with the city's transportation system plan. All proposed public improvements and dedications are identified on the preliminary plat; and
4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat.

B. *Residential Density.*

1. *Minimum and Maximum Density Requirements.* When lots are created through a planned unit development or subdivision, the development shall comply with the minimum and maximum density standards permitted by the applicable zoning district. ~~achieve a minimum of 40 percent and a maximum of 100 percent of the dwelling unit density permitted by the applicable zoning district. The minimum density provision shall not apply to parcels that are smaller than one acre. For purposes of this section, the minimum number of dwelling units required shall be determined by multiplying the maximum density by 0.4. The result shall be rounded up for any product with a factor of 0.5 or greater and rounded down for any product with a fraction of less than 0.5.~~

2. *Residential Density Calculation Procedure.*

Not sure what this means

Commented [ED1]: Do we keep this and use to regulate density, instead of standards in the base zones?

Commented [ED2]: This exception does not appear necessary, since most subdivisions affect larger parcels of land.

Commented [ED3]: This methodology superseded by density standards in zoning districts.

Are we still having PUDs?

17.30.030 Flag lot partitions.

The following standards apply to flag lots in all residential zones:

A. *Purpose.* These standards allow the creation of a single flag lot out of a parent lot in limited circumstances. The limitations minimize the negative impacts of flag lots on an area while allowing land to be divided when other options are not achievable.

B. *When a Flag Lot Is Allowed.* A Flag lot is are allowed only when the following are met:

1. An existing dwelling unit on the site is located so that it precludes a land division that meets the minimum lot width standard of its zoning district;
2. ~~Only one~~ No more than three flag lot is are proposed in addition to the parent lot;
3. ~~There will be only one residence on the flag lot (except in the RM-22 zone);~~
4. Minimum and maximum density, minimum lot size (not including the pole), maximum height and maximum building coverage requirements of the zone will be met;

Period here

and

~~5. In the interest of protecting existing neighborhood context, structures taller than 16 feet will not be allowed if more than 50 percent of the lots sharing common lot lines, not including the parent lot, have houses on them that are less than 16 feet tall. Lots without houses on them will not be considered.~~

Delete here

C. *Flag Lot Access Pole.* The pole portion of the flag lot must meet the following standards in Table 17.30.030-1. Adjustments are prohibited.

Table 17.30.030-1 Flag Lot Access Pole Standards.

<u>Number of Lots Served by Access Pole</u>	<u>Maximum length</u>	<u>Total width</u>	<u>Paved width</u>
<u>1-2 Lots</u>	<u>150 feet</u>	<u>Min. 20 feet.</u>	<u>Min. 15 feet</u>
<u>3-4 Lots</u>	<u>400 feet</u>	<u>Min. 25 feet</u>	<u>Min. 20 feet</u>

Reinstate provision that flag pole access road must connect to a street? (#1 top of next page)

*Ron and Lynn Laupheimer
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July 22, 2019

VIA EMAIL: Derek Volkart <commissionervolkart@icloud.com>

Chairman Derek Volkart
Talent Planning Commission
110 East Main Street
Talent, OR 97540

**Re: Housing Code Update Project---Comments/Objections re Proposed
Housing Code Revisions**

Dear Chairman Volkart:

I and other members of the South Talent Neighborhood Association (“STNA”)* have been actively participating in the Talent Planning Commission’s (“Commission”) meetings and public hearings regarding the Housing Code Update Project. STNA members have reviewed the various proposed Talent Municipal Code revisions related to Subdivisions (Chapter 17) and Zoning (Chapter 18) that will be discussed at the July 25th Commission public hearing. Many of these proposed revisions are confusing, will be difficult to implement and drastically reduce meaningful participation by Talent citizens in most land use decisions that will directly and potentially adversely affect their lives. Below are initial comments and objections to the current proposed code revisions.

1. **The Failure to Legally Incorporate Specific Talent Comprehensive Plan Requirements and Policies into the Proposed Subdivision Code and Zoning Code Revisions as Mandatory Permit Approval Criteria Should Be Corrected**---In 2018, one of the property owners west of the railroad tracks in Southern Talent proposed a major development on his land. Many Talent and Jackson County citizens opposed that proposed large development on numerous grounds, including the failure of the developer to comply with the Talent Comprehensive Plan requirements/policies re secondary access [Element F] and the Talent Transportation System Plan [Element D] . After the Talent Community Development Director rejected the proposal on procedural grounds, the developer appealed the ruling to a Hearings Referee claiming, among numerous grounds, that the Comprehensive Plan requirements were not mandatory permit approval criteria that he had to satisfy.

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While upholding the City's procedural denial, the Hearings Referee still rejected the City's and development opponents' arguments regarding the need for secondary access based on significant public health and safety concerns by ruling the language in the Talent Municipal Code related to the alleged "incorporation" of the secondary access requirements set forth in the Talent Comprehensive Plan was legally deficient as mandatory permit approval criteria. (See the attached Hearings Referee's September 5, 2018 Decision and Final Order at pp. 7, 17-27 [main analysis of proper "incorporation" language/law] and 27-34.)

As a result of the tremendous costs incurred by both the City and its citizens in unsuccessfully defending its enacted land use requirements/policies, I and other STNA members met with the Mayor and the City Manager on November 29, 2018 to seek future relief from the implications of the Hearing Referee's negative ruling. At the meeting, the two City officials stated that legally proper incorporation language of the requirements/policies set forth in the Talent Comprehensive Plan (including specifically regarding the secondary access development requirement for west of the railroad tracks property) as mandatory permit approval criteria would be rectified as part of the Housing Code Update Project. Unfortunately, other than what we feel is an insufficient proposed revision regarding the emergency access issue (see my comments/objections below), that has not occurred in the proposed code revisions before the Commission.

I did not find any portion of the Subdivision Code or Zoning Codes revisions that clearly incorporates all or some specific parts of the Talent Comprehensive Plan as mandatory land use permit approval criteria. In fact, it appears the same legal deficiencies exist.

For example, in section 18.150.050 (required findings for a proposed revised but undefined "major" site development plan), the Talent Municipal Code will still state the following regarding this issue:

"After an examination of the site, the planning commission shall approve, or approve with conditions, the site development plan if all of the following findings are made:

- A. All provisions of this chapter and **other applicable** city ordinances and agreements are complied with;

B. The proposed development will be in conformance with **the intent and objectives of the zone in which it will be located** [what does this vague phrase mean?];

C. **All applicable** portions of the city comprehensive plan or other adopted plan are complied with;”

Subsection C is the exact language the Hearings Referee found legally deficient in his 2018 Decision and Final Order.

Additionally, in unrevised section 17.15.030 (Approval criteria—Preliminary plat”) of the Talent Municipal Code re Subdivisions, it states:

A. General Approval Criteria. The city may approve with conditions or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with **all applicable code sections** and **other applicable ordinances and regulations**. At a minimum, the provisions of this chapter and the provisions of the underlying zoning district shall apply. . . .

[In contrast in subsection 3 of this section, the code requires the streets, roads, sidewalks, etc. must be **“consistent with the city’s transportation system plan”** thereby clearly incorporating the specific requirements of the Talent Comprehensive Plan D as mandatory permit approval criteria.]

The above highlighted general and non-specific “all applicable” language is exactly what the courts and LUBA have repeatedly held as not being specific or clear enough to be mandatory permit approval criteria that can be applied by a local government on a developer’s land use application. As the courts/LUBA state, there must be clear identification of the specific criteria that the developer must satisfy in order for a local government to rely on them for the approval or denial of a permit. These sections do not meet that standard.

SOLUTION: In order to avoid costly future legal challenges and to make it clearer and easier for both developers and any review authority to know exactly what requirements must be met for the issuance of a land use permit, both the Subdivision Code and Zoning Code should be carefully reviewed for all references to permit

approval criteria and then language revised to clearly state all Talent Comprehensive Plan requirements/policies are mandatory land use permit approval criteria.

[The above discussion and proposed solution answer the “particularly contentious” approval criteria question raised by the Talent Community Development Director/City Consultant in No. 2 of the July 18, 2019 “Discussion Guide” regarding “Application Requirements and Approval Criteria (TMC 17.15)”.]

2. **Maps Should Be Included in All Communications re Any Discussion of Proposed Revisions of Talent’s Residential Zones So the Commission and Public Can Fully Understand Any Such Discussions**---

In order for the public to truly understand the proposed housing code revisions and how they may be affected, STNA members have repeatedly requested maps showing the affected residential zones be included in any communications related to the proposed revisions. That has not been regularly done. STNA thus again requests, that in all future communications related to proposed changes in the Talent residential zones, the Talent Subdivision Code and the Talent Zoning Code, clear maps of the proposed revised residential zones be included so that both the Commission and the public fully understand what residential areas will be affected by the proposed zone and code changes.

3. **The Proposed Subdivision Emergency Access Revision Is Confusing and Needs Expansion**---

Although proposed new section 17.10.065 covering Emergency Access for any Subdivision application is desperately needed for the safety and health of Talent’s citizens, the proposed language as worded is confusing, is open to contrary interpretations and will likely cause costly challenges. It should be significantly revised.

With one exception, the proposed Emergency Access provision states multiple access roads are required under proposed section 17.10.065 C on properties with average slopes of 10% of greater under the following conditions:

“Developments of single-family and duplex dwellings where the number of dwelling units exceeds 30, triplex, quadplex and multiple-family residential projects having more than 100 dwelling units, **and where vehicle congestion, adverse terrain conditions or other factors could limit access, as determined by the City,** shall be provided with not less than two access roads meeting the requirements of this section.” [Emphasis added.]

As worded, it is confusing as to when the “vehicle congestion, adverse terrain conditions or other factors could limit access” criterion applies. STNA’s position is that the “vehicle congestion, etc.” criterion is independent from the number of the dwelling units involved and should be considered as a separate mandatory permit approval criterion whenever the conditions are present which may potentially raise safety and health concerns of the proposed Subdivision’s residents.

SOLUTION: Change the word “and” before the phrase “where vehicle congestion, adverse terrain conditions” to “or”. This simple word change will make it clear the City wants to ensure that the safety of its citizens will always be **separately considered** where ingress and egress to property could be dangerous due to any condition such as wild fires, vehicle congestion, railroad stoppages, etc.

A second concern with this newly proposed Emergency Access code provision is its limitation to only properties having an average slope of 10% or greater. If ingress and egress is a potential problem due to vehicle congestion, railroad crossings, wild fires or other conditions, it does not matter whether the property averages a 10% slope or not. Sufficient and proper ingress and egress is a safety issue which should be mandated whether the proposed development property is flat or sloped.

Finally, in the Community Development Director’s/City Consultant’s July 18th “Discussion Guide” regarding the proposed new Emergency Access code provision, it asks “should [the access] standards be broadened to address off-site access limitations as well?”. STNA strongly recommends “Yes”, including specifically where railroad crossings wild fire risks are involved.

The City has previously recognized the need for such expansion. In its Comprehensive Plan, Talent required at least 2 outlets for the development of any properties west of the railroad tracks (known primarily as the Railroad District Master Plan) because of the fire-safety-life concerns raised by railroad crossings and other concerns. (Implementation Strategy 2.1 in Comprehensive Plan Element F states: “All new development **shall include** street access that provides, at a minimum, two outlets sufficiently separated for **fire-life-safety-factors, including but not limited to railroad crossings, wildfire risk areas and floodplains and floodways**” [emphasis added].)

Specifically stating in the proposed emergency access provision that Implementation Strategy 2.1 in Element F of the Comprehensive Plan is a mandatory permit approval criterion is one way to resolve that issue, particularly for the development of properties

where railroad crossings are involved with access issues. However, no matter how the Commission does it, STNA requests the emergency access provision the Commission eventually recommends for Talent City Council adoption include similar clear language as in its Comprehensive Plan that explains in more detail when and why secondary ingress and egress is needed (*e.g.*, because of railroad crossings and the risks of wild fires) and should be required for the public health and safety protection of Talent's citizens.

4. **Significant Definitions Are Missing Making Some Proposed Revisions Unintelligible**---There are several critical terms that are undefined which make some of the proposed revisions confusing as to who and where they will be applied. For example, although the proposed revisions discuss the requirement and review differences between a "minor" site development plan [Sections 18.150.020 A 1 & 18.150.045] and a "major" site development plan [Sections 18.150.20 A 2 & 18.150.50], no place in Chapter 18.150 or in the General Definitions Chapter [18.15.020] are the two terms defined or explained when they are applicable.

Additionally, although "Site development plan" is defined in section 18.15.020 [General Definitions], I could not locate any definition of "Subdivision" or any explanation of the difference between these two terms. This omission is particularly significant since a Subdivision application under the proposed revisions is subject only to a Type II review while a "major" Site development plan is subject to a Type II or Type III review. (See section 18.190.20 and the Table included in that section for what type of review pertains to what type of review request.)

5. **Subdivision Permit Applications Should Remain Subject to Type III Review or Public Hearings Should Be Mandated for Type II Reviews**---The thrust of these code revisions appears to be to reduce initial Commission decision making on permit applications. This reduction provides less opportunity for Talent's citizens to participate in the permit approval process which eventually affects their lives. Support of broad citizen participation has been one of STNA's main purposes from the outset, and its reduction through this proposed code revision process remains one of the main concerns of the organization.

For example, under the proposed revisions, all Subdivision applications will no longer be subject to initial Type III or Commission review. Instead, the decision regarding any Subdivision application will initially be made by the city planner with the Commission only hearing the appeal of the city planner's ruling. Because of the significance of a Subdivision application and its potential effect on many Talent residents, STNA

believes the Commission, made up of Talent citizens, is the appropriate body to initially decide such applications. This position is particularly appropriate because a public hearing is required under a Type III Commission review whereas a public hearing is not mandated under the current definition of a Type II city planner review. (*See* section 18.190.020 B where only “an opportunity for a public hearing” exists under a city planner Type II review [apparently meaning the city planner alone can decide when a public hearing will be permitted] in contrast to section 18.190.020 C where a public hearing is mandated under a Type III review.)

If the Commission will not maintain Type III review of Subdivision applications, section 18.190.020 B should be revised to mandate public hearings in a Type II city planner review. Only by such action can the City guarantee the opportunity of full Talent citizen participation in land use matters that potentially could have significant effects on their lives.

6. **In Order to Satisfy the Final City Action Time Deadlines on Permit Applications While Still Permitting Talent Citizen Participation in the Application Process, the City Must Set Aside More Human Resources and Funding**---STNA recognizes the very tight deadlines for final city action *including appeals* (120 and 100 days) in section 18.190.080 A & B is primarily based on the requirements set forth in state statutes. Public participation in the permit application process is severely restricted under such short deadlines. This is particularly true in Talent where the human resources and funding for the resolution of land use permit applications are so limited. There is no way the Talent Community Development Department can properly and timely process/decide several large Subdivision or other permit applications while also fulfilling its other governmental assignments under its current manpower. Therefore, to ensure full Talent citizen participation in future permit applications, STNA strongly requests the Commission seek now from the Talent City Council additional and sufficient manpower and funding (or at least enact a commitment from the City Council to provide them when needed) to properly process and timely decide all development applications.

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We hope the above will be helpful to the Commission as it considers the proposed housing code updates. I and other members of STNA expect to fully express our comments and opinions as the process to final Commission recommendation to the City Council on these code revisions proceeds.

Very truly yours,
(Signed) Ron Laupheimer
Ron Laupheimer

cc: Talent Mayor Darby Ayers-Flood via email
Talent City Manager Sandra Spelliscy via email
Talent Community Development Director Zac Moody via email

Attachment: As stated.

*The South Talent Neighborhood Association (“STNA”) is an area of more than 400 families living in the southern portion of the City of Talent and neighboring properties. It is a City-recognized organization with a member-based Council that is concerned with land use matters and related neighborhood issues within the designated STNA boundaries. It is particularly interested in ensuring that the citizens of Talent have real and mandated opportunities to fully participate in all affairs of the City of Talent government.



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July 25, 2019

Talent Planning Commission
110 E Main St
Talent, Oregon 97540

RE: *Zoning and Subdivision Code Amendments [DCA 2019-001 and DCA 2019-002]*

Dear Commissioners,

CSA has clients who own buildable residential land within the City of Talent and our clients have asked us to review and provide comments on the proposed Zoning and Subdivision code amendments that are scheduled for a public hearing on July 25th, 2019 before the Talent Planning Commission. We request this letter be entered into the record for this land use proceeding.

The City of Talent's efforts to update its Zoning Code (Chapter 18 of Talent Municipal Code) and Subdivision Code (Chapter 17 of the Talent Municipal Code) have been productive and many of the proposed changes are appropriate.

Nevertheless, the State of Oregon statutes and administrative rules have very prescriptive requirements for land development regulations that concern the development of housing, as follows:

OAR 660-008-0015 states:

- (1) Except as provided in section (2) of this rule, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable land. The standards, conditions and procedures may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

ORS 197.307.(4) states:

- (4) Except as provided in subsection (6) of this section, a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing, including needed housing. The standards, conditions and procedures:
 - (a) May include, but are not limited to, one or more provisions regulating the density or height of a development.
 - (b) May not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

When a City opens its development code in the legislative manner proposed by DCA 2019-002, it must make all sections of the code affected by the amendment compliant with current regulations. Many of the existing code provisions are not clear and objective. Moreover, the City is proposing new standards, conditions and procedures that are not clear and objective. CSA Planning herewith objects to the adoption of any new code provisions that could be applied in a manner that is not clear and objective and further objects to any existing code sections affected by the proposed amendments that are not amended as part of the project such that they can be applied only in a clear and objective manner. CSA requests the City review the proposed code amendments and eliminate any standards, criteria, or procedures for development of housing that



does not comport with the established caselaw on legislative amendments affecting housing development¹.

In addition to the specific requirements for clear and objective criteria, the City of Talent Zoning and Subdivision code must implement and be consistent with the Comprehensive Plan. No analysis, let alone formal findings, have been completed that explain how the proposed amendments will implement the City's Housing Element as a whole. Land inventoried as buildable residential land cannot be rendered unbuildable through new development code regulations unless an analysis and ultimate findings demonstrate that "affected buildable lands" are not needed to meet residential needs adopted in the Housing Element. Until this analysis is completed, and findings substantiate consistency with the Housing Element and the rest of the Comprehensive plan as applicable, this code amendment project is incomplete.

Conclusion

The City is proposing some appropriate changes to its development code concerning housing and we support that effort. In that spirit, we urge the City to reexamine the proposed Zoning and Subdivision code amendments to ensure that the Statutory deficiencies are addressed and that the code amendment is consistent with applicable sections of its comprehensive plan.

Very Truly Yours,

CSA Planning, Ltd.

A handwritten signature in blue ink, appearing to read 'Jay Harland', is written over the typed name.

Jay Harland
President

¹ Code amendments of this nature are guided by precedent in prior LUBA rulings, please see *Rogue Valley Association of Realtors v. City of Ashland* and *Walter v. City of Eugene* for additional context and history.

Comments re: Talent Development Code Update Public Hearing
Thursday, July 25, 2019
Michelle Glass, Talent

My name is Michelle Glass and I live in Talent.

I was part of the Urban Growth Boundary Citizen Advisory Committee which made recommendations to the Planning Commission regarding efficiency measures, a pre-cursor to this code update project, of which I have also been an advisory committee member.

Tonight we're considering an important question:

"How are Single Family zoning and meat jello alike? They were bad ideas in the 1950s – and they're still bad ideas today."

Exclusive, single family zoning, which started gaining broad traction in the 1950s, has roots in economic and racial segregation in Oregon. Intentionally or not, low density zoning with bans on missing middle housing types across large portions of Oregon cities (often over 50% of the land area) have made these places out-of-reach for less affluent households and have driven the current development pattern of building homes much larger and more expensive than most of today's households want or need.

This has kept most Oregon cities of all sizes from meeting the requirements of state land use goal 10, which states that cities must: "encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density."

Talent is no exception:

According to the 2017 buildable lands inventory, roughly 86% of Talent's capacity of buildable or suitable lands are currently zoned low density.

That's 107 acres of the 124 total acres.

This makes little sense for several reasons:

1. **Out of step with Oregon household needs:** Just over half of Oregon households consist of 1 or 2 persons. Family sizes are getting smaller, the populations of those over 65 and of younger families are growing, and the cost of housing is outpacing incomes. So far our zoning, and the subsequent housing it allows, does not reflect these changes.
2. **Creates mismatch with Talent's residential development goals:** Talent's goal as written in the city's adopted housing element, is to achieve at least 35% of all new housing development over the next 20 years being multifamily and missing middle types. If 86% of our buildable residential

lands are exclusionary low density, this leaves 14% (5 acres of high density and 12 acres of medium density) of land to meet this goal.

3. **Creates segregated communities:** Our community, like our country, is becoming more segregated. Among other things, residential segregation has a causal link with driving up income inequality and widening the achievement gap for children in school. The ability of children to succeed in school is strongly linked to their overall health as adults and their future economic security. We frankly cannot afford policies which perpetuate residential segregation such as exclusive single family zoning.

In contrast, by allowing missing middle housing types in the 86% of land that has been exclusively reserved for single family development encourages a diverse mix of housing types resulting in housing choice, more units overall, efficient use of land, and more workforce housing. According to the Oregon Office of Economic Analysis, missing middle housing development helps by “dividing high land costs over a larger number of units...both lowers cost per unit and increases supply relative to existing zoning. And because each unit will be smaller than under current zoning, it will also lower the development cost per unit.

Parking requirements must be addressed as a barrier to the development of affordable, workforce, and rental housing

This code update proposes some carefully thought out reductions in parking requirements. This is important because parking increases per unit development cost, reduces the number of housing units or green space for a community, and these costs are passed on in higher rents or for sale prices.

Building Parking Raises Rent

Parking costs a lot to build, and that cost usually ends up raising tenant rents.

\$5,000: Cost per surface space

\$25,000: Cost per above-ground garage space

\$35,000: Cost per below-ground garage space

\$142: The typical cost renters pay per month for parking

+17%: Additional cost of a unit's rent attributed to parking

Source: Housing Policy Debate, 2016

Reducing parking requirements are one thing cities can do to encourage workforce housing options and more affordable rents because parking ratios are simple to change, and the process doesn't lead to future cost obligations like subsidies do.

Who is disadvantaged most by generous parking requirements? Since they are based on average parking demand they represent approximately what middle income, able-bodied households would choose. Various groups tend to own fewer than average automobiles, value the potential savings that result from reduced parking requirements, and live in higher-density, multi-family housing, including low-income households, young adults, single parents, first time home buyers, older people, and people with disabilities. **Vehicle ownership and use tends to increase with income. Lower-income households are directly harmed by generous off-street parking requirements, since they tend to own fewer vehicles and pay more for parking as a percentage of housing costs.**

Criticizing Code Updates on the Grounds of Affordability

There are some who criticize efforts to increase efficiencies and update development codes as not doing enough to address housing affordability. That is not what this process is directed at, it is a piece of the housing puzzle and will reduce barriers, but there are other policies we need to enact in addition to get to affordability. In some ways it seems like criticizing a hammer for not being a saw.

Defining Affordability

I would also like to note that a widely accepted definition of affordability is housing that is 30% or less of household income.

This definition is used by federal and state agencies, by ECO NW, the consultant firm that is leading the regional housing strategy and working on the State of Oregon Housing Strategy. This definition is included in the adopted comprehensive plan of the City of Talent in the Housing Needs Analysis. It is not vague, contested or controversial. The remaining question we should all be focused on is, at what income levels does Talent needs affordable units? This information is summarized in the chart I handed out which shows the deficits and surpluses of housing units by affordability for each income level.

Finally, in this process and in the debate across the state about HB 2001, I have been reminded that there are no NIMBYs and there never have been.

1948 Oregon realtors followed the "National Realtors Code" (based on an earlier state law) that proclaimed that "a realtor shall never introduce into a neighborhood members of any race or nationality whose presence will be detrimental to property values". That was redlining. But it wasn't about race, it was about property values. That sounds nice a neutral, even rational.

Today, opposition to increasing housing options, affordable and workforce housing, and increases to efficiency are not talked about in terms of economics or race. It is

about safety, livability, preserving the character of the neighborhood. It is never that that housing shouldn't be built, it is that it would always be better somewhere else, maybe even closer to the center of the city, for the good of the people living in those duplexes or apartments of course. But if these well-meaning concerns prevent needed housing from ever being built, which is what we have seen over the last decade in Southern Oregon, what is the real impact? This is in some part really about things staying the way they have been, without taking into account that the way things have been includes a history segregation, exclusion, and bad policy that has benefited some while harming many more. The impact of this type benevolent NIMBYism *is* economic and racial, even if that is not always the intent. The way things have been has worked for a shrinking group of people in our community. As we sit here today, 50% of Talent residents rent our homes, 1 in 3 Talent residents live on \$25,000 per year or less. We cannot continue to set housing policy, a basic human need, based on the desire of those who own single family homes and multiple cars and who prefer to live next to an empty field than a neighbor who needs a home. As a city, I trust that you will weigh the housing needs of so many over the strong preferences of a few who already enjoy the housing stability that we are working to ensure that everyone in our community can enjoy.

Thank you.

Derek Volkart, 7/25/19

Questions/Comments/Notes on Subdivision and Zoning Code Changes

What specific DLCD requirements, if any, must be met for our Subdivision code?

Title 17 Subdivisions

Chapter 17.10 DEVELOPMENT AND DESIGN STANDARDS

17.10.065 (C) “as determined by the City” may not be clear

17.15 APPLICATION REQUIREMENTS AND APPROVAL CRITERIA

17.15.010 Review procedures and approval process

“(B)” proposes that partition and subdivision preliminary plats and any conditions of approval would be changed from a type 3 to a type 2 review? Commissioners, please explain how is a type 3 review is an obstacle in this case?

17.15.030 Approval Criteria – Preliminary Plat

(B) *Residential Density*

(1) *Minimum and Maximum Density Requirements*

I note that PUD’s are addressed and I believe the issue of PUD’s has been sent by the Council to the Commission for review.

(D) *Conditions of Approval*

How can the Planning Commission attach conditions when, as proposed, a preliminary plat would not be before us?

Title 18 Talent Municipal Code

Chapter 18.15 DEFINITIONS

“Boarding House” does not appear to incorporate changes.

For “Cluster Housing”, should “central common space” be defined for clarity? One may imagine attempts to avoid residential lot improvement standards with a less desirable effort at “central common space”.

May a “dwelling triplex” span more than one lot as a duplex may?

Is a yurt a “tent”? And is a wall tent “temporary”?

18.95 RESIDENTIAL LOT IMPROVEMENT STANDARDS

18.95.040 Residential Development Standards

“(A)” states that an owner of a tax lot shall be the building owner. I just note that this is would have limited scenarios we contemplated for multiple homes on a single tax lot – an item proposed for removal from the code.

“(H)” would now require garages and carports, currently not a requirement?

“I” “other materials” may be approved by the Planning Director? Is this clear and objective? Why would we not name the permitted materials as is done currently?

“(J)” contains material prohibition on metal roofs that are not “flat or slightly sloping”. The “flat or slightly sloping” terminology appears subjective and more generally, the prohibition appears outdated. Why do we have a prohibition on roofing material that lasts longer, is more environmentally friendly and is favorable for solar installation?

18.95.045 Additional standards for duplex dwellings

“(D)” states that windows must match in proportion and orientation . Is it clear to say that the orientation must match?

18.96 MULTI-FAMILY DESIGN

18.96.030 Design Standards

Where are these standards derived from? Do they come from a particular municipality?

18.96.020 Applicability and required review

For clarity sake, consider having the objective (1.) and discretionary processes (2.) reference the terms “minor” and “major” along with type II site development plan review and type III site development plan review respectively.

18.96.030 Design Standards

B. Building mass and façade

Do we have current limitations on maximum building length and minimum street façade window coverage?

C. Building Design

“1. *Building materials*”, does the City of Talent have a multi-family structure with vinyl siding? Why is vinyl siding an approved material?

“2. *Design features*”, Should not a structure with gable ends be required to have eaves (see b.)? And should not a structure with siding be required to have window trim (see a.)? I am concerned that these requirements are loose enough that they may result in particularly unattractive developments. Is it evident that we are balancing the “obstacle” concern with basic aesthetic building expectations?

Under (g.), is a “feature not listed but providing visual relief or contextually appropriate design similar to options a-j {sic} objective? It sounds discretionary and wide open.

D. Building Articulation

“Similar elements” sounds discretionary and not objective. Can we name similar elements? Also, I want to confirm that any feature of building articulation that

would preclude large expanses of uninterrupted wall surfaces would actually be a feature on that structure. That is, no feature of an adjacent structure would count toward articulation as has been interpreted in residential volume and mass complexity for Architectural Review (240 Gibson Street, June 11, 2019).

F. Common Open Space

Some context and comparison would be helpful here.

G. Parking areas and site access

For number 3, do we have tree diameter collar requirements? Given that trees of the same size cost the same or very similar why not require large canopy trees from our tree list knowing that this will benefit the parking lots and provide more shade than is provided typically?

18.96.040 Design Guidelines

F. Common open space

What is “sufficient open space”? This sounds discretionary, not objective.

Chapter 18.150 SITE DEVELOPMENT PLAN

18.150.020 Site development plan review required

A. Types of Site Development Plan Review

We may want to define Minor and Major Site Development Plan Review here.

18.150.030 Procedure

It appears we are doing away with the 30-day submission requirement and the consideration of “submitted”. Why? And does this impact requirements in other areas of the code?

18.150.045 Required findings for approval of minor site development plan

Does “review authority” refer to the planning director here? Who else is the review authority?

18.150.010

This does not appear in the code. Should it be the “purpose” portion of permit procedure?

18.190.090 Special procedures

A. Expedited Land Divisions.

When was our ELD procedure ordained? Is it required?

B. Neighborhood Meeting Requirement

Please clarify, all subdivisions tentative plans require a neighborhood meeting?

What type III development applications would not have neighborhood or community-wide impacts?

Prior concerns and questions:

Given that we desire clear and objective standards yet we have three review types it would be helpful to review a chart of uses and their associated current review type designation as well as the proposed new review type designation. This would help as an overview to understand track changes of how uses in the city are proposed to change under the new proposed zoning language.

For type one permit review procedure, it would be good to have an appeals path for appeal of the clear and objective standards that we are creating (as we discussed at the June 11 meeting). It seems logical that the path should be something less burdensome than LUBA, a standard that historically was relatively easy and straightforward and has become very complex and expensive over time. Perhaps the planning commission is the appropriate appeal path (as a type two use review provides) especially given that the zoning code update as proposed removes the authority of the planning commission to determine uses and places sole authority with staff.

With respect to Classifying uses (18.20.020), because classifying use is inherently subjective and based on goals and policies of the comprehensive plan and the stated purposes of the base zones, it seems that the residents of the city may benefit from the planning commission handling use determination in coordination with staff. Given that staff handles applications and use determination issues if bringing them to the planning commission, this may be an opportunity for a more thorough review of these subjective considerations if both staff and the planning commission weigh in. Of course, I may not have a good handle on the concept of “dispute” for elevating use determination for type 1 and type 2 reviews to the Planning Commission? We should define “dispute” and the dispute process.

It seems logical that we not exclude the Old town district from the opportunity to contribute to efficiencies in the new zoning language especially given that we have design standards in place to apply to the old town.

Is a type 2 permit review the appropriate path for cluster housing (4 to 12 units) rather than a type 3 permit review? An application for 12 1200sf single-family homes would be a type-3 permit review while 12 cluster homes would be type 2?

18.110.100 Bicycle parking facilities language is not clear and objective. “Conveniently located”, “whenever possible”, “creative designs are strongly encouraged”, “sufficient security”, “well lit” etc., appear more subjective but that may be by design.

Additionally, it seems that now is the logical time to tackle solar setbacks for the City. Our future is in clean energy and as we go tighter and taller with our development, discussing what if any solar setback requirements we want for the City is critical.

FW: please rethink changes to more dense living conditions

Zac Moody

Wed 9/11/2019 6:37 AM

To: Jeff Wilcox <JWilcox@cityoftalent.org>

Can you please add this to the DCA 2019-001 file?

Thanks,

Zac

Zac Moody

Community Development Director

Deputy Urban Renewal Director

City of Talent

110 E. Main Street

Talent, Oregon 97540

Office: 541-535-7401

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From: Rotunda Rotunda <origanum.rotundifolium@gmail.com>

Sent: Wednesday, September 04, 2019 11:47 AM

To: Zac Moody <ZMoody@cityoftalent.org>; Sandra Spelliscy <sspelliscy@cityoftalent.org>

Subject: please rethink changes to more dense living conditions

Dear Community Development Director and City Magager,

I would like to bring up a concern of mine, in hopes that Talent can avoid making some bad planning decisions.

I would like Talent to NOT get like Ashland, with its crammed areas where the residents are unable to even park within 3 or 4 blocks of their homes. (An example of this is B. Street from Water Street to about 3rd.) Also unpleasant areas are ones where too many businesses are located with too little parking (such as A St. in Ashland, and where cars need to weave in and out and pull off into driveway openings in order to allow oncoming cars to pass.) If you have not driven those areas lately, I would like to request that you do so, with an eye towards what we as the city of Talent can do in order to avoid similar situations.

I learned that almost all areas of Talent are being considered for a change so that housing will be allowed to be more dense. This is desirable in SOME areas, but definitely not in almost ALL of Talent. I do realize that affordable housing is desirable. However, so are nice leafy quieter areas with yards large enough to plant trees, something our planet is desperately in need of. Maybe it would make more sense to just have a few areas allowing apartment buildings. That would make the housing much more affordable than small houses on small lots. Then we could leave other areas of the city with much larger minimum lot sizes.

I feel that maybe city planners are jumping to the conclusion that dense living areas are top priority, no questions asked. I would like everyone to stop and reconsider this stance. Parts of towns that have large yards are very pleasant to walk and bike (and of course live!!) in. They allow space for large trees, whereas small lots make it impossible in most cases to site a large tree that won't interfere with utilities and/or shade out its own and possibly 2 or 3 other neighbors' yards.

Ashland has made poor decisions in the past, allowing way too dense living, thus making several areas of town a nightmare to live or drive or shop in. Let us please not make the same mistakes! We citizens of Talent moved here presumably because we liked it here. Let's not change it so much that it is no longer a nice pleasant little town where it is possible to park near your residence and near businesses or other destinations in town. Let's think about leaving areas with large minimum lot sizes, areas that would be desirable for everybody to stroll through, jog, bike, walk the dog, etc. We don't need to make Talent dense like a sardine can. We are not New York city. We are not Ashland, thankfully! Let's keep it that way.

Sincerely,
Rotunda

City of Talent
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Talent, Oregon