



City of Stayton

Department of Planning and Development

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MEMORANDUM

TO: Chairperson Ralph Lewis and Planning Commission Members
FROM: Dan Fleishman, Director of Planning and Development
DATE: June 24, 2019
SUBJECT: Public Hearing on Proposed Code Amendments to Establish Clear and Objective Standards for Residential Development

ISSUE

The issue before the Planning Commission is a public hearing on proposed Code amendments relative to residential development.

BACKGROUND

Recent changes to state law require that local governments may only apply “clear and objective” standards within our land use code to residential development. ORS 197.307 includes the following subsections:

- (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.
- (5) The provisions of subsection (4) of this section do not apply to:
 - (a) An application or permit for residential development in an area identified in a formally adopted central city plan, or a regional center as defined by Metro, in a city with a population of 500,000 or more.
 - (b) An application or permit for residential development in historic areas designated for protection under a land use planning goal protecting historic areas.
- (6) In addition to an approval process for needed housing based on clear and objective standards, conditions and procedures as provided in subsection (4) of this section, a local government may adopt and apply an alternative approval process for applications and permits for residential development based on approval criteria regulating, in whole or in part, appearance or aesthetics that are not clear and objective if:
 - (a) The applicant retains the option of proceeding under the approval process that meets the requirements of subsection (4) of this section;
 - (b) The approval criteria for the alternative approval process comply with applicable statewide land use planning goals and rules; and

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- (c) The approval criteria for the alternative approval process authorize a density at or above the density level authorized in the zone under the approval process provided in subsection (4) of this section.
- (7) Subject to subsection (4) of this section, this section does not infringe on a local government's prerogative to:
 - (a) Set approval standards under which a particular housing type is permitted outright;
 - (b) Impose special conditions upon approval of a specific development proposal; or
 - (c) Establish approval procedures.

I have requested the City Attorney review various sections of our Code as they apply to residential development and together we have identified a number of provisions in which the current Code either has standards that are subjective or contains ambiguous language, or both.

PROPOSED AMENDMENTS

Staff has prepared set of suggested amendments that were reviewed by the Planning Commission at the April meeting. The intent of the amendments is to clarify ambiguous language and make the standards for all types of residential development be more objective. In summary the suggested changes are:

- Require garages to have the same exterior materials as the house
- Clarify the siding requirements for manufactured homes
- Establish an defined slope above which the exposed material enclosing the underside of a manufactured home may exceed 12 inches on the downhill side
- Modify the purposes of the multifamily standards remove subjective purposes
- Clarify the multifamily standards for balconies and outdoor corridors
- Specify a depth needed for an entry recess on multifamily dwellings
- Clarify the siding requirements for multifamily dwellings
- Remove reference to compatibility in the criteria for land divisions
- Clarify the requirements for a second entrance for subdivisions or multifamily developments
- Clarify the fish habitat protection standards.

RECOMMENDATION

Staff recommends the Planning Commission forward the proposed amendments to the City Council for enactment. A draft order doing so is presented to the Planning Commission. There may be changes to the draft order necessary depending on the testimony at the public hearing.

OPTIONS AND SUGGESTED MOTIONS

1. Close the hearing and forward the proposed amendments to the City Council for adoption.

I move to adopt the draft order prepared by staff and forward the proposed amendments to the City Council with a recommendation for adoption

2. Close the hearing, make changes to the proposed amendments and forward to the City Council for adoption.

I move to adopt the draft order prepared by staff, direct staff to make the following changes in the proposed amendments and forward the proposed amendments to the City Council with a recommendation for adoption (list changes).

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- 3. Continue the hearing to allow for changes in the amendments and further public testimony.**

I move to continue the hearing until July 29, 2019.

- 4. Close the hearing and return the amendments to staff for further refinement.**

I move that the staff return the amendments to staff with direction to make the following changes in the proposed amendments and return the revised amendments to the Planning Commission for deliberation on July 29, 2019 (list changes).