



PLANNING COMMISSION MEETING

Tuesday, October 8, 2013

6:30 p.m.

Council Chambers

2nd Floor City Hall

1300 NE Village Street

MEETING AGENDA

1. **CALL TO ORDER:** 6:30 p.m.
2. **CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS**
3. **REVIEW AND ADOPT MINUTES:** August 27, 2013
4. **REVIEW MINUTES:** Joint Work Session September 10, 2013
5. **WORK SESSION**
 - Discussion - River Front Mixed Use Zone
6. **STAFF UPDATES**
7. **COMMISSION UPDATES**
8. **TENTATIVE AGENDA:** October 22, 2013
 - River Front Mixed Use Zone
9. **ADJOURNMENT**

NEXT PLANNING COMMISSION MEETING IS OCTOBER 22, 2013.

Planning Commission hearings are broadcast live on Comcast Cable Channel 22 and Frontier Cable Channel 33. Replays of the hearing are shown on Comcast Channel 22 and Frontier Channel 33 Saturday at 12:00pm and Monday at 2:00pm, and Comcast Channel 30 and Frontier Channel 39 Wednesday at 7:00pm. Further information is available on our web page at www.fairvieworegon.gov or by calling Devree Leymaster, City Recorder, 503-674-6224.

The meeting location is wheelchair accessible. A request for an interpreter for the hearing impaired or for other accommodations for person with disabilities should be made at least 48 hours before the meeting to: Devree Leymaster, 503-674-6224.



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, August 27, 2013

PRESENT: Steve Kaufman, Chair
Jan Shearer, Vice-Chair
Jack McGiffin
Gary Stonewall
Keith Kudrna

ABSENT: Ed Jones
Julius Arceo

STAFF: Allan Berry, Public Works Director
Carole Connell, Planning Consultant
Devree Leymaster, City Recorder

1. CALL TO ORDER

Chair Kaufman called the meeting to order at 6:30pm.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Kaufman inquired if any person would like to speak on a non-agenda item, hearing none moved to review of minutes.

3. REVIEW AND ADOPT MINUTES

Commissioner Stonewall moved to approve the June 25, 2013 minutes and Commissioner McGiffin seconded. The motion passed unanimously.

4. PUBLIC HEARING

2013-25-DR
VA Clinic Design Review

Chair Kaufman read the legislative hearing statement. During disclosure Vice Chair Shearer reported she had received inquiries about the potential development and Chair Kaufman reported meeting the applicant and viewing the site prior to the meeting. There were no objections.

Planning Consultant Carole Connell verified the Commission received all exhibits provided after the packet was issued, including: updated Trip Generation Analysis from Kittelson & Assoc. dated August 22, Multnomah County memo dated August 22, Gresham Fire memo dated August 21, revised conditions of approval dated August 27, and an email received from Garth Everhart dated August 23. The Commission responded, yes, to receiving all the materials.

Planning Consultant Connell presented the staff report. The request is to construct a single story 29,900 gross square foot outpatient medical clinic with 27 exam rooms, paved access drives onto Market Drive and Village Street, landscaping, lighting and 120 parking spaces. The total site area is 4.13 acres, comprised of four tax lots, with 2.9 acres dedicated to the clinic. Under a separate application, staff recommends consolidating the four tax lots into two; separating undeveloped southeast portions for future development.

Planning Consultant Connell reviewed the criteria the application is subject to and its compliance with the design review criteria. Items highlighted during the review included: Halsey Street entrance will serve pedestrians and be open during all business hours; proposal links Halsey St., Village St. and Market St. sidewalks; a revised condition per Multnomah County requires a 25-foot radius at the intersection of NE Market and NE Halsey Streets be dedicated; signage is proposed at the driveways and will be reviewed during sign permit review; landscaping will comply with the minimum 15% lot coverage; screening standards i.e. mechanical units will be met; proposed parking exceeds the standards; parking stalls are required to be 19 feet; and the Commission per the Village Development Standards has the discretion to approve or disapprove the applicants proposal to cut down some significant trees on the lot.

Based on the applicant's compliance with applicable criteria, staff recommends approval of the application with revised conditions dated August 27, 2013. The revised conditions dated August 27 included dedicating a 25-foot radius at the intersection of NE Market and Halsey Street; street trees planted on Village Street frontage required to be Chanticleer Pear; comply with Fire Marshal memo dated August 21; and install street lights in accordance with the Village "Gas Light" standard.

Applicant Mr. Jeff Parker, 1800 Blankenship Road, Suite 200, West Linn, OR 97068 presented a video depicting the exterior of the proposed building.

Commissioner Kudrna inquired about the net/gross difference in square feet (29,900 vs. 26,000). Chris Eisert, Ankrom Moisan Architects, responded the gross is calculated from the outside of the building (29,900) and the net is calculated from the interior (26,000). Rentable space is identified as net square feet.

Vice Chair Shearer inquired how many wheelchair parking spaces are proposed? Mr. Eisert responded 12 spaces or 10% of total parking spaces. Vice Chair Shearer suggested decreasing the number of bike spaces and increasing the number of wheelchair parking spaces given the type of use. Mr. Eisert responded the applicant has already exceeded the standard for the ratio ADA to standard spaces.

Vice Chair Shearer inquired about installation of a pathway, similar to other Village pathways, through the south lot and medical waste. The Commission agreed to review the inclusion of a pathway when the south lot is developed, which is in the VMU zone. Mr. Parker commented medical waste would be stored internally, comply with all State regulations, and would be disposed of off-site by a professional service. Planning Consultant Connell remarked screening is required for garbage receptacles and the applicant's proposal complies.

Vice Chair Shearer verified the existing ordinance regarding trees applies to the application. Staff responded, yes.

Vice Chair Shearer proposed requiring an architectural feature i.e. arch design on city hall and post office buildings, to continue the vision of Mr. Hough to tie old town and the Village together.

Chair Kaufman agreed "village" type architectural features should be incorporated in the building design.

Commissioner McGiffin inquired if there is a separate ambulance entrance. Mr. Parker responded the proposal is for an outpatient clinic; not an emergency clinic. There will not be a separate entrance, but there will be parking for large vans.

Chair Kaufman inquired about the public notice for the application and if the “Gas Lights” could be used in the parking lot. Mr. Parker responded all neighbors 250 feet from the site were sent notices and a community meeting about the development had been held about a week ago. Mr. Eisert responded they would have to research the use of “Gas Lights” in parking lots; have to comply with egress requirements.

Mr. Brian Little, 610 Main St., Fairview OR remarked he is pleased with the overall plan, but had some concerns regarding set back from the street, covered bicycle parking, roof top run off, light pollution, and trees. Mr. Eisert responded the bicycle parking areas will be covered, roof top run off will be managed with on-site storm water treatment and swales, proposal includes keeping the established street trees along Halsey St. and adding approximately 30 trees, and the prominent building entry is on Halsey Street. The intent is for the building to be a LEED silver building and they are evaluating options for this client and site; minimizing light pollution in the parking lot is applicable to a green building.

Ms. Shauna Harbison, 1537 NE Village St., Fairview, OR stated she didn’t get her notice until after the community meeting. In her profession, she has worked at VA hospitals. Many VA patients have psychological issues. Ms. Harbison expressed concern for having the clinic in a family area.

Planning Consultant Connell remarked the proposed clinic is an outright use allowed in the Village Commercial VC and VMU zones.

Planning Consultant Connell comment on the items discussed and reviewed proposed revised conditions of approval based on questions and discussion. The proposed ADA parking meets the VA requirements and is 2 times more than the code requires. A Pedestrian connection (pathway) will be reviewed when the VMU lot is developed. Use of “Gas Light” style fixtures is encouraged to be used in the parking lot and measures to minimize light pollution will be incorporated. Building design characteristics will incorporate some of the typical Fairview Village architectural features. Applicant agrees to preserve fir trees if feasible.

Vice Chair Shearer cautioned accepting the proposal too quickly; need to do due diligence, and proposed routing these types of applications to the Police Dept. for precautionary design comments. Mr. Eisert remarked the applicant’s proposal meets all the VA security compliance requirements. Director Berry remarked delaying the hearing could compromise the project.

Commissioner Stonewall moved to close the public hearing and Commissioner Kudrna seconded. The motion passed unanimously.

Commissioner Kudrna remarked the proposal balances the needs of the applicant and the needs of the city.

Commissioner Stonewall moved to approve 2013-25-DR with revised conditions and Commissioner McGiffin seconded. The motion passed unanimously.

AYES: 5
NOES: 0
ABSTAINED: 0

5. STAFF UPDATES

Director Berry reported chips for the Park Cleone playground were delivered today and it should be open soon; and Development Analyst Erika Fitzgerald is expected to return from leave on September 23.

6. COMMISSION UPDATES

Commissioner Kudrna reported the Mayor's Visioning Committee is concluding the public response phase and are planning to present their findings in October.

7. TENTATIVE AGENDA

September 10, 2013 – joint work session with City Council.

8. ADJOURNMENT

Meeting adjourned by consensus at 8:00pm.

Devree A. Leymaster
City Recorder

Steve Kaufman, Chair

Date: _____

MINUTES
CITY OF FAIRVIEW
CITY COUNCIL & PLANNING COMMISSION
September 10, 2013

Council Members

Mike Weatherby, Mayor (Meeting Chair)
Dan Kreamier
Ken Quinby *Excused*
Steve Prom
Steve Owen *Excused*
Lisa Barton Mullins
Tamie Arnold

Planning Commission Members

Steve Kaufman, Chair
Jan Shearer
Ed Jones
Gary Stonewall
Keith Kudrna
Jack McGiffin
Julius Arceo

Staff

Samantha Nelson, City Administrator
Allan Berry, Public Works Director
Chris Crean, City Attorney
Devree Leymaster, City Recorder

1. CALL TO ORDER: 6:30PM

ROLL CALL

2. WORK SESSION: RIVER FRONT DEVELOPMENT DISCUSSION

Mayor Weatherby introduced the agenda item and stated the goal is to have a constructive discussion that provides staff direction on how to proceed.

City Administrator Samantha Nelson presented a brief history. An application was received requesting a rezone, which included a draft code. The application was deemed incomplete and no action was taken. City Council (CC) requested Planning Commission (PC) review the city initiating and developing a river oriented use. PC recommended developing a master plan for the entire water front. CC requested staff contact Leland Consulting. Staff did and Leland recommended developing a master plan. For a full master plan, Leland estimated it would be \$250,000 over 2 years. Recently, Attorney Matt Wand gave testimony that Council could adopt a new zone by ordinance without going through PC and provided a revised draft code. The city attorney office does not recommend CC moving forward and there are inherent risks if they do so.

City Attorney Chris Crean referred to the memo provide by City Attorney David Doughman. This action requires a legislative process and CC is the ultimate policy maker. The Fairview Municipal Code specifies the process, which is a type IV process that includes PC. At least two public hearings, once before PC and one before CC, is required for all type IV applications. The CC does not have the authority to ignore their own code. There are also a number of state and local laws to comply with. To adopt the code, you must demonstrate compliance with Metro's functional plan and the State Wide Planning Goals.

PC Vice Chair Shearer remarked PC is familiar with the type IV process and has followed it many times before. The PC is charged with being responsible for citizen involvement and input in land use policy decisions.

Commissioner Arceo inquired how long the process would take. City Attorney Crean replied theoretically the public hearing portion could take 2 months; PC public hearing one month, and CC public hearing and adoption the next. To begin the process a formal application must be submitted. That is a policy decision as to whether you wait for an application to be submitted from an outside party or CC directs staff to develop the land use application and proceed. To prepare the application and ensure compliance with all procedural requirements could take approximately 2 months. From application to adoption could take 3 to 4 months in the best case scenario.

Council President Barton Mullins stated another attorney stated CC could just pass the ordinance and inquired if CC can absolutely not do that. City Attorney Crean replied no they cannot; they would be defying state law and the FMC.

Commissioner McGiffin inquired about the studies that may need to be done as part of the application process. City Attorney Crean responded an analysis of state and regional regulations will have to be done to identify any implications the proposed zone may have i.e. a traffic study if the proposed use significantly affects transportation facilities. The regulations are in state statute and must be complied with prior to adopting the zone.

Mayor Weatherby inquired about the role of the property owners, other than being informed of the hearings. City Attorney Crean replied property owners within a certain distance from the proposed zone will have to be notified. They will be able to participate and support or oppose like everyone else.

PC Vice Chair Shearer inquired if data isn't available for the height of the levee or, for example, a 1,000 year flood, what kind of background would have to be provided. City Attorney Crean responded it is very detailed and involves flood plain maps. The specific situation of the dykes may be taken into account. At a certain point in development those questions will have to be answered. You may want those questions answered before deciding on a zone; could potentially adopt a zone for a use that cannot be developed because it is in a flood plain.

PC Vice Chair Shearer remarked she expects the process to take longer than 3 to 4 months. City Attorney Crean replied given the professional appointed duties of PC and CC, you would want to look at the details closely i.e. flood plain and transportation and doing so increases the time frame. Commissioner Arceo inquired about the cost to hire consultants. City Attorney Crean replied the scope and how much information the consultant needs to gather, will determine the cost. The city could fund the studies or defer to the property owner. Who pays for the consultant can sometimes influence the results.

Councilor Kreamier inquired if the data, or some of it, could be requested from the Corp of Engineers for free. Public Works Director Allan Berry replied the Multnomah County Drainage District (MCDD) is in the recertification process for the levee. Information from MCDD suggests the best option is to fill the sites level with the levee, alleviating the levee issue. Staff is also being told no penetrations will be allowed through the dyke.

City Administrator Nelson summarized City Attorney Crean's recommendations prior to PC and considering the zone, there are studies that need be done. A traffic study depending on what type of development and determining what infrastructure currently exists and will it meet the demand of the

proposed use, considering the current limitations of the dyke. The city either identifies those needs through their own consultant or a developer provides the information with their application. City Attorney Crean replied yes, and suggested staff develops options i.e. master plan or one property, and what information is needed with approximate costs for each option.

Mayor Weatherby commented he understands traffic studies are done by the developer and inquired if this is a separate study. City Attorney Crean replied yes. In order to rezone property must demonstrate there are adequate transportation facilities to serve it. Per state regulations, the trigger is if the new zone significantly affects the transportation facility, you have to demonstrate either adequate facilities exist or identify what is needed and demonstrate viable funding to make those changes.

City Attorney Crean commented another consideration is the overall impact on the city's land inventory. What happens to the industrial, commercial and residential zone base? If industrial land is rezoned, do you rezone elsewhere?

Council President Barton Mullins commented the river properties already have a zone and the request is to rezone. Can the city create the zone or wait for a developer to submit an application requesting it. City Attorney Crean replied yes, the city can create the zone. The first step is to articulate what it is that is wanted and why is it a more appropriate zone. At some time in the past the city determined the current zone is what was wanted. Council President Barton Mullins inquired if it is better to leave as is or wait for an applicant to request a change. City Attorney Crean replied if the belief is the current zone is still appropriate, then leave as is; if believe a different zone is more appropriate, then change.

Councilor Kreamier inquired if another current zone could apply to those properties and if a rezone to that zone could be requested. City Attorney Crean replied maybe; would need to research the different zones.

Commissioner Kudrna inquired what the disadvantages were of developing a code prior to placing it on a property. City Attorney Crean replied there is a risk someone could challenge it when a code is adopted but not applied to a property and provided two examples of challenged decisions after the fact. One challenge was upheld, the other was not; which brings up the question of finality, if someone can come back later and challenge it.

PC Vice Chair Shearer inquired about modifying an existing zone, adding the additional types of activities needed to apply to a water front development. City Attorney Crean responded a current zone could be used as a template and modified, possibly adding the marina concept. It would probably still need a different name. In theory, an entirely new code doesn't have to be adopted; an existing code could be modified.

Councilor Arnold commented the master plan process did seem complicated; however, there is an interest and a request to rezone a specific property. The city would benefit from the economic development and it may motivate future development. Councilor Arnold proposed the city initiating the process and moving it along for at least the one property.

Councilor Prom inquired if there is support for a river oriented zone. The group responded yes. Commissioner Stonewall commented he supports the concept, but is concerned about the infrastructure needs, traffic and utilities, and those questions need to be answered first. PC Chair Kaufman remarked he has seen decisions get pushed through to quickly without the entire scope being vetted and researched, in

the long run it leads to more problems and time, than if the process slowed down and was done right from the beginning.

PC Chair Kaufman expressed concern about the cost and time to complete a master plan process, but is hesitant to zone one property. Commissioner Stonewall remarked, need to determine if it is feasible to develop. Without Metro property there are 3 properties. Council President Barton Mullins inquired if the Fort James property owners had been contacted and had any interest. Staff responded no, no contact has been made yet and clarified even if the zone is created, Fort James could continue under the current zone.

Mayor Weatherby summarized the consensus is to direct staff to prepare options and approximate costs for a new zone that maximizes use and includes 3 properties. Planning Commission will begin information hearings to consider a zone change for the 3 properties. Councilor Kreamier inquired about the time frame for informational hearings and review, and presenting the information at a joint PC/CC meeting. Commissioner's Stonewall and Kudrna thought it may be done by December. PC Chair Shearer proposed January.

3.ADJOURNMENT

Commissioner Stonewall moved to adjourn the meeting and PC Vice Chair Shearer seconded. The motion passed, and the meeting adjourned at 7:30PM.

AYES: 12

NOES: 0

ABSTAINED: 0

A complete recording of these City Council proceedings is available by contacting the City of Fairview Administration Office, 1300 NE Village Street, Fairview, Oregon 97024.

Devree Leymaster
City Recorder

Mayor Weatherby
Mayor

Date of Signing



PLANNING COMMISSION STAFF REPORT

To: Fairview Planning Commission
From: Erika Fitzgerald, Development Analyst
Date: September 30, 2013
Subject: Riverfront Project Informational Session

Action Requested

Provide feedback to staff.

Background Information

On May 14, the Planning Commission reviewed draft code language for a Riverfront Mixed Use zone in response to City Council expressing interest in exploring the possibility of rezoning a portion of the riverfront from General Industrial to Riverfront Mixed Use. The draft code was previously submitted with a rezone application; however, the application has since been withdrawn. Planning Commission provided feedback to staff regarding the code and provided direction to explore a master planning process for properties located along the Columbia River.

Planning Commission participated in a joint work session with the City Council on September 10, 2013 to identify an effective strategy to develop code language to allow for a mix of residential, institutional, commercial and public uses on the riverfront properties, which are currently zoned General Industrial, Residential/Community Service Parks Overlay and Residential/Multi-Family.

At this meeting, Chris Crean from the City Attorney's office made the recommendation that before any action is taken to begin the master planning or rezoning process, that the Planning Commission hold informational sessions in order to receive feedback from property owners and other interested parties regarding the proposed rezoning of properties from General Industrial to Riverfront Mixed Use. The purpose of this meeting is to solicit input from residents, property owners, affected businesses and other stakeholders on the proposed riverfront rezoning project.

Question to consider:

If rezoned to Riverfront Mixed Use, the properties zoned General Industrial with current industrial uses along the Columbia River would become non-conforming uses. This non-conforming status would preclude the current use's ability to expand. Does the City of Fairview want to eliminate the option of expansion for the current river oriented industrial uses and reduce the overall industrial land base in the City?

Attachments: Draft Riverfront Mixed Use Zoning Code submitted by Mr. Garth Everhart
FMC 19.530 Nonconforming Uses and Developments

Chapter 19.50 RIVERFRONT MIXED USE DISTRICT

Sections:

- 19.50.010 Purpose.
- 19.50.020 Permitted land uses.
- 19.50.030 Development setbacks.
- 19.50.040 Lot coverage.
- 19.50.050 Development orientation.
- 19.50.060 Building height.
- 19.50.070 Special standards for certain uses.
- 19.50.080 Landscaping Requirements

19.50.010 Purpose.

This district is intended for a broad range of commercial, residential and public uses along the Columbia River. This chapter guides the orderly development of Columbia River waterfront areas based on the following principles:

- A. Provide a mix of commercial and residential developments above the 100 year flood elevation and Public uses including parks and moorages below the 100 year flood elevation;
- B. Provide for efficient use of land and public services; and implement the Comprehensive Plan;
- C. Provide pedestrian, bicycle and vehicular linkages between Chinook Landing, the 40-mile loop and a mix of residential and commercial activities within the District;
- D. Support the development of public use areas adjacent to Chinook Landing and the development of residential and commercial uses oriented towards the Columbia River;
- E. Encourage the expansion of the district through the conversion of industrial lands between Marine Drive and the Columbia River to this zoning.

19.50.020 Permitted land uses.

A. Permitted Uses. The land uses listed in Table 19.50.020.A are permitted in the Riverfront Mixed Use, subject to the provisions of this chapter. Only land uses which are specifically listed below, and land uses which are approved as "similar" to those listed below, may be permitted. The land uses identified with a "CU" in Table 19.50.020.A require conditional use permit approval prior to development or a change in use.

Table 19.50.020.A

Land Uses Types Permitted in the Riverfront Mixed Use

<p>1. Residential: a.Multifamily house b.Rowhouses c.Attached housing.</p> <p>2. Home occupations</p> <p>3. Bed and breakfast inns and vacation rentals</p> <p>4. Public and Institutional: a.Government Offices and facilities(administration, public safety, transportation, utilities, and similar uses. b.Libraries, museums, community centers, concert halls and other public use spaces c.Parking lots and garages d.Public & private utilities e-Community Services/Public Parks and recreational facilities f-Telecommunication equipment g-Uses similar to those listed above subject to applicable CU requirements</p>	<p>5. Commercial: a. Marina and all related marine activities including but not limited to docks, ramps, fuel depots and transient marine services b. Entertainment c. Hotels/motels d- Mixed use development e- Personal and professional services (e.g., catering/food services, salons, and other service providers. f- Retail up 10,000 SF total enclosed space g. Photography, art studio and related retail and supply stores h. General retail and gift shops i. Business or professional office (CU) j. Restaurant excluding drive in service k. Breweries and wineries with related retail operations l. Lounges, bars and taverns m. Similar uses to those listed above.</p> <p>6. Public use: a. Ship moorage b. Community space & parks c. bike and pedestrian paths d. riparian and natural resource areas</p>	
<p>Land uses marked with a CU shall require a conditional use permit.</p>		

B. Determination of Similar Land Use. Similar use determinations shall be made in conformance with the procedures in Chapter [19.480](#) FMC, Code Interpretations.

C. Land Uses Prohibited in Riverfront Mixed use. Only uses specifically listed in Table 19.20.020.A, and uses similar to those in Table 19.50.020.A, are permitted in this district. The determination of prohibited uses shall be made as narrowly as practicable so to foster a mix of uses to serve the needs of the public use and residents within the District.

19.50.030 Development setbacks.

Development setbacks provide separation between approved uses for fire protection/security, building maintenance, sunlight and air circulation, noise buffering, and visual separation.

A. Front, Side and Rear Setbacks.

1. None, except for riparian setbacks per FMC _____.
2. Setbacks for Insufficient Right-of-Way. Setbacks shall be established when a lot abuts a street having insufficient right-of-way width to serve the area. The necessary right-of-way widths and the setback requirements in such cases shall be based upon the Comprehensive Plan and applicable ordinances and standards.

B. Other Requirements.

1. Buffering. The city may require landscaping, walls or other buffering to mitigate adverse noise, light, glare, and aesthetic impacts to adjacent properties.
2. Neighborhood Access. Construction of pathway(s) within setbacks may be required to provide pedestrian connections to adjacent uses along the Columbia River and to the 40 mile loop.
3. Building and Fire Codes. All developments shall meet applicable fire and building code standards, which may require setbacks different from those listed above (e.g., combustible materials, etc.).
4. Groundwater Protection. All development shall meet the standards for the groundwater protection area. (Ord. 6-2001 § 1)

19.50.040 Lot coverage.

The maximum allowable lot coverage in the riverfront mixed use district is 90 percent. The maximum allowable lot coverage is computed by calculating the total area covered by buildings and impervious (paved) surfaces, including accessory structures. Compliance with other sections of this code may preclude development of the maximum lot coverage for some land uses. (Ord. 6-2001 § 1)

19.50.050 Development orientation.

Development within the district shall be oriented on the site towards the Columbia River.

19.50.060 Building height.

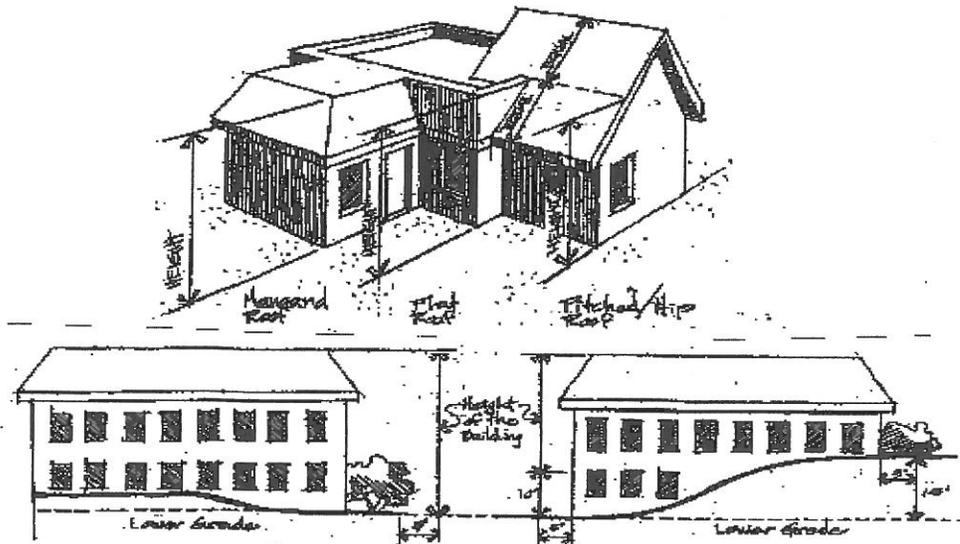
The following building height standards are intended to promote land use compatibility and flexibility for industrial development at an appropriate community scale:

- A. Base Requirement. Buildings shall be no more than 100 in height.

B. Method of Measurement. "Building height" is measured as the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of an exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade;
2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in subsection (C)(1) of this section is more than 10 feet above the lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building. Not included in the maximum height are: chimneys, bell towers, steeples, roof equipment, flagpoles, and similar features which are not for human occupancy. (Ord. 6-2001 § 1)
3. An elevation 10 higher than the floor level of any underground parking area under the building whether parking area is totally underground or partially submerged.

Figure 19.50.060
– Building Height Measurement (Composite of Several Roof Forms)



19.50.070 Special standards for certain uses.

A. Traffic. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Multnomah County or the ODOT for developments that increase traffic on county or state highways.

B. Wireless Communication Equipment. Wireless communication equipment includes radio (i.e., cellular), television and similar types of transmission and receiving facilities. The requirements for wireless communication equipment are provided in Chapter [19.245 FMC](#). Wireless communication equipment shall also comply with required setbacks, lot coverage and other applicable standards of the general industrial district.

C. Common Areas. All common areas (i.e., walkways, drives, courtyards, private alleys, parking courts, etc.) and building exteriors shall be maintained by a homeowners association or other legal entity. Copies of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.

D. Sidewalk Displays. Sidewalk display of merchandise and vendors shall be limited to cards, plants, gardening/floral products, food, books, newspapers, bicycles, and similar small items for sale or rental to pedestrians (i.e., non-automobile oriented). A minimum clearance of four feet shall be maintained. Display of larger items, such as automobiles, trucks, motorcycles, buses, recreational vehicles/boats, construction equipment, building materials, and similar vehicles and equipment, is prohibited.

E. Parking, Garages, and Driveways. All off-street vehicle parking, including surface lots and garages, shall be oriented to alleys, placed underground, placed in structures above the ground floor, or located in parking areas located behind or to the side of the building; except that side yards facing a street (i.e., corner yards) shall not be used for surface parking. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of five feet.

19.50.080 Landscaping

A. Not less than (10%) of the area will be landscaped.

B. Street trees will be planted at the average rate of 1 per 30 lineal feet along all public rights-of-way including the public walkways located adjacent to the Columbia River. Trees may be deciduous or evergreen. Deciduous trees at the time of planting must be fully branched, have a minimum diameter of two inches, measured five feet above the ground, and have a minimum height of 10 feet. Evergreen trees at the time of planting must be fully branched and be a minimum of six feet in height.

C. All vegetation in the riparian areas shall count towards the landscaping requirement.

19.50.085 Minimum required off-street parking requirements.

A. Residential.

1. One-, two- and three-unit dwelling structures: two space per dwelling unit.
2. Attached dwellings containing four or more dwelling units including dwelling units above retail uses: one and one-half spaces per dwelling unit.

B. Commercial.

1. a. General Retail and Office: one space per 500 square feet of floor area .
b. Services Providers: one space per 250 square feet of floor area.
c. Eating or drinking establishment: one space per 200 square feet of floor area open to public use.
d. Marina use: one space per moorage space

C. Park and Community Use Areas:

D. Joint Use. Off-street parking required by this code for any use shall be considered for shared use by others space where a joint use agreement exists in a form that includes provisions for enforcement to assure adequate parking. The intent to is minimize the amount of parking required by recognizing how parking is used by various uses in order to maximize the density of the project.

E. On-Street Parking. All on-street parking stalls shall apply toward satisfying the parking standards in this section.

19.140.090 Bicycle parking.

A. Number Required.

1. Multifamily dwelling: one space per unit (50% of requirement per unit if occupancy restricted to 55 years or older).
2. Commercial use classifications: five percent of the required automobile parking but not less than one stall per commercial space.

B. Bicycle Parking Space and Aisle Dimensions.

1. Uncovered spaces shall be at least six (6') feet long and one and a half (1.5') feet wide.

2. Covered spaces shall be at least six (6') feet long and one and a half (1.5') feet wide.

3. A five-foot-wide aisle is required adjacent to each row of bicycle parking.

C. Required bicycle parking racks shall be located no further than 50' beyond the closest automobile parking space from the major building entrance.

D. When more than ten bicycle parking spaces are required, 25 percent of the spaces shall be covered.

6.1.2012

Chapter 19.530

NONCONFORMING USES AND DEVELOPMENTS

Sections:

- 19.530.010 Nonconforming uses.
- 19.530.020 Nonconforming development.

19.530.010 Nonconforming uses.

Where at the time of adoption of this code a use of land exists which would not be permitted by the regulations imposed by this code and was lawful at the time it was established, the use may be continued as long as it remains otherwise lawful, provided:

A. Expansion Prohibited. No such nonconforming use is enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this code. No additional structure, building or sign shall be constructed on the lot in connection with such nonconforming use of land.

B. Location. No such nonconforming use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this code.

C. Discontinuation or Abandonment. The nonconforming use of land is not discontinued for any reason for a period of more than 12 months. For purposes of calculating the 12 month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;
2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;
3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or
4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

D. Application of Code Criteria and Standards. If the use is discontinued or abandoned for any reason for a period of more than 12 months, any subsequent use of land shall conform to the applicable standards and criteria specified by this code for the

land use district in which such land is located. (Ord. 6-2001 § 1)

19.530.020 Nonconforming development.

Where a structure exists at the effective date of adoption or amendment of this title that could not be built under the terms of this title by reason of restrictions on lot area, lot coverage, height, yard, equipment, its location on the lot or other requirements concerning the structure; and the structure was lawful when constructed, the structure may remain on the site so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity; but any structure or portion thereof may be enlarged up to 10 percent, or altered in a way that satisfies the current requirements of the development code or will decrease its nonconformity;

B. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent more than 75 percent of its current value as assessed by the Multnomah County assessor, it shall be reconstructed only in conformity with the development code; and

C. Should such structure be moved for any reason and by any distance, it shall thereafter conform to the regulations of the development code. (Ord. 6-2001 § 1)