



Meeting Agenda
Collaboration Corvallis
Neighborhood Planning Workgroup
February 5, 2013
5:30-7:30pm
Osborn Aquatic Center
1940 Northwest Highland Drive

Meeting Materials:

- Memorandum – February 1, 2013, Comments from Review of Infill Development Examples
- Memorandum – February 1, 2013, City Planning Staff Analysis of Avery Addition Neighborhood Association Development Code Amendment Proposals
- Updated Work Plan for February-April 2013

I. Introductions

II. Public Comment

III. Review of Summary Minutes

1. None

IV. Discussion Items

1. Overview of comments from infill development examples and corresponding standards
2. Review analysis of proposed development code amendments from Avery Addition Neighborhood Association
3. Discuss merits of identified options for addressing building mass, scale, articulation, setbacks, etc.
4. Which portions of the city should potential neighborhood design standards apply to?
5. Review updated work plan and topics for February 19, 2013, meeting

V. Adjournment



MEMORANDUM

TO: Neighborhood Planning Workgroup

FROM: Eric Adams, Project Manager

CC: Kevin Young, Planning Division Manager, City of Corvallis
David Dodson, Campus Planning Manager, Oregon State University

DATE: February 1, 2013

SUBJECT: Collaboration Corvallis – Comments from Review of Infill Development Examples

At the January 23, 2013, the workgroup reviewed examples of residential infill development that were offered by representatives of Citizens for a Livable Corvallis. The attached table summarizes those comments.

Based on these comments, windows patterns and styles, roof forms, driveway design, garage placement and size, building articulation, and the possible conflict between provision of off-street parking and pedestrian amenities (e.g., porches) seem to be elements of infill development that often result in incompatible design. A few of the concepts that have been briefly discussed by the workgroup, such as a maximum Floor Area Ratio and Side Yard Bulk Plane, could help address some of these issues. For example, the Side Yard Bulk Plane regulations from Lake Oswego, Oregon and Boulder, Colorado were implemented to regulate side yard massing and encourage more complex roof forms. A companion regulation from Boulder also requires an increased side yard setback for building facades of greater than 40 feet. The current Land Development Code (LDC) does not contain similar provisions.

Chapter 4.10 of the LDC contains several standards that regulate the size and placement of garages (see Sections 4.10.50.02 and 4.10.60.03). On lots that are equal to or greater than 50 feet in width, the width of a garage cannot exceed 50 percent of the total street-facing façade width. For lots that are less than 50 feet wide, the area (i.e., wall/opening) of a street-facing garage cannot exceed 50 percent of the total area of the dwelling's street-facing façade. Limited exceptions are granted for dwellings with a street-facing façade width of less than 24 feet. In general, garages must be recessed from the front wall of a dwelling by at least four feet unless the dwelling includes a front porch or the garage is no more than 12 feet wide. In these cases, the garage can be flush with either the front of the porch or the front wall of the dwelling. Garages are also allowed to be accessed from an alley, or be placed perpendicular to a street if windows are provided along the street-facing garage wall.

The Corvallis Off-Street Parking and Access Standards stipulate minimum widths and landscape buffering requirements for driveways. The minimum widths are as follows:

- Single dwelling unit – 12 feet
- Two or three dwelling units – 18 feet
- Four units with access to a Local Street – 18 feet
- Four or more units with access to a Collector or Arterial Street – 20 feet
- Five or more units – 20 feet

Standards contained within LDC Chapter 4.10 address window coverage on the facades of dwellings that face streets or other public places. A minimum of at least 15 percent of the area of these facades must contain windows or doors. Window placement, styles, or patterns are not currently regulated through the clear and objective standards contained in LDC Chapter 4.10.

Building and roof articulation is not currently regulated as a mandatory requirement of residential development. Section 4.10.60.04.b allows the selection of this design feature as one of five required options for multifamily dwellings (i.e., triplexes, fourplexes, multiple attached, and apartments). In general, building wall articulations must have a minimum dimension of at least four feet, while roof articulations must have a minimum dimension of at least two feet.

The workgroup is asked to review the attached infill development examples and recorded comments, and compare those development outcomes with the standards discussed above. A portion of the February 5, 2013, meeting will be dedicated to determining what additional design standards and/or guidelines should be implemented to facilitate compatible infill development.

Comments from January 23, 2013, Review of Infill Development Examples

Street Address	Observations
2901 NW Tyler Ave.	Flat façade; window patterns not consistent with surrounding dwellings; repetition of roof line pattern; lack of building articulation; no porches; lack of siding material variety and differentiation.
801 NW 12 th St.	Overall style is generally compatible with existing variety in neighborhood.
544 NW 7 th St.	Driveway dimensions are inconsistent with historic driveway patterns in terms of width and area.
415 NW 11 th St.	Modern windows (size and appearance); building height and roof form are inconsistent with historic patterns of adjacent dwellings; garage prominence; side yard massing.
217 NW 12 th St.	Large area of concrete in front yard to provide off-street parking; no street trees; lack of pedestrian-oriented features (e.g., porches);
605 NW 7 th St.	While dwellings are not oriented towards the street, as is the case with other adjacent properties, the rear of each is oriented towards the park, which promotes observation of public space and provides an aesthetic benefit to the residents.
1744 NW Harrison Ave.	Flat façade; current not built under recent Land Development Code standards and would not be possible today.
720 NW 13 th St.	Mansard roof form; but provides variety to neighborhood and overall massing is consistent with adjacent dwellings.

Comments from January 23, 2013, Review of Infill Development Examples

Street Address	Observations
760 NW 13 th St.	Mansard roof form; but provides variety to neighborhood and overall massing is consistent with adjacent dwellings. Might serve as an example of how use of incentives to encourage redevelopment at a higher density if the design were more compatible with the neighborhood.
1314 NW Taylor Ave.	Ratio of roof height and form to remainder of front façade. However, good example of how mature landscaping can buffer/minimize massing.
635 NW 14 th St.	Driveway proportions; garage prominence; side yard massing and lack of building articulation.
235 NW 8 th St.	Couldn't be constructed under existing Land Development Code regulations in terms of architectural elements (or lack thereof); building entrance location would comply with existing regulations.
555 NW Polk Ave.	Shallow roof pitch; lack of building articulation.
615 NW Tyler Ave.	(Not able to locate.)
545 SW Washington Ave.	(Street trees obscured dwelling from view.)



MEMORANDUM

TO: Neighborhood Planning Workgroup

FROM: Eric Adams, Project Manager

CC: Kevin Young, Planning Division Manager, City of Corvallis
David Dodson, Campus Planning Manager, Oregon State University

DATE: February 1, 2013

SUBJECT: Collaboration Corvallis – City Planning Staff Analysis of Avery Addition
Neighborhood Association Development Code Amendment Proposals

Attached to this memorandum is an analysis of the development code amendment proposals presented to the Neighborhood Planning Work Group by the Avery Addition Neighborhood Association. As additional background information, included with the analysis are two other memorandums. The first responds to a recent request from the Corvallis City Council for an explanation of the density “rounding” provisions contained in the Corvallis Land Development Code, while the second contains information regarding the legal considerations associated with imposing a development moratorium.

Please review this information and consider whether and to what extent the Avery Addition Neighborhood Association proposals would respond to concerns regarding recent infill development. A portion of the February 5, 2013, meeting will be dedicated to discussing these items.

Community Development Staff Analysis of
Avery Addition Neighborhood Association
Development Code Amendment Proposals

1) Lot shape

Background; Currently the LDC does not regulate lot shape. This allows lots with unusable space to be defined by property owners resulting in a poor use of land and a violation of the intended minimum open space requirement to provide accessible recreation area be available to property tenants.

Proposal: All land associated with the lot dimensions used for development consideration should be usable and accessible for all units developed under same lot.

Usable - consider minimum dimension requirement (i.e. no dimensions less than 15ft.)

Accessible - all units must have right of way access to the open space requirements under LDC without imposing on neighboring properties or units property.

Staff Analysis: It may be difficult to put these standards into clear and objective terms without unintended consequences. Not all lots are rectangular in shape, and so a minimum width dimension, unless carefully crafted, could eliminate the ability to create “pie-shaped” lots on a cul-de-sac, for example. The current minimum standard lot width requirement in the Code does not preclude the creation of oddly configured lots because lot width is measured from specified points on lots. The following language represents staff’s effort to draft this concept into code language. However, a standard that read as follows might not be considered clear and objective: “With the exception of pie-shaped lots and other polygonal lots that cannot be avoided due to existing patterns of development, parent lot configuration, and other considerations, no lot shall be created with a dimension less than fifteen feet.”

2) Single Attached Units set back requirements

Background: There is effectively no difference in scale, mass or orientation between a duplex and two single attached units but there is a 20% reduction in setback requirements. This produces an unintended incentive for developers to build single attached units when building on lots of limited width.

Proposal: Change setback requirements for single attached units to the same requirement set for duplex building types.

Staff Analysis: Although it is not clear why the current code requires a larger side-yard setback for duplexes than is required for Single Attached units in some zoning districts, one theory that was advanced was that perhaps because Single Attached units are located on individual lots whereas Duplexes consist of two units on one lot, there is a greater likelihood that a Single Attached unit would be owner-occupied, and a smaller side-yard setback for that building type would allow for a larger building to accommodate a young family on a smaller lot, potentially increasing affordability. However, this rationale is speculative.

It would be relatively simple to change the code to hold Single Attached units to the same side-yard setback as that allowed for Duplexes in the zoning districts where they are treated differently. The impact of this change would be to reduce the potential building envelope for Single Attached units in those zones, and to increase the separation of such units from existing development on abutting lots.

3) Land Partition lot dimension accounting

Background: Currently the city allows developers to count half of the fronting street width towards lot area when a land partition is applied. According to the planning department this provides the developers with the same opportunity afforded to the original developers (prior to street definition). This practice neglects to recognize the physical reality of streets and their use, while providing a non-sensical avenue for developments to occur that are significantly higher in density than neighboring properties, of equal size, not subject to land partitions.

Proposal: Remove land partition clause and define lot area the same for all lots (based on buildable area).

Staff Analysis: Although staff were not able to find a definitive record of the reason for the half-street code provisions, which were put in place with the 2000 LDC Phase I Update, conversations with former City staff members suggest that the half-street provisions were added to the code to clarify past practice, which was to include half of the street frontage of a lot in the density calculations for a lot that was being partitioned. One of the former staff members we communicated with asserted the following:

“The idea was that most MLPs were on infill/small sites and that allowing the ½-street frontage in the density calc would provide more ability for a landowner to be able to divide a lot and make a more efficient use of land. Some of the rationale for that was the idea that such MLPs on infill properties could provide for the *opportunity/potential* for more affordable housing (housing that didn’t necessarily meet the formal definition of affordable housing, but was more affordable than the norm per se).”

Although we have found no specific discussion of this issue in the records of the applicable Code Amendment process, such direction would have been consistent with much of the policy direction in the Comprehensive Plan, which informed development of the 2000 Land Development Code Update. To put it simply, among other goals, the

Comprehensive Plan, and LDC are designed to facilitate infill development as the preferred alternative to “urban sprawl.”

It would be relatively simple to amend the LDC to remove the half-street code provisions from the LDC. The impact of this change would be to reduce the density achieved by infill development where a land partition or minor replat process is involved. This would likely have an effect on associated property values, as the redevelopment potential for affected properties would be reduced. Property owners may not support a code revision that would reduce options for redevelopment of their property. The change would likely reduce the amount of redevelopment that is occurring through the partition and minor replat processes.

4) Minimum garage dimensions

Background: Garages have become a popular means of meeting off-street parking requirements while losing their intended purpose altogether. The minimum garage width requirements do not provide enough space for average size cars to freely pull into a garage and have doors opened for driver & passenger entry/egress. The resulting garages being built are primarily used for storage, gaming/gathering areas, or extra rooms.

Proposal: Garages should be wide enough to not discourage daily use as off street parking (dimensions ~average car width opposing extended doors). Garages accessed via street/alley should be wide enough to allow average car turning radius.

Staff Analysis: A standard size parking space, per the City’s “Off-Street Parking and Access Standards,” is 9 feet wide and 18.5 feet long. In some cases, reduced size parking spaces are approved, consistent with standards published by the Institute of Traffic Engineers (ITE). Compliance with parking dimensional standards is evaluated with every building permit that includes required vehicle parking spaces in garages. In addition, for the past 2 - 3 years, the following condition of approval has been attached to all building permits issued for multi-family developments:

“In accordance with LDC 4.1.20, required vehicle and bicycle parking spaces shall be unobstructed and available for parking of vehicles and bicycles. Required spaces shall not be used for storage or other uses that prevent their availability for use as parking.”

This code standard is an enforceable requirement that would be investigated by the City’s Code Enforcement Staff in response to a complaint. Also, as a component of the proposed landlord licensing/property maintenance code program being considered by the Livability Work Group, pro-active, periodic inspections by staff could ensure that required parking spaces within garages are utilized for parking.

Given these considerations, Community Development staff do not feel that putting in place a minimum garage dimensional standard that is larger than that required for a parking space would necessarily result in increased usage of garages for vehicle parking.

However, it would be possible to amend the Code to put in place a minimum garage interior dimensional standard. The result would be anticipated to require a larger “footprint” for the area occupied by garages throughout the City. Such a standard would also create a large number of existing “non-conforming” garages in the community.

5) Visual Coherency and Compatible Transitions

Background: Currently there is no visual assessment of new developments against their neighboring properties as is stated as a requirement in the Comprehensive Plan. This allows grossly disparate developments to occur in established neighborhoods.

Proposal: Calculate unit density, and use density, for neighboring properties and place maximum delta on new developments that provides for compatible transitions and visual coherency (i.e. 'no more than 1.5X). Calculate adjoining open space ratios and place limit on delta between neighboring properties (moderate rate of growth as opposed to maximum growth limit).

Staff Analysis: Included with the development of the 2000 LDC Update are Pedestrian Oriented Design Standards (PODS), which were developed with several purposes in mind. One was to make sure that new development would be oriented towards pedestrians rather than automobiles. Another purpose was to enhance the attractiveness and compatibility of new development by requiring new buildings to be provided with more “architectural interest” than had been required in the past. The PODS were developed, in part, to enhance the compatibility of new development, given the general direction of the LDC to promote infill development. Because another goal of the updated LDC was to provide more “clear and objective” standards for new development than had existed in the prior Code, the PODS were developed rather than a more subjective process that would provide a visual assessment of new developments against their neighboring properties. Consequently, it is not accurate to say that the LDC does not implement Comprehensive Plan Policies that call for compatible development.

It is assumed that the process proposed would not be a discretionary decision process. Because of Needed Housing rules, it is not consistent with State Law to put in place regulations that would require discretionary reviews of any type of residential development. Assuming that the proposed process would hold the density of new development to a multiplier of the density of abutting development, the result would be an uneven application of regulations based on site-specific circumstances that are subject to change. Staff have concerns with this type of regulation, because it would create an “uneven playing field.” Consequently, implementation would be challenging, and there would be clear “winners” and “losers” from such a process.

6) Rounding

Background: Currently the planning department rounds up on the number of units allowed for lot dimensions resulting in a unit allowance of greater than 0.5 remainder. This results in a significantly higher density than is allowed within the zoning district.

Proposal: Rounding is not allowed, development density shall be no greater than as defined by zoning district.

Staff Analysis: As part of the 2004 LDC Phase III Update, provisions that address rounding in density calculations were added to the Code. These provisions codified past practice, which was to follow the mathematical approach of rounding to the nearest whole number when calculating density. Adding this provision provided a needed clarification of how to interpret Code-related density calculations that result in fractions. A similar provision, to generalize the practice of rounding for calculations within the LDC, was included in a 2008 package of LDC Amendments, but was dropped from the package, when the issue was remanded on appeal at the State Land Use Board of Appeals. Here is an example of a density calculation for a 5,000 square foot lot in the Medium Density Residential Zone (RS-9), which has a density range between 6 and 12 units per acre:

5,000 square feet represents 0.1148 acres, so multiplying 0.1148×6 units, we arrive at the minimum density of 0.69 units. Multiplying 0.1148×12 units, we arrive at a maximum density of 1.38 units. Consequently, the allowed density would be one unit. If the maximum density were 1.5 units or a larger fraction, we would round up the maximum density to 2 units.

The “density rounding rule” was likely approved in part because it is consistent with the policy direction discussed previously of facilitating infill development. Please see the attached response to a City Council request regarding this issue.

Altering the rounding rule such that allowed densities would be no more than the last whole number, regardless of the size of the fraction, would serve to reduce the density of new development. This change could impact the City’s compliance with Statewide Planning Goals that relate to housing and residential densities. Staff believe that removing the half-street “add-on” for partitions and minor replats would likely be more effective at reducing the potential density of infill development, particularly on relatively small lots, while maintaining consistency with Statewide Planning Goals.

7) Neighborhood Lifestyle

Background: Mixed use neighborhoods have long existed, and worked, within the surrounding neighborhoods of OSU largely based on the look and feel of single family dwelling neighborhoods. While an older house may have been a long time college rental, when sold, they can be (and often are) purchased by someone vested in the community who restores the house and turns it into an owner occupied. When lots are developed solely as student rentals the neighborhood has permanently lost the residence of that property as regular long term community members or neighborhood association contributors. Further, the look and feel of the neighborhood is permanently altered towards a transient community effecting the property value of adjoining properties (from an owner occupied perspective) while alienating the resident students from the community (students living in a rental house that fits into an established

neighborhood are much more likely to feel vested in the local community than students living in a dorm style duplex that does not fit in with the established neighborhood, has no yard, etc.).

Proposal: Require new developments to be owner occupied compatible with similar scale/mass/orientation (neighborhood design standards?).

Staff Analysis: The Neighborhood Planning Work Group is currently discussing the possibility of developing neighborhood oriented design standards. The Work Group is expected to make a recommendation in this area in the near future. It may be difficult to determine, in a clear and objective manner, what an “owner occupied compatible” dwelling should look like, but clear and objective standards may be developed that would address scale, massing, location, and other elements that would enhance the compatibility of new development with existing development in established neighborhoods

8) Demolition Notification

Background: There are currently greater notification requirements to remove some trees than there are for the demolition of neighborhood houses.

Proposal: Provide notification for properties within 500 foot radius to allow public input opportunity for demolitions (include registered neighborhood associations).

Staff Analysis: Under current rules, and with the exception of requests to demolish listed historic resources and structures within historic districts, the issuance of a demolition permit is a non-discretionary decision. In other words, if the application to demolish a structure contains all necessary information and is in compliance with applicable requirements, the Development Services Division is obligated to issue the permit. Including a requirement that neighbors receive a mandatory notice when an application is received for a demolition permit on nearby property would create a false expectation that public input would be able to influence the decision to issue a demolition permit. Requiring a discretionary process for the review and approval of demolition permits would have a significant impact on property owners’ rights throughout the community. Such a requirement might also inhibit the removal of unsafe conditions in a timely manner. With the use of Community Development’s new “Accella” software, staff will have an enhanced ability to report on items such as demolition permit applications for interested members of the public.

9) Subjective Review

Background: The current development process provides an unintended incentive for developers to pursue innovative application of LDC through building types, lot adjustments, etc. The exercised 'gaps' in the LDC might then be identified and addressed via concerned citizens through a lengthy process of written and oral testimony but in the mean time the original development, and any others applied for prior to LDC changes, are still able to go forward without challenge under the cities objective LDC review process resulting in the physical manifestation of developments that do not meet the Corvallis Comprehensive Plan. While the

city provides land developers a subjective review process by which non conforming land may be reviewed for consideration, (this process is ~30% funded by taxpayer fees), there is no such process provided to the tax payer who's interest is community based. The community members of Corvallis should have the same sense of 'rights' that remote land developers enjoy.

Proposal: A) Provide a (well advertised) subjective review process for the appeal of development applications that mirrors the variance process provided to land developers.

Staff Analysis: There are two processes within the Land Development Code (LDC) that allow for consideration of requested variations from Code requirements. Those processes are the Lot Development Option (LDO) and the Planned Development (PD). LDO's are limited to approve no more than three code variations, on no more than three lots. Consequently, they are typically used for smaller and limited scale development projects. If requested variations fall below certain thresholds (height increase up to 10 percent, etc.) then they may be processed through the Minor Lot Development Option process, which is an administrative decision where public notice is provided and the decision is made by staff, but may be appealed to the Land Development Hearings Board (LDHB). For LDO variations above established thresholds, a Major Lot Development Option process is required, which includes public notice and a public hearing before the LDHB. The second process that allows for the consideration of variations to Code standards is the Planned Development process. This process is typically used for larger-scale, master-planned developments, where alternative development standards are proposed (such as Timberhill). The Planned Development process is also required for development on any properties that have active Detailed Development Plans and a Planned Development Zoning Overlay (such as the Harrison Apartments application).

It is important to note that both the LDO and PD processes allow for consideration of variations to Code requirements, but do not guarantee that such requests will be approved through the public hearing process. The public hearing process does not grant an advantage to the applicant for a Code variation, as the burden of proof is on the applicant to demonstrate that an alternative approach should be supported. Among other requirements, both processes require the applicant to provide "compensating benefits" that compensate for the variations from development standards such that the intent of the development standards is still met. If decision-makers are not persuaded that the proposed compensating benefits will adequately compensate for the requested variations, they have the discretion to deny the application. Both processes allow for public input and appeal, if neighbors are not satisfied with a proposal. It is not unusual for projects that are reviewed through such processes to be significantly revised and improved by public input. Consequently, staff do not feel that these code variation processes provide an unfair advantage to the applicant. In fact, the burden of proof falls to the applicant to demonstrate that all criteria, including consistency with any applicable Comprehensive Plan Policies, are satisfied by an application.

In addition to these considerations, it is not clear to staff how a discretionary appeal process, as described by the proposal, could be legally put in place. Cities and counties in Oregon are required to put in place land use application criteria and processes that

provide clearly articulated steps, decision criteria, and process, so that the land use system provides certainty to applicants and to communities. To create a discretionary appeal process whereby “other” potentially applicable decision criteria could be introduced after an initial decision would be extremely problematic from a legal standpoint.

B) Stop subsidizing variance process with taxpayer dollars. Variance fees should target full processing cost.

Staff Analysis: The City Council determines the appropriate level of cost recovery for land use application fees on an annual basis. Their considerations in doing so include (but are not limited to) the level to which new development in the community should “pay for itself,” the level to which the community benefits from the process for review of land use applications, and the level of impact that land use application fees might have on economic development in the City. The LDO and PD processes are not used only by developers of student housing projects in the community. A number of recent affordable housing projects have been reviewed through the Planned Development process to allow for flexibility in design, including Habitat for Humanity’s Hilltop Village and 5th and B projects, and Willamette Neighborhood Housing Service’s Seavey Meadows project. LDO’s in particular have been used by a number of individual property owners seeking variations from standards for projects such as exterior side yard fences.

10) Variance Requests

Background: Current notifications for Minor and Major Lot Development options are 100/300 ft respectively.

Proposal: Increase to 500 ft for both.

Staff Analysis: Notice distances could be increased for Minor and Major Lot Development Options. However, such a change would increase mailing and staff costs for public notices. In 2002, the City Council approved Ordinance # 2002-46, which, among other things, reduced the required notice distance for Conditional Development, Subdivision, Major Replat, and Planned Development applications from 500 feet to 300 feet. This change was made to reduce mailing and staff costs for public notice. State law requires only that property owners within 100 feet be notified for such discretionary decisions. In addition to the required mailed notice, the LDC also requires that a notice sign be posted in at least one conspicuous place along each street frontage of a site, at least 20 days prior to the hearing date. Also, with the City’s new electronic notification service, an interested citizen with email access may now request to receive electronic copies of all notices that are sent out for land use applications.

MEMORANDUM

DATE: January 30, 2013
TO: Mayor and City Council
FROM: Ken Gibb, Community Development Director
RE: Council Request – rounding of density calculations & moratorium information

BACKGROUND:

Council requested follow-up information related to testimony received at the January 22, 2013 City Council meeting from Mr. Jeff Hess that addressed how residential densities are calculated. Mr. Hess also requested that the City Council hold a public hearing on a proposal to institute a development moratorium.

DISCUSSION:

In his written communication, Mr. Hess stated that:

“In 2008 the Corvallis city council amended the local Land Development Code (LDC) in such a way that the maximum development density allowed in each zone district was doubled while the stated maximum density remained the same. It’s believed this amendment was a mistake passed without council appreciating the impact of what they were voting for. Because the amendment introduced rounding in the definition of "Density Calculation", the maximum density now changes with the number of units built. For example, a duplex in RS-9 now has a maximum allowed density of 16 units/acre while a single unit has a maximum allowed density of 24 units/acre. Meanwhile the LDC continues to state the pre-2008 maximum of 12 units/acre”

Actually, rounding related to density calculations was adopted into the LDC **prior** to 2008. The 2008 LDC amendments addressed rounding related to other LDC calculations. Staff notes that part of the 2008 LDC amendment package was dropped because of a LUBA appeal and therefore the rounding methodology was not expanded beyond the previously legislated density calculations.

There were two previous LDC changes that addressed density calculations, both of which became effective in the 2006 LDC Update package implementation. First, as part of the 2000 LDC Update Phase 1, the methodology to calculate gross density for a Minor Land Partition site was changed to include in their acreage calculation 50 percent of the area of any street rights-of-way that front the subject site (for the distance the streets front the subject site). Also, a definition of net density was developed to “net” out that portion(s) of a development site that was precluded from development, e.g. natural features protection areas or conservation areas.

Secondly, as part of the 2004 LDC Phase III Update (also included in the 2006 LDC Update implementation package but worked on in the early 2000s), the following provision was added to the density calculation language:

When the sum of the dwelling units is a fraction of a dwelling unit, and the fraction is equal to or greater than 0.5, an additional dwelling unit shall be required (minimum density) or allowed (maximum density). If the fraction is less than 0.5, an additional dwelling unit shall not be required or allowed.

We haven't been able to fully review the extensive background material (thousands of pages) related to both of these projects but based on the review to date and in talking with former staff members who worked on this project, these changes officially ratified past practice, i.e. using the mathematical approach of rounding to the nearest whole number and/or addressed the City's long stated policies of encouraging compact and efficient use of land and providing more affordable housing opportunities.

The 2004 rounding approach as it applies to density calculations does not "double density" on a wholesale basis. In certain circumstances, the rounding approach would allow two dwelling units where one would otherwise be allowed. However, for calculations of density with a maximum allowed density that is more than two units, the difference between a result reached by rounding vs. a result reached by allowing the nearest whole number would never be more than one unit. In approximately half of these instances (i.e. where the result contains a fraction less than $\frac{1}{2}$ unit) the result of the density calculation with rounding would be the same as the nearest whole number method because in both instances staff would round down to the nearest whole number. Because of this, the effect of "rounding" is most acute for small infill properties, where the difference between one and two dwelling units has the most impact. The Neighborhood Planning Work Group is currently exploring a number of potential measures that would address the compatibility of small infill development, in addition to the change in parking requirements for four- and five-bedroom dwelling units that has already been put in place.

The provisions in the 2000 and 2004 LDC Phases I and III Update packages (implemented in 2006) were conducted through an extensive and open public process that directly involved many community members, Planning Commissioners and City Councilors as project work group members. The work product was subject to public workshops and hearings, with several opportunities for public input. The density calculation changes were publicly available although they didn't get as much attention as other portions of very large packages. There may be perspectives that view the results of these changes as having unintended consequences a decade later, but the changes were intentional, i.e. not an oversight, and designed as a mechanism to assist decision makers and the public in determining density standards and to implement Comprehensive Plan policies.

The Avery Addition Neighborhood Association has submitted a list of proposals to the Collaboration Corvallis' Neighborhood Planning Work Group. This list includes a proposal to change the LDC to not allow rounding as it pertains to density calculations.

The Neighborhood Planning Work Group is currently looking at the concept of neighborhood oriented design standards which in part respond to some of the other suggestions from the Avery Addition group and other members of the public. Staff notes that the Work Group will review the rounding issue during the month of February.

Mr. Hess also requested that the City Council place a 120 day moratorium on development. Attached is memorandum from the City Attorney's Office related to moratoria. This memorandum was distributed in early 2012 in response to questions about the legal aspects of a local government declaring a moratorium.

MEMORANDUM

To: Ken Gibb, Community Development Department Director
From: Jim Brewer, Deputy City Attorney
Date: February 3, 2012
Subject: Moratorium

Issue:

In the light of higher student enrollment at Oregon State University, community concerns about in-fill projects attractive to OSU students being developed in residential zones relatively close to the OSU main campus, the joint City of Corvallis/OSU efforts to address these concerns, and citizens' suggestions and questions regarding the possibility of the City adopting a moratorium on building these developments, you asked about the process that would be required, and what the likely challenges in adopting such a moratorium would be.

Summary:

Oregon law sets out specific requirements and a land use process for declaring a moratorium. ORS 197.520 is the relevant section. I've cut and pasted it below. The City is required to follow the process set out in that statute.

In summary, moratoria may only be 120 days long, with an extension(s) not longer than an additional 180 days (total). In urban areas, moratoria are intended to allow time to implement plans or regulations to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium OR to prevent irrevocable public harm from development in affected geographical areas. The process for a moratorium does require a public hearing, the adoption of specific findings, and the usual 45 day notice to DLCD prior to the final public hearing.

If the moratorium is proposed based on public harm, the moratorium must be limited to ensure that a needed supply of affected housing types and supply of commercial and industrial facilities are not unreasonably restricted.

Procedurally, if the City were to consider a moratorium, the City would need to follow the quasi-judicial land use process, and the decision made at the end of that process is subject to appeal to the State Land Use Board of Appeals and the judicial system. In addition to participants in those

public hearings having standing to appeal a decision on a moratorium, the Oregon Department of Conservation and Land Development has the ability to appeal the decision if it chooses to do so. Under Oregon law (ORS 227.178— sometimes known as the “goal post rule”), any changes in regulations and procedures adopted during the moratorium would still apply to only those applications for development that were completed *after* the changes were adopted. Applications already in place would need to proceed under the regulations and procedures in place at the time of the application.

Adopting a moratorium requires the City to adopt findings, supported by substantial evidence in the record, that explain why alternate methods to address the problems won't work, along with findings that resources are available during the moratorium to develop changes in facility plans, regulations and procedures to resolve the problems with the facilities or that create the public harm, so that development may occur.

Assuming there is active opposition to a moratorium, most of the challenges in developing findings supporting a moratorium stem from conflicts with the findings, record, policies and land use regulations adopted as part of the relatively recent, lengthy and exhaustive work completed during periodic review. Again, assuming there is opposition to a moratorium, challenges in adopting and enforcing a moratorium in Corvallis include:

- 1) developing substantial evidence to support making findings that there is a shortage of public facilities serving the areas, particularly as we would anticipate opponents to demonstrate that the current zoning was developed based on findings and facility plans that demonstrate that the public facilities are available;
- 2) developing substantial evidence that there is irrevocable public harm from development in the affected areas, particularly as we would anticipate opponents to demonstrate that the current zoning allows (and encourages higher density development) and that the current zoning is supported by findings in the Comprehensive Plan;
- 3) developing substantial evidence that a moratorium on higher density housing, for example, is limited in a way that ensures a needed supply of affected housing types, particularly as we would anticipate opponents to demonstrate that the City's facility plans, urban growth boundary and Comprehensive Plan was established making assumptions that denser residential development and redevelopment would occur within the current residential zones;
- 4) developing substantial evidence that a moratorium on higher density housing, for example, is limited in a way that ensures a needed supply of affected housing types, particularly as we would expect opponents to demonstrate that OSU's enrollment increases and physical plan capacity increases are reducing the supply of affected housing types.
- 5) completing and implementing the legislative land use planning process required to address the inadequacy of the public facilities or the irrevocable public harm within the moratorium timeframe. 120 days extended by another 180 days seems like sufficient time to follow the required processes and enact plans and ordinances. These plans and ordinances would still be subject to appeal to LUBA and the judicial system. While these plans and ordinances are under appeal, a motivated opponent could delay the implementation of the new plans or ordinances for a considerable amount of time, allowing applications to be filed under the current plans and regulations during the stay.

Statute:

197.520. Moratorium declarations

(1) No city, county or special district may adopt a moratorium on construction or land development unless it first:

(a) Provides written notice to the Department of Land Conservation and Development at least 45 days prior to the final public hearing to be held to consider the adoption of the moratorium;

(b) Makes written findings justifying the need for the moratorium in the manner provided for in this section; and

(c) Holds a public hearing on the adoption of the moratorium and the findings which support the moratorium.

(2) For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium. Such a demonstration shall be based upon reasonably available information, and shall include, but need not be limited to, findings:

(a) Showing the extent of need beyond the estimated capacity of existing public facilities expected to result from new land development, including identification of any public facilities currently operating beyond capacity, and the portion of such capacity already committed to development;

(b) That the moratorium is reasonably limited to those areas of the city, county or special district where a shortage of key public facilities would otherwise occur; and

(c) That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining public facility capacity.

(3) A moratorium not based on a shortage of public facilities under subsection (2) of this section may be justified only by a demonstration of compelling need. Such a demonstration shall be based upon reasonably available information and shall include, but need not be limited to, findings:

(a) For urban or urbanizable land:

(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;

(B) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special district are not unreasonably restricted by the adoption of the moratorium;

(C) Stating the reasons alternative methods of achieving the objectives of the moratorium are

unsatisfactory;

(D) That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and

(E) That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium.

(b) For rural land:

(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;

(B) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;

(C) That the moratorium is sufficiently limited to ensure that lots or parcels outside the affected geographical areas are not unreasonably restricted by the adoption of the moratorium; and

(D) That the city, county or special district proposing the moratorium has developed a work plan and time schedule for achieving the objectives of the moratorium.

(4) No moratorium adopted under subsection (3)(a) of this section shall be effective for a period longer than 120 days, but such a moratorium may be extended provided the city, county or special district adopting the moratorium holds a public hearing on the proposed extension and adopts written findings that:

(a) Verify the problem giving rise to the need for a moratorium still exists;

(b) Demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium; and

(c) Set a specific duration for the renewal of the moratorium. No extension may be for a period longer than six months.

(5) Any city, county or special district considering an extension of a moratorium shall give the department at least 14 days' notice of the time and date of the public hearing on the extension.

Laws 1980, c. 2, § 3; Laws 1991, c. 839, § 3; Laws 1995, c. 463, § 3.

**COLLABORATION CORVALLIS
NEIGHBORHOOD PLANNING WORK GROUP
ACTION ITEMS FOR MEETINGS, FEB-APRIL**

Mtg. 1 (Feb. 19)

Review any relevant suggestions from Avery Addition memo
Review list of other regulatory tools
Review list of topics that are the subject of motions
Review list of proposed motions, topic by topic
Consider and vote on all motions
Complete review of Avery Addition memo suggestions

Mtg. 2 (first March meeting)

This meeting could be in the form of a public open house, where we reach out to neighborhood groups as well as other interested parties. Purpose would be to seek their reactions to our draft list of solution ideas, and perhaps to the list of tools as well.

Mtg. 3 (second March meeting)

Refine our list of solutions based on input from neighborhood meetings.
If there is time, begin discussion of possible further standards or guidelines that are neighborhood-specific. How can the inventory material be used most effectively to support whatever approach might be deemed most feasible?

Mtg. 4 (first April meeting)

Panel discussion of potential tools to protect historic structures and neighborhoods.
If there is time, continue exploration of neighborhood-specific standards and/or guidelines.

Mtg. 5 (second April meeting)

Continue work on neighborhood design/protection
Start moving towards questions posed on "neighborhood identity" (per next set of topics from public input)