

## **CHAPTER 2.2 ZONE CHANGES**

### **Section 2.2.10 - BACKGROUND**

The Official Zoning Map is consistent with the adopted Comprehensive Plan, as amended, and as such is a reflection of the City's land use planning goals. The map has also been adopted as part of this Code. Frequent and piecemeal amendments to the Official Zoning Map can threaten the integrity of the Comprehensive Plan and the likelihood of its successful implementation. Nevertheless, it may be necessary to amend the Official Zoning Map from time to time to correct errors or to respond to changing conditions or unforeseen circumstances.

When a zone is amended, there often must be a corresponding change to the Comprehensive Plan Map. There are, however, instances where more than one zone corresponds to a site's Comprehensive Plan designation. In these situations, the zone can be amended without a Plan map change. Table 2.2-1 below illustrates the relationship between the Comprehensive Plan and the Official Zoning Map designations in the City.

Zone changes are classified as legislative or quasi-judicial, depending on the number of properties involved. While only the City Council makes legislative decisions regarding zone changes, quasi-judicial decisions may be made by the Planning Commission, Land Development Hearings Board, or upon appeal by the City Council, depending on the nature of the proposed change. When a Zone Change application is reviewed along with a Comprehensive Plan Map amendment or other land use application, the Planning Commission approves or denies the request. However, when no other request is under consideration, the Zone Change request is reviewed and approved or denied by the Land Development Hearings Board.

### **Section 2.2.20 - PURPOSES**

This chapter describes review criteria and procedural requirements for legislative and quasi-judicial Official Zoning Map changes to accomplish the following:

- a. Maintain sound, stable, and desirable development within the City;
- b. Permit changes in zone boundaries where appropriate;
- c. Ensure zone changes are consistent with the community's land use policies and goals; and
- d. Lessen the influence of individual economic interests in the land use decision-making process.

**TABLE 2.2-1  
COMPREHENSIVE PLAN AND CORRESPONDING ZONING MAP  
DESIGNATIONS (not including zone overlays)**

| IF THE COMPREHENSIVE PLAN<br>DESIGNATION IS:  | OFFICIAL ZONING MAP DESIGNATION<br>SHALL BE   |
|---|---|
| <b>RESIDENTIAL</b>                            | <b>RESIDENTIAL</b>  |
| Low Density (2-6 units/acre)                  | RS-3.5 Low<br>RS-5 Low<br>RS-6 Low  |
| Medium Density (6-12 units/acre)              | RS-9 and 9(U)Medium   |
| Medium-High Density (12-20 units/acre)        | RS-12 and 12(U) Medium-High and<br>Mixed Use Residential (MUR)  |
| High Density (over 20 units/acre)             | RS-20 High and Mixed Use Residential<br>(MUR)   |
| Mixed Use Residential (over 12<br>units/acre) | Mixed Use Residential (MUR)   |
| <b>OFFICE/COMMERCIAL</b>                      | <b>COMMERCIAL</b>   |
| Professional Office                           | Professional and Administrative Office<br>(P-AO)  |
| Mixed Use Commercial                          | Minor and Major Neighborhood Center<br>Mixed Use Community Shopping<br>(MUCS)<br>Mixed Use General Commercial<br>(MUGC) |
| Central Business                              | Central Business Zone (CB)<br>Central Business Fringe (CBF)<br>Riverfront (RF)  |
| <b>INDUSTRIAL</b>                             | <b>INDUSTRIAL</b>   |
| Limited                                       | Limited Industrial (LI)   |
| Limited Industrial - Office                   | Limited Industrial - Office (LI-O)  |
| Mixed Use Employment                          | Mixed Use Employment (MUE)  |
| General                                       | General (GI) and Mixed Use<br>Employment (MUE)  |
| Intensive                                     | Intensive (II) and Mixed Use<br>Employment (MUE)  |
| Research Technology                           | Research Technology Center (RTC)  |
| Mixed Use Transitional                        | Mixed Use Transitional (MUT)  |
| <b>OTHERS</b>                                 | <b>OTHERS</b>   |
| Public-Institutional                          | Oregon State University (OSU) and any<br>other zone for government and public<br>facility uses.                         |
| Open Space - Agriculture                      | Agriculture/Open Space (AG-OS)  |
| Open Space - Conservation                     | Agriculture/Open Space (AG-OS)  |

## **Section 2.2.30 - LEGISLATIVE CHANGE PROCEDURES**

A zone change is considered a legislative act if the change applies uniformly to all properties in the City or to a sufficiently large number of properties as determined by contemporary legal principles.

### **2.2.30.01 - Initiation**

- a. A legislative zone change may be initiated by a majority vote of the City Council or a majority vote of the Planning Commission upon finding sufficient cause to initiate a change.
- b. Property owners may petition the Planning Commission for a hearing by submitting the following:
  1. A petition representing a majority (over 50 percent) of property owners within the area of the proposed zone change; and
  2. A description and map of the area to be affected and information as may be necessary for an adequate review.

If the Planning Commission determines that there is sufficient cause, it shall initiate the zone change in accordance with Chapter 2 - Public Hearings.

- c. Where a motion by either the City Council or Planning Commission involves a Planned Development designation, the motion by either body need not include a Conceptual or Detailed Development Plan.

### **2.2.30.02 - Staff Evaluation**

City staff shall prepare a report that evaluates whether the proposal complies with the review criteria below. The report should include a recommendation for approval or denial.

### **2.2.30.03 - Review Criteria**

Legislative zone changes shall be reviewed to determine how they affect City facilities and services, and to ensure consistency with the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council.

### **2.2.30.04 - Action by the Planning Commission**

The Planning Commission shall conduct a public hearing in accordance with the provisions of Chapter 2.0 - Public Hearings. Following the close of the public hearing, the Commission shall make a recommendation to the City Council concerning the proposed zone change. The Commission's recommendation shall

include findings that specify how the proposal has or has not complied with the above review criteria.

#### **2.2.30.05 - Action by the City Council**

Upon receipt of the Planning Commission's recommendation, the City Council shall set a public hearing in accordance with Chapter 2.0 - Public Hearings. Following the close of the public hearing, the City Council shall either deny the petition or adopt an ordinance approving the proposed zone change or a modification thereof. The City Council's decision shall include findings that specify how the proposal has or has not complied with the above review criteria.

#### **2.2.30.06 - Notice of Disposition**

The Director shall provide a notice of disposition in accordance with Chapter 2.0 - Public Hearings that includes a written statement of the City Council's decision, a reference to findings leading to it, and the appeal period deadline. A notice of disposition shall also be mailed to persons who presented oral or written testimony at the public hearing.

### **Section 2.2.40 - QUASI-JUDICIAL CHANGE PROCEDURES**

All zone changes not deemed legislative shall be deemed quasi-judicial.

#### **2.2.40.01 - Initiation**

- a. A zone change that is quasi-judicial in nature may be initiated by:
  1. Filing of an application by the owner(s) of the subject property(ies); or
  2. A majority vote of the City Council or Planning Commission, following the same procedures used for legislative amendments discussed above.
- b. Where a motion by either the City Council or Planning Commission involves a Planned Development designation, the motion need not include a Conceptual or Detailed Development Plan.

#### **2.2.40.02 - Application Requirements**

When the Director deems any requirement below unnecessary for the proper evaluation of a proposed application, it may be waived. The Director may also require additional information, if needed, to adequately evaluate the proposal.

**Prior to formal submittal of an application, the applicant is encouraged to participate in an informal pre-application conference with Community Development Department staff to discuss the proposal, the applicant's**

**requirements, and the applicant's materials developed in response to the applicable Code requirements.**

Applications for zone changes shall be made on forms provided by the Director and shall be accompanied by:

- a. Fifteen copies of the narrative, on 8.5- by 11-in. sheets, and 15 copies of graphics at an 8.5- by 11-in. size. The Director may request additional copies of the narrative and/or graphics for routing purposes, if needed. Related names/numbers must be legible on the graphics. The Director may also require some or all graphics at an 11- by 17-in. size if, for legibility purposes, such a size would be helpful;
- b. Six sets of full-scaled black line or blueprint drawings of the graphic(s), with sheet size not to exceed 24- by 36-in. Where necessary, an overall plan with additional detail sheets may be submitted;
- c. An electronic version of these documents (both text and graphics, as applicable) if an applicant has produced part or all of an application in an electronic format. The applicant shall coordinate with the City regarding compatible electronic formats, to the greatest extent practicable;
- d. Written consent to the zone change signed by the property owner(s) and/or their legal representative. If a legal representative is used as a signatory, written proof of ability to be a signatory shall be furnished to the City;
- e. A legible vicinity map of the area to be amended that identifies adjacent City and County territory at least 300 ft. beyond the boundaries of the subject site. The map shall include features such as existing streets and parcel boundaries, existing structures, major drainageways, riparian areas, utilities, and any other information that, in the Director's opinion, would assist in providing a context for the proposed map amendment. Maps shall be submitted at an 8.5- by 11-in. size and 24- by 36-in. size. The Community Development Director may also require maps at an 11- by 17-in. size, and/or may require an area greater than 300 ft. beyond the site if such a map would be helpful;
- f. Existing and proposed zoning maps (typically 1 in. = 400 ft., but up to 1 in. = 800 ft., depending on the size of the site) with a key that identifies each zone on the site and within 1,000 ft. of the site as per City format;
- g. Comprehensive Plan Map (typically 1 in. = 800 ft.) with a key that identifies each land use designation on the site and within 1,000 ft. of the site as per City format;
- h. Existing land use map (typically a topographic map that extends at least 1,000 ft. beyond the site). The map shall include building footprints and

distinguish between single-family, multi-family, commercial, and industrial uses, as well as other significant features such as roads, drainageways, riparian areas, parks, and schools;

- i. Significant natural features map(s) and a preservation plan that together identify significant natural features of the site and proposed methods of preservation, including but not limited to:
  - 1. Watercourses, floodplains, wetlands, and riparian areas. The map shall indicate boundaries, acreages, and names, where applicable. Where watercourses are involved, the map shall also show the top of existing banks and channel depth, and indicate the boundaries of any riparian areas and required drainageway dedications. Calculations used to determine the width of the drainageway dedications shall be provided, as well as cross-sections (at 50-ft. intervals) to support the calculations. The cross-sections shall show a width encompassing the watercourse and at least 20 ft. on either side of the top of banks (refer to Chapter 4.5 - Flood Control and Drainageway Provisions for additional guidance).
  - 2. Significant natural vegetation (refer to Chapter 4.2 - Landscaping, Buffering, Screening, Natural Resource Protection, and Lighting for guidance). The map shall indicate species, canopies, and diameters at breast height for trees. In cases where a site contains large groves of significant vegetation that result in a single large canopy, the map may indicate the outer perimeter of the canopy of each grove, and state the species and ranges of tree diameters at breast height for each species within the grove.
  - 3. Plants, plant communities, and fish and wildlife habitat found on the site that are listed as threatened or endangered with the National Marine Fisheries Service or the U.S. Fish and Wildlife Service, as well as significant native vegetation as defined in the Oregon National Heritage Plan (1998), which may include certain woodlands, grasslands, wetlands, riparian vegetation, and plant species.
  - 4. Archaeological sites recorded by the State Historic Preservation Office (SHPO).
- j. One set of assessor's maps of the subject site and surrounding area, with the subject site outlined in red;
- k. Statement of availability, capacity, and status of existing water, sewer, storm drainage, and transportation facilities. The applicant shall obtain this information using GIS base maps where available;

- l. Statement of increased demand for the facilities that will be generated by the proposed change in land use designation. The applicant shall refer to the criteria of the City's facility master plans (available via the City Engineer) to determine the methodology used to estimate public facility demands. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis;
- m. Statement of additional facilities required to meet the increased demand and phasing of such facilities in accordance with projected demand. The applicant shall review adopted public facility plans, master plans and capital improvement programs, and state whether additional facilities are planned or programmed for the subject area. Information related to an actual development proposal may be included for informational purposes. At minimum, the demand calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis;
- n. Traffic impact study, if required by the City Engineer. The City Engineer shall define the scope of the traffic impact study based on established procedures. Information related to an actual development proposal may be included for informational purposes. At minimum, the traffic calculations associated with the full range of development potential (min. to max.) under current vs. proposed land uses designations shall be addressed in the analysis;
- o. Statement outlining the method and source of financing required to provide additional facilities; and
- p. Statement of the reasons for the change, and how the proposal meets the review criteria in section 2.2.40.05.

#### **2.2.40.03 - Acceptance of Application**

- a. The Director shall review the application in accordance with Chapter 2.0 - Public Hearings.
- b. After accepting a complete application, the Director shall schedule a public hearing. The public hearing shall be conducted by the Planning Commission if the zone change is requested in conjunction with an amendment to the Comprehensive Plan. If no Comprehensive Plan amendment is required to approve the zone change, the hearing shall be conducted by the Land Development Hearings Board.

#### **2.2.40.04 - Staff Evaluation**

The Director shall prepare a report that evaluates whether the proposal complies with the review criteria below. The report shall also include a recommendation for approval or denial.

#### **2.2.40.05 - Review Criteria**

Quasi-judicial zone changes shall be reviewed to determine how they affect City facilities and services, and to ensure consistency with the purposes of this chapter, policies of the Comprehensive Plan, and any other applicable policies and standards adopted by the City Council. The application shall demonstrate compatibility in the following areas, as applicable:

- a. Basic site design (e.g., the organization of uses on a site and the uses' relationships to neighboring properties);
- b. Visual elements (scale, structural design and form, materials, etc.);
- c. Noise attenuation;
- d. Odors and emissions;
- e. Lighting;
- f. Signage;
- g. Landscaping for buffering and screening;
- h. Transportation facilities;
- i. Traffic and offsite parking impacts;
- j. Utility infrastructure;
- k. Effects on air and water quality (note: a DEQ permit is not sufficient to meet this criterion);
- l. Consistency with the applicable development standards, including the applicable pedestrian oriented design standards;
- m. Preservation and/or protection of significant natural features and wildlife habitat, consistent with the Comprehensive Plan; and
- n. To the maximum extent practicable, grading (cuts and fills) shall be minimized, streets shall be designed along contours, and structures shall be designed to fit the topography of the site.

#### **2.2.40.06 - Action by the Hearing Authority**

The hearing authority shall conduct a public hearing in accordance with the provisions of Chapter 2.0 - Public Hearings. Following the close of the public hearing, the hearing authority shall by motion either approve the proposed zone

change or a modification thereof, or deny the petition. The hearing authority's decision shall include findings that specify how the application has or has not complied with the above review criteria.

#### **2.2.40.07 - Notice of Disposition**

The Director shall provide the applicant with a notice of disposition in accordance with Chapter 2.0 - Public Hearings that includes a written statement of the hearing authority's decision, a reference to findings leading to it, and the appeal period deadline. A notice of disposition shall also be mailed to persons who presented oral or written testimony at the public hearing.

#### **2.2.40.08 - Appeals**

The decision of the Land Development Hearings Board or Planning Commission may be appealed in accordance with Chapter 2.19 - Appeals.

#### **2.2.40.09 - Effective Date**

Unless an appeal has been filed, the decision of the Land Development Hearings Board shall become effective 12 days after the notice of disposition is signed.

Unless an appeal has been filed, the decision of the Planning Commission made in conjunction with a Comprehensive Plan amendment shall become final 12 days after the notice of disposition is signed. The zone changes will not take effect, however, until and unless the necessary Comprehensive Plan amendment has been implemented by the City Council.

#### **2.2.40.10 - Map Errors**

If the Land Development Hearings Board, Planning Commission, or City Council approves a zone change, but the Director discovers that the Official Zoning Map was not altered to accurately reflect the zone change, the Director shall correct the Official Zoning Map to comply with the zone change without any additional public review.

The map change shall not be corrected if the City Council subsequently approves a zone change affecting the initial approval. If the Director discovers an inconsistency between the Official Zoning Map and the Comprehensive Plan Map, the Director shall correct the Official Zoning Map to make it consistent with the Comprehensive Plan Map, without any additional public review. Map corrections made by the Director shall be reported to the Council and owner of the property receiving the correction by noting the correction as a consent item on a Council agenda following the correction, and by mailing the property owner notification of the correction.