**AGENDA**
**Aurora Planning Commission Meeting**
Tuesday, December 01, 2015, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

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1. **CALL TO ORDER OF THE AURORA PLANNING COMMISSION MEETING**

2. **CITY RECORDER DOES ROLL CALL**

3. **CONSENT AGENDA**
   a) Planning Commission – November, 2015
   b) City Council Minutes – October, 2015
   c) Historic Review Board Meeting Minutes – October , 2015

4. **CORRESPONDENCE - NA**

5. **VISITORS**

   Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

6. **PUBLIC HEARING**

   a) Discussion and or Action on Height Variance Application (VA-15-03) Christ Lutheran Church, Continuance.

7. **NEW BUSINESS**
   a) Discussion and or Action on Maletis Property Development South of the Willamette River Article.
   b) Discussion and or Action on UGB Expansion for Industrial and Aviation Land Article.

8. **OLD BUSINESS**
   a) Discussion and or Action on Orchard View Subdivision. Tabled Until January.
   b) Discussion and or Action/Feedback on Code Sections from( LA-15-02)

9. **Commission Action/Discussion**

   a) City Planning Activity (In Your Packets) Status of Development Projects within the City.

10. **ADJOURN**

**Minutes**
**Aurora Planning Commission Meeting**
Tuesday, November 3, 2015, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT** Renata Wakeley, City Planner
Kelly Richardson, City Recorder

**STAFF ABSENT:** None

**VISITORS PRESENT**: Lance Lyon, Aurora
Dexter Wilson, Aurora
Judi Aus, Canby
Jerry Johnson, Aurora
Richard Rothweiler, Salem
Janet Rothweiler, Salem
Karen Townsend, 15058 2nd Street Aurora
Gayle Abernathy, 15109 2nd Street Aurora
Kathy Kaatz, 14805 Orchard Street Aurora

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1. **CALL TO ORDER OF THE CITY COUNCIL MEETING**

   Meeting was called to order by Vice Chairman Rhoden-Feely at 7:05 pm

2. **CITY RECORDER DOES ROLL CALL**
   Chair Joseph Schaefer - Absent
   Commissioner Craig McNamara- Present
   Commissioner Bud Fawcett - Present
   Commissioner Jonathan Gibson - Present
   Commissioner Mercedes Rhoden-Feely - Present
   Commissioner Tara Weidman - Present
   Commissioner Aaron Ensign - Absent

3. **CONSENT AGENDA**
   a) Planning Commission Minutes – October, 2015, a comment is made that the Council discussed accessory structures specific to the code.
   b) City Council Meeting Minutes – September, 2015
   c) Historic Review Board Minutes – September, 2015

   Motion to approve the consent agenda as presented was made by Commissioner Gibson and is seconded by Commissioner Fawcett. Motion approved by all.

4. **CORRESPONDENCE – NA**

5. **VISITORS**

Anyone wishing to address the Aurora Planning Commission concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora Planning Commission could look into the matter and provide some response in the future.

No one spoke during this time as the visitors present spoke on items already on the agenda.

6. **PUBLIC HEARING, Opens at 7:10 pm**

a) Discussion and or Action Height Variance Application (VA-15-03) Christ Lutheran Church,

**CITY OF AURORA**
**PLANNING COMMISSION**

| | |
|---|---|
| **STAFF REPORT:** | Variance 2015-03 [VAR-15-03] |
| **DATE:** | October 27, 2015 |

| | |
|---|---|
| APPLICANT/OWNER: | Christ Lutheran Church<br>15029 2nd Street NE<br>Aurora, OR 97002 |
| REQUEST: | Variance application to exceed the maximum height of the Historic Residential Overlay zone for a new proposed forty-eight (48) foot bell/entry tower addition to the existing structure. |
| SITE LOCATION: | 15029 2nd Street NE, Aurora OR.<br><br>Map 41.W.12CD Tax Lot 2600 |
| SITE SIZE: | Approx. 19,602 square feet, or 0.45 acres |
| DESIGNATION: | Zoning: Low Density Residential (R1) with Historic District Overlay |
| CRITERIA: | Aurora Municipal Code (AMC) Chapters 16.20 Historic Residential Overlay zone and 16.64 Variances |
| ENCLOSURES: | Exhibit A: Assessor Map<br>Exhibit B: Applicant's Variance Application<br>Exhibit C Review Comments from Oregon Department of Aviation (ODA) and Aurora Historic Review Board (HRB) |

## I. REQUEST

Variance application to exceed the maximum height of the Historic Residential Overlay zone for a new proposed forty-eight (48) foot bell/entry tower addition to the existing structure.

## II. PROCEDURE

Variance applications are processed as Quasi-Judicial Decisions. Quasi-Judicial Decisions are conducted as stated in Chapter 16.76 of the AMC. Section 16.64 provides the criteria for processing Variance applications.

The application was received on August 12, 2015 and determined incomplete by staff pending additional information. The supplemental information was received by staff on September 17th and the application was determined complete by staff. Notice of the application and hearing was mailed to surrounding property owners on October 9, 2015 and published in the Canby Herald on October 27, 2015. The City has until **January 14, 2015**, or 120 days from acceptance of the application to approve, modify and approve, or deny this proposal.

## III. APPEAL

Appeals are governed by AMC 16.76.260. An appeal of the Planning Commission's decision shall be made, in writing, to the City Council within 15 days of the Planning Commission's final written decision.

## IV. CRITERIA AND FINDINGS

The applicable review criteria for Variance applications are found in AMC Chapter 16.64 Variances.

***16.64 Variances***

*The commission may grant a variance only when the applicant has shown that all of the following conditions exist:*

*A. The proposed variance will not be materially detrimental to the purposes of this title, be in conflict with the policies of the comprehensive plan, to any other applicable policies and standards, and to other properties in the same zoning district or vicinity.*

FINDINGS: The applicant proposes a forty-eight (48) foot bell/entry tower addition to the existing structure. The maximum height in the Historic Residential Overlay (HRO) zone is thirty-five (35) feet- a thirteen (13) foot differential. According to the applicant, the tower structure will not cast shadows on any neighboring structures or exceed the height of some trees on the property or surrounding area. The applicant also states that the architectural elements are designed to enhance the visual character of the Neo-Gothic features of the historic Aurora Colony and structure.

Notice of the height variance application was mailed to property owners within 200 feet of the subject property on October 9, 2015 and published in the Canby Herald on October 14, 2014. The Aurora Historic Review Board (HRB) reviewed the proposed variance and recommended the Planning Commission approve the variance with a "smaller cross as discussed with the applicant" (see Exhibit C). This is included as a recommended condition of approval. The Oregon Department of Aviation (ODA) reviewed the proposal and expressed no concerns with flight interference.

Staff finds this criteria can be met, with conditions.

*B. Special conditions exist which are peculiar to the land or structure involved and are not applicable to lands and structures in the same zone and over which the applicant has no control.*

FINDINGS: The existing structure is unique in that the church's historic architectural elements are unlike residential structures in the zone. Churches are permitted as conditional uses in the zone and the property has a conditional use permit on file. According to the applicant, "while an exact replica of the historic tower is not possible, Christ Lutheran Church wishes to achieve as much accuracy as possible in the restoration of the original bell tower's scale and Gothic Revival style, which includes a slender, steeply pitched roof, pointed arched-windows, and a bell" and that meeting the thirty-five (35) foot height maximum in the zone would have sacrificed historic proportions. The applicant also states that a thirty-five (35) foot height restriction would not allow placement of the bell into the steeple or allow a person sufficient space to access or maintain the proposed bell and, therefore, the requested height is the minimum height to allow for the bell to be installed and maintained inside the steeple.

Staff finds the location of a church in the Historic Residential Overlay (HRO) zone with a 35 foot height maximum is unique for the property and not applicable to other historic properties in the zone and this criteria is met.

*C. The use proposed will be the same as permitted under this title and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land.*

FINDINGS: The variance will not change the use of the property and other applicable city standards and criteria will be maintained and enforced. Staff finds this criteria is met.

*D. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic land forms, or parks will not be adversely affected any more than would occur if the development were located as specified in this title.*

FINDINGS: The proposed variance does not encroach upon the City right-of-way and is not determined by staff to negatively impact traffic, drainage, land forms or parks. The property recently received Site Development Review approval (SDR-15-01) for circulation improvements and interior and exterior modifications to the structure. Staff finds this criteria is met.

*E. The variance granted shall be the minimum necessary to make possible a reasonable use of the land and structures.*

FINDINGS: According to the applicant, the proposed variance allows for the minimum achievement of the scale and stylistic proportions of the characteristic Gothic Revival tower. However, approval of the variance is not determined to be the minimum necessary to make reasonable use of the land or structures as the property is current used as it historically has been. The Aurora Historic Review Board reviewed the proposed variance and, while approving the height, recommended the size of the cross be reduced "so as to minimize any further height issues/dominance". This is included as a recommended condition of approval.

Staff finds this criteria can be met, with conditions.

*F. The special conditions which are peculiar to the land or structure involved were not caused or created by the applicant and/or current or previous property owners.*

FINDINGS: The current members of the Christ Lutheran Church congregation are not responsible for the demolition of the historic tower. Indeed, the members seek to preserve and restore elements of this historic church- in keeping with the Historic Overlay District and Aurora Comprehensive Plan Historic Resource Policies (Goal 5) Objective: Protect the community's historic character and sense of identity by conserving buildings and sites of historic significance and increasing the zone of control to include more of the original colony property.

Staff finds this criteria is met.

*G. For variances to height requirements, six inches shall be added to the required setbacks for the front, side and rear yards, for every foot of height allowed by the commission beyond the established limit.*

FINDINGS: The front setback in the HRO zone shall be a minimum of fifteen (15) feet except the front setback may be reduced to a minimum of ten (10) feet when the garage is located in the rear yard or the garage is located in the side yard of a corner lot (AMC 16.20.C.1). This is not a residential structure and no garage is located to the front of the property. AMC 16.40.160.A.2. further states, “Commercial and mixed-use structures shall be set back… a maximum of ten (10) feet from front lot lines”. Additionally, AMC 16.40.160.A.3 states, “For new structures or additions to structures, including porches, the front setback shall not exceed four (4) feet more or less than the average front setback of the adjacent structures”. The existing structure to the west is setback twelve (12) feet from the front property line. With a maximum setback of 10 feet for the zone and a variance allowance under AMC 16.40.160.A.3. of up to four (4) feet, a setback between six (6) and twelve (12) feet from the front property line would typically be permitted.

The applicant proposes a setback in their site plan for the base of the steeple at fourteen (14) feet, ten (10) inches and proposes to exceed the maximum height in the zone by thirteen (13) feet.

This amounts to an approx. three (3) foot variance from the permissible front setback under Title 17 and a height variance of thirteen (13) feet or an additional setback of six (6) feet. Staff finds the steeple setback of fourteen feet can be considered met from the front setback permissions varying between 6-12 feet for the front property line and this criteria is met.

## V. CONCLUSIONS AND RECOMMENDATIONS

Based on the findings in the staff report, staff recommends that the Planning Commission **approve** the application for Variance (file no. VAR-2015-03) based upon the following:

1) Develop the subject property in accordance with plans approved by the city.

2) Comply with all City of Aurora and State of Oregon development, building and fire codes.

3) Reduce the size of the installation (cross) atop the bell tower, as discussed and approved by the Aurora Historic Review Board (HRB). Evidence of review and final approval on the installation (cross) atop the bell tower by the HRB shall be required in advance of City approval of the structural permit application.

## VI. PLANNING COMMISSION ACTION

A. Approve the variance request to exceed the maximum height of the Historic Residential Overlay (HRO) zone for a new proposed forty-eight (48) foot bell/entry tower addition to the existing structure.

1. As recommended by staff, or
2. As determined by the Planning Commission stating how the application satisfies all the required criteria, and any revisions to the recommended conditions of approval, or

**OR**

B. Deny the variance request to exceed the maximum height of the HRO zone for installation of a new proposed forty-eight (48) foot bell/entry tower.

**OR**

C. Continue the hearing to a time certain or indefinitely (considering the 120 day limit on applications).

Staff notes a correction to pg 1 notice was published October 2015 not 2016. Number 7 Criteria A conditional approval and #3 to be removed because of reduction of the cross and it shouldn't have been included as a condition. Pg 4 reduced to condition 1&2. Commissioner McNamara wants to confirm the height of the steeple at 48 feet. Which the applicant states is well within the FFA and informs everyone that the congregation has decided based on feedback to not place a cross on top of the steeple. Vice Chair Rhoden-Feely asks the applicant was it this congregation that took the original steeple down and the applicant states yes in the early years.

Richard Rothweiler 363 State Street Salem, OR. Architect presents a brief description of the project and the fact that they want to return the church steeple to resemble the old church as much as possible and to allow the hanging and maintenance of the old church bell.

Citizen Karen Townsend 15058 2nd Street Aurora, also a member of the Historic Review Board although I am coming before you as a citizen with concerns regarding the height of the steeple that is proposed. I like the design that is being proposed except for the height I feel as though it is to over powering for the neighbor hood/block. I really think the steeple could be modified and the height brought down and still provide ample room for bell maintenance. This is 5 stories high and it will overwhelm the block and the other historic properties surrounding it. Vice Chair Rhoden-Feely ask the applicant the height of the old

historic church the applicant was unsure of the actual height and provided a guess. Townsend goes on to say had the old church been there its possible neighbors wouldn't have purchased property there maybe.

Gayle Abernathy 15109 2nd Street I am also a member of the Historic Review Board however this evening I am here as a citizen with many of the same concerns as my neighbor Miss Townsend.

Commissioner Weidman asks the applicant if they could accomplish this project with lowering the height of the steeple. The applicant states this is what we need to complete the project and to preserve the architecture from the old building. We did hear many of the concerns and that Is why we removed the cross to bring some of the height down. If we can pull it down 12 inches then we will but not sure if it is possible. Weidman states that with the additional height it does make a very large statement.

Vice Chair closes the public hearing at 7:40 pm

Planning Commission begins there discussion first Commissioner Fawcett ask the applicant if the bell is currently in the tower and does it currently ring and the applicant states yes. Fawcett asks the height of the water tower for comparison and City Recorder Richardson states the water tower is 91.90 feet tall and the bottom of the Verizon equipment is at 53 feet. The museum is less than 35 feet tall.

Commissioners wanted to know the height of the original steeple the applicant was referring to however the applicant didn't have that information. After a brief discussion regarding whether it would be visible from Highway 99E.

A Motion is made by Commissioner McNamara to accept the application with the conditions as stated and is seconded by Commissioner Gibson. 2 ayes 3 nayes motion fails.

The Commissioners then look at the staff report to better clarify and Vice Chair Rhoden-Feely then asks questions of the applicant regarding each criteria to determine if all of them have been met to the group's satisfaction.

following this discussion another motion is made.

Commissioner Weidman makes a motion to deny based on the fact that criteria E and F there is no second therefore motion fails.

A motion is made to accept the application as presented with the conditions of approval by Commissioner McNamara and is seconded by Commissioner Gibson. 2 ayes and 3 nayes motion fails again.

At this point staff asks the Commissioners what additional information do they need so that we can move forward somehow this evening. Commissioner Fawcett states that they want the height of the original steeple and heights of trees around the building for comparison.

A motion is made to continue the hearing until the December 1st Planning Commission meeting and requesting the height of the original steeple is made by Commissioner Fawcett and is seconded by Commissioner Gibson and is passed by all.

b) Discussion and or Action on Legislative Amendment on AMC 16 Code Sections (LA-2015-02)

**Public Hearing begins at 9:10 pm**

Staff report;

TO: Aurora Planning Commission
FROM: Renata Wakeley, City Planner
RE: Legislative Amendment 2015-02 (LA-15-02)
DATE: November 3, 2015

REQUESTED ACTION

The Planning Commission's options for taking action on Legislative Amendment 15-02 include the following:

A. Adopt the findings in the staff report and recommend that the City Council adopt Legislative Amendment 15-02:
    1. As presented by staff; or
    2. As amended by the Planning Commission (stating revisions).

B. Recommend that the City Council take no action on Legislative Amendment 15-02.

C. Continue the public hearing:
    1. To a time certain, or
    2. Indefinitely.

BACKGROUND

In 2013, House Bill 3460 created a medical marijuana registration system and allowed medical marijuana facilities (MMFs) to be located in certain zones, including commercial, industrial, and mixed use. In 2015, House Bill 3400 further clarified marijuana regulations, expanded permissions for recreational marijuana, and also allowed jurisdictions to adopt reasonable time place, and manner restrictions on both. The Planning Commission has given staff general direction related to the marijuana issue and has had general discussions regarding proposed amendments to the Aurora Municipal Code (AMC).

At the same time, the Planning Commission received feedback from interested parties regarding recreational vehicles and accessory buildings and LA-15-02 includes proposed amendments to clarify the text on these items.

The following sections of the Aurora Municipal Code (AMC) are proposed for amendment:

- 16.04 Definitions
- 16.14 Commercial
- 16.16 Industrial
- 16.36 Manufactured Home Regulations
- 16.42 Off-Street Parking and Loading Requirements

Legislative Amendment 15-02 includes the draft code amendments to the Aurora Municipal Code. The revisions are attached in a **bold** and ~~strikethrough~~ format for review purposes (see Exhibit A).

The purpose of the proposed amendment is to create "reasonable regulations" as allowed by House Bill 3460 and 3400 for time, place and manner restrictions for marijuana associated retailers, processers, and growers. By addressing marijuana sales, production, and processing, the City seeks to further clarify where these uses are permitted and mitigate potential conflicts with surrounding uses. The proposed amendments seeks to add clarity and certainty to the Aurora Municipal Code – Title 16.

FINDING OF FACT AND CONCLUSIONS

The Aurora Planning Commission, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact and Conclusions:

1. In accordance with the post-acknowledgement plan amendment process set forth in Oregon Revised Statute 197.610(1), the City Planner submitted the draft proposed amendments to the Oregon Department of Land Conservation and Development on October 13, 2015, which was 21-days prior to the first evidentiary hearing and 28-days prior to the tentative City Council hearing on November 10, 2015.
2. Amendments to the Code, Comprehensive Plan, and/or Maps are considered Legislative Amendments subject to 16.80.20. Legislative Amendments shall be made in accordance with the procedures and standards set forth in AMC 16.74-Procedures for Decision Making-Legislative. A legislative application may be approved or denied.
3. AMC 16.74.030 outlines notice requirements. At least ten days prior to the first public hearing, the City shall publish notice in a newspaper of general circulation. The notice of the planning commission and city council hearings was published in the Canby Herald on October 28, 2015, at least 10 days prior to the scheduled November 1, 2015 City Council hearing.
4. Proposed amendments for consideration of legislative changes to the provisions of the Comprehensive Plan, implementing ordinances and maps are a legislative action. Section 16.74 calls for amendments to the Development Code to be processed as a recommendation by the Planning Commission and the decision by the City Council.
5. AMC 16.74.060 includes the standards for decision of Legislative Amendments as outlined under FINDINGS below.
6. The Planning Commission will review the proposed legislative amendments at a November 3, 2015 public hearing and a tentative City Council hearing is scheduled for November 10, 2015.

FINDINGS

A. The recommendation by the planning commission and the decision by the council shall be based on consideration of the following factors:

1. Any applicable statewide planning goals and guidelines adopted under Oregon Revised Statutes (ORS) Chapter 197;

FINDINGS: Goal 1, Citizen Involvement: A public hearing on the proposed amendments is schedule before the Planning Commission on November 3, 2015 and a second hearing is scheduled before the City Council on November 10, 2015. Notice was posted at City Hall and published in the Canby Herald. The staff report was available for review one week prior to the Planning Commission and City Council hearings. This is consistent with City procedures. Staff finds Goal 1 is met.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged AMC for process. Goal 2 generally supports clear and thorough local procedures. Staff finds Goal 2 is met.

Goal 3, Agricultural Lands and Goal 4, Forest lands are found not to be applicable.

Goal 5, Open Spaces, Natural Resources, and Historic Areas: The proposed amendments do not affect regulations within the Aurora Historic District nor does it affect open spaces or natural resources. Staff finds Goal 5 does not apply.

Goal 6, Air, Water and Land Resource Quality: Goal 6 is not applicable. The proposal does not address Goal 6 resources.

Goal 7, Natural Hazards: Goal 7 is not applicable. The proposal does not address Goal 7 resources.

Goal 8, Recreational Needs: Goal 8 is not applicable. The proposal does not address Goal 8 resources.

Goal 9, Economic Development: The draft code amendments respond to a need/revision identified by Senate Bills 3460/3400 to address permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to allow for greater economic uses on commercial and industrial properties while also protecting the intent of these zones and permissible locations as well as the intent of the Aurora Historic District.

The Planning Commission has determined which uses under the Senate Bills are best suited in which zoning locations to match the purpose and intent of the zone. The code update also addressed design standards for storage units in the commercial zone to protect design standards of the primary structures in the zone. Staff finds Goal 9 is met.

Goal 10, Housing: The draft code amendments address storage of recreational vehicles on residentially zoned lands and within public rights-of-way not intended to accommodate housing. Staff finds Goal 10 is not applicable. The proposal does not address Goal 10 issues.

Goal 11, Public Facilities and Services: Goal 11 is not applicable. The proposal does not address Goal 11 issues.

Goal 12, Transportation: Goal 12 is not applicable. The proposal does not address Goal 12 issues.

Goal 13, Energy Conservation: Goal 13 is not applicable as the code amendments address permitted uses under State law on properties already zoned for commercial and industrial development. The proposal does not address Goal 13 resources.

Goal 14, Urbanization: Goal 14 is not applicable. The proposal does not address Goal 14 issues as the proposed code amendments apply to existing commercial and industrial sites within the City limits and permissible uses within these zones.

ORS 197 does not include specific notice requirements for legislative processes but the City met all notice requirements under AMC for Legislative Amendments. ORS 227.186, more commonly known as Measure 56 notice, does not apply as the proposed amendments do not reduce permissible uses of properties in the affected zones.

2. Any federal or state statutes or rules found applicable;

FINDINGS: Staff finds the adoption actions are consistent with Oregon Revised Statute 197.610(1) for notice to the Department of Land Conservation and Development. Measure 56 notice was not required as the proposed amendments do not reduce permissible uses on commercial lands.

The addition of specific definitions for marijuana grow sites, processing sites and retail sites under AMC 16.04 ensures compliance with recently adopted legislation at the State level. Above the State-imposed and regulated standards for said facilities, jurisdictions are permitted to adopt reasonable time, place and manner restrictions to meet the intent of their development code and comprehensive plans. Proposed amendments to address these new regulations and to further clarify the locations of specific facilities are found by staff to be reasonable and address the intent and purpose of the specific zoning codes, as outlined under each zoning code chapter.

Staff finds this criterion is met.

3. The applicable comprehensive plan policies and map; and

The applicable Aurora Comprehensive Plan Goals align with the Statewide Planning Goals and associated policies as outlined under FINDINGS, subsection A.1 above. Staff finds this criteria is met.

2. The applicable provisions of the implementing ordinances.

FINDINGS: The draft code amendments respond to a need/revision identified by Senate Bill 3460/3400 to potential permitted uses on commercial and industrial lands. The proposed code amendments are not found to deter employment or business opportunities but rather to clarify locations of permitted specific uses, allow for greater economic uses of commercial and industrial properties, and maintain design standards while also protecting the intent of the zones and the Aurora Historic District.

Staff finds the proposed code amendments can be established in compliance with the development requirements of the Aurora Municipal Code while maintaining the stated intent of the underlying zones.

B. Consideration may also be given to proof of a substantial change in circumstances, a mistake, or inconsistency in the comprehensive plan or implementing ordinance which is the subject of the application.

FINDINGS: Staff does not find a change in circumstance, mistake or inconsistency in the comprehensive plan or implementing ordinances. Rather, the proposed code amendments are a result of Senate Bill 13460/3400531 and the City's need to refine and clarify permitted locations and uses within the City of Aurora, adopt "reasonable regulations" for their review, as well as further clarify storage of recreational vehicles and design standards for accessory structure. Staff finds this criterion is met.

EXHIBIT A Aurora Municipal Code (AMC) section 16.04- Definitions
Aurora Municipal Code (AMC) section 16.14- Commercial zone
Aurora Municipal Code (AMC) section 16.16- Industrial zone
Aurora Municipal Code (AMC) section 16.36- Manufactured Home Regulation
Aurora Municipal Code (AMC) section 16.42- Off-Street Parking and Loading

Staff states there is one correction on the staff report in definitions shopping should be shipping containers. Design under mobile storage should be manufactured instead. Change human or animal and remove 2nd half of sentence.

There is a brief discussion between Commissioners regarding logistics.

A motion is made to approve as amended by Commissioner McNamara ans is seconded by Commissioner Fawcett. Motion Passes.

Public Hearing closed at 9:40 pm

**7. NEW BUSINESS**

a)

**8. OLD BUSINESS**

a) Discussion and or Action on Orchard View Subdivision. The background of the issue was presented currently the tracts are owned apparently by the developer the CCR's were

recorded and the HOA was later voted on by property owners and voted out. The way it stands now the property owners are supposed to be maintaining the two tracts. There was an offer last month by one property owner to purchase the one tract and add as part of her front yard as she has been maintaining it since she purchased her property. We wanted to open it up to the property owners and get feedback from each of you to see if something can be agreed upon.

Various questions were asked by citizens who attended

Jerry Johnson, Aurora asks what the options are; Chair Schaefer informs Mr. Johnson that is why we are here tonight to discuss different options.

Kathy Kaatz, states I have been maintaining the land as part of my yard since we purchased the property however if I can't make it a part of my yard legally then I don't really want to keep maintaining it.

Rachel Nelson, Aurora would like more information on the costs that would be involved.

Pros and Cons of forming an HOA was also discussed and it was about 50/50 some in support and some in opposition.

During the discussion and so many different options discussed it is the consensus of the board to continue this discussion into January in hopes to get even more people involved.

If the City takes it over and maintains it then the City will bill the property owners.
**Chair Schaefer enters the meeting at 8:38 pm.**

**Action Items; Have Public Works get an estimate on what it would cost to clean and maintain the area.**

**9. COMMISSION/DISCUSSION**

a) City Planning Activity (in your packets) Status of Development Projects within the City.

**10. ADJOURN**

Chair Schaefer adjourned the November 3, 2015 Aurora Planning Commission Meeting at 9:43 P.M.

_____
Chair Schaefer

ATTEST:

_____
Kelly Richardson, CMC
City Recorder

**Minutes**
**Aurora City Council Meeting**
Tuesday, October 13, 2015, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

| | |
|---|---|
| **STAFF PRESENT** | Kelly Richardson, City Recorder<br>Darrel Lockard, Public Works Superintendent<br>Dale Huitt, Marion County |
| **STAFF ABSENT** | Dennis Koho, City Attorney<br>Mary Lambert, Finance Officer |
| **VISITORS PRESENT**: | Bryon Schriever, Aurora<br>Joseph Schaefer, Aurora |



1. **CALL TO ORDER OF THE CITY COUNCIL MEETING**

   Meeting was called to order by Mayor Bill Graupp at 7:00 pm

2. **CITY RECORDER DOES ROLL CALL**
   Mayor Graupp- Present
   Councilor Sahlin - Present
   Councilor Sallee-Present
   Councilor Southard-Present
   Councilor Vlcek - Present

3. **CONSENT AGENDA**
   a) City Council Meeting Minutes – September, 2015,
   b) Planning Commission – September, 2015
   c) Historic Review Board Meeting – NA

   Motion to approve the consent agenda as presented was made by Councilor Southard and is seconded by Councilor Sallee. Motion approved by all.

4. **CORRESPONDENCE - NA**

5. **VISITORS**

   Anyone wishing to address the Aurora City Council concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Aurora City Council could look into the matter and provide some response in the future.

Byron Schriever, Aurora came in to update the council on his water filter he stated this time it has been 6 months filter was brown in color and Public Works Super Lockard stated they would begin using charcoal again and see if that clears it up any.

Joseph Schaefer, Aurora wanted to commend everyone for doing their part as we made it through a difficult water season without having to sanction a shortage.

**6. REPORTS**

a) Mayor Bill Graupp
- Mayor Graupp briefly explains the lock down process and forms that need filled out for the North Marion Schools District.

No discussion.

**ACTION ITEM: NA**

b) Marion County Deputy
- Deputy report is routine nothing major to report except we did have one business that had been broken into. Councilor Sallee again asks about the speed trailer and asks if it could be place on Liberty Street. Officer Huitt states that maybe 25 is still too high for that street we may need to look into it.

Council had no discussion at this time.

**ACTION ITEM: NA**

c) Finance Officer , absent
- Finance officer report as attached. Mayor Graupp reminds council to fill out the audit questionnaire and get it back in.

Council had no discussion.

**ACTION ITEM: NA**

d) Public Works
- Public Works report as attached and hopefully the new format addresses many of the councils questions and concerns. I am currently working with Kelly and Mayor Graupp to gather a list of essential tests and there due dates which I hope to have by the end of the year. Lockard reports that the leak at the park has been fixed; Councilor Sallee asks if there are any more leaks and Lockard states none known at this time. The DEQ paperwork for the recent spill has been finished and all requirements satisfied. Councilor Vleck asks how the Canby Herald found out about the situation and Lockard states that the reporter read our minutes posted online and he called DEQ for more information. Councilor Sallee asks if the TMDL report has been finished, Lockard no not quite yet it has been extended until January 2016. The reason I sent all of you the letter regarding street sweeping they would highly recommend that we get on some type of plan for that. There is a brief discussion regarding funding this would cost around

6400.00 a year for every other month. Council suggests maybe looking into a couple times a year during the worst of the winter months to clean up the leaves and debris. Lockard will look into this. It still could be for 6 times a year but more geared towards when it is needed.

**ACTION ITEM: Lockard to look into revising street sweeping proposal.**

e) Parks Committee
- Park report Lockard informs council that when we repaired the leak we put in for future hose bib. The canopy of trees will be trimmed in the next two weeks. The hazardous trees will again be done this next week.

Council discussed, NA

**ACTION ITEM: NA**

f) City Recorder
- Recorder report as attached mostly routine however Richardson informs council that a letter did go out to the property on 99E and they responded stating the structure was not a hazard in their opinion and requests we withdraw our letter.

Council discusses the letter from the Renues and decides to have City Attorney Koho continue to move forward.

**ACTION ITEM: Koho to move forward.**

Lockard is excused to go home at this time at Councilor Southards request.

g) City Attorney, absent
- City Attorney report Mayor Graupp informs the council that the Eddy property sale fell through the purchaser was not aware of the city demands and didn't want to continue. We still have our court date set for December 1 so everything is continuing to move forward on the foreclosure. The process will take approximately another six months following the court date. I have also asked Koho to work with the developers regarding the Orchard view estates so it is being addressed as well. We have found that the CCR's were done however the process was not completed. Councilor Vlcek states that as the process moves forward I may need to declare a conflict because my daughter owns one of the properties in Orchard view.

Council discussion NA

**ACTION ITEM: Follow up with planning.**

**7. ORDINANCES, RESOLUTIONS AND PROCLAMATIONS**

a) Resolution Number 703 A Resolution to Renew the Contract with SEDCOR Enterprise Zone Manager and setting an application fee.

Motion to approve Resolution Number 703 and renew contract with SEDCOR and establish a fee is made by Councilor Sahlin and is seconded by Councilor Vlcek. Ayes 4 Nays 1 Councilor Vlcek. Motion Passes.

**8. NEW BUSINESS**

a) NA

**9. OLD BUSINESS**

a) Discussion on EOP overview, Council would like to have City Recorder Richardson look into the process for updating the plan and making sure it is accurate.

Councilor Sallee asks where we are on filling or open positions and it is stated that we are still in the process of filling the vacant utility worker position but were close.

There is a brief discussion regarding the upcoming code revisions and clarification on previous intent and Councilor Sahlin states that the intent was not to be the style police for accessory structures. Anything less than 200 square feet didn't need a permit anything over did. Chair Schaefer asks Councilor Sahlin to attend the Planning Commission meeting in November to supply the historical data for the hearing.

**Action Item, place living color contract on the November agenda.**

**10. ADJOURN,**

Mayor Graupp adjourned the October 13, 2015 Council Meeting at 8:27 PM.

Let the record show that City Recorder Richardson states that at some point during the meeting the recorder battery went dead.

_____
Bill Graupp, Mayor

ATTEST:

_____
Kelly Richardson, CMC
City Recorder

**Minutes**
**Aurora Historic Review Board Meeting**
Thursday, October 22, 2015, at 7:00 P.M.
City Council Chambers, Aurora City Hall
21420 Main Street NE, Aurora, OR 97002

**STAFF PRESENT** Kelly Richardson, CMC City Recorder

**STAFF ABSENT:** None

**VISITORS PRESENT:** Jenny Ahn, Aurora

1. **CALL TO ORDER OF THE HISTORIC REVIEW BOARD MEETING**

   The meeting of October 22, 2015 was called to order by Chair Abernathy at 7:01 pm

2. **CITY RECORDER DOES ROLL CALL**
   Chair Gayle Abernathy – Present
   Member John Berard - Absent
   Member Mera Frochen – Present
   Member Mella Dee Fraser – Present
   Member Karen Townsend - Present

3. **CONSENT AGENDA**
   a) Historic Review Board Meeting Minutes – September, 2015 Chair Abernathy was absent, and in the second paragraph of Old Business it refers to member Townsend.
   b) City Council Minutes – September, 2015
   c) Planning Commission – September, 2015

   A motion to approve the Historic Review Board minutes of September 24, 2015 as amended was made by Member Townsend and is seconded by Member Frochen. Passed by all.

   Member Townsend would like their first name added for a better historical record of events.

4. **CORRESPONDENCE – NA**

5. **VISITORS**

   Anyone wishing to address the Historic Review Board concerning items not already on the meeting agenda may do so in this section. No decision or action will be made, but the Historic Review Board could look into the matter and provide some response in the future.
   No comments were made during this section.

   There were no visitors that spoke during this time.

## 6. NEW BUSINESS

a) Discussion and or Action on Sign Application for The Aurora Colony Grocery located at 21637 Hwy 99E. 2 new signs were presented by the applicant both wall signs. During the discussion the board agreed that the front façade would include both front angles therefore the 30x90 sign along with the 32x19 sign near the door would be in compliance with the code. As per code section 17.24.100 B 2, walls signs. Also for materials as they were both wood 17.24.070 and the white background and dark lettering was also consistent with the code.

A motion was made by Member Frochen to approve the sign application as presented and is seconded by Member Fraser. Motion passed by all.

## 7. OLD BUSINESS

a) Discussion and or Action on Historic Inventory specific categories. The board came up with these columns

1. Zone
2. Classification
3. Year Built
4. Special status, meaning Colony or Post Colony
5. Architectural style
6. Historic Registry status, this is the NR codes which are already there.
7. Height remove it will be in the big inventory.
8. Take off materials use this only in the big inventory

b) Discussion and or Action on CLG grant components and opportunities. Guidelines Discussion for printing purposes AMC Title 17 will be printed on blue paper. Design standards 17.40 on yellow and the guide and attachments are on white.

## 8. ADJOURN

**Chairman Abernathy adjourned the meeting of October 22, 2015 at 9:12 pm.**

Gayle Abernathy, Chairman

ATTEST:

Kelly Richardson, CMC
City Recorder

**CITY OF AURORA**
**PLANNING COMMISSION**

**STAFF REPORT:** Variance 2015-03 [VAR-15-03]

**DATE:** December 1, 2015

SUPPLEMENTAL MEMO FOR VAR-2015-03, Christ Lutheran Church

MARION COUNTY ASSESSORS

AURORA HISTORIC INVENTORY

Date of construction

Date of Demolition

Marion County, Oregon Property Records

Improvement Info



## Search Results for R97909

| Owner Name | Property ID Number |
|---|---|
| CHRIST LUTHERAN CHURCH | R97909 |
| **Owner Address** | **Situs Address** |
| 15029 2ND ST NE<br>AURORA, OR 97002 | 15029 2ND ST NE<br>AURORA, OR 97002 |
| **Alternate Account Number** | **Neighborhood** |
| 1-90160440 | NOCOGOOD - HUBB.G DONA.G DONA.A AURO.G AURO.A |
| **Map Tax Lot** | **Levy Code Area** |
| 041W12CD02600 | 01506065 - AURORA CITY & FD |

## 2016 Improvement Information (Unedited and Uncertified)

| ID | Type | Make/Model | Class | Area | Year Built Actual/Effective | Real Market Value |
|---|---|---|---|---|---|---|
| 1 | (CHURCH) PLACE OF WORSHIP | | | | | |
| 1.1 | (CHURCH) CHURCH | | | 5623 | 1952 | |
| 1.2 | (BSMTF) BASEMENT, FINISHED | | | 1643 | 1952 | |
| | | | | | TOTAL | $752,260 |
| | | | | | GRAND TOTAL | $752,260 |

INFORMATION SUBJECT TO DISCLAIMERS

If you have questions, comments, or suggestions regarding this site, please send e-mail to the Assessor@co.marion.or.us.





Exhibit A

# AURORA COLONY HISTORIC DISTRICT INVENTORY

RESOURCE #: 80

COUNTY: Marion

ADDRESS: 15029 2nd Street NE
(211 2nd Street)
Aurora, OR 97002

T4S R1W S12

ADDITION: Aurora

TAX LOT #: 90160-440

OWNER: Christ Lutheran Church

ADDRESS: 15029 2nd Street NE
Aurora, OR 97002

THEME: 19th Century Communal Religious Colony

CLASSIFICATION: Historic Non-Contributing (Secondary Significant)

HISTORIC NAME: Christ Evangelical Lutheran YEAR BUILT: 1903

ORIGINAL/PRESENT USE: Church/Church

RECORDERS: Philip Dole & Judith Rees DATE: January 1984

---

The 19,530-square foot property is located on the north side of Liberty Street and developed with the Christ Lutheran Church. The Church was extensively remodeled in the early 1950's when a large addition in the Builder's Tudor Revival style was added to the east side of the original building, built in 1903. The two-story building has a steeply pitched, gable roof with gable wings. The roof is sheathed with composition shingles and extends down to the first floor ceiling. The Church has horizontal clapboard siding, a poured concrete foundation, and a variety of windows, including leaded and stained glass. The entry is at the juncture of the new and old buildings on the south side adjacent to the bell tower, constructed of red raked brick. The original building has been extensively altered and only its basic form is recognizable. The Church is surrounded by a lawn and foundation plantings of broadleaf evergreen and coniferous shrubs.

Exhibit B

*AURORA NUMBER*

# THE OREGON LUTHERAN

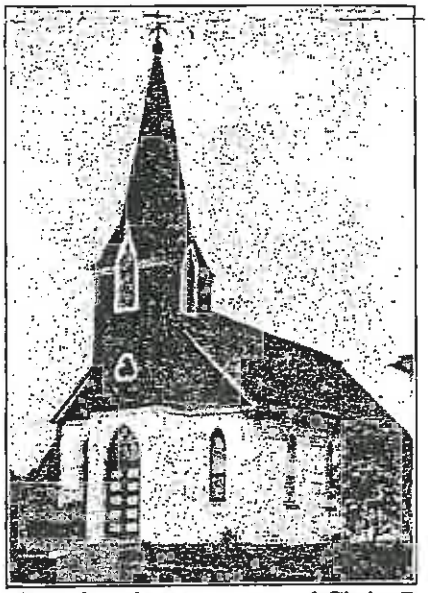
*"Speak Unto the People, That They Go Forward"*

VOL. 1. APRIL 1922 NO. 1.

## Let Us Go Forward

Luther Leaguers of Oregon! Now is the time when we must be bold and daring and fearless. Most of us do not become bold enough in our Christian life. We will imagine that the Christian life is as an ocean into which we are launched at the time when we solemnly determine to follow Christ. Now God wants us to get away from the shore and launch out into the deep. But most of us persist in keeping one foot on the shore. We refuse to trust God. Our faith is very weak. We are lukewarm. Let us hunt out the promises He has made and lay claim to them and then dare to trust Him. Be bold as a giant, and harmless as a dove. Do we hear the plaint that being too thoroughly a Christian will bring us persecution and suffering from the world? There is only ONE, who knows what real suffering is. We shall never be made to suffer. Has anyone ever spit in your face or pressed a crown of thorns upon your brow? Or will you ever have to hang uplifted before a jeering, mocking crowd? Suffering, indeed! We know not what it is! Forward, then, in His strength, in His Name, in His service; on to victory.

THEODORE KLINGSPORN,
President of the Willamette Valley Luther Leagues.



Rev. Wm. Schoeler, the new pastor of Christ Lutheran Church, Aurora, Oregon, will be installed April 2. He should add much strength to our Lutheran forces in Oregon. Aurora welcomes him and his family.

## A Prayer of Youth

"Men are wont to die, O Lord, of old age, because their natural warmth fails, and because there is excess of cold. Thus if it be Thy will, Thy servant would not die. He would rather die in the glow of love, even as Thou wert willing to die for him."—Raymund Lull.

"There in the East we dreamed the dreams of the things we hoped to do,
And here in the West-the Golden West-the dreams of the East came true."

## HISTORY OF CHRIST CONGREGATION, AURORA

"It is of the Lord's mercies that we are not consumed, for His compassions fail not." These words impress themselves powerfully upon our hearts when we examine the records wherein is contained the history of our little Aurora congregation, and awaken within us remembrance of the admonition, "Bless the Lord, O my soul, and forget not all His benefits."

In the early spring of 1899, Rev. Ernest Mack, Lutheran pastor of Oregon City, began missionary work in Aurora, which met with such good success that already on the 4th of June in the same year, a congregation could be organized with ten voting members. On the 18th of February, 1900, the new church was dedicated. The following pastors were present on that joyful occasion: J. F. Doescher, Geo. Finke, H. Wittrock, J. C. Schink, A. Eberle, and Ernest Mack.

After serving three years, Rev. Mack resigned to accept a call to Eastern Wash. His resignation was accepted with genuine regret. For a time the congregation was served by neighboring Joint Synod pastors. In May, 1902, Rev. Henry Flathman was unanimously called. He accepted and was soon thereafter installed.

On the 13th of October, 1903, the new parsonage was consecrated by the pastor and Rev. A. Krause.

The congregation, since its founding, had enjoyed a quiet and harmonious life, but in 1904 misunderstandings arose, and bitter, stormy strife supplanted the erstwhile harmony. It is not necessary to go into detail here, except, perhaps, to mention that in the fires of dissension there was moulded a sturdier understanding of Lutheran faith and Lutheran practice.

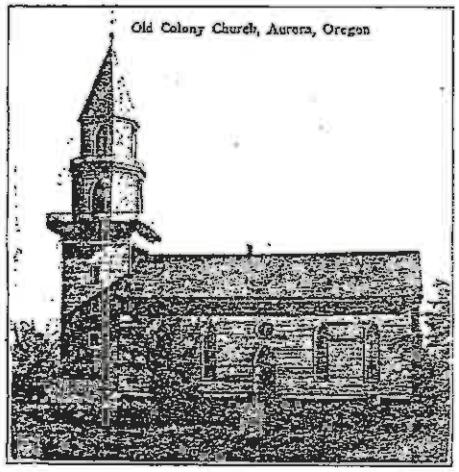
Rev. Flathman resigned in 1911 and was succeeded by Rev. A. F. W. Benzin, who served until 1915 and then followed a call to Ohio. Rev. Benzin, now sainted, is held in loving remembrance by members and townspeople alike.

Rev. H. Bruss was the next pastor; he labored earnestly in this field until 1920, when he resigned to retire from the active ministry. From May, 1920, until July, 1921, the congregation was vacant, but owing to the kindness of Rev. Geo. Koehler, of Salem, services were held regularly each month.

On the 17th of July, 1921, Field Missionary W. F. Schmidt arrived to take temporary charge. English services were introduced, the latent forces of the church organized, and gradually Christ congregation began to serve a greater part of the community than ever before.

At the January meeting, this year, acting on the advice of the Home Mission Board, the congregation called Rev. William Schoeler, of Reardon, Wash. He has accepted and will be installed April 2.

The future looks bright. People of Christ Church, let us go forward with true hearts to the work before us, willing to spend and be spent in Jesus' cause. In 1924 we, as a congregation, shall be able to look back upon a quarter of a century of existence. We can be self-supporting then, and surely we ought to be. Let us keep that aim ever before us.—**Henry Muessig.**



Old Colony Church, Aurora, Oregon

## OUR ORGANIZATIONS

**The Lutheran Service Society.** This is the organization usually known as the Ladies' Aid or Missionary Society. It meets monthly on the second Thursday afternoon. The following are the officer and committees: Mrs. Chas. Keil, president; Mrs. E. W. Hoffman, vice-president; Mrs. F. M. Keil, secretary, and Mrs. May Keil, treasurer; Mrs. Chas. Keil, Mrs. H. Pardey, Sr., and the pastor constitute the Executive Committee; Mrs. E. W. Hoffman, Mrs. J. Erbsland and Mrs. G. Nordhausen are the Ursula Cotta Committee; Mrs. Oscar Boland, Mrs. J. Rueck, Mrs. Olga Pardey, Mrs. Geo. Kraus and Mrs. May Keil are the Friendship Committee; Mrs. Otto Knorr, Miss Sidonia Nordhausen and Miss Georgia Kraus are the Altar Committee.

**The Luther League.** This live organization has its devotional meetings every Sunday evening at 7:30 o'clock, and its social meetings on the first Wednesday evening of each month. The following are the officers and committees: Mrs. Erica Boland, president; Geo. Pardey, vice-president; Hugo Keil, secretary; Carl Hoffman, treasurer, and Miss Sidonia Nordhausen, reporter. F. M. Keil, Mrs. Olga Pardey, Mrs. W. Schoeler and the pastor are the Raymund Lull Committee; Geo. Pardey, Carl Hoffman, Hugo Keil, Mrs. F. M. Keil and Mrs. H. Potter are the Social Committee; Mrs. May Keil, Henry Pardey, Miss Georgia Kraus, Oscar Boland and Miss Caroline Nordhausen are the Sunshine Committee. Mrs. Erica Boland is the League's representative on the Executive Committee of the Joint Luther Leagues of the Willamette Valley.

## HISTORIC AURORA TOWN

The town of Aurora was founded by a colony under the leadership of Dr. Wm. Keil, an itinerant Lutheran missionary from Pennsylvania. Seventy-five members of the colony who had come from Bethel, Mo., the original base, and had been living in the Willapa country in Washington, came to this spot in 1857, named it Aurora in honor of Dr. Keil's daughter, and proceeded to erect temporary dwellings, clear the land, and in general, make the necessary improvements for a permanent home.

In the following years immigrants from the Bethel colony began to arrive in Aurora in large numbers, some coming by way of the Isthmus of Panama, but most of them crossing the plains in the old-time prairie schooners.

In 1866 the Old Colony church was erected, which was a wonderful piece of mechanical work and a famous landmark for many years after the

colony had disbanded. The materials and fixtures were hand-made; numerous heavy pillars of turned woodwork, beautified the interior. The tower, holding three bells, was 114 feet high, with an observation space large enough to accommodate the colony band of sixty members. This imposing structure was razed in 1914.

The principles on which the colony was built were thoroughly Christian. The church was the center of the community's life. There were no rich and no poor, all the members dwelling together as brethren and having all things in common. Not a single record of divorce or of any kind of court proceedings can be found.

All wearing and practically all living necessities were manufactured by the colony and whenever individuals or families needed some particular article, they were at perfect liberty to get whatever was needed at the colony store. This liberty was never abused.

Students of this and other communistic enterprises are agreed that the Aurora colony was the most successful attempt of its kind in America.

After the death of Dr. Keil in 1877, the colony voluntarily disbanded and the property valued at more than a million dollars was equitably divided among the members. Final settlement was made in 1888 and so just was the distribution that there is no record of a single complaint as to its fairness. The surviving members delight to think and speak of the genuinely joyful days of "colony times."

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**The cuts** in this issue were kindly furnished by Mr. A. Kummer, genial engraver, of Portland, (St. Paul's Church). Muchas gracias.

**A new piano** for Christ Church, Salem, was recently purchased by the Ladies' Aid and Luther League of that congregation.

**Miss Ruth Schuman,** of Baker, Oregon, entered into the life triumphant in February after a long illness. She was a faithful member of First English Church.

**"The Passion Story** according to the Prophet Isaiah" was explained during the Lenten season at special services by Rev. L. Ludwig at St. John's Church, Portland.

**"The church** that ceases to be evangelistic will soon cease to be evangelical."

**The newly-introduced** English services at our Crabtree (Ore.) mission have met with a gratifying success. A Luther League will no doubt soon be organized among the many young people in this charge. The services are held in the Salt Lake School, five miles south of Crabtree by the Aurora pastor.

**Rev. J. M. Groschupf,** of Baker, has resigned to accept a call to Reardon, Wash. His successor has not yet been chosen.

**Mr. Gunther Krause,** a former student of Capital University and a graduate of Reed College and Columbia University (N. Y.), has completed his law course and is now in the offices of Wood, Montague and Matthiesen, Portland. He is a son of Rev. A. Krause.

**"Christ is either Lord** of all, or He is not Lord at all."

**When Rev. Schoeler comes** to Aurora he will find the spacious parsonage thoroughly renovated. Most of the work was done by the members. Aurora can boast of one of the finest small-town church properties in the district.

**Twelve catechumens** are under instruction and will be confirmed Pentecost by Rev. G. Koehler, Salem.

**"What we need** to discover in the social realm is the moral equivalent of war."

**Eastern Oregon** has only one English Lutheran Church. Surely, here is a field white unto the harvest. If you have Lutheran friends or relatives in an Eastern Oregon town where there is no Lutheran Church, send their names and addresses to the Field Missionary, W. F. Schmidt, Aurora, Oregon.

**Don't forget** the district meeting in Salem in June. Let us have a delegate from each Oregon congregation. But also remember, you need not be a delegate in order to attend. Visitors are welcome. These district meetings should not be only for the pastors.

**Assigned a quota** of $5,237 in the recent Lutheran World Service campaign, the Oregon Lutheran Churches raised only $1,388, or twenty-five per cent. Not at all good!

**The Luther League** of St. John's Church, Portland, is building up, bit by bit, a congregational library and already has the following volumes: Sunday School Work 11, Missionary 16, Fiction 18, History and Biography 10, Christian Life 10, Christian Doctrine 7, Hymnology 2. A fine example for other Leagues to follow.

**Our hats off** to the peerless William Jennings Bryan! He is willing, as Paul, to be a fool for Jesus' sake, in his stand against evolution, the petted heresy of the age. The universities and some pulpits will jeer at him, but Christ knows them that are His.

**Finally it has come** to this—the Ku Klux Klan has appeared on the scene in all its pillow-slipped solemnity as the preserver of Protestantism. Ring the glad bells, O ye people, for the nation and religion are saved!

**A layman** of Vancouver, B. C., has inquired concerning those men's missionary conferences that were talked of so enthusiastically about a year ago. He wants to attend the first one. What about that Oregon Men's Conference? Who knows?

**The young people** of Christ Church, Aurora, tendered their pastor, Rev. Schmidt, an enjoyable surprise on the evening of March 17, and presented him with a supply of "coin of the realm" as a farewell gift.

**"Let us stand** fast, but not stand still."

**If the many admirers** of Lois Catherine, the newly-arrived daughter of Rev. and Mrs. L. Ludwig, continue showering gifts upon her as they have been doing, said Lois may have some income tax obligations to meet. The most recent addition to her "estate" is a $35 donation toward her first automobile.

**The Luther League** of St. Paul's Church, Portland, is publishing a neat and interesting four-page monthly bulletin. Mr. Gerdan Roeder is the editor.

**The veteran Lutheran** pastor of Oregon is Rev. A. Krause, of Portland. He has been intimately and helpfully associated with the beginning of nearly every Joint Synod congregation in the state.

**Concerning Rev. Schoeler's** latest book, "To the Throne from the Sheepcotes," a pastor's wife says, "It is wonderful! I enjoyed it thoroughly from cover to cover."

**Now is the time** for all good Luther Leaguers to think of the annual convention. Where shall the convention be held this year. Aurora invites you again.

**Confirmation services** in Newberg and Sherwood will be held on Sunday, April 23. Rev. E. Berthold is the pastor.

**St. John's Congregation,** Portland, has purchased new building lots, corner Lombard and Burrage, less than half a block from two car lines—an ideal location.

**News from Cornelius,** Pendleton, Sherwood, Schubel, Fruitvale, and Newberg is scarce in this issue, because of the fact that our special leased wire service is not yet functioning very well in these directions.


1 SOUTH ELEVATION

SCALE: NTS

CHRIST LUTHERAN CHURCH
AURORA, OREGON
2015.0027.000

ARCHITECTURE COMMUNITY
363 State Street
Salem, OR 97301-3533
P: 503.581.4114
www.accoac.com


ENTRY TOWER COMPARISON
CHRIST LUTHERAN CHURCH
AURORA, OREGON

ARCHITECTURE
COMMUNITY
363 State Street
Salem, OR 97301-3533
P: 503.581.4114

NEW ENTRY TOWER AND SITE IMPROVEMENTS
CHRIST LUTHERAN CHURCH
AURORA, OREGON

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363 State Street
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P: 503.581.4114

Eight years ago, Multnomah, Washington and Clackamas counties, working with Metro, embarked on a nationally one-of-a-kind venture to map where growth would and would not occur over the next half century.

Fast forward to the present and not only isn't the process complete, but it's showing signs of coming apart at the seams.

The prime sticking point, due for consideration at a Thursday Metro hearing, is as old as Oregon's land-use system; namely, whether growth should be allowed south of the Willamette River at Wilsonville.

There are other issues snagging the process, as well, all of which have been endlessly mulled in legislative hearings, administrative decisions, court rulings and bills signed by the governor.

But obscuring all of these is one side arguing that the Willamette should be the Rubicon when it comes to river-jumping development and the other countering that nothing makes more sense than to go south in search of suitable employment lands.

"What is so special about this river?" said John Ludlow, chairman of the Clackamas County Board of Commissioners, where a majority of members is asking Metro to take a big step toward developing 600 acres of land on and around Langdon Farms Golf Club. "The playing field has changed and it's time to seriously consider what amounts to a very reasonable proposal."

Former Metro Councilor Carl Hosticka is among those who couldn't disagree more.

"The Willamette is a boundary that gives you some kind of delineation of what's appropriate over the long haul," he said. "Once you go across that river, they'll nickel and dime you to death until you've filled in the whole valley clear to Salem."

It's not lost on Hosticka that it was the early 1970s development of Wilsonville's Charbonneau district immediately south of the Willamette that rang alarm bells for many. The late Hector Macpherson, a Linn County dairy farmer, was among the first to react, helping introduce and push through Senate Bill 100.

That 1973 legislation, the first of its kind in the nation, required every Oregon city and county to prepare a comprehensive plan in accordance with a set of general state goals. Its aim was to protect farm and forestlands, while limiting areas where development could occur.

Ever since then, south of the Willamette has remained hands-off for new growth.

More recently, in 2007, Metro and the three counties tried to address the repeated delays in planning for development by getting legislative authorization to affix 50-year labels on closer-in lands most suitable for growth and those deemed as prime farming acreage.

The two-year effort to accomplish that was upended twice. First, in 2011, the state Land Conservation and Development Commission remanded parts of Metro's agreement with the counties, finding that parts of it were flawed. Once those were addressed and resubmitted, the Oregon Court of Appeals sent the plan back for further analysis after ruling that portions of each of the counties' maps contained errors.

## "What is so special about this river?" said John Ludlow, chairman of the Clackamas County Board of Commissioners

In Washington County's case, the Legislature, during a special session in February 2014, passed what became known as the land-use "grand bargain," giving the county's plan a stamp of legal authority. That left Multnomah and Clackamas counties with problems to address, but it's only in Clackamas County's case that the controversy, far from abating, has continued to grow.

Some now wonder, given Clackamas County's renewed efforts to erase the "rural reserves" classification originally placed on lands around Langdon Farms, whether the entire eight-year process could end up tearing itself apart.

"This would be a big change in the rules," said Tony Holt, president of the Charbonneau homeowners association and a long-time follower of the urban-rural reserves planning effort. "If Langdon Farms gets this change, why wouldn't every other landowner in the region be entitled to a fresh look at their property? Throw in the lawsuits that might result from any of those and this has the power to stick a dagger in the heart of everything that's been done to date."

Immediately south of Charbonneau, just across Southwest Miley Road, brothers Chris and Tom Maletis have owned Langdon Farms Golf Club since 2000. They've tried a number of times over the years to get their land redesignated from exclusive farm use and still insist that Clackamas County, as well as the entire region, would benefit from their current vision of a Nike-like business campus on some of their land.

The parcel is surrounded by busy roads, they say, and located less than a mile from Aurora Airport. And not only is Langdon Farms a pitching wedge away from Interstate 5, they add, but it's flat and more suited to easy and ready development than anything in the metro area.

"This represents the most valuable tangible asset that the state has right now," Chris Maletis said. "We're simply saying, leave us undesignated and see how the market responds."

Critics point out that the brothers have given nearly $60,000 in campaign contributions since 2008 to the four Clackamas County commissioners who voted 4-1 in August to remove the area's rural reserve classification. Of that, $25,000 went to Ludlow.

Maletis and Ludlow both brushed aside assertions that the campaign money helped sway the vote.

"I've given money to everyone, on both sides of the aisle, who at least bothered to come out here and see for themselves what this land has to offer," Maletis said. Responded Ludlow, "People give me money because they believe in what I have to say, not because I believe in what they have to say."

Jim Bernard, the lone commissioner who voted against the change, hasn't changed his mind.

"When they bought that land, they knew the restrictions," he said. "There has to be a line separating development from rural lands somewhere, and there's no better line than the Willamette River."

-- Dana Tims

dtims@oregonian.com

503-294-7647; @DanaTims

IN THE COURT OF APPEALS OF THE
STATE OF OREGON

Patricia ZIMMERMAN,
*Petitioner,*

*v.*

LAND CONSERVATION AND
DEVELOPMENT COMMISSION
and City of Scappoose,
*Respondents.*

Land Conservation and Development Commission
13UGB001829; A153856

Argued and submitted December 9, 2014.

Michael F. Sheehan argued the cause and filed the briefs for petitioner.

Stephanie L. Striffler, Assistant Attorney General, argued the cause for respondent Land Conservation and Development Commission. With her on the brief were Ellen F. Rosenblum, Attorney General, and Anna M. Joyce, Solicitor General.

Timothy V. Ramis argued the cause for respondent City of Scappoose. With him on the brief were Damien R. Hall and Jordan Ramis PC.

Before Sercombe, Presiding Judge, and Hadlock, Judge, and Tookey, Judge.

SERCOMBE, P. J.

Affirmed.

**SERCOMBE, P. J.**

Petitioner seeks review of a Land Conservation and Development Commission (LCDC or commission) order that upheld an approval by the Department of Land Conservation and Development (DLCD or department) director of a legislative amendment to the City of Scappoose's urban growth boundary (UGB). Petitioner contends that certain portions of the LCDC order that overruled her objections to the approval are "[u]nlawful in substance" under ORS 197.651(10)(a). Petitioner argues that, in sustaining the approval, LCDC improperly interpreted and applied statewide planning goals, along with other administrative rules, that require determination of an employment forecast and employment land need as part of the justification of a UGB change to add industrial and commercial land. We conclude that LCDC's interpretation of the rules is plausible, and that LCDC adequately explained both why the UGB amendment was justifiable under those rules and how it applied its own substantial evidence standard of review.[1] Accordingly, we affirm the order under review.

## I. THE LEGAL CONTEXT

This review proceeding arises in the following legal context. Under ORS 197.175(1), cities and counties must exercise their planning and zoning responsibilities in accordance with state land use statutes and special rules (goals) approved by LCDC. Those localities must also "[p]repare, adopt, amend and revise comprehensive plans in compliance with goals approved by [LCDC]." ORS 197.175(2)(a). One of those goals, Goal 14 (Urbanization), requires a city to adopt and maintain an urban growth boundary around its city limits "to provide land for urban development needs and to identify and separate urban and urbanizable land from rural land." OAR 660-015-0000(14). Establishment and change of a UGB must be based on a number of factors, including a "[d]emonstrated need for *** employment opportunities." *Id*. Under OAR 660-024-0040(5), in turn, the determination

[1] Petitioner also asserts that the LCDC order improperly applied the relevant rules in approving expansion of the boundary to add land for airport-related uses and that the commission erred in approving an incomplete inventory of land available for employment uses. We reject those contentions without discussion.

of that need "must comply with the applicable requirements of Goal 9 and OAR chapter 660, division 9, and must include a determination of the need for a short-term supply of land for employment uses consistent with [OAR] 660-009-0025."

Goal 9 (Economic Development) directs cities to "provide adequate opportunities throughout the state for a variety of economic activities." OAR 660-015-0000(9). It further provides:

> "Comprehensive plans for urban areas shall:
>
> "1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;
>
> "2. Contain policies concerning the economic development opportunities in the community;
>
> "3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;
>
> "4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses."

*Id.*; *see also* ORS 197.712(2) (codification of Goal 9 requirements for urban comprehensive plans). LCDC, in turn, has adopted rules, found at OAR chapter 660, division 9, to implement Goal 9 and ORS 197.712(2). One of those rules provides guidance on the content of an economic opportunities analysis (EOA). *See* OAR 660-009-0015.

Thus, in order to justify a UGB expansion to add employment land, a city must demonstrate under Goal 14 that the land is needed for economic opportunities, and, more specifically, must justify that need based on an EOA that is adopted under Goal 9 and its implementing rules.

Much of the dispute in this case concerns the interpretation and application of the EOA rule, OAR 660-009-0015. Under OAR 660-009-0015, as part of the justification for a comprehensive plan amendment, a city must compare the "demand for land for industrial and other employment uses to the existing supply of such land" through a "review

of national, state, regional, county, and local trends," identification of "site characteristics typical of expected uses[,]" "[i]nventory of [i]ndustrial and [o]ther [e]mployment lands," and "assessment of [the] community economic development potential." A city has some flexibility in the development of an EOA:

> "The effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. *A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.*"

OAR 660-009-0010(5) (emphasis added).

The issues in this case pertain to whether DLCD and LCDC correctly applied the OAR chapter 660, division 9, rules—and, in particular, OAR 660-009-0010(5)'s requirement that a city use the "best available" information in developing an EOA—as well as related rules implementing Goals 2 and 14 in determining that the city's comprehensive plan amendments and UGB change were consistent with the statewide planning goals.

## II. PROCEDURAL HISTORY

In early 2011, following three years of study and hearings, the city enacted an ordinance to amend its comprehensive plan and zoning code to add (1) a medium-growth population forecast; (2) an EOA; (3) an additional 380 acres of designated industrial and commercial land to the UGB (primarily to accommodate planned industrial growth for airport-related employment in addition to planned commercial growth); (4) a redesignation of some property from industrial to airport employment use; and (5) textual changes to the plan policies on economic growth, public facilities and services, the urban growth boundary, and general land use.

The adopted 2011 EOA was drafted by a private consultant and was based, in part, on information gathered by the consultant at the time of its initial preparation in 2008. That initial information was supplemented by

(1) information obtained by a city advisory committee and the planning commission in 2010 in making their recommendations to the council on the EOA and (2) evidence obtained by the city council during the hearings on the plan amendment ordinance.

The EOA report set out the rate of job growth in the city between 2003 and 2007 (prior to the economic recession), assumed a modest decline in employment in the urban area between 2008 and 2010 (during the recession), and then extrapolated from that employment base a robust projection of likely new employment between 2010 and 2030 (the planning period). That projection of future employment was calculated using a high annual growth rate of employment. That growth rate was, in turn, based on the report's analysis of national, state, regional, and local trends, and an assessment of the economic development potential created by the city's ability to provide land for businesses that either want to be near the Portland metropolitan area or need to be located near the Scappoose airport. LCDC summarized the city's conclusions on the need for employment land as follows:

> "The EOA justifies the potential for strong employment growth in Scappoose over the 20-year planning period as resulting from a number of factors, most notably Scappoose's locational advantage in relation to Portland and Hillsboro, the presence of the Scappoose Industrial Airpark and related aviation employers, and a documented shortage of certain types of industrial sites within the boundary of Metro. Record at 92-96. The city has identified an employment land need over the planning period, totaling 483 gross acres, based on an analysis of economic opportunities and the site needs of target industries deemed reasonable and appropriate to achieving the city's economic development objectives, and thus has justified deviating from a straight-line economic forecast based entirely upon historical employment trends. Of the 483 total gross acres, 269 acres is forecast as the industrial land need, 64 acres is forecast for office land need, 40 acres is forecast for retail commercial land need, and 110 acres is forecast for specialized land needs. Record at 98. The specialized land need includes 50 acres for an airport runway expansion, 40 acres of airport hangar space, and 20 acres for a proposed community college site."

In response to criticism by petitioner and others of some of the factual assumptions in the EOA, the city council approved changes to the report and adopted supplemental findings as part of the UGB amendment ordinance.

The UGB amendment ordinance, including the adopted EOA, was submitted by the city to DLCD for approval.[2] Petitioner and others filed written objections with the department. Using the processes set out in ORS 197.633(4) and OAR 660-025-0150, the DLCD director denied the objections and approved the UGB amendment ordinance. Petitioner appealed that approval to LCDC, identifying a number of asserted errors in the decision. LCDC affirmed the director's decision, entered findings on petitioner's claims of error, and approved the ordinance. Petitioner now seeks judicial review of LCDC's order.

## III. STANDARDS OF REVIEW

We begin by noting one of the difficulties in evaluating petitioner's contentions on review: Petitioner's assertions are not framed consistently with our standards of review for an LCDC order on a UGB change. A final LCDC order approving a UGB amendment "may be appealed to the Court of Appeals in the manner described in ORS 197.650 and 197.651." ORS 197.626(2). However, ORS 197.651(9)(b) provides that the court "[m]ay not substitute its judgment for that of [LCDC] as to an issue of fact." Indeed, pursuant to ORS 197.651(10), the court must reverse or remand the order only if the court finds it to be "[u]nlawful in substance or procedure," "[u]nconstitutional," or "[n]ot supported by substantial evidence in the whole record as to facts found by the commission." As we noted in *Barkers Five, LLC v. LCDC*, 261 Or App 259, 285 n 18, 323 P3d 368 (2014), the standard

[2] Under ORS 197.626(1)(b), a UGB amendment must be submitted to LCDC for review "in the manner provided for review for a work task." Under ORS 197.628, comprehensive plans and local land use regulations must be updated regularly ("periodic review") and those updates must be approved by LCDC under the procedures specified in ORS 197.633 and OAR chapter 660, division 25. Those procedures confer standing to "[p]ersons who participated orally or in writing in the local process," OAR 660-025-0140(2), to object to the plan and regulation submission. Objections are adjudicated and the submission is approved or denied by the DLCD director (or the submission is referred to LCDC for resolution). ORS 197.633(5). An approval may be appealed to LCDC by an objector. OAR 660-025-0150(6)(a).

of review of LCDC orders in ORS 197.651(10) is "substantively akin to our standard of review of Land Use Board of Appeals orders. *Compare* ORS 197.651(10) (standard for reviewing LCDC orders), *with* ORS 197.850(9) (standard for reviewing LUBA orders)."

The "unlawful in substance" review standard for LUBA orders under ORS 197.850(9)(a)—and, by analogy, for review of LCDC orders under ORS 197.651(10)—is for "a mistaken interpretation of the applicable law." *Mountain West Investment Corp. v. City of Silverton*, 175 Or App 556, 559, 30 P3d 420 (2001). In *Dimone v. City of Hillsboro*, 182 Or App 1, 6 n 5, 47 P3d 529 (2002), we explained that the "unlawful in substance" standard "is the functional equivalent of the 'erroneously interpreted a provision of law' standard in ORS 183.482(8)(a) that is applicable to our review of an order in a contested case issued by a state administrative agency."

We give deference, however, to LCDC's interpretation and application of its own rules. As set forth in *Barker's Five*:

> "We will defer to LCDC's 'plausible interpretation of its own rule[s], including an interpretation made in the course of applying the rule, if that interpretation is not inconsistent with the wording of the rule, its context, or any other source of law.' *DeLeon, Inc. v. DHS*, 220 Or App 542, 548, 188 P3d 354 (2008) (citing *Don't Waste Oregon Com. v. Energy Facility Siting*, 320 Or 132, 881 P2d 119 (1994)); *see also 1000 Friends of Oregon v. LCDC (Lane Co.)*, 305 Or 384, 390, 752 P2d 271 (1988) (explaining that the legislature's entrustment of an agency 'both with setting standards and with applying them can imply that the agency's view of its standards (assuming that they are within their authorizing law and consistently applied) is to be given some appropriate respect by the courts')."

261 Or App at 302-03.

Finally, "the focus of our review is on the issues presented on appeal that have been preserved before LCDC." *1000 Friends of Oregon v. LCDC*, 244 Or App 239, 268, 259 P3d 1021 (2011) (*1000 Friends of Oregon (McMinnville)*). Petitioner's claim that the LCDC order is "unlawful in substance" is limited to evaluating the legal correctness of

LCDC's resolution of her objections to the DLCD director's approval of the ordinance. We turn, then, to that evaluation.

## IV. LEGAL SUFFICIENCY OF THE LCDC ORDER

As noted, OAR 660-009-0015 requires cities and counties to adopt an EOA in their comprehensive plans to "compare the demand for land for industrial and other employment uses to the existing supply of such land," and to do that comparison through an evaluation of "national, state, regional, county and local trends," identification of "site characteristics typical of expected uses[,]" "[i]nventory of [i]ndustrial and [o]ther [e]mployment lands," and "assessment of community economic development potential."[3]

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[3] OAR 660-009-0015 provides, in part:

"Cities and counties must review and, as necessary, amend their comprehensive plans to provide economic opportunities analyses containing the information described in sections (1) to (4) of this rule. This analysis will compare the demand for land for industrial and other employment uses to the existing supply of such land.

"(1) Review of National, State, Regional, County and Local Trends. The economic opportunities analysis must identify the major categories of industrial or other employment uses that could reasonably be expected to locate or expand in the planning area based on information about national, state, regional, county or local trends. This review of trends is the principal basis for estimating future industrial and other employment uses as described in section (4) of this rule. A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use. Cities and counties are strongly encouraged to analyze trends and establish employment projections in a geographic area larger than the planning area and to determine the percentage of employment growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential pursuant to section (4) of this rule.

"(2) Identification of Required Site Types. The economic opportunities analysis must identify the number of sites by type reasonably expected to be needed to accommodate the expected employment growth based on the site characteristics typical of expected uses. Cities and counties are encouraged to examine existing firms in the planning area to identify the types of sites that may be needed for expansion. Industrial or other employment uses with compatible site characteristics may be grouped together into common site categories.

"(3) Inventory of Industrial and Other Employment Lands. Comprehensive plans for all areas within urban growth boundaries must include an inventory of vacant and developed lands within the planning area designated for industrial or other employment use.

"*****

"(4) Assessment of Community Economic Development Potential. The economic opportunities analysis must estimate the types and amounts of

In her first assignment of error, petitioner asserts that LCDC erred in approving the city's determinations in the EOA regarding future employment growth and the resulting need for additional land for employment uses. Petitioner contends that LCDC's approval order "violates OAR 660-009-0010(5)" ("A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division.") and Goal 2 (requiring "an adequate factual base" for land use decisions), and is lacking in substantial evidence (because various city findings are not supported by substantial evidence), more specifically because the order:

(1) Approved the city's use of stale information in the EOA (city job increases from 2003 to 2007 and assumed decline in employment between 2008 and 2010) to make findings about the city's 2010 job base (from which it extrapolated job growth through 2030), rather than more complete, current data that was presented at the hearings that showed actual job losses during the 2008 to 2011 recession and that, according to petitioner, more accurately determined the number of jobs in the city in 2010;

(2) Approved the EOA employment forecast based on limited "information about national, state, regional, county or local trends" under OAR 660-009-0015(1) (extrapolation of the city job growth rate from 2003

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industrial and other employment uses likely to occur in the planning area. The estimate must be based on information generated in response to sections (1) to (3) of this rule and must consider the planning area's economic advantages and disadvantages. Relevant economic advantages and disadvantages to be considered may include but are not limited to:

"(a) Location, size and buying power of markets;

"(b) Availability of transportation facilities for access and freight mobility;

"(c) Public facilities and public services;

"(d) Labor market factors;

"(e) Access to suppliers and utilities;

"(f) Necessary support services;

"(g) Limits on development due to federal and state environmental protection laws; and

"(h) Educational and technical training programs."

to 2007), rather than broader, tri-county data on long-term, historic growth rates that are a necessary component of trend analysis under the rule;

(3) Improperly concluded that the city's findings about its share of future, regional employment growth were supported by substantial evidence in the whole record and failed to require that the city coordinate those determinations with other jurisdictions as required by Goal 2; and,

(4) Erred in concluding that the city findings that additional land supply would attract job-creating businesses were supported by substantial evidence in the whole record.

Some aspects of those contentions can be quickly dispatched in light of our standards of review. As noted, we have a limited standard of review over LCDC's determinations about the sufficiency of the evidence to support the city's factual findings in the EOA about future employment growth, share of regional growth, and the effect of providing additional employment land. We do not review the sufficiency of the city record to support its factual findings to see if our conclusions in that regard match those of LCDC. To do so would run afoul of ORS 197.651(9)(b), which provides that the court "[m]ay not substitute its judgment for that of [LCDC] as to an issue of fact."

Instead, as noted, our review under the "unlawful in substance" standard is limited to determining "whether [LCDC] applied the correct legal test in deciding whether [the city's] decision is supported by substantial evidence." *1000 Friends of Oregon (McMinnville)*, 244 Or App at 267-68 (internal quotation marks omitted). We conclude that it did. LCDC determined that,

> "[o]n review, the commission considers whether the submittal is consistent with the applicable goals and administrative rules and is supported by substantial evidence. OAR 660-025-0160(2)(a) and (c). *** The Goal 2 requirement for an adequate factual base requires that a legislative land use decision be supported by substantial evidence. Substantial evidence exists to support a finding of fact when the record, viewed as a whole, would permit a

> reasonable person to make that finding. Where the evidence in the record is conflicting, if a reasonable person could reach the decision the city and county made in view of all the evidence in the record, the choice between conflicting evidence belongs to the local government. *** Where substantial evidence in the record supports the city and county's adopted findings concerning compliance with the Goals and the commission's administrative rules, the commission nevertheless must determine whether the findings lead to a correct conclusion under the Goals and rules."[4]

(Citations omitted.) Therefore, to the extent petitioner asks us, in her first assignment of error, to reexamine LCDC's assessment of the substantiality of the evidence to support the city's findings in its EOA, she ignores the applicable standards of review. The commission properly stated and applied the substantial evidence rule and, accordingly, its order was not "unlawful in substance" in that regard.[5] We

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[4] LCDC also correctly framed its standard of review over the reasoning adopted by the city in support of the UGB amendments. It determined that

> "[t]here is no statute, statewide planning goal or administrative rule that generally requires that legislative land use decisions be supported by findings. *Port of St. Helens v. City of Scappoose*, 58 Or LUBA 122, 132 (2008). However, there are instances where the applicable statutes, rules or ordinances require findings to show compliance with applicable criteria. In addition, where a statute, rule or ordinance requires a local government to consider certain things in making a decision, or to base its decision on an analysis, 'there must be enough in the way of findings or accessible material in the record of the legislative act to show that applicable criteria were applied and that required considerations were indeed considered.' *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P3d 956 (2002). Such findings serve the additional purpose of assuring that the commission does not substitute its judgment for that of the local government. *Id.; Naumes Properties, LLC v. City of Central Point*, 46 Or LUBA 304, 314 (2004)."

We add that, under ORS 197.633(3)(c), LCDC's review "[f]or issues concerning compliance with applicable laws, is whether the local government's decision on the whole complies with applicable statutes, statewide land use planning goals, administrative rules, the comprehensive plan, the regional framework plan, the functional plan and land use regulations."

[5] The first assignment of error suffers from another overarching deficiency. ORAP 5.45(3) requires an appellant to "identify precisely the legal, procedural, factual or other ruling that is being challenged." The assignment of error broadly claims various errors in LCDC's approval of portions of the EOA. But it fails to clearly identify and claim error in the particular rulings of the commission that resolved the objections raised by petitioner to the director's approval as required by *1000 Friends of Oregon (McMinnville)*, 244 Or App at 268. We will reframe the assignment of error accordingly and then assess whether the LCDC order was unlawful in substance in that particular.

turn, then, to the remaining issues raised by petitioner's challenges to LCDC's order.

1. *Whether LCDC erred under OAR 660-009-0010(5) and Goal 2 in approving the use of stale data by the city to compute the baseline employment for 2010 in the EOA*

So framed, this contention pertains to LCDC's resolution of petitioner's first objection to the director's approval. Before the director, petitioner complained about the city's use of 2003 to 2007 employment data, and an assumed moderate loss of jobs during the 2008 to 2010 recessionary period, to arrive at the number of jobs in the city in 2010. (The city applied an annual employment growth rate to that baseline employment level to arrive at the number of jobs and employment land needs in 2030, the end of the planning period.) Petitioner complained that other data submitted into the record showed the actual job losses in 2008 to 2010 as slightly more than assumed by the city in making the baseline employment projection for 2010 in the EOA. Petitioner argued that the city's failure to consider all of that evidence in the record meant that the EOA was not based on the "best available or readily collectable information" under OAR 660-009-0010(5).

The director concluded that the city did not need to analyze the new information in its adopted EOA, and could consider, as part of the adopted EOA, just the information available when the EOA was drafted: "A city is not required to restart its analysis each time new information becomes available. *** The city made reasonable conclusions based on data that was available at the time the study took place." Petitioner objected to those conclusions before LCDC, reasoning that they were (1) incorrect because the EOA was amended as a result of new evidence submitted in the public hearings by the project's consultant but not as a result of additional evidence submitted by opponents and (2) wrong because a local government is obliged to consider all of the evidence in the record in making its findings and conclusions to support a UGB change.

LCDC partially agreed with petitioner. The commission interpreted OAR 660-009-0010(5) to allow an EOA

to be based on information available or collectable at the time of the preparation of the analysis, and concluded that newer information would not "require the city to undertake multiple, shifting iterations of the same analysis as it moves through the planning and adoption process." More to the point, however, LCDC determined that,

> "[a]ssuming for the purposes of discussion that OAR 660-009-0010(5) or Goal 2 required the city to consider new employment data throughout the planning process, the standard would be whether the city reasonably relied on the employment data information in the record that formed the basis of its EOA, when viewing the record as a whole, including the new employment data that appellants cite. So long as the new employment data does not make it unreasonable for the city to rely on the employment data that it did, the choice between conflicting evidence is the city's. The appellants have not established and the commission does not find that a reasonable person could not have relied on the employment data the city used.
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> "*** The Scappoose EOA updated the base employment data by evaluating economic trends up to 2010 and current knowledge about economic activity in Scappoose during that time.
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> "*** The city did not ignore the testimony regarding new data, as is alleged. The council responded to the testimony in its deliberations, explaining why it did not choose to alter the base year for the assumptions within the EOA. *** In addition, the consultant that prepared the EOA for the city responded to testimony regarding this objection to the Columbia County Board of Commissioners as part of its deliberations."

(Citation omitted.)

On review, petitioner argues that LCDC erred in (1) interpreting the "best available or readily collectable information" in OAR 660-009-0010(5) to mean the information available at the time an EOA is prepared; (2) determining that a reasonable person could rely on hypothetical, rather than actual, employment counts for 2010 in making the findings adopted by the city; and (3) determining that the base employment data had been updated by the city based on 2007 to 2009 countywide economic trends when the basis for that update is not apparent in the EOA.

As earlier noted, we defer to LCDC's interpretation of its own rules if that interpretation is plausible in light of the rule's text and context and other sources of law. *Barker's Five*, 261 Or App at 302-03. To reiterate, OAR 660-009-0010(5) provides that

> "[t]he effort necessary to comply with OAR 660-009-0015 through 660-009-0030 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on national, state, regional, county, and local economic trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this division."

OAR 660-009-0015 to 660-009-0030 are a series of rules governing the content and justification for those portions of a comprehensive plan that implement Goal 9, including OAR 660-009-0015, the EOA rule.

LCDC's interpretation of "the best available or readily collectable information" in OAR 660-009-0010(5) is plausible. As noted, the commission concluded that the database used in connection with preparation of an EOA could be the information available at the time of preparation, so long as that information is not significantly undercut by evidence made part of the EOA adoption record. An EOA is drafted prior to the public hearings on its adoption, typically through a separate community visioning process. *See* OAR 660-009-0015(5) ("Cities and counties are strongly encouraged to assess community economic development potential through a visioning or some other public input based process in conjunction with state agencies."). Thus, "the best available or readily collectable information to respond to the requirements of this division" under OAR 660-009-0010(5), for purposes of preparation of an EOA, means the requirement of a prehearing formulation of the analysis in conjunction with that visioning process. LCDC did not err in concluding that the "best available or readily collectable information" for that requirement means the information available at the time of that formulation and visioning.

What is the "best available" information in the preparation of an EOA is a different question than whether

substantial evidence in the whole record supports particular employment land findings made to justify the UGB change. Petitioner's objections in that regard amount to assertions that the employment projection findings lack substantial evidence. However, LCDC properly stated the substantial evidence rule in determining those objections. It concluded that the employment projection findings may be based upon the EOA provided that the additional "employment data does not make it unreasonable for the city to rely on the employment data that it did[.]" Thus, we do not reach petitioner's objections about LCDC's application of the substantial evidence rule—that the information relied upon by the city to make those employment projections was insubstantial either because a reasonable person would not rely upon that information or because the information was not substantiated clearly. As noted earlier, resolution of those objections is not within our scope of review of the commission's order. *See 1000 Friends of Oregon (McMinnville)*, 244 Or App at 267-68.

2. *Whether LCDC erred in approving the city's use of employment growth during 2003 to 2007 in Scappoose as a relevant "local trend" in the preparation of the EOA under OAR 660-009-0015*

Before DLCD, petitioner asserted that the city's decision was legally defective because the future employment growth rate used by the city in the EOA to calculate the expected number of jobs in 2030 was based, in part, on employment growth in the city from 2003 to 2007. According to petitioner, that period of time was not a "bona-fide long term trend[,]" and, therefore, the EOA was inconsistent with OAR 660-009-0015(1). That rule requires that an EOA be "based on information about national, state, regional, county or local trends" and with Goal 2's requirement that land use decisions be based on an "adequate factual base." The director concluded that the EOA did contain information about trends and that the information was not "deficient." The director also noted that the "EOA does not base the employment projection solely on the historic period the objection alleges," but, instead, based the projected growth rate on other information and trends.

Petitioner disputed that determination before LCDC. She asserted that the other information relied upon by the city was incomplete or undocumented and insufficient to support the growth rate used by the city to calculate future employment. LCDC concluded that the city had, in fact, based its future growth rate on information in addition to the 2003 to 2007 employment growth rate and that all of that evidence was used "to compile an adequate factual basis" for the projected employment land need.

On review, petitioner contends that LCDC approved an "employment forecast based on short-term economic 'boom' years growth rates despite longer-term, historical trends and regional forecasts that are much lower[.]" Petitioner also asserts that the EOA did not contain sufficient evidence. We conclude that the LCDC's explanation of its reasoning was sufficient—the city did not base its adopted future employment growth rate solely on data from 2003 to 2007, and LCDC did not determine that that information alone was substantial evidence to support the growth rate finding. Moreover, petitioner's criticism of the quality and sufficiency of the evidence about employment growth rates in the EOA does not demonstrate that LCDC misunderstood its substantial evidence standard of review. Whether the city or LCDC could reach a different conclusion about the future rate of job growth in Scappoose is beside the point in light of our standard of review.

3. *Whether LCDC approved a decision based on Scappoose capturing an amount of regional employment growth that is not based on substantial evidence, and instead improperly relied on capturing employment growth planned to occur within other jurisdictions*

Before the director, petitioner asserted that the part of the EOA that projected that, because of its close location to the Portland metropolitan area and the likelihood of new jobs associated with an expanded Scappoose airport, the city would add new employment was inconsistent with the requirements of OAR 660-009-0010(5), OAR 660-009-0015(1), and Goal 2. Specifically, she contended that that part of the EOA did not comply with the "best available or

readily collectible information" requirement of OAR 660-009-0010(5), the requirement in OAR 660-009-0015(1) that a city is "strongly encouraged [in an EOA] to analyze trends and establish employment projections in a geographic area larger than the planning area," or Goal 2's requirements that a comprehensive plan be coordinated and supported by an "adequate factual base." She also argued that that part of the EOA was not supported by substantial evidence. The director concluded that the city's employment land need determination was based on an adequate factual base. Petitioner reiterated her objections before LCDC.

LCDC determined that the city did, in fact, partially base its employment land needs determination on employment projections from a larger, regional planning area, and that the determination was based on an adequate factual base. In particular, LCDC determined that "the city provided a rationale for its determination regarding the amount of regional employment growth the city will capture, noting Scappoose's location adjacent to the Portland Metro area, the lack of industrial lands supply in the Portland Metro area, and the strategic advantage of the Scappoose Airpark's location adjacent to the city." LCDC also noted the city's specific findings with respect to its "locational advantages adjacent to the Portland metropolitan area[,]" past employment growth rates in the city that exceed those within the Portland metropolitan area, a demonstrated shortage of industrial lands in the Portland metropolitan area "leading to increased demand for such sites in neighboring cities such as Scappoose[,]" projections that a significant amount of employment growth associated with the Portland area will occur outside the region's UGB, and with respect to the relatively small number of projected new jobs for Scappoose compared to the region as a whole. LCDC concluded that "such information and analysis constitutes substantial evidence to demonstrate why Scappoose would capture employment growth in the Portland region at a rate significantly greater than employment growth proportional to its population."

On review, petitioner asserts that LCDC erred in determining that the city's findings on its projected share of regional employment growth were supported by substantial

evidence and that the findings noted by the commission provide a sufficient "legal or factual justification for the City's chosen forecast." Petitioner argues that the findings cited by LCDC have less probative value than other evidence in the record and that, even if they show some capture of regional employment growth, they do not justify the extent of the city's projected share of that growth. As noted, in reviewing UGB amendment approvals by LCDC, we do not reevaluate whether a locality's findings are supported by substantial evidence. At bottom, petitioner's contentions about the sufficiency of the evidence to support the city's forecast of employment growth is nothing more than an argument that a reasonable person could not have made the factual conclusion that the city did about its future share of regional employment growth. Petitioner suggests that the evidence was too weak to overcome the assumption that the share would be in the future what it has been in the past. Petitioner did not explicitly argue below nor does she argue on review that LCDC should have remanded the boundary decision because the city misapplied the law in considering the evidence.

Put another way, petitioner does not argue that in deciding "the percentage of employment growth reasonably expected to be captured for the planning area based on the assessment of community economic development potential" in an EOA under OAR 660-009-0015(1), the city could not consider the facts identified by LCDC as relevant to "community economic development potential." As we understand it, petitioner's complaint goes not to the relevance, but to the sufficiency of the evidence to support the city's findings. That determination is one for the commission, not this court.

Petitioner also asserts that there is a "lack of Goal 2 coordination" in the city's determination of its share of future regional job growth. Goal 2 requires that "[e]ach plan and related implementation measure shall be coordinated with the plans of affected governmental units." OAR 660-015-0000(2). "Coordinated" is defined in ORS 197.015(5), which, in turn, provides that "[a] plan is 'coordinated' when the needs of all levels of governments, semipublic and private

agencies and the citizens of Oregon have been considered and accommodated as much as possible."

In her objections to the DLCD approval, petitioner does not specifically advance a Goal 2 contention, but does "restate all of [the arguments raised in her objections to the department] in support of this appeal." In those objections below, petitioner asserted:

> "LUBA has held that if a city located outside the Metro UGB wishes to plan to capture growth currently anticipated to occur within the Metro UGB, then it must specifically coordinate that desire with Metro and the affected units of government within the Metro UGB. *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372[, *aff'd*, 130 Or App 406, 882 P2d 1130] (1994)."

In *City of North Plains*, LUBA determined that, within Metro's planning area, when a city expanded its urban growth boundary for employment uses already planned to be accommodated within the Metro UGB, the city must "coordinate its expanded UGB plan with Metro and other affected units of government or *** attempt to justify the enlargement of its UGB without relying on growth anticipated to occur within the Metro UGB." *City of North Plains*, 27 Or LUBA at 385.

Petitioner's objection to the agency order under Goal 2 is insufficiently developed for review. Petitioner does not explain what plan of a governmental unit is "affected" by the city's analysis of its share of the employment growth expected to occur outside of the UGB of Portland-area cities, so as to arguably require coordination under Goal 2. The Goal 2 coordination principle articulated by LUBA in the *City of North Plains* case, even assuming that we would agree with that holding, is inapposite. Here, in the EOA analysis of capturing regional employment growth, the city noted that it could "easily" capture a small percentage of the employment growth projected by Metro to occur outside its UGB. The city did not seek to capture growth planned to occur within the Metro UGB and associated with the cities within that boundary, as was the case in *City of North Plains*. Petitioner points to no text in Goal 2, or in rules that implement that or other goals, that require the city to coordinate its EOA

employment growth projections for areas outside of its UGB with another city's planned growth located elsewhere and inside of a UGB.[6]

LCDC concluded that the city had coordinated the UGB amendment with Columbia County under the cooperative process required by Goal 14. OAR 660-015-0000(14) ("Establishment and change of urban growth boundaries shall be a cooperative process among cities, counties and, where applicable, regional governments."). Petitioner advances no legal basis for any further coordination requirement. Accordingly, we conclude that LCDC's determination of Goal 2 compliance was legally sufficient.

4. *Whether the city assumed the proposed UGB expansion will cause a substantial increase in population growth, beyond historical trends*

Before DLCD, petitioner argued that it was unlawful for the city to base its projected employment growth, in part, on "increased employment opportunities near the airport as a result of the proposed UGB expansion." Petitioner claimed that the lack of development of existing industrial parcels near the airport undercut the city's assumption that an additional supply of vacant parcels would be a catalyst for future development. The director determined that it was lawful to plan for greater employment and employment land need than would be indicated simply by extrapolating from prior employment growth and land development. The city could do so by following the Goal 9 rule, by "identify[ing] opportunities, determin[ing] the types and characteristics of sites needed to attract employers, estimat[ing] at least an adequate number of sites, and *** accommodat[ing] the needed number of suitable sites for the 20-year planning period." Petitioner reiterated her objection before LCDC, suggesting that it was circular reasoning to justify bringing additional employment land into the boundary solely to induce new employment, and that the need determination requires more particular justification.

[6] In fact, the applicable rule suggests that any coordination is not mandatory. OAR 660-009-0030 provides that localities are "strongly encouraged to coordinate" their economic opportunities analysis with other jurisdictions.

LCDC agreed. It concluded that the city could plan for more employment land than needed based on historic trends, but explained that the additional employment land need must be separately justified under the goals and rules:

> "The city's *intention* is to deviate from the historic trend by providing more employment for its citizens, a policy choice that is consistent with Goal 9 and its implementing rules. *See* Economics Policy 4; Record at 142. As stated in the response to Objections 2 and 3 [involving the application of OAR 660-009-0015, the EOA rule], Scappoose has provided an evidentiary background that supports the feasibility of such a policy."

(Emphasis in original.)

On review, petitioner contends that LCDC did not address her objection that "'increased employment opportunities near the airport as a result of the proposed UGB expansion' is not a valid reason for concluding that rapid future growth is reasonable or feasible." We disagree. LCDC plainly concluded that the city could—and did—justify adding new industrial land through the process ordained by the Goal 9 rule. As noted, OAR 660-009-0015(1) allows a determination of employment land needs based on locational factors, such as proximity to an expanding regional airport: "A use or category of use could reasonably be expected to expand or locate in the planning area if the area possesses the appropriate locational factors for the use or category of use." LCDC committed no error in concluding that petitioner's contention was consistent with applicable law.

5. *Whether, by approving a UGB based on an employment forecast that is significantly inconsistent with the adopted population forecast, LCDC's order violated OAR 660-024-0040(1), OAR 660-024-0040(5), Goal 14, Goal 2 (adequate factual base), and lacked substantial evidence in the whole record*

In her objections to the director, petitioner argued that the EOA violated *former* OAR 660-024-0040(1).[7] That rule provided:

[7] OAR 660-024-0040(1) was amended after the board issued its order in this case. We refer to the regulation as it appeared at the time that the action was before the board.

> "The UGB must be based on the adopted 20-year population forecast for the urban area as described in OAR 660-024-0030, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision."

OAR 660-024-0040(5) further states:

> "Employment land need may be based on an estimate of job growth over the planning period; local government must provide a reasonable justification for the job growth estimate but Goal 14 does not require that job growth estimates necessarily be proportional to population growth."

Petitioner argued that the 20-year population forecast for the city was a population of 10,022, an increase of 3,342 persons from the 2010 population of 6,680 persons. The EOA, nonetheless, predicted a 2030 job total of 10,492, an increase of 8,067 jobs from the 2010 total of 2,425 jobs. Petitioner claimed that the job-per-resident ratio for 2030 in the EOA was improbably high as compared with the historic ratio in the city and with the current ratio in the Portland metropolitan area, and that the UGB was not "based on the adopted 20-year population forecast" because that population would not yield the jobs and employment land claimed to be needed.

The director denied petitioner's objection:

> "This objection contends the employment forecast in the EOA is inconsistent with the city's adopted population forecast because the rates of increase are considerably different and the resulting jobs-per-resident ratio is uncommonly high. The objector contends this violates OAR 660-0024-0040(1) and Goal 2. As previously indicated, the city does not use the employment forecast as a sole determinant of need. As made clear in OAR 660-024-0040(5), proportionality is not required. The record includes an explanation of why the two forecasts are not parallel. Record at 359-362. The department finds this analysis adequate in light of not holding the city to an unreasonably high expectation

> regarding precision when the employment forecast wasn't the sole basis for determining land need."

(Footnotes omitted.) Petitioner argued to LCDC that "the justification for the divergence of the employment forecast from the adopted population forecast for Scappoose is very thin and lacks credibility while at the same time the divergence between the employment and jobs forecast is very large, requiring an especially clear and credible explanation."

LCDC concluded that proportionality between population and job growth forecasts is not required by OAR 660-024-0040(5), and that

> "[t]he city has documented the reasons why the population and economic forecasts are not parallel. Record at 359-363.[8] In addition to the rationale described in the response to Objections 2 through 4 above [projecting a high employment growth rate for the city because jobs will be filled by persons who reside in the Portland metropolitan area and the city will continue to experience a high employment growth rate based on past history, and that property will develop because of expansion of the Scappoose Airpark and because the Portland metropolitan area lacks comparable industrial land sites], the record demonstrates that employment in the city is tied to the Portland metropolitan region as much as it is to Columbia County, and that the EOA has taken account of the multiplier effect that employment in certain industries has regarding additional employment creation."

In her second assignment of error, petitioner reiterates her argument made to the director and LCDC, contending that the discrepancy between the city's adopted job-per-resident ratio for 2030 and the historic ratio in the city required a stronger justification than was provided by the city in the EOA. Petitioner does not contend that the

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[8] The record cite refers to a March 1, 2011, letter from the city's planning consultant to the city. The letter examines the commuting patterns of workers in Scappoose and Columbia County, and concludes that most Scappoose workers commute to jobs outside Columbia County, and that the EOA projects that this will change because of a "transition of Scappoose from functioning as a bedroom community to a more self-sufficient employment center, providing jobs for local residents and the surrounding area." The letter also explains how the increased employment projection is largely tied to job increases in aviation manufacturing and the likely multiplier effect of that job increase on related employment.

rationale provided by the city, and accepted by LCDC, was legally defective under OAR 660-024-0040(1); that is, she does not assert that, as a matter of law, the city could not project that most of its future residents would be employed locally or that job growth for city residents and nonresidents could not be pegged to uses connected to the airport and related uses. Those considerations are plainly relevant to the projected job growth. We conclude that petitioner is concerned with the persuasiveness of the city's rationale. That determination is one for the city to make. LCDC correctly concluded that the city's justification was consistent with the applicable goals and rules.[9]

## V. CONCLUSION

We conclude that the LCDC order is not "unlawful in substance." Based on LCDC's correct articulation of its own substantial evidence standard of review and the manner in which it applied that standard, we conclude that LCDC properly understood its substantial evidence standard of review. We also conclude, applying the rule of deference noted earlier, that LCDC correctly applied the statewide planning goals and its rules implementing those goals to the city's UGB amendment decision. Finally, we conclude that LCDC adequately explained its determination of petitioner's objections sufficiently to allow us to examine its order for legal sufficiency.

Affirmed.

[9] As noted, we reject without further discussion petitioner's substantial evidence challenges to the city's findings on projected employment in residential areas (third assignment of error), need for additional land for an airport runway and hangar expansion (fourth assignment of error), and the development potential for a parcel not included in the city's inventory of industrial land (fifth assignment of error).

From: Wakeley, Renata [renatac@mwvcog.org]
Sent: Tuesday, November 24, 2015 2:49 PM
To: recorder; Joseph Schaefer
Subject: code updates
Attachments: 16.14 Commercial_accessory structures_12.1.15 update with PC.doc; 16.36 Manufactured Home Regulations_12.1.15 update with PC.docx; 16.42parking_12.1.15 update with PC.doc

Kelly- Please provide the email below and the attachments in the December 1, 2015 Planning Commission packets.

Planning Commissioners,

At the November 10th City Council meeting, the City Council held a public hearing and reviewed the recommended development code updates from the Planning Commission (Legislative Amendment 2015-02) related to marijuana retailing and processing; accessory structures in the Commercial zone; and RV storage in Residential zones. The City Council provided feedback to staff and requested slight alterations to the recommended code updates related to accessory structures in the Commercial zone and RV storage.

Based upon feedback from the City Council at their November meeting, staff has provided slight revisions to these sections in the attached for Planning Commission review and comment.

Renata Wakeley, Community Development Director Mid-Willamette Valley Council of Governments
100 High Street SE, Suite 200
Salem, OR 97301
(ph) 503-540-1618
(fx) 503-588-6094

Chapter 16.14

C COMMERCIAL ZONE

Sections:



16.14.010 Purpose.

The commercial zone (C) is intended to provide areas for retail and service commercial uses. (Ord. 415 § 7.60.010, 2002)

16.14.020 Permitted uses.

In the commercial zone, except as specifically stated in Section 16.14.050 activities shall be conducted within an enclosed building or structure and are subject to site development review, Chapter 16.58. Only the following uses and their accessory uses are permitted outright:

1. Auction house, auditorium, exhibit hall, community building, club, lodge hall, fraternal organization or church;
2. Bed and breakfast inn, hotel or motel;
3. Bicycle sales or repair;
4. Cultural exhibits and library services;
5. Day care facility licensed by state;
6. Dwelling units located on the second floor of the commercial structure;
7. Eating and drinking establishments;
8. Financial, insurance and real estate offices;
9. General retail and convenience sales, except adult bookstores;
10. Indoor and outdoor recreation and entertainment facilities, except adult entertainment or adult motion picture theaters;
11. Laundry or dry cleaning establishments;
12. Medical or dental services including labs;
13. Mini storage, with or without a caretaker dwelling;
14. Minor impact utilities;
15. Motor vehicle, farm implement, boat or trailer rental, sales or services including body repairs when repairs are conducted wholly within an enclosed structure;
16. Mortuary, funeral home, crematorium or taxidermy;
17. Nurseries, greenhouses, and landscaping supplies not requiring outside storage for items other than plant materials including wholesale or retail, excluding uses related to medical or recreational marijuana;
18. Parking structure or lot or storage garage;
19. Printing or publishing plant;
20. Professional and administrative offices;
21. Public safety and support facilities;

22. Public transportation passenger terminal or taxi stand;

23. Repair services for household and personal items, excluding motorized vehicles;

24. Sales, grooming and veterinary offices or animal hospitals without outside pens or noise beyond property line;

25. Schools;

26. Service station, retail vehicle fuel sales or car wash when not located adjacent to a residential zone.

27. Single-family residence, provided it is an accessory use and cannot be sold separately;

28. Studios, including art, photography, dance, and music. (Ord. 415 § 7.60.020, 2002)

16.14.030 Conditional uses.

The following uses and their accessory uses may be permitted when authorized by the planning commission in accordance with the requirements of Chapter 16.60, other relevant sections of this title and any conditions imposed by the planning commission:

A. Adult bookstore, adult entertainment or adult motion picture theaters, provided no sales area or activity is ever visible from the building exterior, all building setbacks shall be a minimum of thirty-five (35) feet from any property line and shall be screened and buffered in accordance with Section 16.38.040. In addition, location shall be at least one thousand five hundred (1,500) feet, measured in a straight line, from any of the following:

1. Residential district,
2. Public or private nursery, preschool, elementary, junior, middle or high school,
3. Day care facility, nursery school, convalescent home, home for the aged, resident care facility or hospital,
4. Public library,
5. Community recreation,
6. Church,
7. Historic district or historic structure;

B. Home occupations (Type II) subject to Chapter 16.46;

C. Major impact utilities, including telecommunications facilities subject to Chapter 16.50, provided that a ten (10) foot perimeter setback containing both externally visible landscaping meeting buffering standards and solid screening surrounds the property;

D. Retail or wholesale business with not more than fifty (50) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly associated with the retail business conducted on the premises, excluding products related to medical or recreational marijuana; (Ord. 478, 2015)

E. On lots that do not abut a residential zone, retail or wholesale business with not more than seventy-five (75) percent of the floor area used for the manufacturing, processing or compounding of products in a manner which is clearly associated with the retail business conducted on the premises; (Ord. 478, 2015)

F. Wholesaling, storage and distribution. (Ord. 415 § 7.60.030, 2002)

G. Medical marijuana dispensaries (MMD) and commercial marijuana retail stores, subject to the following standards:

1. Buffers which shall only be measured at the initial land use application and not subsequent annual renewals:

a. Elementary, middle or high school, public or private: 1000 feet

b. Day care: 1000 feet
c. Other marijuana businesses: 1000 feet
d. May not be adjacent to a residential zone, a public park, or a church.

2. The use must be located within a permanent, enclosed structure.
3. The use may not be allowed as a home occupation.
4. Applicant and all employees must pass a criminal background check.
5. The term of a conditional use approval may not exceed one year.
6. Waste materials containing any amount of marijuana or by products must be locked in a secure container on-site.
7. Hours of operation are limited to 10 am to 5 pm.
8. Drive through windows are prohibited.

16.14.040 Development standards.

A. There is no minimum size for lots or parcels served by municipal sewer. Minimum lot sizes for lots or parcels without municipal sewer shall be as determined by the county sanitarian.

B. There is no minimum lot width or depth.

C. Unless otherwise specified, the minimum setback requirements are as follows:

1. There is no minimum front yard setback except as required for buffering of off street parking in accordance with Section 16.38.050;

2. On corner lots and the rear of through lots the minimum setback for the side facing the street shall be ten (10) feet;

3. No side or rear yard setback shall be required except twenty (20) feet screened and buffered in accordance with Chapter 16.38 shall be required where abutting a residential zoning district;

D. No building shall exceed forty-five (45) feet in height. Within one hundred (100) feet of a residential zone, no building shall exceed thirty-five (35) feet in height. All buildings greater than thirty-five (35) feet in height are subject to Chapter 16.24.

E. Parking shall be in accordance with Chapter 16.42.

F. Landscaping shall be in accordance with Chapter 16.38.

G. Doors and windows may not be covered with security grates.

H. All properties located outside the designated historic commercial overlay and the historic residential overlay and adjacent to Highway 99 or Ehlen Road shall be collectively referenced as "gateway properties." The standards of Chapter 16.56 shall apply to all aspects of the site including, but not limited to, structural facade, yard and landscaping that are immediately adjacent to and visible from Highway 99 or Ehlen Road.

I. Additional requirements shall include any applicable section of this title. (Ord. 415 § 7.60.040, 2002)

J. All building additions and accessory structures shall be consistent in appearance with adjacent structures with regard to color, setbacks, style, and overall proportions.

K. Mobile storage units shall not be used for storage or other uses unless they are modified with doors, siding and rooflines consistent in appearance with adjacent structures.

16.14.050 Open inventory display.

A. All business, service, repair, processing, storage or merchandise displays shall be conducted wholly within an enclosed building except for the following:

1. Off-street parking or loading;

2. Drive-through windows;

3. Display, for resale purposes, of large on road vehicles which could not be reasonably displayed wholly within a building; specifically automobiles, boats, logging equipment, farm machinery, heavy machinery and trucks. Such displays shall be limited to a maximum of five vehicles which shall be movable at all times and cannot be deemed as discarded or dismantled. All vehicles displayed for sale must be located on a paved surface;

4. Displays for resale purposes of small merchandise which shall be removed to the interior of the business after business hours;

5. Display, for resale purposes, of live trees, shrubs and other plants.

6. Outdoor seating in relation to permitted eating or drinking establishment subject to 16.34.060.D.

B. All open inventory displays shall be maintained, kept clean, and be situated in conformance with all applicable city ordinances. (Ord. 464, 2011; Ord. 415 § 7.60.050, 2002)

**Chapter 16.36**

**MANUFACTURED HOME REGULATIONS**

**Sections:**



**16.36.010 Purpose.**

The purpose of this chapter is to establish criteria for the placement of manufactured homes in manufactured home parks or on individual building lots within the city, to provide standards for development of recreational vehicle parks and allow the temporary use of a manufactured home under certain circumstances.
(Ord. 415 § 7.94.010, 2002)

**16.36.020 Definitions.**

As used in this chapter:

"Anchoring system" means an approved system of straps, tables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured home.

"Approved" means acceptable to the city and meeting all current federal, state, or local building and installation codes.

"Driveway" means a private road giving access from access way to a manufactured home space.

"Foundation siding/skirting" means a type of wainscoting constructed of fire and weather resistant material, such as aluminum, treated pressed wood or other approved materials, enclosing the entire under carriage of the manufactured home in a fashion consistent with adjoining areas.

"Manufactured Housing Construction and Safety Standards Code" means Code VI of the Housing and Community Development Act (42 U.S.C. 5401 et sequential), as amended (previously known as the Federal Mobile Home Construction and Safety Act), rules and regulations adopted thereunder (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U.S. Department of Housing and Urban Development pursuant to HUD Rules) and regulations and interpretations of such Code by the Oregon Department of Commerce; all of which became effective for manufactured home construction on June 15, 1976.

"Manufactured home space" means a plot of ground within a manufactured home park designed for the accommodation of one manufactured home.

"Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

"Permanent perimeter enclosure" means a permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground.

"Permanent foundation" means a structure system approved by the city and following the standards set by the Oregon Department of Commerce, for transposing loads from a structure to the earth. Standards subject to additional conditions set in each manufactured home classification.

"Section" means a unit of a manufactured home at least ten (10) body feet in width and thirty (30) body feet in length.

"Support system" means a pad or a combination of footings piers, caps, plates and shims, which, when properly installed, support the manufactured home.

"Vehicular way" means an unobstructed way of specified width containing a drive or roadway which provides vehicular access within a

manufactured home park and connects to a public street.
(Ord. 415 § 7.94.020, 2002)

**16.36.030 Manufactured homes outside manufactured home parks.**

A. It is unlawful to be occupy, live in, use as an accessory structure, or store any manufactured home within the city, unless it is complies with subsection B of this section.

B. The siting of manufactured homes outside of manufactured home parks shall comply with the following regulations:

1. Dimensions. The manufactured home shall be assembled from not less than two major structural sections, and shall contain a liveable floor area of not less than one thousand (1,000) square feet.

2. Hauling Mechanisms. Hauling mechanisms including wheels, axles, hitch and lights assembly shall be removed in conjunction with installation.

3. Foundation. The manufactured home shall be permanently affixed to an excavated and backfilled foundation and enclosed at the perimeter with cement, concrete block or other materials as approved by the building inspector, such that the manufactured home is not more than twelve (12) inches above grade; if the lot is a sloping lot, then the uphill side of the foundation shall be not more than twelve (12) inches above grade.

4. Roof. The manufactured home shall have a minimum nominal roof pitch of at least three feet in height for each twelve (12) feet in width, as measured from the ridge line. The roof shall be covered with shingles, shakes, or tile similar to that found on immediately surrounding single-family dwellings. Eaves from the roof shall extend at least six inches from the intersection of the roof and the exterior walls. The determination of roof covering comparability shall be made by the building inspector.

5. Exterior Finish. The manufactured home shall have exterior siding which in color, material and appearance is comparable to the predominant exterior siding materials found on surrounding dwellings. The determination of comparability shall be made by the building inspector.

6. Weatherization. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting the performance standards required of single-family dwelling construction under the Oregon Building Code, as defined in ORS 455.010.

7. Off-Street Parking. A garage or carport constructed of like materials consistent with the predominate construction of immediately surrounding dwellings and sided, roofed and finished to match the exterior of the manufactured home is required.

8. Architectural Design. The manufactured home shall utilize at least two of the following design features to provide visual relief along the street frontage of the home:

a. Dormers;
b. Recessed entries;
c. Cupolas;
d. Bay or bow windows;
e. Gables;
f. Covered porch entries;
g. Pillars or posts;
h. Eaves (minimum six inch projection); or
i. Off-sets on building face or roof (minimum sixteen (16) inches).

C. Historic Districts. Manufactured homes shall be prohibited within, or adjacent to, or across a public right-of-way from a historic site, landmark or structure.
(Ord. 419 § 16, 2002: Ord. 415 § 7.94.030, 2002)

**16.36.040 Manufactured home park standards.**

A. Design of the proposed enlargement, alteration or creation of a home park manufactured home park shall be submitted to

the Planning Commission for review. The review shall be conducted in accordance with Chapter 16.58.

B. The design for the manufactured home park shall conform to all applicable state standards established by the state of Oregon, Department of Commercial Mobile Home park standards.

C. The minimum acreage for a manufactured home park shall be one acre with a minimum frontage of one hundred (100) feet and minimum depth of one hundred fifty (150) feet.

D. The maximum density for a manufactured home park shall be 10.89 units per acre.

E. The front and rear yard setback shall be twenty (20) feet and side yard setback shall be ten (10) feet, except on a corner lot the street side yards shall be twenty (20) feet.

F. The minimum area for a manufactured home space within a park shall be two thousand five hundred (2,500) square feet at a density of no more than eight manufactured homes per acre. No space shall be less than thirty (30) feet in width or less than forty (40) feet in length.

G. For each manufactured home space, one hundred (100) square feet shall be provided for a recreational play area, group or community activities. No recreational area shall be less than two thousand five hundred (2,500) square feet.

H. Primary access to the park shall be from a public street. Where necessary, additional street right-of-way shall be dedicated to the city to maintain adequate traffic circulation. Primary access shall have a width of not less than thirty (30) feet and shall be paved.

I. Vehicular ways shall be paved with an asphaltic material or concrete, a minimum of thirty (30) feet in width with on-street parking and a minimum of twenty (20) feet in width with no on-street parking, and shall be minimally constructed with four inches of one and one-half minus base rock, two inches of three-fourths-inch minus topped with two inches of asphalt concrete. Vehicular ways shall be named and marked with signs which are similar in appearance to those used to identify public streets, and a map of the vehicular ways shall be provided to the fire district, the police department and the public works department.

J. Walkways shall connect each manufactured home to its driveway. All walks must be concrete, well-drained, and not less than thirty-six (36) inches in width.

K. Lighting for the manufactured home park shall average .25 horizontal candlepower of light the full length of all roadways and walks within the park.

L. Driveways shall be asphalt or concrete, not less than four inches deep or two inches of asphalt on four inches of three-fourths-inch minus gravel. Driveways shall begin at a vehicular way and extend into the individual space in a manner to provide parking for at least two vehicles. When the vehicular way is paved to a width of thirty (30) feet, one parking space on the vehicular way may be substituted for one of the required parking spaces. Driveways shall not be directly connected to a city street.

M. Parking spaces shall be a rectangle not less than nine feet wide and eighteen (18) feet long.

N. The boundaries of each manufactured home space shall be clearly marked by a fence, landscaping or by permanent markers and all spaces shall be permanently numbered.

O. The manufactured home shall be parked on a concrete slab on appropriate footings, supports and/or stands. Tie-downs, foundations or other supports shall be in accordance with state and federal laws.

P. Each manufactured home site shall have a patio of concrete, or flagstone or similar substance not less than three hundred (300) square feet adjacent to the manufactured home parking site.

Q. Landscaping and screening shall be provided in each manufactured home park and shall satisfy the following requirements:

1. All areas in a park not occupied by paved roadways or walkways, patios, pads and other park facilities shall be landscaped.

2. Screen planting, masonry walls, or fencing shall be provided to screen objectionable views. Views to be screened include laundry drying yards, garbage and trash collection stations, and other similar uses.

3. Landscaping plans are to be done by a landscape architect or established landscaper.

4. The side and rear perimeter setbacks shall be fenced with an approved sight-obscuring fence or wall not less than five feet nor more than six feet in height and shall be landscaped in accordance with the buffering requirements of Chapter 16.38.

R. Each site shall be serviced by municipal facilities such as water supply, sewers, concrete sidewalks and improved streets.

S. Prior to occupancy of the manufactured home, each site shall have a storage area space in a building having a gross floor area of at least forty-eight (48) square feet for storing the outdoor equipment and accessories necessary to residential living.

1. There shall be no outdoor storage of furniture, tools, equipment, building materials, or supplies belonging to the occupants or management of the park.

2. Except for automobiles and motorized recreational vehicles, no storage shall be permitted except within an enclosed storage area.

3. A recreational vehicle or trailer shall not be occupied overnight in a manufactured home park unless it is parked in a manufactured home space or in an area specifically designated for such use. No more than one recreational vehicle or trailer will be occupied at one time in a manufactured home space. Recreational vehicles, trailers and boats and other oversized vehicles greater than six feet in width may not be parked in the vehicular access way.

T. No structure shall exceed twenty-five (25) feet in height.

(Ord. 415 § 7.94.040, 2002)

**16.36.050 Occupying recreational vehicles.**

It is unlawful for any recreational vehicle, to be occupied, lived in or otherwise used as a residence within the city, unless such use is specifically approved by the city under Chapter 16.52, except a private, residentially zoned property is permitted to use a recreational vehicle to house ~~non paying~~ guests no more than a total of ten (10) days in a calendar year.

A. Recreational vehicles shall be mobile and fully operable, on inflated wheels, and licensed with the Department of Motor Vehicles at all times.

B. No more than one recreational vehicle per lot shall be permitted to be stored outdoors, except for recreational vehicles brought to a lot by guests and for no more than a total of ten (10) days in a calendar year.

C. Porches and awnings and related structural projections may not be constructed adjacent or attached to a recreational vehicle.

(Ord. 415 § 7.94.050, 2002)

**Chapter 16.42**

**OFF-STREET PARKING AND LOADING REQUIREMENTS**

**Sections:**



**16.42.010 Compliance.**

A. The provision and maintenance of off-street parking and loading spaces is a continuing obligation of the property owner. Hereafter, every use commenced and every building erected or altered shall have permanently maintained parking spaces in accordance with the provisions of this title.

B. No building, development, or other permit involving new construction, additional gross floor area or change of use shall be issued until plans and evidence are presented to show how the off-street parking and loading requirements are to be fulfilled and that property is and will remain available for the exclusive use of off-street parking and loading spaces. The subsequent use of the property for which the permit is issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading space required by this title.

(Ord. 415 § 7.100.010, 2002)

**16.42.020 Off-street loading.**

A. Every use for which a building is erected or structurally altered to the extent of increasing the floor area to equal a minimum floor area required to provide loading space and which will require the receipt or distribution of materials or merchandise by truck or similar vehicle, shall provide off-street loading space on the basis of minimum requirements as follows:

| Use | Gross Sq. Ft. | Minimum Loading Spaces |
|---|---|---|
| Commercial | 5,000-- 25,000 | 1 |
| Industrial | 25,001--60,000 | 2 |
| Public utilities | 60,001--100,000 | 3 |
| Restaurants | Over 100,000 | 3+ 1 space per 60,000 sq. ft. |
| Hotel, motels | 5,000--30,000 | 1 |
| Institutions | 30,001--70,000 | 2 |
| Office buildings | 70,001--130,000 | 3 |
| Hospitals, schools | Over 130,000 | 3+1 space per 100,000 sq. ft |
| Manufacturing | 5,000--40,000 | 1 |
| Wholesale | 40,001--100,000 | 2 |

| Use | Gross Sq. Ft. | Minimum Loading Spaces |
|---|---|---|
| storage | | |
| | 100,001--160,000 | 3 |
| | Over 160,000 | 3+ 1 per 80,000 sq. ft. |

B. A loading berth shall contain space twelve (12) feet wide, thirty-five (35) feet long and have a height clearance of fourteen (14) feet. Where the vehicles generally used for loading and unloading exceed these dimensions, the required length of these berths shall be increased.

C. If loading space has been provided in connection with an existing use such space shall not be eliminated if elimination would result in nonconformance with the above standards.

D. Off-street parking areas used to fulfill the requirements of this title shall not be used for loading and unloading operations except during periods of the day when not required to take care of parking needs.
sales, public gatherings and similar activities not otherwise prohibited.

E. Loading berths shall not be required in areas subject to Chapter 16.28.
(Ord. 415 § 7.100.020, 2002)

**16.42.030 Off-street parking.**

Off-street parking spaces shall be provided and maintained as set forth in this section for all uses in all zones. The following required spaces shall be available for parking, and not used for storage, sale, repair or servicing of vehicles, except property resident. Nothing in this title shall be interpreted to prevent the occasional use of parking areas for community events, special

| Use | | Standard |
|---|---|---|
| A. | **Residential Uses/Day Care/Institutional/Hospital.** | |
| 1. | Single- and two-family | 2 spaces per dwelling unit |
| 2. | Multifamily dwelling | 1 space per studio or one bedroom dwelling unit, 2 spaces per dwelling unit with two or more bedrooms plus one space per three dwelling units for guests. |
| 3. | Manufactured home park | Two spaces per unit, plus one space for every three units for guests |
| 4. | Bed and breakfast | 2 spaces plus 1 space for each guest bedroom |
| 5. | Residential care home or facility | 1 space per 3 residential care beds plus 1 space per employee |
| 6. | Correctional facility | 1 space per 3 inmate beds |
| 7. | Hospital | 1 space per 3 beds and 1 space per employees |

B. **Places of Public Assembly.**

The following uses shall be treated as combinations of separate use areas such as office, auditorium, restaurant, etc. The required spaces for each separate use shall be provided.

| | | |
|---|---|---|
| 1. | Auditorium, church or meeting room | 1 space per 4 seats or 8 feet of bench length. If no fixed seats or benches, 1 space per 60 square feet |
| 2. | Library, reading room | 1 space per 400 square feet plus 1 space per 2 employees |
| 3. | Senior high | 1 space per employee plus 5 spaces per every classroom |
| 4. | Elementary school square or junior high | 1 space per employee plus 1 space per every 100 feet of floor area in assembly area |
| 5. | Pre-school, nursery or kindergarten | 5 spaces plus 1 space per classroom |

C. **Commercial Uses.**

| | | |
|---|---|---|
| 1. | Hotel/motel | 1 space per room plus 1 space per every 2 employees |
| 2. | Retail, bank, office, medical, dental | 1 space per 400 square feet but not less than 3 spaces per establishment |
| 3. | Service or repair of bulky merchandise | 1 space per 750 square feet |
| 4. | Bowling | 4 spaces per lane, plus 1 space per every 2 employees |
| 5. | Beauty/barber shop | 1.5 spaces per chair |
| 6. | Theater, stadium | 1 space per 4 seats or 8’ bench length |
| 7. | Ministorage | 1 space per 200 square feet of office space, plus 2 spaces for caretaker residence |
| 8. | Eating or drinking establishments with seating | 1 space per 120 square feet |
| 9. | Eating establishment with no seating | 1 space per 400 square feet |
| 10. | Mortuaries | 1 space per 4 seats or 8 feet of bench length in chapel. |
| 11. | Health and fitness club | 1 space per 300 square feet |

D. **Industrial Uses.**

| | | |
|---|---|---|
| 1. | Manufacturing, research freight, transportation terminal, warehouse, public utility | 1 space per employee on two largest shifts |
| 2. | Wholesale uses | 1 space per employee, plus one space per 800 square feet of patron serving area |

E. **All uses providing drive-in services shall provide on the same site a reservoir for inbound vehicles as follows:**

| Use | Reservoir Requirements |
|---|---|
| Drive-in banks | 5 spaces/service terminal |
| Drive-in restaurants | 10 spaces/service window |
| Drive-in theaters | 10% of the theater capacity |
| Gasoline service stations | 3 spaces/pump |
| Mechanical car washes | 3 spaces/washing unit |
| Parking facilities: | |
| Free flow entry | 1 space/employee entry driveway |
| Ticket dispense | 2 spaces/employee entry driveway |
| Manual ticket | 8 spaces/employee entry driveway |
| Attendant parking | 10% of portion of parking capacity served by the driveway |

(Ord. 415 § 7.100.030, 2002)

**16.42.040 General provisions.**

A. In the event several uses occupy a single structure or parcel of land, the total requirements of the several uses should be computed separately.

B. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required off-street parking spaces shall be located on the same parcel or on another parcel not farther than three hundred (300) feet from the building or use they are intended to serve, measured in a straight line from the building, except as permitted by Chapter 16.28.

C. Required parking space shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and shall not be used for the storage of vehicles or materials or for the parking of trucks used in the conducting of the business or use. The subsequent use of property for which the appropriate permits are issued shall be conditional upon the unqualified continuance and availability of the amount of parking and loading spaces required.

D. Unless otherwise provided, required parking and loading spaces for multi-family dwellings, commercial and industrial use shall not be located in a required front yard, but such space may be located within a required side or rear yard, not abutting a street.

F. Where employees are specified, the employees counted are the persons who work on the premises, including proprietors, executives, professional people, production, sales, and distribution employees during the largest shift at peak season.

(Ord. 415 § 7.100.040, 2002)

**16.42.050 Development and maintenance standards.**

Every parcel of land hereafter used as a public or private parking area, including commercial parking lots, shall be developed as follows:

A. All parking and maneuvering surfaces shall have a durable, hard and dustless surface such as asphalt, concrete, cobblestone, unit masonry, scored and colored concrete, grasscrete, compacted gravel, or combinations of the above.

B. Any lighting used to illuminate the off-street parking areas shall be so arranged

that it will not project light rays directly upon any adjoining residential property.

C. Except for single-family and duplex dwellings, groups of more than two parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street or right-of-way other than an alley.

D. Areas used for access and standing and maneuvering of vehicles to the dimensional standards of this title, and to the requirements of the public works standards.

E. Except for parking to serve residential uses, parking and loading areas adjacent to residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents.

F. Access aisles shall be of sufficient width for all vehicular turning and maneuvering.

G. Service drives to off-street parking areas shall be designed and constructed according to public works standards. The number of service drives shall be limited to the minimum that will accommodate and serve the traffic anticipated.

H. Service drives shall be clearly and permanently marked and defined through the use of rails, fences, walls or other barriers or markers. Service drives to drive-in establishments shall be designed to avoid backing movements or other maneuvering within a street other than an alley.

(Ord. 415 § 7.100.050, 2002)

I. Service drives shall have a minimum vision clearance area formed by the intersections of the driveway center line, the street right-of-way line and a straight line joining the lines through points fifteen (15) feet from their intersection.

J. Parking spaces along the outer boundaries of a parking area shall be contained by a curb or bumper rail so placed to prevent a motor vehicle from extending over an adjacent property line or a street right-of-way.

K. The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height, and at least three feet from the lot line or any required fence.

L. All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required and such marking shall be continuously maintained.

M. All parking lots shall be kept clean and in good repair at all times. Breaks in surfaces and areas where water puddles shall be repaired promptly and broken or splintered wheel stops shall be replaced so that their function will not be impaired.

N. The provision for and maintenance of off-street parking and loading facilities shall be a continuing obligation of the property owner.

**16.42.060 Provisions for reduction in spatial requirements for off-street parking due to landscaping.**

Where landscaping is to be provided in parking areas, to reduce the starkness generally associated with such parking areas, the Planning Commission may consider and approve the following reduction: if general landscaping (including ground cover, raised beds, or low shrubbery, all of evergreen nature) are utilized around parking area borders, or where landscaping is required as screening around borders, or as traffic control structures within parking areas, or as general landscaping within parking areas, then the parking area gross

spatial requirement may be reduced proportionately, up to a total of five percent.
(Ord. 415 § 7.100.060, 2002)

**16.42.070 Plan required**.

A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted to the Planning Director with each application for approval of a building or other required permit, or for a change of use.
(Ord. 415 § 7.100.070, 2002)

**16.42.080 Interpretation--Similar uses.**

Off-street parking or loading requirements for structures or uses not specifically listed shall be determined by the Planning Commission. The Planning Commission shall base such requirements on the standards for parking or loading of similar uses.
(Ord. 415 § 7.100.080, 2002)

**16.42.090 Recreational vehicles.**

The parking restrictions shall not be interpreted to prevent the parking on-site of recreational vehicles at all single-family residences provided the applicable parking requirements are satisfied.

A. Recreational vehicles shall be mobile and fully operable, on inflated wheels, and licensed with the Department of Motor Vehicles at all times.

B. No more than one recreational vehicle per lot shall be permitted to be stored outdoors, except for recreational vehicles brought to a lot by guests and for no more than a total of ten (10) days in a calendar year.

~~A.~~C. Porches and awnings and related structural projections may not be constructed adjacent or attached to a recreational vehicle.

(Ord. 415 § 7.100.090, 2002)

**16.42.100 Disabled person parking.**

A. A sign shall be posted for each disabled person parking space required by subsection B of this section. The sign shall be clearly visible to a person parking in the space, shall be marked with the International Symbol of Access, shall indicate that the spaces are reserved for persons with disabled person parking permits and shall be designed as set forth in standards adopted by the Oregon Transportation Commission.

B. Parking spaces constructed under this section shall be in accordance with the Uniform Building Code.
(Ord. 415 § 7.100.100, 2002)

**16.42.110 Compact vehicle parking.**

All parking spaces designated for compact vehicles shall be labeled by painting "compact only" on the parking space. Up to twenty-five (25) percent of the required parking spaces may be designated compact spaces.
(Ord. 415 § 7.100.110, 2002)

**16.42.120 Bicycle parking.**

At least one secured bicycle rack space shall be provided for each fifteen (15) parking spaces or portion thereof in any new commercial, industrial, or multifamily development. Bicycle parking areas shall not be located within parking aisles, landscape areas, or pedestrian ways.
(Ord. 415 § 7.100.120, 2002)

**16.42.130 Off-street parking dimensional standards**.

All off-street parking lots shall be designed subject to city standards for stalls and aisles as set forth in the following table.

| | | |
|---|---|---|
| A. | Parking Angle In Degrees |
| B. | Stall Width |
| C. | Stall Depth |
| D. | Aisle Width One Way |
| E. | Curb Length Per Car |
| F. | Bay Width (Includes stall length plus back up length) |

| **A** | **B** | **C** | **D** | **E** | **F** |
|---|---|---|---|---|---|
| | 9'0" | 9.0 | 12.0 | 22.0 | 21.0 |
| **0** | 9'6" | 9.5 | 12.0 | 22.0 | 21.5 |
| | 10'0" | 10.0 | 12.0 | 22.0 | 22.0 |
| | 9'0" | 19.8 | 13.0 | 12.7 | 22.8 |
| **45** | 9'6" | 20.1 | 13.0 | 13.4 | 33.1 |
| | 10'0" | 20.5 | 13.0 | 14.1 | 33.5 |
| | 9'0" | 20.3 | 18.0 | 10.4 | 38.0 |
| **60** | 9'6" | 21.2 | 18.0 | 11.0 | 39.2 |
| | 10'0" | 21.5 | 18.0 | 11.9 | 39.5 |
| | 9'0" | 21.0 | 19.0 | 9.6 | 40.0 |
| **70** | 9'6" | 21.2 | 18.5 | 10.1 | 39.5 |
| | 10'0" | 21.2 | 18.0 | 10.6 | 39.2 |
| | 9'0" | 20.0 | 24.0 | 9.0 | 44.0 |
| **90** | 9'6" | 20.0 | 24.0 | 9.5 | 44.0 |
| | 10'0" | 20.0 | 24.0 | 10.0 | 44.0 |
| **Parallel** | 8'0" | | 12.0 | 22.0 | 18.0 |

A. For one row of stalls use "C" + "D" as minimum bay width.

B. Public alley width may be included as part of dimension "D," but all parking stalls must be on private property, off the public right-of-way.

C. For estimating available parking area, use three hundred (300) to three hundred twenty-five (325) square feet per vehicle for stall, aisle and access areas.

D. For large parking lots exceeding twenty (20) stalls, alternate rows may be designed for compact cars provided that the compact stalls do not exceed thirty (30) percent of the total required stalls. When designated compact spaces are provided the stall width may be reduced to eight feet and the stall length reduced to seventeen (17) feet in length with appropriate aisle width. (Ord. 415 § 7.100.130, 2002)

**16.42.140 Special exceptions.**

If conformance with this chapter would require a historic structure to be modified, or would involve destroying existing landscaping, the Planning Commission may approve modifications to the requirements of this chapter and no variance shall be required for such modification. (Ord. 415 § 7.100.140, 2002)