

## **ARTICLE 2                    APPLICATION PROCEDURES**

### **SECTION 2.110                    PRE-APPLICATION CONSULTATION WITH CITY STAFF**

An applicant may request an informal review of a proposal prior to application to determine the general feasibility of the proposal. The applicant should submit a brief description and a sketch drawing of the proposed development to the City for preliminary consultation, along with a fee as adopted by the City of Tangent. The City will inform the applicant of the procedural requirements and discuss policies of public agencies that may be pertinent to the proposal. This consultation is for information purposes and any statement or representation by City Staff in pre-application consultation shall not bind the City in later processing of an application. The applicant may proceed with an application or the City may suggest, or an applicant may request, a Pre-Application Conference with City Staff and affected agencies to assist the applicant in preparing the application. .

### **SECTION 2.120                    PRE-APPLICATION CONFERENCE WITH AFFECTED AGENCIES**

Upon request by an applicant, the City Manager may schedule a pre-application conference with the applicant and representatives of the City and other affected public and private agencies to further clarify the conditions and requirements necessary in the preparation of the application. There is a Pre-Application Conference Fee in conformance with **Section 1.190**. A Pre-Application Conference shall be conducted within 30 days following receipt of the request, the Fee Deposit as prescribed by the City Council, and any descriptive information, including a site plan, if available, which is drawn to a scale of one inch equal to a multiple of ten feet.

### **SECTION 2.130                    APPLICATION PROCEDURE**

Applicants for development in the City of Tangent shall prepare an application together with other supplementary data required to clearly describe the proposed development and the decision requested of the City.

- (1) Applications, Petitions and Appeals provided for in this Code shall be made on forms prescribed by the City. Forms are available at the Tangent City Hall.
- (2) Applications shall be accompanied by narrative descriptions, an Application Site Plan in conformance with **Section 2.140** if required, building plans, maps, specifications and any other information that clearly describe the request and the applicable City Code sections that may apply to the request.
- (3) The City will consolidate applications that require more than one approval procedure for a development project. The City will identify and address all of the procedures concurrently and will utilize the most comprehensive procedure and decision process of those required in the application. The total fee shall be the sum of all individual procedural fees with the exception that a Site Plan Review Fee shall not be charged in addition to other fees.
- (4) The applicant shall provide the City with a list of property owners of record within 100 feet of the property that is the subject of the review or hearing.
- (5) Applications shall include the application form and site plan together with all documents, evidence and supplemental information relied upon by the applicant. The City may require the

applicant to provide additional copies of all application materials. A review or hearing will be scheduled not earlier than 30 days from the date the Application is deemed complete.

- (6) All Applications shall be available to the public, and notifications to neighboring properties and affected agencies will be mailed by the City twenty (20) days prior to the review or hearing meeting in a manner consistent with Section 3.300 of this code.
- (7) A Fee Deposit shall accompany the application request in accordance with **Section 1.190**.
- (8) Staff reports used at the review or hearing shall be available at least seven (7) days prior to the review or hearing.
- (9) The City shall comply with **ORS 227.178** and take final action on an application, including resolution of all local appeals, within 120 days after the application is deemed complete. If an application is incomplete, the City shall notify the applicant within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete if the applicant supplies the missing information, or if the applicant refuses to submit the missing information, it shall be deemed complete on the 31st day after the application is received by the City.

If an application is complete when first submitted or if the applicant submits the requested missing information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.

- (10) The 120-day period specified in subsection (9) may be extended for a reasonable time at the request of the applicant.
- (11) The 120-day period specified in subsection (9) does not apply to an amendment to this Code.
- (12) The Applicant bears the responsibility and burden of proof for the requested action.
- (13) The Application and the decision of the City shall be maintained by the City in a Record File of the Application. Notice of Decision shall be given the Applicant and other participants in the proceedings as specified in **Section 3.300**.
- (14) **Expiration.** Approved applications shall be void 1 year after the date of approval unless a building permit has been issued, or site construction has begun, or a time period was specified as a condition of approval and is adhered to by the applicant. Upon written request received prior to the expiration of the one year period, the Deciding Body may extend authorization for an additional period of time up to 1 year.
- (15) **Limitation.** No request for a land use application shall be considered by the City within a one-year period immediately following a denial of such request, except the City may consent to a new review or hearing, if in the opinion of the Deciding Body, new evidence of a change of circumstance warrant it.

- (16) The specific requirements and decision process for each application procedure are contained in the Sections of this Article which follow.

**SECTION 2.140                      APPLICATION SITE PLAN  
& NARRATIVE**

Applications for land divisions or land use requests that require a site plan shall be consistent with this section. The Applicant shall submit 8 copies of an 8 1/2 x 11 inch drawing together with 3 master copies of an 11x17 inch (or 18 x 24 inch) version, and supplementary data for reproduction and distribution purposes, along with a completed application form and Fee Deposit as established by the City. Drawings shall indicate clearly and with full dimensioning the following information, as applicable, for all existing and proposed development. It is understood that some of the requested information may not apply to every application. The City Manager or their designee may waive non-applicable information.

- (1) The names of the owner(s) and applicant if different, and the name and address of project designer, engineer, surveyor, and/or planner.
- (2) The property address or geographic location and the Assessor Map number and Tax Lot number.
- (3) The date, scale and northpoint. Scale shall be one inch equal to a multiple of ten feet (e.g., 1 inch equals 10, 20, 30, 40, 100 feet, etc.).
- (4) A vicinity map showing properties within the notification area and roads. An Assessor Map, with all adjacent properties, is adequate.
- (5) Lot boundary dimensions and gross area of the subject property.
- (6) The location, size, height and uses for all existing and proposed buildings.
- (7) Yards, open space and landscaping, areas of hard surfacing or impervious cover..
- (8) Walls and fences: location, height and materials.
- (9) Off-street parking: location, number of spaces, dimensions of parking area and internal circulation patterns for vehicles as well as bicycles.
- (10) Access: pedestrian, vehicular, loading, service, points of ingress and egress.
- (11) Signs: location, size, height and means of illumination.

- (12) Loading: location, dimension, number of spaces, internal circulation, waste storage and removal areas.
- (13) Lighting: location and general nature, hooding devices.
- (14) The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
- (15) Topographic features including existing and proposed grades, trees, and vegetation. (16) Water systems, drainage systems, sewage disposal systems and utilities.
- (16) Water systems, drainage systems, sewage disposal systems and utilities.
- (17) Drainage ways, water courses, known or mapped wetlands, potential natural resource or hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the City, County or State as having a potential for geologic hazards.
- (18) Other information, as determined by the Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features
- (19) A written narrative shall accompany the site plan demonstrating how the application conforms with the applicable decision criteria for the specific application type, and also describing:
  - (a) The number of people that will occupy the site including family members, employees or customers.
  - (b) The number of generated trip-ends per day from each mode of travel by type: employees, customers, shipping, receiving, etc. A Traffic Impact Study may be required for some developments in conformance with Section 5.122(1)(f).
  - (c) Time of operation, where appropriate. Including hours of operation, days of the week and number of work shifts.
  - (d) Specifications of the type and extent of emissions, potential hazards or nuisance characteristics generated by the proposed use. The applicant shall accurately specify the extent of emissions and nuisance characteristics relative to the proposed use. Misrepresentation or omission of required data shall be grounds for denial or termination of a Certificate of Occupancy.

Uses, other than residential uses, that possess nuisance characteristics or those potentially detrimental to the public health, safety and general welfare of the community including, but not limited to; noise, water quality, vibration, smoke, odor, fumes, dust, heat, glare or electromagnetic interference, may require additional safeguards or conditions of use as required by the Planning Commission or City Council.

All uses shall comply with the applicable standards and regulations of local, state or federal agencies having regulatory jurisdiction. City approval of a land use application, shall be conditional upon evidence being submitted to the City indicating that the proposed activity has been approved by the regulatory agencies having jurisdiction on an issue.

- (e) Such other data or information as may be necessary to permit the deciding authority to make the required findings. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g. traffic, noise, environment features, natural hazards, etc.), in conformance with the Tangent Development Code.
- (f) Whenever possible, electronic versions of all application materials shall be submitted with the materials and information required by this section.

#### **SECTION 2.150 RECORD FILE**

The City shall maintain an official Record File of each application containing all relevant data, drawings, dates, notices, hearings, postponements, continuances, decisions, appeals and minutes of all meetings pertaining to the application.

- (1) Minutes of all meetings, reviews and hearings shall record the substance of all issues before the review or hearing body. Summary written minutes shall be maintained in the Record file. The minutes and records need not be a verbatim transcript of the meeting.
- (2) Proceedings may be recorded either stenographically or electronically although a verbatim record is not required. Minutes may be summarized from the transcript or tape.
- (3) Testimony may be transcribed at the expense of the requesting party, if required for judicial review or local appeal proceedings. The transcribing fee may include all actual costs as authorized by state law.
- (4) The staff report and recommendation shall be included in the Record File.
- (5) The review or hearing body shall, where practical, retain as part of the record each item of physical or documentary evidence presented and shall have the items marked to show the identity of the person offering the same and whether presented on behalf of a proponent or opponent. Exhibits received into evidence shall be retained in the Record file until after all appeal periods have expired, at which time the exhibits may be released.

- (6) The public shall have access to the Record File of the proceedings at reasonable times, places, and circumstances. A person shall be entitled to make copies of the record at the cost set by City Resolution in accordance with ORS 192.

## **SECTION 2.200 BUILDING PERMITS**

- (1) Building Permits are issued by the City and administered by the Linn County Building Department. Building Permits issued by the City also require approval by the Linn County Building Department. Linn County Building Inspection provides all construction administration services.
- (2) Building Permits may be issued following City and County approval for **Permitted Uses** not requiring a Review or Public Hearing by the Tangent Planning Commission or City Council.
- (3) Application for Building Permits requiring a land use decision including: Site Plan Reviews, Conditional Uses, Variances, Nonconforming Uses, Planned Developments or Zone Map Amendments shall be approved by the City prior to submittal to Linn County. The City shall request the County to withhold the Building Permits or Certificates of Occupancy until compliance is demonstrated with the Conditions of Approval required in the land use decision.

The Applicant may make application for a Building Permit prior to land use approval if the Applicant agrees in writing to pay all Building Permit fees should the land use decision be denied. Any proposed change in the approved plan or use shall be resubmitted to the City as a new application. Building Permits for an approved land use decision shall not be issued until the appeal period, as specified under **Section 3.700**, has passed.

- (4) Each application for a building permit shall comply with the latest adopted edition of the "State of Oregon Structural Specialty Code" or any Residential Building Code adopted by the County. Applications shall describe the work, proposed use and occupancy, and include site and building plans, drawn to scale, construction details, specifications, computations and such other information as may be required by the Linn County Building Official.

**SECTION 2.300 LAND DIVISIONS**

**SECTION 2.310 PROPERTY LINE ADJUSTMENTS**

- (1) **Purpose.** A **Property Line Adjustment** is a relocation of a common property line between abutting properties when both parties agree. A **Property Line Adjustment** shall not create an additional lot or parcel, reduce a lot or parcel in size below the minimum size specified for the zone, or create a violation of development standards on either lot or parcel.
- (2) **Application.** A property line adjustment may be submitted for review and approval by the City Manager as an administrative review where the adjustment complies with **Sections 2.311 and 2.312**.
- (3) **Information.** The City may require additional copies of the proposed map of the property line adjustment together with other supplementary data required for recording or specified herein as required for review and action by the deciding authority.

**SECTION 2.311 PROPERTY LINE ADJUSTMENT REQUIREMENTS**

All property line adjustment requests shall be submitted on the application form provided by the City, accompanied by the Fee Deposit. A drawing which is to a scale of one inch equal to a multiple of ten feet shall be provided and shall contain the following information:

- (1) A map clearly and legibly drawn to scale with the scale indicated.
- (2) The title "Property Line Adjustment for .....,," the date and northpoint.
- (3) Name and address of the record owner(s) of the property to be adjusted, as well as the name and address of project designer, engineer, surveyor, and/or planner.
- (4) Assessor Map and Tax Lot numbers and approximate acreage or square feet of each property prior to and after adjustment.
- (5) The location and boundary dimensions and other information to accurately locate all existing and proposed property lines.
- (6) Existing conditions for land within the properties to be adjusted:
  - (a) The locations, names and widths of existing streets.
  - (b) The location, width and purpose of existing or proposed easements.
  - (c) The approximate location of buildings, public and private utilities, drainage ways and other significant features that would affect development of the adjusted properties.

### **SECTION 2.312            DECISION CRITERIA**

A Property Line Adjustment may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1)     The adjustment will not create an additional unit of land.
- (2)     The adjustment will not create a land-locked parcel.
- (3)     All units of land affected by the adjustment will comply with applicable City Ordinances and this Code upon approval, and approval will not create a non-conforming lot or non-conforming development.
- (4)     The adjustment shall comply with any previous Conditions of Approval attached to the properties to be adjusted.
- (5)     The adjustment shall comply with all state and county recording requirements.
- (6)     The property to be adjusted complies with **ORS 92** for Property Line Adjustments.

### **SECTION 2.313            DECISION PROCESS**

- (1)     A Property Line Adjustment does not require a Limited Land Use Decision, Quasi-Judicial Decision, or notifications under Section 3.300 of this code. The City Manager may consider a Property Line Adjustment at any time following submittal of the application.
- (2)     If the proposed Property Line Adjustment is consistent with City land use standards, the City Manager may approve the map as submitted, approve with conditions or deny the request for noncompliance.
- (3)     If the application requires a Variance or the establishment or relocation of an Easement, or requires interpretation or the exercise of policy, the decision shall be placed before the Planning Commission which shall hold a public hearing in conformance with the Quasi-judicial Public Hearings requirements of **Section 3.500**.

### **SECTION 2.314            PROPERTY LINE ADJUSTMENT FILING**

- (1)     Deeds or conveyances for all lots or parcels affected by the approved Property Line Adjustment shall be filed with the County Clerk in accordance with **ORS 92.190, subsections (3) and (4)**.
- (2)     Upon approval or denial, a Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed Property Line Adjustment as specified in **Section 3.700**. The Applicant may modify the proposed Property Line Adjustment for compliance with the required conditions or may request an Appeal to the Planning Commission within 10 days of the Notice of the City Manager's decision, or to the City Council within 10 days of the Notice of the Planning Commission's decision, in conformance with **Section 3.800**.
- (3)     Copies of all recorded deeds, conveyances and filed surveys shall be provided to the City for inclusion in the Record File of the Application, in accordance with **Section 2.150**.



**SECTION 2.320 SUBDIVISION OR PARTITION TENTATIVE PLAN**

- (1) The Planning Commission shall be the deciding authority for all Land Partition and Subdivision Tentative Plans under the provisions of this Code unless combined with another request requiring City Council approval, or if appealed to the City Council. In the event that a consolidated application requires more than one decision, the highest deciding authority will make all decisions requested in the application.
- (2) The Planning Commission shall hold a Limited Land Use Review for all Partition requests and shall hold a Quasi-judicial Public Hearing on all Subdivision requests. A consolidated request including a **Variance** shall also require a Quasi-judicial Public Hearing in conformance with **Section 2.600**.

**SECTION 2.321 SUBMISSION REQUIREMENTS**

A land divider shall prepare a Tentative Plan together with improvement plans and other supplementary material as may be required to clearly present the scope, ideas and objectives of the project. The Applicant shall submit 3 copies of an 18x24 inch drawing together with 3 master copies of an 11x17 inch Tentative Plan and supplementary data for reproduction and distribution purposes, along with a completed application form and Fee Deposit. All required materials shall be submitted to the City Manager 30 days prior to the Planning Commission meeting at which consideration of the Tentative Plan is desired following preliminary consultation as recommended in **Sections 2.110 and 2.120**.

**SECTION 2.322 FORM AND SCALE**

The Tentative Plan shall be clearly and legibly drawn on a sheet sizes of 11x17 inches and 18x24 inches to a scale of 1 inch equals any multiple of 10 feet (1 inch equals 10, 20, 30, 40, 100 feet, etc.) The scale shall be the largest scale that will fit the sheet size, but in all cases the scale to be used shall be in multiples of 10 feet.

**SECTION 2.323 GENERAL INFORMATION**

The following information shall be provided on all Tentative Plans:

- (1) All information required by **ORS 92** for a Tentative Plan including, but not limited to, the following.
- (2) No Tentative Plan shall be approved that bears a name using a word that is the same as, similar to or pronounced the same as a word in the name of any other subdivision in the same county, except for the words "town," "city," "place," "court," "addition," or similar words, unless the land Platted is contiguous to and Platted by the same party that Platted the subdivision bearing that name or unless the party files and records the consent of the party that Platted the subdivision bearing that name. All Plats must continue the lot and block numbers of the Plat of the same name last filed.

Subdivisions submitted for final approval shall not use block numbers or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.

- (3) Date, northpoint, scale of drawing.

- (4) Appropriate identification clearly stating the map is a subdivision or partition Tentative Plan.
- (5) Location of the land division by section, township and range sufficient to define the location and boundaries of the proposed land division.
- (6) Names and addresses of the owner, applicant and surveyor.
- (7) The approximate acreage of the tract being subdivided or partitioned, and the size of proposed lots or parcels.

**SECTION 2.324                    EXISTING CONDITIONS INFORMATION**

- (1) The names and addresses of all owners of property within 100 feet of the proposed land division.
- (2) The location, widths and names of both opened and unopened streets within or adjacent to the land division, together with easements, other right-of-ways and other important locational information such as section lines, corners, city boundary lines and monuments.
- (3) The location of all existing sewers, septic tanks and drainfields, water lines, storm drains, culverts, ditches and utilities, together with elevational data, on the site and on adjoining property or streets.
- (4) The elevations of all points used to determine contours; said points given to true elevation above mean sea level as determined by the City. The base data used shall be clearly indicated and shall be compatible to City datum if bench marks are not adjacent. The following intervals are required:

<u>Contour Intervals</u>	<u>Ground Slope</u>
One Foot	Up to 5%
Two Feet	Over 5% through 10%
Five Feet	Over 10%

**Exception:** The deciding authority may approve slope indications for partitions by means of arrows or other suitable symbol together with not less than four spot elevations per acre evenly distributed for slopes of less than five percent (5%).

- (5) The location of at least one bench mark control point within the tract boundaries.
- (6) The location and direction of all on-site and off-site drainage, drainage channels, water courses and the location of all areas subject to flooding.
- (7) Natural features such as rock outcroppings, wetlands, floodplains, wooded areas and isolated preservable trees. Lands that are wholly or partially within areas identified as wetlands or riparian areas on the Tangent Local Wetland and Riparian Area Inventory shall be clearly demarcated for review and permit by the City of Tangent.

- (8) Existing uses on and adjacent to the property, including the location of all existing structures to remain on the property after the land division.
- (9) Zoning on and adjacent to the property to be divided.
- (10) A vicinity map clearly showing the relationship and connections of the proposed land division to surrounding developments, streets, storm drainage, sewer, septic tank and drainfield, water and utility services.

#### **SECTION 2.325 PROPOSED PLAN INFORMATION**

- (1) The location, width, name and approximate grade and curve radii of proposed street. The relationship of proposed streets to existing streets and any projected future streets shown on the City's Comprehensive Plan or Official Street Map. Streets proposed for public dedication and streets held for private use shall be clearly indicated and all reservations or restrictions relating to such private streets shall be included in the statements specified in **Section 2.326**.
- (2) The location, width, and purpose of existing and proposed easements.
- (3) The total acreage and the proposed land use for the land division including sites for special purposes or those allocated for public use.
- (4) The location and approximate dimensions of lots or parcels and the proposed lot or parcel numbers. Where large property divisions are proposed that may be re-divided in the future to smaller lots or parcels, the applicant shall provide a sketch plan demonstrating that the potential re-division is not complicated or precluded by the proposed land division.
- (5) An outline of the areas proposed for partial recording of a final Plat and a time schedule for additional Platting if staged recording is proposed.
- (6) A general layout of all public utilities and facilities to be installed including provisions for connections and extensions beyond the proposed land division.
- (7) The proposed method of connection to all drainage channels located outside of the proposed land division and the proposed method of flood control (detention ponds, swales, etc.) and contamination protection (settling basins, separators, etc.).
- (8) Identification of all proposed public dedications such as streets, pedestrian or bike ways, parks or open space areas in conformance with **Section 7.400**.
- (9) Identification and layout of all special improvements. Special improvements may include, but are not limited to, signs, lighting, benches, mail boxes, bus stops, greenways, and private bike or pedestrian paths.

#### **SECTION 2.326 ACCOMPANYING STATEMENTS**

The Tentative Plan shall be accompanied by written statements from the applicant giving essential information regarding the following matters:

- (1) Identify the adequacy and source of water supply including:

- (a) Certification that water will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
  - (b) A bond, contract or other assurance by the applicant that a public water supply system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City Council.
- (2) Identify the proposed method of sewage disposal including:
- (a) Certification that a sewage disposal system will be available to the lot line of each and every lot depicted on the Tentative Plan for a subdivision, or
  - (b) A bond, contract or other assurance by the applicant that a sewage disposal system will be installed by or on behalf of the applicant to each and every lot depicted on the Tentative Plan. The amount of such bond, contract or other assurance shall be determined by the City.
- (3) Protective covenants, conditions and deed restrictions (CC&R'S) to be recorded, if any.
- (4) Identify all proposed public dedications such as streets, pedestrian or bike ways, parks or open space areas in conformance with **Section 7.400**.
- (5) Identify all public improvements proposed to be installed, the approximate time installation is anticipated and the proposed method of financing. Identify required improvements that are proposed to not be provided and the reason why they are not considered necessary for the proposed land division.
- (6) A statement that the declarations required by **ORS 92.075** on the final Plat can be achieved by the fee owner, vendor and/or the mortgage or trust deed holder of the property.
- (7) Proposed staged subdivisions or serial partitions shall be clearly identified on the application. A time schedule for future Platting shall also be submitted. The deciding authority may require a specific time schedule for approval. All future Plats shall conform to the adopted ordinance requirements applicable at the time of Platting.

**SECTION 2.327 SUPPLEMENTAL INFORMATION**

The following information is required by the City to supplement the Tentative Plan information but may be waived by the City Manager for the Tentative Plan under the condition that the information is provided prior to acceptance of the Final Plat.

- (1) Approximate center line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction.
- (2) A detailed plan of the domestic water supply lines and related water service facilities.

- (3) A detailed plan of the sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways.
- (4) If lot areas are to be graded, a plan showing the nature of cuts and fill and information on the character of the soil.
- (5) Specifications and details of all proposed improvements.
- (6) Wetland delineation if available and if identified as an existing condition in **Section 2.324, Subsection (7)**.

**SECTION 2.328 DECISION CRITERIA**

A Subdivision or Partition Tentative Plan shall be reviewed by the Planning Commission approval for compliance with the submittal requirements specified above and the following findings:

- (1) The proposed land division does not conflict with the City's Comprehensive Plan or Statewide Planning Goals.
- (2) The proposed land division complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the land division.
- (3) The proposed land division complies with the standards and requirements of **ORS Chapter 92** and the recording requirements of the Linn County Surveyor.
- (4) The proposed land division does not have an adverse impact on pedestrian, bicycle and vehicular safety and complies with the Tangent Transportation System Plan (**TTSP**) and the Tangent Public Works Design Standards (**TPWDS**).
- (5) Water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use in compliance with the Tangent Public Works Design Standards (**TPWDS**).
- (6) Proposed utilities and access do not preclude extension beyond the proposed land division to accommodate future growth. The City may require public improvements be extended to a property boundary to facilitate extensions to accommodate future urban development.
- (7) The proposed development or use does not have an adverse impact on drainage-ways serving adjacent properties and that required drainage facilities are provided that have the capacity to support the proposed development or use.
- (8) The natural site features identified in **Section 2.324 (7)** have been given consideration for preservation and utilization in the development.

**SECTION 2.329 DECISION PROCESS**

- (1) Upon receipt of an Application, Tentative Plan, and Fee Deposit, the City shall furnish one copy of the Tentative Plan and supplementary material to the Fire District and other agencies known to be affected. Agencies notified shall be given 14 days to review the plan

and submit written comments. Notification to the Division of State Lands for identified wetlands shall require 30 days for review in accordance with **ORS 227.350, Subsection (4)**.

- (2) A Partition requires a "Limited Land Use Review" in conformance with **Section 3.400**. A Subdivision requires a Quasi-judicial Public Hearing in conformance with **Section 3.500**. All Land Divisions require notification to owners of property within 100 feet of the subject property. The public may submit written comments prior to a review or hearing and may submit written or oral comments at a hearing.
- (3) The deciding authority shall consider the Tentative Plan proposal and any public testimony accepted in accordance with **subsection (2)**, above at the first regular meeting following the expiration of the 20 day period required for notification under **Section 3.300** of this code.
- (4) If the Application includes a Variance request, the Tentative Plan and Variance will be considered together as provided in **Section 2.130 (3)** and the Decision Criteria for the Variance shall apply as specified in **Section 2.600 (2)**.
- (5) The deciding authority shall hold a public hearing on a Tentative Plan and Variance request in conformance with the Quasi-judicial Public Hearing requirements of **Section 3.500**. A public hearing may also be held on a Tentative Plan if the deciding authority determines that conditions may present possible adverse effects on adjacent properties or within the land use zoning district.
- (6) The deciding authority may continue the review or hearing for good cause, consistent with **Sections 3.400 and 3.500(17)**.
- (7) If the proposed Land Division complies with the decision criteria of **Section 2.328**, the deciding authority shall approve the Tentative Plan as submitted or as modified to achieve compliance.
- (8) If the proposed land division requires modification to certain features in order to comply with **Section 2.328**, the deciding authority may approve the Tentative Plan with specified Conditions of Approval to achieve compliance with the intent of City land use standards and the decision criteria.
- (9) If the proposed land division does not comply with the decision criteria even with conditions of approval, the deciding authority shall deny the request.
- (10) Approval of the Tentative Plan shall indicate approval of the Final Plat if there is no change in the plan of the land division and if the applicant complies with the requirements of this Code and any conditions of approval specified by the deciding authority.
- (11) The action of the deciding authority shall be noted on two copies of the Tentative Plan and any attached documents describing conditions. One copy shall be returned to the applicant and the other shall be retained by the City.
- (12) A written record of the findings and action of the City shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**. Notice of Decision shall be

given the Applicant and other parties to the proceedings together with any conditions of approval for the proposed land division as specified in **Section 3.700, Decision**.

## **SECTION 2.330 SUBDIVISION OR PARTITION**

### **PLAT SECTION 2.331 SUBMISSION REQUIREMENTS**

Within one year after approval of the Tentative Plan, the land divider shall begin construction of any required public improvements. Following acceptance by the City of any public improvements the land divider shall cause the land division or any part thereof to be surveyed and a Plat prepared in conformance with the Tentative Plan as approved. If the land divider wishes to proceed with the land division public improvements after the expiration of the one-year period following the approval of the Tentative Plan, the land divider shall resubmit the Tentative Plan and make any revision necessary to comply with changed conditions. The land divider shall submit the exact duplicate transparency and five prints of the completed Plat to the City for review and approval.

### **SECTION 2.332 FORM AND SCALE**

The final Plat shall be submitted in the form prescribed by **ORS 92** and the county recording standards. The scale of the final Plat shall be one (1) inch equals 100 feet. The scale may be increased or decreased if necessary to fit the required size of 18 by 24 inches, but in all cases the scale used shall be in multiples ten (10) feet.

### **SECTION 2.333 INFORMATION REQUIRED**

In addition to that otherwise specified by law and the details of the approved Tentative Plan under **Section 2.323** and **2.324**, the following information shall be shown on the final Plat:

- (1) The name of the owner(s), land divider, surveyor and land division. The date, scale, northpoint, legend and existing features such as creeks, drainage courses, highways and railroads.
- (2) Reference to Federal Geodetic Control Committee guidelines for third order class II, points of existing surveys identified, related to the Plat by distances and bearings, and referenced to a field book or map as follows:
  - (a) Stakes, monuments or other evidence found on the ground and used to determine the boundaries of the land division.
  - (b) Adjoining corners of adjoining land divisions.
  - (c) Other monuments found or established in making the survey or required to be installed by provisions of this Code.
- (3) The exact location and width of streets, right-of-ways and easements intercepting the boundary of the tract.
- (4) Tract and lot or parcel boundary lines and street right-of-way and center lines, with dimensions, bearings or deflection angles, radii, arcs, points of curvature and tangent bearings. Tract boundaries and street bearings shall be shown to the nearest 30 seconds with

basis of bearings. Distances shall be shown to the nearest 0.01 feet. No ditto marks shall be used.

- (5) The name and width of the portion of streets being dedicated, the width of any existing right-of-way and the width on each side of the center line. For streets on curvature, curve data shall be based on the street center line. In addition to the center-line dimensions, the radius and center angle shall be indicated.
- (6) Easements denoted by fine dashed lines clearly identified and, if already of record, their recorded reference. If an easement is not definitely located or recorded, there shall be a written statement of the easement. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the land division, must be shown. If the easement is being dedicated by the Plat or map, it shall be properly referenced in the owner's certificates of dedication.
- (7) Locations and widths of drainage channels including one hundred year flood plain or normal high water lines for any creek or other body of water, railroad rights-of-ways, reserve strips at the end of stub streets or along the edge of partial width streets on the boundary of the land division.
- (8) Lands that are wholly or partially within areas identified as wetlands or riparian areas on the Tangent Local Wetland and Riparian Area Inventory shall be professionally delineated for review and permit by the Oregon Division of State Lands (DSL). This is not required to be depicted on the plat.
- (9) Numbering of lots or parcels shall begin with the number "1" and numbered consecutively. Number sequence to generally follow the same system as sections are numbered in a township.
- (10) Lots or parcels to be dedicated for any purpose shall be distinguished from lots or parcels intended for sale with acreage and alphabetic symbols for each parcel indicated.
- (11) Notations indicating any limitations on rights of access to or from streets and lots or other parcels of land as established by the City.
- (12) Special building setback lines and solar easements, if any, which are to be made part of the Deed Covenants Conditions and Restrictions (CC&R's) of the land division.

#### **SECTION 2.334 SUPPLEMENTAL INFORMATION WITH PLAT**

Filing of separate legal documents to achieve any of the requirements of the Final Plat may be permitted by the City when it can be shown that placing such information on the final Plat is not required to achieve the purposes of this Code. The following data shall accompany the Plat.

- (1) A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the land to be divided.
- (2) Legal descriptions of the land division boundaries if available at the time of Final Plat approval.



- (3) Data sheets and drawings showing the following:
  - (a) Traverse data including the coordinates of the boundary of the land division and ties to section corners and donation land claim corners, and showing the error of closure, if any.
  - (b) The computation of distances, angles and courses shown on the Final Plat.
  - (c) Ties to existing monuments, proposed monuments, adjacent subdivision, street corners and state highway stationing.
- (4) A copy of any deed CC&R's (Covenants, Conditions and Restrictions) proposed by the Applicant or required by the City that are applicable to the land division. All CC&R's shall be in conformance with state and federal law. If there are no proposed or required CC&R's, the property owner shall submit a signed statement that no CC&R's are required and none will be established.
- (5) A copy of any dedication requiring separate documents.
- (6) Proof that all taxes and assessments on the tract have been paid.
- (7) A certificate by the City that the land divider has complied with one of the following alternatives:
  - (a) All improvements have been installed in accordance with the requirements of these regulations and with the action of the Planning Commission giving conditional approval of the Tentative Plan.
  - (b) An agreement has been executed as provided in **Sections 7.510 and 7.520** to assure completion of required improvements.

**SECTION 2.335 SURVEY REQUIREMENTS**

- (1) A complete and accurate survey of the land to be divided shall be provided in accordance with standard practices and principles of land surveying and as provided in this Code and state law including **Oregon Revised Statutes, Chapter 92 and Chapter 209**. the survey shall be prepared by a registered surveyor licensed to practice in the State of Oregon
- (2) Monuments
  - (a) All monuments shall be set according to the provisions of state law.
  - (b) In making the survey for the land division, the survey shall set sufficient permanent monuments prior to the recording of the final Plat so that the survey or any part thereof may be retraced according to standards required by the County Surveyor except interior monuments of subdivisions may be delayed with approval of the Planning Commission.
  - (c) Interior "post monumentation" may be permitted by approval of the Planning

Commission at the time of approval of the Tentative Plan or upon special request prior to filing the final Plat subject to the following:

1. The Subdivider has shown that it is necessary and practical to delay the interior monumentation.
  2. The Subdivider of the Plat agrees to furnish a bond, cash deposit, irrevocable letter of credit issued by a commercial bank as defined in **ORS 706.005**, or other security approved by the City in an amount equal to not more than 120 per cent of the estimated cost of performing the work for the interior monuments.
  3. That the Subdivider will sign an agreement with his surveyor and the City as to the amount of the security to be furnished at the time of submitting the final Plat, how the surveyor is to be paid for the work of establishing the interior monuments, that the rules for post monumentation shall be followed; establish a date when monumentation will be completed, and set out other particulars that may be necessary to insure the completion of the monumentation at a later date.
- (3) **Utility Markers**  
Permanent markers shall be provided for all underground water, sewer, septic tanks and drainfields and utility stubs within the prepared land division as approved by the City.

#### **SECTION 2.336 DEDICATION REQUIREMENTS**

- (1) All lots or parcels of land shown on the final Plat intended for public use shall be offered for dedication to the City at the time the Plat is filed except those lots or parcels, or common linear open spaces that are intended for the exclusive use of the owners, their licensees, visitors, tenants or employees; and those parcels of land reserved for public acquisition under the provisions of **Section 7.400** of this Code.
- (2) All streets, pedestrian ways, drainage channels, open spaces, easements and other rights-of-way shown on the final Plat intended for public use shall be offered for dedication for public use at the time the final Plat is filed.
- (3) All rights of access to and from streets, lots and parcels of land shown on the final Plat intended to be surrendered shall be offered for dedication at the time the final Plat is filed.
- (4) The land divider shall provide and designate one-foot reserve strips across the ends of stubbed streets adjoining undivided land or along half streets adjoining undivided land. The reserve strip shall be included in the dedication granting to the City the right to control access over the reserve strip to assure the continuation or completion of the street. This reserve strip shall overlay the dedicated street right-of-way.

#### **SECTION 2.337 CERTIFICATES ON FINAL PLAT**

- (1) Certificates on the Final Subdivision or Partition Plat: The following certificates, declarations, acknowledgments and other requirements established by State law shall appear on the final Plat of a subdivision.

- (a) A declaration in conformance with **ORS 92.075** on the final Plat by the declarant - the fee owner, vendor and/or the mortgage or trust deed holder of the property who has caused or consented to the following:
    - 1. Preparation and recordation of the final Plat.
    - 2. Offering for dedication all parcels of land, streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way intended for public use.
    - 3. Protective Covenants, Conditions or Restrictions on the use of lots or parcels, right-of- ways and easements.
  - (b) A certificate of the registered licensed surveyor who prepared the survey and the final Plat.
  - (c) A certificate for execution by the City Manager.
  - (d) A certificate for execution by the County Surveyor.
  - (e) A certificate for execution by the County Assessor.
  - (f) A certificate for execution by the County Clerk.
  - (g) Other certifications now or hereafter required by law.
  - (h) A statement of water rights together with the water rights certificate number if applicable.
- (2) All signatures on the Plat shall be in permanent black India type ink in conformance with **ORS 92.080**.
  - (3) All copies required for filing purposes shall be certified as an exact copy by the surveyor who prepared the Plat in accordance with **ORS 92.120, Subsection (3)**.

**SECTION 2.338 DECISION CRITERIA**

A final Plat of a subdivision or partition may be approved based upon compliance with the submittal requirements specified above and the following findings:

- (1) The final Plat is in substantial conformance with the Tentative Plan.
- (2) The Conditions of Approval attached to the Tentative Plan have been satisfied.

**SECTION 2.339 DECISION PROCESS**

- (1) Upon receipt by the City, the submitted Final Plat and other data shall be reviewed by the City Manager or designee to determine that the land division as shown is substantially the same as it appeared on the approved Tentative Plan and that there has been compliance with

provisions of law and this Code and any Conditions of Approval attached to the Tentative Plan.

- (2) The City may make such checks in the field as are desirable to verify that the submitted Final Plat is sufficiently correct on the ground and City representatives may enter the property for this purpose. Certifications of the County Surveyor shall be used to determine that the plat survey is technically correct.
- (3) If the City Manager determines that the submitted Final Plat conforms to the approved Tentative Plan, including all supplemental documents, provisions for required improvements and all conditions specified by the Planning Commission; approval shall be indicated by the signature of the City Manager. The approval of the submitted Final Plat does not constitute or effect an acceptance by the City of the dedication of any street or other easements offered on the plat until officially accepted by the City.
- (4) If the City Administrator finds errors or finds that the submitted Final Plat does not substantially conform to the approved Tentative Plan and **subsection (3)**, above, the City Manager shall notify the Planning Commission, shall advise the land divider of the changes or additions that must be made, and shall afford the land divider an opportunity to make corrections. The corrected Final Plat shall be resubmitted to the City Manager or Planning Commission, at the City's discretion, for verification of compliance with the approved Tentative Plan.

#### **SECTION 2.340 FILING OF PLAT**

- (1) Upon signing by the City Manager, the land divider shall, without delay, submit the Final Plat for signatures of public officials required by this Ordinance or state law. Approval of the Final Plat shall be null and void if it is not recorded within 120 days after approval by the City Manager.
- (2) Upon recording with Linn County, the land divider shall deliver to the City a signed and certified copy of the Final Plat and all recorded documents required and approved by the City. The City shall maintain the documents in the Record File of the Application in accordance with **Section 2.150**.
- (3) The land divider offering a plat for filing to which a water right is apparent shall also submit a copy of the Final Plat to the State Water Resources Department as required by **ORS 92.120**.

#### **SECTION 2.350 REPLATTING**

- (1) Re-platting shall allow the reconfiguration of lots or parcels and public easements within a recorded Plat in accordance with **ORS 92.180 to 92.190**. A replat shall conform to all of the requirements of the City for a subdivision or partition of land including approval of a Tentative Plan unless approved as a Property Line Adjustment as described in **Section 2.310** of this Code. Upon approval by the City, the replat will act to vacate the Platted lots or parcels and easements within the replat area.
- (2) Notice consistent with that required for approval of a Tentative Plan shall be provided by the

City. All affected utility companies or public agencies shall also be notified. Utility companies desiring to maintain easements proposed for vacation shall notify the City within 14 days of the mailing of the notice.

**SECTION 2.360 EXPEDITED LAND DIVISIONS**

When an expedited land division for residential use only is requested by an Applicant, the City shall use the procedures for an expedited land divisions specified under **ORS 197.365** in lieu of the procedures described in **Sections 2.320 through 2.329** if the application complies with the conditions and standards of **ORS 197.360 through 197.380**.

**SECTION 2.400 SITE PLAN REVIEW**

The purpose of the site plan review procedures is to correlate the Code standards and requirements with the specific site conditions and proposed uses through a comprehensive review process to assure that developments are in conformance with the City's applicable land use regulations. A Site Plan Review is required for all new commercial or industrial developments and for existing commercial or industrial developments where a change of use is proposed.

- (1) **Site Plan Review Application.** An application for a use requiring a Site Plan Review shall be filed with the City together with a site plan and other supplementary data described in the Application, **Section 2.130** and the Application Site Plan, **Section 2.140**.
- (2) **Decision Criteria.** After an examination of the Site and prior to approval, the Planning Commission must make the following findings:
  - (a) The proposed development or use complies with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.
  - (b) The proposed development or use does not have an adverse impact on transportation facilities, including existing streets and pedestrian, bicycle and vehicular safety. Future street right-of-ways identified in the TTSP are protected.
  - (c) Proposed signs or lighting will not, by size, location, color or operation, have an have an adverse impact on traffic, limit visibility or have an adverse impact on adjacent properties.
  - (d) Water, wastewater disposal and utilities are available and have the capacity to serve the proposed development or use.
  - (e) The proposed development or use does not have an adverse impact on drainage-ways and required drainage facilities are provided that have the capacity to serve the proposed development or use.
  - (f) Emissions and potential nuisance characteristics from the proposed development or use will not have an adverse impact on adjacent properties and potential adverse impacts on adjacent properties have been mitigated to the maximum extent possible.
  - (g) The proposed development or use does not conflict with the standards of other

regulatory agencies having jurisdiction.

(h) The site is in compliance with prior land use decisions and conditions of approval.

(3) **Decision Process.** The procedure for taking action on an application for a Site Plan Review shall be as follows:

- (a) Site Plan Review requires Administrative Approval by the City Manger in conformance with **Section 3.200(1)**. Notice is to be provided to property owners within 100 feet of the subject property with an opportunity to submit written comments within twenty (20) days prior to the review and decision by the City Manager.
- (b) The City Manager may approve, disapprove, or modify and approve the Site Plan and attach any reasonable conditions to approval of a site development plan.
- (c) The City Manager may also call for a public hearing to receive testimony if it determines that the proposed development may present possible adverse impacts on surrounding properties, the neighborhood or the City.
- (d) Once approved, the site plan submitted shall become the Official Plan. Building permits shall be issued only for plans that conform to the Official Plan and all construction shall conform to the Official Plan or a Certificate of Occupancy may be withheld until compliance, consistent with **Section 2.200(3)** of this code.
- (e) All required elements of the approved site plan shall be installed and maintained indefinitely by the owner, unless approval has been received for a revision or amendment.
- (f) Revisions or amendments to an approved site plan shall follow the same procedure as for adoption of a site development plan.
- (g) A written record of the findings and action of the City Manager shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**.
- (h) Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed **Site Plan Review** as specified in **Section 3.700**.

## **SECTION 2.500           CONDITIONAL USES**

A conditional use is a use of land or a structure which is normally appropriate in the district where it is permitted, but due to the specifics of that use could cause a potential nuisance, health or safety problem. It is the intent of this section to provide standards and procedures so that uses that are classified as conditional can fit into a particular zone in a manner that safeguards surrounding property, the neighborhood, and the City.

The City Manager or Planning Commission may also request a Conditional Use for any development proposal, in addition to those specifically required by this Code, if the site or proposed use possesses any one of the following characteristics:

- (a) The property is traversed by a natural drainage-way or has demonstrated drainage limitations.
- (b) The property includes, or is adjacent to, Open Space and/or Greenway Areas designated in the Comprehensive Plan.
- (c) The property is located in a hazard area.
- (d) The property contains unusual topographic features including hillside slopes exceeding 15% slopes.
- (e) The property, proposed development or use has unusual or special features that will not permit the development to fully comply the standards of this Code or where the proposed development or use poses potential adverse impacts on adjacent properties that may require mitigation.

- (1) **Conditional Use Application.** An application for a use requiring a Conditional Use approval must be filed with the City using forms described in the Application procedures, **Section 2.130**, and accompanied by an Application Site Plan and other supplementary data required under **Section 2.140**.

Uses existing prior to the effective date of this Code that are classified as a conditional use in this Code shall conform with the requirements for a conditional use if a change in use, lot area or an alteration is proposed.

- (2) **Decision Criteria.** Conditional uses listed in this Code may be permitted, altered, or enlarged upon authorization of the Planning Commission in accordance with the following findings:

- (a) The proposed development or use does not conflict with the standards of the land use zone and does not conflict with city codes and ordinances that are applicable to the application.
- (b) The proposed development or use is compatible with adjacent uses and zoning, or can be made so with conditions of approval. A determination of compatibility shall be based upon consideration of the following factors, along with other issues which may be raised by the Planning Commission:
  1. Proposed signs or lighting will not, by size, location or color, interfere with traffic, limit visibility or impact on adjacent properties.
  2. The proposed development or use does not have an adverse impact on drainage-ways and required drainage facilities are provided with the capacity to serve the proposed development or use.
  3. Emissions and potential nuisance characteristics from the proposed development or use will not have an adverse impact on adjacent properties and

potential adverse impacts on adjacent properties have been mitigated to the maximum extent possible.

4. The proposed development or use conforms with **Article 5** and other development standards of this code, including but not limited to landscaping, buffering and screening.
  5. The proposed use is not expected to have adverse impacts relative to traffic and transportation facilities. A traffic impact study may be required for developments identified as having potential for significant impacts in this regard in conformance with **Section 5.122(1)(f)**.
- (c) Adequate water, sewage disposal system and utilities for the proposed use are available.
  - (d) The proposed development or use does not conflict with the standards of other regulatory agencies having jurisdiction.
- (3) **Decision Conditions.** In approving a conditional use application, the Planning Commission may require additional standards and conditions which the Planning Commission considers necessary to comply with the intent and purpose of the Comprehensive Plan and implementing codes or ordinances. These conditions may include, but are not limited to, the following:
- (a) Regulating the required lot size, lot width, or yard dimensions.
  - (b) Regulating the height of buildings.
  - (c) Controlling the location and number of vehicle access points.
  - (d) Requiring dedication of additional street right-of-way or increasing the street width to accommodate the increased traffic generated by the proposed development.
  - (e) Increasing the number of required off-street parking or off-street loading spaces.
  - (f) Requiring internal property improvements such as utilities, drainage facilities, streets, curbs, gutters, walkways, parking areas, landscaping, buffering, fencing, screening, or recreation areas in order to enhance the area and to protect adjacent or nearby property.
  - (g) Limiting the number, size, location and lighting of signs.
  - (h) Requiring ongoing maintenance of buildings and grounds.
  - (i) Regulating emissions, potential hazards or nuisance characteristics caused by the proposed use which could have a negative impact on the surrounding area or the City as a whole.



- (j) Regulating time periods for the conduct of certain activities.
  - (k) Setting a time limit for compliance with conditions of approval.
  - (l) Requiring a performance bond or other security for the cost of improvements to guarantee compliance with the standards and conditions of approval.
  - (m) Requiring a contractual agreement with the City to assure that the applicant will pay a share of the development costs for future public improvements.
- (4) **Decision Process.** The procedure for taking action on an application for a Conditional Use shall be as follows:
- (a) A Conditional Use requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with **Section 3.500**. A Quasi-judicial Decision requires providing notification to property owners within 100 feet of the subject property with an opportunity to submit written comments prior to or at a public hearing and oral comments at the hearing, prior to the close of the record.
  - (b) The Planning Commission may approve, deny, or approve conditionally the Conditional Use and attach any reasonable standards of development or conditions of approval to attain compliance with the zone and city codes and ordinances.
  - (c) If an application is denied, the action must be based on reasons related to non-compliance with the decision criteria in **Section 2.500(2)**.
  - (d) Once approved, the Conditional Use shall become the Official Plan. Building permits shall be issued only for plans which conform to the Official Plan and all construction shall conform to the official plan or a Certificate of Occupancy may be withheld until compliance, consistent with **Section 2.200(3)** of this code.
  - (e) All required elements of the approved Conditional Use shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
  - (f) Revisions or amendments to an approved Conditional Use shall follow the same procedure as that utilized for approval.

**SECTION 2.600 VARIANCES**

Because of the impossibility of foreseeing and providing for all circumstances and conditions which may affect individual properties or uses, the **Variance** provision is created to allow modification of the development standards of this Code for special and unusual circumstances without defeating the purpose and intent of the Code.

- (1) **Variance Application.** An application for a **Variance** shall be filed with the City together with the applicable fee deposit, a site plan and other supplementary data using forms prescribed in **Section 2.130**. The applicant shall submit evidence that the circumstance for granting a Variance as outlined in Item (2) herein apply to the Variance request. The

Planning Commission may authorize variances from the requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property or use, strict application of the Code would cause a specific hardship which is unintended by the comprehensive plan and implementing ordinances, or would preclude making reasonable economic use of a property.

A **Variance** shall not be granted to allow a use permitted in another district or zone or to allow a use not authorized within the intended district or zone. In granting a **Variance**, the Planning Commission may attach conditions that it finds necessary to protect the best interests of the surrounding properties or vicinity and otherwise achieve the purposes of this Code.

- (2) **Decision Criteria.** A Variance may be granted if the following circumstances exist:
- (a) The property has unique or peculiar physical circumstances or conditions such as, irregular shape, width or depth; or exceptional natural or physical conditions such as topography, trees, native vegetation, wetlands, riparian areas, floodplain, wildlife habitat, or drainage ways; and
  - (b) The requested **Variance** is the minimum necessary to address the peculiar or unusual conditions of the site; and
  - (c) Any impacts resulting from the **Variance** are mitigated to the extent practical; and
  - (d) The granting of the **Variance** will not be detrimental to the public welfare or injurious to other property in the area in which the property is situated; and
  - (e) The granting of the **Variance** will not conflict with the purpose and intent of the district or zone or other related ordinances of the City.
- (3) **Decision Process.** The procedure for taking action on an application for a **Variance** shall be as follows:
- (a) Except as provided in **Section 2.600(4)**, below, a Variance requires a "Quasi-judicial Public Hearing" by the Planning Commission in conformance with **Section 3.500**. A Quasi-judicial Decision requires notification to property owners within 100 feet of the subject property with an opportunity to submit written comments prior to or at a public hearing and oral arguments at the hearing prior to the close of the record.
  - (b) The Planning Commission may approve, deny, or approve conditionally the **Variance** request and attach any reasonable standards of development to attain compliance with the zoning district and this Code as provided in **Section 3.600**.
  - (c) If an application is denied, the action must be based on reasons related to non-compliance with the decision criteria of **Section 2.600(2)**, above.

- (d) If the application is approved, the Planning Commission may prescribe the terms and conditions upon which the **Variance** is granted; may set a time limit for the duration of such **Variance**; and may require guarantees in an approved form to insure that the conditions and standards for the approved **Variance** will be fulfilled in a timely manner.
- (e) Once approved, the **Variance** shall become the official standard. Building permits or land divisions shall only be approved for plans that conform to the official standard of the approved **Variance** and all construction shall conform to the official standard or a Certificate of Occupancy may be withheld until compliance consistent with **Section 2.200(3)** of this code.
- (f) All required elements of the approved **Variance** shall be installed and maintained indefinitely by the owner unless approval has been received for a revision or amendment.
- (g) Revisions or amendments to an approved **Variance** shall follow the same procedure as that utilized for approval.
- (h) A written record of the findings and action of the Planning Commission shall be maintained by the City in a Record File of the Application as specified in **Section 2.150**.
- (i) Notice of Decision shall be given the Applicant together with any conditions of approval for the proposed **Variance** as specified in **Section 3.700**.

(4) **Administrative Variances.**

- (a) The following variances are reviewed and decided by the City Manager. Written notice shall be provided abutting property owners a minimum of 14 days prior to a decision by the City Manager. Proposed modifications for the following issues may be granted under this section, subject to findings of compliance with **Section 2.600(4)(b)**, below.

1. Yard Setbacks; or
2. Building Height.

Up to a 10 percent change to the above standards may be granted under this section.

- (b). **Administrative Variance Approval Criteria.** An **Administrative Variance** may be granted if the applicant demonstrates compliance with all of the following criteria;
  1. There is no opposition from adjacent property owners.
  2. The variance requested is required due to the lot configuration, or other conditions of the site;

3. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
  4. The variance will not result in violation(s) of Article 5, or other design and development standards.
- (c) An application which is denied an Administrative Variance approval may be re-submitted to the Planning Commission for consideration in a Quasi-Judicial public hearing under Section 2.600(1)-(3), and is not subject to the one year limitation of Section 2.130(15).

## **SECTION 2.700 AMENDMENTS**

It is recognized that this Code or the Tangent Comprehensive Plan may require amendments to adjust to changing circumstances. An amendment may require either a Legislative Decision as defined in **Section 3.200 (2)** or a Quasi-judicial Decision as defined in **Section 3.200 (3)** depending upon whether the amendment applies to the Code in general or to a class of properties or to a specific property.

Amendments may be either Text Amendments or Map Amendments.

- (1) **Amendment Application.** An Amendment to this Code may be initiated by the City Council, the City Planning Commission or by application of a property owner. A request by a property owner for an amendment shall be accomplished by filing an application and Fee Deposit with the City using forms prescribed in **Section 2.130**.
- (2) **Decision Criteria.** The City Council, following a recommendation from the Planning Commission, may grant a request for an amendment to the text or map of the Code or Comprehensive Plan if the Council makes the following findings.
  - (a) The amendment is consistent with the intent of Statewide Planning Goals.
  - (b) The proposed amendment does not conflict with the intent of the Comprehensive Plan.
  - (c) The amendment will not adversely impact any property within the City .
  - (d) The amendment will not have an adverse environmental impact.
  - (e) The amendment will not have an adverse impact on public facilities or transportation.
  - (f) The amendment will not have an adverse impact on the economy of the area.
- (3) **Decision Process.**
  - (a) All text amendments and any zone map amendments that affect a group or class of properties within the City require a "Legislative Decision" by the City Council with prior recommendation by the Planning Commission in conformance with the Legislative Public Hearing procedures of Section 3.600. Every Legislative Amendment

shall be passed by the voters of the City of Tangent unless such a requirement is prohibited by state law.

- (b) Zone map amendments initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with prior recommendation by the Planning Commission in conformance with the Quasi-judicial Public Hearing procedures of **Section 3.500**.
- (c) The City Council upon recommendation of the Planning Commission may approve, deny, or approve with standards or conditions to attain compliance with this Code or the applicable zoning district, the proposed amendment.
- (d) The City is not required to justify denial of a proposed legislative change.

- (4) Consistent with Section 2.130(15) of this code, no application of a property owner for an amendment to the text of this Code or the comprehensive plan map or zoning map shall be considered by the City within a one-year period following previous denial of a similar request, except the City Council may permit a new application, if in the opinion of the Council, new evidence or a change of circumstance warrant it.

## **SECTION 2.800 ANNEXATIONS**

The annexation of land to the City of Tangent shall promote orderly growth of the City and the efficient provision of public facilities and services. The Tangent Urban Growth Boundary Agreement with Linn County specifies that annexations and the provision of urban services shall only occur within the Tangent Urban Growth Boundary (UGB). The procedures and standards for annexations are specified in **ORS 222.111 to 222.180**. A change in the UGB requires an Amendment to the Tangent Comprehensive Plan in conformance with Statewide Planning Goal 14 and an Amendment to the Urban Growth Boundary and Policy Agreement between the City of Tangent and Linn County.

All proposed annexations of land to the Tangent City Limits require an affirmative vote of electorate of the City to become effective unless the annexation is mandated by state law or in the event this standard is rendered unenforceable under current Oregon state law.

A proposal for annexation may be initiated by the City Council on its own motion, or by a petition to the City Council from the Planning Commission, or by owners of real property located in the territory proposed to be annexed.

### **(1) Annexation by City Council Initiation**

State law provides that the City Council may determine the procedures for City initiated annexations within the limits defined by **ORS 222.111 to 222.180**. These procedures may include, but are not limited to, an election within the territory to be annexed, when consistent with state law, consent of the requisite number of property owners and electors, and/or a public hearing on the annexation. Proposed annexations shall include the following information:

- (a) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.

- (b) A vicinity map of the area to be annexed including adjacent City territory.
- (c) The map of the existing and proposed land use zoning district(s) on and abutting the territory to be annexed..
- (d) A statement addressing the availability of public facilities and services for the proposed annexation territory.

(2) **Annexation by Owner Initiation**

A request by a property owner for an annexation shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130** and the Fee Deposit adopted by resolution of the City Council. Each application for annexation shall include the following material:

- (a) Written consent to the annexation signed by the requisite number of affected property owners, electors, or both as provided by state law.
- (b) A legal description of the property to be annexed and a boundary survey certified by a registered engineer or surveyor.
- (c) A vicinity map of the area to be annexed including adjacent City territory.
- (d) A statement of the expected demand on public facilities and the availability of public facilities and services to serve the proposed annexation.
- (e) A statement of the overall development intent and a conceptual land use plan indicating the types and intensities of proposed development, transportation corridors, watercourses, significant natural features, and adjoining development.
- (f) Upon acceptance of a complete application, the City shall request a Staff Review together with other public or private agencies which may be affected by the proposed annexation. Upon receipt of the application, plans and accompanying narrative, Staff shall make an evaluation and recommendation. Comments and recommendations shall be available to the public and the Applicant. The Applicant shall be advised of any recommended changes or conditions for approval. The City shall incorporate all Staff comments into a report to the Planning Commission and City Council. The report shall include an analysis of the impacts of the proposed annexation, a review of applicable City and State policies and standards, and a recommendation as to the appropriateness of the proposed development and the annexation itself

(3) **Decision Criteria.** The City Council may grant an annexation request if the Council can make the following findings:

- (a) The annexation is consistent with the intent of Statewide Planning Goals.

- (b) The proposed annexation is consistent with the intent of the Comprehensive Plan.
  - (c) The annexation will not adversely impact adjacent areas.
  - (d) The annexation will not have an adverse environmental impact.
  - (e) The annexation will not have an adverse impact on public facilities or transportation.
  - (f) The annexation will not have an adverse impact on economy of the area.
  - (g) All annexations of land to the Tangent City Limits require an affirmative vote of the majority of City electors to become effective, except when this subsection may be rendered unenforceable under Oregon State law.
- (4) **Decision Process.** The procedure for taking action on an annexation request may be one of the following:
- (a) Upon receipt of a complete application for annexation, the City Council shall review the application and refer the request to the Planning Commission to evaluate the proposed annexation; to determine whether to recommend the Council approve or deny the request; and to identify the appropriate zoning district to be applied in the event of annexation.. In making its initial review of the application, the City Council shall determine whether a public hearing will be held before the Planning Commission, the City Council or both bodies.
    1. At the Council's discretion, the Planning Commission may hold a public hearing in accordance with the provisions of Section 3.500 for the purposes of reviewing the proposed annexation and the proposed land use zoning district(s). Following the close of the public hearing the Commission shall recommend whether to approve or deny the request and the appropriate zoning district to be applied if annexation is recommended..
    2. If so elected, the City Council may hold a public hearing in accordance with the provisions of Section 3.500 for the purposes of reviewing the recommendations of the Planning Commission. Subject to adopting findings of fact in favor of the Annexation decision criteria in **Section 2.800(3)**, the City Council may, by ordinance containing a legal description of the territory to be annexed, declare the territory annexed, upon the condition of an affirmative vote of the City electorate, provided such requirement for a vote is enforceable under Oregon state law.
  - (b) Upon annexation of any land previously outside the incorporated limits of the City of Tangent, the annexed land shall be zoned as prescribed by the City Council. Until that amendment takes effect, the zoning classification and provisions of the Zoning Ordinance of Linn County applicable to the land immediately prior to that annexation shall remain in effect and shall be enforced by the City of Tangent.

- (c) The City Council shall refer the proposal for annexation to the City electorate at the next regularly scheduled election, except when this subsection may be rendered unenforceable under Oregon state law.
- (5) A written record of the findings and action of the City shall be maintained in a Record File of the Application as specified in **Section 2.150**.
- (6) Notice of Decision shall be given the Applicant and all parties to the proceedings as specified in **Section 3.700, Decision**.
- (7) Upon adoption by the City Council of an ordinance annexing territory to the City of Tangent, the City shall provide a Notice of Decision to the proper state and county authorities including the Oregon Secretary of State, the Oregon Department of Revenue, the Oregon U-R Mapping Unit, and the County Clerk and Assessor of Linn County. Notice shall include a legal description of the annexed property and a map of the proposed property showing the location of the annexed property relative to the Tangent City Limits. Subject to applicable Oregon state law, the Notice of Decision shall be provided only after the election results are certified, if applicable, and all outstanding fees have been paid to the City by the applicant.

**SECTION 2.900 VACATIONS**

Where it is determined that a proposed Vacation shall not be injurious to the City or abutting properties, it may be appropriate to vacate all or parts of a public right-of-way, easements or other public places. This section states the procedures and criteria to permit the vacation of public lands not needed for municipal purposes, where it is consistent with the community land use policies and goals. Ownership of vacated territory shall revert proportionally to the adjoining properties and become a part thereof, as set out in state law.

- (1) **Vacation Application.** An application for a **Vacation** may be initiated by the City Council or by petition of adjoining or area land owners in accordance with **ORS 271.080**. A request by a property owner for a **Vacation** shall be accomplished by filing an application with the City using forms prescribed in **Section 2.130**, along with the applicable Fee Deposit. Applicants shall set forth a description of the area proposed to be vacated; shall submit a map showing the same area; and shall state the purpose and justification for the proposed **Vacation**.
- (2) **Consent of Affected Property Owners.** At the time the application is submitted, the Applicant shall submit a letter or letters of consent from affected property owners. For purposes of this Code and in compliance with **ORS 271.080**, affected property owners shall be defined as:
  - (a) All abutting property owners, and
  - (b) Owners of not less than two-thirds in area of the real property affected thereby. Consent of the owners of the required amount of property shall be submitted in writing and duly acknowledged by the City prior to the scheduling of a public hearing for the requested Vacation.



- (3) **Decision Criteria.** A **Vacation** request may be approved if the reviewing body finds that the applicant has shown that all of the following review criteria are met:
- (a) The proposed **Vacation** is consistent with the relevant Comprehensive Plan policies and with any adopted street plan, transportation plan or public facility plan.
  - (b) The proposed **Vacation** will not adversely impact adjacent areas or the land use plan of the City.
  - (c) The proposed **Vacation** will not have a negative effect on access between public rights- of-way, existing or future properties, public facilities or utilities.
  - (d) The proposed **Vacation** will not have a negative effect on traffic circulation or emergency service protection and is not part of the Tangent Transportation System Plan.
  - (e) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety, as applicable.
  - (f) The proposed **Vacation** will not create a landlocked property or adversely affect access to or development potential of any properties.
  - (g) The proposed **Vacation** will not have an adverse impact on economy of the area.
  - (h) The public interest, present and future, will be best served by approval of the proposed **Vacation**.
- (4) **Decision Process.** The procedure for taking action on a **Vacation** request may be one of the following:
- (a) Upon receipt of a complete application for a **Vacation**, the City Council shall review the application and refer the request to the Planning Commission to determine whether to recommend the Council approve or deny the request, and to identify the appropriate zoning district to be applied in the event of **Vacation** of the subject property.
  - (b) **Vacations** initiated by an applicant for a specific property within the City requires a "Quasi-judicial Decision" by the City Council with a recommendation by the Planning Commission, in conformance with the Quasi-judicial Public Hearing procedures of **Section 3.500** as supplemented by the provisions of **ORS Chapter 271**. State law defines the affected area and mandates notice requirements that may be more stringent than the City's requirements. City initiated **Vacations** may include a public hearing, at the discretion of the City Council.
  - (c) Zoning of Vacated Right-of-Way. Except as otherwise provided within the **Vacation** ordinance or where the official City zoning map is not clear as to the zoning of vacated right-of-way, the zoning of each parcel of vacated territory shall be the same as the

adjoining property to which the ownership of the vacated unit of land automatically reverts.

- (d) The City Council, upon recommendation of the Planning Commission, may approve, deny or approve with standards or conditions to attain compliance with this Code and State Statutes the **Vacation** request.
  - (e) Conditions of Approval. The City may attach conditions to the approval of a Vacation request to ensure that the proposal will conform to the review criteria, and may require fair market value for the vacated property as a condition of approval.
- (5) A written record of the findings and action of the City Council on the **Vacation** shall be maintained by the City in a Record File as specified in **Section 2.150**.
  - (6) Notice of Decision shall be given the Applicant and affected parties, together with any conditions of approval for the proposed **Vacation**, as specified in **Section 3.600, Decision**.