



STAFF REPORT

October 9, 2019

Agenda Item: File No. ZC-19001

Consideration of amendments to various sections of the Central Point Municipal Code addressing Accessory Dwelling Units (ADU) and accessory structures. **File No.:** ZC-19001; **Approval Criteria:** CPMC 17.10, Zoning Map and Text Amendments.

Staff Source

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Background

In 2006 the City adopted regulations allowing Accessory Dwelling Units (ADUs) in single family zones (i.e. R-L, Residential Low Density and R-1, Residential Single Family). ADUs are smaller independent living units on the same lot as a primary single family dwelling that provide more economical housing opportunities for Central Point residents, promote efficient use of land and options for family needs. Since adoption of regulations allowing ADUs, few have been built. Common barriers include but are not limited to:

- Size restrictions result in units that are too small to be desirable;
- Off-street parking requirements are difficult to meet; and
- System Development Charges (SDCs) are cost prohibitive.

As the City continues to grow, housing supply and affordability will continue to be a concern. In response to these concerns, the City has prepared draft code amendments to various sections of the Zoning Ordinance addressing Accessory Dwelling Units (ADUs) and accessory structures (Attachment “A”). The purpose of the code amendments is two-fold: 1) ease locally relevant barriers to ADUs to increase opportunities for increased housing supply and affordability; and, 2) comply with ORS 197.312, amended in 2018 and 2019 by SB 1051 and HB 2001, respectively. The amended laws require the City to allow ADUs in all zones that permit single family detached dwellings subject to “reasonable regulations relating to siting and design” (Attachment “B”). The proposed amendments have been discussed by the Citizen’s Advisory Committee (CAC) (September 10, 2019) and Planning Commission (August 6, 2019 and September 3, 2019).

Description:

The proposed code amendments eliminate redundancies, address common barriers for ADU construction and comply with ORS 197.312. Proposed text amendments include the following:

- **CPMC 17.08 Definitions**
 - Definition Alignment. Proposed code revisions provide definitions that are consistent with those required by State law.

- **CPMC 17.60 General Regulations**
 - Accessory Buildings. Change setbacks from three (3) feet measured from the furthest protrusion or overhang to five (5) feet from the building face. Proposed changes are intended to provide clear, consistent setback measurement instructions for all structure types.

- **CPMC 17.77 Accessory Dwelling Units (ADU)**
 - Maximum Square Footage. The proposed change increases the maximum ADU size from 35% of the primary dwelling Gross Floor Area (GFA) or 800 square feet, whichever is less, to 50% of the primary dwelling GFA or 800 square feet, whichever is less. As shown in Table 1, the proposed change allows a more reasonable maximum floor area for property owners with a primary dwelling that is under 2,000 square feet GFA.

Table 1. ADU Floor Area Comparison

Gross Floor Area	Current Code		Proposed Code	
	Max Floor Area %	Max Floor Area SF	Max Floor Area %	Max Floor Area SF
1200	35%	420	50%	600
1500		525		750
2000		700		1000
2500		875		1250

- Square Footage Exception. Allow a unit built above a detached garage to exceed maximum square footage requirements. This exception aims to remove barriers to the development of ADU's above detached garages.

- Setbacks. Reduce rear yard setbacks from 10ft to 5ft. These reductions are intended to align with accessory building setbacks, which may eventually be repurposed as ADU's upon request by property owners.

- Parking. Eliminate off-street parking requirements as required by HB 2001. This requirement was implemented on August 8, 2019. The City learned of the new requirement from comments on the draft amendments made by the Department of Land Conservation and Development (DLCD) on October 22, 2019 (Attachment "C"). The amendment to ORS 197.312 due to HB 2001 eliminates the City's ability to require parking for ADUs and replaces previous language allowing on-street parking in lieu of off-street parking under specific circumstances.

- ***CPMC 17.64.040, Table 17.64.02A Residential Off-Street Parking Requirements***
 - Parking. The proposed change is required to comply with ORS 197.312 as amended by HB 2001 signed into law and effective on August 8, 2019.
- ***CPMC 17.65.050, Table 3 Residential Off-Street Parking in the TOD District and Corridor***
 - Parking. The proposed change is required to comply with ORS 197.312 as amended by HB 2001 signed into law and effective on August 8, 2019.

At the November 5, 2019 Planning Commission, staff will present amendments to CPMC 17.05, 17.60.030, and CPMC 17.77 at a duly noticed public hearing for consideration by the Planning Commission for recommendation to the City Council.

Issues

It should be noted that public comments were received during the discussions at the August and September Planning Commission meetings in opposition to the proposed amendments (Attachment “D”). A number of concerns were raised addressing parking, neighborhood compatibility, impact of the proposed code amendments on established Covenants, Conditions and Restrictions (CC&Rs), and impacts to the viability and success of the Twin Creeks Master Plan. Other comments addressed government transparency and concern that the code amendments were drafted to benefit a specific property owner. Each of these issues is briefly addressed below:

- Parking. In the discussion drafts, City staff proposed measures that would offer flexibility to locate required off-street parking to an on-street location in limited instances. This provision acknowledged the SB1051 recommendation that City’s not require off-street parking while addressing community concerns that adequate parking be provided to support new development. Since the initial discussions occurred, City staff has been notified by DLCD that the law changed on August 8, 2019 prohibiting the City from requiring off-street parking in association with ADUs.
- Neighborhood Compatibility. ADU impacts to neighborhood compatibility is a concern for residents due to noise, light and visual impacts. Per ORS 197.312, the City may impose clear and objective standards, such as building height, setbacks, and specific design requirements. The proposed amendments propose a reduction in the allowable building height to 25-ft consistent with accessory structures regulated in CPMC 17.60.030. Similarly setbacks are proposed to be reduced to 5-feet on the rear yard property line mirroring the accessory structure standards. The intent in proposing these changes is to ease common barriers to ADU construction by allowing conversion of existing accessory structures that meet all life and safety requirements in the building codes. All other design standards remain unchanged.
- Impact to CC&Rs. Public comments stated a concern that CC&Rs would be superseded by the City’s proposed regulations. In accordance with a publication by the American Planning Association, a Homeowner’s CC&Rs, where more restrictive, “can control land use, development standards, and other aspects of community management” (Attachment “E”). Based on this legal primer, it does not appear that Central Point’s proposed zoning code amendments

relative to ADUs will adversely impact a Homeowner's Association's ability to enforce its CC&Rs.

- Twin Creeks Master Plan. The Twin Creeks Master Plan was adopted in 2000 and includes a land use and housing plan (Exhibits 18 and 35, respectively). Exhibit 35 lists the planned housing types and numbers of units by zoning district. Accessory Units are identified as a housing type in Exhibit 35. Although not expressly required by the Master Plan, it was envisioned that a total of 82 ADUs would be constructed in Twin Creeks. These are shown throughout the master planned development in the LMR (Low Mix Residential) and MMR (Medium Mix Residential) zones. The proposed code amendments do not impact the ability of ADUs to be constructed in Twin Creeks as envisioned. ADUs will continue to be subject to the design standards, and lot coverage and landscaping requirements in the TOD. Proposed changes lower the allowable building height but do allow relaxation of the rear yard setback from 10-ft to 5-ft.
- Transparency. The City has initiated the proposed amendments in direct response to the City's Housing Needs Analysis and policy direction to eliminate barriers to increasing housing supply, diversity of housing types, and affordability. Additionally, these proposed amendments comply with ORS 197.312, which was amended in 2018 and 2019. Property owners interested in seeing these changes also provided comments at the August discussion. The code amendments were not crafted to benefit any one property owner but to alleviate barriers identified over the past few years.

Findings of Fact and Conclusions of Law

The proposed zoning text amendments have been reviewed against and found to comply with the applicable review criteria in CPMC 17.10, Zoning Map and Text Amendments as demonstrated in the Planning Department Findings of Fact and Conclusions of Law (Attachment "F").

Attachments:

Attachment "A" – ADU Code Revisions

Attachment "B" – ADU Implementation Guidance from DLCD, updated August 8, 2019

Attachment "C" – DLCD Comments on proposed Text Amendments dated October 22, 2019

Attachment "D" – Public Comments received on August 6, 2019 and September 3, 2019

Attachment "E" – "A Planning Primer on Private Restrict Covenants," Planning Magazine, May 2019. American Planning Association

Attachment "F" – Planning Department Findings of Fact and Conclusions of Law (Draft)

Action

Consider proposed zoning amendments and forward a resolution to the City Council recommending 1) approval, 2) approval with changes or 3) denial of the proposed zoning text amendments.

Recommendation

Forward a favorable recommendation to the City Council approving the zoning text amendments with or without changes.

Chapter 17.08 DEFINITIONS

“Accessory dwelling unit (ADU)” means an Interior, attached or detached ~~unit-residential structure~~ that is used in connection with or provides complete independent living facilities and that serves as an accessory use to a primary single dwelling ~~unit~~. Accessory dwelling units differ from guest quarters, which do not provide independent living facilities.

“Guest ~~house~~Quarters” means an Interior, attached or detached accessory building designed and used for the purpose of providing temporary living accommodations for guests or for members of the same family as that occupying the main building, and containing no kitchen facilities.

Chapter 17.60 GENERAL REGULATIONS

17.60.030 Accessory Buildings

Accessory buildings shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the following limitations:

A. Regardless of the side and rear yard requirements of the district, in a residential (R) district a side or rear yard not adjoining a street may be reduced to ~~three-five~~ feet, ~~measured from the furthest protrusion or overhang~~, for an accessory structure erected more than fifty-five feet from the street right-of-way line on which the lot fronts, other than alleys, provided the structure is detached and separated from other buildings by ten feet or more.

B. Canvas-Covered Canopies and Other Temporary Structures. Temporary structures in residential (R) districts shall not be permitted within a front setback and only within a side setback that does not abut a public right-of-way. Temporary structures within a side setback shall be at least three feet from the side lot line measured from the furthest protrusion or overhang. Such structures are to be anchored to the ground in accordance with building code requirements.

C. Structural Dimensions. All accessory buildings will be subject to the requirements of all building specialty codes adopted under the Central Point Municipal Code.

1. Height. Accessory structures in residential (R) districts shall not exceed twenty-five feet if detached from the main structure. Structures greater than fifteen feet but less than twenty-five feet in height shall be set back a minimum of five feet from a side or rear lot line.

2. Width and Length. Garages and carports intended to satisfy the municipal code requirement for two off-street covered parking spaces shall be a minimum interior dimension of twenty feet in width by twenty feet in length. Standard garage doors shall be of adequate width to facilitate safe passage and maneuvering of automobile traffic.

3. Alley Setback. Accessory structures in residential (R) districts which abut an alley, are used as garages, and take their access from the alley shall have a setback of fifteen feet from the rear property line. (Ord. 1981 §3 (Exh. C) (part), 2014; Ord. 1818 §1(part), 2001; Ord. 1684 §53, 1993; Ord. 1436 §2(part), 1981).

Chapter 17.77
ACCESSORY DWELLING UNITS (ADU)

Sections:

[17.77.005 Purpose.](#)

[17.77.010 Permitted in residential districts, R-L and R-1.](#)

[17.77.020 Provisions for water and sewer.](#)

[17.77.030 Only one accessory dwelling unit per single-family dwelling.](#)

[17.77.040 General provisions.](#)

[17.77.050 Special provisions.](#)

[17.77.060 Permit-Fee-Application-Inspection.](#)

[17.77.070 ADUs detached from single-family dwelling-Special.](#)

17.77.005 Purpose.

The purpose of this section is to allow for establishment of an accessory dwelling unit in conjunction with a single family dwelling within a single family residential zoning district. An accessory dwelling may be permitted as a means of providing more affordable housing opportunities for young families, empty nesters and others; encouraging additional density with minimal cost and disruption to surrounding neighborhoods; allowing individuals and smaller households to retain large houses as residences; providing convenient care for the elderly and infirm on a long-term basis; and allowing more energy-efficient use of large, older homes. (Ord. 1884 (part), 2006).

17.77.010 Permitted in residential districts, R-L and R-1.

Accessory dwelling units (ADUs) shall be a permitted use in the R-L and R-1 residential districts as accessory to single family dwellings subject to the provisions of this chapter. (Ord. 1884 (part), 2006).

17.77.020 Provisions for water and sewer.

No ADU shall be permitted to be added to, created within, or constructed on the same lot as the single-family dwelling to which it is accessory without a prior certification from the public works department of the city that the water supply and sanitary sewer facilities serving the site of the proposed ADU are adequate. (Ord. 1884 (part), 2006).

17.77.030 Only one accessory dwelling unit per single-family dwelling.

Only one ADU shall be permitted as accessory to a single family dwelling. (Ord. 1884 (part), 2006).

17.77.040 General provisions.

A. ADUs shall be permitted as second dwelling units that are added to or created within or on the same lot as a single family dwelling.

~~B. All housing and building codes and standards shall be applicable to all ADUs including, but not limited to, the building code, the plumbing code, the electrical code, the mechanical code, the fire code, and all requirements of the city of Central Point.~~

~~C. ADUs, whether attached or detached, that are added to or created within single family dwellings are not required to have separate independent utility connections.~~

- ~~1. D. The gross floor area of an accessory dwelling unit shall contain no more than thirty-five percent of the gross floor area of the main dwelling in existence prior to the construction of the accessory dwelling unit or eight hundred square feet, whichever is less.~~
- ~~2. E. No subdivision of land, air rights or condominium is allowed so as to enable the sale or transfer of the accessory dwelling unit independently of the main dwelling unit or other portions of the property.~~

~~F. All ADUs shall be designed to maintain the appearance of the single family dwelling to which they are accessory. If an ADU extends beyond the current footprint of the single family dwelling it must be consistent with the existing roof pitch, siding and windows of the single family dwelling. If a separate entrance door is provided, it must be located either off the rear or side of the single family dwelling. Any additions to an existing structure or building shall not exceed the allowable lot coverage or encroach into the required setbacks.~~

~~G. All ADUs which are attached to a single family dwelling shall have a separate entrance for the accessory dwelling unit, but it shall not be located on the front of the existing building.~~

~~H. At least one off street parking space shall be provided for each ADU in addition to the off street parking spaces required for the single family dwelling.~~

~~I. All ADUs shall have separate street addresses that are visible from the street and that clearly identify the location of the ADU. (Ord. 1942 §1, 2010; Ord. 1884 (part), 2006).~~

17.77.050 Special provisions.

~~A. The owner or contract purchaser of record of the single family dwelling to which an ADU is accessory shall reside either in the single family dwelling or the ADU as a permanent place of residence and shall not be permitted to rent or lease the same. The ownership of ADUs may not be separated from ownership of the single family dwelling to which they are accessory.~~

~~B. No home occupations, day care centers or adult foster homes shall be permitted in ADUs or in single-family dwellings to which they are accessory. (Ord. 1884 (part), 2006).~~

~~17.77.060 Permit Fee Application Inspection.~~

~~A. No ADU may be added to, created within, or constructed upon the same lot as a single family dwelling without a permit therefor, issued by the planning department. ADU permits shall be processed as a Type I land use application.~~

~~B. All applications for ADU permits shall be on forms provided by the planning department, and the fee for such permit shall be as provided in the building code.~~

~~C. Before any permit for the creation or construction of an ADU is granted, the proposed site thereof and the plans and specifications therefor shall be inspected by the building official to assure that the provisions of this chapter are not violated. (Ord. 1942 §2, 2010; Ord. 1884 (part), 2006).~~

~~17.77.070 ADUs detached from single family dwelling Special.~~

~~The following provisions shall be applicable to detached ADUs:~~

~~A. Water, sewer and solid waste collection may be by way of connections and service that is completely separate, apart and independently metered from the single family dwelling to which such ADU is accessory, or by other means approved by the public works department.~~

~~B. All detached ADUs shall comply with all setback and separation requirements for detached accessory buildings except that the minimum rear yard setback shall be ten feet.~~

~~C. Detached ADUs shall be designed in such a manner as to blend with or complement the architectural design of the single family dwelling to which such ADU is accessory; approval of such design shall be made by the appeal board of adjustment.~~

~~D. Detached ADUs shall share the same hard surfaced driveway as the single family dwelling to which such ADU is accessory, and shall have direct access to the street upon which the single family dwelling fronts, or take access from an alley. No new or additional curb cuts shall be permitted for the ADU, except on corner lots where a new curb cut will be allowed on the street frontage having no existing curb cut.~~

~~E. Detached ADUs shall have an unobstructed street frontage approved by the fire district with no intervening structures to ensure adequate visibility and access for emergency vehicles. (Ord. 1981 §5 (Exh. E), 2014; Ord. 1942 §3, 2010; Ord. 1884 (part), 2006).~~

Chapter 17.77
ACCESSORY DWELLING UNITS (ADU)

Sections:

[17.77.005 Purpose.](#)

[17.77.010 Applicability.](#)

[17.77.020 One Unit.](#)

[17.77.030 Approval Criteria.](#)

17.77.005 Purpose.

The purpose of this section is to allow for establishment of an accessory dwelling unit (ADU) in conjunction with a single-family detached dwelling within zones that allow single family detached dwellings in accordance with ORS 197.312. ADUs are intended to provide more economical housing choices while encouraging additional density with minimal cost and disruption to surrounding neighborhoods; and allowing more efficient use of large, older homes. (Ord. 1884 (part), 2006).

17.77.010 Applicability.

Accessory dwelling units (ADUs) shall be a permitted use in the R-L,R-1, R-2 residential districts, and LMR, MMR, and HMR mixed-use districts within the Transit Oriented Development (TOD) District, as accessory to single-family dwellings subject to the provisions of this chapter. (Ord. 1884 (part), 2006).

17.77.020 One Unit.

A maximum of one (1) ADU shall be allowed per legally established single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g. above a detached garage or workshop), or attached to or interior to the primary dwelling (e.g. addition or conversion of floor area within the existing building). (Ord. 1884 (part), 2006).

17.77.030 Approval Criteria.

B. Floor Area. The maximum floor area allowed for an ADU shall be 800 square feet or fifty (50) percent of the gross floor area of the primary dwelling, whichever is less, except that conversion of a new or existing level or floor (e.g. attic, or second story) of a detached accessory building (i.e. garage, workshop) to an ADU is permitted even if the floor area of the ADU would be more than 800 square feet.

C. Development Standards. ADUs shall meet all development standards required for residential structures per the base zone requirements (e.g. building height, setbacks, lot coverage, building design, etc.) except for the following:

1. Density. ADUs are exempt from the maximum density standard in the base zone in which the ADU is located, provided that all other base zone standards are met.
2. Conversion of Nonconforming Structures. Conversion of an existing legally nonconforming structure to an ADU is allowed provided that the conversion does not increase the nonconformity and the structure complies with the Oregon Residential Specialty Code.
3. Parking. **In accordance with ORS 197.312, off-street parking shall not be required to approve an ADU.** ~~The required off-street parking for an ADU may be provided on-street when it can be demonstrated that all of the following apply:~~

- ~~i. The pavement width for the street along which the property fronts is 36 feet in width or greater and provides on-street parking on both sides of the street;~~
 - ~~ii. Driveway widening to accommodate the off-street space would result in loss of an on-street parking space; and,~~
 - ~~iii. Off-street parking cannot be provided along the site frontage or in an alley due to physical site constraints.~~
4. Rear Yard Setback. The rear yard setback for ADUs shall be 5-feet.
 5. Building Height. Except for units constructed above a detached garage (i.e. carriage units), detached ADUs shall be limited to single-story construction and shall not exceed 25-ft in building height per the accessory building height standards set forth in CPMC 17.60.030(C)(1).

D. Other Standards.

1. Unit Separation. For attached and interior ADUs, the primary dwelling and ADU shall be distinct with wall separation, separate building entrances and visible addresses.
2. Utilities. Separate utility connections may be provided at the applicant's discretion. Separate connections are not required.
3. Transfer Prohibited. No subdivision of land, air rights or condominium is allowed so as to enable the sale or transfer of the accessory dwelling unit independently of the main dwelling unit or other portions of the property.

**Chapter 17.64, Section 040, Table 17.64.02A
RESIDENTIAL OFF-STREET PARKING REQUIREMENTS**

All uses shall comply with the number of off-street parking requirements identified in Table 17.64.02A, Residential Off-Street Parking Requirements, and Table 17.64.02B, Non-Residential Off-Street Parking Requirements. For residential uses the off-street parking requirements are stated in terms of the minimum off-street parking required. For non-residential uses the off-street parking requirements are presented in terms of both minimum and maximum off-street parking required. The number of off-street parking spaces in Table 17.64.02B, Non-Residential Off-Street Parking, may be reduced in accordance with subsection B of this section, Adjustments to Off-Street Vehicle Parking.

The requirement for any use not specifically listed shall be determined by the community development director on the basis of requirements for similar uses, and on the basis of evidence of actual demand created by similar uses in the city and elsewhere, and such other traffic engineering or planning data as may be available and appropriate to the establishment of a minimum requirement.

**TABLE 17.64.02A
RESIDENTIAL OFF-STREET PARKING REQUIREMENTS**

Use Categories	Minimum Vehicle Parking Requirement (fractions rounded down to the closest whole number)
RESIDENTIAL	
Single-Family Residential	2 spaces per dwelling unit, both of which must be covered.
Accessory Dwelling Unit	No off-street parking is required per ORS 197.312. 1 space per accessory dwelling unit.
Two-Family	2 spaces per dwelling unit, both of which must be covered.
Multiple-Family	1 space per studio or 1-bedroom unit;
	1.5 spaces per 2-bedroom unit; and
	2 spaces per 3+-bedroom unit.
	plus 1 guest parking space for each 4 dwelling units or fraction thereof.
Mobile Home Parks	2 spaces per dwelling unit on the same lot or pad as the mobile home (may be tandem); plus 1 guest space for each 4 mobile homes.
Residential Home	2 spaces per dwelling unit, both of which must be covered.
Residential Facility	.75 spaces per bedroom.
Congregate (Senior) Housing	.5 spaces per dwelling unit.
Boarding Houses, Bed and Breakfast	1 space per guest unit; plus 1 space per each 2 employees.

**CPMC 17.65.050, Table 3
TOD DISTRICT AND CORRIDOR VEHICLE PARKING STANDARDS – RESIDENTIAL**

Table 3 TOD District and Corridor Vehicle Parking Standards	
Use Categories	Minimum Required Parking
Residential	
Dwelling, Single-Family Large and standard lot Zero lot line, detached Attached row houses	2 spaces per unit.
Dwelling, Multifamily Plexes	1.5 spaces per unit.
Apartments and condominiums	1.5 spaces per unit.
Congregate (senior) housing	.5 spaces per dwelling unit.
Dwelling, Accessory Unit	Off-street parking is not required per ORS 197.312. 1 space per unit.
Boarding/Rooming House	1 space per accommodation, plus 1 space for every 2 employees.
Family Care Family day care Day care group home Adult day care	1 space for every 5 children or clients (minimum 1 space); plus 1 space for every 2 employees.
Home Occupation	Shall meet the parking requirement for the residence.
Residential Facility	1 space per unit.
Residential Home	1 space per unit.

**GUIDANCE ON IMPLEMENTING
THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT
UNDER OREGON SENATE BILL 1051
UPDATED TO INCLUDE HB 2001 (2019)**



*M. Klepinger's backyard detached ADU, Richmond neighborhood, Portland, OR.
(Photo courtesy of Ellen Bassett and accessorydwellings.org.)*

OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

MARCH 2018, updated SEPTEMBER 2019



Introduction

As housing prices in Oregon go up, outpacing employment and wage growth, the availability of affordable housing is decreasing in cities throughout the state. While Oregon's population continues to expand, the supply of housing, already impacted by less building during the recession, has not kept up. To address the lack of housing supply, House Speaker Tina Kotek introduced House Bill (HB) 2007 during the 2017 legislative session to, as she stated, "remove barriers to development." Through the legislative process, legislators placed much of the content of HB 2007 into Senate Bill (SB) 1051, which then passed, and was signed into law by Governor Brown on August 15, 2017 (codified in amendments to Oregon Revised Statute 197.312). In addition, a scrivener's error¹ was corrected through the passage of HB 4031 in 2018.

Among the provisions of SB 1051 and HB 4031 is the requirement that cities and counties of a certain population allow accessory dwelling units (ADUs) as described below:

- a) *A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single-family dwellings the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design.*
- b) *As used in this subsection, "accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.*

This requirement became effective on July 1, 2018 and subject cities and counties must now accept applications for ADUs inside urban growth boundaries (UGBs).

On August 8, 2019, Governor Brown signed HB 2001, which became effective immediately and established that off-street parking and owner-occupancy requirements are not "reasonable local regulations relating to siting and design." This means that, even if a local development code requires off-street parking and owner-occupancy, starting on August 8, 2019, local jurisdictions may not mandate the construction of additional off-street parking spaces

¹ *The scrivener's error in SB 1051 removed the words "within the urban growth boundary." HB 4031 added the words into statute and thus limited the siting of ADUs to within UGBs. As a result, land within a city with a population greater than 2,500 but that is not within a UGB is not required by this law to be zoned to allow accessory dwelling units. For counties with a population greater than 15,000, only those unincorporated areas within a UGB are required by this law to be zoned to allow accessory dwelling units.*

nor require a property owner to live in either a primary or accessory dwelling. The law provides an exception for ADUs that are used as vacation rentals, which may be required to provide off-street parking or have owner-occupancy requirements.

Some local governments in Oregon already have ADU regulations that meet the requirements of SB 1051 and HB 2001, however, many do not. Still others have regulations that, given the overall legislative direction to encourage the construction of ADUs to meet the housing needs of Oregon's cities, are not "reasonable." The Oregon Department of Land Conservation and Development (DLCD) is issuing this guidance and model code language to help local governments comply with the legislation. The model code language is included at the end of this document.

Guidance by Topic

The purpose of the following guidance is to help cities and counties implement the ADU requirement in a manner that meets the letter and spirit of the law: to create more housing in Oregon by removing barriers to development.

Number of Units

The law requires subject cities and counties to allow "at least one accessory dwelling unit for each detached single-family dwelling." While local governments must allow one ADU where required, DLCD encourages them to consider allowing two units. For example, a city or county could allow one detached ADU and allow another as an attached or interior unit (such as a basement conversion). Because ADUs blend in well with single-family neighborhoods, allowing two units can help increase housing supply while not having a significant visual impact. Vancouver, BC is a successful example of such an approach.

Siting Standards

In order to simplify standards and not create barriers to development of ADUs, DLCD recommends applying the same or less restrictive development standards to ADUs as those for other accessory buildings. Typically that would mean that an ADU could be developed on any legal lot or parcel as long as it met the required setbacks and lot coverage limits; local governments should not mandate a minimum lot size for ADUs. So that lot coverage requirements do not preclude ADUs from being built on smaller lots, local governments should review their lot coverage standards to make sure they don't create a barrier to development. Additionally, some jurisdictions allow greater lot coverage for two ADUs. To address storm water concerns, consider limits to impermeable surfaces rather than simply coverage by structures.

Any legal nonconforming structure (such as a house or outbuilding that doesn't meet current setback requirements) should be allowed to contain, or be converted to, an ADU as long as the development does not increase the nonconformity and it meets building and fire code.

Design Standards

Any design standards required of ADUs must be clear and objective (ORS 197.307[4]). Clear and objective standards do not contain words like "compatible" or "character." With the exception of ADUs that are in historic districts and must follow the historic district regulations, DLCD does not recommend any special design standards for ADUs. Requirements that ADUs match the materials, roof pitch, windows, etc. of the primary dwelling can create additional barriers to development and sometimes backfire if the design and materials of the proposed ADU would have been of superior quality to those of the primary dwelling, had they been allowed. Other standards, such as those that regulate where entrances can be located or require porches and covered entrances, can impose logistical and financial barriers to ADU construction.

Public Utilities

Development codes that require ADUs to have separate sewer and water connections create barriers to building ADUs. In some cases, a property owner may want to provide separate connections, but in other cases doing so may be prohibitively expensive.

System Development Charges (SDCs)

Local governments should consider revising their SDC ordinances to match the true impact of ADUs in order to remove barriers to their development. In fact, HB 2001, passed by the Oregon Legislature in 2019, requires local governments to consider ways to increase the affordability of middle housing types through ordinances and policies, including waiving or deferring system development charges. ADUs are not a middle housing type, but if a local government is reviewing its SDCs for middle housing, that would be a good time to review ADU SDCs as well. ADUs are generally able to house fewer people than average single-family dwellings, so their fiscal impact would be expected to be less than a single-family dwelling. Accordingly, it makes sense that they should be charged lower SDCs than primary detached single-family dwellings. Waiving SDCs for ADUs has been used by some jurisdictions to stimulate the production of more housing units.

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Accessory Dwellings (model code)

Note: ORS 197.312 requires that at least one accessory dwelling be allowed per detached single-family dwelling in every zone within an urban growth boundary that allows detached single-family dwellings. The statute does not allow local jurisdictions to include off-street parking nor owner-occupancy requirements. Accessory dwellings are an economical way to provide additional housing choices, particularly in communities with high land prices or a lack of investment in affordable housing. They provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with single-family detached dwellings. Requirements that accessory dwellings have separate connections to and pay system development charges for water and sewer services can pose barriers to development. Concerns about neighborhood compatibility and other factors should be considered and balanced against the need to address Oregon's housing shortage by removing barriers to development.

The model development code language below provides recommended language for accessory dwellings. The italicized sections in brackets indicate options to be selected or suggested numerical standards that communities can adjust to meet their needs. Local housing providers should be consulted when drafting standards for accessory dwellings, and the following standards should be tailored to fit the needs of your community.

Accessory dwellings, where allowed, are subject to review and approval through a Type I procedure[, pursuant to Section _____.] and shall conform to all of the following standards:

[A. One Unit. *A maximum of one Accessory Dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g., above a garage or workshop), or a unit attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).*

/

A. Two Units. *A maximum of two Accessory Dwellings are allowed per legal single-family dwelling. One unit must be a detached Accessory Dwelling, or in a portion of a detached accessory building (e.g., above a garage or workshop), and one unit must be attached or interior to the primary dwelling (e.g., an addition or the conversion of an existing floor).]*

B. Floor Area.

1. A detached Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75-85] percent of the primary dwelling's floor area, whichever is smaller.
2. An attached or interior Accessory Dwelling shall not exceed [800-900] square feet of floor area, or [75-85] percent of the primary dwelling's floor area, whichever is smaller. However, Accessory Dwellings that result from the conversion of a level or floor (e.g., basement, attic, or second story) of the primary dwelling may occupy the entire level or floor, even if the floor area of the Accessory Dwelling would be more than [800-900] square feet.

C. Other Development Standards. Accessory Dwellings shall meet all other development standards (e.g., height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:

1. Conversion of an existing legal non-conforming structure to an Accessory Dwelling is allowed, provided that the conversion does not increase the non-conformity;

2. No off-street parking is required for an Accessory Dwelling;
3. Properties with two Accessory Dwellings are allowed [10-20%] greater lot coverage than that allowed by the zone in which they are located; and
4. Accessory dwellings are not included in density calculations.

Definition (This should be included in the “definitions” section of the zoning ordinance. It matches the definition for Accessory Dwelling found in ORS 197.312)

Accessory Dwelling – An interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

Stephanie Holtey

From: LeBombard, Josh <josh.lebombard@state.or.us>
Sent: Tuesday, October 22, 2019 3:20 PM
To: Stephanie Holtey
Cc: Buhl, Laura; Tom Humphrey
Subject: Local File ZC-19001; DLCDC File 003-19
Attachments: LB Comments-1.docx

Stephanie,

I had Laura Buhl from our Department review your proposal. Her comments are in the attached document. Most of the comments are optional; however, the one that is not has to do with the requirement for parking. HB2001 does not allow an off-street parking requirement for ADUs.

Cheers,
Josh



Josh LeBombard

Southern Oregon Regional Representative | Community Services Division
Oregon Department of Land Conservation and Development
37 N. Central Avenue | Medford, OR 97501
Cell: (541) 414-7932
josh.lebombard@state.or.us | www.oregon.gov/LCD

Chapter 17.08 DEFINITIONS

“Accessory dwelling unit (ADU)” means an Interior, attached or detached ~~unit residential structure that is used in connection with or provides complete independent living facilities and that serves as an~~ accessory use to a primary single dwelling ~~unit~~. Accessory dwelling units differ from guest quarters, which do not provide independent living facilities.

“Guest house Quarters” means an Interior, attached or detached accessory building designed and used for the purpose of providing temporary living accommodations for guests or for members of the same family as that occupying the main building, and containing no kitchen facilities.

Chapter 17.60 GENERAL REGULATIONS

17.60.030 Accessory Buildings

Accessory buildings shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the following limitations:

A. Regardless of the side and rear yard requirements of the district, in a residential (R) district a side or rear yard not adjoining a street may be reduced to three-five feet, ~~measured from the furthest protrusion or overhang~~, for an accessory structure erected more than fifty-five feet from the street right-of-way line on which the lot fronts, other than alleys, provided the structure is detached and separated from other buildings by ten feet or more.

B. Canvas-Covered Canopies and Other Temporary Structures. Temporary structures in residential (R) districts shall not be permitted within a front setback and only within a side setback that does not abut a public right-of-way. Temporary structures within a side setback shall be at least three feet from the side lot line measured from the furthest protrusion or overhang. Such structures are to be anchored to the ground in accordance with building code requirements.

C. Structural Dimensions. All accessory buildings will be subject to the requirements of all building specialty codes adopted under the Central Point Municipal Code.

1. Height. Accessory structures in residential (R) districts shall not exceed twenty-five feet if detached from the main structure. Structures greater than fifteen feet but less than twenty-five feet in height shall be set back a minimum of five feet from a side or rear lot line.

2. Width and Length. Garages and carports intended to satisfy the municipal code requirement for two off-street covered parking spaces shall be a minimum interior dimension of twenty feet in width by twenty feet in length. Standard garage doors shall be of adequate width to facilitate safe passage and maneuvering of automobile traffic.

3. Alley Setback. Accessory structures in residential (R) districts which abut an alley, are used as garages, and take their access from the alley shall have a setback of fifteen feet from the rear property line. (Ord. 1981 §3 (Exh. C) (part), 2014; Ord. 1818 §1(part), 2001; Ord. 1684 §53, 1993; Ord. 1436 §2(part), 1981).

Comment [BL1]: Why this reduction? Three feet will result in fewer barriers to development, especially on smaller lots. Have there been problems as a result of this standard? If not, then consider leaving it as is.

Comment [BL2]: Why does it matter how far the accessory structure is from the street ROW as long as it's meeting the setbacks? This provision seems unnecessarily complicated and potentially restrictive.

Comment [BL3]: This distance is large enough that it will prevent development and design options on some lots. Even the building code doesn't require more than 3-foot separation from buildings (when they're on other lots). Someone could build an addition, which is zero separation. What's the public purpose in requiring 10-foot separation for a separate building?

Chapter 17.77
ACCESSORY DWELLING UNITS (ADU)

Sections:

[17.77.005 Purpose.](#)

[17.77.010 Applicability.](#)

[17.77.020 One Unit.](#)

[17.77.030 Approval Criteria.](#)

17.77.005 Purpose.

The purpose of this section is to allow for establishment of an accessory dwelling unit (ADU) in conjunction with a single-family detached dwelling within zones that allow single family detached dwellings in accordance with ORS 197.312. ADUs are intended to provide more economical housing choices while encouraging additional density with minimal cost and disruption to surrounding neighborhoods; and allowing more efficient use of large, older homes. (Ord. 1884 (part), 2006).

17.77.010 Applicability.

Accessory dwelling units (ADUs) shall be a permitted use in the R-L, R-1, R-2 residential districts, and LMR, MMR, and HMR mixed-use districts within the Transit Oriented Development (TOD) District, as accessory to single-family dwellings subject to the provisions of this chapter. (Ord. 1884 (part), 2006).

17.77.020 One Unit.

A maximum of one (1) ADU shall be allowed per legally established single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g. above a detached garage or workshop), or attached to or interior to the primary dwelling (e.g., addition or conversion of floor area within the existing building). (Ord. 1884 (part), 2006).

17.77.030 Approval Criteria.

- A. Floor Area. The maximum floor area allowed for an ADU shall be 800 square feet or fifty (50) percent of the gross floor area of the primary dwelling, whichever is less, except that conversion of a new or existing level or floor (e.g. attic, or second story) of a detached accessory building (i.e., garage, workshop) to an ADU is permitted even if the floor area of the ADU would be more than 800 square feet.
- B. Development Standards. ADUs shall meet all development standards required for residential structures per the base zone requirements (e.g., building height, setbacks, lot coverage, building design, etc.) except for the following:
 1. Density. ADUs are exempt from the maximum density standard in the base zone in which the ADU is located, provided that all other base zone standards are met.
 2. Parking. The required off-street parking for an ADU may be provided on-street when it can be demonstrated that all of the following apply:
 - i. The pavement width for the street along which the property fronts is 36-feet in width or greater and provides on-street parking on both sides of the street;

Comment [BL4]: The 50% limit could be unreasonably restrictive in cases where the primary dwelling is very small. Consider increasing the limit to 70-80%. Alternatively, the percentage could be increased just for dwellings that are under 1000-1200 square feet.

- ii. Driveway widening to accommodate the off-street space would result in loss of an on-street parking space; and,
- iii. Off-street parking cannot be provided along the site frontage or in an alley due to physical site constraints.

Comment [BL5]: Remove this section. Per HB 2001, the city can't require off-street parking for ADUs.

- 3. Rear Yard Setback. The rear yard setback for ADUs shall be 5-feet.
- 4. Building Height. ADUs shall not exceed 25-ft in building height per the accessory building height standards set forth in CPMC 17.60.030(C)(1).

C. Other Standards.

- 1. Unit Separation. For attached and interior ADUs, the primary dwelling and ADU shall be distinct with wall separation, separate building entrances and visible addresses.
- 2. Utilities. Separate utility connections may be provided at the applicant's discretion. Separate connections are not required.
- 3. Transfer Prohibited. No subdivision of land, air rights or condominium is allowed so as to enable the sale or transfer of the accessory dwelling unit independently of the main dwelling unit or other portions of the property.

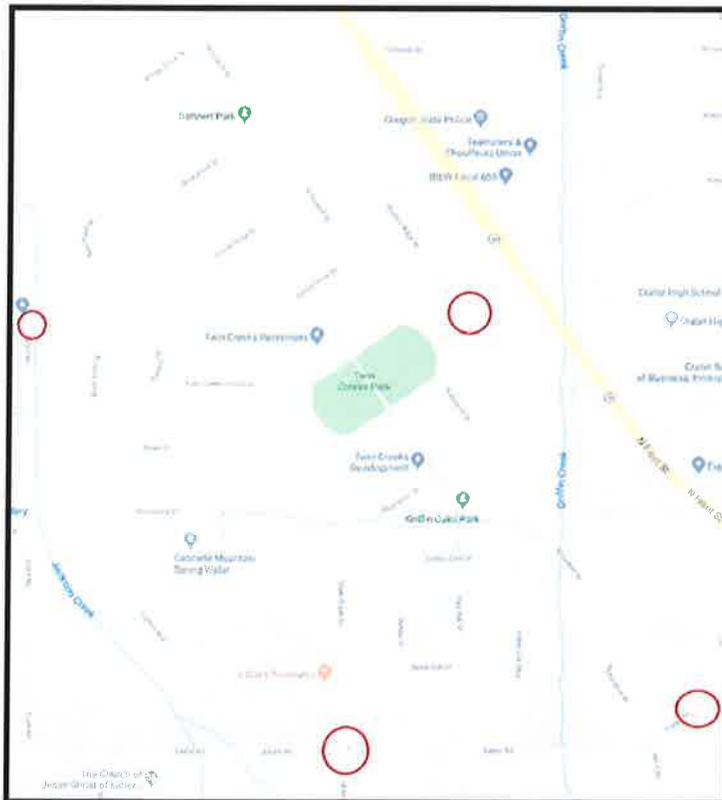
Questions and Concerns regarding ADUs in Twin Creeks

Increased Vehicle Parking

1. If a homeowner is allowed to convert their garage into an ADU then they will no longer be parking their vehicles in their garage adding to increased parking in driveways and streets.
2. People living in an ADU will have one or more vehicles adding to increased parking in driveways and streets.

Increased Traffic

1. Currently there are only four entrance/exit points for the Twin Creeks area (Twin Creeks Crossing & Grant Road, Twin Creeks Crossing & Hwy 99, Silver Creek Drive & Taylor Road and Taylor Road & N. Haskell Street).



possible ADUs). See page 48 attached of the Master Plan

<http://twincreeksincentralpoint.com/wp-content/uploads/2012/05/masterplan.pdf>

2. Overall planning for the infrastructure including increased traffic, parking etc. did not include analysis for a large number of ADU's in Twin Creeks.

JONA HOA CC&Rs

1. The CC&Rs state 'single-family dwellings' and 'single family occupancy only' in multiple areas of the document.
 - a. Amendments to the CC&Rs would be required.
2. Cluster lots exist in Twin Creeks. These cluster Lots share a common access to individual driveways.
 - a. Additional vehicle parking would be an issue.
 - b. Amendments to the CC&Rs would be required to exclude cluster lots.
3. 5.3 d) States: **No** trailer, camper, basement, tent, shack, **garage**, barn, or **other outbuilding** or temporary structure erected or situated within the property **shall at any time, be used as a residence, temporarily or permanently**, nor shall any permanent building or structure be used as a residence until it is completed as to external appearance including finished painting. The permission hereby granted to erect a permanent garage or other building prior to construction of the main dwelling house shall not be construed to permit the construction, erection, or maintenance of any building of any nature whatsoever any time, without the approval required by the DRC.
 - a. Amendments to the CC&Rs would be required.
4. Additional Waste: 5.3 p) Owners must keep all trash cans and other trash receptacles out of public view, within an enclosed or screened area so as not to be visible from any street or Single Family Lot or Cluster Housing Lot and, otherwise, in location(s) from time to time specified or approved by the DRC.
 - a. More people living in ADUs will increase waste, does this mean additional trash cans?
5. CC&Rs may not be amended without the approval by seventy percent (70%) or more of the Owners, which amendment shall be recorded in the office of the County Clerk of Jackson County, Oregon.
 - a. If a vote of (70%) in favor of amendments is not reached then what?
 - b. There are multiple versions of CC&Rs for different phases in JONA HOA and surrounding Twin Creeks HOA's like Griffin Oaks. Therefore, what if some phases/CC&Rs pass in favor of the amendmendments and some do not then what?



Jackson County Official Records **2017-022473**
 R-WD
 Stn=0 HELMANCD **06/30/2017 01:29:33 PM**
 \$10.00 \$20.00 \$10.00 \$8.00 \$11.00 **\$59.00**

THIS SPACE

I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
 Christine Walker - County Clerk

After recording return to:
 Smith Crossing, LLC
 353 Dalton St
 Medford, OR 97501

Until a change is requested all tax statements shall be sent to the following address:
 Smith Crossing, LLC
 353 Dalton St
 Medford, OR 97501
 File No. 109134AM

STATUTORY WARRANTY DEED

Twin Creeks Development Co., LLC,
 Grantor(s), hereby convey and warrant to

Smith Crossing, LLC,

Grantee(s), the following described real property in the County of Jackson and State of Oregon free of encumbrances except as specifically set forth herein:

Parcel 1:

Beginning at the Southerly most corner of Lot 1 in Twin Creeks Crossing, Phase 1 as filed in Volume 33, Page 01 of the Plat Records of Jackson County, Oregon; thence along the Southerly boundary of said Lot North 55°03'11" East, 153.39 feet; thence continuing along said Lot boundary, along the arc of a curve to the left having a radius of 160.00 feet, an internal angle of 93°06'06" and an arc length of 259.99 feet, (the long chord of which bears North 08°30'08" East, 232.32 feet); thence North 38°02'55" West, 302.81 feet; thence leaving said Lot boundary South 55°03'11" West, 23.27 feet to the Easterly boundary of the Irrigation Easement described in Instrument No. 2006-046898 of the Official Records of said County; thence along said Irrigation Easement boundary North 34°56'49" West, 167.47 feet to the Northerly boundary of said Lot; thence along said Lot boundary South 55°03'11" West, 273.50 feet to the Westerly corner of said Lot and the Easterly right-of-way of North Haskell Street; thence along said right-of-way South 34°56'49" East, 638.49 feet to the point of beginning.

Parcel 2:

Lot Thirty-four (34) Twin Creeks Crossing, Phase 1, in the City of Central Point, Jackson County, Oregon, according to the official plat thereof, now of record.

Parcel 3:

Parcel No. 3 of Partition Plat NO. P-116-2006 of the Records of Jackson County, Oregon; Filed December 15, 2006, Index Volume 17, Page 116, County Survey No. 19444.

FOR INFORMATION PURPOSES ONLY, THE MAP/TAX ACCT #(S) ARE REFERENCED HERE:

372W03C 138
 372W03CA 1100
 372W03DC 3400

The true and actual consideration for this conveyance is **\$2,700,000.00**.
 The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Dated this 30 day of June, 2017.

Twin Creeks Development Company, LLC

By: [Signature]
Bret Moore, President

State of Oregon } ss
County of Jackson }

On this 30 day of June, 2017, before me, Suzanne Marie Lunsford a Notary Public in and for said state, personally appeared Bret Moore known or identified to me to be the Managing Member/President in the Limited Liability Company known as Twin Creeks Development Co., LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]
Notary Public for the State of Oregon
Residing at: Medford
Commission Expires: 10/20/18



TWIN CREEKS TRANSIT-ORIENTED DEVELOPMENT

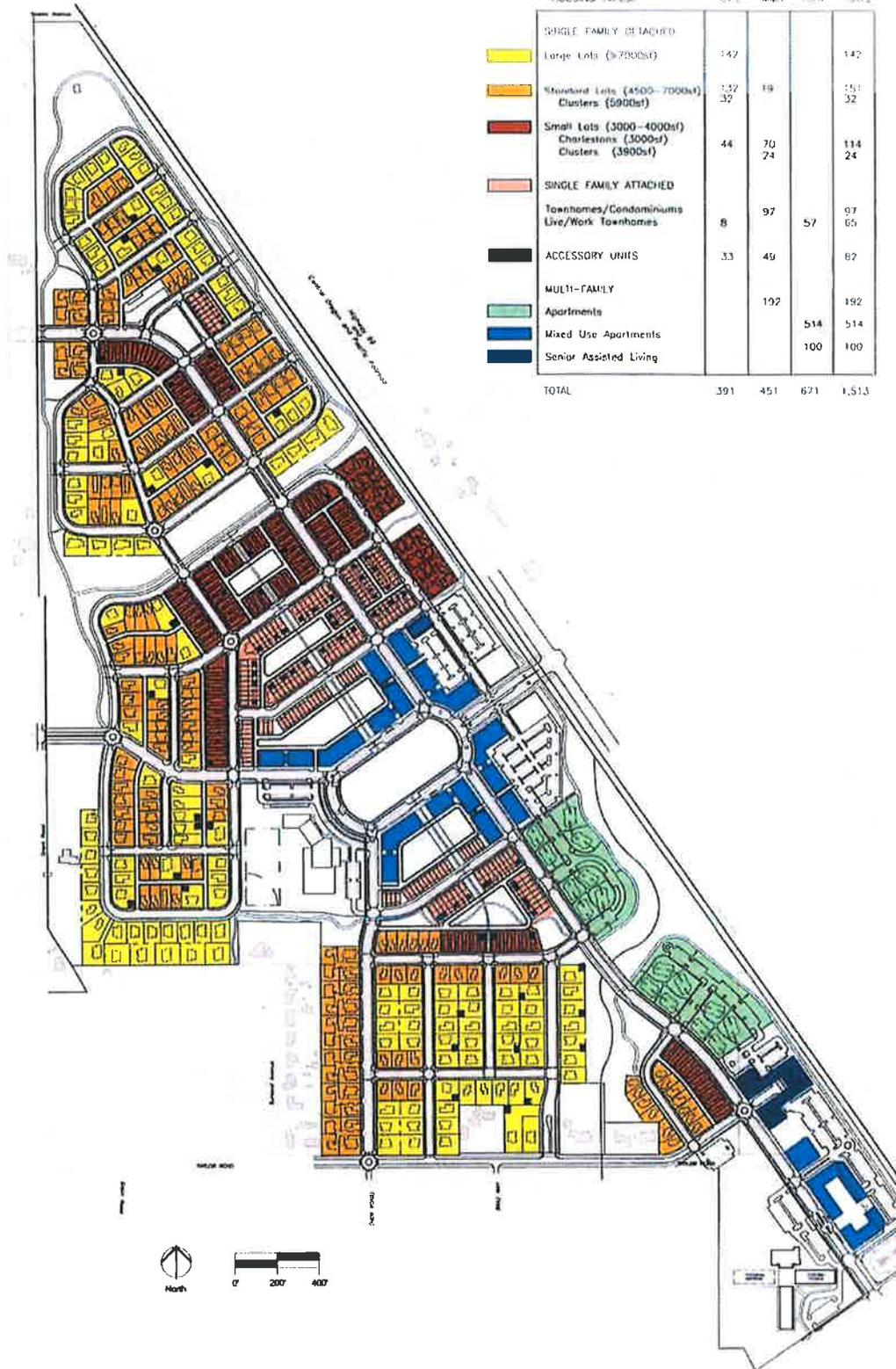


Exhibit 35, Housing Plan

Jackson Oaks Neighborhood Common and Open Space Maintenance Association
Jackson Oaks Neighborhood Association
P.O. BOX 3410
CENTRAL POINT, OR 97502
e-mail: board@jona-cp.com

September 04, 2019

City of Central Point
140 S. 3rd Street
Central Point, OR 97502

RE: City of Central Point - Draft Code Amendments for Accessory Dwelling Units (ADU)

Dear City Council and City Planning Commission:

Purpose

The Jackson Oaks Neighborhood Association (JONA), board of directors would like to bring to the City Council and City Planning Commission our concerns with **specific proposed ADU amendments and the timing** of these proposed changes. Several citizens have expressed concerns and resistance with some of the proposed code amendments. We believe that great effort has been expended as a result of one homeowner in our HOA and as a result specific proposed amendments and timing are highly suspicious as identified in the timeline of key events.

Request

Based on the provided information in this document we are asking the City Council and Planning Commission to 1) carefully make ADU code amendments that make sense for the entire City and 2) remove any conflicts of interests.

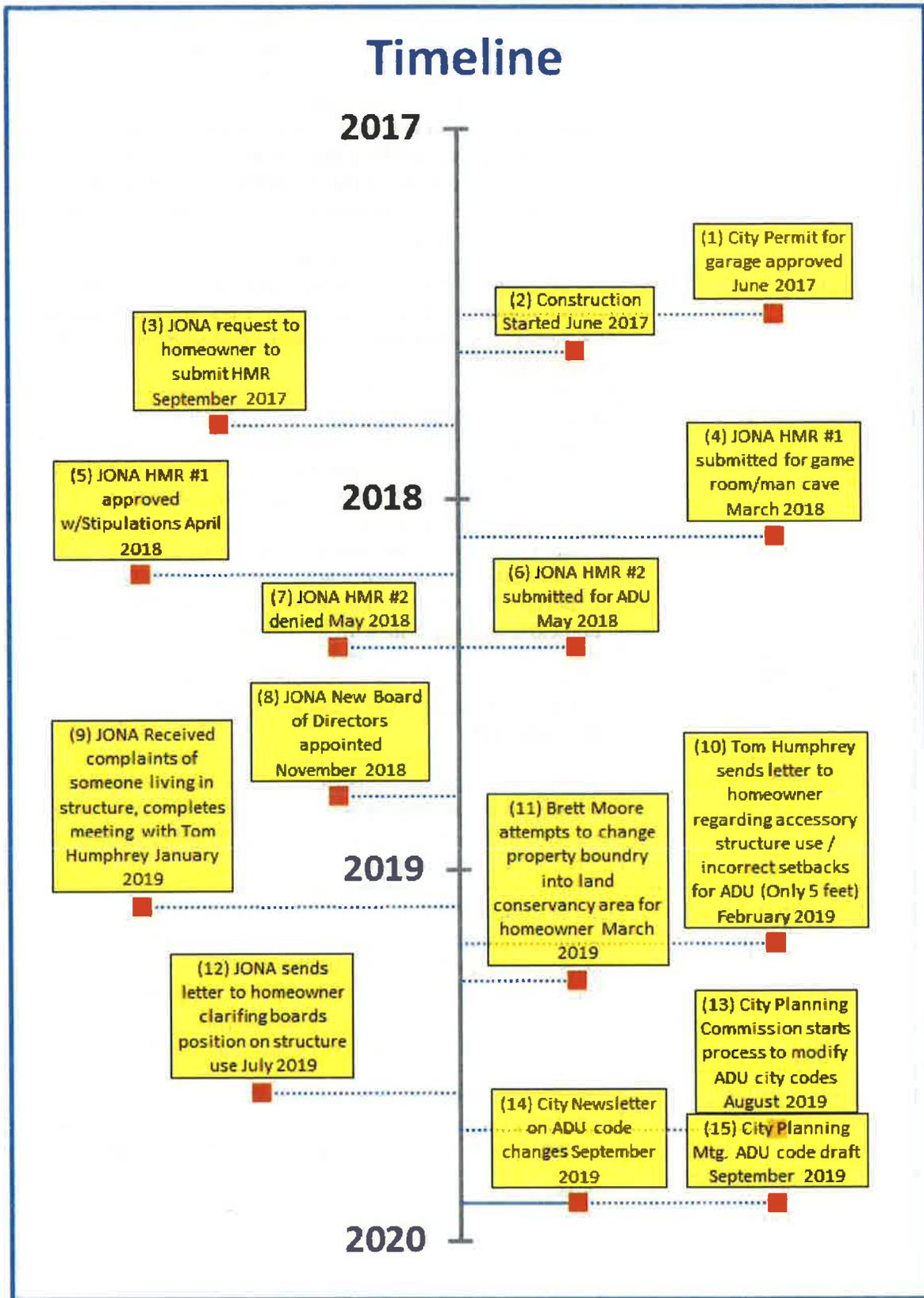
The concern is that specific amendments are being considered as a result of a major developer and a homeowner who is an employee of the developer. From the facts outlined they are driving specific City code changes to meet their individual needs.

Timeline of key events

No.	Date	Event
1	June 19, 2017	JONA homeowners Jim & Elaine Frost located at 921 Buck Point Street Central Point, OR 97502 received a City permit (175-17-000161-STR). Requested and Approved for a detached garage with 100 amp electric and 1 utility sink. Attachment A
2	June 2017	Homeowner and Brett Moore (WL Moore Construction Inc.) started construction prior to going through the JONA Home Modification Review Request (HMR) process. This accessory structure was constructed with a 5-foot setback from the rear and side property lines.
3	September 2017	The previous JONA Design Review Committee (DRC) contacted the homeowner requesting they submit a Home Modification Review Request (HMR).
4	March 23, 2018	Homeowner submitted the HMR to JONA DRC. Described the work as a "Detached man cave / game room / future mother-in-law unit". The HMR was not provided by the homeowner until construction was almost completed. Attachment B
5	April 12, 2018	JONA DRC approved the HMR with the following stipulation: "This approval is for a detached man cave / game room only. This structure may not be rented by you or any subsequent owners of the property ". Attachment B
6	May 06, 2018	Homeowner submitted to JONA DRC another HMR for the same accessory structure. Described work as " ADU per CCRs, section 5.3e ". Attachment C
7	May 08, 2018	JONA DRC denied the request and referred the homeowner back to the HMR dated April 12, 2018. Attachment C
8	November 2018	Several new JONA board-of-directors were elected and a new DRC committee appointed.
9	January 2019	JONA board-of-directors received complaints that the homeowner had moved someone into the accessory

		structure. JONA board-of-directors and a previous DRC committee member met with Tom Humphrey to obtain additional information and history regarding the accessory structure. At this time the board was made aware that the accessory structure was built with a setback of 5 feet disqualifying the building from being used as an ADU . It was also brought to the JONA boards attention that the accessory structure built deviated from the original plans approved by the City.
10	February 5, 2019	City of Central Point (Tom Humphrey) sent a letter to the homeowner telling them in summary 'they were not using the accessory structure as it was approved by the City' . Attachment D
11	March 2019	Brett Moore (WL Construction Inc) notified the Southern Oregon Land Conservancy, management of the land owned by Brett Moore located at 939 Twin Creeks Crossing Central Point, OR 97502 that he was going to allow a property boundary encroachment into the Southern Oregon Land Conservancy area. This was an attempt to get around the 10-foot setback requirement for the west side of the property . This request was denied by the Southern Oregon Land Conservancy based on their contract with Brett Moore.
12	July 17, 2019	JONA sent a letter to the homeowner clarifying the boards position on the use of the accessory structure. Attachment E
13	August 06, 2019	As per the City of Central Point Planning Meeting Minutes, Principle Planner, Stephanie Holtey introduced amendments to CPMC 17.77, Accessory Dwelling Units (ADU) CPMC and CPMC 17.08 Definitions.
14	September 2019	City of Central Point newsletter notification on Accessory Dwelling Unit planned code amendments. Three main goals mentioned in the newsletter but none of them mentioned a modification to the current 10-foot setback, reducing it to 5-foot or a modification granting an exception to the 10-foot setback when a rear yard is not adjoining a street.
16	September 03, 2019	City Planning Meeting; Stephanie Holtey stated that Tom Humphrey proposed a recent recommended change to 'just make it simple and change the setbacks to 5-feet' .

Timeline



Conflict of Interest

1. The homeowner of the accessory structure is Jim & Elaine Frost located at 921 Buck Point Street Central Point, OR 97502. Elaine is an employee of Brett and Amy Moore (WL Moore Construction Inc., Twin Creeks Development Company, LLC).
2. Brett Moore (WL Moore Construction Inc.) built the accessory structure at 921 Buck Point Street.
3. 921 Buck Point Street is adjoining to the property owned by Brett and Amy Moore (TWIN CREEKS DEVELOPMENT CO LLC) located at 939 Twin Creeks Crossing Central Point, OR 97502 and managed by the Southern Oregon Land Conservancy.
4. Amy Moore currently serves on the City Planning Commission and was vocal at the September 03, 2019 Planning Commission meeting in support that a 5-foot setback was needed.
5. City Planning staff are very close to the situation and the parties involved (Elaine & Jim Frost, Amy & Brett Moore). It appears after reading all documents relationships and positions maybe being used to get ADU code amendments passed specifically in support of the accessory structure located at 921 Buck Point Street. This is further validated in the City letter to Jim and Elaine Frost dated February 05, 2019.

Attachment D

City proposed ADU amendments specifically related to 921 Buck Point Street

Setbacks

1. The south side yard at 921 Buck Point Street is adjoining a driveway connected to a flag lot and the west side yard is adjoining land managed by Southern Oregon Land Conservancy owned by Brett and Amy Moore (TWIN CREEKS DEVELOPMENT CO LLC). Therefore, it appears as though this proposed setback amendment is specifically in support of this homeowner at 921 Buck Point Street and further validated by the comments made by Stephanie Holtey (Principal Planner) where she said a homeowner approached the City asking for setback changes to the code.

2. It is also interesting that in the City Newsletter dated September 2019 setbacks wasn't mentioned as a proposed amendment. However, Ms. Holtey stated that Tom Humphrey proposed a recent recommended change to '**just make it simple and change the setbacks to 5 feet**'.
3. At the Planning Commission meeting held on September 03, 2019 the proposed amendment in Attachment B stated the following:

A. Regardless of the side and rear yard requirements of the district, in a residential (R) district a side or rear yard not adjoining a street may be reduced to ~~three-five~~ feet, ~~measured from the furthest protrusion or overhang~~, for an accessory structure erected more than fifty-five feet from the street right-of-way line on which the lot fronts, other than alleys, provided the structure is detached and separated from other buildings by ten feet or more.

Approval Criteria - Parking

1. 921 Buck Point Street does not have on street parking in front of the house. Curbing is painted Yellow.
2. Proposed amendment page 146 stated the following:

~~3. Parking. Off-street parking is not required for an ADU when on-street parking is located adjacent to the site on which the ADU is located. If on-street parking is not adjacent to site, then one off-street parking space is required. The required off-street parking for an ADU may be provided on-street when it can be demonstrated that all of the following~~

In summary

Based on the provided information in this document we are asking the City Council and Planning Commission to 1) carefully make ADU code amendments that make sense for the entire City and 2) remove any conflicts of interests.

The draft City of Central Point ADU code amendments show a removal of most existing code and as identified in this document some additional amendment changes that are suspicious. Why not postpone all proposed ADU amendments and thoroughly review and copy some of the City of Portland's extensive ADU program and codes? **Let's Do It Right the First Time!**

Sincerely,

Jackson Oaks Neighborhood Association Board of Directors

Attachment A

Building Permit_06192017.pdf



Building Permit

Residential Structural

CENTRAL POINT

140 S. 3rd St.
Central Point, OR 97502
541-664-3321 ext. 292
Fax: 541-664-1611

www.centralpointoregon.gov

175-17-000161-STR

Permit Issued: June 19, 2017

Job Name: Frost Garage

TYPE OF WORK

Type of Work: New
Calculated Value: \$16,412.75

Category of Construction: Detached Accessory Stru
Description of Work: New 364 sq ft detached garage building w/ 100 amp electrical and 1 utility sink.

JOB SITE INFORMATION

Property Address:
921 Buck Point St, Central
Point, OR 97502

Parcel:
372W03CB5400 - Primary

Owner: JIM FROST
Address: 921 BUCK POINT ST
CENTRAL POINT OR 97502

LICENSED PROFESSIONAL INFORMATION

Business Name	License	License Nbr	Phone
ERIC'S ELECTRIC SERVICE INC	(C) Electrical Contractor	15-165C	541-665-2865
WL MOORE CONSTRUCTION INC	CCB	177325	541-665-5401

INSPECTIONS - Additional inspections may be required through the life of the project

The list of inspections below represents the minimum inspections recommended for this project at the time of permit printing.

1080 Driveway Approach	1120 Foundation	1130 Foundation Wall/Rebar
1280 Framing	1999 Final Building	3315 Water Line
3500 Rough Plumbing	3502 Top Out Rough Plumbing	3999 Final Plumbing
4500 Rough Electrical	4999 Final Electrical	

Schedule Inspections online at www.buildingpermits.oregon.gov or by calling: 1-888-299-2821 or 541-664-0700
When calling for an inspection, use IVR Number: 175079087942

OR search "ePermitting" at the Apple App Store to download the Oregon ePermitting Inspection App for IOS.

OR search "ePermitting" at the Android App Store to download the Oregon ePermitting Inspection App for Android.

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agencies policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the center. (Note: the telephone number for the Oregon Utility Notification Center is (503) 232-1967).

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010.

Attachment B

HMR_03232018.pdf

Jackson Oaks Neighborhood Common & Open Space Maintenance Association

Jackson Oaks Neighborhood Association
Covenants, Conditions and Restrictions (CC&R's)

Home Modification Review

Owners Name: Jim + Elaine Frost
Property Address: 921 Buck Point
Mailing Address: _____
(if different than property address)
Email Address: elcraue@charter.net
Phone Number: 541-210-3061

Check Planned Work	
<input type="checkbox"/>	Fence/Screen
<input checked="" type="checkbox"/>	Home Additions
<input type="checkbox"/>	Landscaping
<input type="checkbox"/>	Pool/Spa
<input type="checkbox"/>	Satellite Dish
<input type="checkbox"/>	Screening
<input type="checkbox"/>	Shed/Shop
<input type="checkbox"/>	Solar Panels
<input type="checkbox"/>	Other

Date Submitted: 3-23-18
Date Received: _____
* Approximate Construction Time Frame
Start Date: 5/2017
Completion Date: 12/2017

1. Review the applicable Administrative Guidelines. Describe the proposed modifications or additions, attach sketches, photographs, contractor's proposal, site plan and/or paint chips and materials descriptions necessary to convey an understanding of the planned work. Be specific with respect to exterior paint color placement, the base color, trim, and front and garage doors colors.
2. All plans and specifications submitted for review and approval by the DRC must be at received at least 10 days prior to the proposed installation or construction start date. Requested information must be complete to process. Failure to secure required approvals may result in sanctions.

3. Description of work: (Use back of form if necessary) Detached mancave / game room / future mother-in-law unit

4. Review and approval time line: (Additional time may be required to review extensive projects)
 - Normally the review process can be accomplished quickly, but it must not be assumed that the request will be addressed any sooner than outlined below when planning a project.
 - 7 days for most projects such as satellite dish placement, fences, sheds, screens, decks, play equipment, roofing and house painting.
 - 10 days for significant projects such as swimming pools, home additions or major landscape projects.
5. The approval of the Home Modification Review by the DRC is valid for a period of 12 months from the date of signing. The DRC, at its sole discretion, shall determine if or when a project has been significantly modified or delayed from the original approved plan to warrant an additional review and approval.
6. Submit form to: JONA, Attn: DRC, P.O. Box 3410, Central Point OR 97502
Or deliver personally to any member of the DRC. **Message Phone: JONA (541-690-8527)**

I acknowledge that I have read and agree to comply with the CC&R's and Administrative Guidelines pertaining to this home /property modification request. I also agree that it is my responsibility to determine the applicable City of Central Point Municipal Codes and secure required governmental permits before commencing with the project.

Owners Signature: [Signature] Date: 3-23-18

Design Review Committee: Any deviations in the application of the rules must be reviewed and approved by the entire DRC and the City of Central Point where applicable.

1. <u>William T. Nichols</u>	DRC Date: <u>04/12/2018</u>	Approved: <u>WN</u>	City of Central Point Approved: <u>[Signature]</u>
2. <u>Gary D. Ann</u>	Date: <u>04/12/2018</u>	Denied: _____	Denied: _____
3. <u>[Signature]</u>	Date: <u>4/12/18</u>	Subject to: _____	Date: _____

Stipulations: This approval is for a detached mancave / game room only. This structure may not ever be rented by you, or any subsequent owners of the property.

Attachment C

HMR_05062018.pdf

Jackson Oaks Neighborhood Association
Covenants, Conditions and Restrictions (CC&R's)

Home Modification Review

Owners Name: Jim + Elaine Frost
 Property Address: 921 Buck Point
 Mailing Address: _____
(if different than property address)
 Email Address: ave@charter.net
 Phone Number: 511-210-3061

- Check Planned Work**
- Fence/Screen
 - Home Additions
 - Landscaping
 - Pool/Spa
 - Satellite Dish
 - Screening
 - Shed/Shop
 - Solar Panels
 - Other

Date Submitted: _____
 Date Received: 5-6-2018
 * Approximate Construction Time Frame
 Start Date: _____
 Completion Date: _____

- Review the applicable Administrative Guidelines. Describe the proposed modifications or additions, attach sketches, photographs, contractor's proposal, site plan and/or paint chips and materials descriptions necessary to convey an understanding of the planned work. Be specific with respect to exterior paint color placement, the base color, trim, and front and garage doors colors.
- All plans and specifications submitted for review and approval by the DRC must be at received at least 10 days prior to the proposed installation or construction start date. Requested information must be complete to process. Failure to secure required approvals may result in sanctions.
- Description of work: (Use back of form if necessary) ADU per CC&R's, Section 5.3e

- Review and approval time line: **(Additional time may be required to review extensive projects)**
 - Normally the review process can be accomplished quickly, but it must not be assumed that the request will be addressed any sooner than outlined below when planning a project.
 - 7 days for most projects such as satellite dish placement, fences, sheds, screens, decks, play equipment, roofing and house painting.
 - 10 days for significant projects such as swimming pools, home additions or major landscape projects.
- The approval of the Home Modification Review by the DRC is valid for a period of 12 months from the date of signing. The DRC, at its sole discretion, shall determine if or when a project has been significantly modified or delayed from the original approved plan to warrant an additional review and approval.
- Submit form to:** JONA, Attn: DRC, P.O. Box 3410, Central Point OR 97502
 Or deliver personally to any member of the DRC. **Message Phone:** JONA (541-690-8527)

I acknowledge that I have read and agree to comply with the CC&R's and Administrative Guidelines pertaining to this home /property modification request. I also agree that it is my responsibility to determine the applicable City of Central Point Municipal Codes and secure required governmental permits before commencing with the project.

Owners Signature: [Signature] Date: 5-3-18

Design Review Committee: Any deviations in the application of the rules must be reviewed and approved by the entire DRC and the City of Central Point where applicable.

	DRC		City of Central Point
1.	<u>William T. Nichols</u>	Date: <u>5/8/2018</u>	Approved: _____
2.	<u>Harry D. Cune</u>	Date: <u>5/8/2018</u>	Denied: <u>W.T.N.</u>
3.	_____	Date: _____	Subject to: _____ Date: _____

Stipulations: Your request for an ADU is denied. See HMR submitted 3/23/2018 which stated that this structure may not ever be rented by you or any subsequent owners of the property.

Attachment D

Frost ADU Compliance Letter

2-5-19.pdf

City of Central Point, Oregon
140 S 3rd Street, Central Point, OR 97502
541.664.3321 Fax 541.664.6384
www.centralpointoregon.gov



Community Development
Tom Humphrey, AICP
Community Development Director

February 5, 2019

Jim & Elaine Frost
921 Buck Point Street
Central Point, Oregon 97502

RE: Use of Accessory Structure at 921 Buck Point

Dear Mr. & Mrs. Frost:

In response to neighborhood complaints and after further investigation of the building permits issued for the above referenced address, it has become evident that you are not using the accessory structure as it was approved by the City. The code requirements for Accessory Structures are different from those of Accessory Dwelling Units (ADUs) and I have attached an excerpt from the LMR zoning district where each applies.

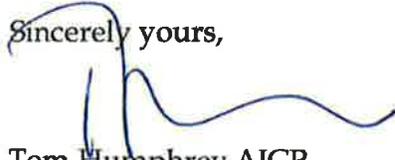
The building permit for which you received approval in 2017 identified a *detached garage* that was setback five feet from rear and side property lines. The original plans allowed for the plumbing and installation of a utility sink which was expanded in the field to include a toilet. A garage door was replaced with French Doors and a paved driveway was never installed for access to the structure as stipulated in the permit per CPMC 17.75.039.E.2

If your intention was or is to have an Accessory Dwelling Unit which the zoning district permits, you will either have to modify the detached garage to comply with ADU standards or build a separate structure that complies.

Please contact me at 541-423-1025 upon receipt of this letter so that we can discuss your options and work toward a solution. The decisions you make about your home and property are important to the City of Central Point. It is our intention to safeguard your decisions as well as the residential neighborhoods that make this town a desirable place to live. I'm sure you know that you live in a unique neighborhood. Please be advised

that in addition to resolving this apparent code violation with the City, you may still need to satisfy the Covenants, Codes and Restrictions (CC&Rs) of that neighborhood, however, that is not an enforcement matter with which the City is involved.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Tom Humphrey', with a stylized flourish extending to the right.

Tom Humphrey AICP
Community Development Director

Enclosure

cc. Chris Clayton, City Manager
Sydnee Dreyer, City Attorney
Derek Zwagerman, Building Official
Chris Wasner, Community Service Officer

17.65.050 Zoning regulations--TOD district.

- A. Permitted Uses. Permitted uses in Table 1 are shown with a "P." These uses are allowed if they comply with the applicable provisions of this title. They are subject to the same application and review process as other permitted uses identified in this title.
- B. Limited Uses. Limited uses in Table 1 are shown with an "L." These uses are allowed if they comply with the specific limitations described in this chapter and the applicable provisions of this title. They are subject to the same application and review process as other permitted uses identified in this title.
- C. Conditional Uses. Conditional uses in Table 1 are shown with a "C." These uses are allowed if they comply with the applicable provisions of this title. They are subject to the same application and review process as other conditional uses identified in this title.
- D. Density. The allowable residential density and employment building floor area are specified in Table 2.
- E. Dimensional Standards. The dimensional standards for lot size, lot dimensions, building setbacks, and building height are specified in Table 2.
- F. Development Standards.
 - 1. Housing Mix. The required housing mix for the TOD district is shown in Table 2.
 - 2. Accessory Units. Accessory units are allowed as indicated in Table 1. Accessory units shall meet the following standards:
 - a. A maximum of one accessory unit is permitted per lot;
 - b. The primary residence and/or the accessory unit on the lot must be owner-occupied;
 - c. An accessory unit shall have a maximum floor area of eight hundred square feet;
 - d. The applicable zoning standards in Table 2 shall be satisfied.

Table 1 TOD District Land Uses									
Use Categories	Zoning Districts								
	LMR	MMR	HMR	EC	GC	C	OS		
<u>Residential</u>									
Dwelling, Single-Family									
Large and standard lot	P	L5	N	N	N	N	N	N	N
Zero lot line, detached	P	P	N	N	N	N	N	N	N
Attached row houses	P	P	P	C	N	N	N	N	N
Dwelling, Multifamily									
Multiplex, apartment	P	P	P	L1	L1	N	N	N	N
Senior housing	L6	P	P	L1	L1	N	N	N	N
Accessory Units	P1	P1	P1	C	N	N	N	N	N

N--Not permitted.

P--Permitted use.

N--Not permitted.

P--Permitted use.

P1--Permitted use, one unit per lot.

C--Conditional use.

Table 2

TOD District Zoning Standards

Standard	Zoning Districts							
	LMR	MMR	HMR	EC	GC	C	OS	
Density—Units Per Net Acre (f)								
Maximum	12	32	NA	NA	NA	NA	NA	NA
Minimum	6	14	25	NA	NA	NA	NA	NA
Dimensional Standards								
Minimum Lot or Land Area/Unit								
Large single-family	5,000 SF	NA	NA	NA	NA	NA	NA	NA
Standard single-family	3,000 SF	NA	NA	NA	NA	NA	NA	NA
Zero lot line detached	2,700 SF	2,700 SF	NA	NA	NA	NA	NA	NA
Attached row houses	2,000 SF	1,500 SF	1,200 SF	NA	NA	NA	NA	NA
Multifamily	NA	NA	NA	NA	NA	NA	NA	NA
Average Minimum Lot or Land Area/Unit								
Large single-family	7,500 SF	NA	NA	NA	NA	NA	NA	NA
Standard single-family	4,500 SF	NA	NA	NA	NA	NA	NA	NA
Zero lot line detached	3,000 SF	3,000 SF	NA	NA	NA	NA	NA	NA
Attached row houses	2,500 SF	2,000 SF	1,500 SF	NA	NA	NA	NA	NA

Table 2

TOD District Zoning Standards

Standard	Zoning Districts									
	LMR	MMR	HMR	EC	GC	C	OS			
Multifamily	NA	NA	NA	NA	NA	NA	NA			
Minimum Lot Width										
Large single-family	50'	NA	NA	NA	NA	NA	NA			
Standard single-family	50'	NA	NA	NA	NA	NA	NA			
Zero lot line detached	30'	30'	NA	NA	NA	NA	NA			
Attached row houses	24'	22'	18'	NA	NA	NA	NA			
Multifamily	NA	NA	NA	NA	NA	NA	NA			
Minimum Lot Depth	50'	50'	50'	NA	NA	NA	NA			
Building Setbacks (k)										
Front (min./max.)	10'/15'	10'/15'	0'/15'	0'	0'/15'	0'/5'	15'			
Side (between bldgs.) (detached/attached)	5' detached	5' detached	5' detached	0'	0'	0'	5'			
	0' attached (a)(c)	0' attached (a)(c)	0' attached (a)	10' (b)	15' (b)	20' (b)				
Corner (min./max.)	10'/NA	10'/NA	0'/10'	5'/10'	15'/30'	5'/10'	15'/NA			
Rear	10'	10'	10'	0'	15' (b)	0'	5'			
				10' (b)	0'	20' (b)				

Table 2 TOD District Zoning Standards									
Standard	Zoning Districts								
	LMR	MMR	HMR	EC	GC	C	OS		
Garage Entrance	(d)	(d)	(d)	(e)	(e)	(e)	NA		
Maximum Building Height	35'	45'	60'	60'	60'	45'	35'		
Maximum Lot Coverage (g)	80%	80%	85%	100%	100%	85%	25%		
Minimum Landscaped Area (i)	20% of site area	20% of site area	15% of site area (j)	0% of site area (h)	15% of site area	15% of site area	NA		
Housing Mix									
Required housing types as listed under Residential in Table 1.	< 16 units in development:		1 housing type.	NA	NA	NA	NA		
	16--40 units in development:		2 housing types.						
	> 40 units in development:		3 or more housing types (plus approved master plan)						

Notes:

NA--Not applicable.

(k) Where a building setback abuts a public utility easement (PUJE), the building setback shall be measured from the furthest protrusion or overhang for the structure to avoid utility conflicts.

**Table 3
TOD District and Corridor Vehicle Parking Standards**

Use Categories	Minimum Required Parking
Residential	
Dwelling, Single-Family Large and standard lot Zero lot line, detached Attached row houses	2 spaces per unit.
Dwelling, Multifamily Plexes Apartments and condominiums Congregate (senior) housing	1.5 spaces per unit. 1.5 spaces per unit. .5 spaces per dwelling unit.
Dwelling, Accessory Unit	1 space per unit.

17.60.030 Accessory buildings.

Accessory buildings shall comply with all requirements for the principal use except where specifically modified by this title and shall comply with the following limitations:

- A. Regardless of the side and rear yard requirements of the district, in a residential (R) district a side or rear yard not adjoining a street may be reduced to three feet, measured from the furthest protrusion or overhang, for an accessory structure erected more than fifty-five feet from the street right-of-way line on which the lot fronts, other than alleys, provided the structure is detached and separated from other buildings by ten feet or more.
- B. Canvas-Covered Canopies and Other Temporary Structures. Temporary structures in residential (R) districts shall not be permitted within a front setback and only within a side setback that does not abut a public right-of-way. Temporary structures within a side setback shall be at least three feet from the side lot line measured from the furthest protrusion or overhang. Such structures are to be anchored to the ground in accordance with building code requirements.
- C. Structural Dimensions. All accessory buildings will be subject to the requirements of all building specialty codes adopted under the Central Point Municipal Code.
 1. Height. Accessory structures in residential (R) districts shall not exceed twenty-five feet if detached from the main structure. Structures greater than fifteen feet but less than twenty-five feet in height shall be set back a minimum of five feet from a side or rear lot line.
 2. Width and Length. Garages and carports intended to satisfy the municipal code requirement for two off-street covered parking spaces shall be a minimum interior dimension of twenty feet in width by twenty feet in length. Standard garage doors shall be of adequate width to facilitate safe passage and maneuvering of automobile traffic.
 3. Alley Setback. Accessory structures in residential (R) districts which abut an alley, are used as garages, and take their access from the alley shall have a setback of fifteen feet from the rear property line. (Ord. 1981 §3 (Exh. C) (part), 2014; Ord. 1818 §1(part), 2001; Ord. 1684 §53, 1993; Ord. 1436 §2(part), 1981).

CC&R Violation Letter_921 Buck
Point Street_07172019v1.pdf

Jackson Oaks Neighborhood Common and Open Space Maintenance Association
Jackson Oaks Neighborhood Association
P.O. BOX 3410
CENTRAL POINT, OR 97502
e-mail: board@jona-cp.com

CC&R VIOLATION LETTER

July 17, 2019

Jim & Elaine Frost
921 Buck Point Street
CENTRAL POINT, OR 97502

RE: USE OF ACCESSORY STRUCTURE AT 921 BUCK POINT

Dear Mr. & Mrs. Frost:

It is the obligation of our Jackson Oaks Neighborhood Association (JONA) Board of Directors to ensure each Property Owner in our Community is adhering to the Governing Documents. Our Community is striving to continue to be a beautiful place in which to reside pleasantly with our neighbors.

The matter listed below was noted to be inconsistent with your Community Documents and/or published Association rules. The JONA Board of Directors are kindly asking you to take the necessary steps to bring your property into compliance.

First courtesy notice for: THE ACCESSORY STRUCTURE IS BEING USED AS A RESIDENCE / ACCESSORY DWELLING UNIT.

The JONA DRC approved the structure on 04/12/2018, with stipulations that the structure was to be used as a detached man cave/game room only. You are in violation of the JONA CC&Rs and the City of Central Point permit you obtained in 2017.

The JONA board has received complaints that someone is living in the Accessory Structure.

As you know, in November 2018 several new JONA board of directors were elected and a new DRC committee appointed. The current JONA board of directors and DRC committee reviewed your Home Modification Review request dated 03/23/2018 and carefully reviewed the JONA Declaration of Covenants, Conditions and Restrictions for the Jackson Oaks Neighborhood of Twin Creeks,

Transit-Oriented Development Project. We understand that the permit you obtained from the City of Central Point was for a detached garage with a setback of five feet from rear and side property lines. We also understand that you included a toilet in the field and you also changed the planned garage door to French doors. The Home Modification Review Request dated 03/23/2018 was not for a detached garage.

The JONA board of directors want to make clear our position on this matter.

The JONA CC&Rs are more restrictive than the City of Central Point building and zoning requirements. The JONA Board of Directors understand that the City of Central Point suggested to you that you could have an Accessory Dwelling Unit that complies with the Cities building requirements or a second structure that complies. **Per the JONA CC&Rs you may only have one single family dwelling per building site. Therefore, you may not use the building as a residence and you may not add a second building.**

Below you will find a few sections copied from the JONA CC&Rs as it pertains to this subject.

Section 5.1, Paragraph 1

Design Review Committee (DRC). **There shall be a Design Review Committee (DRC), with the responsibility and authority to approve or disapprove modifications to the Property, to approve the construction of improvements on the Property, and to enforce the terms and conditions of this Declaration as they relate to architectural and use control.** The DRC shall consist of three (3) members. The members of the DRC during the Development Period shall be appointed by the Declarant and shall serve until the Declarant appoints new members. In the case of the death, disability or resignation of any member or members of the DRC, the surviving or remaining member or members shall have full authority to designate a successor or successors. DRC meetings will be held as needed and minutes of all meetings will be kept and made available to Association members on request.

Section 5.2, Paragraph 1

Approval of Plans. **All buildings and structures, including concrete or masonry walls, rockeries, fences, swimming pools, shops, sheds, play structures, gazebos or other structures to be constructed or modified within the Property shall be approved by the DRC.** Complete plans and specifications of all proposed buildings, structures and exterior alterations, together with detailed plans showing the proposed location and elevation of the same on the particular Building Site, shall be

submitted to the DRC before construction or alteration is started, and such construction and alteration shall not be started until written approval thereof is given by the DRC.

Section 5.2, Paragraph 4

As to all improvements, constructions and alterations within the Property, **the DRC shall have the right to refuse to approve any design, plan or color for such improvement, construction or alteration which is not suitable or desirable, in the DRC's opinion, for any reason, aesthetic or otherwise,** and in so passing upon such design the DRC shall have the right to take into consideration the suitability of the proposed building or other structure, and the material of which it is to be built, and the exterior color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect or impairment that said structures will have on the view or outlook of surrounding building sites, and any and all factors, which in the DRC's opinion shall effect the desirability or suitability of such proposed structure, improvements or alterations.

Section 5.3 (e)

No building or structure shall be erected, constructed, maintained or permitted upon a Building Site other than one single family dwelling, for single family occupancy only, not to exceed building heights as specified in the City of Central Point TOD District Zoning Standards, and a private garage for not more than three (3) standard sized automobiles or carport for not more than one (1) standard sized automobile and one accessory dwelling unit. Additional Buildings or Structures may be permitted on a Lot or Building Site only upon written approval of the DRC (see 5.2 above)

For your convenience the Governing Documents can be viewed online or downloaded from the JONA website www.jona-cp.com. The Board of Directors is looking forward to working together in a continuing effort to keep our Community beautiful. If you have any questions or concerns about the above matter, please do not hesitate to contact us at www.jona-cp.com.

Sincerely,

Jackson Oaks Neighborhood Association Board of Directors

cc. City of Central Point
140 S. 3rd St.
Central Point, Oregon 97502

Tom Humphrey, Community Development Director

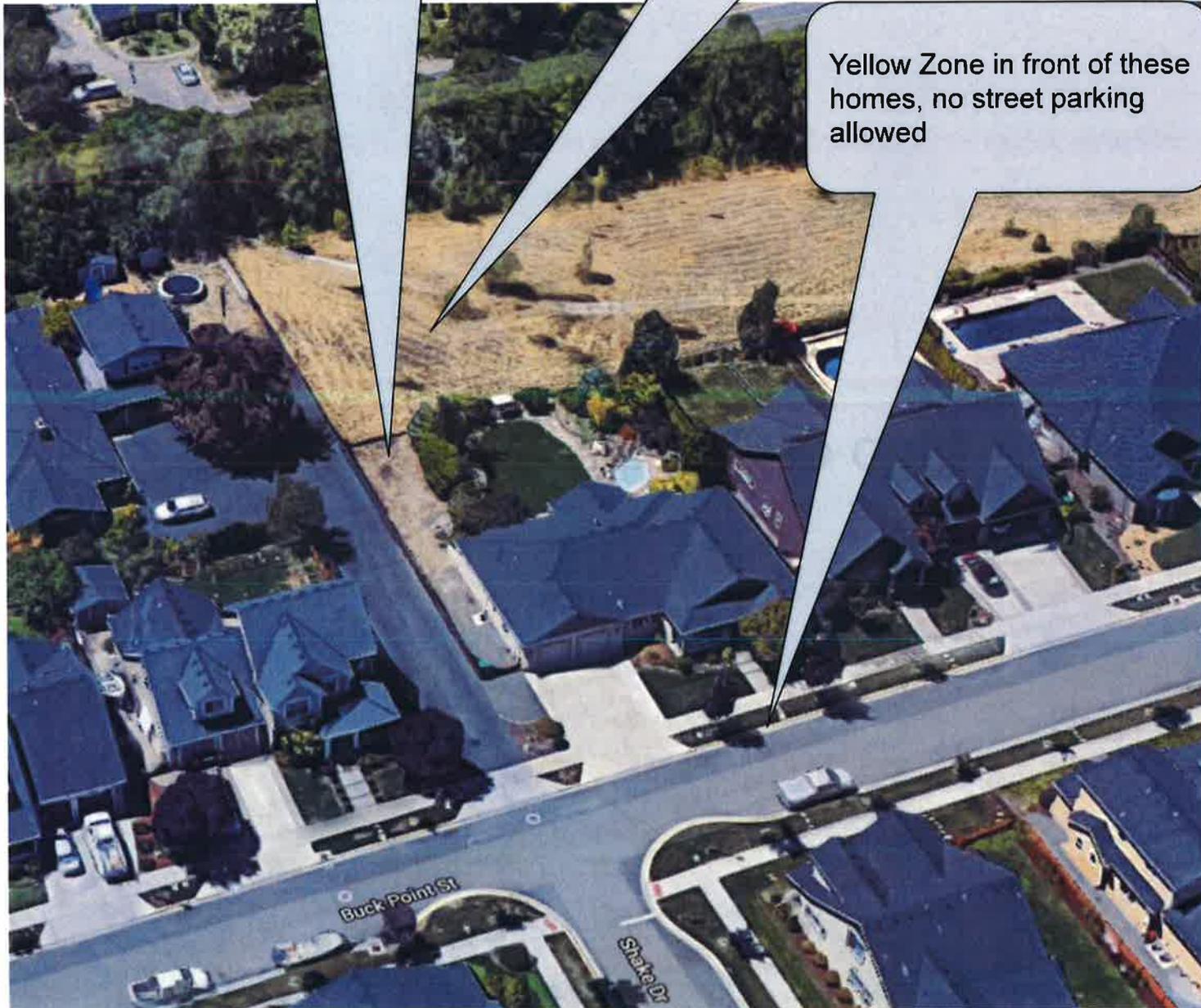
Attachment F

Map of 921 Buck Point.pdf

Accessory structure was built in this location at 921 Buck Point Street

Adjoining land managed by Southern Oregon Land Conservancy owned by Brett and Amy Moore (TWIN CREEKS DEVELOPMENT CO LLC)

Yellow Zone in front of these homes, no street parking allowed



Planning May 2019

A Planning Primer on Private Restrictive Covenants

By Brian J. Connolly and Vincent P. Forcinito

Covenant-controlled communities have exploded in popularity over the last 50 years. In 1970, only 2.1 million people lived in them. By 2010, about 62 million residents — nearly 20 percent of the U.S. population — called them home. Today, massive suburban communities like Summerlin, Nevada, and Highlands Ranch, Colorado, both of which are home to over 100,000 residents, make use of this form of "mini-zoning."

Sometimes referred to as CC&Rs (standing for covenants, conditions, and restrictions), restrictive covenants are private contractual obligations set by developers and landowners to create and maintain a common scheme of development and control over property. They control land use, development standards, and other aspects of residential and commercial community management.

Because of the broad reach of private covenants in regulating development and land use in much of the U.S., planners should be aware of their legal consequences and how they can impact planning goals in their communities.

Potential for conflict

Private covenants can both benefit and burden affected landowners. They are often contained in a document called a declaration, which is recorded in public land records and runs with the land, meaning it attaches to property in perpetuity despite changes in ownership and control. And they can contain virtually anything: building and use standards, landscaping guidelines, trash and recycling requirements, easements for utilities or public access, limitations on pets, association dues, and management structures. While these stipulations might restrict a landowner's ability to engage in certain land uses and activities, they also ensure that others burdened by the same restrictions will be bound by their terms.

As private contractual obligations, covenants are not created or generally enforced by local governments. Home owners and business associations and private landowners are responsible for any violations, which are generally enforced through payment of damages or a court order called an injunctive relief.

Their use, therefore, can sometimes conflict with governmental and societal goals and policies. For example, after the U.S. Supreme Court declared race-based zoning measures unconstitutional in 1917, racially restrictive covenants were used in the early part of the 20th century to prohibit African Americans and minority religious groups from living in white suburban neighborhoods, contributing to many of the segregated communities we still see today. It wasn't until 1948, in *Shelley v. Kraemer*, that the Supreme Court held judicial enforcement of race-based covenants

to also be unconstitutional. Still, many today might establish gated communities, large lots, or other economically exclusionary measures that achieve similar ends.

Private covenants can control land use, development standards, and other aspects of community management.

Other types of conflicts between planning goals and covenants also remain, particularly in areas of environmental sustainability and mixed use redevelopment. For example, covenants may prohibit items like solar panels, while public entities encourage them to promote energy savings. Covenants may also prohibit xeriscaping and other drought-tolerant landscapes — or even require green, weed-free lawns — even as planners and environmental advocates seek to conserve water.

Similarly, many covenants effectively create single-use communities like single-family residential neighborhoods and business parks. While a community may rezone these areas to encourage a mix of uses and transit accessibility, private covenants often stand in the way of accomplishing these goals.

Combatting covenants

Amending these stipulations, which can only be done by parties to the covenants, can be difficult, as an amendment might require the approval of every landowner whose property is burdened by the covenant. Therefore, some state legislatures prohibit certain private covenants that are contrary to public policy. In Colorado, for example, the state prohibits bans on xeriscaping (although an association may adopt or enforce design guidelines or rules that regulate the type, number, and placement of drought-tolerant plantings and hardscapes) and covenants that "effectively prohibit renewable energy devices." Similar provisions are popping up in other states as well.

If a state statute does not limit the content of a restrictive covenant, planners should assume that property owners will be required to comply with both zoning and a restrictive covenant applicable to the owner's property. Remember, too, that because restrictive covenants are private contracts, they have far fewer constitutional limitations than government regulation. For example, a restrictive covenant could prohibit political signs, while a zoning restriction of the same nature would be unconstitutional under the First Amendment.

Given the prevalence of covenant-controlled communities in the U.S., conflicts with local zoning codes can and regularly do arise. In these situations, state-specific statutes should be consulted to determine the enforceability of the particular provision at issue.

Brian J. Connolly is a land-use lawyer and planner with the firm of Otten Johnson Robinson Neff + Ragonetti, PC in Denver. Vincent P. Forcinito is a land-use and real estate lawyer at the same firm.

Legal Lessons is edited by Mary Hammon, an associate editor of Planning. Please send information to mhammon@planning.org.

**PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Accessory Dwelling Unit Zoning Code Amendments
File No. ZC-19001**

November 5, 2019

Applicant:) Findings of Fact
City of Central Point) and
140 South 3rd Street) Conclusions of Law
Central Point, OR 97502)

INTRODUCTION

The City of Central Point is proposing major text amendments to various sections of the Central Point Municipal Code (CPMC) in Title 17, Zoning Code relative to definitions and standards for Accessory Dwelling Units (ADUs) and Accessory Structures (Attachment "A"). The proposed amendments are designed to accomplish the following:

- 1) Comply with Oregon Revised Statutes (ORS) 197.312:
 - a. Allow at least one (1) ADU in all zones that permit single-family detached dwellings;
 - b. Eliminate the owner occupancy requirement for ADUs;
 - c. Eliminate off-street parking requirements in accordance with HB 2001 implemented on August 8, 2019;
 - d. Provide only clear and objective standards;
 - e. Align the definition for an ADU in CPMC 17.08 with the definition in ORS, 197.312(5)(b).

- 2) Eliminate barriers to ADU construction consistent with the City of Central Point Housing Element and Housing Implementation Plan:
 - a. Increase floor area allowed from 35% to 50% of primary dwelling gross floor area; retain maximum ADU floor area allowed as 800SF;
 - b. Reduce side and rear yard setback to be equivalent to the setback allowed for an accessory structure;
 - c. Align maximum building height with the building height allowed for accessory structures; and
 - d. Provide an exception allowing a carriage unit (i.e. ADU above a garage) to exceed the maximum floor area requirement.

- 3) Modify the setback the Accessory Structure setback in CPMC17.60.030(A) as follows:
 - a. Side and rear yard setback shall be 5-ft, provided all life and safety standards are met;
 - b. Eliminate provision allowing a 3-ft setback measured from the furthest protrusion or overhang. This change provides a consistent setback methodology for all structure types.

The proposed Zoning Text changes are Major Amendments per CPMC 17.10.300 and are subject to Type IV (Legislative) procedures per CPMC 17.05.500.

Approval criteria are set forth in CPMC 17.10.400 and addressed in these findings in five (5) parts:

1. Legislative Amendment Procedures (CPMC 17.05.500)
2. Zoning Map and Zoning Text Amendments (CPMC 17.10)
3. Statewide Planning Goals
4. City of Central Point Comprehensive Plan
5. Transportation Planning Rule (OAR 660-012-0060(1))

PART 1 – CPMC 17.05.500, LEGISLATIVE AMENDMENT PROCEDURES

CPMC 17.05.500(A). Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the City of Central Point. The requirements and procedures for a pre-application conference are described in Section 17.05.600(C).

***Finding CPMC 17.05.500(A):** Since the City of Central Point initiated this application to amend various sections of Title 17, a pre-application conference was not required nor was one held.*

***Conclusion CPMC 17.05.500(A):** Not applicable.*

CPMC 17.05.500(B). Timing of Requests. Acceptance timing varies for Type IV applications (see Table 17.05.1 for applicable section reference).

***Finding CPMC 17.05.500(B):** The proposed zoning text amendments are considered Major Amendments per Table 17.05.01 and Section 17.10.300(A). As demonstrated by the Findings for CPMC 17.05.500, the proposed text amendments have been processed in accordance with the timelines and requirements for Type IV legislative applications.*

TABLE 17.05.1

LAND DEVELOPMENT PERMIT*	PROCEDURAL TYPE	APPLICABLE REGULATIONS	APPROVING AUTHORITY	120-DAY RULE
Zoning Map and Zoning and Land Division Code Text Amendments				
Minor	Type III	Chapter 17.10	City Council	Yes
Major	Type IV	Chapter 17.10	City Council	No

***Conclusion CPMC 17.05.500(B):** Consistent.*

C. Application Requirements.

CPMC 17.05.500(C)(1). Application Forms. Type IV applications shall be made on forms provided by the community development director or designee.

***Finding CPMC 17.05.500(C)(1):** At the September 3, 2019 meeting, the Planning Commission directed staff to prepare amendments to CPMC 17.08, 17.60.030, and 17.77 for public hearing on November 5, 2019. The direction was based on discussion of potential code amendments at the August and September meetings to comply with ORS 197.312/SB 1051 and to eliminate barriers to housing per the approved Housing Implementation Plan (City Council Resolution No. 1560). Subsequently, staff prepared an application form, notified DLCDC and the newspaper of the pending Public Hearing as demonstrated in the following findings and conclusions.*

***Conclusion CPMC 17.05.500(C)(1):** Consistent.*

CPMC 17.05.500(C)(2) Submittal Information. The application shall contain:

- a. The information requested on the application form;
- b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
- c. The required fee; and
- d. One copy of a letter or narrative statement (findings and conclusions) that explains how the application satisfies each and all of the relevant approval criteria and standards applicable to the specific Type IV application.

***Finding CPMC 17.05.500(C)(2):** The City of Central Point's application to amend various sections of the Zoning Ordinance Text relative to Accessory Dwelling Units (ADUs) and accessory structures includes the application form, description of text amendments, and copy of proposed text amendments (See File No. ZC-19001).*

***Conclusion CPMC 17.05.500(C)(2):** Consistent.*

CPMC 17.05.500(D). Notice of Hearing.

1. Required Hearings. A minimum of two hearings, one before the planning commission and one before the city council, are required for all Type IV applications.

***Finding CPMC 17.05.500(D)(1):** A duly noticed hearing was held before the planning commission on November 5, 2019. A second hearing is scheduled and has been noticed at the City Council meeting on December 12, 2019.*

***Conclusion CPMC 17.05.500(D)(1):** Consistent.*

2. Notification Requirements. Notice of public hearings shall be given by the community development director or designee in the following manner:
 - a. At least ten days, but not more than forty days, before the date of the first hearing, a notice shall be mailed to:

- i. Any affected governmental agency;
 - ii. Any person who requests notice in writing;
- b. At least ten days before the first public hearing date, and fourteen days before the city council hearing date, public notice shall be published in a newspaper of general circulation in the city.
- c. The community development director or designee shall:
 - i. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection (D)(2)(a) of this section; and
 - ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection (D)(2)(b) of this section.
- d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed comprehensive plan and development code amendments within the time period prescribed by DLCD. The notice to DLCD shall include a DLCD certificate of mailing.

***Finding CPMC 17.05.500(D)(2):** In accordance with Municipal Code, notice was mailed in a timely fashion to all affected agencies and persons who made a request for notice. Similarly, an affidavit will be published in a newspaper, and the DLCD was notified.*

***Conclusion CPMC 17.05.500(D)(2):** Consistent.*

- 3. Content of Notices. The mailed and published notices shall include the following information:
 - a. The number and title of the file containing the application, and the address and telephone number of the community development director or designee’s office where additional information about the application can be obtained;
 - b. The proposed site location, if applicable;
 - c. A description of the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
 - d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the council and available at City Hall (see subsection E of this section).

***Finding CPMC 17.05.500(D)(3):** The description included within the notices conform with CPMC 17.05.500(D)(3) as evidenced by the affidavit of publication herein incorporated by reference.*

***Conclusion CPMC 17.05.500(D)(3):** Consistent.*

CPMC 17.05.500(E). Hearing Process and Procedure--Conduct of Public Hearing.

- 1. Unless otherwise provided in the rules of procedure adopted by the city council:
 - a. The presiding officer of the planning commission and of the city council shall have the authority to:
 - i. Regulate the course, sequence, and decorum of the hearing;

- ii. Direct procedural requirements or similar matters;
 - iii. Impose reasonable time limits for oral presentations; and
 - iv. Waive the provisions of this chapter so long as they do not prejudice the substantial rights of any party.
 - b. No person shall address the commission or the council without:
 - i. Receiving recognition from the presiding officer; and
 - ii. Stating his or her full name and address.
 - c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.
2. Unless otherwise provided in the rules of procedures adopted by the council, the presiding officer of the commission and of the council shall conduct the hearing as follows:
- a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a preliminary decision, such as a recommendation to the city council, or the final decision of the city;
 - b. The community development director or designee's report and other applicable staff reports shall be presented;
 - c. The public shall be invited to testify;
 - d. The public hearing may be continued to allow additional testimony or it may be closed; and
 - e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

***Finding CPMC 17.05.500(E):** Planning Commission meetings and public hearings are conducted in accordance with State public meeting laws and the procedures in this section as evidenced by the record of proceedings maintained by the City for each meeting including those duly noticed meetings for this application.*

***Conclusion CPMC 17.05.500(E):** Consistent.*

CPMC 17.05.500(F). Continuation of the Public Hearing. The planning commission or the city council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

***Finding CPMC 17.05.500(F):** Continuations of the public hearing will abide by the rules and regulations of CPMC 17.05.500(F).*

***Conclusion CPMC 17.05.500(F):** Consistent.*

CPMC 17.05.500(G). Decision-Making Criteria Decision Process. The recommendations by the citizen's advisory committee, the planning commission and the decision by the city council shall be based on the applicable criteria.

Finding CPMC 17.05.500(G): The recommendations of the Citizens Advisory Committee and the Planning Commission are based on applicable criteria as stated in CPMC 17.05.500(G).

Conclusion CPMC 17.05.500(G): Consistent.

CPMC 17.05.500(H). Approval Process and Authority.

1. The citizens advisory committee and planning commission shall:
 - a. The citizens advisory committee: after notice and discussion at a public meeting, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 - b. The planning commission: after notice and a public hearing, vote on and prepare a recommendation to the city council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and
 - c. Within ten days of adopting a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the community development director or designee.
2. Any member of the citizen's advisory committee or planning commission who votes in opposition to the majority recommendation may file a written statement of opposition with the community development director or designee before the council public hearing on the proposal. The community development director or designee shall send a copy to each council member and place a copy in the record;
3. If the citizens advisory committee or planning commission does not adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty days of its first public hearing on the proposed change, the community development director or designee shall:
 - a. Prepare a report to the city council on the proposal, including noting the citizens advisory committee's or planning commission's actions on the matter, if any; and
 - b. Provide notice and put the matter on the city council's agenda for the city council to hold a public hearing and make a decision. No further action shall be taken by the citizens advisory committee or planning commission.
4. The city council shall:
 - a. Consider the recommendation of the citizens advisory committee and planning commission; however, the city council is not bound by the committee's or the commission's recommendation;
 - b. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the planning commission for rehearing and reconsideration on all or part of the application; and
 - c. If the application is approved, the council shall act by ordinance, which shall be signed by the mayor after the council's adoption of the ordinance.

***Finding CPMC 17.05.500(H):** The approval process for the citizen’s advisory committee and the planning commission were based on the rules and regulations of CPMC 17.05.500(H). Similarly, the city council will conform with the rules and regulations of CPMC 17.05.500(H).*

***Conclusion CPMC 17.05.500(H):** Consistent.*

CPMC 17.05.500(I). Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the citizen’s advisory committee present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
2. A vote by a majority of the qualified voting members of the planning commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.
3. A vote by a majority of the qualified members of the city council present is required to decide any motion made on the proposal.

***Finding CPMC 17.05.500(H):** At the September 3, 2019 meeting, the Citizen’s Advisory Committee (CAC) voted to recommend the Planning Commission approve the proposed code amendments with the exception of the provision allowing flexibility in off-street parking location. Since the time the CAC voted on the matter, the City has learned that a new law was put into effect on August 8, 2019 mandating communities eliminate off-street parking requirements for ADUs. The Planning Commission will consider the CAC recommendation, the staff report and public testimony and vote on a recommendation to the City Council at the November 5, 2019 meeting or at a continued public hearing on a date specified. Subsequently the City Council will consider the proposed amendments and vote to decide on the proposed amendments.*

***Conclusion CPMC 17.05.500(H):** Consistent.*

CPMC 17.05.500(J-L).

- J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five days after the city council decision is filed with the community development director or designee.
- K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon the date of mailing of the notice of decision to the applicant.
- L. Record of the Public Hearing.
 1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;
 2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;
 3. The official record shall include:

- a. All materials considered and not rejected by the hearings body;
- b. All materials submitted by the community development director or designee to the hearings body regarding the application;
- c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
- d. The final decision;
- e. All correspondence; and
- f. A copy of the notices that were given as required by this chapter. (Ord. 2033 §5, 2017; Ord. 1989 §1(part), 2014; Ord. 1874 §1(part), 2006).

***Finding CPMC 17.05.500(J-L):** As evidenced in the record, notice of decision, final decisions, effective dates, and records of the public hearing abide by the rules and regulations of CPMC 17.05.500(J-L).*

***Conclusion CPMC 17.05.500(J-L):** Consistent.*

PART 2 – CPMC 17.10, ZONING MAP AND ZONING CODE TEXT AMENDMENTS

17.10.200 Initiation of amendments.

A proposed amendment to the code or zoning map may be initiated by either:

- A. A resolution by the planning commission to the city council;
- B. A resolution of intent by the city council; or for zoning map amendments;
- C. An application by one or more property owners (zoning map amendments only), or their agents, of property affected by the proposed amendment. The amendment shall be accompanied by a legal description of the property or properties affected; proposed findings of facts supporting the proposed amendment, justifying the same and addressing the substantive standards for such an amendment as required by this chapter and by the Land Conservation and Development Commission of the state. (Ord. 1989 §1(part), 2014).

***Finding CPMC 17.10.200:** At the September 3, 2019 meeting, the Planning Commission directed staff to prepare notice zoning text amendments or a public hearing on November 5, 2019. At the conclusion of the public hearing, the Planning Commission will direct staff to prepare a resolution to City Council in accordance with this section.*

***Conclusion CPMC 17.10.200:** Consistent.*

17.10.300 Major and minor amendments.

There are two types of map and text amendments:

A. Major Amendments. Major amendments are legislative policy decisions that establish by law general policies and regulations for future land use decisions, such as revisions to the zoning and land division ordinance that have widespread and significant impact beyond the immediate area. Major amendments are reviewed using the Type IV procedure in Section 17.05.500.

B. Minor Amendments. Minor amendments are those that involve the application of adopted policy to a specific development application, and not the adoption of new policy (i.e., major amendments). Minor amendments shall follow the Type III procedure, as set forth in Section 17.05.400. The approval authority shall be the city council after review and recommendation by the planning commission. (Ord. 1989 §1(part), 2014; Ord. 1874 §3(part), 2006).

***Finding CPMC 17.10.300:** The proposed zoning text amendments modify requirements for Accessory Dwelling Units (ADUs), which will impact future land use decisions. The proposed amendments will have widespread impacts and are considered a Major Amendment in accordance with CPMC 17.10.300(A). As evidenced by the Findings in Part 1 of these Findings, the Major Amendments are legislative and have been processed in accordance with the Type IV (legislative) procedures set forth in CPMC 17.05.500.*

***Conclusion CPMC 17.10.300:** Consistent.*

17.10.400 Approval criteria.

A recommendation or a decision to approve, approve with conditions or to deny an application for a text or map amendment shall be based on written findings and conclusions that address the following criteria:

A. Approval of the request is consistent with the applicable statewide planning goals (major amendments only);

***Finding CPMC 17.10.400(A):** See Part 3 Findings – Statewide Planning Goals.*

***Conclusion CPMC 17.10.400(A):** Consistent.*

B. Approval of the request is consistent with the Central Point comprehensive plan (major and minor amendments);

***Finding CPMC 17.10.400(B):** See Part 4 Findings – Central Point Comprehensive Plan.*

***Conclusion CPMC 17.10.400(B):** Consistent.*

C. If a zoning map amendment, findings demonstrating that adequate public services and transportation networks to serve the property are either available, or identified for construction in the city’s public facilities master plans (major and minor amendments); and

***Finding CPMC 17.10.400(C):**The proposal is for Major zoning text amendments. This criterion applies to Major and Minor zoning map amendments only. Notwithstanding, ADUs are allowed in conjunction with an existing or approved primary single family dwelling. Since services are necessary to permit construction of the primary dwelling, it can be concluded that the public services are available and can be extended to serve the ADU.*

***Conclusion CPMC 17.10.400(C):** Not applicable.*

D. The amendment complies with OAR 660-012-0060 of the Transportation Planning Rule. (Ord. 1989 §1(part), 2014; Ord. 1874 §3(part), 2006. Formerly 17.10.300(B)).

***Finding CPMC 17.10.400(D):**As demonstrated in Part 5 Findings – Transportation Planning Rule, the proposed text do not significantly affect existing or planned transportation facilities.*

***Conclusion CPMC 17.10.400(D):** Consistent.*

PART 3 – STATEWIDE PLANNING GOALS

This section sets forth preliminary findings of fact relative to the proposed text amendment’s compliance with the Statewide Planning Goals. Applicable Statewide Planning Goals include Goal 1, Citizen Involvement; Goal 2, Land Use Planning; and Goal 10, Housing.

Goal 1 – Citizen Involvement:

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

***Finding Goal 1:** The proposed text amendments do not enhance, or detract, from citizen participation in the City’s planning process established in the Comprehensive Plan to comply with Statewide Planning Goal 1. Discussions were held by the Planning Commission on August 6, 2019 and September 3, 2019 to discuss the preliminary draft amendments. At that time the public was invited to participate in the discussion and comments were received verbally and in writing. Written comments have been entered into the record for the proposed amendments and have been addressed in the staff report and these findings. Based on discussion, the Planning Commission directed staff to finalize draft amendments relative to ADUs and accessory structures.*

Consistent with the City’s procedures for legislative amendments and citizen involvement program, the Citizen’s Advisory Committee considered draft changes at their September 10, 2019 meeting. The CAC unanimously voted to recommend approval to the Planning Commission with the exception that they didn’t like any flexibility for off-street parking location.

Duly noticed public hearings are scheduled for the November 5, 2019 Planning Commission and the December 12, 2019 City Council meetings.

Conclusion Goal 1: The proposed text amendments are consistent with the City's planning process and citizen's involvement program and therefore comply with Statewide Planning Goal 1.

Goal 2 – Land Use Planning:

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding Goal 2: Element I of the Central Point Comprehensive Plan addresses the Goal 2 requirement that plans and implementing ordinances be revised on a periodic cycle to take into account changing public policies, community attitudes and other circumstances; as such the proposed code amendments provide a process and policy framework as a basis for land use decisions.

The proposed text amendments are consistent with CPMC 17.10 and therefore do not modify or otherwise affect the City's planning process and policy framework as set forth in the Comprehensive Plan. As demonstrated in these findings, proposed text amendments serve to implement existing policy in the Housing Element, State Laws relative to housing in ORS 197.312 and clarify current code language by providing clear and objective standards.

Conclusion Goal 2: Consistent.

Goal 10 – Housing:

To provide for the housing needs of citizens of the state.

Finding Goal 10: The proposed text amendments to CPMC 17.77 Accessory Dwelling Units (ADU) and CPMC 17.60.030 Accessory Buildings eliminates barriers to ADU construction in Central Point by establishing clear and objective standards, increasing the maximum floor area to a size allowed and implementing state requirements eliminating off-street parking and owner occupancy requirements. As demonstrated in Part 4, this aligns with the Goals and Policies of the City of Central Point Housing Element to increase housing supply, diverse housing types, and affordability, which aligns with Statewide Planning Goal 10.

Conclusion Goal 10: Consistent.

PART 4 – CITY OF CENTRAL POINT COMPREHENSIVE PLAN

The proposed amendments address standards for housing. Applicable policies in the comprehensive plan include those in the Housing Element and Transportation Element.

Housing Goal 1:

To provide an adequate supply of housing to meet the diverse needs of the City's current and projected households.

Policy 1.1:

Continue to support new residential development at the new minimum residential densities.

***Finding Policy 1.1:** The proposed code amendments allow for a density bonus to accommodate Accessory Dwelling Units, which does not otherwise impede or affect achievement of minimum residential densities for new residential development.*

***Conclusion Policy 1.1:** Not applicable.*

Policy 1.2:

Develop a Housing Implementation Plan that is regularly updated based current market conditions.

***Finding Policy 1.2:** On December 13, 2018 the City Council per Resolution 1560 approved a 5-year Housing Implementation Plan (HIP) based on current market conditions and housing needs. The code amendments implement Short Term Action 3.2.1 in the HIP as set forth below:*

3.2.1 Prepare and Adopt Residential Code Amendments.

Priority	High
Background	<p>The City's Zoning Code is in Title 17 of the Central Point Municipal Code (CPMC). Residential land use and zoning standards are provided in multiple chapters for conventional and TOD zones and includes separate chapters for parking, design, and development. This makes it difficult to find all relevant approval criteria for a project, which can discourage and add planning cost to projects.</p> <p>Some code standards are out of date and pose barriers to residential development. A recent code audit by ECO NW found barriers to multifamily development in the R-3, Multifamily Zone (i.e. building height and lot coverage limits). Additionally Missing Middle Housing is not clearly addressed and in some cases not permitted.</p>
Action	<p>Consolidate the City's residential standards into 1-2 chapters. Consider the following changes:</p> <ul style="list-style-type: none"> • Increase minimum residential densities consistent with the Housing and Regional Plan Elements; • Adjust dimensional standards in the R-3 zone to eliminate barriers to maximizing density: <ol style="list-style-type: none"> 1) Increase building height from 35-ft to 45-ft to allow 4 stories; 2) increase maximum lot coverage from 50% to 60-75% to increase building area allowed on a site while still providing adequate land for off-street parking and landscaping; and, 3) Consider adding a buffer between buildings on R-3 lots and those in the R-1, R-2 and LMR zones. • Amend ADU standards to comply with SB 1051, increase size of ADU from 35% to 50% or 800 s.f., whichever is less. • Add Cottage Housing as a permitted housing type in the R-1, R-2, and LMR zones with a density bonus of 1.5.

	<ul style="list-style-type: none"> • Consider allowing Missing Middle Housing types within the R-1 zone, such as corner duplexes, interior divisions that increase density but look like single family dwellings.
Goals & Policies	Housing Element: 1.1, 1.3, 4.1, 5.1, 7.1, 7.2, 7.3, 7.4 Regional Plan Element: 4.1.5, 4.1.6
Performance Measures	<ul style="list-style-type: none"> • Adopt residential code amendments. • Increase gross density in the current UGB. • Achieve gross density of 6.9 units per acre in areas newly added to the UGB for the period 2019-2024. • Increase multifamily construction in the R-3 zone. • Increase the number of ADUs in the City.

As demonstrated herein, the City adopted a HIP that identifies the proposed code amendments as a high priority action.

Conclusion Policy 1.2: *Consistent.*

Policy 1.3:

Provide an efficient and consistent development review process.

Finding Policy 1.3: *The proposed code amendments do not impede or otherwise affect the City’s development review process.*

Conclusion Policy 1.3: *Not applicable.*

Policy 1.4:

Work with regional partners to develop and implement measures that reduce upfront housing development costs.

Finding Policy 1.4: *The proposed text amendments do not directly involve work with regional partner involved regional partners to identify housing strategies to increase housing supply and affordability. The proposed amendments may remove barriers to ADU construction, a housing type that is smaller format and potentially more affordable. Additionally there is an opportunity to reduce upfront housing development costs by making it easier to convert existing accessory buildings or garage attics into ADU’s or carriage units through setback consistency standards and language permitting second story garage additions that align with the current garage footprint.*

Conclusion Policy 1.4: *Consistent.*

Policy 1.5:

Support UGB expansions and annexations that can be efficiently provided with urban services and that will in a timely manner meet the City’s housing needs.

Finding Policy 1.5: *The proposed text amendments do not involve, or otherwise affect, the expansions and annexations of the UGB.*

Conclusion Policy 1.5: Not applicable.

Policy 1.6:

When properly mitigated to preserve the integrity of existing neighborhoods support higher density residential development within the Downtown and older surrounding residential areas, capitalizing on availability of existing infrastructure and supporting revitalization efforts.

Finding Policy 1.6: The proposed code amendments apply to zones that allow single family detached housing, which includes some zone surrounding the downtown. Allowing ADUs allows increased residential housing options using existing infrastructure that would otherwise serve only the primary dwelling unit.

Conclusion Policy 1.6: Consistent.

Housing Goal 2:

To encourage the development and preservation of fair and affordable housing.

Policy 2.1:

Through a Housing Implementation Plan explore and promote federal, state, and regional programs and incentives that support new affordable housing.

Finding Policy 2.1: CPMC 17.08 Definitions is in alignment with the Housing Implementation Plan short term strategy No. 3.2.1 which concerns the preparation and adoption of residential code amendments. The proposed text amendments are intended to streamline code requirements and eliminate repetitive language. Additionally, the proposed text amendments in CPMC 17.77 Accessory Dwelling Units (ADU) and CPMC 17.60.030 Accessory Buildings align with the Housing Implementation Plan short term strategies No. 3.2.1 and No. 3.2.2 by evaluating and adopting code amendments that eliminate barriers to the addition of new housing types.

Conclusion Policy 2.1: Consistent.

Policy 2.2:

Support and participate in the Greater Bear Creek Valley Regional Plan's program addressing regional housing strategies, particularly as they apply to affordable housing.

Finding Policy 2.2: The proposed text amendments are in alignment with the City's HIP, which was prepared by the City and based upon the Greater Bear Creek Valley Regional Plan's performance indicator addressing regional housing strategies.

Conclusion Policy 2.2: Consistent.

Policy 2.3:

Support regional efforts addressing homelessness, medical and social services for special need households.

Finding Policy 2.3: The proposed text amendments do not involve, or otherwise affect the regional efforts to address homelessness, medical and social services for special need households.

Conclusion Policy 2.3: Not applicable.

Housing Goal 3:

To maintain a timely supply of vacant residential acres sufficient to accommodate development of new housing to serve the City's projected population.

Policy 3.1:

Provide a sufficient inventory of residential planned and zoned vacant land to meet projected demand in terms of density, tenure, unit size, accessibility, and cost.

Finding Policy 3.1: The proposed text amendments do not involve, or otherwise affect, the inventory of residential planned and zoned vacant within the City.

Conclusion Policy 3.1: Not applicable.

Policy 3.2:

Throughout the 2019-2039 planning period the City's new vacant residential land use mix shall support an average density of not less than 6.9 dwelling units per gross.

Finding Policy 3.2: The proposed text amendments allow a density bonus to construct ADUs and do not adversely affect the City's ability to assure new vacant lands are planned and zoned to meet the required minimum average density.

Conclusion Policy 3.2: Not applicable. .

Policy 3.3:

Update the Housing Element's vacant acreage needs every four-years consistent with the PSU Population Research Centers update of population.

Finding Policy 3.3: The proposed text amendments implement recently adopted policy in response to a PSU Population Forecast update in 2018. As such the proposed amendments do not involve or trigger the need to update the Housing Element vacant acreage needs.

Conclusion Policy 3.3: Not applicable.

Policy 3.4:

To avoid speculation the City shall, when expanding the UGB establish procedures that give priority to lands that will be developed in a timely manner and with a residential mix and density consistent with the Housing Element.

Finding Policy 3.4: The proposed text amendments are not part of an amendment to the UGB.

Conclusion Policy 3.4: Not applicable.

Policy 3.5:

Monitor residential in-fill development activity and develop and enact programs that encourage the expanded use of in-fill as a component to the City's residential land use inventory.

Finding Policy 3.5: The proposed text amendments to CPMC 17.77 Accessory Dwelling Units and 17.60.030 Accessory Buildings remove barriers to the creation of ADU's in eligible zones. This will allow more efficient use of lands already developed with a primary dwelling consistent with this policy promoting infill. The City will monitor ADU construction activity that results following adoption of the code amendments and amend as necessary.

Conclusion Policy 3.5: Consistent.

Housing Goal 4:

To ensure that a variety of housing will be provided in the City in terms of location, type, price and tenure, according to the projected needs of the population.

Policy 4.1:

Residential land use designations on the General Land Use Plan and Zoning Map shall be compliant with the residential land use needs and housing types identified in the Housing Element.

Finding Policy 4.1: The proposed text amendments do not involve, or otherwise affect, the General Land Use Plan and Zoning Map compliance with the residential land use needs and housing types identified in the Housing Element.

Conclusion Policy 4.1: Not applicable.

Policy 4.2:

Based on the findings of the Housing Implementation Plan incentivize housing types that are needed but not being provided in adequate numbers by the private sector market forces.

Finding Policy 4.2: Proposed text amendments do not incentivize ADU development, but eliminate barriers which may make it more possible to create housing types that are needed but not being provided in adequate numbers by the private sector market forces.

Conclusion Policy 4.2: Consistent.

Policy 4.3:

In larger residential developments (in excess of 5 acres) encourage a mix of densities and housing types to accommodate a variety of households based on age and income levels.

***Finding Policy 4.3:** The proposed code amendments address provisions for ADUs and setback measurements for accessory structures, which is consistent with this policy to mix densities and provide for diverse housing types that meet the diverse needs of Central Point households. This applies to single lots, large developments and everything in between.*

***Conclusion Policy 4.3:** Consistent.*

Policy 4.4:

Support programs that encourage the ability of older residents to age in place by making existing housing more age friendly and accessible.

***Finding Policy 4.4:** The proposed text amendments to CPMC 17.77 Accessory Dwelling Units and CPMC 17.60.030 Accessory Buildings support the encouragement of an age friendly environment by eliminating barriers to the creation of housing options that can allow older residents to live closer to family, and making it easier to have help nearby at all times.*

***Conclusion Policy 4.4:** Consistent.*

Housing Goal 5:

To ensure that municipal development procedures and standards are not unreasonable impediments to the provision of affordable housing.

Policy 5.1:

As part of a Housing Implementation Plan periodically evaluate development procedures and standards for compliance with the goals of this Housing Element and modify as appropriate.

***Finding Policy 5.1:** The proposed text amendments amend standards to implement policies recently adopted in the Housing Element and the HIP. At this time no further evaluation of development procedures and standards is being conducted.*

***Conclusion Policy 5.1:** Not applicable.*

Housing Goal 6:

To develop and maintain a Housing Implementation Plan that includes programs that monitor and address the housing affordability needs of the City's low- and moderate-income households.

Policy 6.1:

Support collaborative partnerships with non –profit organizations, affordable housing builders, and for-profit developers to gain greater access to various sources of affordable housing funds.

***Finding Policy 6.1:** The proposed text amendments do not involve, or otherwise affect, the collaboration of partnerships for greater access to affordable housing funds.*

***Conclusion Policy 6.1:** Not applicable.*

Policy 6.2:

Support and participate in the Greater Bear Creek Valley Regional Plan’s program addressing regional housing strategies

***Finding Policy 6.2:** The proposed text amendments are based on City’s Housing Element, HIP and ORS 197.312 amendments. The HIP was prepared in collaboration with the Greater Bear Creek Valley Regional Plan regional housing strategies program with assistance from the State Department of Conservation and Development and ECO|NW. Through collaboration and implementation the City is demonstrating its support and commitment to addressing both local and regional housing needs.*

***Conclusion Policy 6.2:** Consistent.*

Policy 6.3:

Address the special housing needs of seniors through the provision of affordable housing and housing related services.

***Finding Policy 6.3:** The proposed text amendments support special housing needs of seniors by allowing the development ADUs, which provide a smaller format and typically more affordable housing option. Additionally ADUs may provide a better option for families to provide for the special housing needs of aging family members.*

***Conclusion Policy 6.3:** Consistent.*

Housing Goal 7:

To assure that residential development standards encourage and support attractive and healthy neighborhoods.

Policy 7.1:

Encourage quality design throughout the City that acknowledges neighborhood character, provides balanced connectivity (multi-modal), and integrates recreational and open space opportunities.

***Finding Policy 7.1:** The proposed text amendments addresses building location and mass through setback and building height restrictions; however, the City is not proposing changes to mandate specific residential design standards at this time. ADUs are subject to the same design standards as the zone in which they are located.*

***Conclusion Policy 7.1:** Consistent.*

Policy 7.2:

Provide flexible development standards for projects that exceed minimum standards for natural resource protection, open space, public gathering places, and energy efficiency.

Finding Policy 7.2: The proposed text amendments do not involve, or otherwise affect, the flexible development standards for projects that exceed minimum standards for natural resource protection, open space, public gathering places, and energy efficiency.

Conclusion Policy 7.2: Not applicable.

Policy 7.3:

Where appropriate encourage mixed uses at the neighborhood level that enhance the character and function of the neighborhood and reduce impacts on the City's transportation system.

Finding Policy 7.3: The proposed amendments address standards for ADUs as a housing type and setback standards for accessory structures. They do not involve standards affecting non-residential uses necessary to provide neighborhood mixed use development addressed in this policy.

Conclusion Policy 7.3: Not applicable.

Policy 7.4:

Support minimum parking standards for multiple family development served by public transit.

Finding Policy 7.4: The proposed text amendments focus on Accessory Dwelling Units and do not involve multiple family development parking standards.

Conclusion Policy 7.4: Not applicable.

Policy 7.5:

Maintain and enforce Chapter 17.71 Agricultural Mitigation ensuring that all new residential development along the periphery of the Urban Growth Boundary includes an adequate buffer between the urban uses and abutting agricultural uses on lands zoned Exclusive Farm Use (EFU).

Finding Policy 7.5: The proposed text amendments do not involve, or otherwise affect, the maintenance or enforcement of Chapter 17.71 Agricultural Mitigation.

Conclusion Policy 7.5: Not applicable.

PART 5 – TRANSPORTATION PLANNING RULE

Section 660-012-0060(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed

land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

- a) Change the functional classification of an existing or planned transportation facility;
- b) Change standards implementing a functional classification system; or
- c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) Allow types or levels of land uses that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Finding 660-012-0060(1)(a): *The proposed text amendments eliminate barriers to ADU construction, codify recent changes in ORS 197.312, remove redundant code language and provide only clear and objective standards. The proposed changes ease regulatory barriers to building ADUs and creates expanded opportunities for those interested in building an ADU within the R-L, R-1, R-2, LMR and MMR zoning districts. The proposed text amendments do not result in changes to the classification of any or existing or planned transportation facilities based on the following:*

- *ADUs incur up front building costs (i.e. permit fees, SDCs, taxes and construction costs) that have been identified as a common barrier by interested property owners; therefore, widespread construction of ADUs is not expected to increase dramatically as a result of the proposed changes;*
- *Since regulations were established in 2006 allowing ADUs in the City, only 18 have been approved and constructed. During the same time period, 957 dwelling units were constructed in the City representing less than 2% of the housing supply. Even if the rate of ADU construction doubled, the number of ADUs constructed would be on the order of three per year. The location of ADUs would likely be distributed in eligible zones throughout the city;*
- *Trip generation for ADUs is based on the Multiple Family/Apartment land use in the Institution of Traffic Engineers Trip Generation Manual, 7th Edition. The peak hour trips for an apartment are listed as 0.62 peak hour trips, which is less than 1.01 peak hour trips generated by a single family detached dwelling. The ITE Trip Generation Eighth edition includes Accessory Dwelling Units as an independent land use classification (ITE Code 220),*

which generates 0.27 peak hour trips. This is significantly less than peak hour trips generated by both the multifamily and single family land uses.

In light of the above facts and analysis, the proposed code revisions will have no measurable impact on any one street resulting in a change to the functional classification of a street within the city.

Conclusion 660-012-0060(1)(a): *No significant affect.*

Finding 660-012-0060(1)(b): *See Finding 660-012-0060(1)(a).*

Conclusion 660-012-0060(1)(b): *No significant affect*

Finding 660-012-0060(1)(c): *The proposed text amendments are consistent with the land uses typical of local residential streets. Based on the analysis in Finding 660-012-0060(a), the City's ADU inventory for the time period 2006-2019 accounts for less than 2% of the housing supply constructed during that time. During the 2019-2039 planning period, the City is expected to add 7,216 people, which equates to 2,883 households based on a 2.5 person per household planning assumption per the City's Population Element. Assuming that the rate doubles as a result of the proposed code amendments over the next 20-years, the City would see construction of an estimated 115 ADUs in eligible zoning districts. The total land area within the current UGB zones that allow ADU construction per ORS 197.312 and the proposed amendments is roughly 1,275 acres. Given the broad area that ADUs can be constructed, historically low rates of ADU construction and low rate of trip generation per the ITE Manual, the performance and classification of existing or planned facilities will not be significantly affected during the planning period.*

Conclusion 660-012-0060(1)(c): *No significant affect.*

PART 6 – SUMMARY CONCLUSION

As demonstrated in these Findings of Fact and Conclusions of the proposed zoning text amendments have been reviewed against and found to comply with the applicable review criteria in CPMC 17.10, Zoning Map and Text Amendments.