



TO: Mayor's Business Ready Task Force (BRTF)

VIA: Mark W. Shepard, P.E., Public Works Director and Community Development Director

FROM: Anne Catlin, Lead Long Range Planner

DATE: October 9, 2013

SUBJECT: October 14, 2013, Meeting - Review of Albany Development Code (ADC) Revisions

Please find attached an agenda for our October 14, 2013, meeting along with Attachments A through D. Please review these documents so you are ready to provide feedback at our meeting on the 14th. We are getting close to the end of this work effort and appreciate the time and energy you have each given to this process.

Following is a list of the agenda items with a brief introduction to provide Committee members some context.

1. Staff will be available to discuss the suggested changes to the Sign Code that were reviewed at the September 24, 2013, meeting with those who were not able to attend that meeting.
2. We will then discuss how the open space/common area is calculated in Planned Developments in Article 11. For Open Space and Common Area minimums (11.330(1)), the BRTF suggested that rather than requiring less open space in the higher density zones and more in lower density zone that the requirement be reversed so that more open space is required the higher the density. Staff agreed to bring back information from other cities for discussion at the next meeting. A table summarizing how open space or common areas are calculated in other cities is included as Attachment A. Proposed **bold** and ~~strike~~ language for Article 11 is included in pages 1-6 of Attachment B.
3. BRTF continued review of the proposed "**bold** and ~~strike~~" code revisions to Articles 1, 2, 3, 4, 5, 8 and 22 (Attachment B, pages 7-36).

The "**bold** and ~~strike~~" text was developed to address issues identified by the BRTF as outlined below. The spreadsheet used throughout the BRTF work that describes the issues and proposed amendments is included for your reference as Attachment C. Attachment C was reordered so the issues follow the order in the ADC.

Issues regarding Article 3, Home Businesses, are in a separate spreadsheet labeled Attachment D and will be discussed at the end.

Article 1, Administration and Procedures

Issue A: Site Plan review is unwarranted in some instances.

Issue B: Expiration of Land Use Approvals

Issue C: Neighborhood meetings should be held at reasonable times.

Article 2, Review Criteria

Issue D: Infill and Redevelopment – it can be challenging to meet current standards on small infill lots. Allow flexibility from standards through the Adjustment review process.

Issue E: Nonconforming Situations– many vacant properties have lost their nonconforming status and required improvements are limiting and unclear.

The proposal is to only require incremental improvements to the non-conforming aspects of a site when necessary building permits exceed \$25,000 (rather than “commensurate with proposed changes.”) Staff continues to have questions regarding how improvements to nonconforming developments will be made incrementally over time through the building permit values, as proposed in Section 2.370. Due to the complexity of the proposed revisions and ongoing questions from staff, we have identified a few issues for discussion that follow:

- *The land use review happens before the building permits. We can ask for estimates with the nonconforming use review to determine what improvements will be made with the 10% for the conditions of approval and tie the improvements to the future building permit (not approving the building permit until they demonstrate they have satisfied the standard) – but this is not preferred.*
- *Often the building owner is different than the building user.*
- *Are we discouraging necessary building and site improvements / will applicants ensure they don't trigger more than \$25,000 in building permits?*
- *Staff wants to ensure the Code allows for and encourages site improvements and maintenance.*

Issue G: Non-industrial uses in industrial zones - through nonconforming use review.

Issue A: Site Plan review is unwarranted for some changes of use and expansions.

Article 4, Commercial & Industrial Zoning Districts

Issue F: Small Scale Manufacturing in Commercial and Mixed Use

Issue G: Non-industrial Uses in Industrial Zones – the Light Industrial zone

Article 5, Mixed Use Zoning Districts

Issue F: Small Scale Manufacturing in Commercial and Mixed Use

Article 8 Site Design Standards

Issue H Adaptive Reuse and Infill Downtown

Article 22 Use Categories and Definitions

Issue F: Small Scale Manufacturing in Commercial and Mixed Use

Article 3, Residential Zoning Districts

Issue I: Home Businesses – support small home-based businesses, but set standards and process for compatibility with neighborhood. Clearly define parameters for businesses that can be allowed outright through registration or staff-level review and allow for more diversity through a Conditional Use review.

4. The last item staff would like to discuss is the BRTF's ideas for seeking public input on these proposed changes prior to bringing them to the Planning Commission and City Council for consideration.

Mayor's Business Ready Task Force Meeting

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We hope to get through the entire agenda in this meeting. However, please bring your calendars so that if we need to schedule one last meeting we might be able to do that before we adjourn.

Thank you for your work on this important task force!

MAYOR'S BUSINESS READY TASK FORCE
Monday, October 14, 2013
3:00 PM, Willamette Room
Albany City Hall, 333 Broadalbin St. SW, Albany

Agenda

Business from the Public

1. Review BRTF amendments to Sign Code with those not present Sept. 24, 2013.
2. Planned Unit Development standards, open space set aside discussion
(Attachment A & B - pages 1-6)
3. Review BRTF Code Amendments (Attachments B, C, & D)
 - Process Time, Infill and Redevelopment (Articles 1 & 2)
 - Nonconforming Development Discussion- Review and give direction (Article 2)
 - Infill and Redevelopment, Increase development opportunities in LI and for small-scale manufacturing (Articles 2, 4, 5, 8, 22)
 - Home Businesses (Article 3)
4. Public Input Discussion
5. Adjourn

Next steps:

- Schedule public input and public hearings
- Develop and mail public notice
- Complete staff report and ordinance for adopting code amendments

ATTACHMENT A: Comparison of Planned Unit Development Open Space Requirements

City	Percentage of Open Space	Open Space Defined	What is Included in Open Space
Medford	20% of land area for Residential PDs	Common area, excluding parking areas or private streets	<ul style="list-style-type: none"> • natural features/sensitive lands • common recreational space • landscaped area • commonly enjoyed amenities
Tigard	20% of gross site area for Residential PDs	Shared open space facilities includes: <ul style="list-style-type: none"> • Up to 75% Minimal use facilities/sensitive lands • Up to 100% Passive use facilities/passive recreation • Up to 100% Active Facilities/active recreational use 	<ul style="list-style-type: none"> • Sensitive lands, i.e. steep slopes, wetlands, streams, or 100-year floodplain • Passive and Active recreation areas i.e. landscaping, irrigation, pathway and other structural improvements
Lebanon	Lot coverage may be no greater than underlying zone/use: 40% – 80% max lot coverage	Land area to be used for scenic or open space recreational purposes; does <u>not</u> include: streets, driveways, parking areas, required setbacks or public easements	Land counted toward open space includes: <ul style="list-style-type: none"> • Minimum dimensions of 20' x 20', and min. 400 sq. ft. • Preserved natural areas and complimentary landscaping • Streets, driveways, parking areas, required setbacks and easements <u>IF</u> they have a special recreational purpose; • Land designed for recreational and leisure use of those occupying the PD; • Accessible and usable year-round.
Roseburg	Minimum no less than impervious area required in underlying zone max lot coverage: 55% to 80%	Open space is land <u>not</u> covered by buildings or structures, except minor recreational structures; does <u>not</u> include streets, driveways, parking lots or loading areas.	Open space includes: <ul style="list-style-type: none"> • 50% of Landscaped Roof areas devoted to recreational or leisure-time activities, freely accessible to residents; • Locations, shapes, sizes and other characteristics of open spaces must be consistent with their proposed uses and the purposes of the PUD. • Equitable distributed throughout PUD, unless otherwise approved. • Protected natural features (Environmental Design standards)

ATTACHMENT A: Comparison of Planned Unit Development Open Space Requirements

City	Percentage of Open Space	Open Space Defined	What is Included in Open Space
Florence	20% of <u>Net</u> developed area, which excludes roads	At least 25% of the required 20% open space requirement must be designated and improved for recreation use and enjoyment	<p>The following counts toward the 20% open space, but may <u>not</u> be counted toward the recreation area requirement:</p> <ul style="list-style-type: none"> • Hillside over twenty-five (25) percent slope; • Land in the floodway, floodplain, or required riparian or wetland buffer, unless trails, benches, picnic tables and similar above are incorporated; • Roadside ditches; • Monument entry areas and central landscaped boulevards; • Stormwater retention or detention ponds that are designed to hold stormwater runoff from less than one hundred (100) year events; • Parking areas and road rights-of-way that are located within the parkland, open space, or common area, except for parking that is required specifically for use of the parkland; • Yards, court areas, setbacks, or other open areas required by the zoning and building ordinances and regulations shall not be included in the computation.
American Planning Association, Planning Advisory Service Report #545: Planned Unit Developments (2007)	25% of (gross or net) project area set aside for Open and Common Open space	The Open and Common Open Space areas <u>excludes</u> street right-of-way and 50% is be set aside for open space	<ul style="list-style-type: none"> • Common open space is an area or areas within the boundaries of the PUD designed, set aside, and maintained for use by all residents of the PUD; <ul style="list-style-type: none"> ○ The location of common open space is to be contiguous to the extent possible and located for the maximum benefit of the residents, preserving, and where possible, enhancing natural features. Buildings, structures, and improvements permitted in the common open space must be appropriate to the uses authorized for the common open space. • Open space includes: <ul style="list-style-type: none"> ○ Sensitive Lands: 100-year floodplain; stream buffer areas; slopes above 25% percent in a contiguous area of at least 25,000 feet; wetlands; habitat for federally listed endangered or threatened species; archeological sites, cemeteries and burial grounds; scenic viewsheds; significant farmland of a minimum size and existing healthy native forests.

ATTACHMENT A: Comparison of Planned Unit Development Open Space Requirements

			<ul style="list-style-type: none">○ Other open space areas include: important historic sites; areas that connect the tract to neighboring open space, trails or greenways; soils with severe limitations for development due to drainage problems; landscaped site elements, such as arterial street buffers, district boundary buffers, civic greens and landscaped medians.● Uses include: pedestrian, bike and multipurpose trails; passive recreation areas, including pocket parks; active recreation areas; agriculture, and silviculture or pasture use.
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ATTACHMENT B - Proposed BRTF Code Amendments

ARTICLE 11 LAND DIVISIONS

PLANNED DEVELOPMENTS

ISSUE M: Planned development – the three-step process is unnecessary, and the common/open space requirement is high especially in urban areas

Staff Comments: The BRTF asked that staff evaluate the process time and amount of open space required in Planned Developments. Amendments are proposed to reduce both.

11.240 Definition. A planned development is a master planned environment intended for a variety of related activities. It promotes an integrated, coordinated development of land, normally involving increased flexibility in use and design standards, with special incentives or restrictions on development. A planned development may be primarily residential uses with associated commercial uses, a **mixed use development**, or it may be a commercial or industrial development.

Staff Comments: The purpose statement is being updated to reflect the current reasons for planned developments and to borrow from other cities' codes. (The proposed language is a combination of purpose statements from the Lebanon, Roseburg and Bend.)

11.250 Purpose. ~~A planned development provides the benefits of greater zoning flexibility, reduced lot sizes, and more variety in permitted uses. In exchange, developments must satisfy high quality master planning and performance requirements.~~ **The purposes of a Planned Development are to:**

- (1) Encourage more innovative planning that results in more desirable or sustainable environments or neighborhoods, improved protection of open spaces, transportation options, and site phasing of developments through the application of flexible and diversified land development standards than would otherwise occur under conventional land development procedures; and**
- (2) Facilitate the efficient use of land and resources in regards to land uses, buildings, circulation systems, natural features, energy conservations, open space and utilities.**

Staff Comments: Currently the process is three steps and requires three separate submittals. Staff is proposing to eliminate the preliminary review of the plan concept step. This is already reviewed in the pre-application meeting.

11.260 Procedure. A planned development is processed in ~~three~~ **two** steps,; ~~tentative, interim and final approvals. The preliminary application is reviewed by staff as a Type I procedure. The first step is review of the planned development project design and land uses~~ ~~interim application is reviewed by the Planning Commission under the Type III procedure. The final approval is reviewed by the Director through the Type I procedure.~~

11.280 Regulations Standards That May Be Modified. **The following standards may be modified in order to create developments that are superior to those that could be developed through the conventional development standards:** ~~All of the site development standards of the underlying zoning district will apply to a planned development, except as follows:~~

- (1) Development Standards.** Minimum lot area, width and frontage, height and yard requirements will not be used to dictate the development, but will act as general guidelines that may be adjusted to provide for a higher quality development.

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~~Maximum density permitted will be calculated by including street and one half of park land dedications.~~ *Staff Comments: Density is covered in the development standards in Section 11.330 (3).*

- (2) **Minimum Parking.** Where the development provides common parking areas for adjacent uses, no minimum number of parking spaces will be required. It is the developer's responsibility to provide adequate off-street parking and loading areas. In proposing the parking areas, the developer shall provide the City with information on expected demand for parking, including trip generation for the uses that share the parking area.
- (3) **Streets.** Private streets may be constructed in a planned development. These streets may be narrower than usual where on-street parking is prohibited and where access is limited to pre-approved locations. Any private street in an industrial planned development must be constructed to public standards. All lots must be provided with direct access to a public or private street.

Staff Comments: Eliminating one process step requires changes to the application contents.

11.300 Application Contents. A planned development proposal is reviewed in ~~three~~ **two** stages, preliminary, ~~interim~~, and final. ~~At each stage, the applicant must submit increasingly detailed~~ **The following information is required to be submitted with each stage:** ~~plans for the proposal as indicated below.~~

- (1) Preliminary **planned development** submittal requirements --
 - ~~(a) A schematic drawing at a minimum scale of 1" = 200' showing the proposed public and private uses and the existing physical features.~~
 - (ba) Planned Development Program.** A written statement outlining the following details: **planning objectives to be achieved through the planned development;** dwelling types and density; non-residential uses; lot layout; public and private access; parking; height of structures; lighting; landscaped areas and provisions for continued maintenance; water supply; sewage disposal; drainage; and areas devoted to various uses. **This statement should include a description of the character of the proposed development and adjacent areas, discussion of how the proposed development will relate to the natural environment and significant natural resources of the site and adjacent areas.**

~~Interim submittal requirements in addition to the above—~~

- ~~(ab) The location of existing and planned water, sewerage, and drainage facilities, including line sizes and how they will tie into existing facilities. *Relocated from (2).*~~
- ~~(bc) The location of all existing and planned sidewalks, pedestrian paths, bike paths and where they will connect with existing facilities.~~
- ~~(a) The location and utilization of land uses and structures including public and/or private parks, open space or common areas.~~
- ~~(b) A tabulation of land area to be devoted to each use, and a calculation of the average residential density per acre, if applicable.~~
- ~~(eg) A boundary survey or a certified boundary description by a licensed surveyor.~~
- ~~(dh) Data, drawings, and/or elevations clearly establishing the scale, character and relationship of buildings, streets, and open space.~~
- ~~(ei) Detailed building and landscaping plans and elevations. *Relocated from (2).*~~
- ~~(hj) A transportation impact analysis, where required by the city Engineering Division, Department of Public Works.~~
- ~~fj) A development schedule for commencement and of construction, or a phasing schedule if phased development is proposed.~~
- ~~(gi) If the development will be divided into different ownerships, any additional information generally required for a land division tentative plat approval and not required above.~~

ATTACHMENT B - Proposed BRTF Code Amendments

- (23) Final submittal requirements in addition to the information on the approved ~~interim~~ **preliminary** plan -
- ~~(b) The location of water, sewerage, and drainage facilities.~~
 - ~~(b) Detailed building and landscaping plans and elevations.~~ *Relocated to prelim review.*
 - ~~(ea)~~ The character and location of signs.
 - ~~(db)~~ Plans for street improvements and grading or earth-moving plans.
 - ~~(ec)~~ Any additional requirements of final land division submittal, if the land is to be divided.

11.310 **Interim Preliminary Plan Submittal Review Criteria.** A planned development request will be granted interim approval by the review body if the development meets the Site Plan Review criteria of Section 2.450 and all of the following applicable criteria:

- (1) The increased flexibility in Code standards and permitted uses will result in an improved development for the City, the surrounding area, and users of the development as compared to strict compliance with Code provisions.
- (2) The project design results in a more efficient **provision of open space or** utilization of the natural features of the site.
- (3) The project design results in a more efficient utilization of materials and public resources including streets, utilities, and energy supplies.
- (4) Provisions will be established to ensure the continued maintenance of any common areas.
- (5) More usable and suitable recreational facilities and other common areas are provided than would normally be provided under conventional development standards.
- (6) **The planned development satisfies the development standards in Section 11.330.**

11.320 **Conditions of Approval.** The City may attach conditions of approval of a planned development to ensure that the proposal will conform to the applicable review criteria.

Staff Comments: A BRTF member noted that the Code is silent on whether the open space and other requirements could be distributed across phases in a phased planned development, and that each phase should not have to meet all of the standards - such as the minimum open space, - if the development overall meets the standards.

11.325 **Phasing Planned Developments.** The applicant may provide for development of the project in up to three phases. Each phase shall provide a proportionate share of the development facilities and amenities as approved. See Section 1.080 for land use approval time periods.

11.330 **Planned Development Living and Recreational Area Standards.** In conjunction with standard requirements for setbacks and landscaped areas, the following standards apply to planned developments:

Staff Comments: the Code currently requires 40 percent of the land be set aside as open space regardless of zoning. Staff recommends reducing the open space requirements and accounting for residential and mixed-use/urban areas.

- (1) **Open Space and Common Areas in Residential, Mixed-Use and other Non-Industrial Planned Developments.** Open space or ~~Outdoor living~~ **common areas** shall be provided for **common enjoyment.** ~~residential developments in the following amounts: (a) In all residential developments or in and mixed use combination residential/commercial developments, 40 a~~

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percent of the gross land area shall be devoted to **open space**, outdoor living area **or common areas as follows**. ~~Of this required area, at least 75 percent shall be common or shared outdoor living area.~~

	RS-10	RS-6.5	RS-5	RM	RMA	Other Zones
Minimum Open Space	30%	30%	25%	20%	20%	20%

- (c) **Land that may be counted towards the open space requirement includes:**
- **Natural resources accessible to the public;**
 - **Common recreational space or commonly enjoyed amenities accessible to residents, including indoor or rooftop amenities; and**
 - **Common landscaped areas and paths, but excluding sidewalks and planter strips in the right-of-way.**
- (d) **Locations, shapes, sizes and other characteristics of open spaces shall be consistent with their proposed uses and the purposes of the planned development.**
- (e) **Land in the right-of-way may not count towards the open space requirement unless designed to provide more common open space than the minimum street design standards – such as larger planter strips to allow for mature trees or storm drainage, a multi-use path, or a landscaped median.**
- (f) **Side and rear yards may not count towards the minimum open space requirements.**
- (g) ~~(b)~~ **Outdoor open space or living areas required by this Article may be dedicated to the City provided the size and amount of the proposed dedication meets the criteria of the City for neighborhood parks by one-half and if the City agrees to accept the dedication.** The square footage of land dedicated for public parks shall be deemed a part of the development site for the purpose of computing density.

Staff Comments: The indoor recreation requirement is proposed to be deleted.

~~(2) In all planned residential developments having 50 living units or more, an indoor recreation area (see definition) shall be established using the following minimum guidelines:~~

- ~~(h) Ten square feet of indoor recreation area for each living unit in the development.~~
- ~~(i) Play equipment, athletic facilities, and/or game room facilities and equipment in amounts commensurate with the size of the building or room, to be maintained by the property owner or owners association.~~
- ~~(j) At least one restroom for all indoor recreation buildings or rooms under 600 square feet and two restrooms for all indoor recreation buildings or rooms 600 square feet or greater.~~
- ~~(k) All indoor recreation rooms and buildings shall be fully lighted, heated, and shall meet all uniform building codes and should be designed primarily for the use of the residents of the planned development.~~
- ~~(l) The off street parking requirement for recreation rooms and buildings shall be one space per each 150 square feet of floor area. This requirement shall be in feet of floor area. This requirement shall be in addition to any parking required for residents.~~

~~(3) In an industrial planned development the following minimum percentage of landscaped open space is required, including required buffer yards and setback areas:~~

- ~~(m) IP (Industrial Park) — 25 percent~~
- ~~(n) LI (Light Industrial) — 15 percent~~
- ~~(o) HI (Heavy Industrial) — 5 percent~~

~~(4) The requirement for indoor recreation area may be waived by the review body where increased opportunity for outdoor recreation is provided in addition to the requirements of subsection (1). Such opportunities may include court sports, playgrounds, golf, swimming, or other exceptional treatment of open spaces.~~

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Staff Comments: With the reduced amount of open space required, the priority is to design the PD to protect natural features.

- (2) **Natural Resources.** The planned development shall provide for the protection of significant landscape features including Oak groves, heritage trees as defined by the Albany Municipal Code and land located within Albany’s natural resource overlay districts and any historic sites and landmarks. Natural and cultural resources shall integrate the proposed development with the environmental characteristics of the site and adjacent uses.
- (53) **Underground Utilities.** In any planned development, all electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer, unless allowed above ground by the review body.

Staff Comments: The proposed revisions would allow all of the density to transfer from land dedicated to parks and clarifies that there is only one unit to transfer from the Open Space zone.

- (64) **Density.** When calculating density of a proposed planned development, the gross area including streets and park land dedications shall be included, except for land in the Significant Wetland and Waterway overlay district. The maximum density permitted per zoning district is outlined below.

	RS-10	RS-6.5	RS-5	RM	RMA	OS
Maximum dwelling units per acre	4	6	8	25	35	1*

*Allows 1 residential unit per existing lot

~~the regulations of the basic use district in which the development is located shall apply except when calculating density of the proposed planned development, the total area including street and one half of park land dedications shall be included.~~

Staff Comments: The BRTF raised some concern with a planned development's compatibility with adjacent uses and the neighborhood. The proposed standards in (5)-(7) are intended to ensure compatibility with the neighborhood. These standards are adapted from Roseburg.

- (5) **Building Spacing and Yard Requirements.** The plan shall provide adequate building separation to allow for light, ventilation, and visual and acoustic privacy for residences and other structures. Fences, insulation, walks, barriers, and landscaping shall be used, as appropriate, for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views, and reduction of noise.
- (6) **Building Locations.** Taller buildings shall be located within the planned development in such a way as to avoid adverse impact on neighboring lower buildings and shall not invade the privacy of the occupants of adjacent lower buildings.
- (7) **Perimeter Compatibility.** The plan shall minimize adverse impacts of proposed uses and structures in the planned development on existing and anticipated uses and structures on adjacent properties and neighborhoods. The buffering and screening standards in Sections 9.210-9270 apply. If topographical or other physical barriers do not provide reasonable privacy and mitigation of potential adverse impacts on existing uses adjacent to the development, the development shall provide additional setbacks, buffering or screening between residential and non-residential uses.

- 11.340 **Dedication and Maintenance of Facilities.** The review body may, as a condition of approval for any planned development, require that portions of the tract or tracts be set aside, improved, conveyed, or dedicated for the following uses:

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- (1) Parks or playgrounds set aside, improved, or permanently reserved for the owners, residents, employees, or patrons of the development.
- (2) Whenever private common outdoor living area is provided, an association of owners must be created under state law. Owners of property within the development will automatically be members and will be assessed levies for maintenance of the outdoor living area. The period of existence of such association will be at least 20 years, and it will continue thereafter until a majority vote of the members shall terminate it.
- (3) Right-of-way width within the development must be maintained as private streets or be dedicated to the City when necessary in accordance with the Albany Comprehensive Plan. Other streets necessary to the proper development of adjacent properties may also be required to be dedicated. Streets must be constructed in accordance with city standards.
- (4) Easements necessary for the orderly extension of, **maintenance of, or access to**, public utilities.

- 11.350 Changes in the Approved Plan. Changes in the approved planned development may be made as long as they continue to meet the requirements of these provisions. Major changes, as determined by the Director, shall be reviewed **by the Planning Commission using the Type III procedure** ~~under the same procedure as was used for final approval~~. Minor changes shall be reviewed under the Type I procedure.
- 11.360 Revocation. In the event of failure to comply with approved plans, conditions of approval, stage development schedule; the Commission may, after notice and hearing, revoke a planned development permit. The determination of the Commission shall become final 30 days after the date of decision unless appealed to the City Council.
- 11.370 Failure to Adhere to Approved Plan, Satisfy Conditions, or Comply with **Stage Phased** Development Schedule. Failure to comply with approved preliminary or final development plans, conditions of approval, or ~~stage~~ **phased** development schedule, shall constitute a violation of this ordinance as prescribed in Article 1.

ATTACHMENT B - Proposed BRTF Code Amendments

ARTICLE 1: ADMINISTRATION AND PROCEDURES

ISSUE A: Site Plan Review seems unwarranted for some types of activities, developments, and locations when staff can apply clear and objective standards.

Staff Comments: A few amendments are being proposed to clarify the review process for uses "allowed outright", versus those that require staff-level "administrative" review, or that require land use review. A new Section 1.065 Administrative Review section is being added to clarify when staff reviews activities or developments against standards that are clear and objective, usually through the building permit or a simple permit or checklist.

When an activity or development listed in 1.060 below is review by City staff typically with the building permit sign off, it is moving to the new 1.065 Administrative Review section.

1.0760 **When Land Use or Administrative Applications Are Not Required.** Activities and developments listed below that occur outside of overlay districts **and are not proposed on a nonconforming lot of record or on a site that is nonconforming** do not require a land use application but are nevertheless subject to the provisions of the Code, including, but not limited to setbacks, lot coverage, building height, design standards, on-site development and environmental standards.

Activities and development within special purpose districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic), as applicable, and may require a land use application as described in each respective section.

- (1) Agricultural uses permitted outright in Articles 3, 4 and 5.
- (2) New detached single-family dwellings or two-family ~~unit~~ dwellings and additions to existing single-family dwellings or two-family ~~unit~~ dwellings.
- (3) Residential accessory buildings up to 750 square feet and walls not greater than 11 feet tall or that meet the standards in Section 3.080(9).
- ~~(4) Non-residential accessory buildings of any size in the NC, CC, RC, IP, LI, HI and PB zones and non-residential accessory buildings up to 750 square feet in the CB, HD, ES, LE, MS, MUC, MUR, OP and WF zoning districts. *Staff Comments: Commercial accessory buildings are currently reviewed administratively by staff so this section is moving to Section 1.065.*~~
- (45) Routine property maintenance.
- ~~(6) New parking areas or expansions to existing parking areas that do not require Site Plan Review as stated in Section 2.430. *Staff Comments: Listing New parking areas are reviewed administratively so this section is moving to the new "administrative review" Section 1.065.*~~
- (57) ~~Building~~ Additions to an existing building 200 square feet or less, **excluding single-family dwellings or duplexes**. For building additions greater than 200 square feet, see Section **1.065 and building additions greater than 1,000 square feet see Section 2.430.**
- ~~(68) A change internal to a building or other structure or use of land that does not constitute a change of use as defined in Article 22 and listed in Articles 3, 4 or 5. If a ~~noneonforming use of a building has been vacant for more than one year, a~~ **Nonconforming Situations Review may be required in accordance with Article 2.** ~~refer to Articles 3, 4 or 5 for permitted uses in each zoning district.~~~~

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Staff Comments: shown for context.

- (79) An emergency measure necessary for the safety or protection of property when authorized by the City Manager with written notice to the City Council.
- (810) Any temporary use of land of up to a 30-day duration (such as a promotional event, festival, carnival, or outdoor sale) that conforms with all other requirements of this Code and other applicable City regulations, public health, and safety requirements, some of which may further limit such uses in terms of location, scope, and duration.
- (911) The establishment, construction, alteration, or maintenance of a public facility authorized by the Director of Public Works, including streets, highways, traffic control devices, drainage ways, sanitary and storm sewers, pump stations, water lines, electrical power or gas distribution lines, or telephone or television cable systems. This includes construction of staging areas of less than six months' duration but does not include major substations, treatment facilities, storage tanks, reservoirs, and towers.
- (102) Excavation and fill for foundations and all other excavation or filling of land involving 50 cubic yards or less that does not adversely affect drainage patterns.

ISSUE A: Site Plan Review seems unwarranted for some types of activities, developments, and locations when staff can apply clear and objective standards.

Staff Comments: Some actions that currently require Site Plan Review (a land use Type I-L process) will be reduced to an Administrative Review (not land use). This would reduce the processing time and costs when full land use review is unwarranted. Administrative review is typically done concurrently with building permits, although occasionally administrative review would be a stand-alone review.

1.065 When Administrative Review Is Required. Activities and developments listed below that are not a nonconforming situation are reviewed by staff through the Type I process for compliance with applicable standards of the Code, local, state, and federal laws. See Section 1.070 for the Type I procedures.

Activities and development that are a nonconforming situation per this title or that are located within special purpose overlay districts may require a land use application and be subject to the standards described in each applicable Article: 2 (Review Criteria - Nonconforming Situations), 4 (Airport Approach), 6 (Natural Resources), and 7 (Historic).

- (1) A change of use as defined in Article 22 that is allowed through Site Plan Review that does not require construction of more than two new parking spaces or that is located in the Downtown Parking Assessment District. *Staff Comments: Currently Site Plan Review is required for changes of use and a notice to property owners within 300 feet is required. The proposal would reduce processing time and costs for changes of use.*
- (2) New parking areas or expansions to any existing parking areas that are less than or equal to 1,000 square feet or less than 10 percent of an existing parking area, whichever is less. *Staff Comments: Moved from 1.060. Staff review of parking proposals is necessary for safety reasons. Larger parking expansions require Site Plan Review.*
- (3) Non-residential additions to an existing building greater than 200 square feet but less than 1,000 square feet and that does not add dwelling units. *Staff Comments: Codifies the practice of staff level review of building additions between 200 square feet and 1,000 square feet.*

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ADMINISTRATIVE PROCESS

Staff Comment: changes below are for clarification and consistency.

1.32070 Type I Procedure.

- (1) The purpose of the Type I procedure is to provide for an **administrative** ~~land-use~~ review based on standards specified in this Code that do not require interpretation or the exercise of policy or legal judgment. Approval of a Type I land use application is not a land use decision. (See Sections 1.051230 and 1.054260.)
- (2) Under the Type I procedure, the Director shall process an application without need for public hearing or notification. **The application may be in the form of documentation or plans submitted with a building permit. If no building permit is required, applicants shall submit applications, forms, documentation and/or plans as applicable.**
- (3) Examples of applications processed through a Type I procedure include, but are not limited to, lot line adjustments, ~~preliminary-final~~ **final** planned developments ~~plans~~, final subdivision plats, **some changes of use, some non-residential building additions, some floodplain development permits**, and land use status letters.

ISSUE B: Expiration of Land Use Approvals – 3 years is sometimes not enough time to get a project underway.

Staff Comments: Quite a few years ago, the City changed the original land use approval for most application types from one year with up to two one-year extensions to three years with no extensions. Given the unpredictability with the economy, staff recommends adding one two-year extension if the approved application meets all current applicable standards.

Phased subdivisions or phased planned developments currently have a five-year approval window to plat all phases. Staff also recommends allowing one two-year extension to phased developments if the standards have not changed since the original approval.

1.080 Expiration of Land Use Approvals.

- (1) All land use approvals, **except Type IV approvals**, ~~as provided in (2) and (3)~~ shall expire three years from the date of approval unless:
 - (a) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the city, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600 or the first phase, if the development was approved for phased construction. This provision may also be applied to developments approved prior to December 7, 2011; or
 - (b) If the development did not require public infrastructure, a valid **approved** building permit exists for new construction or improvements, and work has commenced; **or**
[Ord. 5728, 1/27/10, Ord. 5768, 12/1/11]

Staff Comments: The language in (2) below being removed because land divisions also expire in three years and the language below is repetitive and/or is no longer applicable.

~~(2) All approval of land divisions and development contained in Article 11 shall expire three years from the date of tentative plat approval, unless;~~

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~~(a) The applicant has installed all of the required public infrastructure related to the development and the infrastructure has been accepted by the city, or the applicant has provided financial assurance for all required public infrastructure per Section 12.600. This provision may also be applied to developments approved prior to December 7, 2011.~~

~~(b)(c) **Phased Subdivision or Planned Development.** When an applicant desires to develop and record final subdivision plats covering portions of an approved tentative plat in phases, the City may authorize a time schedule for platting and otherwise developing the various phases **not to exceed five years for all phases, in periods of time in excess of three years.** In no case shall the total time period for all phases be greater than five years. Each phase that is platted and developed shall conform to the applicable requirements of this title. Portions platted after three years require modifications to avoid conflict with any changes in the Comprehensive Plan or implementing regulations at the local, state or federal level; or~~

~~(e)(d) **An extension has been granted pursuant to Section 1.083.**~~

1.083 Extension of a Land Use Approval.

- (1) **Whenever the decision requires exercise of approval rights or satisfaction of conditions of approval within a particular period of time, the approval period may be extended one time for two years through filing an application for extension at least 90 days before the expiration date.**
- (2) **Requests for extensions shall be processed as Type I application and shall be granted if there has been no change to all applicable local, state or federal standards since the original approval.**
- (3) **While an application for extension is pending, no further action to develop the subject property or expand any use dependent upon the approval shall be taken subsequent to the expiration of the approval period; but existing established uses may continue during the time the extension request is pending.**

Staff Comments: Historic review approvals currently expire in one-year if not associated with a building permit. Staff proposes the approval expire in three years like other land use decisions and be given an opportunity for an extension.

~~(3) **Expiration of Historic Review Approvals.**~~

- ~~(a) **Historic Review approvals not associated with a building permit shall expire one year from the date of approval; or**~~
- ~~(b) **Historic Review approvals associated with an approved building permit shall expire upon the expiration of the building permit.**~~
- ~~(c) **Expiration of a Historic Review approval shall require reapplication and payment of all application fees plus an administrative fee equal to the application fee. Applications that are the same as originally approved will be processed administratively.**~~

ISSUE C: Neighborhood meetings should be held at reasonable times and should be coordinated with staff.

Staff Comments: Language is proposed in 1.204 to ensure that a neighborhood meeting is scheduled on an appropriate day and time in coordination with staff. Section 1.203 is shown for context.

1.203 Neighborhood Meeting. The purpose of a neighborhood meeting is to ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them the opportunity to understand and try to mitigate any real or perceived impacts their application may have on the neighborhood. The meeting is not intended to produce complete consensus on all applications.

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It is intended to encourage applicants to be good neighbors. City staff will attend the neighborhood meeting in an advisory capacity to answer questions.

The applicant shall hold a neighborhood meeting before submitting the following types of land use applications:

- (1) Multiple-family development that abuts a single-family zoning district.
- (2) Commercial or industrial development that abuts any residential zoning district and the addition of outside seating areas to restaurants or bars/taverns/breweries/night clubs within 300 feet of a residence.
- (3) Manufactured home park adjacent to any residential zoning district.
- (4) Subdivision with more than ten lots.
- (5) Any subdivision that is an infill development.
- (6) Cluster and planned development.
- (7) For other applications or revisions to applications that the Director determines may have a neighborhood impact, such as conditional uses. In these cases, the Director shall determine the minimum notice area for the neighborhood meeting.

1.204 Neighborhood Meeting Standards.

- (1) **The applicant shall consult with City staff to determine an appropriate meeting date, time and place given the location of the proposed development and availability of staff to attend.**

Staff Comments: The neighborhood meeting notice area of should match the anticipated notice area for the project based on the project scale and the lot size, and potential off-site impacts.

- (2+) The applicant shall send mailed notice of the public meeting to **the Community Development Department Director** and all property owners ~~and residents~~ within a **minimum distance of 300 feet** of the boundaries of the subject property **with the specific area to be determined by the Director based on the project scale, land use and transportation patterns or anticipated public interest in the project.**, ~~and, if~~ If any part of the subject property is within the boundaries of a neighborhood association recognized by the City of Albany or within 300 feet of any other neighborhood association recognized by the City, notice shall be sent to the designated representative(s) of such neighborhood association(s). The property owner list shall be compiled from county tax assessor's property owner list from the most recent property tax assessment roll. The address for the designated representative(s) of the affected neighborhood association(s) shall be obtained from the City. The notice shall be sent a minimum of 10 days and no more than 30 days before the meeting, and shall include:
 - (a) Date, time and location of the public meeting.
 - (b) A brief written description of the development proposal and proposed use(s) with enough specificity so that the project is easily discernible.
 - (c) The location of the subject property(ies), including address (if applicable), nearest cross streets and any other easily understood geographical reference, and a map (such as a tax assessors map) that depicts the subject property.

Staff Comments. Shown for context.

- (32) The applicant's presentation at the neighborhood meeting shall include:
 - (a) A map depicting the location of the subject property(ies) proposed for development.
 - (b) A visual description of the project including a site plan, tentative subdivision plan and elevation drawings of any proposed structures, when applicable.
 - (c) A description of the nature of the proposed use(s) including but not limited to, sizes and heights of structures, proposed lot sizes, density, etc.

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- (d) The expected or anticipated impacts from the proposed development (e.g. traffic, storm drainage, tree removal, etc.).
- (e) Mitigation proposed by the applicant to alleviate the expected/anticipated impacts.
- (f) An opportunity for the public to provide comments.

Applicants are encouraged to reconcile as many public concerns as possible before submitting land use application(s).

ARTICLE 2: REVIEW CRITERIA

ISSUE D: Infill and Redevelopment – it can be challenging to meet standards on some infill sites.

Staff Comments: Revisions are proposed to the Adjustment standards to add commercial and mixed-use infill sites less than one acre with development on both sides as eligible for adjustments from numerical standards in the Code.

***STAFF REVISIONS PROPOSED:** While making revisions to the adjustment standards, the current standards make it difficult to determine when a request should be processed as an adjustment or a variance, so changes are included to clarify the appropriate process. Adjustments are currently processed administratively (Type I) and Variances are processed as limited-land use decisions and neighbors have the opportunity to request a hearing (Type IIs). Adjustments standards used to allow for up to a 10 percent reduction to a numerical standard so the proposal adds "generally less than 10 percent" back into the language of the "Purpose" statement in order to help determine when a request can be processed through the Adjustment review rather than requiring a Variance.*

*Additionally, review of adjustment is with discretionary criteria. Decisions that involve discretionary criteria are **legally required** to be processed as a land use decision so the process has been changed to a Type I-L process - requiring notice to neighbors within 100 feet.*

Lastly, the "location of a proposed structure" is not an existing condition, and therefore, it is deleted because it is not an appropriate review criterion for an Adjustment.

ADJUSTMENTS

2.060 **Purpose.** The adjustment review allows the Director to ~~make~~ **approve limited** modifications to the application of ~~Development Code regulations. Adjustment reviews provide very limited flexibility from~~ numeric standards for unusual situations **specific to the site or for existing commercial or mixed-use infill sites**, while still providing certainty and rapid processing for land use applications. Adjustments will not be considered to avoid a review process or standard in this Code. **Adjustments are typically for request less than 10 percent of a numeric standard.**

Alternative setbacks in developed areas are addressed in Sections 3.240, 4.130, and 5.130.

2.070 **Procedures.** Adjustment applications are processed through a Type I-L procedure **with a notice area of 100 feet. Adjustments to the standards in Significant Natural Resource Overlay Districts are processed using the review criteria in Section 6.450. Requests not meeting the purpose of adjustments will be processed as Variances** ~~are processed~~ through a Type II procedure (Sections 2.660-2.690). The Director will determine whether an application is processed as an adjustment or a variance.

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2.080 Review Criteria. The applicant must show that the following criteria have been met:

- (1) The adjustment is not requested to avoid a land use review process or increase density; **AND**
- (2) The need for the adjustment is created by the unusual configuration of the property, to protect natural features, ~~or is~~ due to the location of an existing ~~or proposed~~ structure on the site, **or the site is a an existing commercial or mixed-use infill site as defined by Article 22; AND**~~OR~~
- (43) The adjustment is the minimum necessary to address the unusual circumstance, **generally no more than 10 percent from a numeric standard**, and **the request is still be** consistent with the purpose of the zoning district **and any applicable overlay districts**.

Staff Comment: We propose streamlining the process for adjustments that involve retrofitting bathrooms to accommodate accessibility needs because the criteria for retrofits are non-discretionary. These standards have been relocated to Section 3.263 as a setback standard.

OR

- ~~(3) The need for the adjustment is for an encroachment into the interior setback for the purpose of retrofitting an existing residential bathroom to accommodate mobility impairments. The property owner must provide information to show the following criteria are met:
 - ~~(a) The existing bathroom does not have sufficient space for a retrofit to accommodate persons with mobility impairments; and~~
 - ~~(b) A written medical report from a licensed physician that documents a person residing in the dwelling has a mobility impairment; and~~
 - ~~(c) The adjustment is to expand the bathroom no more than 3 feet into an interior setback; and~~
 - ~~(d) A minimum of a 3-foot interior setback is retained adjacent to the expansion.~~~~

ISSUE E: Many vacant sites are non-conforming in some way and the nonconforming use has been gone for more than a year and may have lost the non-conforming status. Full compliance with today's standards can be costly and can be an obstacle to redevelopment in the current economy.

Staff Comments: Several changes are proposed to reduce the number of improvements required for redevelopment of non-conforming sites. See additional comments by the proposed amendments.

LEGAL NONCONFORMING SITUATIONS

2.300 Purpose. Some lots, developments, and uses in the City of Albany were lawful before this Code was adopted or amended, but would no longer be allowed under the current terms of this Code. These provisions are intended to permit such nonconforming situations to continue, but not to encourage their perpetuation.

2.310 Status and Documentation of a Nonconforming Situation. Nonconforming situation regulations apply only to situations that were **legally established** ~~allowed when established or that were approved through a land use review~~. Nonconforming situations that were not ~~allowed when~~ legally established have no grandfather rights and must be removed. The property owner or applicant must document that a nonconforming situation was ~~allowed when~~ **legally established** and was maintained over time. Evidence that it was maintained over time might consist of building permits, utility hookups, tax records, business licenses, **lease agreements, business receipts**, or telephone directory listings.

2.320 Types of Nonconforming Situations. A lot of record may be nonconforming because it does not meet the dimensional or area standards currently required in a particular zoning district. A specific site may be nonconforming because it contains either a nonconforming use, an allowed residential use that exceeds the allowed density, a nonconforming development, or a combination of these.

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- 2.3425 Nonconforming lots of record. Lots of record that do not meet the dimensional or area requirements of the zoning district in which they are located may be developed. Any new structure built on the lot must conform to the development standards (such as setbacks, lot coverage, etc.) for that zoning district.
- 2.33025 Certain Residential Uses Granted Special Status. Special status has been granted to existing single-family dwellings in commercial, office and industrial zones. Special status has been granted for two or more units constructed prior to November 20, 1996, in the Hackleman Monteith zoning district. Notwithstanding the restrictions or terms of any other section of this Code, these properties shall be deemed to be conforming to the base zoning district. See Sections 3.080, 4.075, and 5.080. [Ord. 5555, 2/7/03]
- 2.33540 Loss of Nonconforming Status. *Staff Comments: Since the City does not have a business registry program, it is difficult to document when uses start or stop. Allowing for reinstatement of non-conforming status will make it easier for sites with nonconforming situations to redevelop, and extensions of up to 2 years are already available.*
- (1) The ~~A~~ ~~nonconforming use~~ ~~status~~ of a building, structure, or land shall be deemed to have terminated if the building, structure, or land is not occupied by a permitted or legally nonconforming use for one continuous year. The “vacancy clock” stops when a land use application on the property is deemed complete. **Reinstatement of nonconforming status, or Extensions of up to two additional years,** may be granted under the Type II procedure if the Director finds that:
- (a) Converting to a conforming ~~status~~ ~~use~~ will result in a substantial economic loss;
- AND
- (b) The proposed use will result in greater **or equal** conformance with the development standards of the zone **than the previous use;** *Moved from 2.340(1)(a)*
- OR
- (~~c~~) Immediately surrounding ~~properties~~ ~~land~~ ~~uses~~ are similarly nonconforming, and the proposed use will be compatible with both the nonconforming and conforming uses in the review area.
- (~~2~~) ~~Nonconformance with any development standard or condition other than building setback, coverage, or height is deemed terminated if the building, structure, or land ceases for any reason to be occupied by a permitted or legally nonconforming use for one continuous year.~~ *Staff Comments: This language repeats the language in (1) above and is being removed.*
- (~~3~~) Any nonconforming use or development dependent upon a building or structure that has been declared a “dangerous building” and ordered demolished pursuant to the Albany Dangerous Building Code (AMC Title 18) will be considered terminated upon that declaration and order.
- (~~4~~) Any nonconforming use or development dependent upon a building or structure that has been substantially damaged to the extent that repair or restoration of the building or structure would cost more than 70 percent of its fair market value will be considered terminated.
- (a) Cost of repair or restoration shall be determined by the Building Official. Fair market value shall be determined by an independent appraisal acceptable to the City. The owner or applicant may appeal these determinations of value and cost to the Building Board of Appeals, or may apply for an exception under the Type II procedure.
- (b) The Director may allow additional reconstruction upon finding that:
- (i) Conversion to a conforming use will result in substantial economic loss, and
- (ii) The proposed use will result in greater conformance with the development standards, or
- (iii) Immediately surrounding land uses are similarly nonconforming and the

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reconstructed use will be compatible with both the nonconforming and conforming uses in the review area.

- (54) Rebuilding structures that contained nonconforming uses and which have been intentionally destroyed is prohibited.

2.3340 ~~Allowances Regulations That Apply to All Nonconforming Situations.~~ *The section is being renamed from "regulations" to allowances" because these are not necessarily regulations.*

- (1) Their status is not affected by changes in ownership.
- (2) They may be changed to conforming situations by right, **including a conditional use through the appropriate land use review.** Once a conforming situation occupies a site, the nonconforming rights are lost and a nonconforming situation may not be re-established. *Moved from 2.350(3).*
- (3) Normal maintenance and repair is allowed.
- (4) Nonconforming uses may continue to operate. *Moved from 2.350(1).*
- (5) **A change to another use in the same use category is allowed with a Nonconforming Use Review per Section 2.350.** *Moved from 2.350(2) and reworded.*
- (6) Changes that conform to the base zone development standards of the site may be made. *Moved from 2.370(1).*

ISSUE E: Nonconforming Sites – it can be difficult to find new tenants for these sites.

ISSUE G: Non-industrial (nonconforming) uses in industrial zones - see 2.350 2(a) and (c);

Staff Comments: Section 2.350(2)(c) allows a nonconforming use to change to another nonconforming use that is not allowed in the base zone - such as commercial uses in industrial zones. These standards would ensure that the existing transportation facilities and site can accommodate the proposed use and a change to a use not allowed in the zone would not preclude the site being used by an allowed use in the future.

2.3950 **Nonconforming Use Review Procedure.** A nonconforming use ~~situation~~ is reviewed through **either a Type I or Type II procedure as described below.** *Renumbered because moved from 2.390.*

- (1) **Type I Administrative Review.** The following situations will be processed administratively through a Type I procedure, as established in Section 1.320, taking into account the following factors:
 - (a) **Changes to another use in the same use category.** Staff will verify that the new use will not require more than two new parking spaces, and will not increase traffic impacts. *Moved from 2.350(5).*
 - (b) **Nonconforming residential densities.** Existing dwelling units may continue, may be removed or enlarged, and amenities may be added to the site. There may not be a net increase in the number of dwelling units and the building may not move further out of compliance with the base zone development standards. *Moved from 2.360.*
- (2) **Type II Land Use Review.** The following nonconforming uses will be processed through a Type II procedure as established in ADC 1.350:
 - (a) **Extension or reinstatement of nonconforming status per Section 2.340.**

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- (b) **A change in use within the same use category that requires more than two new parking spaces, has increased traffic or off-site impacts.**
- (c) **A change to another from a legal non-conforming use to a use in a use category prohibited by the base zone may be allowed through a nonconforming use review if it meets the applicable review criteria in Section 2.360. *Moved from 2.350(2).***
- (d) **New construction or structural expansions of nonconforming uses.**
- (e) ~~2.350(1) Changes in operational characteristics such as increased hours, staffing, or expansions to outside storage areas. are allowed. However, nonconforming uses in residential zones may not extend their hours of operation into the period between 11 p.m. and 6 a.m. Deleted text moved to 2.360(1)(a).~~

2.360 ~~2.395~~ Nonconforming Use Review Criteria for Type II Decisions. A request will be approved for nonconforming uses or situations listed in Section 2.350(2) if the review body finds that the application meets all of the following criteria:

- (1) The nonconforming situation was not created unlawfully.
- (2) With mitigation measures, there will **not** be a net ~~de~~increase in overall detrimental impacts (over the impacts of the previous use or development) on the surrounding area taking into account factors such as.
 - (a) **The operating characteristics of the proposed use are compatible with the existing and anticipated uses. The hours of operation in residential zones cannot be extended into the period of 11 p.m. and 6 a.m.; *Similar language moved from 2.350(1).***
 - (b) ~~Vehicle trips to the site and impact on surrounding on-street parking~~ **The street system has adequate capacity to accommodate the use through the horizon year of the current TSP;**
 - (c) **The site has adequate on-site parking to accommodate the development, or adequate parking will be provided per Article 9;**
 - (d) **Parking areas and entrance-exit points are designed to facilitate traffic and pedestrian safety and avoid congestion;**
 - (ee) Noise, vibration, dust, odor, fumes, glare, and smoke;
 - (ef) Potential for increased litter;
 - (eg) The amount, location, and nature of any outside displays, storage, or activities; ~~either (3) or (4) below;~~
 - (h) **Public services for water, sanitary sewer, stormwater, water management, and for fire and police protection, can can serve the proposed use;**
 - (i) **Activities and developments within overlay districts must comply with the regulations described in Article 4 (Airport Approach), 6 (Natural Resources, and 7 (Historic), as applicable;**
 - (j) **If a commercial use is proposed in an existing building in an industrial zone, the development shall not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use; and**
 - (k) **Any applicable criteria below.**
- (3) ~~2.350(3-6)~~ New Construction or Structural Expansions of Nonconforming Uses shall be limited to the following: *Moved from 2.350(3-6).*

Existing Gross Floor Area	% of Expansion Allowed
Buildings under 4,000 sq. ft.	25%

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Buildings between 4,000 and 10,000 sq. ft.	20%
Buildings larger than 10,000 sq. ft.	15%

- (4a) Nonconforming uses and buildings may expand one time only **and must comply with current development standards.**
- (5b) Expansion of a nonconforming use onto another site is prohibited, except when:
- (ai) The expansion site abuts the site of the nonconforming use; and
 - (bii) The expansion site was in the same ownership as the nonconforming site when it became nonconforming; and
 - (eiii) Prior zoning regulations on the expansion site would have allowed the use; and
 - (div) The expansion is approved through a nonconforming use review.
- (6c) Addition of new residential units to a nonconforming residential use is prohibited.
- (3) **Expansions in Residential Zones.** If the nonconforming use is in a residential zone **or in a mixed-use zone with residential uses**, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the area. This is based on taking into account factors such as:
- (a) Building scale, placement, and facade;
 - (b) Parking area placement;
 - (c) Buffering and the potential loss of privacy to abutting residential uses; and
 - (d) Lighting and signs.
- (4) **Expansions in Non-Residential Zones.** If the nonconforming use is in a commercial, ~~or~~ industrial **or mixed use** zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

ISSUE E: Nonconforming Sites – it can be difficult to find new tenants for these sites, especially if improvements are required.

Staff Comment: The proposed revisions in (2) below would only require improvements to new parking areas providing more than two spaces are needed to meet the current standards.

2.370 Nonconforming Development. This section promotes upgrades to features of nonconforming development that affect a site's appearance and impact. ~~Nonconforming developments may continue unless specifically limited by Subsection (2) below or by other regulations in this Title. This section applies to all land use reviews on sites that are nonconforming, including the nonconforming use Type II reviews. The following situations will be processed through a Type I or I-L procedure as established in Article 1.~~

- (1) **Type I Review.** Sites with existing landscaped areas that are nonconforming in landscape materials only, typically due to plants that die and are not replaced, will be required to be brought into compliance with current landscaping standards.
- (2) ~~2.380~~ **Type I-L Review.**
- (a) Sites Nonconforming in Parking Spaces. When a site is nonconforming in the number of required parking spaces, and changes to a use or building are made that increase the number of required parking spaces **by more than two spaces**, only the number of spaces relating to the increase **and the associated parking lot landscaping** must be provided **and meet current Code standards. In situations when the difference in required parking is one or two spaces, then additional parking does not need to be provided, with the exception of additional ADA space if required.**

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Staff Comments: The following revisions would only require improvements to the non-conforming aspects of site when necessary building permits are applied for in amounts that exceed \$25,000. Currently the Code requires improvements "commensurate with proposed changes." The \$25,000 threshold was a suggestion from the BRTF (not too much, not too little) and would be tracked cumulatively. The list of required improvements has been reduced and put in priority order, putting more costly improvements, such as parking lot improvements at the end.

- (b) **Improvements to Nonconforming Developments.** When building alterations, expansions or site alterations require building permits, and are valued above \$25,000 (tracked cumulatively), 10% of the project cost must be spent toward bringing existing development that does not comply with the following standards must be brought closer into compliance with the base zone standards in the following priority order ~~to an extent commensurate with the proposed changes:~~
- (ai) **If the site is within the Willamette River Greenway, funds will be used to enhance the natural areas closest to the waterfront per the criteria in Section 6.540.**
 - (bii) **Front yard landscaping, unless there is no physical room.** ~~Landscaped setbacks for surface parking and exterior development areas;)~~ — Minimum landscaped area (where land is not used for structures, parking, or exterior improvements);
 - (ciii) **Buffering and screening, unless there is no physical room.**
 - (div) Landscaping in existing building setbacks.
 - (ev) **Travel aisles and parking spaces must meet the standards in Article 9.**
~~Paving of surface parking and exterior storage and display areas; and~~
 - (fvi) Interior parking lot landscaping.
 - ~~(g) — Commercial and multi-family design standards.~~

STAFF CONCERNS FOR DISCUSSION:

- *The land use review happens before the building permits. We can ask for estimates with the nonconforming use review to determine what improvements will be made with the 10% for the conditions of approval and tie the improvements to the future building permit (not approving the building permit until they demonstrate they have satisfied the standard) - but this is not preferred.*
- *Often the building owner is different than the building user.*
- *Are we discouraging necessary building and site improvements / will applicants ensure they don't trigger more than \$25,000 in building permits?*
- *Staff wants to ensure we have the ability to encourage improvements to the site and maintenance.*

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ISSUE A: Site Plan Review seems unwarranted for some types of activities, developments, and locations when staff can apply clear and objective standards.

Staff Comments: Amendments include changing the level of review for some actions that currently require Site Plan Review (Type I-L process) to an Administrative Review (Type I process) for some modifications to already developed sites and some change of uses. This would reduce the processing time and costs when full land use review is unwarranted. Amendments are also made to ensure consistency with Section 1.065-Administrative Review.

SITE PLAN REVIEW

- 2.400 Purpose. Site Plan Review is intended to promote functional, safe, and attractive developments that maximize compatibility with surrounding developments and uses and with the natural environment. It mitigates potential land use conflicts through specific conditions attached by the review body. The review focuses on the layout of a proposed development, including building placement, setbacks, parking areas, external storage areas, open areas, and landscaping.
- 2.420 Relationship to Other Regulations. When a land use application is approved based on review criteria in this Code, the applicant must still comply with other applicable codes, ordinances, statutes, and regulations. **Development within special purpose districts must comply with the regulations described in Articles 4, 6, and 7, as applicable and may require additional land use approvals.** *Last sentence is relocated from 2.480 for better organization.*
- 2.42580—Procedure. A Type I-L limited land use procedure is followed for **development activities requiring a Site Plan Review application as listed in Section 2.430** with the Director acting as the review body. **Some modification to existing development and some change of use may be reviewed administratively through the Type I procedure as described in Section 1.065.** A Site Plan Review application that includes Hillside Development is reviewed as a Type III procedure (See Sections 6.1970 through 6.230).
- 2.430 When Site Plan Review is Required. In general, a Site Plan Review covers **all new development related to uses permitted through Site Plan Review as listed in the Schedule of Permitted Uses in Articles 3, 4 and 5.** ~~all proposed exterior alterations included in the development proposal, but Site Plan Review does not cover portions of the existing development that are not being modified except for non-conforming development as stated in Section 2.370.~~ Site Plan Review is required in all of the following instances:
- (1) Any development listed in Articles 3, 4 or 5 that specifically requires Site Plan Review **but excluding changes of use to a use allowed through Site Plan Review that that does not have any additional off-site impacts and will not require construction of more than two new parking spaces or that is located in the Downtown Parking Assessment District.** *Staff Comments: Site Plan review is unwarranted for changes of use that will have no additional off-site impacts and will not require more than two new parking spaces.*
 - (2) ~~A change internal to a building or other structure or of land that constitutes a change of use as defined in Article 22 and listed in Articles 3, 4 or 5.~~ *Staff Comments: This is covered in (1) above.*
 - (3) ~~Any development or change of use to a nonconforming use of a building, structure, or land is not occupied by a permitted or legally nonconforming use for one continuous year may require Site Plan~~

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~~Review as listed in Articles 3, 4 or 5.~~ *Staff Comments: Non-conforming situations have their own review criteria and process.*

~~(24) Building additions greater than 1,000 square feet or greater than 20% of existing building area, whichever is less, or any expansion that results in **more than two new parking spaces being required, a reduction of required parking spaces or that requires landscaping or modifies existing landscaping.** Any additions within special purpose districts must comply with the regulations described in Articles 4, 6, and 7, as applicable.~~ *Staff Comments: Moved to procedures in 2.425.*

~~(35) New parking areas or expansions to existing parking areas greater than 1,000 square feet or greater than 10% of any existing parking area, whichever is less, **or modifications that establish or terminate site access.**~~

~~(46) Temporary placement of a manufactured home for: (a) night watchman; (b) business office space during construction or remodeling; (c) building space for education, non-profit, and government agencies. (See Sections 10.470-10.490.)~~

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ARTICLE 4 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

ISSUE F: Small-scale manufacturing is limited in mixed-use and commercial zones;
ISSUE G: Non-industrial uses are limited in industrial zones.

***Issue F:** The Code limits manufacturing uses in mixed use and commercial zones. The proposed revisions to the Schedule of Permitted Uses in Section 4.050 and Special Conditions 4.060 would allow small-scale industries that make artisan goods or specialty foods and sell most of their goods off-site but may have incidental on-site sales within the OP, NC, CC, RC, TD, IP and LI zoning districts. See the use category description proposed for Small-scale Manufacturing in Section 22.045.*

The BRTF also supported creating an "Industrial Office" category for industrial uses that can be conducted in an office-like setting. See the proposed use category description in Section 22.110 (2). Industrial offices would also be allowed in some of the commercial and mixed-use zoning districts.

***Issue G:** Some commercial uses would be allowed in existing buildings in the LI zone subject to standards that ensure that the transportation system and site can accommodate the proposed use, and that changes do not preclude the use from returning to an industrial use (see special conditions 9 and 26).*

4.050 Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. [Ord. 5742, 7/14/10]
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.
- X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

A number opposite a use in the "special conditions" column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions are found following the schedule, in Section 4.060.

SCHEDULE OF PERMITTED USES

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial		N	N	S-1	N	S-1	S-1	S-1	S

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Services									
Manufacturing and Production	2	S/CU	N	S/CU, 3	N	S/CU	S/CU	S/CU	S
ISSUE F Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
ISSUE F Offices: Traditional Offices Industrial Offices		S S	S N	S S	S N	S N	SCUII-8 S-8	N S-9	N S
ISSUE G Retail Sales and Service		S-11	S-11	S	S	S	S-11	N CUII-26	N

SPECIAL CONDITIONS

4.060 General. Where numbers appear in the “Special Conditions” column or in a particular cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

Staff Comments: Only the relevant special conditions are shown.

- (1) Contractors and Industrial Services in the CC, TD, IP and LI zones.
 - (a) Limited Uses. Salvage or wrecking operations are prohibited in the CC, TD, IP, and LI zones. See Section 4.290 for outside storage standards.
- (2) Manufacturing and Production. The environmental performance standards of Article 9 may limit the placement of certain uses in some districts. If the site is located within 300 feet of residentially zoned land, the use may require a conditional use approval.
- (3) Manufacturing in the CC zone. Manufacturing uses in CC must have a retail storefront and sell their products to the public on site.
- (7) Indoor Entertainment and Recreation in the CC, RC, IP, LI and HI zones.

ISSUE G: Commercial uses in the Light Industrial Zone. *Staff Comments: Add exercise and health clubs/gyms through a Conditional use Type II review in (d).*

- (d) Limited uses in LI. Indoor firing ranges or gun clubs, pool halls, paint gun facilities, cheerleading, tumbling, gymnastics, **exercise and health clubs or gyms**, fairgrounds, coliseums and stadiums are considered through a Conditional Use Type II review. All other indoor entertainment uses are not permitted. [Ord. 5742, 7/14/10]
- (8) Offices in the IP zone. **Traditional** Offices intended to serve customers on site are considered through the eConditional Use **Type II** review. **Industrial** Offices ~~with limited customer traffic~~ are permitted through Site Plan Review. See Article 22 for Office examples.
- (9) Offices in the LI zone. ~~Offices intended to serve customers on site are not allowed.~~ **Industrial** Offices with limited customer traffic are permitted through Site Plan Review. See Article 22 for Office examples.

ISSUE G: Commercial uses in industrial zones

- (11) Retail Sales and Services in the OP, NC and IP zones. *Staff Comments: FYI - The IP zone allows some commercial uses already.*

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- (a) Limited uses in OP, NC and IP. The only retail uses allowed are convenience-oriented retail and personal services-oriented retail intended to serve nearby residences and employees. Businesses are limited to a 5,000-square-foot maximum building footprint. See Article 22 for examples of convenience-oriented and personal service-oriented businesses. Vehicle repair-oriented services, motor vehicle sales, large equipment sales, and bulk sales are prohibited.

- (26) Commercial Uses in Existing Industrial Buildings in the LI zone. To encourage the use of buildings constructed prior to (insert adoption date) in the LI zone, Retail Sales and Service uses and Indoor Recreation Uses will be permitted through a Conditional Use Type II review subject to the following additional review criteria:**
 - (a) The street system has adequate capacity to accommodate the use through the horizon year of the current TSP;**
 - (b) The site has adequate on-site parking to accommodate the development, or adequate parking could be provided; and**
 - (c) The development would not alter the existing building or site in a way that would discourage or preclude its later conversion back to an industrial use.**

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ARTICLE 5 MIXED USE ~~VILLAGE CENTER~~ ZONING DISTRICTS

ISSUE D: Infill and Redevelopment – it can be challenging to meet standards on some infill sites.
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Staff Comments: Some of the mixed-use zone purpose statements are proposed to be amended to encourage infill and redevelopment.

- 5.030 ~~Establishment of Village Center~~ **Mixed Use Zoning Districts**. In order to implement the mixed-use and livability concepts in the Town Center and Albany Comprehensive Plans, the following zoning districts are created:
- (1) HD – HISTORIC DOWNTOWN DISTRICT. The HD district is intended primarily for a dense mixture of uses with an emphasis on entertainment, theaters, restaurants, night life and specialty shops. High-density residential infill on upper floors is encouraged, as is the continued presence of the government center and supporting uses.
 - (2) CB – DOWNTOWN CENTRAL BUSINESS DISTRICT. The CB district is intended primarily for retail and services that support Historic Downtown businesses and residents. Mixed uses are encouraged both horizontally and vertically. High-density residential infill, especially on upper floors, and office employment are both encouraged.
 - (3) MUR – MIXED USE RESIDENTIAL DISTRICT. The MUR district is intended primarily to create a residential district that allows a mixture of neighborhood commercial uses that meet the daily needs of area residents.
 - (4) WF – WATERFRONT DISTRICT. The WF district is intended to transition Albany’s Willamette River waterfront into a vibrant center characterized by a variety of housing choices and a mixture of housing, office, and retail uses. **Infill and redevelopment are encouraged, as well as adaptive reuse of existing buildings until the area is redeveloped.** Development and design standards will result in great neighborhoods, a pedestrian friendly environment and an enhanced community image.
 - (5) LE – LYON-ELLSWORTH DISTRICT. The LE district is intended primarily as a location for development that serves the Historic Downtown district and Downtown Central Business district. This district is the most desirable location in the Central Albany area for parking structures with ground-floor commercial uses.
 - (6) MS – MAIN STREET DISTRICT. The MS district is intended primarily as an employment center with supporting commercial and retail services for residents and employees in the area. ~~Retail, restaurant or night uses that impact surrounding residences are discouraged.~~ **Infill and redevelopment are encouraged provided there is no adverse impact to surrounding residences.**
 - (7) ES – ELM STREET DISTRICT. The ES district is intended primarily to provide enough land for Albany General Hospital and associated medical uses while maintaining compatibility with adjacent residences in scale and design. Light commercial and personal services are encouraged to serve the nearby residents. Removal of existing residences and landscapes is discouraged. New parking facilities should be underground or completely screened. Only the amount of parking that is necessary should be allowed for uses in this district, to minimize the amount of land consumed by parking.
 - (8) PB – PACIFIC BOULEVARD DISTRICT. The PB district is intended as an auto-oriented commercial area along Pacific Boulevard in the Central Albany area. Design guidelines and front-yard landscaping will provide a coordinated look and enhance the community image along

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this major corridor as it develops or redevelops. **Commercial infill and redevelopment are encouraged.** Sound and visual buffers should be used to protect nearby residential areas.

- (9) MUC – MIXED USE COMMERCIAL DISTRICT. The MUC zoning district is intended primarily to provide a mix of convenience commercial, personal services, offices and medium density residential uses. The district would typically be anchored by a grocery store, and may include a mix of smaller retailers, offices, live-work units and residences. The MUC district is easily accessible to nearby residences, and commercial uses are compatible in scale and design with adjacent neighborhoods. Uses in the MUC zone will serve area residents and should not draw from the region.
- (10) ~~RM – RESIDENTIAL MEDIUM DENSITY~~ Note: The RM zone is also compatible with the Village Center Comprehensive Plan design, but because it is a residential zone, it is located in Article 3. *Staff Comments: The RM zone is in Article 3. We are removing the "Village Center" from the Article's title, so this information no longer needed.*

ISSUE F: Small-scale manufacturing in mixed-use and commercial zones.

Staff Comments: The Code limits manufacturing uses in mixed use and commercial zones. The proposed revisions to the Schedule of Permitted Uses in Section 5.060 would allow small-scale industries that make artisan goods or specialty foods and sell most of their goods off-site but may have incidental on-site sales in the MUC, WF, HD, CB, LE, PB and MS zoning districts. See the use category description proposed for Small-scale Manufacturing in Section 22.045.

The BRTF supported creating an "Industrial Office" category for industrial uses that can be conducted in an office-like setting. This use is proposed to be permitted in the WF, CB, LE, PB and MS zones. See the proposed use category description in Section 22.110 (2).

SCHEDULE OF PERMITTED USES

5.060 Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without review procedures but may be subject to special conditions.
S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.
CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260.
PD Use permitted only through Planned Development approval.
N No; use not allowed in the zoning district indicated.
X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

A number opposite a use in the "special conditions" column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions are found following the schedule, in Section 5.070.

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SCHEDULE OF PERMITTED USES

Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
INDUSTRIAL										
Contractors and Industrial Services	1	N	N	N	S	S	S	N	N	N
Manufacturing and Production	2	N	N	S/CU	S/CU	S/CU	N	N	N	N
Small-scale Manufacturing - less than 5,000 sq. ft. -5,000 to 10,000 sq. ft.	2	S/CU CU	N N	N N						
Warehousing and Distribution		N	N	N	N	N	N	N	N	N
Wholesale Sales		N	N	N	CU	N	N	N	N	N
COMMERCIAL										
Offices										
Traditional Offices		S	S	S	S	S	S	S	S	S
Industrial Offices		CU	S	CU	S	S	S	S	N	N

SPECIAL CONDITIONS

5.070 General. Where numbers appear in the “Special Conditions” column or in a particular cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

- (1) Contractors and Industrial Services Uses in CB, LE, PB zones.
 - a) Prohibited Uses. Salvage or wrecking operations. See Sections 5.360 for outside storage standards by zone.
- (2) Manufacturing. The environmental performance standards of Article 9 may further limit the placement of certain uses in some districts. Developments on sites located within 300 feet of residentially zoned land may require a Conditional Use approval.

ISSUE D: Infill and Redevelopment.

Staff Comments: Determining whether a new development has no greater off-site impacts can require an expensive analysis and cannot be handled administratively. The proposed amendments make replacement of a destroyed building clear and objective.

5.085 Special Status for Industrial and Commercial Uses in the WF Zone. The regulations below apply to properties on the Special Status List and eligible properties in the Waterfront (WF) zoning district. The Special Status List is maintained by the Community Development Director.

Notwithstanding the restrictions or terms of any other section of the Albany Development Code (ADC), all industrial and commercial uses legally in operation before January 11, 2006, shall be deemed to be conforming to the WF zoning district. When any listed buildings are converted to a permitted use in the Waterfront zoning district, the special status granted here is rescinded, and the use of the property must thereafter conform to the requirements of this article.

If any building on these properties is substantially destroyed, as defined in ADC Section 2.340(4), it can be rebuilt for the same use provided that the **new development is no larger (in square feet and in building footprint) than the original development and the new development is more compliant than the original development.** ~~off-site impacts are no greater than its impacts on January 11, 2006.~~

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ARTICLE 8 DESIGN STANDARDS

ISSUE H: Adaptive reuse and infill downtown.

Staff Comments: In order to encourage urban residential development downtown, new multi-family development in the CB, HD, LE, WF and MUR zoning districts are proposed to be exempt from the children's play area formulas in Section 8.220 (2) but require one common open space features either indoor or outdoor in (1).

Private open space is often in the form of balconies and walk-out patios which can be challenging to provide in an urban setting and be compatible with existing development. The proposed amendments in Section 8.230 would exempt new development or redevelopment in some downtown zones from requiring private open space.

Amendments in Section 8.250 would clarify that the building design standards are for new construction and would not apply to redevelopment of existing buildings.

MULTIPLE FAMILY DEVELOPMENTS

8.200 **Purpose.** These sections are intended to set standards for quality designs in new multiple family developments. Good design results when buildings are visually compatible with one another and adjacent neighborhoods and contribute to a residential district that is attractive, active and safe.

8.210 **Relationship to Historic Overlay Districts.** For residential property inside the Historic Overlay Districts, see Article 7 for additional historic review criteria.

8.220 **Recreation and Open Space Areas.** In **all new multiple-family** developments a portion of the land not covered by buildings and parking shall be of adequate size and shape and in the proper location to be functional for outdoor recreation and relaxation. The standards are also intended to ensure that project open space is an integral part of the overall development design, not merely leftover space. In larger developments there should be a variety of open space activities.

- (1) **Common Open Space.** For projects of 10 or more units, common open space shall be required at a ratio of 0.25 square feet for each 1.0 square feet of living space. **In lieu of the common open space standards below, new construction of 10 or more units in the CB, HD, LE, WF and MUR zoning districts shall provide one indoor or outdoor common area amenity at least 250 square feet, with no dimension less than 20 feet.**

The standards in (a)-(g) are not changing and are not shown.

- (2) **Children's Play Areas.** Multiple family developments larger than 10 units (excluding 1-bedroom and studio units) shall designate one or more children's play areas. **Developments located in the CB, HD, LE, WF and MUR zoning districts are exempt from this standard.**

The standards in (a)-(d) are not changing and are not shown.

Staff Comments: Recommend deleting ADC 8.230(1) because it prohibits any balconies or patios from facing the street. This standard is often very difficult and sometimes not feasible to achieve depending on site conditions; it also does not necessarily make for a better project when residents are not allowed to have any balcony. If the original intent behind this standard was to limit or screen personal storage from the public view, I think sub-section (5), below achieves this purpose at the ground level.

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- 8.230 Private Open Space. In all newly constructed multiple family developments **except in the CB, HD and LE zoning districts**, private open space shall be provided as follows:
- ~~(1) Building Orientation. Buildings shall be oriented so that no private open space or rear entrance faces a public street.~~
- (12) At-Grade Dwellings. Dwellings located at finished grade, or within 5 feet of finished grade, shall provide at least 96 square feet of private open space per unit, with no dimension less than 8 feet. Private open space for at-grade dwellings may be provided within interior courtyards created within a single building or cluster of buildings. Private open space for at-grade dwellings shall be screened from view from public streets.
- (23) Above-Grade Dwellings. Dwellings located more than 5 feet from finished grade shall provide a minimum of 80 square feet of private open space per dwelling unit (such as a yard, deck or porch), with no dimension less than 6 feet. Private open space for units located more than 5 feet above grade may be provided individually, as with a balcony or collectively by combining into a larger area that serves multiple units.
- (34) Access to Private Open Space. All private open space shall be directly accessible from the dwelling unit through a doorway.
- (45) Privacy Requirements. Ground-level private open space, **excluding front porches and balconies**, shall be physically and visually separated from common open space.
- 8.250 Functional Design and Building Details. These standards are intended to promote functional design and building details **in new construction** that contribute to a high-quality living environment for residents and enhance compatibility with the neighborhood.
- (1) **The design of new buildings** ~~design~~ shall avoid long, flat, uninterrupted walls or roof planes. Changes in wall plane and height, and inclusion of elements such as balconies, porches, arbors, dormers, gables and other human-scale design elements such as landscaping should be used to achieve building articulation.
- (2) Buildings shall be massed so individual units are **or the common main entrance is** clearly identifiable from the private or public street that provides access **unless the units are located on upper floors above non-residential uses**.
- (3) Stairways shall be incorporated into the building design. External stairways, when necessary, should be recessed into the building, sided using the same siding materials as the building, or otherwise incorporated into the building architecture.
- (4) Building facades shall be broken up to give the appearance of a collection of smaller buildings.
[Ord. 5445, 4/12/00]

ISSUE D: Infill and Redevelopment sites- it can be challenging to meet design standards.

Staff Comments: The following proposed language would allow flexibility from the design standards for infill development and to clarify and relax existing standards.

COMMERCIAL AND INSTITUTIONAL SITE DESIGN

- 8.310 Purpose. These sections are intended to set threshold standards for quality design in new commercial **and institutional** development. Good design results in buildings that are visually compatible with one another and adjacent neighborhoods and contribute to a commercial district that is attractive, active and safe. These qualities in turn contribute to the creation of commercial districts that facilitate easy pedestrian movement and a rich mixture of land uses. These standards apply to the design of new

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commercial or institutional development and to the expansion of existing commercial and institutional development in any district.

8.325 **Flexibility for Infill Development.** Existing commercial and mixed-use infill sites less than one acre may apply for an Adjustment or Variance to the design standards. These sites may be eligible for a fee waiver at the discretion of the Director.

8.330 Building Orientation. Building orientation and maximum setback standards are established to help create an attractive streetscape and pleasant pedestrian environment.

(1) New ~~commercial~~ buildings shall be oriented to existing or new public streets. Building orientation is demonstrated by placing buildings and their public entrances close to streets so pedestrians have a direct and convenient route from the street sidewalk to building entrances.

(p) On sites smaller than three acres, ~~commercial~~-new buildings shall be oriented to the public street/sidewalk and off-street parking shall be located to the side or rear of the building(s), except where it is not feasible due to limited or no street frontage, **conservation of natural resources, the site is an infill site less than one acre**, or where there are access restrictions.

(q) Buildings on sites larger than three acres may be setback from the public street and oriented to traffic aisles on private property; if the on-site circulation system is developed like a public street with pedestrian access, landscape strips and street trees.

Staff Comments: The first sentence is repetitive and confusing with the standards in (1).

(2) ~~At least one major public entrance shall be visible from the abutting public street. Corner entrances may be used to provide orientation to two streets.~~ Customer entrances should be clearly defined, highly visible, using features such as canopies, porticos, arcades, arches, wing walls, and planters. [Ord. 5445, 4/12/00]

8.350 Street Connectivity and Internal Circulation. The following standards emphasize the importance of connections and circulation between uses and properties. The standards apply to both public and private streets. *Only (3) is shown.*

(3) Traffic ~~aisles lanes shall be internal to the site and~~ shall not be located between the building(s) and the sidewalk(s), except as provided in (4) below, **or where drive-through windows are permitted, sites are constrained by natural resources, or are commercial or mixed-use infill sites.**

Staff Comments: The following revisions to the design standards would allow flexibility for infill development and to clarify and relax existing standards.

SUPPLEMENTAL COMMERCIAL DESIGN STANDARDS IN VILLAGE CENTERS

8.405 Village Center Character. The purpose of these standards is to contribute to the desired character of ~~the Albany's~~ village centers. They are intended to promote the design of an urban environment that is built to human scale with attractive street fronts and interconnected walkways that promote pedestrian usage and accommodate vehicles. Development in the village center must contribute to a cohesive, visually compatible and functionally linked pattern through street and sidewalk layout, building siting and character, and site design. Details count. [Ord. 5556, 2/21/03]

8.410 Applicability. These standards apply to ~~commercially zoned~~ properties within the Village Center Comprehensive Plan designation. They are in addition to the Commercial **and Institutional** Design Standards in this article for commercial, ~~and~~-office, **mixed use and institutional** development. Taken together, these design standards are intended to foster a mixed-use character for village centers. [Ord.

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5556, 2/21/03]

- 8.412 **Flexibility for Infill Development.** Existing commercial and mixed-use infill sites less than one acre may apply for an Adjustment or Variance to the additional design standards in village centers and may be eligible for a fee waiver at the discretion of the Director.

SUPPLEMENTAL RESIDENTIAL DESIGN STANDARDS IN VILLAGE CENTERS

- 8.480 **Applicability.** These standards apply to residential development in mixed-use and residential zones within the Village Center Comprehensive Plan designation. They are in addition to the residential design standards for Single-Family Homes and Multiple Family Homes in this article.

Staff Comments. Recommend deleting the requirement for covered bike parking in 8.485(4) because it seems onerous to require covered bike parking for half of the dwelling units in a multi-family residential complex. Relying on the existing standards listed in ADC 9.120(13) seems adequate for the provision of for bike parking.

- 8.485 **Purpose.** These provisions are intended to promote the design of an urban environment that is built to human scale and to foster a mixed-use character for village centers with an emphasis on a high-quality pedestrian environment.
~~(4) Covered bike parking shall be provided for 50 percent of the dwelling units in shelters, individual storage lockers or garages.~~

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ARTICLE 22 USE CATEGORIES AND DEFINITIONS

ISSUE F: Small-scale manufacturing in mixed-use and commercial zones.

Staff Comments: There has been interest by small artisan manufacturers - like a distillery - in Albany's mixed use and commercial zones. Amendments to this article would create two new use categories in order to allow more manufacturing uses in commercial and mixed-use zoning districts.

INDUSTRIAL USE CATEGORIES

Staff Comments: Creating the two new manufacturing categories (small-scale manufacturing and industrial offices) requires a few amendments to the Exceptions in (3).

22.040 Manufacturing and Production

- (1) Manufacturing and Production businesses manufacture, process, fabricate, package, or assemble products or energy. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site. If they are, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- (2) *Use Examples.* Types of uses include, but are not limited to: the manufacturing, researching, testing, experimentation and development of products, including engineering and laboratory research, pharmaceuticals, medical and dental devices and instruments; manufacturing, assembly, or packaging of products from previously prepared materials (excluding vehicle repair shops); weaving or production of textiles or apparel; manufacture or assembly of machinery, equipment, instruments, including musical instruments, appliances, precision items, and other electrical items; movie production facilities; production of artwork and toys; printing, publishing and book binding; catering establishments; processing of food, beer, wine and related products, including slaughterhouses and meat packing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; sign making; crematoriums; wood products manufacturing; concrete and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; production of prefabricated structures, including manufactured homes; and energy production.
- (3) *Exceptions.*
 - (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service, **unless defined under small-scale manufacturing.**
 - (b) ~~Small scale manufacturing or assembly that is compatible with an office building is classified as Office.~~ **Industrial Office uses are classified as Offices.**
 - (c) Manufacturing and production of goods from composting organic material is classified as Waste and Recycling Related uses.

Staff Comments: The Code limits manufacturing uses in mixed use and commercial zones. The proposed revisions would allow for small-scale manufacturing uses that can be compatible in commercial and mixed-use zones.

22.045 Small-scale Manufacturing

- (1) **Small-scale businesses that manufacture artisan goods or specialty foods occupying no more than 10,000 square feet. Goods are generally not sold on site; any retail component is incidental. Small-scale manufacturing businesses are intended to be allowed when the use**

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can be compatible with adjacent uses. The environmental performance standards of Article 9 will apply to ensure there are no objectionable off-site impacts concerning noise, vibration, odors, and glare to nearby commercial businesses or residential uses.

- (2) *Use Examples.* Types of uses include, but are not limited to: sugar and confectionary, fruit and vegetable preserving and specialty foods, bakeries and tortilla manufacturing; microbreweries, micro distilleries, and wineries; artisan leather, glass, jewelry, cutlery, hand tools, wood, paper, ceramic, textile and yarn products; musical instruments, pens, pencils, sporting and athletic goods, toys, brooms and brushes, buttons, costume novelties, and other miscellaneous small-scale manufacturing industries.
- (3) *Exceptions.*
 - (a) Manufacturing of goods to be sold primarily on site and to the general public is classified as Retail Sales and Service.

COMMERCIAL USE CATEGORIES

Staff Comments: The Office use category is being split into two types: Traditional Offices and a new Industrial Offices subcategory to allow manufacturing uses that can be conducted in an office-like setting in some of the commercial and mixed-use zoning districts.

22.110 Offices

- (1) **Traditional Office** uses provide direct services to consumers generally focusing on business, government, professional, medical, or financial services. Business activities are conducted in an office setting.
- (2) **Industrial Office** uses are characterized by activities that, while conducted in an office-like setting, are more compatible with industrial activities, businesses, and industrial park settings and districts. Their operations are less service-oriented than Traditional Office uses focus on the development, testing, production, processing, packaging, or assembly of goods and products in an office-like setting with no off-site impacts and may include digital products such as internet home pages, media content, designs and specifications, computer software, advertising materials, and others. They primarily provide products to other businesses. They do not require customers or clients to visit the site; any such visits are infrequent and incidental.

(23) *Use Examples.*

- (a) **Traditional Office:** ~~Offices with limited customer traffic:~~ Types of uses include, but are not limited to: **professional services such as lawyers, accountants, employment services, insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; public utility offices; real estate agents; sales offices; some government offices;** corporate offices, company headquarters or financial and operational divisions; ~~insurance headquarters; financial headquarters for brokerage houses, banks or other lenders; data processing; public utility offices; newspaper, television and radio offices and studios; and research labs.~~ **medical and dental clinics, or urgent care facilities; veterinarians and animal hospitals; and blood-collection facilities.**
- (b) ~~Offices intended to provide personal or professional services to customers on site:~~ Types of uses include, but are not limited to: ~~professional services such as lawyers, accountants, employment services, insurance and travel agencies; financial and investment services such as banks, lenders, or brokerage houses; real estate agents; sales offices; some government offices; medical and dental clinics, labs, or urgent care facilities; veterinarians and animal hospitals; and blood-collection facilities.~~

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(b) **Industrial Office**: Software and internet content development and publishing; computer systems design and programming; graphic and industrial design; engineers; architects; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; ~~and~~ medical and dental labs, and similar uses with similar impacts.

(3) *Exceptions.*

- (a) Offices that are part of and located with a firm in another category are considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other use category.
- (b) Contractors and others who perform services off site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site. Otherwise, contractor offices are included in the Contractors and Industrial Services category.

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ARTICLE 3 RESIDENTIAL ZONING DISTRICTS

ISSUE I: Home businesses – establish two levels – allowed outright with clear and objective standards and those through conditional use review.

HOME BUSINESSES OCCUPATIONS

Staff Comments: The Business Ready Task Force recommended hobbies not be included as a home occupation. Staff recommends using "Home Business" since it better reflects what is regulated. Hobbies would still be subject to standards in the Municipal Code.

The purpose of the proposed amendments is to support home-based businesses that are compatible with the residential neighborhood in scale, intensity and off-site impacts. Currently, all home occupations are allowed outright if they meet the standards (no land use review or checklist review of the proposal). Due to the variety of home occupations, we receive complaints about their impacts and the subjectivity of some of the current standards makes it challenging to enforce the standards. The amendments include changing the standards to be objective and secondly, for those home occupations that do not meet the standards to be allowed outright, they would be considered Home Businesses that would require a conditional use review.

Staff Comments: The purpose statement is being amended to reflect the standards and incorporates language from the definition in Article 22.

3.090 Purpose. The home ~~occupation~~ **business** provisions recognize the needs of many persons who are engaged in small-scale business ventures. ~~or personal hobbies, whether conducted for profit or not, which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full-scale enterprise.~~ **The purpose of these standards is to allow home businesses that can be compatible within a residential neighborhood without infringing on the right of neighboring residents to enjoy the peaceful occupancy of their homes, taking into consideration off-site impacts and the residential character of the neighborhood.**

Staff Comments: The proposed new section informs of exceptions stated in the Albany Municipal Code.

3.093 Exceptions. **The provisions of this section apply to all home businesses except for the following situations:**

- (1) **Garage, yard or estate sales from the site that comply with Albany Municipal Code Section 7.84.190.**
- (2) **Open houses and other events involving the sale of goods or services as long as they comply with the frequency of garage sales allowed in Albany Municipal Code Section 7.84.190.**

3.11094 Prohibited Uses. The following uses are prohibited as home ~~businesses~~~~occupations~~:

- (1) Auto body repair, ~~and~~ painting **and** welding.
- (2) Ongoing mechanical repair conducted outside of an entirely enclosed building.
- (3) Storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involves toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties.
- (4) Junk and salvage operations.

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- (5) Storage and/or sale of fireworks in quantities judged by the Fire Marshal to be dangerous.
- (6) Storage or display of more than one motor vehicle for sale.
- (7) **Headquarters for assembly of workers for instruction, dispatch or employee meetings.**
- (8) **The overnight boarding, training or breeding of three or more adult domestic animals is considered a Kennel and subject to the standards for that use category.**

3.095 **Procedures.** All home businesses must meet the standards in Section 3.100. Home businesses occupations shall be allowed as a permitted accessory use to a residence provided that ~~all of the following conditions are met~~ the business or businesses cumulatively meet all of the standards in Section 3.100 and 3.110.

If a home business does not meet the standards in Section 3.110 it may be allowed as a Conditional Use through the Type II land use process if it can satisfy the review criteria for Conditional Uses found in Article 2 and the standards in 3.115.

3.100 **Standards for All Home Businesses.**

- (1) **Signs.** One window or wall sign is allowed, not larger than 12 inches by 18 inches.
- (2) ~~(4)(5)~~ **Residential Character.** The business is conducted entirely within an enclosed building except for nursery plant production and ~~there is no visible outside storage or display of materials or commodities, other than the allowed sign, which would to indicate from the exterior that the any building on the site is being used for any purpose other than a dwelling residential use.~~
- (3) **Other Standards.** All required building and other permits pertaining to the proposed business must be obtained. A home business that is classified as commercial or industrial occupancies by the building codes must comply with the applicable requirements.

3.110 **Standards for Home Businesses as Accessory Uses.** In order to be allowed outright, a home business shall meet all of the following standards. If more than one business is proposed at the same residence, then all businesses must cumulatively meet these standards:

Staff Comments: In order to limit the potential for off-site impacts, no outside employees are permitted with Administrative Review. Up to two outside employees may be considered with a Conditional Use review.

- (1) **Employees.** The use business is carried on only by members of the family residing on the premises. ~~and not more than one outside employee or volunteer who shall work a maximum of 20 hours per week.~~
- (2) **Offsite Impacts.** ~~There is no offensive~~ No materials or equipment shall be used that cause noise, vibration, smoke, dust, odors, heat or glare resulting from the operation ~~noticeable detectable~~ at or beyond the property line or that interfere with radio, television, internet or other transmission. For the purposes of this section, detectable noise is considered more than 50 decibels of ambient noise levels as measured at a property line.
- (3) ~~One window or wall sign is allowed, not larger than 12 inches by 18 inches.~~ *Moved to 3.100(1).*
- (4) ~~There is no display, other than the allowed sign, which would indicate from the exterior that the building is being used for any purpose other than a dwelling.~~ (5) ~~There is no visible outside storage of materials other than plant materials.~~ *Staff Comments: The standards were moved to 3.100(2) and combined/*

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Staff Comments: "Adversely affect the residential character" needs to be clear and objective. Size and scale and uses conducted within an enclosed building and no outside storage are clear and objective. ~~(6) — The use does not adversely affect the residential character of the neighborhood, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.~~

- (3) **Size and Scale.** The business, including storage, shall:
 - (a) Occupy no more than 25 percent of the floor area of the residence not including the garage, up to maximum of 500 square feet; OR
 - (b) Occupy no more than 1,000 square feet if located in an accessory building or in a garage (attached or detached).
- (4) The business shall be accessory to the main use of the dwelling as a residence.

Staff Comments: The current standard "Excessive generation of traffic" is being quantified by limiting the number of deliveries/pick-ups, customer vehicles, and the amount and type of sales.

- (5) **Traffic.** The business will not generate more than three deliveries or pickups per day by trucks or other non-resident vehicles. ~~(7) There is not excessive generation of traffic created by the home occupation, including frequent deliveries and pickups by trucks or other vehicles.~~
- (6) **Customer Vehicles.** No more than one customer vehicle is permitted at one time.
- (7) **Sales.** On-site sale of goods is limited to products made on-site and shall be by appointment only. Other types of sales will be considered through a Conditional Use review.

Staff Comments: The definitions in Article 22 limit the number of unrelated persons per bedroom so this standard is not needed. ~~(8) — The rental of separate living quarters within a single family residence is limited to not more than one bedroom which does not contain separate cooking facilities and which has a maximum occupancy of two persons.~~

3.115 Standards for Home Business as a Conditional Uses. Applications for a home business that cannot meet the standards in Section 3.110 will be processed as a Conditional Use. The business shall meet the Conditional Use review criteria in Article 2 and shall demonstrate how the proposal satisfies the following standard:

- (1) The business is carried on by members of the family residing on the premises and not more than two outside employees or volunteers.

3.120 Initiation of Complaints. Complaints may be originated by the City of Albany or the public. Complaints from the public shall clearly state the objection to the ~~H~~home business ~~O~~ccupation based on the applicable standards listed above.

3.130 Review Procedures for Complaints. An investigation of the complaint will be performed using the following processes,

- (1) If the Director finds that a home businesses allowed outright does not meet the standards in 3.100 or 3.110, the City will:
 - work with the business owner to bring the business into compliance with the standards;
 - or
 - require the business be processed as a conditional use per Section 3.115; or
 - order the business to be terminated.
- (2) If the complaint is regarding a home business approved as a Conditional Use, the Director will review the complaint against the standards in 3.100 and 3.115, the notice of decision, and conditions of approval. If the Director determines the business is in violation of the standards or conditions of approval, the City will:

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- work with the business owner to bring the business into compliance with the standards in 3.100 and 3.115, and the conditions of approval; or
- order the business to be terminated.

The Director shall make an initial determination of whether the alleged violation requires discretionary review. If the Director determines that review of the complaint is discretionary, the complaint will be reviewed by the Hearings Board. All other complaints will be reviewed by staff. An investigation of the complaint will be performed and the use will either be approved as it exists, ordered terminated, or brought into compliance with the standards.

3.160 (3) Hearings Board Review. Complaints regarding home businesses established prior to (X Date establishing two levels of review), will be reviewed by the Director. If the home business is found to be in violation of the previous standards, the case will be heard by the Hearings Board. The business owner will be required to pay a review fee of \$250.

3.150 ~~Notice of Hearing~~. Written notice of the hearing, including its date, time, and place shall be given to the property owner and the person undertaking the use, if other than the property owner, as well as property owners within 100 feet of the use, and any complainant(s).

The Hearings Board shall either approve the use as it exists, order it to be terminated, or restrict and/or condition the use in order to ensure compatibility with the neighborhood.

3.140 ~~Cessation of Home Business Occupations Pending Review~~. If it is determined by the Director, or his designee, that the ~~H~~home business occupation in question will affect public health and safety, the use may be ordered to cease pending ~~staff or~~ Hearings Board review and/or exhaustion of all appeals. Violation of an order to cease shall be an infraction subject to the penalties set forth in Section 3.180 below.

3.180 Penalties. Non-compliance with the orders of the Director, or his designee, or Hearings Board, as referred to above, are an infraction punishable as per AMC Section 1.04.01. In addition, each violation of this Article shall bear an additional minimum civil penalty of \$50 per violation. The procedure for adjudication for infractions shall be as set forth at AMC Section 1.05.

OTHER RELATED AMENDMENTS IN ARTICLES 3, 4, 5 & 22

3.050 SCHEDULE OF PERMITTED USES

Uses Allowed in Residential Zoning Districts								
Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
RESIDENTIAL: Miscellaneous								
Accessory Buildings, Garages or Carports that meet the standards in Special Cond. 9 are allowed outright (Y), otherwise through Site Plan Review (S)	9	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S	Y/S
Home Business Occupations (See 3.090-3.180 3.100)		Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU	Y/CU

4.050 SCHEDULE OF PERMITTED USES

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
RESIDENTIAL									
Home Business (See 3.090-3.180)		Y/CU							

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5.060

SCHEDULE OF PERMITTED USES

Commercial, Office and Industrial Zoning Districts										
Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	MUC	WF	HD	CB	LE	PB	MS	ES	MUR
RESIDENTIAL										
Home Business (See 3.090-3.180)		Y/CU								

22.400 Definitions.

Home Business Occupation: ~~An occupation~~ **A business** carried on within a dwelling **or residential accessory building** provided the residential character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristics of a business in the ordinary meaning of the term, nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

ATTACHMENT C: BUSINESS READY TASK FORCE ISSUE MATRIX

	Issue	Code Obstacles	Albany Development Code (ADC) Section and Description of Proposed Amendments	Date Discussed
PROCESS TIME and COSTS				
A	Site Plan Review		ADC 1.060 <u>When Land Use or Administrative Review Applications are Not Required</u> : Updates list to remove activities that require a staff-level administrative review (in new ADC Section 1.065).	6/19/12
		Site Plan Review (Type I-L limited land use with property owner notice, appeal to LUBA) seems unwarranted in situations when staff can apply clear and objective standards through an administrative review.	ADC 1.065 <u>When Administrative Review is Required</u> : Creates new administrative review section to include actions currently reviewed administratively and include new actions that currently require site plan review, such as some additions and changes of use for existing developments. These changes to reduce staff processing time and costs for the applicant.	
			ADC 2.425 & 2.430 <u>Site Plan Review</u> : Amendments include changing the level of review for some actions that currently require Site Plan Review (Type I-L process) to an Administrative Review (Type I process) because it would reduce the processing time and costs when a full land use review is unwarranted. Amendments are also made to ensure consistency with the new Section 1.065 for Administrative Review.	
B	Expiration of Land Use Approvals	Most land use approvals expire within 3 years. Economic or other conditions may warrant an extension.	ADC 1.080 <u>Expiration of Land Use Approvals</u> : Proposes a one time written request for an extension of 2-years on a 3-year approval.	9/11/12
			New ADC 1.083 <u>Extensions of Land Use Approval</u> section outlines standards - to approve an extension request - such as there have been no applicable changes to applicable local, state, federal standards.	9/24/13
C	Neighborhood Meetings	Neighborhood meetings should be held at reasonable times and coordinated with staff's schedule.	ADC 1.204(1) <u>Neighborhood Meeting Standards</u> : Adds language that requires the applicant to consult with City staff to determine an appropriate meeting time, date and place and availability of staff to attend.	8/14/12
		Neighborhood meeting notice area of 300 feet may not be large enough, depending on the project.	ADC 1.204(2) <u>Neighborhood Meeting Standards</u> : Modifies the neighborhood meeting notice area to be based on the project notice area, scale and impacts as well as the lot size in the surrounding area. Minimum is 300 feet with Director discretion to increase the notice area as appropriate due to lot sizes, topography and scale of impacts.	
<p>Land Use Procedures: We often mention that a decision is a "Type I," "Type I-L," etc, and I would like to briefly describe the relevance of this.</p> <ul style="list-style-type: none"> · <i>Type I</i> – An administrative decision without requirements for public notice or hearings. This <u>must</u> be based on clear and objectives standards that leave little room for interpretation. · <i>Type I-L</i> – This is a limited land use decision, which is a staff decision. This requires notice to be sent out so property owners nearby can comment. The staff decision may include conditions that address any issues that may be raised by those who received the notice. The Director may also choose to refer the decision to the Planning Commission or Hearings Board. · <i>Type II</i> – This is also a staff decision, for which notice is sent out, <u>but</u> those who receive the notice may request a hearing. · <i>Type III/IV</i> – Public notice and a hearing are always required. 				
INFILL AND REDEVELOPMENT				
D	Infill & Redevelopment	It can be challenging to meet development standards for infill sites. Add flexibility for infill projects.	ADC 2.080 <u>Adjustment criteria</u> : Adds infill sites < 1 acre as eligible for adjustments and variances (for parking, setbacks, etc).	9/11/12;
			ADC 5.030 <u>Purpose Statements</u> : Modifies some of the mixed-use zoning district purpose statements to encourage infill.	10/2/12
			ADC 8.325 <u>Commercial and Institutional Site Design Standards (new)</u> and 8.412 <u>Supplemental Standards in Village Centers</u> - Allows adjustment or variance to design standards for Infill sites (< 1 acre with development on both sides) with potential for a fee waiver; Adds flexibility from <u>building orientation</u> in ADC 8.330(1)(a); and in <u>ADC 8.350(3) Street Connectivity and Internal Circulation</u> : Provides flexibility in locating traffic aisles between the building and the street.	9/11/12; 10/2/12

PLEASE NOTE: The ADC references in the matrix refer to a document of proposed revisions that staff are working on. In some cases, the numbering is different than the current ADC section numbering.

ATTACHMENT C: BUSINESS READY TASK FORCE ISSUE MATRIX

	Issue	Code Obstacles	Albany Development Code (ADC) Section and Description of Proposed Amendments	Date Discussed
E	Nonconforming situations; and improving sites incrementally	Article 2 allows for changes to Nonconforming Situations, but it's rarely been used because the entire Nonconforming Situation section is confusing and difficult to understand when it applies.	Reorganizes the entire Nonconforming section of Article 2. Clarifies when Nonconforming Review is required, and which criteria apply under various circumstances. Adds some situations that allow for Nonconforming Review: (1) Reinstatement of nonconforming status; (2) New construction allowances.	7/31/12; 10/2/12
		Many vacant properties have lost their nonconforming status, and the required improvements make it difficult to find tenants.	<u>ADC 2.340(1) Loss of Nonconforming Status</u> : Adds language to allow for reinstatement of nonconforming status. Uses same criteria in ADC for extending nonconforming status. This will make it easier for nonconforming situations to continue, and extensions of up to 2 years are already available for vacant buildings.	
		Nonconforming Review is a Type II process, when lesser reviews seem appropriate.	<u>ADC 2.350 Nonconforming Use Review Procedures</u> : Allows for Type I (administrative decision) for: (1) Changes to uses in the same use category; (2) Nonconforming lots of record; and (3) Nonconforming residential densities. Clarifies situations that require Type II review (bolded items are new): (1) Extension or reinstatement of nonconforming status; (2) Change to use prohibited in the base zone; (3) New construction or structural expansions; (4) Expansion of operations (e.g., hours, staffing, outside storage); (5) Change in use that intensifies off-site impacts.	
		It's unclear what the relationship is between Nonconforming review and other land use reviews. Are both needed?	<u>ADC 2.360 Nonconforming Use Review Criteria</u> : Adds criteria that are similar to Site Plan and Conditional Use reviews, but they address neighborhood compatibility and impact more specifically, such as operating characteristics, adequate street capacity through the TSP horizon year, parking, etc.	
		Required parking lot upgrades on nonconforming sites seems excessive.	<u>ADC 2.370 (2) (a) Sites Non-conforming in Parking Spaces</u> : Adds new language to exempt sites nonconforming in parking spaces from improvements when only 1 or 2 new spaces are required. Only new parking areas need to be improved through Type I-L process.	
		Requirements for new development on nonconforming sites to make improvements that are "commensurate with development" is confusing or unpredictable, and improvements can be cost-prohibitive.	<u>ADC 2.370(2)(b) Improvements to Nonconforming Development</u> : Modified to require site improvements only when new development requires a building permit and improvements are valued at \$25,000 or more; requires additional 10% toward bringing site into compliance; list is now in priority order: (1) Enhance waterfront in Willamette River Greenway; (2) Front yard landscaping; (3) Buffering and screening; (4) Landscaping in existing setbacks; (5) Travel aisles and parking areas; (6) Interior parking lot landscaping. This will ensure that nonconforming sites are improved gradually over time without requiring unreasonable improvements, and in order of priority related to neighborhood impacts.	
F	Small-scale manufacturing in mixed use and commercial zones	Current code doesn't directly address small-scale manufacturing. Manufacturing is not an allowed use in most mixed use and commercial zones.	<u>ADC 4.050 and 5.060 Schedule of Permitted Uses</u> : Adds Small-scale Manufacturing and Industrial Office use categories to Schedule of Permitted Uses to permit in some commercial and mixed-use zones.	6/19/12
		There is also no differentiation in the Code between Industrial Office and other Office uses. Industrial Office uses can be compatible with uses allowed in commercial and industrial zones.	<u>ADC 22.045 Use Category Descriptions (new)</u> : Adds Small-scale Manufacturing use category for artisan goods or specialty foods up to 10,000 square feet & <u>ADC 22.110 Offices</u> : add Industrial Office use category that would allow industrial uses that are conducted in an office-like setting with no off-site impacts for uses such as computer software designers and engineers; and <u>ADC 22.040(3) Manufacturing and Production</u> : update exception language to reflect new industrial categories.	

PLEASE NOTE: The ADC references in the matrix refer to a document of proposed revisions that staff are working on. In some cases, the numbering is different than the current ADC section numbering.

ATTACHMENT C: BUSINESS READY TASK FORCE ISSUE MATRIX

	Issue	Code Obstacles	Albany Development Code (ADC) Section and Description of Proposed Amendments	Date Discussed
G	Non-industrial uses in industrial zones	There has been interest in using vacant industrial buildings in the LI zone for commercial uses, but the options are currently very limited. Any ADC revisions need to balance the desire to use vacant buildings with the need to maintain an inventory of industrial properties available for industrial uses.	ADC 4.050 Schedule of Permitted Uses and 4.060 Special Condition (26): Allows retail sales and service uses and traditional office uses in existing LI buildings through a conditional use process as long as additional standards are met, which address neighborhood impacts and ensure the new use does not preclude an industrial use going back on the site. See Issue E - 2.350(2) Non-Conforming Uses: When a site is or was last occupied by a nonconforming use, per Section, the use can change to another nonconforming use (such as commercial uses in industrial zones) through a Nonconforming Use Review in ADC 2.360 (1). New standards in 2.360(1) (h-k) would apply that ensure the use does not preclude an industrial use on the site in the future.	10/2/12
H	Adaptive reuse and infill downtown	Multi-Family Recreation and Open Space requirements can be challenging to meet in an urban setting; many are in close proximity to paths and parks, and other downtown open space amenities.	ADC 8.220 (1) <u>Multi-Family Open Space and (2) Children's Play Area Requirements</u> : Exempts new multi-family in the CB, HD, LE, WF and MUR zones from the current open space formula, but requires 1 "amenity" that can be indoors or outdoors.	9/11/12; 10/2/12
		Multi-Family private open space (balconies or patios) in downtown, may not be compatible infill in historic districts nor work well within an urban setting.	ADC 8.230 <u>Multi-Family Private Open Space</u> : Exempts new multi-family in CB, HD and LE from private open area requirements.	
		Design standards should not apply to upper floor redevelopment within existing buildings.	ADC 8.250(2) <u>Multi-Family Functional Design and Building Details</u> : Exempts new multi-family in the HD, CB and LE zones and multi-family on upper floors from entrance standards.	
I	Home Businesses	Home businesses are allowed outright subject to meeting subjective standards. Complaints are challenging to process with subjective standards.	ADC 3.090-3.1810 <u>Home Businesses</u> . The proposal includes two levels of home businesses - those that can meet the clear and objective standards would be allowed outright like they are now but with an administrative checklist review (free) and those that cannot meet clear and objective standards would be processed as a conditional use Type II to allow neighborhood input. See the language in Attachment B and the matrix in Attachment D for more details on the proposed revisions.	5/22/12; 6/19/12; 9/11/12
ISSUES REVIEWED 9/24/13				
J	Minimum Parking Requirements	Some parking requirements are relatively high compared to other cities.	ADC 9.020 <u>Parking Space Requirements</u> : Consolidates parking standards from Article 3, 4, and 5 into Article 9. Changes the basis for requirements from gross to net square footage. Relaxes parking requirements for the following uses: Furniture, appliance, etc. sales from 500 to 800 sq ft; Building and farm supplies from 500 to 700 sq ft; Offices from 300 to 400 sq ft; Medical and Dental from 200 to 250 sq ft; Retail from 200/300 to 400 sq ft; Multi-family 3+ bedrooms from 2.25 to 2.0 per unit.	10/2/12
		Missing parking requirements for several uses leaves it open for interpretation.	ADC 9.020 <u>Parking Space Requirements</u> : Adds parking standards for missing uses and when a use is not listed, the Director will determine if the use is similar in parking needs to a listed use, and if not, may approve an alternative standard.	
		No clear option is given to present alternative parking demand based on specific experience or other measurement.	ADC 9.020 (4) <u>Unspecified Uses and Alternative Standards</u> : Enables Director to approve alternative parking standards provided by the applicant from other industry sources, such as other comparable City parking standards or the ITE Parking Generation Manual.	
		On-street parking is only allowed for limited uses and in limited zones.	ADC 9.025 <u>Parking in the Public Right-of-Way (new)</u> : Reduces required off-street parking by 1 space for every on-street space (=25 ft of street frontage) abutting the development for up to 50 percent of the requirement. Not allowed within 100 feet of a residential zone or the Elm Street zone.	7/31/12; 10/2/12
		Currently there are limited opportunities for parking reductions.	ADC 9.030 <u>On-Site Parking Reductions (new)</u> : Adds opportunities to reduce on-site parking: (1) Change of Use: No additional parking will be required when the new use requires no more than two additional vehicle and/or bicycle parking spaces.	10/2/12

PLEASE NOTE: The ADC references in the matrix refer to a document of proposed revisions that staff are working on. In some cases, the numbering is different than the current ADC section numbering.

ATTACHMENT C: BUSINESS READY TASK FORCE ISSUE MATRIX

	Issue	Code Obstacles	Albany Development Code (ADC) Section and Description of Proposed Amendments	Date Discussed
			(2) Tree Preservation: For each tree 8 inches in diameter and larger that is preserved, allow 1 less space up to a maximum of 10 % of the total parking space requirement. (3) Seasonal Outdoor Seating: Exempts areas up to 500 square feet from parking requirements. (4) Multi-Tenant Developments: Allows a 10% parking reduction. (5) Alternative Modes, Carpooling: For developments with 10 or more employees, parking may be reduced up to 10 percent for listed activities.	
K	Overflow and Temporary Parking	Some uses require occasional overflow parking and it is costly to develop paved parking lots. The Code does not have a provision for temporary parking needs.	<u>ADC 1.270 When Land Use Applications are Not Required</u> : Adds cross-reference to temporary parking standards. <u>ADC 9.120 Parking Area Improvement Standards - (3) Surfacing</u> : Clarifies that only the parking required for the day-to-day use needs to be paved. <u>ADC 9.125 Occasional Overflow Parking (new)</u> : Adds new standards to allow unpaved parking up to 15,000 square feet for occasional overflow needs with some improvements such as buffering and screening to adjacent uses and a 20-foot setback from a right-of-way. <u>ADC 9.020 Parking Space Requirements</u> . Add note that temporary uses are not required to provide parking spaces.	10/2/12
L	Tree cutting on industrial land	The existing tree protection standards are subjective and they provide little flexibility to account for the unique needs of industrial development.	<u>ADC 9.207 (Tree Protection) Applicability</u> : Adds language that would allow the Director, in consultation with the City Forester, to grant exceptions to any of the tree cutting standards for undeveloped industrial properties. (Note: Tree regulations will be revisited in their entirety soon.)	9/11/12
M	Planned Developments	Too many steps in the Planned Development (PD) process. When PDs are phased, each phase should not have to meet the standards separately, rather the development overall. Too much open space is required, especially in urban areas. The indoor recreation requirement is excessive. Density calculation language is confusing Concern that the flexibility allowed within PDs may not be compatible with adjacent uses and the neighborhood.	<u>ADC 11.260 Procedure and 11.300 Application Contents</u> : Combines the first and second steps in the process (preliminary review and interim review). After the pre-application, the Planning Commission would review the interim plan. Staff will continue to review final plan. <u>ADC 11.325 Phasing a Planned Development (new)</u> : Adds a new section that allows planned developments to be phased and language that allows some flexibility in where amenities are provided: "Each phase shall provide a suitable share of the development facilities and amenities as approved." <u>ADC 11.330 (1) PD Standards - Common Open Space and Areas</u> : Reduces the amount of common space required from 40% to a range of 20-30% by zone. Additional language is proposed that clarifies what can count towards the open space requirements; and <u>(2) PD Standards - Natural Resources</u> : When natural or cultural resources exist in the PD, they should be protected. <u>ADC 11.330(2) PD Standards - Indoor Recreation Area Standards</u> : Removes requirement for providing indoor recreation, but it's still an option that counts toward the common area requirements. <u>ADC 11.330(4) PD Standards - Density Transfer</u> : Amends to allow the full amount of density to transfer within the development from land dedicated to streets and parks; adds the density maximums by zoning district. <u>ADC 11.330(5) to (7) PD Standards Related to Compatibility</u> : Adds standards to address building spacing, location of taller buildings and perimeter compatibility with adjacent properties and neighborhoods.	10/23/12

PLEASE NOTE: The ADC references in the matrix refer to a document of proposed revisions that staff are working on. In some cases, the numbering is different than the current ADC section numbering.

ATTACHMENT D: HOME BUSINESS STANDARDS MATRIX

	Current Code	PROPOSED: Allow Outright	PROPOSED: With Conditional Use Approval
Review Process	Home business allowed if it meets the standards (no form or application, no fee)	Home business allowed administratively if it meets the clear and objective standards (checklist form, no fee)	INCREASE ALLOWANCES FOR HOME BUSINESSES: Businesses that do not meet the clear and objective standards will be considered as a Conditional Use (CU). The CU review requires notice to neighbors and gives them a chance to comment on the proposal or request a public hearing. (fee)
Employees	Residents and 1 non-resident up to 20 hrs/week	INCREASE: Residents and 1 non-resident employee.	INCREASE: Residents and up to 2 FTE of non-resident employees.
Off-site Impacts	no <i>offensive</i> noise, smoke, dust, odors, vibrations, etc. at property line	No detectable noise (more than 50 dbls), smoke, dust, heat, odors, or vibrations at property line	
Signs	One small unlit sign on wall of residence, not larger than 12"x18"	NO CHANGE: One small unlit sign on wall of residence, not larger than 12"x18"	
Residential Character	No visible <u>outside storage</u> of materials other than plant materials	NO CHANGE, COMBINE 2 STANDARDS: No outside <u>display or storage</u> of materials or commodities to indicate from the exterior that any building on the site is being used for any purpose other than a residential use. (slightly modified)	
	No <u>display</u> to indicate from exterior that the building is being used for any purpose other than a dwelling.		
	Use does not <i>adversely affect residential character</i> of neighborhood	DEFINING ADVERSLEY AFFECT RESIDENTIAL CHARACTER: Business <u>conducted inside enclosed building</u> except for nursery plant production	DEFINING ADVERSLEY AFFECT RESIDENTIAL CHARACTER: <u>Size & Scale</u> . Use occupies up to a 500 square feet within the residence, OR up to 1,000 square feet if in a garage or an accessory building
Traffic & Parking	There is not <i>excessive</i> generation of traffic, including frequent delivers or pickups by trucks or other vehicles	DEFINING EXCESSIVE TRAFFIC: 3 deliveries/pick-ups per day by trucks or non-resident vehicles	Could exceed deliveries/pick-ups allowed outright through Conditional Use review and approval
		DEFINING EXCESSIVE TRAFFIC: Only 2 customer vehicles at a time	Could exceed # of customer vehicles allowed outright with Conditional Use review and approval
		DEFINING EXCESSIVE TRAFFIC: <u>Sales</u> . Products produced on-site or associated with services provided on site; by appointment only	Could exceed limits on sales/services allowed outright with Conditional Use review and approval
Prohibited Uses	Lists prohibited uses.	Slight revisions to automotive repair uses that are prohibited and add two new prohibited uses: kennels and dispatch or assembly of workers	