

ORDINANCE NO. 682

AN ORDINANCE OF THE CITY OF WILSONVILLE AN AMENDING THE WILSONVILLE DEVELOPMENT CODE TO LIMIT THE NUMBER OF DWELLING UNITS THAT CAN BE ACCESSED BY A PRIVATE DRIVE, TO REQUIRE THAT PRIVATE DRIVES BE BUILT TO CERTAIN STANDARDS, AND TO PROVIDE CONSISTENCY AND CLARITY THROUGHOUT THE DEVELOPMENT CODE WHEN REFERRING TO DRIVES, STREETS, ROADS AND SIMILAR TERMS

WHEREAS, during the October 2008 City Council hearing on the Willamette Landing subdivision, concerns surrounding private streets in single-family subdivisions were raised; and

WHEREAS, the Planning Commission held a series of work Sessions over period of July 2009 to March 2010 to review the concerns, solutions to address the concerns, and Development Code amendments to implement the solutions; and

WHEREAS, the concerns, solutions, and implementing Development Code amendments reviewed by the Planning commission were based on a collaborative effort of Planning, Engineering, Public Works, Building, and Natural Resources Staff reviewing the City's experience with private streets in single-family development; and

WHEREAS, two major concerns about private streets in single-family residential development are the burden property owners or the public can face to finance reconstruction of a damaged or failing private street and the lack of City services provided to private streets; and

WHEREAS, the conditions raising these concerns can be minimized in future development by limiting the number of single-family dwellings that can be accessed by a private drive to four, and establishing construction standards for private drives in single-family residential development that help ensure a useful lifespan and structural maintenance schedule similar to public streets; and

WHEREAS, lack of clarity and confusion in the Development Code from the inconsistent use of words such as "street", "drive", "road" and similar terms can be rectified with a minor amendments to numerous Code Sections ; and

WHEREAS, the Planning Commission conducted a public hearing on this matter on April 14, 2010 and upon consideration of testimony and evidence from the public and city staff, unanimously recommended that the City Council approve the proposed Development Code amendments; and

WHEREAS, the Council having conducted a public hearing on the proposal on August 2, 2010, and considering the entire record herein finds that the proposed Development Code amendment complies with applicable text amendment criteria and is in the best interest of the community by providing for residential development with well-built and well-maintained streets and drives as well as Development Code text that is clear and consistent when referring to streets, drives, and similar terms; and

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: Findings. The council adopts as findings and conclusions the foregoing recitals and the staff report in this matter attached hereto as Exhibit A and adopted as if set forth fully herein.

Section 2: Amendments.

1. That Wilsonville Code Section 4.001 Definitions, be amended to modify the definitions for “Alley”, “Curb Line”, “Lot Line, Front”, “Lot, Through”, “Multi-family Housing”, “New Manufactured Home Park or Subdivision”, “Private Way”, “Roadway”, “Site Area, Net”, “Street”, “Yard, Front”, “Yard, Side”, add definitions for “Private Drive”, “Private Access/Circulation Drive-Industrial/Commercial/Multi-family/Mixed Use”, “Residential Private Access Drive”, “Pre-existing Residential Private Drive”, “Road”, “Shared Roadway”, “Private Street”, and delete the definition of “Lane”, as follows:

Alley: A ~~minor access way~~ **public or private way which includes a roadway** used to provide vehicular ingress and egress to the back or side of properties otherwise abutting on a street, **private drive, or shared common area.** An alley typically has a width of no more than twenty (20) feet.

Curb Line: The line indicating the edge of the ~~vehicular~~ roadway within the overall right-of-way.

Lane: See “Alley”

Lot Line, Front: The boundary line of a lot abutting a street **or private drive**, other than a boundary line along a side or rear yard. If the lot does not abut a street **or private drive**, the narrowest boundary line shall be considered to be the front. In the Village zone: the case of an interior lot, the lot line separating the lot from the public space, ~~public street~~ **or private drive**. In the case of a corner lot, the shortest lot line along a public space, ~~public street~~ **or private drive**.

The boundary line of a lot abutting a street or private drive, other than a boundary line along a side or rear yard. If the lot does not abut a street or private drive, the narrowest boundary line shall be considered to be the front. **A private drive bounded on two sides by a single lot shall not be considered in determining the front lot line.**

Lot. Through: Any lot, except a corner lot, that abuts two or more streets or private drives other than a freeway. **Private drives which are bounded on two sides by a single lot shall not be considered in determining if a lot is a through lot.**

Multi-family housing. ~~For purposes of this ordinance, multi-family housing is defined as a building~~ **Buildings** or structure **structures** that contains three or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes, apartment houses, condominiums, congregate residences, townhouses and similar non-transient dwellings; [Added by Ord. 649, 6/2/08]

New Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets or private drives, and either final site grading or the pouring of concrete pads) was completed on or after the effective date of flood plain management regulations adopted by the City.

Private Drive- A private way, other than an alley, that includes a roadway.

- A. **Private Access/Circulation Drive-Industrial/Commercial/Multi-family/Mixed Use: A private drive in an industrial, commercial, multi-family (including mobile home parks), or mixed-use development providing vehicular ingress and egress to the development and/or internal circulation.**
- B. **Residential Private Access Drive: A private drive in a non multi-family residential development providing primary vehicle access to no more than four (4) dwelling units, excluding accessory dwelling units. A residential private access drive provides for no through vehicle access and is not extendable. This definition does not include private alleys.**
- C. **Residential Private Drive , Pre-existing- A private drive in a non multi-family residential development approved prior to (effective date of ordinance) including those that provides vehicular access to more than four (4) dwelling units.**

Private Way: A private area dedicated to circulation, including the roadways ~~for private streets,~~ bikeways, paths or utilities.

Road: Same as "Street"

Roadway: The portion of a ~~street right-of-way~~ **public way or street or private way** developed for use by vehicular traffic.

Roadway, Shared: A roadway that is designed to be shared by additional users besides motor vehicles, especially bicycles.

Site Area, Net: The area of a development site, excepting all areas in ~~public~~ streets or **private drives**, driveways, and parking spaces.

Street: The entire right-of-way of a dedicated public way, which provides vehicular and pedestrian access to adjacent properties. ~~It shall include the terms street, court, road, drive, and other such terms.~~ Except in the Village zone, a right-of-way less than twenty (20) feet in width shall not be recognized as a street.

Street, Private: Same as Private Drive

Yard, Front: Any yard abutting a street **or private drive**, unless one side is determined to meet the definition of a side yard, below. **Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a front yard.**

Yard, Side: Any yard abutting a side lot line and, for corner lots, the side with the longest street frontage **along a street or private drive**. Where a corner lot has an existing building with a primary entrance, the ~~street-side~~ **along a street or private drive** without the entrance shall be deemed the side yard. Where a corner lot has the same amount of frontage on both streets **or private drives**, and no primary building entrance facing either street **or private drive**, the Planning Director may designate the side yard in order to determine required setbacks. **Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a side yard.**

2. That Wilsonville Code Section 4.035 Site Development Permits, Subsection (.04), be amended as follows:

(.04) Site Development Permit Application.

A. An application for a Site Development Permit shall consist of the materials specified as follows, plus any other materials required by this Code.

1. A completed Permit application form, including identification of the project coordinator, or professional design team.
2. An explanation of intent, stating the nature of the proposed development, reasons for the Permit request, pertinent background information, information required by the development standards and other information specified by the Director as required by other sections of this Code because of the type of development proposal or the area involved or that may have a bearing in determining the action to be taken. As noted in Section 4.014, the applicant bears the burden of proving that the application meets all requirements of this Code.
3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all individuals or partners in ownership of the affected property.
4. Legal description of the property affected by the application.
5. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size and impact of the development on the community, public facilities and adjacent properties; and except as otherwise specified in this Code, shall be accompanied by the following information,
6. Unless specifically waived by the Director, the submittal shall include: ten (10) copies folded to 9" x 12" or (one (1) set of full-sized scaled drawings and nine (9) - 8 1/2" x 11" reductions of larger drawings) of the proposed Site Development Plan, including a small scale vicinity map and showing:
 - a. Streets, **private drives**, driveways, sidewalks, pedestrian ways, off-street parking, loading areas, garbage and recycling storage areas, power lines and railroad tracks, and shall indicate the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles.

- b. The Site Plan shall indicate how utility service , including sanitary sewer, water and storm drainage, are to be provided. The Site Plan shall also show the following off-site features: distances from the subject property to any structures on adjacent properties and the locations and uses of streets, **private drives**, or driveways on adjacent properties.
- c. Location and dimensions of structures, utilization of structures, including activities and the number of living units.
- d. Major existing landscaping features including trees to be saved, and existing and proposed contours.
- e. Relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, **private drives**, and open space.
- f. Topographic information sufficient to determine direction and percentage of slopes, drainage patterns, and in environmentally sensitive areas, e.g., flood plain, forested areas, steep slopes or adjacent to stream banks, the elevations of all points used to determine contours shall be indicated and said points shall be given to true elevation above mean sea level as determined by the City Engineer. The base data shall be clearly indicated and shall be compatible to City datum, if bench marks are not adjacent. The following intervals shall be shown:
 - i. One (1) foot contours for slopes of up to five percent (5%);
 - ii. Two (2) foot contours for slopes of from six percent (6%) to twelve percent (12%);
 - iii. Five (5) foot contours for slopes of from twelve percent (12%) to twenty percent (20%). These slopes shall be clearly identified, and
 - iv. Ten (10) foot contours for slopes exceeding twenty percent (20%).
- g. A tabulation of land area, in square feet; devoted to various uses such as building area (gross and net rentable), parking and paving coverage, landscaped area coverage and average residential density per net acre.
- h. An application fee as set by the City Council.

- i. If there are trees in the development area, an arborist's report, as required in Section 4.600. This report shall also show the impacts of grading on the trees.
- j. A list of all owners of property within 250 feet of the subject property, printed on label format. The list is to be based on the latest available information from the County Assessor.

3. That Wilsonville Code Section 4.111 Zoning - Zone Boundary Lines, Subsections (.01) and (.03), be amended as follows:

(.01) Except where reference is made on said map to a street line, political boundary, section line, legal description, or other designated line by dimensions shown on said map or maps, the zone boundary lines are intended to follow property lines, lot lines, or centerlines of streets, **private drives**, alleys, streams, or railroads or the extension of such lines as they existed at the time of the adoption of this Code.

(.03) Whenever any ~~street, alley, or~~ public way is vacated by official action as provided by law, the zone adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulations of the extended zone or zones.

4. That Wilsonville Code Section 4.113 Standards Applying To Residential Developments In Any Zone, Subsections (.02) and (.03), be amended as follows:

(.02) Open Space Area shall be provided in the following manner:

A. In all residential subdivisions including subdivision portions of mixed use developments where (1) the majority of the developed square footage is to be in residential use or (2) the density of residential units is equal or greater than 3 units per acre, at least twenty-five percent (25%) of the area shall be in open space excluding streets **and private drives**. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations and usable open space such as public park area, tot lots, swimming and wading pools, grass area for picnics and recreational play, walking paths, and other like space. For subdivisions with less than 25% SROZ lands and those with no SROZ lands, the

minimum requirement shall be ¼ acre of usable park area for 50 or less lots, ½ acre of usable park area for 51 to 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. Front, side and rear yards of individual residential lots shall not be counted towards the 25% open space.

Provided, however, where SROZ is greater than 25% of the developable area for any development, the development must also provide ¼ acre of usable park area for a development of less than 100 lots, and ½ acre of usable park area for a development of 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. The Development Review Board may waive the usable open space requirement if there is substantial evidence in the record to support a finding that the intent and purpose of the requirement will be met in alternative ways. Irrespective of the amount of SROZ, a development may not use phasing to avoid the minimum usable space requirement.

Multi-family developments shall provide a minimum of 25% open space excluding streets **and private drives**. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations, and outdoor recreational area as provided in 4.113(.01)(A)(1) through (5) [Amended by Ord. 589 8/15/05]

(.03) **Building Setbacks** (for Fence Setbacks, see subsection .08)

A. For lots over 10,000 square feet:

1. Minimum front yard setback: Twenty (20) feet.
2. Minimum side yard setback: Ten (10) feet. In the case of a corner lot less than one hundred (100) feet in width, abutting more than one street **or tract with a private drive**, the side yard on the street **or private drive** side of such lot shall be not less than twenty percent (20%) of the width of the lot, but not less than ten (10) feet.
3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street **or tract with a private drive** upon which the key lot faces and the setback required on the adjacent interior lot.

4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
 5. Minimum setback to garage door or carport entry: Twenty (20) feet. Except, however, in the case of an alley where garages or carports may be located no less than four (4) feet from the ~~right-of-way~~ **property line adjoining the alley.**
 6. Minimum rear yard setback: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.
- B. For lots not exceeding 10,000 square feet:
1. Minimum front yard setback: Fifteen (15) feet, with open porches allowed to extend to within ten (10) feet of the property line.
 2. Minimum side yard setback: One story: five (5) feet; Two or more stories: seven (7) feet. In the case of a corner lot, abutting more than one street **or tract with a private drive**, the side yard on the street side of such lot shall be not less than ten (10) feet.
 3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street **or tract with a private drive** upon which the key lot faces and the setback required on the adjacent interior lot.
 4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
 5. Minimum setback to garage door or carport entry: Twenty (20) feet. Wall above the garage door may project to within fifteen (15) feet of property line, provided that clearance to garage door is maintained. Where access is taken from an alley, garages or carports may be located no less than four (4) feet from the ~~right-of-way~~ **property line adjoining the alley.**

6. Minimum rear yard setback: One story: fifteen (15) feet. Two or more stories: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.

5. That Wilsonville Code Section 4.116 Standards Applying To Commercial Developments In Any Zone, Subsection (.11), be amended as follows:

(.11) Hotels or Motels.

C. Front Yard Setback: Thirty (30) feet, unless located in the Old Town overlay zone, in which case the standards of the overlay zone shall apply. Structures on corner lots shall observe the minimum setback on both streets **or tracts with a private drive.**

6. That Wilsonville Code Section 4.118 Standards applying to all Planned Development Zones, Subsection (.03), be amended as follows:

(.03) Notwithstanding the provisions of Section 4.140 to the contrary, the Development Review Board, in order to implement the purposes and objectives of Section 4.140, and based on findings of fact supported by the record may:

A. Waive the following typical development standards:

1. minimum lot area;
2. lot width and frontage;
3. height and yard requirements;
4. lot coverage;
5. lot depth;
6. street widths;
7. sidewalk requirements;
8. height of buildings other than signs;
9. parking space configuration;
10. minimum number of parking or loading spaces;
11. shade tree islands in parking lots, provided that alternative shading is provided;

12. fence height;
 13. architectural design standards;
 14. transit facilities; and
 15. solar access standards, as provided in Section 4.137.
- E. Adopt other requirements or restrictions, inclusive of, but not limited to, the following:
1. Percent coverage of land by buildings and structures in relationship to property boundaries to provide stepped increases in densities away from low-density development.
 2. Parking ratios and areas expressed in relation to use of various portions of the property and/or building floor area.
 3. The locations, width and improvement of vehicular and pedestrian access to various portions of the property, including portions within abutting street **or private drive**.
 4. Arrangement and spacing of buildings and structures to provide appropriate open spaces around buildings.
 5. Location and size of off-street loading areas and docks.
 6. Uses of buildings and structures by general classification, and by specific designation when there are unusual requirements for parking, or when the use involves noise, dust, odor, fumes, smoke, vibration, glare or radiation incompatible with present or potential development of surrounding property. Such incompatible uses may be excluded in the amendment approving the zone change or the approval of requested permits.
 7. Measures designed to minimize or eliminate noise, dust, odor, fumes, smoke, vibration, glare, or radiation which would have an adverse effect on the present or potential development on surrounding properties.
 8. Schedule of time for construction of the proposed buildings and structures and any stage of development thereof to insure consistency with the City's adopted Capital Improvements Plan and other applicable regulations.

9. A waiver of the right of remonstrance by the applicant to the formation of a Local Improvement District (LID) for streets, utilities and/or other public purposes.
 10. Modify the proposed development in order to prevent congestion of streets and/or to facilitate transportation.
 11. Condition the issuance of an occupancy permit upon the installation of landscaping or upon a reasonable scheduling for completion of the installation of landscaping. In the latter event, a posting of a bond or other security in an amount equal to one hundred ten percent (110%) of the cost of the landscaping and installation may be required.
 12. A dedication of property for streets, pathways, and bicycle paths in accordance with adopted Facilities Master Plans or such other streets necessary to provide proper development of adjacent properties.
7. That Wilsonville Code Section 4.120 Zones. RA-H Residential Agricultural - Holding Zone, Subsections (.04) and (.09), be amended as follows:

(.04) Dimensional Standards:

- B. Minimum Front and Rear Yard Setbacks: Thirty (30) feet. Minimum Side Yard Setback: Ten (10) feet.
 1. Legal, non-conforming RA-H lots in the Old Town Overlay Zone shall have the following setbacks:
 - a. Front: Ten (10) feet for single family dwellings, for all other uses: none;
 - b. Rear: Fifteen (15) feet;
 - c. Side: Five (5) feet.
 2. Minimum setback for residential garage or carport: At least five (5) feet behind the front of the nearest residential unit on the property. In no case shall the front of a garage or carport be located less than twenty (20) feet behind a sidewalk or a public right-of-way providing access to that garage or carport. Except, however, in the case of an alley where garages or carports

are located within five (5) feet of the ~~right-of-way~~ **property line adjoining the alley.**

(.09) Block and access standards:

1. Maximum block perimeter: 1,800 feet.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard. [Amended by Ordinance No. 538, 2/21/02.]
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

8. That Wilsonville Code Section 4.122 Residential Zone, Subsection (.07), be amended as follows:

(.07) Other Standards:

B. Minimum street frontage of lot: Thirty (30) feet; however, no street frontage is required when the lot fronts on an approved, platted private ~~road~~-**drive**.

G. Block and access standards:

1. Maximum block perimeter in new land divisions: 1,800 feet.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard.
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or

designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

9. That Wilsonville Code Section 4.124 Standards Applying To All Planned Development Residential Zones, Subsection (.06), be amended as follows:

(.06) Block and access standards:

1. Maximum block perimeter in new land divisions: 1,800 feet.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard.
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

10. That Wilsonville Code Section 4.124.2 PDR-2, Subsection (.04), be amended as follows:

(.04) Other Standards:

- B. Minimum street frontage of lot: Thirty (30) feet; however, no street frontage is required when the lot fronts on an approved, platted private road **drive**.

11. That Wilsonville Code Section 4.124.3 PDR-3, Subsection (.04), be amended as follows:

(.04) Other standards:

- B. Minimum street frontage of lot: Forty (40) feet; however, street frontage may be reduced to twenty-four (24) feet when the lot fronts a cul-de-sac. No street frontage is required when the lot fronts on an approved, platted private road **drive**.

12. That Wilsonville Code Section 4.124.4 PDR-4, Subsection (.04), be amended as follows:

(.04) Other standards:

B. Minimum street frontage of lot: Thirty-five (35) feet; however, street frontage may be reduced to twenty-four (24) feet when the lot fronts a cul-de-sac. No street frontage is required when the lot fronts on an approved, platted private ~~road~~ **drive**.

13. That Wilsonville Code Section 4.125 V – Village Zone, Subsections (.05), (.18), and table V-1, be amended as follows:

(.05) Development Standards Applying to All Developments in the Village Zone. In addition to other applicable provisions of the Wilsonville Planning and Land Development Ordinance, all development in the Village zone shall be subject to Tables V-1 through V-4, and to the following. If there is a conflict between the provisions of the Village zone and other portions of the Code, then the provisions of this section shall apply.

A. Block, Alley, Pedestrian and Bicycle Standards:

1. Maximum Block Perimeter: 1,800 feet, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent a block perimeter from meeting this standard.
2. Maximum spacing between streets **or private drives** for local access: 530 feet, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions from meeting this standard. Under such circumstances, intervening pedestrian and bicycle access shall be provided, with a maximum spacing of 330 feet from those local streets **or private drives**, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions from meeting this standard.

.Table V-1: Development Standards

| Building Type | Min. Lot Size (sq.ft.) | Min. Lot Width (ft.) | Min. Lot Depth (ft.) | Max. Lot Coverage (note) | Min. Frontage Width ^{10, 12} (%) | Max. Bldg. Height ⁹ (ft.) | Setbacks ^{10, 13, 20} | | | | Alley-Loaded Garage (note) | Street-Loaded Garage (note) |
|---|------------------------|----------------------|----------------------|--------------------------|---|--------------------------------------|--------------------------------|------------------|-----------------|-----------------|----------------------------|-----------------------------|
| | | | | | | | Front Min. (ft.) | Front Max. (ft.) | Rear Min. (ft.) | Side Min. (ft.) | | |
| Commercial Buildings - Village Center ¹⁴ | NR | NR | NR | 1 | 90 | 60 | NR ³ | 5 | NR | NR | NR | NA |
| Hotels - Village Center ¹⁴ | NR | NR | NR | 1 | 80 | 60 | NR ³ | 15 | NR | NR | NR | NA |
| Mixed Use Buildings - Village Center ¹⁴ | NR | NR | NR | 1 | 90 | 60 | NR ³ | 8 | NR | NR | NR | NA |
| Multi-Family Dwellings - Village Center ¹⁴ | NR | NR | NR | 1 | 80 | 45 | 5 ⁴ | 15 | NR | NR | NR | NA |
| Row Houses ¹¹ - Village Center ¹⁴ | NR | NR | NR | 1 | 80 | 45 | 5 ⁴ | 10 | NR | NR | NR | NA |
| Commercial Buildings | NR | NR | NR | 1 | 60 | 45 | NR | 15 | NR | NR | NR | NA |
| Mixed Use Buildings | NR | NR | NR | 1 | 60 | 45 | NR | 15 | NR | NR | NR | NA |
| Multi-Family Dwellings | NR | NR | NR | 1 | 60 | 45 | 8 ⁴ | 15 | NR | NR | NR | NA |
| Row Houses ¹¹ | NR | 15 | 50 | 1 | 80 | 45 | 8 ⁵ | 15 | NR | NR | NR | NA |
| Duplexes | 4,000 | 45 | 70 | 2 | 60 ¹⁶ | 35 | 12 ^{5,6} | 20 ⁶ | 5 | 5 ¹⁵ | 7 | 8,17,18 |
| Single-Family Dwellings | 2,250 | 35 | 50 | 2 | 60 ¹⁰ | 35 | 12 ^{3,6} | 20 ⁶ | 5 | 5 ¹⁵ | 7 | 8,17 |

- Notes:
- NR No Requirement
 - NA Not Allowed
 - 1 Lot < 8000sf: NR; Lot >8000sf: 80% (Max. Lot Coverage)
 - 2 Small lots: 75%, Medium Lots: 65%, Standard and Large Lots: 55%, Estate Lots: 45% Maximum Lot Coverage
On lots where detached accessory buildings are built, maximum lot coverage may be increased by 10%.
 - 3 Bay windows, balconies, and other structural building projections above 8 ft. may encroach up to 5 ft. into the Public Way; canopies, awnings, and other non-structural projections may encroach up to 8 ft. into the Public Way.
 - 4 Porches, stairs, stoops, decks, canopies, balconies, bay windows, chimneys, awnings, and other building projections may encroach up to the Public Way.
 - 5 Porches, stoops, decks, canopies, balconies, bay windows, chimneys, awnings, and other building projections may encroach to within 8 ft. of the Public Way. Stairs may encroach to the Public Way.
 - 6 For Standard, or Large Lots on Collector Avenues, front setbacks are 20 ft. min., (13' setback to porch), side street setbacks are 15' (8' setback to porch). Pie-shaped lots or lots with significant trees or grade banks at frontage have no maximum front setback.
 - 7 The garage setback from alley shall be between 3 and 5 foot or, when as optional parking space is located between the garage and the alley, shall be 16 ft. minimum. Lots with important trees, as identified in the Master Plan, or grade differences at the alley, affecting garage location shall be exempt from this requirement.
 - 8 Street-loaded garages shall be a minimum 20 ft. front setback to face of garage, and located a minimum of 5 ft. behind main façade of the associated dwelling unit.
 - 9 Vertical encroachments are allowed up to ten additional feet, for up to 10% of the building footprint; vertical encroachments shall not be habitable space.
 - 10 For Village Center buildings with lots fronting two or more streets, at least two facades shall be subject to the minimum frontage width and front setback requirements.
 - 11 Row Houses shall be attached; however, no more than ten units shall be contiguous along a street edge.
 - 12 See Definitions, 4.125.01, for measurement of Minimum Frontage Width.
 - 13 Front Setback is measured as the offset of the front lot line or a vehicular or pedestrian access easement line. On lots with alleys, Rear Setback shall be measured from the alley right-of-way rear lot line abutting the alley.
 - 14 See Figure 2A - Village Center Boundary & Land Use Plan in the Villebois Village Master Plan for areas included within the Village Center.
 - 15 On Estate Lots and Large Lots with frontage 70 ft. or wider, the minimum combined side yard setbacks shall total 15 ft. with a minimum of 5 ft. On Small and Medium Lots, minimum side setback shall be 0 ft. or as required by Building Code.
 - 16 For cluster housing with lots arranged on a courtyard, frontage shall be measured at the front door face of the building adjacent to a public right of way or a public pedestrian access easement linking the courtyard with the Public Way.
 - 17 Dwellings on lots without alley access shall be at least 36 feet wide.
 - 18 Duplexes with front-loaded garages are limited to one shared standard-sized driveway/apron.
 - 19 Maximum setbacks may be increased as necessary to accommodate building cod, public utility easements or public open space requirements.
 - 20 Lots are categorized as small, medium, standard, large or estate as shown in the Pattern Book.

- (.18) Village Zone Development Permit Process. Except as noted below, the provision of Sections 4.140(.02) through (.06) shall apply to development in the Village zone.

F. Refinements to Approved Villebois Village Master Plan

1. In the process of reviewing a SAP for consistency with the Villebois Village Master Plan, the Development Review Board may approve refinements, but not amendments, to the Master Plan. Refinements to the Villebois Village Master Plan may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section 4.125(.18)(F)(2), below. Amendments to the Villebois Village Master Plan may be approved by the Planning Commission as set forth in Section 4.032(.01)(B).

a. Refinements to the Master Plan are defined as:

- i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
- ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the Specific Area Plan.
- iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
- iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the affected SAP. For purposes of this subsection, "land uses" or "uses" are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small

detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.

- v. A change in density that does not exceed ten percent, provided such density change does not result in fewer than 2,300 dwelling units in the Village.
 - vi. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the function of collector or minor arterial ~~roadways~~ streets.
- b. As used herein, "significant" means:
- i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(F)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(F)(1)(a), above.
2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
- a. The refinements will equally or better meet the Goals, Policies and Implementation Measures of the Villebois Village Master Plan
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the SAP and Village area, and
 - c. The refinement will not preclude an adjoining or subsequent SAP area from development consistent with the Master Plan.
3. Amendments are defined as changes to elements of the Master Plan not constituting a refinement. Amendments to the Master Plan must follow the same procedures applicable to adoption of the Master Plan itself.

J. PDP Refinements to an Approved Specific Area Plan

1. In the process of reviewing a PDP for consistency with the approved Specific Area Plan, the DRB may approve refinements, but not amendments, to the SAP. Refinements to the SAP may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section (.18)(J)(2), below.
 - a. Refinements to the SAP are defined as:
 - i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
 - ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the Preliminary Development Plan.
 - iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
 - iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the Preliminary Development Plan. For purposes of this subsection, "land uses" or "uses" are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.
 - v. A change in density that does not exceed ten percent, provided such density change has not already been approved as a refinement to the underlying SAP or PDP, and does not result in fewer than 2,300 dwelling units in the Village.

- vi. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the functioning of collector or minor arterial ~~roadways~~ streets.
- b. As used herein, “significant” means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(J)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(J)(1)(a), above.
- 2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the conditions of the approved SAP, and the Goals, Policies and Implementation Measures of the Villebois Village Master Plan.
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the PDP and Village area, and
 - c. The refinement will not preclude an adjoining or subsequent PDP or SAP areas from development consistent with the approved SAP or the Master Plan.
- 3. Amendments to the SAP, not including SAP amendments for phasing, must follow the same procedures applicable to adoption of the SAP itself. Amendments are defined as changes to elements of the SAP not constituting a refinement.
- 4. Amendments to the SAP for phasing will be processed as a Class II administrative review proposal. [Section 4.125(.18)(J)(1) amended by Ord. No. 587, 5/16/05.]

O. FDP Refinements to an Approved Preliminary Development Plan

1. In the process of reviewing a FDP for consistency with the underlying Preliminary Development Plan , the DRB may approve refinements, but not amendments, to the PDP. Refinements to the PDP may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section 4.125(.18)(O)(2), below.

a. Refinements to the PDP are defined as:

i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.

ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the PDP.

iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.

iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the affected PDP. For purposes of this subsection, "land uses" or "uses" are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.

[Section 4.125(.18)(O)(1)(a)(iv) amended by Ord. No. 587, 5/16/05.]

v. Changes that are significant under the above definitions, but necessary to protect an important community resource or

substantially improve the functioning of collector or minor arterial ~~roadways~~ streets.

- b. As used herein, “significant” means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(O)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(F)(1)(a), above.
- 2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the approved conditions of approval of the PDP
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the PDP, the associated SAP, and
 - c. The refinement will not preclude adjoining or subsequent PDPs, associated or adjoining SAPs from development consistent with an approved SAP or the Villebois Village Master Plan.
- 3. Amendments to the PDP must follow the same procedures applicable to adoption of the PDP itself. Amendments are defined as changes to elements of the PDP not constituting a refinement.

14. That Wilsonville Code Section 4.137 Solar Access For New Residential Development, Subsection (.07), be amended as follows:

(.07) Adjustments to Design Standard. The Development Review Board shall reduce the percentage of lots that must comply with Section 4.137(.05) to the minimum extent necessary if it finds the applicant has shown it would cause or is subject to one or more of the following conditions.

A. Adverse impacts on density, cost, or amenities.

1. If the design standard in Section 4.137(.05)(A) is applied, either the resulting density is less than that proposed, or on-site development costs (e.g., grading, water, storm drainage and sanitary systems, and road) and solar related off-site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Section 4.137(.05)(A) would reduce density or increase per lot costs in this manner. The applicant shall show which, if any, of these or other similar site characteristics apply in an application for a development.
 - a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor, USGS data, or other officially recognized topographic information.
 - b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development code, that prevents given streets, **private drives**, or lots from being oriented for solar access, and it will exist after the site is developed.
 - c. Existing road patterns must be continued throughout the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets, **private drives**, or lots in the development from being oriented for solar access.
 - d. An existing public easement or right-of-way prevents given streets, **private drives**, or lots in the development from being oriented for solar access.
2. If the design standard in Section 4.137(.05)(A) applies to given lot(s), significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s)

comply with Section 4.137(.05)(A) is relevant to whether a significant development amenity is lost or impaired.

15. That Wilsonville Code Section 4.139.04 Uses and Activities Exempt from These Regulations (*SROZ Regulations*), Subsection (.06), be amended as follows:

(.06) Maintenance and repair of streets and utility services within rights-of way, easements, access road **drives** or other previously improved areas.

16. That Wilsonville Code Section 4.167 General Regulations - Access, Ingress and Egress, Subsection (.01), be amended as follows:

(.01) Each access onto streets **or private drives** shall be at defined points as approved by the City and shall be consistent with the public's health, safety and general welfare. Such defined points of access shall be approved at the time of issuance of a building permit if not previously determined in the development permit.

17. That Wilsonville Code Section 4.169 General Regulations – Double-Frontage Lots, Subsection (.01), be amended as follows:

(.01) Buildings on double frontage lots (i.e., through lots) and corner lots must meet the front yard setback for principal buildings on both streets **or tracts with a private drive**.

18. That Wilsonville Code Section 4.176 Landscaping, Screening, and Buffering, Subsection (.06), be amended as follows:

(.06) Plant Materials.

D. Street Trees. In order to provide a diversity of species, the Development Review Board may require a mix of street trees throughout a development. Unless the Board waives the requirement for reasons supported by a finding in the record, different types of street trees shall be required for adjoining blocks in a development.

1. All trees shall be standard base grafted, well branched and typical of their type as described in current AAN Standards and shall be balled

- and burlapped (b&b). Street trees shall be planted at sizes in accordance with the following standards:
- a. Arterial streets - 3" minimum caliper
 - b. Collector streets - 2" minimum caliper.
 - c. Local streets or residential private access drives - 1-3/4" minimum caliper.
 - d. Accent or median tree - 1-3/4" minimum caliper.
2. The following trees and varieties thereof are considered satisfactory street trees in most circumstances; however, other varieties and species are encouraged and will be considered:
- a. Trees over 50 feet mature height: Quercus garryana (Native Oregon White Oak), Quercus rubra borealis (Red Oak), Acer Macrophyllum (Native Big Leaf Maple), Acer nigrum (Green Column Black Maple), Fraxinus americanus (White Ash), Fraxinus pennsylvannica 'Marshall' (Marshall Seedless Green Ash), Quercus coccinea (Scarlet Oak), Quercus pulustris (Pin-Oak), Tilia americana (American Linden).
 - b. Trees under 50 feet mature height: Acer rubrum (Red Sunset Maple), Cornus nuttallii (Native Pacific Dogwood), Gleditsia triacanthos (Honey Locust), Pyrus calleryana 'Bradford' (Bradford Pear), Tilia cordata (Little Leaf Linden), Fraxinus oxycarpa (Flame Ash).
 - c. Other street tree species. Other species may be specified for use in certain situations. For instance, evergreen species may be specified where year-round color is desirable and no adverse effect on solar access is anticipated. Water-loving species may be specified in low locations where wet soil conditions are anticipated.

19. That Wilsonville Code Section 4.177 Street and Improvement Standards be retitled Street, Residential Private Access Drive, and Other Improvement Standards, and be amended as follows:

(.01) Except as specifically approved by the Development Review Board -, all street **and** access improvements shall conform to the Transportation Systems Plan and the Public Works Standards, together with the following standards:

A. All street improvements and intersections shall conform to the Public Works Standards and shall provide for the continuation of streets through specific developments to adjoining properties or subdivisions.

B. All streets shall be developed with curbs, utility strips and sidewalks on both sides; or a sidewalk on one side and a bike path on the other side.

1. Within a Planned Development the Development Review Board may approve a sidewalk on only one side. If the sidewalk is permitted on just one side of the street, the owners will be required to sign an agreement to an assessment in the future to construct the other sidewalk if the City Council decides it is necessary.

C. Rights-of-way.

1. Prior to issuance of a Certificate of Occupancy Building permits or as a part of the recordation of a final plat, the City shall require dedication of rights-of-way in accordance with the Street System Master Transportation Systems Plan. All dedications shall be recorded with the County Assessor's Office.

2. The City shall also require a waiver of remonstrance against formation of a local improvement district, and all non-remonstrances shall be recorded in the County Recorder's Office as well as the City's Lien Docket, prior to issuance of a Certificate of Occupancy Building Permit or as a part of the recordation of a final plat.

3. In order to allow for potential future widening, a special setback requirement shall be maintained adjacent to all arterial streets. The

minimum setback shall be 55 feet from the centerline or 25 feet from the right-of-way designated on the Master Plan, whichever is greater.

- D. Dead-end Streets. New dead-end streets or cul-de-sacs shall not exceed 200 feet in length, unless the adjoining land contains barriers such as existing buildings, railroads or freeways, or environmental constraints such as steep slopes, or major streams or rivers, that prevent future street extension and connection. No more than 25 dwelling units shall take access to a new dead-end or cul-de-sac street unless it is determined that the traffic impacts on adjacent streets will not exceed those from a development of 25 or fewer units. All other dimensional standards of dead-end streets shall be governed by the Public Works Standards.
- E. Access drives and travel lanes.
1. An access drive to any proposed development shall be designed to provide a clear travel lane free from any obstructions.
 2. Access drive travel lanes shall be constructed with a hard surface capable of carrying a 23-ton load.
 3. Secondary or emergency access lanes may be improved to a minimum 12 feet with an all-weather surface as approved by the Fire District. All fire lanes shall be dedicated easements.
 4. Minimum access requirements shall be adjusted commensurate with the intended function of the site based on vehicle types and traffic generation.
 5. Where access drives connect to the public right-of-way, construction within the right-of-way shall be in conformance to the Public Works Standards.
- F. Corner or clear vision area.
1. A clear vision area which meets the Public Works Standards shall be maintained on each corner of property at the intersection of any two

streets, a street and a railroad or a street and a driveway. However, the following items shall be exempt from meeting this requirement:

- a. Light and utility poles with a diameter less than 12 inches.
- b. Trees less than 6" d.b.h., approved as a part of the Stage II Site Design, or administrative review.
- c. Except as allowed by b., above, an existing tree, trimmed to the trunk, 10 feet above the curb.
- d. Official warning or street sign.
- e. Natural contours where the natural elevations are such that there can be no cross-visibility at the intersection and necessary excavation would result in an unreasonable hardship on the property owner or deteriorate the quality of the site.

G. Vertical clearance - a minimum clearance of 12 feet above the pavement surface shall be maintained over all streets and access drives.

H. Interim improvement standard. It is anticipated that all existing streets, except those in new subdivisions, will require complete reconstruction to support urban level traffic volumes. However, in most cases, existing and short-term projected traffic volumes do not warrant improvements to full Master Plan standards. Therefore, unless otherwise specified by the Planning Commission, the following interim standards shall apply.

1. Arterials - 24 foot paved, with standard sub-base. Asphalt overlays are generally considered unacceptable, but may be considered as an interim improvement based on the recommendations of the City Engineer, regarding adequate structural quality to support an overlay.
2. Half-streets are generally considered unacceptable. However, where the Development Review Board finds it essential to allow for reasonable development, a half-street may be approved. Whenever a half-street improvement is approved, it shall conform to the requirements in the Public Works Standards:

3. When considered appropriate in conjunction with other anticipated or scheduled street improvements, the City Engineer may approve street improvements with a single asphalt lift. However, adequate provision must be made for interim storm drainage, pavement transitions at seams and the scheduling of the second lift through the Capital Improvements Plan.

(.02) Residential Private Access Drives shall meet the following standards:

A. Residential Private Access Drives shall provide primary vehicular access to no more than four (4) dwelling units, excluding accessory dwelling units.

B. The design and construction of a Residential Private Access Drive shall ensure a useful lifespan and structural maintenance schedule comparable, as determined by the City Engineer or City's Authorized Representative, to a local street constructed in conformance to current public works standards.

1. The design of residential private access drives shall be stamped by a professional engineer registered in the state of Oregon and shall be approved by the City Engineer or City's Authorized Representative to ensure the above requirement is met.

2. Prior to issuing a certificate of occupancy for any residential dwelling unit whose primary vehicular access is from a Residential Private Access Drive the City Engineer or City's Authorized Representative shall certify construction of the Residential Private Access Drive substantially conforms the design approved by the City Engineer or City's Authorized Representative.

C. Residential Private Access Drives shall be named for addressing purposes. All Residential Private Access Drives shall use the suffix "Lane", i.e. SW Oakview Lane.

D. Residential Private Access Drives shall meet or exceed the standards for access drives and travel lanes established in Subsection (.01) G. of this Section.

20. That Wilsonville Code Section 4.180 Exceptions and Modifications - Projections into Required Yards, Subsection (.01), be amended as follows:

(.01) Certain non-structural architectural features are permitted to project into required yards or courts, without requiring the approval of a Variance or Reduced Setback Agreement, as follows:

B. Into any required yard, adjoining a street ~~right-of-way~~ or tract with a private drive:

1. Architectural features may project a distance not exceeding forty (40) inches.
2. An uncovered porch, terrace, or patio extending no more than two and one-half (2 1/2) feet above the finished elevation may extend within three (3) feet of an interior side lot line, or within ten (10) feet of a front lot line or of an exterior side lot line.

21. That Wilsonville Code Section 4.199.60 Major Additions or Modifications to Pre-Existing Sites (Outdoor Lighting Standards), Tables 7 and 9, be amended as follows:

| Table 7: Maximum Wattage And Required Shielding | | | | |
|--|-----------------------|-----------------|------------------------|---|
| Lighting Zone | Fully Shielded | Shielded | Partly Shielded | Unshielded |
| LZ 0 | 55 | None permitted | None permitted | None permitted |
| LZ 1 | 70 | 20 | 13 | Low voltage landscape lighting 50 watts or less |
| LZ 2 | 100 | 35 | 39 | Low voltage landscape lighting 50 watts or less |
| LZ 3 | 250 | 100 | 70 | Landscape and facade lighting 100 watts or less; ornamental lighting on private streets <u>drives</u> of 39 watts and less |
| LZ 4 | 450 | 150 | 150 | Landscape and facade lighting 250 watts or less; ornamental lights on private streets <u>drives</u> and lanterns 70 watts or less; marquee lighting not employing medium based lamps |

Table 9: Maximum Lighting Mounting Height In Feet

| Lighting Zone | Lighting for private roads <u>drives</u>, driveways, parking, bus stops and other transit facilities | Lighting for walkways, bikeways, plazas and other pedestrian areas | All other lighting |
|----------------------|---|---|---------------------------|
| LZ 0 | 20 | 8 | 4 |
| LZ 1 | 25 | 12 | 4 |
| LZ 2 | 40 | 18 | 8 |
| LZ 3 | 40 | 18 | 16 |
| LZ 4 | Height limit to be determined by Special Use Permit Only | | |

Lighting mounted onto buildings or other structures shall not exceed a mounting height greater than 4 feet higher than the tallest part of the building or structure at the place where the lighting is installed, nor higher than 33.33 percent of the horizontal distance of the light from the nearest property line, whichever is less.

22. That Wilsonville Code Section 4.210 Application Procedure (*Tentative Plat Submission*), Subsection (.01), be amended as follows:

(.01) Pre-application conference. Prior to submission of a tentative condominium, partition, or subdivision plat, a person proposing to divide land in the City shall contact the Planning Department to arrange a pre-application conference as set forth in Section 4.010.

B. Tentative Plat Submission. The purpose of the Tentative Plat is to present a study of the proposed subdivision to the Planning Department and Development Review Board and to receive approval or recommendations for revisions before preparation of a final Plat. The design and layout of this plan plat shall meet the guidelines and requirements set forth in this Code. The Tentative Plat shall be submitted to the Planning Department with the following information:

1. Site development application form completed and signed by the owner of the land or a letter of authorization signed by the owner. A preliminary title report or other proof of ownership is to be included with the application form.

2. Application fees as established by resolution of the City Council.
3. Ten (10) copies and one (1) sepia or suitable reproducible tracing of the Tentative Plat shall be submitted with the application. Paper size shall be eighteen inch (18") by twenty-four inch (24"), or such other size as may be specified by the City Engineer.
4. Name of the subdivision. No subdivision name shall duplicate or resemble the name of any other subdivision in Clackamas or Washington County. Names may be checked through the county offices.
5. Names, addresses, and telephone numbers of the owners and applicants, and engineer or surveyor.
6. Date, north point and scale of drawing.
7. Location of the subject property by Section, Township, and Range.
8. Legal road access to subject property shall be indicated as City, County, or other public roads.
9. Vicinity map showing the relationship to the nearest major highway or street.
10. Lots: Dimensions of all lots, minimum lot size, average lot size, and proposed lot and block numbers.
11. Gross acreage in proposed plat.
12. Proposed uses of the property, including sites, if any, for multi-family dwellings, shopping centers, churches, industries, parks, and playgrounds or other public or semi-public uses.
13. Improvements: Statement of the improvements to be made or installed including streets, **private drives**, sidewalks, lighting, tree planting, and times such improvements are to be made or completed.
14. Trees. Locations, types, sizes, and general conditions of all existing trees, as required in Section 4.600.
15. Utilities such as electrical, gas, telephone, on and abutting the tract.

16. Easements: Approximate width, location, and purpose of all existing and proposed easements on, and known easements abutting the tract.
17. Deed Restrictions: Outline of proposed deed restrictions, if any.
18. Written Statement: Information which is not practical to be shown on the maps may be shown in separate statements accompanying the Tentative Plat.
19. If the subdivision is to be a "Planned Development," a copy of the proposed Home Owners Association By-Laws must be submitted at the time of submission of the application. The Tentative Plat shall be considered as the Stage I Preliminary Plan. The proposed By-Laws must address the maintenance of any parks, common areas, or facilities.
20. Any plat bordering a stream or river shall indicate areas subject to flooding and shall comply with the provisions of Section 4.172.
21. Proposed use or treatment of any property designated as open space by the City of Wilsonville.
22. A list of the names and addresses of the owners of all properties within 250 feet of the subject property, printed on self-adhesive mailing labels. The list shall be taken from the latest available property ownership records of the Assessor's office of the affected county.
23. A completed "liens and assessments" form, provided by the City Finance Department.
24. Locations of all areas designated as a Significant Resource Overlay Zone by the City, as well as any wetlands shall be shown on the tentative plat.
25. Locations of all existing and proposed utilities, including but not limited to domestic water, sanitary sewer, storm drainage, ~~streets~~, and any private utilities crossing or intended to serve the site. Any plans to phase the construction or use of utilities shall be indicated.
26. A traffic study, prepared under contract with the City, shall be submitted as part of the tentative plat application process, unless specifically waived by the Community Development Director.

23. That Wilsonville Code Section 4.220 Final Plat Review, Subsection (.04), be amended as follows:

(.04) Action on Final Plat: Within thirty (30) days of receipt of a complete final plat submittal, the Planning Director shall approve, deny, or, when further information is required, postpone a decision on the application. Written notice of such action shall be mailed to the applicant by the Planning Director. If the Planning Director determines that full conformity with all applicable ordinances has not been made, the Director shall advise the applicant of the changes or additions that must be made and shall afford the applicant an opportunity to make the necessary changes or additions.

A. A final plat shall be approved only if affirmative findings can be made that:

1. The Plat is in substantial conformance with the provisions of the Preliminary Plat, as approved;
2. The proposal is consistent with the provisions, intents and purposes of the Comprehensive Plan, Zoning Regulations and the requirements of other relevant sections of this Code.
3. Streets, roads and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The plat contains a donation to the public of all common improvements, including, but not limited to, streets, roads, parks, sewage disposal and water supply systems, the donation of which is required by Ordinance or was made a condition of the approval of the tentative plat for the development.
5. Explanations of all common improvements to remain in private ownership have been accounted for and referenced on the plat;
6. ~~Streets and roads held for private use and~~ **Private drives** indicated on the tentative plat have been approved by the City; and

7. All conditions of approval for the development have been met, or adequate assurances for their completion have been provided, to the satisfaction of the Community Development Director.
5. Obtain on the final plat the signature of the County Assessor, whose signature shall certify that ownership is correct and taxes have been pro-rated and collected, if plat is to be recorded after July 1.
6. After the above items have been completed, the final plat shall be delivered to the office of the County Clerk and required fees paid for recordation.

24. That Wilsonville Code Section 4.236 General Requirements - Streets, Subsection (.04), be amended as follows:

- (.04) Creation of Easements: The Planning Director or Development Review Board may approve an easement to be established without full compliance with these regulations, provided such an easement is the only reasonable method by which a portion of a lot large enough to allow partitioning into two (2) parcels may be provided with vehicular access and adequate utilities. If the proposed lot is large enough to divide into more than two (2) parcels, a street dedication may be required. ~~Also, within a Planned Development, cluster settlements may have easement driveways for any number of dwelling units when approved by the Planning Director or Development Review Board.~~

25. That Wilsonville Code Section 4.237 General Requirements – Other, Subsections (.02) and (.06), be amended as follows:

(.02) Easements:

- A. Utility lines. Easements for sanitary or storm sewers, drainage, water mains, ~~electrical lines~~ or other public utilities shall be dedicated wherever necessary. Easements shall be provided consistent with the City's Public Works Standards, as specified by the City Engineer or Planning Director. All of the public utility lines within and adjacent to the site shall be installed within the public right-of-way or easement; with underground services ~~within the street~~ right-of-way and extending to the private

parcel constructed in conformance to the City's Public Works Standards ~~to any structures.~~ All franchise utilities shall be installed within a public utility easement. All utilities shall have appropriate easements for construction and maintenance purposes.

- (.06) Access. The division of land shall be such that each lot shall have a minimum frontage on a ~~public street~~ or private drive as specified in the standards of the relative zoning districts. This minimum frontage requirement shall apply with the following exceptions:
- A. A lot on the outer radius of a curved street or tract with a private drive or facing the circular end of a cul-de-sac shall have frontage of not less than twenty-five (25) feet upon a street or tract with a private drive, measured on the arc.
- B. The Development Review Board may waive lot frontage requirements where in its judgment the waiver of frontage requirements will not have the effect of nullifying the intent and purpose of this regulation or if the Board determines that another standard is appropriate because of the characteristics of the overall development.
- (.08) Lot side lines. The side lines of lots, as far as practicable for the purpose of the proposed development, shall run at right angles to the street or tract with a private drive upon which the lots face.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 2nd day of August, 2010, at the hour of 7:00 p.m. at the Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon, and scheduled for second reading on the 9th day of September, 2010, commencing at the hour of 7:00 p.m. at the Wilsonville City Hall.


Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 9th day of September, 2010, by the following votes: YEAS: -4- NAYS: -0-


Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this _____ day of September, 2010.


TIM KNAPP, MAYOR

SUMMARY OF VOTES:

| | |
|-------------------|----------------|
| Mayor Knapp | <u>Yes</u> |
| Councilor Kirk | <u>Yes</u> |
| Councilor Nunez | <u>Excused</u> |
| Councilor Hurst | <u>Yes</u> |
| Councilor Goddard | <u>Yes</u> |

Exhibit A – Staff report dated July 25, 2010 for August 8, 2010 Hearing

WILSONVILLE PLANNING DIVISION
Legislative STAFF REPORT

HEARING DATE: August 2, 2010

DATE OF REPORT: July 26, 2010

APPLICATION NO: LP09-0005

REQUEST: Adoption of an Ordinance amending of the Planning and Land Development Ordinance (Wilsonville's Development Code) adding and modifying language in order to: 1. limit the number of future single-family residential dwelling units (not including ADUs) that can be accessed by a private drive to four (4); 2. require design and construction standards for private drives providing access to single-family dwelling units; and 3. provide consistency and clarity throughout the code when referring to "street", "drive", "road" along with similar and related terms.

LOCATION: All lands with a Comprehensive Plan designation of residential which have the potential to be developed with 2 or more single-family residential dwelling units. All lands that may be annexed and developed with single-family dwelling units.

APPLICANT: City of Wilsonville

STAFF REVIEWER: Daniel Pauly, Assistant Planner, (503) 682-4960 or pauly@ci.wilsonville.or.us.

CRITERIA:

Wilsonville Comprehensive Plan:

Section A: Citizen Involvement, Goal 1.1, Policy 1.1.1, Implementation Measures 1.1.1a, 1.1.1f, 1.1.1.g, 1.1.1 h.; Goal 1.2, Policy 1.2.1, Implementation Measure 3.5.2.b.

Land Use and Development Code:

Section 4.197 Zone Changes and Amendments to the Code – Procedures

Modifications are proposed to the following Code Sections: 4.001, 4.035, 4.111, 4.113, 4.116, 4.118, 4.120, 4.122, 4.124, 4.124.2, 4.124.3, 4.124.4, 4.125, 4.137, 4.139.04, 4.169, 4.176, 4.177, 4.180, 4.199.60, 4.120, 4.220, 4.236, 4.237.

SUMMARY:

When people think of streets most think of a publically-owned paved roadway. While a majority of streets in Wilsonville are publically owned, some streets are privately owned and maintained. Currently, Wilsonville’s Comprehensive Plan and Development Code allow local streets in all zones to be private with limited construction standards. Accordingly, a number of private streets have been approved and built throughout Wilsonville’s history. Over the years of experience with this policy of allowing private streets and their subsequent construction and use, major concerns have arisen. One primary concern is the potentially heavy burden property owners in developments with private streets can face to finance reconstruction of a damaged or failing private street. This concern largely stems from the lack of construction standards for private streets. A second major concern is the lack of City services provided to private streets. These services include regular maintenance (street sweeping and storm drain cleaning), minor repairs (pot hole filling), major repairs (grind and overlay a lift of asphalt) and parking/code enforcement (abandoned cars). When these services are not provided adequately by an HOA/private party, safety and livability can be significantly impacted.

The concerns over reconstruction costs and providing City services don’t apply equally to all private streets. They primarily apply to non-alley private streets in single-family residential development. In considering what should be done to address the concerns, it is useful to categorize Wilsonville’s existing private streets, explain how large of a concern there is for these different categories, and then explain recommended changes to the Development Code to address the concerns. Table 1 below lists four categories of private streets, associated land uses, and examples of existing private streets that fall into these categories.

Table 1. Categories of Existing Private Streets in Wilsonville

| Type of Private Street | Associated Land Uses | Examples |
|--|--------------------------------------|--|
| Access and Circulation Drive | Industrial | Nike Access Drive |
| | Commercial | Argyle Square |
| | Mixed-Use | Village at Main Street |
| | Multi-family (apartments and condos) | Berkshire Court Apartments |
| | Mobile Home Parks | Oak Leaf Park |
| Alley | Various | Villebois |
| Residential "Stub" Street (Access For Only a Few Homes) | Single Family Residential | SW Kensington Place in Morey's Landing |
| Residential Private Street serving more than a few homes | Single Family Residential | Silver Creek Subdivision |

The first category, 'access and circulation drive,' does not raise much concern and therefore no related changes to the Development Code are recommended. Reconstruction cost are not a major concern because these private streets are controlled by a single or a couple of large property owners who generally understand the private nature and the long term maintenance obligations and will often have the replacement and repair costs in a reserve account. The property owners also generally actively and effectively provide minor maintenance and repair and parking enforcement ensuring proper function along with safety and livability.

The second category 'alley' also does not raise much concern. Unlike larger private streets in residential settings, alleys are typically perceived to be private, much as a driveway is assumed to be private. Because of this 'private area' perception, property owners adjoining an alley generally understand a long-term obligation to maintain and service an alley.

The third and fourth categories, 'residential "stub" street' and 'residential private street serving more than a few homes,' do raise the two major concerns, replacement costs and provision of City services, mentioned above. Unlike alleys, they typically do not have a 'private area' perception. Homeowners that do not closely read their CCR's may not fully understand their street is not maintained as a public street and that the cost of repair or rebuilding is the collective homeowners' responsibility. Current code does require these streets to be signed as a private street, but Staff's observations show this has not been consistent over time and cannot be relied on as a primary way of ensuring private street responsibility is properly understood.

When private streets are approved by the City private agreements are required to manage them, typically through a homeowners association. Over time homeowners associations, while still existing on paper, may become inactive and not adequately maintain and provide services for private streets. Even if a homeowners association remains active it may elect to collect lower dues from property owners and thus not have sufficient reserves to repair or replace a street or pay for adequate services. This may lead to a need to levy large fees when a street needs major repair or replacement creating a potentially unexpected large financial burden on homeowners. While all roadways will eventually need repair or replacement, lack of construction standards can bring these costs earlier than expected and lead to costs beyond what would be required for a street built to public works standards.

While the City cannot change what private streets have been approved in the past, Staff recommends new requirements to minimize the situations where these concerns may arise in future single-family development. The main new requirements include:

- Limiting the number of single-family dwellings that can be accessed by a private street or drive to four. (Accessory Dwelling Units are not counted).
Note: The limit of four dwelling units is recommended by Planning Commission because it is the same number of units, under draft revisions to the Public Work Standards, which can be served by a 4-inch non-extendable water main
- Establishing standards for private drives in single-family residential development that help ensure a useful lifespan and structural maintenance schedule similar to public streets.

The four dwelling unit limit will not allow additional approval of the fourth category 'residential private street serving more than a few homes,' but will allow the limited approval of the third

category 'residential "stub" streets'. The numerical limit eliminates large areas where the services concern would arise, only allowing private drives where practicality and benefits outweigh the services concern. Where residential private drives are recommended to be allowed, the new construction quality requirements ensure the long term costs of repair and replacement are minimized.

Developers have elected to build private streets in single-family residential development for a number of reasons. These reasons have not changed, and their relation to the new regulations needs to be understood. The main reason is alternative street design. Some common rationale for alternative street design include: increasing development density; urban design/neighborhood feel; conservation and low impact development (limiting impervious surfaces); working around difficult terrain and other physical landscape features; and traffic control. The allowance for private drives to access up to four homes allows their use in some instances to increase density, work around difficult terrain, and low impact development. Additionally, alternatively designed streets are still allowed, but must be approved as public streets, much as alternatively designed streets in Villebois are public. Under the current process it is easier to get alternatively designed streets approved as private rather than public. Under the proposed new regulations all alternatively designed streets servicing more than four dwelling units would be required to go through the process to become public streets.

Another reason for private streets may be cost savings by constructing streets to lower standards. While constructing streets to lower standards may provide lower up-front costs and increase initial housing affordability, the increased maintenance and repair costs for homeowners over time can outweigh any upfront cost savings. Experience has shown that the cost of repairing and replacing failing private streets can be passed on to the public. The City does not want to be in the position of having to reconstruct a failed private street on behalf of a private developer who made their profit and moved on years earlier.

An examination of the Development Code to look at the best way to incorporate the new private street regulations brought a number of inconsistencies and conflicts to surface in the use of terms such as 'street' and 'road'. The Planning Commission is therefore also recommending minor amendments to many sections of the Development Code to ensure consistency and clarity related to current and proposed use of terms 'streets' and 'private drives' along with similar and related terms. A full explanation of each of these code changes can be found in Exhibit A (Draft Code Amendments and Explanations).

BACKGROUND

During the October 2008 City Council hearing for the Willamette Landing subdivision, concerns surrounding private streets in single-family subdivisions were raised. Subsequently, Staff was directed to review the City's code related to private streets in single-family subdivisions. Planning, Engineering, Public Works, Building, and Natural Resource staff met and collaborated to identify issues based on the City's experience with private streets in single-family subdivisions. The Planning Commission subsequently reviewed Staff's analysis during a series during a series of Planning Commission Work Sessions over period of July 2009 to March 2010. The Planning Commission held a Public Hearing on April 14, 2010 and unanimously recommended City Council approve the proposed Development Code amendments. Staff has not received any testimony on the proposed code amendments since the public hearing with the Planning Commission.

TIMELINE:

- October 20, 2008 concerns about private streets in single-family subdivisions surface during hearing on Willamette Landing subdivision.
- Late 2008, early 2009 City Staff from various departments and divisions meet and collaborate on issues and solutions related to private streets in single-family subdivisions.
- Mid 2009- early 2010 3 work sessions are held with the Planning Commission. July 8 and November 18, 2009 work sessions focus on the background, existing conditions, and issues. March 10, 2010 work session focuses on the actual code amendment language.
- April 14, 2010 Planning Commission held a public hearing and afterwards unanimously recommended City Council approve the proposed Development Code amendments.
- The minutes and materials distributed at these work sessions and public hearing are contained in the public record for this application (Exhibit B).

RECOMMENDATION: Staff respectfully recommends that the City Council conduct a public hearing on the proposal and approve the proposed Ordinance.

Exhibits:

- A. Code Changes with Explanations
- B. Public Hearing Presentation Slides

FINDINGS:

GOAL 1.1 *To encourage and provide means for interested parties to be involved in land use planning processes, on individual cases and City-wide programs and policies.*

Response: Interested parties have been encouraged through public notices and provided means to participate in three (3) Planning Commission work sessions, a Planning Commission Public Hearing, and a City Council Public Hearing. By noticing the public they will continue to have the opportunity to be involved in public hearing meetings regarding the proposed Development Code amendments. This criterion is met.

Policy 1.1.1 The City of Wilsonville shall provide opportunities for a wide range of public involvement in City planning programs and processes.

Response: The work session and hearing process being undertaken for the proposed Development Code amendments are part of numerous opportunities for public involvement in City planning programs and processes. The public have been notified and welcomed to participate throughout the work session and public hearing process.

Implementation Measure 1.1.1.a Provide for early public involvement to address neighborhood or community concerns regarding Comprehensive Plan and Development Code changes. Whenever practical to do so, City staff will provide information for public review while it is still in "draft" form, thereby allowing for community involvement before decisions have been made.

Response: The first Planning Commission work session on the proposed Development Code amendments was held nine months prior to the Public Hearing, allowing early and ample time for community concerns regarding the Development Code changes to be addressed. Staff has provided the changes for public review while still in draft form. The "draft" code language was available at the Planning Commission work sessions, in notice packets, and on the City's web site. This criterion is satisfied.

Implementation Measure 1.1.1.e Encourage the participation of individuals who meet any of the following criteria:

1. *They reside within the City of Wilsonville.*
2. *They are employers or employees within the City of Wilsonville.*
3. *They own real property within the City of Wilsonville.*
4. *They reside or own property within the City's planning area or Urban Growth Boundary adjacent to Wilsonville.*

Response: Through the work session schedule, public hearing notices, and available records on the web, Staff has encouraged the participation of a wide variety of individuals addressing each of the groups above. This criterion is met.

Implementation Measure 1.1.1.f Establish and maintain procedures that will allow any interested parties to supply information.

Response: The established procedures are being followed that allow any interested parties to supply information. This criterion is met.

Implementation Measure 1.1.1.h In preparing public notices for Planning Commission meetings, the staff will clarify whether the meeting will involve a public hearing and/or a work session.

Response: In each of the public notices for Planning Commission and City Council meetings, Staff has clarified whether the meeting involved a public hearing or a work session. This criterion is met.

GOAL 1.2: *For Wilsonville to have an interested, informed, and involved citizenry.*

Policy 1.2.1 *The City of Wilsonville shall provide user-friendly information to assist the public in participating in City planning programs and processes.*

Response: Staff has prepared user-friendly information for each of the work sessions including tables, slide shows, maps, and lists that have been available to the public at the work sessions and public hearings and made part of the record available on the City's web site. This criterion is met.

Policy 1.3 *The City of Wilsonville shall coordinate with other agencies and organizations involved with Wilsonville's planning programs and policies.*

Implementation Measure 1.3.1.b *Where appropriate, the City shall continue to coordinate its planning activities with affected public agencies and private utilities. Draft documents will be distributed to such agencies and utilities and their comments shall be considered and kept on file by the City.*

Response: Affected agencies are being notified and draft code amendments made available via the City's web site or upon request. This criterion is satisfied.

Implementation Measure 3.5.2.b. *Through the Planned Development process, local streets may be approved as private streets, provided that adequate emergency access is available and that appropriate deed restrictions, homeowners' association requirements, etc. are established to insure proper maintenance.*

Response: Local streets will continue to be able to be approved as private streets throughout the City. The proposed Development Code amendments place restrictions on private streets or drives in single-family subdivisions to address specific issues that have come to the surface during the years of experience the City has had with private streets: This implementation measure will continue to be realized with the proposed Code Amendments.

Planning and Land Development Code, Section 4.197, Zone Changes and Amendments to This Code:

(.01) The following procedure shall be followed in applying for an amendment to the text of this Chapter:

A. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within forty (40) days after concluding the hearing, provide a report and recommendation to the City Council regarding the proposed amendment. The findings and recommendations of the Commission shall be adopted by resolution and shall be signed by the Chair of the Commission.

Response: The Commission has taken ample time to create the proposed code in preparation for public hearings. Following public hearings, a recommendation was forwarded to the City Council. This criterion is met.

B. In recommending approval of a proposed text amendment, the Planning Commission shall, at a minimum, adopt findings relative to the following:

- 1. That the application was submitted in compliance with the procedures set forth in Section 4.008; and*
- 2. The amendment substantially complies with all applicable goals, policies and objectives set forth in the Comprehensive Plan; and*
- 3. The amendment does not materially conflict with, nor endanger, other provisions of the text of the Code; and*
- 4. If applicable, the amendment is necessary to insure that the City's Land Use and Development Ordinance complies with mandated requirements of State or Federal laws and/or statutes.*

Response: The above criteria are substantially met as is evidenced by the file on this matter, the Planning Commission record and the narrative and findings of fact contained in this staff report. State and Federal laws/statutes are not in conflict with the proposal.

LP09-0005
Development Code Amendments related to Private Streets
Planning Commission Record Index

Planning Commission Actions from the April 14, 2010 Public Hearing:

- Notice of Decision
- Resolution No. LP09-0005
- Motion
- Minutes

Distributed for the April 14, 2010 Planning Commission Public Hearing:

Exhibit C: Paper copy of the PowerPoint presentation, "Code Revision Project Residential Private Streets in Wilsonville" shown at the public hearing.

Exhibit B: A letter dated April 12, 2010, from Gail Curtis of ODOT, regarding Private Streets Code Revisions, LP09-0005.

Staff Report for the April 14, 2010 Planning Commission Public Hearing including:

Exhibit A: Draft Development Code Changes with Explanations.

LP09-0005
Development Code Amendments related to Private Streets
Planning Commission Record Index

Planning Commission Actions from the April 14, 2010 Public Hearing:

- Notice of Decision
- Resolution No. LP09-0005
- Motion
- Minutes

NOTICE OF DECISION

PLANNING COMMISSION

RECOMMENDATION OF APPROVAL TO CITY COUNCIL

FILE NO.: LP09-0005

APPLICANT: City of Wilsonville

REQUEST: Amend the Planning and Land Development Ordinance (Wilsonville's Development Code) to add and modify language in order to:

1. Limit the number of future single-family residential dwelling units that can be accessed by a private drive to four (4);
2. Require higher design and construction standards for private drives providing access to single-family dwelling units; and
3. Provide consistency and clarity throughout the Code when referring to "street", "drive", "right-of-way" along with similar and related terms.

After conducting a public hearing on April 14, 2010, the Planning Commission voted to recommend this action to the City Council by passing Resolution No. LP09-0005.

The City Council Public Hearing date for LP09-0005 is to be noticed at a later date.

For further information, please contact the Wilsonville Planning Division, 29799 SW Town Center Loop East, or telephone (503) 682-4960.

**PLANNING COMMISSION
RESOLUTION NO. LP09-0005**

A WILSONVILLE PLANNING COMMISSION RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN AMENDMENT TO THE WILSONVILLE DEVELOPMENT CODE TO LIMIT THE NUMBER OF SINGLE-FAMILY DWELLING UNITS THAT CAN BE ACCESSED BY A PRIVATE DRIVE, REQUIRE THAT PRIVATE DRIVES BE BUILT TO CERTAIN STANDARDS AND BE REVIEWED BY THE CITY ENGINEER, AND PROVIDE CONSISTENCY AND CLARITY THROUGHOUT THE CODE WHEN REFERRING TO DRIVES, STREETS, ROADS AND SIMILAR TERMS

WHEREAS, the Wilsonville Planning Director submitted proposed Ordinance amendments to the Planning Commission, along with a Staff Report, in accordance with the public hearing and notice procedures that are set forth in Sections 4.008, 4.010, 4.011 and 4.012 of the Wilsonville Code (WC); and

WHEREAS, the Planning Commission, after providing the required notice, held a Public Hearing on April 14, 2010, to review the proposed Development Code Amendment relating to Private Drives, and to gather additional testimony and evidence regarding the Ordinance; and


WHEREAS, the Commission has afforded all interested parties an opportunity to be heard on this subject and has entered all available evidence and testimony into the public record of their proceeding; and

WHEREAS, the Planning Commission has duly considered the subject, including the staff recommendations and all the exhibits and testimony introduced and offered by all interested parties; and

NOW, THEREFORE, BE IT RESOLVED that the Wilsonville Planning Commission does hereby adopt all Planning Staff Reports along with the findings and recommendations contained therein and, further, recommends that the Wilsonville City Council approve and adopt the proposed Development Code Amendment relating to Private Drives, as reviewed and amended by the Planning Commission; and


BE IT RESOLVED that this Resolution shall be effective upon adoption.

ADOPTED by the Planning Commission of the City of Wilsonville at a regular meeting thereof this 14th day of April 2010, and filed with the Planning Administrative Assistant on April 15, 2010.



Wilsonville Planning Commission

Attest:



Linda Straessle, Administrative Assistant III

SUMMARY of Votes:

| | |
|------------------------|---------------|
| Chair McGuire | <u>Aye</u> |
| Commissioner Kohls | <u>Aye</u> |
| Commissioner Dvorak | <u>Aye</u> |
| Commissioner Montclair | <u>Aye</u> |
| Commissioner Peck | <u>Absent</u> |
| Commissioner Phelps | <u>Aye</u> |
| Vacant | |

**PLANNING COMMISSION
WEDNESDAY, APRIL 14, 2010
6:00 P.M.**

**Wilsonville City Hall
29799 SW Town Center Loop East
Wilsonville, Oregon**

MOTION

V. PUBLIC HEARING

- A. LP09-0005 – Private Streets Code Revisions** - Amend the Wilsonville Development Code to limit the number of single-family dwelling units that can be accessed by a private drive, require that private drives be built to certain standards and be reviewed by the City Engineer, and provide consistency and clarity throughout the Code when referring to drives, streets, roads and similar terms. (Staff-Pauly/Adams)

Commissioner Phelps moved to adopt Resolution No. LP09-0005. Commissioner Dvorak seconded the motion, which passed unanimously.



**PLANNING COMMISSION
WEDNESDAY, APRIL 14, 2010
6:00 P.M.**

**Wilsonville City Hall
29799 SW Town Center Loop East
Wilsonville, Oregon
Minutes Excerpt**

**Approved
May 12, 2010**

I. CALL TO ORDER - ROLL CALL

Chair McGuire called the meeting to order at 6:03 p.m. Those present:

Planning Commission: Marta McGuire, Ray Phelps, Dustin Kohls, and Amy Dvorak. Yvonne Peck, and City Councilor Celia Núñez were absent. Carol Montclair arrived during the work session.

City Staff: Chris Neamtzu, Paul Lee, Stephan Lashbrook, Blaise Edmonds, Daniel Pauly, Delora Kerber, Steve Adams, Gerald Fisher

V. PUBLIC HEARING

Chair McGuire opened the Public Hearing for LP09-005 at 6:20 p.m.

- A. LP09-0005 - Private Streets Code Revisions** - Amend the Wilsonville Development Code to limit the number of single-family dwelling units that can be accessed by a private drive, require that private drives be built to certain standards and be reviewed by the City Engineer, and provide consistency and clarity throughout the Code when referring to drives, streets, roads and similar terms. (Staff-Pauly/Adams)

Chair McGuire read the Legislative Hearing Procedures into the record and called for the Staff Report. She noted Commissioner Phelps would be the City Council liaison as well as the motion maker for this item.

Daniel Pauly, Assistant Planner, presented the Staff Report with the aid of a PowerPoint presentation, which was entered into the record as Exhibit C, with these comments:

- Delora Kerber, Public Works Director, and Gerald Fisher, Civil Engineer, were available for questions.
- Concerns relative to private street standards have been raised by City Council, and Staff was directed to look at existing policies which resulted in the proposed Code amendments.
- Refinement of the policies being recommended have been discussed in Planning Commission work sessions held in July and November of 2009, and again on March 10, 2010, and with other interested parties.
- The current Wilsonville Comprehensive Plan and Development Code allow private streets to be built, which have been built throughout Wilsonville's history, in all zones. The privately-owned

- These private streets require maintenance and services. Over time, property owners can face a heavy burden when reconstruction or repairs to a damaged or failing street are needed.
- In the past, there have not been high construction standards for these streets, which can result in even higher reconstruction costs.
- Also, the lack of City services, including pothole repair, street sweeping, and parking enforcement on private streets was a concern.
- Two of the four categories of private streets shown are not of concern:
 - Private access and circulation drives, such as the drives through Argyle Square and in many multi-family developments. These are usually controlled by one or more large property owners who have a vested interest and are able to maintain the streets and provide services.
 - There is an understanding of the owner's responsibility to take care of the private alleys.
- The two categories of private streets impacted by the Code amendments were Residential Stub streets and Other Residential streets. A displayed map showed two subdivisions with private streets that would be impacted, one with 67 homes and another showing 42 homes.
- Policies were recommended to keep the number of houses allowed on stub streets to four rather than two to eight homes as currently allowed. The recommended four units coincided with Public Works draft revisions to Public Works standards. The proposed policies would meet the goal for private drives in single-family residential development for life span and have structural maintenance schedules similar to public streets.
- Private streets have been allowed as a result of alternative street design, such as 'skinny streets', as a means to allow increased neighborhood density and to create a more 'pedestrian-friendly' street.
 - A skinny street has less pavement than a standard street, which allowed for working around a difficult terrain and provided a means of traffic control. The current code makes it easier to get these types of streets approved as private streets in the City's process.
- Under the proposed Development Code language, an alternatively-designed street can be approved as private on streets with up to four homes, but all other streets will be required to be public. Current language in the Public Works Standards provides a process for alternatively-designed streets.
 - Villebois has a number of alternately-designed streets that went through a process to become public.
- Though private streets allowed for cost savings and affordability, they had resulted in lower standards and long term, resulted in higher maintenance costs, shifting the burden into the future and to the City, when developers built private drives and then left.
 - The proposed amendments would eliminate large areas where private drives could be built, but when built in those limited areas of up to four homes, the new standards would insure that private drives would be built to prevent that future financial burden.
- Major changes were proposed mainly in two sections of the Development Code:
 - Section 4.001, Definitions. A new definition for "Private Drive" was included, as well as a number of sub-definitions, including Access Circulation Drive, Pre-existing Residential Private Drives, and Residential Private Access Drive. This section is on pages 10 and 11 of 40 of the Staff Report.
 - The majority of the new standards are found in Section 4.177 (Staff Report pages 33 through 40 of 40).
 - The private drives' design and construction required a review and inspection by the City Engineer to ensure maintenance and lifespan comparable to public streets.
 - New Subsection 4.177(.02)(B.)(2.) addresses certification of the construction of residential private access drives by stating, "The City Engineer or City's Authorized Representative shall certify construction of the Residential Private Access Drive..." The City Engineers wanted on the record that that would not relieve design engineers of their certifying responsibilities

or from current responsibilities in the Public Work Standards to provide asbuilts stamped and certified that the private streets were built as designed.

Steve Adams, Deputy City Engineer, reported that the certifying engineer and stamp approval is handled through the Public Works Standards. A Public Works Permit governs the development overall. A project can't be done without a Public Works Permit. A professional engineer and special stamp are required for approval.

Mr. Pauly continued reviewing the Staff Report as follows:

- Street naming standards are also established and recommended by the City Engineering Staff (Staff Report page 33 of 40).
 - * Private drives would be referred to as lanes, not streets or drives, creating consistency in terms.
- The naming standards include definitions that refer to those existing in the industry standards for all travel lanes and access drives.
- He briefly noted minor changes recommended to remove conflicts and unnecessary redundancies in the Development Code language and to provide consistency in use of terms. Examples included:
 - "Alley right-of-way" was one conflict. Since a right-of-way refers to something public, a private alley could not be a "right-of-way." That language is changed to say "property line adjoining the alley" when discussing setbacks from the alley.
 - "Vehicular roadway" is used in the Development Code and is a redundancy since the definition of roadway discusses vehicles. No "non-vehicular" roadway is in the Code, so the word "vehicular" could be omitted, as noted in the curb line definition on page 9 of 10.
 - Streets are public by definition, so there is no need to state "public street."
- He quickly reviewed a flow chart diagram provided at the work session to clarify "way," an umbrella term used to refer to an area dedicated to circulation in the Development Code. The flow chart helped to categorize a "way" into the correct type of drive.
- Development Code revisions are also proposed to acknowledge the role of private drives in determining lot and yard characteristics and lot anatomy. For example, the use of the word "corner" was standardized to designate that where two streets meet or where a private drive meets a public street is a "corner lot".
 - * A property line is defined as the boundary between a public right-of-way and private property, although this is not always true for some private drives, such as those in a tract or as part of a larger property like at Argyle Square.
- He entered the letter from ODOT, dated April 12, 2010, supporting the Planning Commission's adoption of the Private Street Code Revisions into the record as Exhibit B.
- He concluded that Staff recommends that the Planning Commission forward a recommendation of approval to the City Council.

Commissioner Phelps:

- Confirmed that Slide 7 of Exhibit C would be corrected to state, "is recommended by **Staff the Planning Commission**" before going to City Council.
- Asked if the recommended Development Code revisions would negatively impact Old Town.
 - * Mr. Pauly clarified that private drives provide a more defensible space for pedestrians and would not negatively impact the desires codified in the Old Town Master Plan.
- Observed that people purchasing homes after development sometimes do not know that they own a private drive until they discover they are responsible for paying for repairs.
- Inquired why the four dwelling unit limit would not include Accessory Dwelling Units (ADUs).
 - * Mr. Pauly recalled discussion during the work session that because only so many ADU's were allowed in a block, only one ADU would be allowed within the four homes on a private street, and the parking impact would not be that noticeable. It also prevented a previously legal private street from becoming illegal or non-conforming should an ADU was installed.

Chair McGuire asked if builders had to notice purchasers of a private drive development about who would be responsible for maintaining the street.

- Mr. Pauly replied that a buyer or buyer's realtor should do their due diligence when purchasing a home. The information is included in the title report. Generally, the private drive is owned by a homeowners' association which collects dues for street maintenance.
- Mr. Neamtzu added that one way to provide notification would be consistent signage that goes beyond the blue private street signs. In some cities, signage is posted stating, "This street is not maintained by the City." The City does not want to be responsible for noticing buyers in the complexities of title changes, etc.

Commissioner Dvorak asked if any roadways, other than the freeway, are shared roadways.

- Mr. Pauly explained different types of shared roadways existed. The current Code defined shared roadways and shared pavement with a marked bike lane differently. Shared roadways are designed so bikes were physically in the same lane as traffic.
- Mr. Neamtzu noted an example was Parkway Avenue north of Town Center Loop, which would be signed as a shared roadway for bikes and cars without a demarcation line.
- He explained that the improved Wilsonville Rd/1-5 Interchange would have dedicated bike lanes as well as off-street, multi-modal shared sidewalks.

Chair McGuire called for public testimony regarding LP09-0005. Seeing none, she closed the public meeting at 7:02 p.m.

The Commissioners thanked Mr. Pauly for the thoroughness in his work on the Private Streets Code Revisions.

Commissioner Phelps moved to adopt Resolution No. LP09-0005; Commissioner Dvorak seconded the motion, which passed unanimously.

LP09-0005
Development Code Amendments related to Private Streets
Planning Commission Record Index

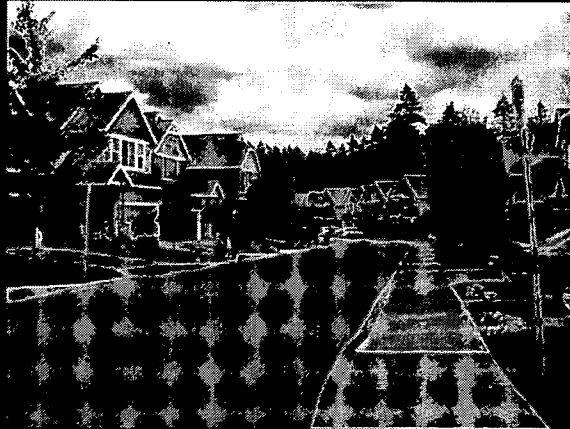
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Code Revision Project

Residential Private Streets in Wilsonville



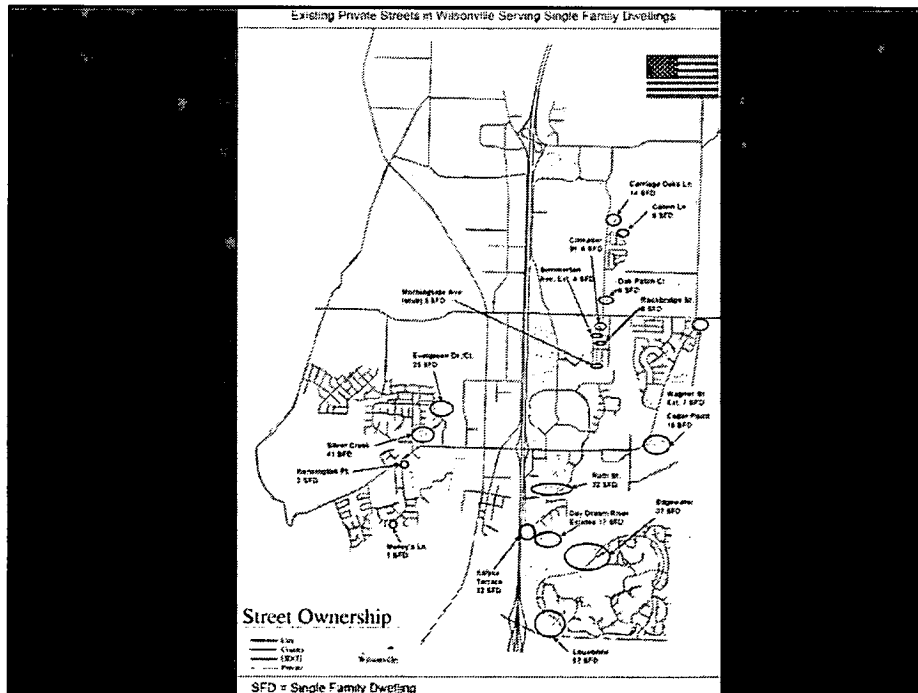
Wilsonville Planning Commission Public Hearing April 14, 2010
Case File LP09-0005

Outline

- **Background and Summary**
 - Process timeline
 - History of private streets in Wilsonville and current conditions
 - Summary of concerns
 - Recommended policies
 - Reasons why private drives have been built
- **Recommended Code Changes**
 - Major Changes to implement recommended policies
 - Minor changes providing clarity and consistency in the use of language related to streets and private drives

Timeline

- October 20, 2008 concerns about private streets in single-family subdivisions surfaced during hearing on Willamette Landing subdivision.
- Late 2008-Early 2009 City Staff from Planning, Engineering, Public Works, Building, and Natural Resources met and collaborated on issues and solutions related to private streets in single-family subdivisions.
- Mid 2009-Early 2010 3 work sessions were held with the Planning Commission. July 8 and November 18, 2009 work sessions focused on the background, existing conditions, and issues. March 10, 2010 work session focused on the code amendment language.



Concerns with Private Streets

- Heavy burden property owners can face to finance reconstruction of a damaged or failing private street
- Lack of City services provided to private streets (street sweeping, storm drain cleaning, pot hole repair, parking enforcement)

Four Categories of Private Streets in Wilsonville

| Type of Private Street | Associated Land Uses | Examples | Recommended Changes |
|--|--------------------------------------|--|--|
| Access and Circulation Drive | Industrial | Nike Access Drive | Continue to allow |
| | Commercial | Argyle Square | |
| | Mixed-Use | Village at Main Street | |
| | Multi-family (apartments and condos) | Berkshire Court Apartments | |
| | Mobile Home Parks | Oak Leaf Park | |
| Alley | Various | Villebois | Continue to allow |
| Residential "Stub" Street (Access For Only a Few Homes) | Single Family Residential | SW Kensington Place in Morey's Landing | Continue to allow, but limit the number of homes accessed to 4. Will be called "Residential Private Access Drives" |
| Residential Private Street serving more than a few homes | Single Family Residential | Silver Creek Subdivision | Do not allow, but existing streets in this category will not be affected |

Recommended Policies for Single-family Development

- Limit the number of single-family dwellings that can be accessed by a private street or drive to four (Accessory Dwelling Units are not counted).

Note: The limit of four dwelling units is recommended by Staff because it is the same number of units, under draft revisions to the Public Work Standards, which can be served by a 4-inch non-extendable water main

- Establish standards for private drives in single-family residential development that help ensure a useful lifespan and structural maintenance schedule similar to public streets.

Reason for Private Drives: Alternative Street Design



Some Common Reasons for Alternatively Designed Streets:

- Increasing Development Density
- Urban Design/ Neighborhood Feel
- Conservation and Low Impact Development (limiting of impervious surfaces)
- Working around difficult terrain and other physical landscape features
- Traffic Control

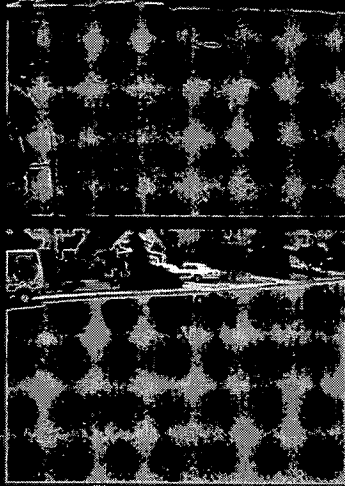
Current Code

City process makes it easier to approve alternatively designed streets as private rather than public.

Proposed Code

Alternatively designed streets serving more than 4 homes must be public streets.

Reasons for Private Drives: Cost Savings and Affordability



Current Code

Limited standards for private street construction that can lower development costs, and thus increase affordability, but also can lead to more long-term maintenance costs.

Proposed Code

New residential private access drives will be required to meet certain design and construction standards to ensure maintenance costs similar to a public street.

Recommended Development Code Changes

- Major changes implementing the new policies related to private drives in single-family development
- Minor changes providing clarity and consistency in the use of language related to streets and private drives and incorporating "private drive" language throughout the code

Major Changes

- "Private Drive" Definitions
- Standards for Residential Private Access Drives
 - 4 Dwelling Unit Limit (not including ADU's)
 - Design and Construction Standards
 - Reviewed and inspected by City Engineer to ensure maintenance and useful lifespan comparable to public street
 - Naming standards
 - Existing standards for access drives and travel lanes

Minor Changes

- Remove conflicts and unnecessary redundancies
- Improve consistency
- Acknowledge role of private drives in determining lot and yard characteristics and lot anatomy
- Broaden definitions and code requirements to include private drives where appropriate

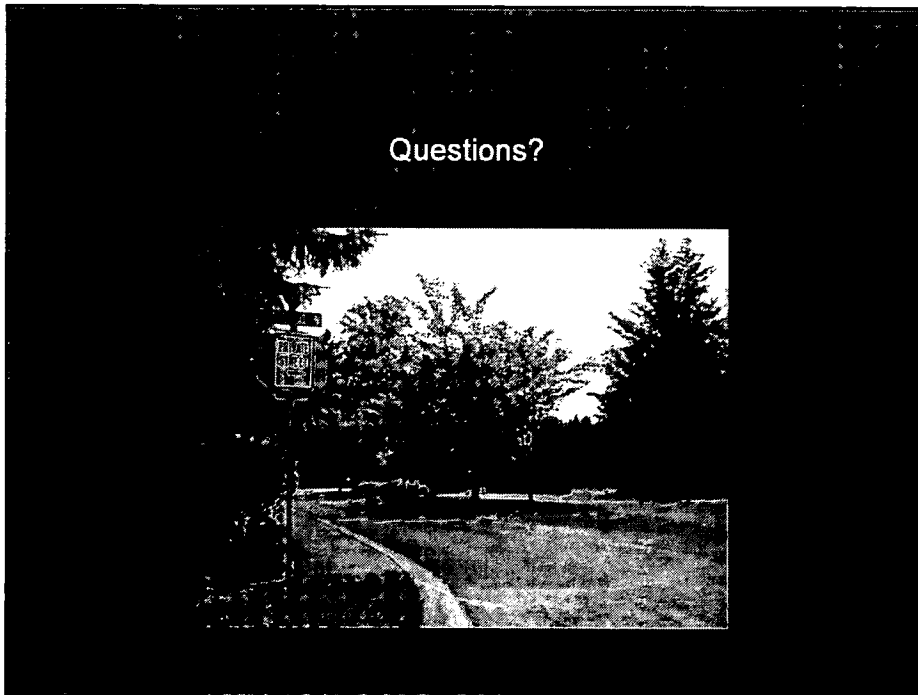
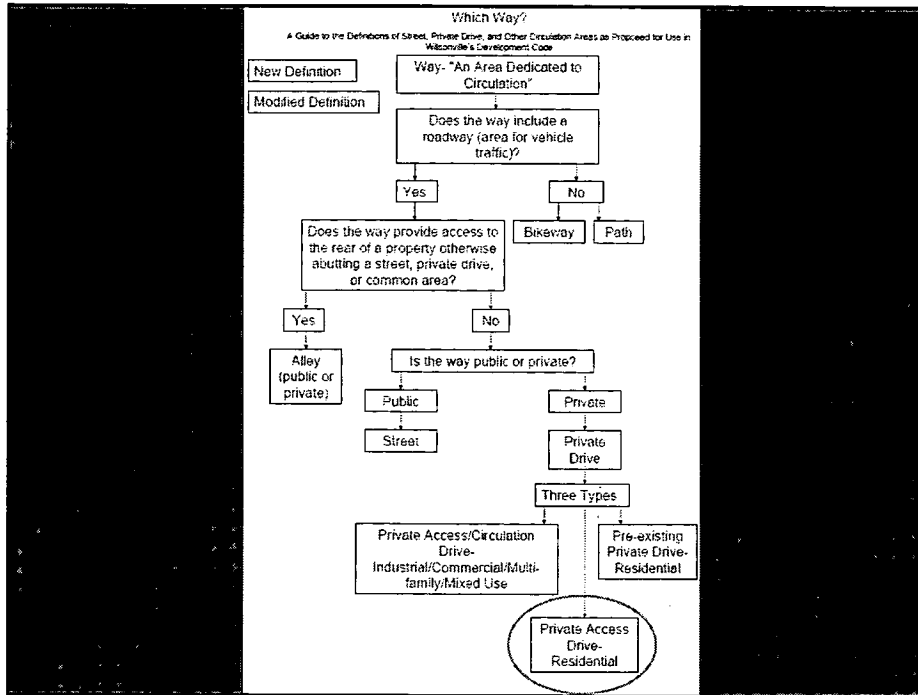


Exhibit B

Oregon

Theodore R. Kulongoski, Governor

Oregon Department of TransportationODOT Region 1
123 NW Flanders St
Portland, OR 97209
Telephone (503)731-8200
FAX (503)731-8259

April 12, 2010

ODOT File: #4079

City of Wilsonville Planning Commission
City of Wilsonville Planning Department
29799 SW Town Center Loop East
Wilsonville, OR 97070**Subject: Private Streets Code Revisions, LP09-0005**

Dear Chair McGuire and Planning Commission Members,

I am writing to encourage the Planning Commission to approve the staff recommendations under LP09-0005. The code changes are consistent with City's past efforts towards a "smart growth" development code. Private roads, while useful under some circumstances, tend to limit neighborhood "connectivity" and reduce the ability for people to walk or bike as a travel option.

Private roadways make it difficult to implement the City's Goal 3.3 and related measures which call for "increasing transportation choices and reducing reliance on automobiles"... so that other modes "are highly convenient....". This goal sentiment is consistent with the state Goal 12, Transportation Planning Rule. Supporting the code changes will also be a proactive step toward anticipated, future actions to implement Senate Bill 1059, the recently approved greenhouse gas reduction legislation.

I serve as the ODOT, planning liaison and TGM Grant Manager for Wilsonville. In my role I review land development proposals, legislative changes, and serve as grant manager for urban Clackamas County including Wilsonville. Thank you for your consideration.

Sincerely,

Gail Curtis, AICP
Senior Land Use and Transportation Planner
ODOT, Region 1

LP09-0005
Development Code Amendments related to Private Streets
Planning Commission Record Index

Staff Report for the April 14, 2010 Planning Commission Public Hearing including:
Exhibit A: Draft Development Code Changes with Explanations.

WILSONVILLE PLANNING DIVISION
Legislative STAFF REPORT

HEARING DATE: April 14, 2010

DATE OF REPORT: April 7, 2010

APPLICATION NO: LP09-0005

REQUEST: Proposed amendment of the Planning and Land Development Ordinance (Wilsonville's Development Code) adding and modifying language in order to: 1. limit the number of future single-family residential dwelling units that can be accessed by a private drive to four (4); 2. require higher design and construction standards for private drives providing access to single-family dwelling units; and 3. provide consistency and clarity throughout the code when referring to "street", "drive", "right-of-way" along with similar and related terms.

The Planning Commission action is in the form of a recommendation to the City Council.

LOCATION: All lands with a Comprehensive Plan designation of residential which have the potential to be developed with 2 or more single-family residential dwelling units. All lands that may be annexed and developed with single-family dwelling units.

APPLICANT: City of Wilsonville

STAFF REVIEWER: Daniel Pauly, Assistant Planner, (503) 682-4960 or pauly@ci.wilsonville.or.us.

CRITERIA:

Wilsonville Comprehensive Plan:

Section A: Citizen Involvement, Goal 1.1, Policy 1.1.1, Implementation Measures 1.1.1a, 1.1.1f, 1.1.1.g, 1.1.1 h.; Goal 1.2, Policy 1.2.1, Implementation Measure 3.5.2.b.

Land Use and Development Code:

Section 4.197 Zone Changes and Amendments to the Code - Procedures

SUMMARY:

When people think of streets most think of a publically-owned paved roadway. While a majority of streets in Wilsonville are publically owned, some streets are privately owned and maintained. Currently, Wilsonville’s Comprehensive Plan and Development Code allow local streets in all zones to be private with limited construction standards. Accordingly, a number of private streets have been approved and built throughout Wilsonville’s history. Over the years of experience with this policy on private streets and their subsequent construction and use, major concerns have arisen. One primary concern is the heavy burden property owners can face to finance reconstruction of a damaged or failing private street. This concern largely stems from the lack of construction standards for private streets. A second major concern is the lack of City services provided to private streets. These services include regular maintenance (street sweeping and storm drain cleaning), minor repairs (pot hole filling), and parking enforcement. When these services are not provided adequately by a private party, safety and livability can be significantly impacted.

The concerns over reconstruction costs and providing City services don’t apply equally to all private streets. They primarily apply to non-alley private streets in single-family residential development. In considering what should be done to address the concerns it is useful to categorize Wilsonville current private streets, explain how large of a concern there is for these different categories, and then explain recommended changes to the Development Code to address the concerns. Table 1. below lists four categories of private streets, associated land uses, and examples of current private streets that fall into these categories.

Table 1. Categories of Current Private Streets in Wilsonville

| Type of Private Street | Associated Land Uses | Examples |
|--|--------------------------------------|--|
| Access and Circulation Drive | Industrial | Nike Access Drive |
| | Commercial | Argyle Square |
| | Mixed-Use | Village at Main Street |
| | Multi-family (apartments and condos) | Berkshire Court Apartments |
| | Mobile Home Parks | Oak Leaf Park |
| Alley | Various | Villebois |
| Residential "Stub" Street (Access For Only a Few Homes) | Single Family Residential | SW Kensington Place in Morey's Landing |
| Residential Private Street serving more than a few homes | Single Family Residential | Silver Creek Subdivision |

The first category, 'access and circulation drive,' does not raise much concern and therefore no related changes to the Development Code are recommended. Reconstruction cost are not a major concern because these private streets are controlled by a single or a couple large property owners who generally understand the private nature and the long term maintenance obligations and will often have the replacement and repair costs in reserve. The property owners also generally actively and effectively provide minor maintenance and repair and parking enforcement ensuring proper function along with safety and livability.

The second category 'alley' also does not raise much concern. Unlike larger private streets in residential settings, alleys are typically perceived to be private, much as a driveway is assumed to be private. Because of this 'private area' perception, property owners adjoining an alley generally understand a long-term obligation to maintain and service an alley.

The third and fourth categories, 'residential "stub" street' and 'residential private street serving more than a few homes,' do raise the two major concerns, replacement costs and provision of City services, mentioned above. Unlike alleys, they typically do not have a 'private area' perception. Homeowners that do not closely read their CCR's may not fully understand their street is not maintained as a public street and that the cost of repair or rebuilding is the collective homeowners' responsibility. Current code does require these streets to be signed as a private street, but Staff's observations show this has not been consistent over time and cannot be relied on as a primary way of ensuring private street responsibility is properly understood.

When private streets are approved by the City private agreements are required to manage them, typically through a homeowners association. Over time homeowners associations, while still existing on paper, may become inactive and not adequately maintain and provide services for private streets. Even if a homeowners association remains active it may elect to collect lower dues from property owners and thus not have sufficient reserves to repair or replace a street or pay for adequate services. This may lead to a need to levy large fees when a street needs major repair or replacement creating a potentially unexpected large financial burden on homeowners. While all roadways will eventually need repair or replacement, lack of construction standards can bring these costs earlier than expected and lead to costs beyond what would be required for a street built to public works standards.

While the City cannot change what private streets have been approved in the past, Staff recommends new requirements to minimize the situations where these concerns may arise in future single-family development. The main new requirements include:

- Limiting the number of single-family dwellings that can be accessed by a private street or drive to four. (Accessory Dwelling Units are not counted).
Note: The limit of four dwelling units is recommended by Staff because it is the same number of units, under draft revisions to the Public Work Standards, which can be served by a 4-inch non-extendable water main
- Establishing standards for private drives in single-family residential development that help ensure a useful lifespan and structural maintenance schedule similar to public streets.

The four dwelling unit limit will not allow additional approval of the fourth category 'residential private street serving more than a few homes,' but will allow the limited approval of the third category 'residential "stub" streets'. The numerical limit eliminates large areas where the services concern would arise, only allowing private drives where practicality and benefits outweigh the services concern. Where residential private drives are recommended to be allowed, the new construction quality requirements ensure the long term costs of repair and replacement are minimized.

Developers have elected to build private streets in single-family residential development for a number of reasons. These reasons have not changed, and their relation to the new regulations needs to be understood. The main reason is alternative street design. Some common rationale for alternative street design include: increasing development density; urban design/neighborhood feel; conservation and low impact development (limiting impervious surfaces); working around difficult terrain and other physical landscape features; and traffic control. The allowance for private drives to access up to four homes allows their use in some instances to increase density, work around difficult terrain, and low impact development. Additionally, alternatively designed streets are still allowed, but must be approved as public streets, much as alternatively designed streets in Villebois are public. Under the current process it is easier to get alternatively designed streets approved as private rather than public. Under the proposed new regulations all alternatively designed streets servicing more than four dwelling units would be required to go through the process to become public streets.

Another reason for private streets may be cost savings by constructing streets to lower standards. While constructing streets to lower standards may provide lower up-front costs and increase initial housing affordability, the increased maintenance and repair costs for homeowners over time can outweigh any upfront cost savings. Experience has shown that the cost of repairing and replacing failing private streets can be passed on to the public. The City does not want to be in the position of having to reconstruct a failed private street on behalf of a private developer who made their profit and moved on years earlier.

As Staff examined the current code to look at the best way to incorporate the new private street regulations into the Development Code a number of inconsistencies and conflicts were found in the use of terms such as 'street' and 'road'. Staff is therefore also recommending minor amendments to many sections of the Development Code to ensure consistency and clarity related to current and proposed use of terms 'streets' and 'private drives' along with similar and related terms. A full explanation of each of these code changes can be found in Exhibit A (Draft Code Amendments and Explanations).

BACKGROUND

During the October 2008 City Council hearing for the Willamette Landing subdivision, concerns surrounding private streets in single-family subdivisions were raised. Subsequently, Staff was directed to review the City's code related to private streets in single-family subdivisions. Planning, Engineering, Public Works, Building, and Natural Resource staff met and collaborated to identify issues based on the City's experience with private streets in single-family subdivisions. Staff subsequently discussed these issues and gathered feedback during a series of Planning Commission Work Sessions over period of July 2009 to March 2010.

TIMELINE:

- October 20, 2008 concerns about private streets in single-family subdivisions surface during hearing on Willamette Landing subdivision.
- Late 2008, early 2009 City Staff from various departments and divisions meet and collaborate on issues and solutions related to private streets in single-family subdivisions.
- Mid 2009- early 2010 3 work sessions are held with the Planning Commission. July 8 and November 18, 2009 work sessions focus on the background, existing conditions, and issues. March 10, 2010 work session focuses on the actual code amendment language.
- The minutes and materials distributed at these work sessions are contained in the public record for this application (Exhibit B).

RECOMMENDATION: Staff respectfully recommends that the Planning Commission conduct the public hearing, and when appropriate, forward a recommendation of approval onto the City Council.

EXHIBITS:

- A. Draft Code Changes with Explanations

FINDINGS:

GOAL 1.1 *To encourage and provide means for interested parties to be involved in land use planning processes, on individual cases and City-wide programs and policies.*

Response: Interested parties have been encouraged through public notices and provided means to participate in three (3) Planning Commission work sessions and public hearing on the subject topic. By noticing the public they will continue to have the opportunity to be involved in public hearing meetings regarding the proposed Development Code amendments. This criterion is met.

Policy 1.1.1 The City of Wilsonville shall provide opportunities for a wide range of public involvement in City planning programs and processes.

Response: The work session and hearing process being undertaken for the proposed Development Code amendments are part of numerous opportunities for public involvement in City planning programs and processes. The public have been notified and welcomed to participate throughout the work session and public hearing process.

Implementation Measure 1.1.1.a Provide for early public involvement to address neighborhood or community concerns regarding Comprehensive Plan and Development Code changes. Whenever practical to do so, City staff will provide information for public review while it is still in "draft" form, thereby allowing for community involvement before decisions have been made.

Response: The first Planning Commission work session on the proposed Development Code amendments was held nine months prior to the Public Hearing, allowing early and ample time for community concerns regarding the Development Code changes to be addressed. Staff has provided the changes for public review while still in draft form. The "draft" code language was available at the Planning Commission work sessions, in the Public Hearing notice packet, and on the City's web site. This criterion is satisfied.

Implementation Measure 1.1.1.e Encourage the participation of individuals who meet any of the following criteria:

1. *They reside within the City of Wilsonville.*
2. *They are employers or employees within the City of Wilsonville.*
3. *They own real property within the City of Wilsonville.*
4. *They reside or own property within the City's planning area or Urban Growth Boundary adjacent to Wilsonville.*

Response: Through the work session schedule, public hearing notices, and available Planning Commission records on the web, Staff has encouraged the participation of a wide variety of individuals addressing each of the groups above. This criterion is met.

Implementation Measure 1.1.1.f Establish and maintain procedures that will allow any interested parties to supply information.

Response: The established procedures are being followed that allow any interested parties to supply information. This criterion is met.

Implementation Measure 1.1.1.h In preparing public notices for Planning Commission meetings, the staff will clarify whether the meeting will involve a public hearing and/or a work session.

Response: In each of the public notices for Planning Commission meetings, Staff has clarified whether the meeting involved a public hearing or a work session. This criterion is met.

GOAL 1.2: *For Wilsonville to have an interested, informed, and involved citizenry.*

Policy 1.2.1 *The City of Wilsonville shall provide user-friendly information to assist the public in participating in City planning programs and processes.*

Response: Staff has prepared user-friendly information for each of the work sessions including tables, slide shows, maps, and lists that have been available to the public at the work sessions and made part of the Planning Commission record available on the City's web site. This criterion is met.

Policy 1.3 *The City of Wilsonville shall coordinate with other agencies and organizations involved with Wilsonville's planning programs and policies.*

Implementation Measure 1.3.1.b *Where appropriate, the City shall continue to coordinate its planning activities with affected public agencies and private utilities. Draft documents will be distributed to such agencies and utilities and their comments shall be considered and kept on file by the City.*

Response: Affected agencies are being notified and draft code amendments made available via the City's web site or upon request. This criterion is satisfied.

Implementation Measure 3.5.2.b. *Through the Planned Development process, local streets may be approved as private streets, provided that adequate emergency access is available and that appropriate deed restrictions, homeowners' association requirements, etc. are established to insure proper maintenance.*

Response: Local streets will continue to be able to be approved as private streets throughout the City. The proposed Development Code amendments place restrictions on private streets or drives in single-family subdivisions to address specific issues that have come to the surface during the years of experience the City has had with private streets. This implementation measure will continue to be realized with the proposed Code Amendments.

Planning and Land Development Code, Section 4.197, Zone Changes and Amendments to This Code:

(.01) The following procedure shall be followed in applying for an amendment to the text of this Chapter:

A. The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within forty (40) days after concluding the hearing, provide a report and recommendation to the City Council regarding the proposed amendment. The findings and recommendations of the Commission shall be adopted by resolution and shall be signed by the Chair of the Commission.

Response: The Commission has taken ample time to create the proposed code in preparation for public hearings. Following public hearings, a recommendation to the City Council will be provided. This criterion is met.

B. In recommending approval of a proposed text amendment, the Planning Commission shall, at a minimum, adopt findings relative to the following:

1. That the application was submitted in compliance with the procedures set forth in Section 4.008; and

2. The amendment substantially complies with all applicable goals, policies and objectives set forth in the Comprehensive Plan; and

3. The amendment does not materially conflict with, nor endanger, other provisions of the text of the Code; and

4. If applicable, the amendment is necessary to insure that the City's Land Use and Development Ordinance complies with mandated requirements of State or Federal laws and/or statutes.

Response: The above criteria are substantially met as is evidenced by the file on this matter, the Planning Commission record and the narrative and findings of fact contained in this staff report. State and Federal laws/statutes are not in conflict with the proposal.

Modifications in Section 4.001-Definitions

Alley: A ~~minor access way~~ public or private way which includes a roadway used to provide vehicular ingress and egress to the back or side of properties otherwise abutting on a street, private drive, or shared common area. An alley typically has a width of no more than twenty (20) feet.

Explanation: Staff recommends updating the definition of alley to better reflect current and expected future use. Currently the City has both public (Old Town) and private (Villebois, Canyon Creek Meadows) alleys. The updated definition reflects this different ownership. The updated definition acknowledges that besides streets, properties with alley access may also front private drives and shared common areas. For example, a number of alley-accessed properties in Villebois front on shared common areas such as linear parks.

Curb Line: The line indicating the edge of the ~~vehicular~~ roadway within the overall right-of-way.

Explanation: Roadway by definition is “for the use of vehicular traffic.” The inclusion of the word “vehicular” in the definition of curb line is redundant and may cause confusion that a roadway exists that is not for vehicular traffic. Staff therefore recommends removing the redundant word from this definition.

Lane: See “Alley”

Explanation: Nowhere in the Development Code is the word “Lane” used instead of the word “alley.” Staff therefore recommends deleting this unnecessary term as a definition.

Lot Line, Front: The boundary line of a lot abutting a street or private drive, other than a boundary line along a side or rear yard. If the lot does not abut a street or private drive, the narrowest boundary line shall be considered to be the front. In the Village zone: the case of an interior lot, the lot line separating the lot from the public space, ~~public street~~ or private drive. In the case of a corner lot, the shortest lot line along a public space, ~~public street~~ or private drive. The boundary line of a lot abutting a street or private drive, other than a boundary line along a side or rear yard. If the lot does not abut a street or private drive, the narrowest boundary line shall be considered to be the front. A private drive bounded on two sides by a single lot shall not be considered in determining the front lot line.

Lot, Through: Any lot, except a corner lot, that abuts two or more streets or private drives other than a freeway. Private drives which are bounded on two sides by a single lot shall not be considered in determining if a lot is a through lot.

Explanation: A number of definitions concerning lot characteristics and anatomy are recommended to be modified to reflect the role private drives do and will play in determining lot characteristics and anatomy. Previously “street” was used in these definitions as a broad term assumedly covering both public and private ownership. “Street” is by definition a public way,

and therefore adding “private drive” is necessary to acknowledge the role of private roadway tracts in determining lot characteristics and anatomy. Adding “private drive” does require adding a caveat to the end of the definition stating “a private drive bounded by two sides by a single lot shall not be considered” in determining lot characteristics or anatomy. Streets by their nature of public ownership involve property lines that define lot boundaries. This is not always true for private drives. While many private drives are in private tracts that function similarly to street right-of-way in defining lot boundaries, many others are not delineated as separate tracts and run through the middle of a lot and hence should not be used in determining lots characteristics and anatomy and requiring the added caveat in these definitions. An example of private drives in a tract is the Silver Creek Subdivision. An example of the latter non-tract private drives bounded on two sides by a single lot is any of Wilsonville’s mobile home parks.

Multi-family housing. For purposes of this ordinance, multi-family housing is defined as a building Buildings or structure structures that contains three or more dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes, apartment houses, condominiums, congregate residences, townhouses and similar non-transient dwellings; [Added by Ord. 649, 6/2/08]

Explanation: *The definition of multi-family housing was originally added as part of the Outdoor Lighting Ordinance to allow a differentiation of lighting requirements for multi-family versus single-family development. Similarly, as part of the current code amendments Staff is recommending differing requirements for private drives in multi-family and single-family development. Therefore, Staff recommends expanding this definition to cover more than just the Outdoor Lighting Ordinance by deleting the language referring to that ordinance. In addition, the existing use of the words “building” and “structure” are recommended to be pluralized in order to make it clear that the definition refers to either a single building or structure or a group of buildings or structures in a complex or development.*

New Manufactured Home Park or Subdivision: Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets or private drives, and either final site grading or the pouring of concrete pads) was completed on or after the effective date of flood plain management regulations adopted by the City.

Explanation: *This definition uses the term “street” to refer to roadway improvements. Assumedly this refers to either public or private ownership even though a “street” by definition is public. However, historically roadway improvements in manufactured home parks have been private. The addition of “or private drives” reflects this fact and provides consistency with other definitions.*

Private Drive- A private way, other than an alley, that includes a roadway.

- A. Private Access/Circulation Drive-Industrial/Commercial/Multi-family/Mixed Use:** A private drive in an industrial, commercial, multi-family (including

mobile home parks), or mixed-use development providing vehicular ingress and egress to the development and/or internal circulation.

- B. Residential Private Access Drive: A private drive in a non multi-family residential development providing primary vehicle access to no more than four (4) dwelling units, excluding accessory dwelling units. A residential private access drive provides for no through vehicle access and is not extendable. This definition does not include private alleys.
- A. Residential Private Drive , Pre-existing- A private drive in a non multi-family residential development approved prior to (effective date of ordinance) including those that provides vehicular access to more than four (4) dwelling units.

Explanation: *The addition of the term “private drive” together with its sub-definitions enables differentiation necessary to address concerns over “private streets” in single-family subdivisions while not affecting “private streets” in existing development non-single family development in the future.*

The term “private drive” is recommended instead of “private street” as “street” by its existing definition is public causing the term “private street” to be contradictory. The recommended general definition of “private drive” has three concise components. The words “a private way” identify a “private drive” as an area under private ownership dedicated to circulation. The words “other than an alley” clarify that separately defined term “alley” does not fall under this definition. Lastly, the words “that includes a roadway” differentiates private drives from other private ways such as bikeways or pedestrian paths. “Roadway,” by definition, is developed for vehicle traffic.

As mentioned above, the definition of “private drive” is recommended to be subdivided to differentiate what is and is not affected by proposed new regulations. The proposed new regulations apply only to new non multi-family residential development, including single-family dwellings and duplexes. Sub-definition A. “Private Access/Circulation Drive-Industrial/Multi-family/Mixed-Use” ensures other types of development are not affected. Sub-definition C. “Pre-existing Residential Private Drive” ensures any private drives, including those providing access to more than 4 dwelling units, are not affected by the new regulations and remain as legal conforming uses.

Sub-definition B. defines “Residential Private Access Drive.” In addition to identifying these private drives, the definition identifies, for ease of reference, many of the recommended new regulations found in Subsection 4.177 (.02). The recommended regulations include a limit of four (4) dwelling units that can have primary vehicle access from a single private drive, and requirements that they not provide through vehicle access and not be extendable. Lastly, the definition reemphasizes that private alleys do not fall under this definition and the new regulations.

Private Way: A private area dedicated to circulation, including the roadways for private streets, bikeways, paths or utilities.

Explanation: *Besides bikeway, paths, and utilities the current definition of “Private Way” includes the phrase “the roadway for private streets”. This phrase conflicts with other definitions. Replacing the phrase with the single word “roadways” resolves the conflict. As recommended, “private way” is a broad term that includes “private alleys”, “private drives”, as well as private bikeways, paths, and utility areas.*

Road: Same as “Street”

Explanation: *The term “road” is used in a number of places throughout the development code, yet is not defined. In all cases of its stand alone use “road” is interchangeable with the word “street” as currently defined. For the sake of clarity, Staff recommends that “road” be defined as “the same as street.”*

Roadway: ~~The portion of a street right of way~~ public way or street or private way developed for use by vehicular traffic.

Explanation: *Currently by definition a “roadway” can only be part of a street. The recommended replacement of the words “street right of way” with “public way or street or private way” broadens the definition to include those portions of alleys and private drives developed for use by vehicular traffic. The revised definition is consistent with how the term “roadway” is used in other definitions and throughout the development code.*

Roadway, Shared: A roadway that is designed to be shared by additional users besides motor vehicles, especially bicycles.

Explanation: *Currently a sub-definition of bikeway is “Shared Roadway” which is defined as “A shared roadway facility is a type of bikeway where motorists and cyclists occupy the same roadway area. The addition of Roadway, Shared as a separate stand-alone definition broadens and clarifies the concept that roadways can be shared facilities for vehicles and bicycles as well as for pedestrians with facilities like what is commonly known in the New Urbanism literature as a “woonerf.”*

Site Area, Net: The area of a development site, excepting all areas in ~~public~~ streets or private drives, driveways, and parking spaces.

Explanation: *In explaining how net site area is calculated some exemptions are included. This does not currently include “private drives.” It is reasonable to assume that if streets, driveways, and parking areas are exempted so would private drives. Staff thus recommends adding “private drives” to the list of exempted areas. In addition, the word “public” is redundant when referring to streets as “streets” by definition are public. Staff thus recommends deleting the word “public.”*

Street: The entire right-of-way of a dedicated public way, which provides vehicular and pedestrian access to adjacent properties. ~~It shall include the terms street, court, road, drive, and other such terms.~~ Except in the Village zone, a right-of-way less than twenty (20) feet in width shall not be recognized as a street.

Explanation: *A phrase in the definition of “street” expands the term to cover similar terms such as court, road, drive. A thorough review of the code found that only the term “road” is used as an alternative to “street” in the development code. In addition, the term “drive” is used in the current code and the proposed amendments to refer to roadways that aren’t “streets.” For these reasons Staff recommends deleting the middle phrase of the current definition.*

Street, Private: Same as Private Drive

Explanation: *“Private Street” is not currently defined. “Street” by definition is public, therefore the term “private street” is contradictory. For this reason, “private drive” is recommended as an alternative term and has been defined as explained above. The recommended addition of a definition for “street, private” is for ease of reference and simply redirects the reader to the definition of “private drive.”*

Yard, Front: Any yard abutting a street or private drive, unless one side is determined to meet the definition of a side yard, below. Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a front yard.

Yard, Side: Any yard abutting a side lot line and, for corner lots, the side with the longest ~~street~~ frontage along a street or private drive. Where a corner lot has an existing building with a primary entrance, the ~~street-side~~ along a street or private drive without the entrance shall be deemed the side yard. Where a corner lot has the same amount of frontage on both streets or private drives, and no primary building entrance facing either street or private drive, the Planning Director may designate the side yard in order to determine required setbacks. Private drives which are bounded on two sides by a single lot shall not be considered in determining if a yard is a side yard.

Explanation: *Similar to the terms regarding lot characteristics and anatomy, Staff recommends modifying these definitions to appropriately reflect the role private drives play in determining yard characteristics. See additional explanation under the definitions of “Lot line, front” “Lot, through” above.*

Section 4.005 Exclusions from Development Permit Requirements

- (.05) Except as otherwise required by Sections 4.184 and 4.500 to 4.510, the establishment, construction or termination of an authorized public facility that serves development, including such facilities as a private or public street, sewer, water line, electrical power or gas distribution line, or telephone or television cable system, provided said construction complies with applicable Public Works Standards. This exemption is not intended to apply to buildings used by utility providers.

***Explanation:** At one point the words “private or public” in this subsection were recommended to be deleted as unnecessary and repetitive since streets are by definition public. However, additional Staff review found that the words “private or public” also refers to the utility lines, etc. that may be public or private. Though this Section was noticed as one to be revised, no changes are recommended.*

Section 4.035. Site Development Permits.

(.04) Site Development Permit Application.

- A. An application for a Site Development Permit shall consist of the materials specified as follows, plus any other materials required by this Code.
1. A completed Permit application form, including identification of the project coordinator, or professional design team.
 2. An explanation of intent, stating the nature of the proposed development, reasons for the Permit request, pertinent background information, information required by the development standards and other information specified by the Director as required by other sections of this Code because of the type of development proposal or the area involved or that may have a bearing in determining the action to be taken. As noted in Section 4.014, the applicant bears the burden of proving that the application meets all requirements of this Code.
 3. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all individuals or partners in ownership of the affected property.
 4. Legal description of the property affected by the application.
 5. The application shall include conceptual and quantitatively accurate representations of the entire development sufficient to judge the scope, size and impact of the development on the community, public facilities and adjacent properties; and except as otherwise specified in this Code, shall be accompanied by the following information,
 6. Unless specifically waived by the Director, the submittal shall include: ten (10) copies folded to 9" x 12" or (one (1) set of full-sized scaled drawings and nine (9) - 8 1/2" x 11" reductions of larger drawings) of the proposed Site Development Plan, including a small scale vicinity map and showing:
 - a. Streets, private drives, driveways, sidewalks, pedestrian ways, off-street parking, loading areas, garbage and recycling storage areas, power lines and railroad tracks, and shall indicate the direction of traffic flow into and out of off-street parking and loading areas, the location of each parking space and each loading berth and areas of turning and maneuvering vehicles.
 - b. The Site Plan shall indicate how utility service , including sanitary sewer, water and storm drainage, are to be provided. The Site Plan shall also show the following off-site features: distances from the subject property to

- any structures on adjacent properties and the locations and uses of streets, private drives, or driveways on adjacent properties.
- c. Location and dimensions of structures, utilization of structures, including activities and the number of living units.
 - d. Major existing landscaping features including trees to be saved, and existing and proposed contours.
 - e. Relevant operational data, drawings and/or elevations clearly establishing the scale, character and relationship of buildings, streets, private drives, and open space.
 - f. Topographic information sufficient to determine direction and percentage of slopes, drainage patterns, and in environmentally sensitive areas, e.g., flood plain, forested areas, steep slopes or adjacent to stream banks, the elevations of all points used to determine contours shall be indicated and said points shall be given to true elevation above mean sea level as determined by the City Engineer. The base data shall be clearly indicated and shall be compatible to City datum, if bench marks are not adjacent. The following intervals shall be shown:
 - i. One (1) foot contours for slopes of up to five percent (5%);
 - ii. Two (2) foot contours for slopes of from six percent (6%) to twelve percent (12%);
 - iii. Five (5) foot contours for slopes of from twelve percent (12%) to twenty percent (20%). These slopes shall be clearly identified, and
 - iv. Ten (10) foot contours for slopes exceeding twenty percent (20%).
 - g. A tabulation of land area, in square feet, devoted to various uses such as building area (gross and net rentable), parking and paving coverage, landscaped area coverage and average residential density per net acre.
 - h. An application fee as set by the City Council.
 - i. If there are trees in the development area, an arborist's report, as required in Section 4.600. This report shall also show the impacts of grading on the trees.
 - j. A list of all owners of property within 250 feet of the subject property, printed on label format. The list is to be based on the latest available information from the County Assessor.

Explanation: *This subsection lists a number of features that should be included on site plans and similar documents submitted as part of Site Development Applications. Staff recommends adding newly defined "private drives" to the list of items to be included as they are an integral part of a site's design.*

Section 4.111. Zoning - Zone Boundary Lines.

- (.01) Except where reference is made on said map to a street line, political boundary, section line, legal description, or other designated line by dimensions shown on said map or maps, the zone boundary lines are intended to follow property lines, lot lines,

or centerlines of streets, private drives, alleys, streams, or railroads or the extension of such lines as they existed at the time of the adoption of this Code.

Explanation: *This subsection lists features that may delineate a zone boundary line. Newly defined “private drives” are not currently on the list though they define at least one boundary line in the City (SW Ruth St., SW Rogue Lane, SW Jessica St. in Village at Main Subdivision). Private Drives may delineate additional zone boundary lines in the future. For this reason Staff recommends adding “private drives” to the list of features that can delineate zone boundary lines.*

- (.03) Whenever any ~~street, alley, or~~ public way is vacated by official action as provided by law, the zone adjoining the side of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way thus vacated, which shall thenceforth be subject to all regulations of the extended zone or zones.

Explanation: *This subsection discusses the zoning status of vacated public ways. Streets and public alleys are by definition public ways, therefore the use of the terms “street” and “alley” are redundant and therefore recommended to be deleted.*

Section 4.113. Standards Applying To Residential Developments In Any Zone.

- (.02) Open Space Area shall be provided in the following manner:
- A. In all residential subdivisions including subdivision portions of mixed use developments where (1) the majority of the developed square footage is to be in residential use or (2) the density of residential units is equal or greater than 3 units per acre, at least twenty-five percent (25%) of the area shall be in open space excluding streets and private drives. Open space must include, as a minimum natural areas that are preserved under the City’s SROZ regulations and usable open space such as public park area, tot lots, swimming and wading pools, grass area for picnics and recreational play, walking paths, and other like space. For subdivisions with less than 25% SROZ lands and those with no SROZ lands, the minimum requirement shall be ¼ acre of usable park area for 50 or less lots, ½ acre of usable park area for 51 to 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. Front, side and rear yards of individual residential lots shall not be counted towards the 25% open space.

Provided, however, where SROZ is greater than 25% of the developable area for any development, the development must also provide ¼ acre of usable park area for a development of less than 100 lots, and ½ acre of usable park area for a development of 100 lots, and pro rata amounts based on this formula for subdivisions exceeding 100 lots. The Development Review Board may waive the usable open space requirement if there is substantial evidence in the record to support a finding that the intent and purpose of the requirement will be met in alternative ways. Irrespective of the amount of SROZ, a development may not use phasing to avoid the minimum usable space requirement.

Multi-family developments shall provide a minimum of 25% open space excluding streets and private drives. Open space must include, as a minimum natural areas that are preserved under the City's SROZ regulations, and outdoor recreational area as provided in 4.113(.01)(A)(1) through (5) [Amended by Ord. 589 8/15/05]

Explanation: *This subsection describes open space requirements. In describing the requirements it states that streets are excluded from the calculation of open space. Staff recommends adding "private drives" to what is excluded as they have the same functional value for open space as streets.*

(.03) **Building Setbacks** (for Fence Setbacks, see subsection .08)

A. For lots over 10,000 square feet:

1. Minimum front yard setback: Twenty (20) feet.
2. Minimum side yard setback: Ten (10) feet. In the case of a corner lot less than one hundred (100) feet in width, abutting more than one street or tract with a private drive, the side yard on the street or private drive side of such lot shall be not less than twenty percent (20%) of the width of the lot, but not less than ten (10) feet.
3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street or tract with a private drive upon which the key lot faces and the setback required on the adjacent interior lot.
4. No structure shall be erected within the required setback for any future street shown within the City's adopted Transportation Master Plan or Transportation Systems Plan.
5. Minimum setback to garage door or carport entry: Twenty (20) feet. Except, however, in the case of an alley where garages or carports may be located no less than four (4) feet from the ~~right-of-way~~ property line adjoining the alley.
6. Minimum rear yard setback: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.

B. For lots not exceeding 10,000 square feet:

1. Minimum front yard setback: Fifteen (15) feet, with open porches allowed to extend to within ten (10) feet of the property line.
2. Minimum side yard setback: One story: five (5) feet; Two or more stories: seven (7) feet. In the case of a corner lot, abutting more than one street or tract with a private drive, the side yard on the street side of such lot shall be not less than ten (10) feet.
3. In the case of a key lot, the front setback shall equal one-half (1/2) the sum of depth of the required yard on the adjacent corner lot along the street or tract with a private drive upon which the key lot faces and the setback required on the adjacent interior lot.

4. No structure shall be erected within the required setback for any future street shown within the City’s adopted Transportation Master Plan or Transportation Systems Plan.
5. Minimum setback to garage door or carport entry: Twenty (20) feet. Wall above the garage door may project to within fifteen (15) feet of property line, provided that clearance to garage door is maintained. Where access is taken from an alley, garages or carports may be located no less than four (4) feet from the ~~right of way~~ property line adjoining the alley.
6. Minimum rear yard setback: One story: fifteen (15) feet. Two or more stories: Twenty (20) feet. Accessory buildings on corner lots must observe the same rear setbacks as the required side yard of the abutting lot.

Explanation: *This subsection establishes the basic setback requirements for residential development in any zone. In establishing setbacks the language in this subsection discusses lot characteristics and anatomy in relation to streets. These lot characteristics and anatomy may be determined by private drives as well as streets. For this reason, Staff recommends adding language addressing the role of private drives throughout this subsection. As noted in the discussion of the additional language in the definitions of lot lines, not all private drives affect lot characteristics and anatomy. Only those private drives in separate tracts, as apposed to those private drives that remain part of a larger lot, effect lot characteristics and anatomy. This is made clear with the recommended language “tract with a”.*

In addition, in a couple locations this subsection refers to “alley right-of-way.” Alley’s can be either public or private, but the use of the term “right of way” only makes sense for public alleys as “right of way” by definition refers to public ownership. The intent of the language is to establish a setback from the property line between the “right-of-way” and lot. For this reason Staff recommends replacing “right of way” with “property line adjoining the alley” which would be appropriate language regardless of alley ownership.

Section 4.116. Standards Applying To Commercial Developments In Any Zone.

Any commercial use shall be subject to the applicable provisions of this Code and to the following:

(.11) Hotels or Motels.

- C. Front Yard Setback: Thirty (30) feet, unless located in the Old Town overlay zone, in which case the standards of the overlay zone shall apply. Structures on corner lots shall observe the minimum setback on both streets or tracts with a private drive.

Explanation: *This subsection establishes setbacks for hotels and motels. In discussing corner lots the language references streets. A corner lot may also involve a private drive. For this reason Staff recommends adding “or tracts with a private drive” to address the role of private drives in determining whether or not a lot is a corner lot. (See also discussion of private drive tracts under Section 4.113 above).*

Section 4.118. Standards applying to all Planned Development Zones:

(.03) Notwithstanding the provisions of Section 4.140 to the contrary, the Development Review Board, in order to implement the purposes and objectives of Section 4.140, and based on findings of fact supported by the record may:

A. Waive the following typical development standards:

1. minimum lot area;
2. lot width and frontage;
3. height and yard requirements;
4. lot coverage;
5. lot depth;
6. street widths;
7. sidewalk requirements;
8. height of buildings other than signs;
9. parking space configuration;
10. minimum number of parking or loading spaces;
11. shade tree islands in parking lots, provided that alternative shading is provided;
12. fence height;
13. architectural design standards;
14. transit facilities; and
15. solar access standards, as provided in Section 4.137.

E. Adopt other requirements or restrictions, inclusive of, but not limited to, the following:

1. Percent coverage of land by buildings and structures in relationship to property boundaries to provide stepped increases in densities away from low-density development.
2. Parking ratios and areas expressed in relation to use of various portions of the property and/or building floor area.
3. The locations, width and improvement of vehicular and pedestrian access to various portions of the property, including portions within abutting street or private drive.
4. Arrangement and spacing of buildings and structures to provide appropriate open spaces around buildings.
5. Location and size of off-street loading areas and docks.
6. Uses of buildings and structures by general classification, and by specific designation when there are unusual requirements for parking, or when the use involves noise, dust, odor, fumes, smoke, vibration, glare or radiation incompatible with present or potential development of surrounding property. Such incompatible uses may be excluded in the amendment approving the zone change or the approval of requested permits.

7. Measures designed to minimize or eliminate noise, dust, odor, fumes, smoke, vibration, glare, or radiation which would have an adverse effect on the present or potential development on surrounding properties.
8. Schedule of time for construction of the proposed buildings and structures and any stage of development thereof to insure consistency with the City's adopted Capital Improvements Plan and other applicable regulations.
9. A waiver of the right of remonstrance by the applicant to the formation of a Local Improvement District (LID) for streets, utilities and/or other public purposes.
10. Modify the proposed development in order to prevent congestion of streets and/or to facilitate transportation.
11. Condition the issuance of an occupancy permit upon the installation of landscaping or upon a reasonable scheduling for completion of the installation of landscaping. In the latter event, a posting of a bond or other security in an amount equal to one hundred ten percent (110%) of the cost of the landscaping and installation may be required.
12. A dedication of property for streets, pathways, and bicycle paths in accordance with adopted Facilities Master Plans or such other streets necessary to provide proper development of adjacent properties.

Explanation: *The reference to "street" in this E. 3. of this subsection would also apply to "private drive." Staff therefore recommends adding the "or private drive" language.*

Section 4.120. Zones. RA-H Residential Agricultural - Holding Zone.

(.04) Dimensional Standards:

- B. Minimum Front and Rear Yard Setbacks: Thirty (30) feet. Minimum Side Yard Setback: Ten (10) feet.
1. Legal, non-conforming RA-H lots in the Old Town Overlay Zone shall have the following setbacks:
 - a. Front: Ten (10) feet for single family dwellings, for all other uses: none;
 - b. Rear: Fifteen (15) feet;
 - c. Side: Five (5) feet.
 2. Minimum setback for residential garage or carport: At least five (5) feet behind the front of the nearest residential unit on the property. In no case shall the front of a garage or carport be located less than twenty (20) feet behind a sidewalk or a public right-of-way providing access to that garage or carport. Except, however, in the case of an alley where garages or carports are located within five (5) feet of the ~~right-of-way~~ **property line adjoining the alley.**

Explanation: *This subsection refers to alley "right-of-way." Alleys can be either public or private, but the use of the term "right of way" only makes sense for public alleys as "right of way" by definition refers to public ownership. The intent of the language is to establish a setback from the property line between the "right-of-way" and lot. For this reason Staff recommends*

replacing “right of way” with “property line adjoining the alley” which would be appropriate language regardless of alley ownership.

(.09) Block and access standards:

1. Maximum block perimeter: 1,800 feet.
2. Maximum spacing between streets or private drives for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard. [Amended by Ordinance No. 538, 2/21/02.]
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

Section 4.122. Residential Zone.

(.07) Other Standards:

B. Minimum street frontage of lot: Thirty (30) feet; however, no street frontage is required when the lot fronts on an approved, platted private ~~road~~ drive.

G. Block and access standards:

1. Maximum block perimeter in new land divisions: 1,800 feet.
2. Maximum spacing between streets or private drives for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard.
3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

[Section 4.122(.07) amended by Ordinance No. 538, 2/21/02.]

Section 4.124. Standards Applying To All Planned Development Residential Zones.

(.06) Block and access standards:

1. Maximum block perimeter in new land divisions: 1,800 feet.
2. Maximum spacing between streets or private drives for local access: 530 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations,

or designated Significant Resource Overlay Zone areas will prevent street extensions meeting this standard.

3. Maximum block length without pedestrian and bicycle crossing: 330 feet, unless waived by the Development Review Board upon finding that barriers such as railroads, freeways, existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions meeting this standard.

[Section 4.124(.06) amended by Ordinance No. 538, 2/21/02.]

Section 4.124.2. PDR-2:

The following standards shall apply in PDR-2 zones. It should be noted that lot size requirements do not specify the number of units that may be constructed per lot:

(.04) Other Standards:

- B. Minimum street frontage of lot: Thirty (30) feet; however, no street frontage is required when the lot fronts on an approved, platted private ~~road~~ drive.

Section 4.124.3. PDR-3:

The following standards shall apply in PDR-3 zones. It should be noted that lot size requirements do not specify the number of units that may be constructed per lot:

(.04) Other standards:

- B. Minimum street frontage of lot: Forty (40) feet; however, street frontage may be reduced to twenty-four (24) feet when the lot fronts a cul-de-sac. No street frontage is required when the lot fronts on an approved, platted private ~~road~~ drive.

Section 4.124.4. PDR-4:

The following standards shall apply in PDR-4 zones. It should be noted that lot size requirements do not specify the number of units that may be constructed per lot:

(.04) Other standards:

- B. Minimum street frontage of lot: Thirty-five (35) feet; however, street frontage may be reduced to twenty-four (24) feet when the lot fronts a cul-de-sac. No street frontage is required when the lot fronts on an approved, platted private ~~road~~ drive.

Section 4.125. V – Village Zone

- (.05) Development Standards Applying to All Developments in the Village Zone. In addition to other applicable provisions of the Wilsonville Planning and Land Development Ordinance, all development in the Village zone shall be subject to Tables V-1 through V-4, and to the following. If there is a conflict between the provisions of the Village zone and other portions of the Code, then the provisions of this section shall apply.

- A. Block, Alley, Pedestrian and Bicycle Standards:

1. Maximum Block Perimeter: 1,800 feet, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent a block perimeter from meeting this standard.
2. Maximum spacing between streets or private drives for local access: 530 feet, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent street extensions from meeting this standard. Under such circumstances, intervening pedestrian and bicycle access shall be provided, with a maximum spacing of 330 feet from those local streets or private drives, unless the Development Review Board makes a finding that barriers such as existing buildings, topographic variations, or designated Significant Resource Overlay Zone areas will prevent pedestrian and bicycle facility extensions from meeting this standard.

Explanation: Language in Sections 4.120, 4.122, 4.124, and 4.125 discusses the required spacing between local streets. Private Drives can also provide local access meeting these spacing requirements, however this is not reflected in current language. Staff recommends adding “or private drives” after “street” in each location where spacing requirements are discussed.

Sections 4.122, 4.124.2, 4.124.3, and 4.124.4 include the words “private road.” To be consistent with definitions and other sections of the Development Code Staff recommends replacing the word “road” with “drive.”

Section 4.237. General Requirements – Other.

Table V-1: Development Standards

| Building Type | Min. Lot Size (sq.ft.) | Min. Lot Width (ft.) | Min. Lot Depth (ft.) | Max. Lot Coverage (note) | Min. Frontage Width ^{10,12} (%) | Max. Bldg. Height ⁵ (ft.) | Setbacks ^{10,13,20} | | | | Alley-Loaded Garage (note) | Street-Loaded Garage (note) |
|---|------------------------|----------------------|----------------------|--------------------------|--|--------------------------------------|------------------------------|------------------|-----------------|-----------------|----------------------------|-----------------------------|
| | | | | | | | Front Min. (ft.) | Front Max. (ft.) | Rear Min. (ft.) | Side Min. (ft.) | | |
| Commercial Buildings - Village Center ¹⁴ | NR | NR | NR | 1 | 90 | 60 | NR ³ | 5 | NR | NR | NR | NA |
| Hotels - Village Center ¹⁴ | NR | NR | NR | 1 | 80 | 60 | NR ³ | 15 | NR | NR | NR | NA |
| Mixed Use Buildings - Village Center ¹⁴ | NR | NR | NR | 1 | 90 | 60 | NR ³ | 8 | NR | NR | NR | NA |
| Multi-Family Dwellings - Village Center ¹⁴ | NR | NR | NR | 1 | 80 | 45 | 5 ⁴ | 15 | NR | NR | NR | NA |
| Row Houses ¹¹ - Village Center ¹⁴ | NR | NR | NR | 1 | 80 | 45 | 5 ⁴ | 10 | NR | NR | NR | NA |
| Commercial Buildings | NR | NR | NR | 1 | 60 | 45 | NR | 15 | NR | NR | NR | NA |
| Mixed Use Buildings | NR | NR | NR | 1 | 60 | 45 | NR | 15 | NR | NR | NR | NA |
| Multi-Family Dwellings | NR | NR | NR | 1 | 60 | 45 | 8 ⁴ | 15 | NR | NR | NR | NA |
| Row Houses ¹¹ | NR | 15 | 50 | 1 | 80 | 45 | 8 ⁵ | 15 | NR | NR | NR | NA |
| Duplexes | 4,000 | 45 | 70 | 2 | 60 ¹⁶ | 35 | 12 ^{5,6} | 20 ⁶ | 5 | 5 ¹⁵ | 7 | 8,17,18 |
| Single-Family Dwellings | 2,250 | 35 | 50 | 2 | 60 ¹⁶ | 35 | 12 ^{5,6} | 20 ⁶ | 5 | 5 ¹⁵ | 7 | 8,17 |

- Notes:
- NR No Requirement
 - NA Not Allowed
 - 1 Lot < 8000sf: NR; Lot >8000sf: 80% (Max. Lot Coverage)
 - 2 Small lots: 75%, Medium Lots: 65%, Standard and Large Lots: 55%, Estate Lots: 45% Maximum Lot Coverage
On lots where detached accessory buildings are built, maximum lot coverage may be increased by 10%.
 - 3 Bay windows, balconies, and other structural building projections above 8 ft. may encroach up to 5 ft. into the Public Way; canopies, awnings, and other non-structural projections may encroach up to 8 ft. into the Public Way.
 - 4 Porches, stairs, stoops, decks, canopies, balconies, bay windows, chimneys, awnings, and other building projections may encroach up to the Public Way.
 - 5 Porches, stoops, decks, canopies, balconies, bay windows, chimneys, awnings, and other building projections may encroach to within 8 ft. of the Public Way. Stairs may encroach to the Public Way.
 - 6 For Standard, or Large Lots on Collector Avenues, front setbacks are 20 ft. min., (13' setback to porch), side street setbacks are 15' (8' setback to porch). Pie-shaped lots or lots with significant trees or grade banks at frontage have no maximum front setback.
 - 7 The garage setback from alley shall be between 3 and 5 foot or, when as optional parking space is located between the garage and the alley, shall be 16 ft. minimum. Lots with important trees, as identified in the Master Plan, or grade differences at the alley, affecting garage location shall be exempt from this requirement.
 - 8 Street-loaded garages shall be a minimum 20 ft. front setback to face of garage, and located a minimum of 5 ft. behind main façade of the associated dwelling unit.
 - 9 Vertical encroachments are allowed up to ten additional feet, for up to 10% of the building footprint; vertical encroachments shall not be habitable space.
 - 10 For Village Center buildings with lots fronting two or more streets, at least two facades shall be subject to the minimum frontage width and front setback requirements.
 - 11 Row Houses shall be attached; however, no more than ten units shall be contiguous along a street edge.
 - 12 See Definitions, 4.125.01, for measurement of Minimum Frontage Width.
 - 13 Front Setback is measured as the offset of the front lot line or a vehicular or pedestrian access easement line. On lots with alleys, Rear Setback shall be measured from the alley-right-of-way rear lot line abutting the alley.
 - 14 See Figure 2A - Village Center Boundary & Land Use Plan in the Villebois Village Master Plan for areas included within the Village Center.
 - 15 On Estate Lots and Large Lots with frontage 70 ft. or wider, the minimum combined side yard setbacks shall total 15 ft. with a minimum of 5 ft. On Small and Medium Lots, minimum side setback shall be 0 ft. or as required by Building Code.
 - 16 For cluster housing with lots arranged on a courtyard, frontage shall be measured at the front door face of the building adjacent to a public right of way or a public pedestrian access easement linking the courtyard with the Public Way.
 - 17 Dwellings on lots without alley access shall be at least 36 feet wide.
 - 18 Duplexes with front-loaded garages are limited to one shared standard-sized driveway/apron.
 - 19 Maximum setbacks may be increased as necessary to accommodate building cod, public utility easements or public open space requirements.
 - 20 Lots are categorized as small, medium, standard, large or estate as shown in the Pattern Book.

Explanation: *Table V-1 in Section 4.125 refers to alley right-of-way. Alleys can be either public or private, but the use of the term “right of way” only makes sense for public alleys as “right of way” by definition refers to public ownership. The intent of the language is to establish a setback from the property line between the “right-of-way” and lot. For this reason, Staff recommends replacing “right of way” with “rear lot line abutting the alley” which would be appropriate language regardless of alley ownership.*

- (.18) Village Zone Development Permit Process. Except as noted below, the provision of Sections 4.140(.02) through (.06) shall apply to development in the Village zone.

F. Refinements to Approved Villebois Village Master Plan

1. In the process of reviewing a SAP for consistency with the Villebois Village Master Plan, the Development Review Board may approve refinements, but not amendments, to the Master Plan. Refinements to the Villebois Village Master Plan may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section 4.125(.18)(F)(2), below. Amendments to the Villebois Village Master Plan may be approved by the Planning Commission as set forth in Section 4.032(.01)(B).

a. Refinements to the Master Plan are defined as:

- i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
- ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the Specific Area Plan.
- iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
- iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the affected SAP. For purposes of this subsection, “land uses” or “uses” are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.
- v. A change in density that does not exceed ten percent, provided such density change does not result in fewer than 2,300 dwelling units in the Village.

Section 4.237. General Requirements – Other.

- vi. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the function of collector or minor arterial ~~roadways~~ streets.
 - b. As used herein, “significant” means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(F)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(F)(1)(a), above.
 - 2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the Goals, Policies and Implementation Measures of the Villebois Village Master Plan
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the SAP and Village area, and
 - c. The refinement will not preclude an adjoining or subsequent SAP area from development consistent with the Master Plan.
 - 3. Amendments are defined as changes to elements of the Master Plan not constituting a refinement. Amendments to the Master Plan must follow the same procedures applicable to adoption of the Master Plan itself.
- J. PDP Refinements to an Approved Specific Area Plan
- 1. In the process of reviewing a PDP for consistency with the approved Specific Area Plan, the DRB may approve refinements, but not amendments, to the SAP. Refinements to the SAP may be approved by the Development Review Board, upon the applicant's detailed graphic demonstration of compliance with the criteria set forth in Section (.18)(J)(2), below.
 - a. Refinements to the SAP are defined as:
 - i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
 - ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the Preliminary Development Plan.
 - iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
 - iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the Preliminary Development Plan. For purposes of this

- subsection, “land uses” or “uses” are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.
- v. A change in density that does not exceed ten percent, provided such density change has not already been approved as a refinement to the underlying SAP or PDP, and does not result in fewer than 2,300 dwelling units in the Village.
 - vi. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the functioning of collector or minor arterial roadways streets.
- b. As used herein, “significant” means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(J)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(J)(1)(a), above.
- 2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the conditions of the approved SAP, and the Goals, Policies and Implementation Measures of the Villebois Village Master Plan.
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the PDP and Village area, and
 - c. The refinement will not preclude an adjoining or subsequent PDP or SAP areas from development consistent with the approved SAP or the Master Plan.
 - 3. Amendments to the SAP, not including SAP amendments for phasing, must follow the same procedures applicable to adoption of the SAP itself. Amendments are defined as changes to elements of the SAP not constituting a refinement.
 - 4. Amendments to the SAP for phasing will be processed as a Class II administrative review proposal. [Section 4.125(.18)(J)(1) amended by Ord. No. 587, 5/16/05.]
- O. FDP Refinements to an Approved Preliminary Development Plan
- 1. In the process of reviewing a FDP for consistency with the underlying Preliminary Development Plan , the DRB may approve refinements, but not amendments, to the PDP. Refinements to the PDP may be approved by the Development Review Board, upon the applicant's

detailed graphic demonstration of compliance with the criteria set forth in Section 4.125(.18)(O)(2), below.

- a. Refinements to the PDP are defined as:
 - i. Changes to the street network or functional classification of streets that do not significantly reduce circulation system function or connectivity for vehicles, bicycles or pedestrians.
 - ii. Changes to the nature or location of park type, trails, or open space that do not significantly reduce function, usability, connectivity, or overall distribution or availability of these uses in the PDP.
 - iii. Changes to the nature or location of utilities or storm water facilities that do not significantly reduce the service or function of the utility or facility.
 - iv. Changes to the location or mix of land uses that do not significantly alter the overall distribution or availability of uses in the affected PDP. For purposes of this subsection, “land uses” or “uses” are defined in the aggregate, with specialty condos, mixed use condos, urban apartments, condos, village apartments, neighborhood apartments, row houses and small detached uses comprising a land use group and medium detached, standard detached, large and estate uses comprising another.
[Section 4.125(.18)(O)(1)(a)(iv) amended by Ord. No. 587, 5/16/05.]
 - v. Changes that are significant under the above definitions, but necessary to protect an important community resource or substantially improve the functioning of collector or minor arterial roadways streets.
- b. As used herein, “significant” means:
 - i. More than ten percent of any quantifiable matter, requirement, or performance measure, as specified in (.18)(O)(1)(a), above, or,
 - ii. That which negatively affects an important, qualitative feature of the subject, as specified in (.18)(F)(1)(a), above.
2. Refinements meeting the above definition may be approved by the DRB upon the demonstration and finding that:
 - a. The refinements will equally or better meet the approved conditions of approval of the PDP
 - b. The refinement will not result in significant detrimental impacts to the environment or natural or scenic resources of the PDP, the associated SAP, and
 - c. The refinement will not preclude adjoining or subsequent PDPs, associated or adjoining SAPs from development consistent with an approved SAP or the Villebois Village Master Plan.

3. Amendments to the PDP must follow the same procedures applicable to adoption of the PDP itself. Amendments are defined as changes to elements of the PDP not constituting a refinement.

Explanation: *This subsection discusses refinements to the Villebois Master Plan, Sub-Area Plans, and Preliminary Development Plans. The language of concern discusses changes affecting the function of “collector or minor arterial roadways.” Staff recommends replacing the word “roadways” with “streets” to be consistent with definitions in Section 4.001 and allow the language to apply to the function of all aspects of the street, including pedestrian and bicycle facilities, not just the roadway.*

Section 4.137. Solar Access For New Residential Development.

- (.07) **Adjustments to Design Standard.** The Development Review Board shall reduce the percentage of lots that must comply with Section 4.137(.05) to the minimum extent necessary if it finds the applicant has shown it would cause or is subject to one or more of the following conditions.
- A. Adverse impacts on density, cost, or amenities.
 1. If the design standard in Section 4.137(.05)(A) is applied, either the resulting density is less than that proposed, or on-site development costs (e.g., grading, water, storm drainage and sanitary systems, and road) and solar related off-site development costs are at least 5% more per lot than if the standard is not applied. The following conditions, among others, could constrain the design of a development in such a way that compliance with Section 4.137(.05)(A) would reduce density or increase per lot costs in this manner. The applicant shall show which, if any, of these or other similar site characteristics apply in an application for a development.
 - a. The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south based on a topographic survey of the site by a professional land surveyor, USGS data, or other officially recognized topographic information.
 - b. There is a significant natural feature on the site, identified as such in the comprehensive plan or development code, that prevents given streets, **private drives**, or lots from being oriented for solar access, and it will exist after the site is developed.
 - c. Existing road patterns must be continued throughout the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets, **private drives**, or lots in the development from being oriented for solar access.

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- d. An existing public easement or right-of-way prevents given streets, private drives, or lots in the development from being oriented for solar access.
2. If the design standard in Section 4.137(.05)(A) applies to given lot(s), significant development amenities that would otherwise benefit the lot(s) will be lost or impaired. Evidence that a significant diminution in the market value of the lot(s) would result from having the lot(s) comply with Section 4.137(.05)(A) is relevant to whether a significant development amenity is lost or impaired.

Explanation: The reference to “streets” in this Section would also apply to “private drives.” For this reason, Staff recommends adding the “private drives” language.

Section 4.139.04 Uses and Activities Exempt from These Regulations

- (.06) Maintenance and repair of streets and utility services within rights-of way, easements, access ~~road~~ drives or other previously improved areas.

Explanation: This subsection identifies some exemptions from the SROZ regulations. The list includes “streets” and “access roads”. For consistency with proposed revised and new definitions in Section 4.001 Staff recommends replacing the word “road” with “drives”

Section 4.167. General Regulations - Access, Ingress and Egress.

- (.01) Each access onto streets or private drives shall be at defined points as approved by the City and shall be consistent with the public's health, safety and general welfare. Such defined points of access shall be approved at the time of issuance of a building permit if not previously determined in the development permit.

Explanation: The reference to “streets” in this Section would also apply to “private drives.” For this reason, Staff recommends adding the “private drives” language.

Section 4.169. General Regulations – Double-Frontage Lots.

- (.01) Buildings on double frontage lots (i.e., through lots) and corner lots must meet the front yard setback for principal buildings on both streets or tracts with a private drive.

Explanation: This subsection establishes setback regulations for double frontage lots. In discussing double frontage lots the language references streets. A corner lot may also involve a private drive. Staff therefore recommends adding “or tracts with a private drive” to address the role of private drives in determining whether or not a lot is a double frontage. (See also discussion of private drives in tracts and not in tracts under Section 4.113 above).

Section 4.176. Landscaping, Screening, and Buffering.

Note: the reader is encouraged to see Section 4.179, applying to screening and buffering of storage areas for solid waste and recyclables.

(.06) Plant Materials.

D. Street Trees. In order to provide a diversity of species, the Development Review Board may require a mix of street trees throughout a development. Unless the Board waives the requirement for reasons supported by a finding in the record, different types of street trees shall be required for adjoining blocks in a development.

1. All trees shall be standard base grafted, well branched and typical of their type as described in current AAN Standards and shall be balled and burlapped (b&b). Street trees shall be planted at sizes in accordance with the following standards:
 - a. Arterial streets - 3" minimum caliper
 - b. Collector streets - 2" minimum caliper.
 - c. Local streets or residential private access drives - 1-3/4" minimum caliper.
 - d. Accent or median tree - 1-3/4" minimum caliper.
2. The following trees and varieties thereof are considered satisfactory street trees in most circumstances; however, other varieties and species are encouraged and will be considered:
 - a. Trees over 50 feet mature height: Quercus garryana (Native Oregon White Oak), Quercus rubra borealis (Red Oak), Acer Macrophyllum (Native Big Leaf Maple), Acer nigrum (Green Column Black Maple), Fraxinus americanus (White Ash), Fraxinus pennsylvannica 'Marshall' (Marshall Seedless Green Ash), Quercus coccinea (Scarlet Oak), Quercus pulustris (Pin-Oak), Tilia americana (American Linden).
 - b. Trees under 50 feet mature height: Acer rubrum (Red Sunset Maple), Cornus nuttallii (Native Pacific Dogwood), Gleditsia triacanthos (Honey Locust), Pyrus calleryana 'Bradford' (Bradford Pear), Tilia cordata (Little Leaf Linden), Fraxinus oxycarpa (Flame Ash).
 - c. Other street tree species. Other species may be specified for use in certain situations. For instance, evergreen species may be specified where year-round color is desirable and no adverse effect on solar access is anticipated. Water-loving species may be specified in low locations where wet soil conditions are anticipated.

Explanation: *This subsection establishes standards for street trees. Staff recommends adding the language "or residential private access drives" after "local streets" to apply*

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the street tree standards to future development of these private drives. Street trees on residential private access drives would function similarly to street trees on public local streets in terms of intercepting storm water and cooling impervious areas, it is therefore recommended to apply the same standards to both.

Section 4.177. Street and Residential Private Access Drive Improvement Standards.

Note: This section is expected to be revised after the completion of the Transportation Systems Plan.

(.01) Except as specifically approved by the Development Review Board -, all street and access improvements shall conform to the Transportation Systems Plan and the Public Works Standards, together with the following standards:

E. Access drives and travel lanes.

1. An access drive to any proposed development shall be designed to provide a clear travel lane free from any obstructions.
2. Access drive travel lanes shall be constructed with a hard surface capable of carrying a 23-ton load.
3. Secondary or emergency access lanes may be improved to a minimum 12 feet with an all-weather surface as approved by the Fire District. All fire lanes shall be dedicated easements.
4. Minimum access requirements shall be adjusted commensurate with the intended function of the site based on vehicle types and traffic generation.
5. Where access drives connect to the public right-of-way, construction within the right-of-way shall be in conformance to the Public Works Standards.

(.02) Residential Private Access Drives shall meet the following standards:

Explanation: *This section establishes improvement standards for streets as well as other travel lanes. Staff recommends this section as the location of new standards for the newly defined "Residential Private Access Drive." Residential Private Access Drive standards will be put in a new subsection (.02). The new standards are discussed in detail below.*

A. Residential Private Access Drives shall provide primary vehicular access to no more than four (4) dwelling units, excluding accessory dwelling units.

Explanation: *New Subsection 4.177 (.02) A. establishes a numerical limit to the number of dwelling units that can have their primary vehicle access from a single residential private access drive. Staff recommends the limit of four (4) dwelling units as this is the same number of dwelling units that can be served by a private water line. Additional*

language clarifies, as requested by the Planning Commission during a work session, that accessory dwelling units are not counted towards the dwelling unit maximum.

B. The design and construction of a Residential Private Access Drive shall ensure a useful lifespan and structural maintenance schedule comparable, as determined by the City Engineer or City's Authorized Representative, to a local street constructed in conformance to current public works standards.

1. The design of residential private access drives shall be stamped by a professional engineer registered in the state of Oregon and shall be approved by the City Engineer or City's Authorized Representative to ensure the above requirement is met.

2. Prior to issuing a certificate of occupancy for any residential dwelling unit whose primary vehicular access is from a Residential Private Access Drive the City Engineer or City's Authorized Representative shall certify construction of the Residential Private Access Drive substantially conforms the design approved by the City Engineer or City's Authorized Representative.

***Explanation:** New Subsection 4.177 (.02) B. establishes design and construction standards for Residential Private Access Drives. It establishes the standard that Residential Private Access Drives should be built as well as and last as long as public local streets. The language establishes review authority, submission requirements, and inspection requirements to ensure that Residential Private Access Drives meet the desired standards.*

C. Residential Private Access Drives shall be named for addressing purposes. All Residential Private Access Drives shall use the suffix "Lane", i.e. SW Oakview Lane.

***Explanation:** New Subsection 4.177 (.02) C. establishes a requirement that all residential private access drives use the suffix "Lane" in their names. This standard has been recommended by Engineering Staff. Standards currently in the code require residential private drives to be signed as private drives as well as with signs indicating that they are not maintained by the City of Wilsonville. This has not been consistently done over time. The addition of this requirement will provide another way for private drives to be identified.*

D. Residential Private Access Drives shall meet or exceed the standards for access drives and travel lanes established in Subsection (.01) G. of this Section.

Explanation: *New Subsection 4.177 (.02) D. clarifies that current standards for all access drives and travel lane as stated in Subsection 4.177 (.01) G. still apply to Residential Private Access Drives.*

[Section 4.177(.01) amended by Ord. 610, 5/1/06]

Section 4.180. Exceptions and Modifications - Projections into Required Yards.

- (.01) Certain non-structural architectural features are permitted to project into required yards or courts, without requiring the approval of a Variance or Reduced Setback Agreement, as follows:
- B. Into any required yard, adjoining a street ~~right of way~~ or tract with a private drive:
1. Architectural features may project a distance not exceeding forty (40) inches.
 2. An uncovered porch, terrace, or patio extending no more than two and one-half (2 1/2) feet above the finished elevation may extend within three (3) feet of an interior side lot line, or within ten (10) feet of a front lot line or of an exterior side lot line.

Explanation: *This subsection uses the term “right of way” in a redundant manner as streets by definition are right of way. Staff recommends deleting the redundant term. In addition, this subsection discusses yard in reference to a street. The standards would also apply to a yard adjoining a private drive. Staff therefore recommends adding “or tract with a private drive.” (See also discussion of private drive in tracts and not in tracts under Section 4.113 above).*

Section 4.199.60. Major Additions or Modifications to Pre-Existing Sites.

- (01.) Major Additions. If a major addition occurs on a property, all of the luminaires on the site shall comply with the requirements of this Section. For purposes of this sub-section, the following are considered to be major additions:
- B. Modification or replacement of 50 percent or more of the outdoor lighting luminaries’ within a 5-year timeframe existing as of July 2, 2008.

| Table 7: Maximum Wattage And Required Shielding | | | | |
|--|-----------------------|-----------------|------------------------|-------------------|
| Lighting Zone | Fully Shielded | Shielded | Partly Shielded | Unshielded |
| LZ 0 | 55 | None | None | None permitted |

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| | | permitted | permitted | |
|------|-----|-----------|-----------|--|
| LZ 1 | 70 | 20 | 13 | Low voltage landscape lighting 50 watts or less |
| LZ 2 | 100 | 35 | 39 | Low voltage landscape lighting 50 watts or less |
| LZ 3 | 250 | 100 | 70 | Landscape and facade lighting 100 watts or less; ornamental lighting on private streets <u>drives</u> of 39 watts and less |
| LZ 4 | 450 | 150 | 150 | Landscape and facade lighting 250 watts or less; ornamental lights on private streets <u>drives</u> and lanterns 70 watts or less; marquee lighting not employing medium based lamps |

| Table 9: Maximum Lighting Mounting Height In Feet | | | |
|--|--|---|---------------------------|
| Lighting Zone | Lighting for private roads drives, driveways, parking, bus stops and other transit facilities | Lighting for walkways, bikeways, plazas and other pedestrian areas | All other lighting |
| LZ 0 | 20 | 8 | 4 |
| LZ 1 | 25 | 12 | 4 |
| LZ 2 | 40 | 18 | 8 |
| LZ 3 | 40 | 18 | 16 |
| LZ 4 | Height limit to be determined by Special Use Permit Only | | |

Lighting mounted onto buildings or other structures shall not exceed a mounting height greater than 4 feet higher than the tallest part of the building or structure at the place where the lighting is installed, nor higher than 33.33 percent of the horizontal distance of the light from the nearest property line, whichever is less.

Explanation: The tables in this section use both the terms “private roads” and “private street.” Staff recommends replacing the words “road” and “street” with “drive” to be consistent with the recommended changes to definitions in Section 4.001.

Section 4.210. Application Procedure.

- (.01) **Pre-application conference.** Prior to submission of a tentative condominium, partition, or subdivision plat, a person proposing to divide land in the City shall contact the Planning Department to arrange a pre-application conference as set forth in Section 4.010.
- B. **Tentative Plat Submission.** The purpose of the Tentative Plat is to present a study of the proposed subdivision to the Planning Department and Development Review Board and to receive approval or recommendations for revisions before preparation of a final Plat. The design and layout of this plan plat shall meet the guidelines and requirements set forth in this Code. The Tentative Plat shall be submitted to the Planning Department with the following information:
 - 1. Site development application form completed and signed by the owner of the land or a letter of authorization signed by the owner. A preliminary title report or other proof of ownership is to be included with the application form.
 - 2. Application fees as established by resolution of the City Council.
 - 3. Ten (10) copies and one (1) sepia or suitable reproducible tracing of the Tentative Plat shall be submitted with the application. Paper size shall be eighteen inch (18") by twenty-four inch (24"), or such other size as may be specified by the City Engineer.

Section 4.237. General Requirements – Other.

4. Name of the subdivision. No subdivision name shall duplicate or resemble the name of any other subdivision in Clackamas or Washington County. Names may be checked through the county offices.
5. Names, addresses, and telephone numbers of the owners and applicants, and engineer or surveyor.
6. Date, north point and scale of drawing.
7. Location of the subject property by Section, Township, and Range.
8. Legal road access to subject property shall be indicated as City, County, or other public roads.
9. Vicinity map showing the relationship to the nearest major highway or street.
10. Lots: Dimensions of all lots, minimum lot size, average lot size, and proposed lot and block numbers.
11. Gross acreage in proposed plat.
12. Proposed uses of the property, including sites, if any, for multi-family dwellings, shopping centers, churches, industries, parks, and playgrounds or other public or semi-public uses.
13. Improvements: Statement of the improvements to be made or installed including streets, private drives, sidewalks, lighting, tree planting, and times such improvements are to be made or completed.
14. Trees. Locations, types, sizes, and general conditions of all existing trees, as required in Section 4.600.
15. Utilities such as electrical, gas, telephone, on and abutting the tract.
16. Easements: Approximate width, location, and purpose of all existing and proposed easements on, and known easements abutting the tract.
17. Deed Restrictions: Outline of proposed deed restrictions, if any.
18. Written Statement: Information which is not practical to be shown on the maps may be shown in separate statements accompanying the Tentative Plat.
19. If the subdivision is to be a "Planned Development," a copy of the proposed Home Owners Association By-Laws must be submitted at the time of submission of the application. The Tentative Plat shall be considered as the Stage I Preliminary Plan. The proposed By-Laws must address the maintenance of any parks, common areas, or facilities.
20. Any plat bordering a stream or river shall indicate areas subject to flooding and shall comply with the provisions of Section 4.172.
21. Proposed use or treatment of any property designated as open space by the City of Wilsonville.

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22. A list of the names and addresses of the owners of all properties within 250 feet of the subject property, printed on self-adhesive mailing labels. The list shall be taken from the latest available property ownership records of the Assessor's office of the affected county.
23. A completed "liens and assessments" form, provided by the City Finance Department.
24. Locations of all areas designated as a Significant Resource Overlay Zone by the City, as well as any wetlands shall be shown on the tentative plat.
25. Locations of all existing and proposed utilities, including but not limited to domestic water, sanitary sewer, storm drainage, ~~streets~~, and any private utilities crossing or intended to serve the site. Any plans to phase the construction or use of utilities shall be indicated.
26. A traffic study, prepared under contract with the City, shall be submitted as part of the tentative plat application process, unless specifically waived by the Community Development Director.

Explanation: *This subsection lists the information required to be submitted with a tentative plat. The newly defined "private drives" would be improvements that should be shown on a submittal. Staff therefore recommends adding "private drives" to list that currently includes streets, sidewalks, etc. In addition, "streets" is unnecessarily listed twice and Staff recommends removing the repetitive listing in item 25.*

Section 4.220. Final Plat Review.

- (.04) **Action on Final Plat:** Within thirty (30) days of receipt of a complete final plat submittal, the Planning Director shall approve, deny, or, when further information is required, postpone a decision on the application. Written notice of such action shall be mailed to the applicant by the Planning Director. If the Planning Director determines that full conformity with all applicable ordinances has not been made, the Director shall advise the applicant of the changes or additions that must be made and shall afford the applicant an opportunity to make the necessary changes or additions.
- A. A final plat shall be approved only if affirmative findings can be made that:
 1. The Plat is in substantial conformance with the provisions of the Preliminary Plat, as approved;
 2. The proposal is consistent with the provisions, intents and purposes of the Comprehensive Plan, Zoning Regulations and the requirements of other relevant sections of this Code.
 3. Streets, roads and alleys for public use are dedicated without any reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;

Section 4.237. General Requirements – Other.

4. The plat contains a donation to the public of all common improvements, including, but not limited to, streets, roads, parks, sewage disposal and water supply systems, the donation of which is required by Ordinance or was made a condition of the approval of the tentative plat for the development.
5. Explanations of all common improvements to remain in private ownership have been accounted for and referenced on the plat;
6. ~~Streets and roads held for private use and~~ **Private drives** indicated on the tentative plat have been approved by the City; and
7. All conditions of approval for the development have been met, or adequate assurances for their completion have been provided, to the satisfaction of the Community Development Director.
5. Obtain on the final plat the signature of the County Assessor, whose signature shall certify that ownership is correct and taxes have been pro-rated and collected, if plat is to be recorded after July 1.
6. After the above items have been completed, the final plat shall be delivered to the office of the County Clerk and required fees paid for recordation.

Explanation: *This subsection refers to “streets and roads held for private use.” Staff recommends replacing this phrase with the newly defined “private drives” in order to be consistent with current and proposed definitions in Section 4.001.*

Section 4.236. General Requirements - Streets.

- (.04) **Creation of Easements:** The Planning Director or Development Review Board may approve an easement to be established without full compliance with these regulations, provided such an easement is the only reasonable method by which a portion of a lot large enough to allow partitioning into two (2) parcels may be provided with vehicular access and adequate utilities. If the proposed lot is large enough to divide into more than two (2) parcels, a street dedication may be required. ~~Also, within a Planned Development, cluster settlements may have easement driveways for any number of dwelling units when approved by the Planning Director or Development Review Board.~~

Explanation: *Among other things, this subsection discusses “easement driveways” for “cluster developments” for any number of dwelling units. Neither “easement driveway” or “cluster development” is defined in the Development Code and Staff is concerned this language conflicts with the recommended standards for Residential Private Access Drives. Staff recommends deleting this language making the same standards for private drives apply to all new development and to close a potential loophole. Staff is not aware of any current or proposed development where a “easement driveway” for a “cluster development” has been used.*

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Section 4.237. General Requirements – Other.

(.02) Easements:

- A. Utility lines. Easements for sanitary or storm sewers, drainage, water mains, ~~electrical lines~~ or other public utilities shall be dedicated wherever necessary. Easements shall be provided consistent with the City's Public Works Standards, as specified by the City Engineer or Planning Director. All of the public utility lines within and adjacent to the site shall be installed within the public right-of-way or easement; with underground services ~~within the street right-of-way~~ and extending to the private parcel constructed in conformance to the City's Public Works Standards ~~to any structures~~. All franchise utilities shall be installed within a public utility easement. All utilities shall have appropriate easements for construction and maintenance purposes.

***Explanation:** These changes are based on requirements in the Public Works Standard. In public streets, city utilities are typically located in the right-of-way; in private streets specific easements are required in order for the city to perform maintenance on public utility systems.*

(.06) Access. The division of land shall be such that each lot shall have a minimum frontage on a ~~public street~~ or private drive as specified in the standards of the relative zoning districts. This minimum frontage requirement shall apply with the following exceptions:

- A. A lot on the outer radius of a curved street or tract with a private drive or facing the circular end of a cul-de-sac shall have frontage of not less than twenty-five (25) feet upon a street or tract with a private drive, measured on the arc.
- B. The Development Review Board may waive lot frontage requirements where in its judgment the waiver of frontage requirements will not have the effect of nullifying the intent and purpose of this regulation or if the Board determines that another standard is appropriate because of the characteristics of the overall development.

(.08) Lot side lines. The side lines of lots, as far as practicable for the purpose of the proposed development, shall run at right angles to the street or tract with a private drive upon which the lots face.

***Explanation:** Subsection 4.237 (.06) above use the term "public" in a redundant manner as streets by definition are public. Staff recommended deleting the redundant term. In addition, Subsections 4.237 (.06) and (.08) discuss requirements for lot characteristics and anatomy in reference to streets. Private drives in tracts function the same as streets in relation to these requirements. For this reason Staff recommends adding "or tract with a private drive." (See also discussion of private drive in tracts and not in tracts under Section 4.113 above).*