

Lowell Code Committee Agenda Item Summary

TO: Lowell Code Committee

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FROM: Lane Council of Governments
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RE: **Lowell Development Code Update: Development Code Amendments Draft #1**

I. Introduction/Background

The City of Lowell secured grant funding through the Oregon Transportation and Growth Management (TGM) Program (a partnership between Oregon Department of Transportation and Oregon Department of Land Conservation and Development) to amend the City of Lowell's Land Development Code and implement the recently adopted Downtown Master Plan (2019) and a number of other amendments.

The Downtown Master Plan lays out the community's vision for Lowell's downtown and enumerates goals, patterns, and policies. It establishes a "Regulating Plan" which will guide the realization of the vision and goals through Lowell's Development Code.

The materials presented in this meeting are based on amendment concepts developed with the help of the previously appointed Lowell Development Code Committee. That content was organized into a Code Update Matrix (Summary), and the general concepts were presented at a virtual open house in January 2021. These materials are available at www.ci.lowell.or.us/code-amendments

The Lane Council of Governments with technical assistance from local urban design firm, The Urban Collaborative, have developed, in collaboration with the Lowell Development Update Project Management Team (PMT) a first draft of Amendments to the Lowell Development Code. The Draft Amendment incorporates and, where necessary, further details amendment concepts and integrates them, via redline, into the existing Lowell Development Code.

II. Scope of Work

Code amendments are intended to streamline, simplify, and clarify. In some cases, this involves additional Code language, defined terms, procedures, or zones that help to clarify and simplify implementation of the Code. Graphics are also be incorporated into the Code to help illustrate key elements of the Code to ensure that it is straightforward, user-friendly, and leads to the kind of development described in adopted plans and desired by the community. The scoped objective of this Project was to amend the Development Code as follows:

- Implement the Downtown Master Plan (with the exception of parking, noted below), including:
 - *Zoning map updates*
 - *Building standards*
 - *Street section standards*

- *Site Plan Review criteria*
- *Parking standards (except that minimum off-street parking for residential uses will be evaluated for potential decrease)*
- *Other implementation measures required by the Downtown Master Plan*
- Evaluate minimum lot sizes for potential reduction
- Create mixed-use development standards
- Create development standards for middle housing types (including cottage housing, townhomes, and accessory dwelling units)
- Amend language for access and driveway standards to improve clarity and specificity
- Add or revise definitions for “half-street,” “development of property,” “structure.”
- Reconcile inconsistent language for “non-conforming structures.”
- Streamline application procedures by establishing application types I-IV.
- Clarify setbacks in all zoning districts.
- Clarify driveway and flag lot paving requirements.
- Reconcile inconsistencies and clarify language for Section 9.516 (Access) and Section 9.517 (Streets), including half streets.
- Allow City Administrator to issue determinations on non-conformities.
- Establish procedure for lot consolidation.
- Address parking and storage of recreational vehicles and trailers in the public right-of-way.
- Up to five graphics to illustrate standards in the Development Code.

III. Key Update Themes and Questions

Attachment A is the redlined, first, draft of the proposed code amendments. The amendments are in legislative format meaning that underlined text is proposed new text and ~~struck through text is proposed for deletion~~. Page numbers are identified at the bottom left of the **Attachment A**. See legend at top of **Attachment A**. Please review this document. To aid in doing so we have identified key update themes and, in some cases, noted questions the PMT is hoping to get code committee perspectives on. Any topic (beyond this list) is also open for discussion:

- **Development standards for downtown zones will focus on form, not just use.** The Downtown Development Plan establishes a vision for downtown Lowell as “a quaint downtown with a central park, multi-story mixed use buildings, a variety of homes, and wide sidewalks connecting to Dexter Lake’s recreational opportunities” (Downtown Master Plan, pg. 20). In order to achieve the walkable, quaint downtown envisioned in the Plan, Code amendments will be guided by the Downtown Regulating Plan (**Attachment B**), which establishes several new downtown zones and provides specific building types and layouts allowed in each. This focus on built form rather than use will help guide future development to create a desired aesthetic (look and feel), sense of place and an active town center in downtown Lowell (starting at about pg. 80).
 - **Question:** *A focus on form vs use would enable a wider range of residential uses in what is proposed as the Downtown Townhome/Single Family Attached (pg. 80) and the Downtown Residential/Single Family Detached Zone (pg. 81). Specifically, if a future proposed residential development meets the proposed building standards (the form standards), it could include multiple units. As written, it could also include commercial uses as “secondary” uses (meaning a residential use would have to accompany as the*

“primary” use). There are ways to fashion the code to be more restrictive about this, but it is counter to form-based code principles aimed at simplifying development, focusing on “look and feel.” We are interested in Code Committee members perspectives about this.

- **Transition to Application “Types” Type I-V.** A common practice for standardized land use decision making procedure is the “Types” model. Land use decisions range from non-discretionary to highly discretionary, thus public noticing requirements are different for each type of development. Under the “Types” model, the lower the type, the lower the amount of discretion exercised, the less notice provided, and the less the ability to appeal, etc.

A transition to application “Types” is proposed in the amendments (focused on pgs. 16-32 but extending throughout the document)). This form of standard decision-making procedures will enable the City, the applicant, and the public to reasonably and objectively review applications and participate in the local decision-making process in a timely and effective way. A Table is proposed on pgs. 12-13 which provides a key for determining the review procedure and the decision-making body for particular approvals.

- **Question/Discussion:** *Does the City of Lowell prefer Subdivisions and Replats to go through a Type V or IV (City Council and Planning Commission), or Type III (Planning Commission) hearing process? Currently, Subdivisions are processed through a Type IV land-use process which could be burdensome and costly for developers. Other nearby jurisdictions (Coburg, Veneta, Oakridge, and Cottage Grove) process Subdivision applications through a Type III land-use process under a Planning Commission public hearing.*

Note, a Subdivision would need to be processed within 120 days per state law. While Lowell strives to issue decisions in a timely manner, requiring multiple public hearings takes time especially during holidays or busier development seasons. In addition, Type IV processes are typically limited to legislative matters (Code Amendments). Therefore, Staff are seeking direction from Lowell on this matter.

- **Question/Discussion:** *Will a Site Review Type III permit (Planning Commission) review be necessary for new development, structures, and uses in the Downtown Master Plan new zoning classifications (DF1, DF2, DRD, & DRA) Regulating Plan?*

Staff provide background below for the Committees consideration on this topic. Staff is looking for direction from the Code Committee on this matter.

*Background – These new zoning districts are based upon built form otherwise known as Form Based Code in the adopted Regulating Plan. The Regulating Plan refers to building types rather than land uses. The Regulating Plan focuses on allowable building types (as depicted in the “Building Standards” sheets **Attachment C**) in the built form versus uses or process. The new building standard sheets are made to be prescriptive and predicable,*

therefore the development can be approved administratively (Type I) by following the design sheets. So long as the proposed development meets the “building standards” sheets it would be a permitted use as envisioned in the Lowell Master Plan and therefore, not require a public hearing before the Lowell Planning Commission.

The question remains, does Lowell want development within the boundaries of the Regulating Plan (Attachment B) to go through Type III public hearing or Type I permitted use through the building permit?

- **Question/Discussion:** *Presently Section 9.412(b)(1) Multiple-Family Residential District says duplexes, apartments and multiple-family dwellings are a permitted use, but subject to the Site Plan Review provision of Section 9.250. This means anyone attempting to build dwelling units in the R-3 Zone must go through Site Plan Review in front of the Planning Commission and involves a public hearing. This level of review is not asked of for single-family dwellings. If single-family dwellings are not subject to the Site Plan Review provision of Section 9.250, is it fair to take dwelling types other than single-family through the Planning Commission? This could be perceived as a form of discrimination on dwelling types that are not single-family. It should be noted that any development, including development of a single-family home still undergoes Site Plan Review, but it’s an administrative level as part of the building permit process. If the Code Committee decides to remove this barrier to multiple-family development, administrative site review will be still required as part of the building permit review process.*
- **New Zoning District Code sections.** The Regulating Plan (previously adopted) resulted in four (4) new downtown zoning districts: DRA – Downtown Townhome/Single Family Attached pg. 80, DRD – Downtown Residential/Single Family Detached pg. 81, DF1- Downtown Flex-Use 1 District pg. 82, and DF2 – Downtown Flex-Use 2 District pg. 86. Several small adjustments have been made to the Regulating Plan they include the addition of parcel lines, parking zones, general touch up of the legend, and updating parcels to reflect Civic/Public ownership. Again, these zoning districts contain form built draft design drawings (**Attachments B & C**) for review.
- **Off-street Parking.** Pgs. 102-103. The Off-street parking standards are largely the same but are in the form of a table that is easier to read and understand. Notable differences include:
 - No minimum off-street parking requirements in Flex 1 and Flex 2 zones. This does not mean that no off-street parking requirements are required, it just means the City is not placing an arbitrary number on developments. Developers will come up with off-street parking requirements that fit the actual development, while at the same time utilizing on-street parking where available in order to minimize land that is devoted parking.
 - If in the event a use is not clearly identified in the off-street parking minimum table. The “Unspecified Uses” category places the burden on the developer to create a parking demand analysis based on actual needs of the development. The City Administrator or their designee has the authority to review the parking demand analysis.

- **Access.** Pgs. 105-106. The section relating to Access was part of the housekeeping updates the City sought to undertake as part of this code update. The City Attorney assisted in the drafting of the revised language relating to legal access to properties. Notable changes include explicitly stating that driveway approaches abutting paved City streets must be paved to a width of 12-feet. Other changes include methods in how lots or parcels can obtain legal access of a private road easement. Additionally, lots or parcels that utilize a panhandle (also known as a “flag lot”) to obtain their legal access must be paved up at least to the crest of the panhandle.
- **Flood Hazards.** Section 9.620 is a revised code section containing the city’s amended Floodplain regulations as previously adopted in the Winter of 2022 (City Council Ordinance No. 305). The city decided to fold the adopted Floodplain language into the code during this process. The revised Floodplain code adopted minimum National Flood Hazard regulations pursuant to Oregon’s Model Flood Hazard Ordinance. Starting on Pg. 120
- **Accessory Dwelling Units (ADU).** Section 9.707 is a proposed new code section pertaining to the allowance of ADUs and new state law (House Bill 2001). The proposed code language is derived from DLCD’s Guidance on Implementing the ADU Requirement at link: [Microsoft Word - SB1051 ADUguide updatedSept2019.docx \(oregon.gov\)](#). Pg. 159.
- **Cottage Clusters.**
 - Cottage cluster housing developments are being proposed to be permitted as outright permitted uses in the R-1 and R-3 Zones. Cottage clusters are a series of relatively small dwellings (cottages) that are clustered together and typically include a common open space intended for use by all residents of the cluster. More and more cities in Oregon are adopting standards relating to the development of cottage cluster dwelling units. Cottage clusters are often smaller than traditional dwelling units and offer a sense of community amongst residents. Pgs. 160-162.
- **Definitions** Pgs. 177-184. The City’s definitions section includes a few new definitions that are largely related to general housekeeping and defining some terms as seen in the Regulating Plan.
- **House Bill 4064** regarding Manufactured Dwelling/Prefabricated structures at link: [HB4064 2022 Regular Session - Oregon Legislative Information System \(oregonlegislature.gov\)](#). Section 9.710 of Lowell’s code will need to be revised for consistency with this new state law. The rule essentially standardizes the definition of single-family dwelling to include manufactured dwellings and prefabricated structures in single-family dwelling zones inside Urban Growth Boundaries. The law requires jurisdictions to equally apply standards to MH and prefab as they do for site-built dwellings. DLCD will provide draft language to update the code section(s). Starting on Pg. 162.

LCOG, TGM and City of Lowell staff will provide a basic overview of the amendments at the July 18th Code Committee meeting. The majority of the meeting, however, will be dedicated to Code Committee member’s questions and ideas related to the amendments. The goal of the meeting will be to obtain Code Committee feedback and direction towards development of the next version of amendments.

Attachments:

- Attachment A: Draft Code Redline Version (July 2022)
- Attachment B: Adopted Regulating Plan
- Attachment C: Proposed Regulating Plan & Building Standard Design Sheets