

**NOTICE OF PUBLIC MEETING
LAFAYETTE PLANNING COMMISSION**

DATE & TIME: Thursday, March 21, 2024 – 6:30 p.m.

PLACE: Council Chambers, 486 Third Street, Lafayette, OR 97127

AGENDA

1. CALL TO ORDER
2. FLAG SALUTE
3. ROLL CALL
4. CITIZEN INPUT ON NON-AGENDA ITEMS
5. APPROVAL OF MINUTES
 - a. February 1, 2024 Planning Commission Meeting Minutes
6. WORK SESSION
 - a. Residential Legislative Amendments (LA 2024-01)
7. NEW BUSINESS
 - a. 2024 Planning Commission Direction
 - b. June Joint Work Session with City Council
8. Next Meeting
 - a. April 18, 2024
9. ADJOURNMENT

The Council Chambers is accessible. If you need an accommodation to attend or participate in a meeting or wish to participate remotely, please notify the City at (503) 864-2451 at least 24 hours prior to the meeting.

City of Lafayette
Planning Commission Meeting Minutes
Thursday, February 15, 2024 at 6:30 p.m.

1. **CALL TO ORDER:** Vice Chair Belding called the meeting to order at 6:31 p.m.
2. **FLAG SALUTE:** Vice Chair Belding led the flag salute.
3. **ROLL CALL:** Vice Chair Belding called the Roll:
Present: Chair Ron Kerr, Stephen Belding, Jon Meola, Scott Adamson, David Rogers, Roger Webb
City Staff Present: Branden Dross, City Administrator; Jim Jacks, City Planner
Others: Steve Grittman, Troy Haworth
4. **ELECTION OF PLANNING COMMISSIONER CHAIR FOR TWO-YEAR TERM OF 2024 & 2025:**
Commissioner Adamson moved to place this item at the end of the agenda. Commissioner Webb second; the motion passed unanimously.
5. **CITIZEN INPUT ON NON-AGENDA ITEMS:**
None.
6. **APPROVAL OF MINUTES:**
 - a. *November 16, 2023, Planning Commission Meeting Minutes*
Commissioner Meola moved to approve the November 16, 2023, Planning Commission Meeting Minutes. Commissioner Adamson seconded; the motion passed unanimously.
7. **PUBLIC HEARING:**
 - a. *Extend approval period for 2022-01, 395 N Adams. Lafayette Auto Body*
City Planner Jim Jacks went over the process of extending the approval period on a land-use decision. Chair Kerr asked the audience if there were any objections to the notice that was sent out for this case. There were no objections. Chair Kerr asked if there were any objections to the jurisdiction of the commission to hear and decide on this case. There were no objections. Chair Kerr asked the Commission if there were any declarations of ex parte contact, bias, or conflicts of interest by any members of the Commission. There were none. Jacks went over his staff report with the Commission. Chair Kerr wanted clarification on when construction must begin. Jacks stated that construction must begin within this year's extension.

Steve Grittman went over all the work he has been doing to prepare for construction.

Commissioner Webb moved for the Planning Commission to adopt the February 15th staff report and approve the application to extend the expiration date of the Planning Commission Order through February 6, 2025. Commissioner Meola seconded the motion, which passed unanimously.

Chair Kerr stated the email that was sent from Gritman demonstrated the request, demonstrated intent, but it also outlines the impact that resulted in the need for the extension request.

Chair Kerr asked the Planning Commissioners to introduce themselves since there are three new Commissioners. There was discussion after introductions on different ideas to bring more people to Lafayette.

8. ELECTION OF PLANNING COMMISSIONER CHAIR FOR TWO-YEAR TERM OF 2024 & 2025:

City Administrator Dross stated that typically the election of Planning Commissioner Chair and Planning Commissioner Vice-Chair would occur at the same time. Since the Planning Commission elected Commissioner Belding as Vice-Chair during November's meeting, tonight's election will only be for the Planning Commissioner Chair. Chair Kerr asked if any of the Commissioners wanted the position.

Commissioner Belding moved to elect Ron Kerr as chair by affirmation. Commissioner Meola seconded the motion, which passed 5-0 (Kerr abstained)

Chair Kerr stated April 15th is the filing deadline for the Statement of Economic Interest for the Oregon Ethics Commission. He stated the Commissioners should expect an email and it needs to be completed.

City Planner Jim Jacks was discussing some housing residential changes that were talked about back in March of 2020, the meetings were cancelled due to COVID, and Jacks plans on discussing these amendment changes in the next meeting.

9. ADJOURNMENT:

Commissioner Belding moved to adjourn the meeting. Commissioner Adamson seconded the motion, which passed unanimously. No further discussion.

Minutes approved on the 21st day of March 2024.

CERTIFIED:

ATTESTED:

Ron Kerr, Chair

Jasmine Garcia, Community Development Clerk



TO: LAFAYETTE PLANNING COMMISSION

FROM: JIM JACKS, CITY PLANNER

SUBJ: WORK SESSION: NEEDED HOUSING AMENDMENTS TO COMPLY WITH LEGISLATION FROM THE 2019 TO 2024 LEGISLATIVE SESSIONS

DATE: MARCH 21, 2024

I. BACKGROUND – OREGON LEGISLATIVE ACTIONS FOR HOUSING

The following historical summary goes back to 2017 and addresses the Bills related to housing passed by the Oregon Legislature through the 2024 Session that ended March 7, 2024.

Abbreviations:

HB: House Bill, a bill initiated in the House (HB). HB's have 4-digit numbers.

SB: Senate Bill, a bill initiated in the Senate (SB). SB's have 3-digit numbers.

LZDO: Lafayette Zoning and Development Ordinance – the City's zoning regulations.

The following is not an in-depth discussion of each detail of each Bill. For example, many of the Bills include definitions for terms that would be included in the LZDO. They will be shown in the April Planning Commission meeting materials.

2017 Legislature

Senate Bill (SB) 1051 was passed by the Legislature and it addressed several housing issues.

1. Senate Bill (SB) 1051, Section 6, required cities of 2,500 or greater population to allow accessory dwelling units (ADU) as a permitted outright use in all residential zones that allowed detached single family dwellings as permitted uses (SB 1051, Section 6). Cities could adopt standards for ADU's provided they were "reasonable." SB 1051 did not provide an explanation of "reasonable."

As of July 1, 2017 the State estimated Lafayette's population to be 4,095, therefore, Lafayette was required to comply with SB 1051's ADU requirement. As of July 1, 2017 105 cities in Oregon were over 2,500 population.

The City initiated a legislative amendment (case # LA 2018-01) and amended the Lafayette Zoning and Development Ordinance (LZDO) to bring it into compliance with SB 1051, Section 6.

2. SB 1051, Section 4, clarified that all housing is “needed housing.” “Needed housing” is a term in ORS 197.303 and 197.307(4).

Prior to SB 1051 it appeared there may be one or more housing types that were not “needed housing.” For example, some cities that had voluntarily allowed ADU’s prior to HB 1051 did not consider them to be “needed housing” and it appeared that ORS 197 did not consider them to be “needed housing.” But SB 1051, Section 4, made it clear that all housing is “needed housing,” whether it is an ADU or a million-dollar home.

The issue with “needed housing” is, local approval standards regarding “needed housing” must be clear and objective, therefore, after SB 1051, any regulations applying to ADU’s must be clear and objective.

Prior to SB 1051, ADU’s were not “needed housing” and therefore they were not affected by the requirement in ORS 197.307(4) that “needed housing” be subjected only to clear and objective standards. The cities that voluntarily had allowed ADU’s prior to SB 1051, typically, included one or more subjective standards. They were often worded similar to the following examples:

An ADU’s appearance, including siding, roofing, materials, and color shall coincide with that used on the primary dwelling unit, including roof pitch, eaves, window fenestration patterns, etc.

OR

An ADU’s siding and roofing materials shall be similar to the siding and roofing materials of the primary dwelling or to materials typical of single family construction in the city.

The terms “coincide” and “similar” are subjective and require the exercise of judgment to determine if the ADU’s appearance, etc., meets the standard, or if an ADU’s siding, etc., meets the standard.

SB 1051, Section 4, prohibits subjective standards for ADU’s such as the above examples.

The City initiated a legislative process (case # LA 2018-01) to amend the LZDO to allow ADU’s in the Low Density Residential (R-1) District and the Medium Density Residential (R-2) District subject only to clear and objective standards.

The Residential-Commercial (RC) District already allowed ADU’s subject to standards. A few of the standards were subjective and they were deleted, or modified to be clear and objective. The amended clear and objective standards were applied to ADUs in the three residential districts (R-1, R-2 and RC).

The City initiated a legislative process (case # LA 2018-01) and amended the LZDO to bring it into compliance with SB 1051, Section 4.

3. SB 1051, Section 8 clarified the types of uses allowed at a place of worship and included a requirement that affordable residences be allowed at a place of worship when the property is in a residential district. At least half of the residential units must be affordable to households with incomes equal to or less than 60 percent of the median family income for Yamhill County. The 60 percent requirement must be in a covenant and effective for 60 years.

The language in Section 8 was added to ORS 227.500. Note, the 2021 Legislature passed HB 2008 which amended the above allowance for affordable housing at a place of worship (see the 2021 Legislature, below).

The practical effect of Section 8 was negligible in Lafayette because there were no places of worship in a residential district. There was one place of worship in the city limits, the Lafayette Community Church, on the south side of 3rd (99W) between Jefferson and Adams, and it is in the Commercial Core (C-1) District.

The City initiated a legislative process (case # LA 2018-01) and amended the LZDO to bring it into compliance with SB 1051, Section 8, in the event a place of worship began in a residential district.

SB 1051 included several other sections that addressed Oregon’s housing shortage and especially the shortage of affordable housing, but they did not apply to the City of Lafayette.

A Bill in a later Legislative Session amended the above requirement to allow residences at a place of worship. An amendment will be needed in this 2024 legislative process (case # LA 2024-01) to address the language in the later Bill. See HB 2008, Section 5, p. 5, below.

2018 Legislature

The 2018 Legislature did not pass any bills requiring the City of Lafayette to amend the LZDO.

2019 Legislature

1. House Bill (HB) 2001 was passed by the Legislature. Primarily, it addressed “middle housing” for medium and large cities. It required cities of 10,000 to 24,999 population to adopt certain housing regulations, and required cities of 25,000 and greater population, that are not in the Portland Metro Area, to adopt certain housing regulations. The majority of HB 2001’s provisions do not apply to Lafayette because the City is less than 10,000 population.
2. Additionally, HB 2001, Section 7, amended the State’s ADU law set forth in SB 1051 (2017 Legislature). Section 7 clarified that a “reasonable” ADU regulation cannot include a requirement to provide on-site parking spaces for the ADU, nor can it include a requirement for the property owner to live in the primary dwelling or in the ADU.

HB 2001, Section 7, amended ORS 197.312(5)(b) to add 197.312(5)(b)(**B**) to read (see underlining below):

(5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single family dwellings the development of at least one accessory dwelling unit for each detached single family dwelling, subject to reasonable local regulations relating to siting and design.

(b) As used in this subsection:

(A) “Accessory dwelling unit” means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(B) “Reasonable local regulations relating to siting and design” does not include owner occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking.

The City initiated a legislative amendment (case # LA 2020-01) to the LZDO to bring it into compliance with HB 2001, Section 7 by adopting Ordinance 640 which deleted the accessory dwelling unit (ADU) requirement to provide parking on the subject property for an ADU, and it deleted the

requirement that the owner of the subject property where an ADU is located must live in the primary dwelling or in the ADU.

HB 2001, Section 7, additionally amended ORS 197.312 to add 197.312(6) to read (see underlining):

(6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.

The City does not need to initiate a legislative amendment to address the new 197.312(6) because Subsection (6) does not apply to Lafayette.

2020 Legislature

The Oregon Department of Land Conservation and Development Department's "2020 Land Use Legislation Report" stated the following regarding the Session which included a situation where the Legislature was unable to achieve a quorum which is needed per the Oregon Constitution to enact legislation.

Due to the unusual circumstances surrounding the 2020 Oregon legislative session, 258 bills were proposed and only three were passed into law.

The three bills that passed were not related to land use planning.

2021 Legislature

1. House Bill (HB) 2008, Section 1, amended ORS 197.286 to 197.314. Section 1 requires cities to allow affordable housing (per the definition of "affordable housing" in Section 1) in commercial and industrial zoning districts (and may not require a zone change or conditional use permit) provided specified requirements are met.

For affordable housing in a commercial zoning district, the primary requirement is that the housing is owned by a public body (such as a city or county) or a nonprofit corporation that is organized as a religious corporation, and secondly the property is zoned for commercial uses, a "religious assembly" is allowed in the zone or is zoned a Public.

For affordable housing in an industrial zoning district, the primary requirements are the housing is owned by a public body (such as a city or county), is adjacent to lands zoned for residential uses or schools, and is not specifically designated for heavy industrial uses.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with the amended ORS 197.286 to 197.314.

2. House Bill 2008, Section 5, amended ORS 227.500 which SB 1051 (2017 Legislature) had amended into ORS 227.500. Section 5 deleted the language in ORS 227.500(1)(g)(A), (B) and (C). Subsection (g) related to "Providing housing or space for housing in a building or buildings that are detached from the place of worship, provided" A – C are met. Section 5 also deleted the requirement that HB 1051 had amended into 227.500(4) that the 60 percent requirement must be in a covenant and effective for 60 years.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 2008, Section 5.

3. House Bill 2583 amended the Oregon Revised Statutes to prohibit local governments from establishing or enforcing a limit on the number of people in a dwelling unit. It states:

A maximum occupancy limit may not be established or enforced by any local government, as defined in ORS 197.015, for any residential dwelling unit, as defined in ORS 90.100, if the restriction is based on the familial or nonfamilial relationships among any occupants.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 2583.

4. Senate Bill 405 requires City land use regulations that allow the resumption of a nonconforming use after its interruption or abandonment may not consider a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use. SB 405 states:

“City land use regulations that allow the resumption of a nonconforming use after its interruption or abandonment may not consider a use interrupted or abandoned during the time that a federal, state or local emergency order limits or prohibits the use or the repair or replacement of the use.”

SB 405 does not directly address the State’s housing shortage or the shortage of affordable housing, but if a dwelling is a nonconforming use and its residential use is discontinued for more than 12 months due to, say, a wildland fire, storm or other natural disaster where an emergency has been declared, the time it is not used as a residence cannot be counted toward the 12 month period.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with SB 405.

2022 Legislature

1. HB 4051 addressed some issues from the 2021 Legislative Session. One issue relates to affordable housing.

Section 4, amended ORS 197.308 regarding allowing affordable housing on commercial and industrial lands provided criteria are met. See 2021 Legislature, HB 2008, Section 1 on p. 5.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with the amended ORS 197.308.

2. HB 4064, Section 1, adds and deletes language from ORS 197.314 with the net result that cities must allow manufactured homes and prefabricated dwellings on land zoned to allow single family dwellings with standards related to protective measures and the external thermal envelope. The LZDO does not now specifically allow prefabricated dwellings.

Section 1 also prohibits applying standards to manufactured homes and prefabricated dwellings that would not apply to site-built single family dwellings.

Section 2 amends ORS 197.307 to delete the language that allowed manufactured homes sited on individual lots to meet standards that do not also apply to site-built dwellings, for example, to be multi-sectional, be at least 1,000 square feet in area, be placed on an excavated and back filled foundation and not more than 12-inches above grade, have a pitched roof, have exterior siding and roofing which in color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community or which is comparable to the predominant materials

used on surrounding dwellings, shall have a garage or carport of like materials or shall have a detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

Section 3 does not allow a city to prohibit the placement of a prefabricated structure in a mobile home or manufactured dwelling park.

Section 4 does not allow a city to prohibit the placement of a prefabricated structure in residential zoning districts.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with the amended ORS 197.314.

2023 Legislature

1. HB 2001 (not the same as HB 2001 in the 2019 Legislature). The August 25, 2023 Department of Land Conservation and Development legislative summary described the bill as follows:

HB 2001 updates the statutory framework implementing Goal 10 [Housing] to emphasize a measurable and accountable approach to housing production that provides needed units at all levels of affordability, promotes a greater range of housing options and types, and affirmatively furthers fair housing.

HB 2001 did not include provisions requiring amendments to the LZDO.

2. HB 3395 was an omnibus housing bill where many of its Sections do not apply to Lafayette. HB 3395, Section 20, amends ORS 197.758. Cities with a population of 2,500 or greater and less than 25,000 must allow a duplex on each lot or parcel zoned for residential use that allows a detached single family dwelling (per a prior Bill cities 25,000 and greater were required to allow duplexes on a property that allows a detached single family dwelling).

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Section 20.

3. HB 3395, Section 2, requires land in cities that is zoned for commercial uses to allow housing units available to those households making 60% of area median income (subject to an affordable housing covenant), or allow mixed use structures with ground floor commercial for those households with moderate incomes (subject to an affordable housing covenant) as defined in ORS 456.270 (80 – 120% of area median income).

Development allowed per Section 2 does not apply to lands where the local government determines that:

1. The property cannot be served by adequate water, sewer, storm water drainage or streets.
2. The property contains a slope of 25 percent or greater.
3. The property is within the 100-year floodplain.
4. The property is constrained by land use regulations based on the Statewide Planning Goals relating to natural disasters or hazards or natural resources, including air, water, land or natural areas, but not open space.
5. The property is vacant or it was added to the urban growth boundary within the last 15 years.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Section 2.

4. HB 3395, Section 4, allows cities flexibility in the required 120-day period within which a decision must be made and all local appeals resolved for a residential permit, a limited land use decision or a zone change. The time period may be extended up to 7-days “to ensure the sufficiency of the final order.” Section 4 applies to the process wherein a party would file a Notice of Intent to Appeal a city decision or a State agency decision to the Land Use Board of Appeals (LUBA) regarding a residential development. Additionally, a city or a State agency may withdraw a final decision for reconsideration. These provisions are intended to reduce appeals that can delay the development of housing by providing more time to address issues before they are appealed to LUBA.

The provisions of Section 4 do not necessitate an amendment to the LZDO because they apply to the LUBA appeal process governed by ORS 197.803 – 197.830.

5. HB 3395, Sections 17 and 18, defines Single Room Occupancies (SROs) and requires cities to allow SROs with up to 6 units on each lot zoned for single family detached housing. If the zoning allows the development of 5 or more dwelling units per acre, then a SRO development must be approved up to the number of units allowed by the underlying density standard.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Sections 17 and 18.

2024 Legislature

6. HB 1537, Sections 38 to 41. The March 11, 2024 Department of Land Conservation and Development legislative summary describes Sections 38 to 41 as follows:

Requires local governments to allow land use adjustments, [referred to as Minor and Major Variances in the LZDO] and the extension, alterations and expansions of a nonconforming use administrative-level decision.

The Bill sets forth numerous requirements, maximums and minimums for the “adjustments” and requires only one of the seven approval criteria be met.

The City has initiated a legislative process (case # LA 2024-01) to amend the LZDO to comply with HB 3395, Sections 38 to 41.

III. PROPOSED LZDO LANGUAGE AMENDMENTS

The original intent of this staff report was to include proposed code language changes to bring the LZDO into compliance with the numerous Bills that have been passed recently. As is the usual case for code language amendments, the language to be deleted would be shown in [~~brackets and strikeout~~] and the language to be added would be shown in ***bold italics***.

Once all the bills were reviewed and the scope of the many changes and their complexity were recognized, it was clear there was not sufficient time to create and show in this staff report the needed LZDO amendments.

However, as an example of what the changes would look like, the following shows the “mark-up” version of the changes needed to, per HB 3395, Section 20 (2023 Legislature), to allow duplexes as a permitted use in the Residential – Agriculture (RA) District and the Low Density Residential (R-1) District.

2.101 RESIDENTIAL ACREAGE DISTRICT

2.101.02, Permitted Uses.

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the RA District:

- A. Single-family dwelling unit, detached, **or duplex**, subject to Section 2.316, Architectural Standards for Dwellings.

- B – K. No change.

2.102 LOW DENSITY RESIDENTIAL DISTRICT (R-1)

2.102.02, Permitted Uses.

Unless otherwise subject to Conditional Use provisions or requirements of this Ordinance, the following uses are permitted in the R-1 District:

- A. Single-family dwelling unit, detached, **or duplex**, subject to Section 2.316, Architectural Standards for Dwellings.

- B – L. No change.

2.102.03 Conditional Uses

The following uses may be permitted in the R-1 District when authorized by the Planning Commission pursuant to Section 3.103:

A. [Duplex]

The following B – G will be renumbered to be A – F.

B. Public facility or government structure

C. Bed and breakfast establishment

D. Cemetery

E. Golf Course

F. House of Worship and the reasonable use of the real property for activities customarily associated with the practices of the religious activity, including but not limited to the uses set forth in Section 2.102.06, House of Worship Uses.

G. Public and private schools K-12

IV. EXAMPLE OF LENGTH AND COMPLEXITY: HB 1537 (2024 Legislature)

As identified above, the 37-page HB 1537, Sections 38 to 41 address “adjustments” for residential development. As above, the Department of Land Conservation and Development legislative summary describes Sections 38 to 41 as follows:

Requires local governments to allow land use adjustments, [referred to as Minor and Major Variances in the LZDO] and the extension, alterations and expansions of a nonconforming use administrative-level decision.

The following is the language in Section 38. The requirement to allow “adjustments” (Major and Minor Variances in the LZDO) applies only to residential uses and is detailed and comprehensive. To break it down and convert the Legislative Bill language into local zoning code language is time consuming. Whenever possible staff will use the language from the Bill, but the Bill cannot simply be copied into the LZDO.

Only Section 38 of HB 1537 follows in italics. It applies only to housing developments.

SECTION 38. Mandatory adjustment to housing development standards.

(1) As used in sections 38 to 41 of this 2024 Act:

(a) “Adjustment” means a deviation from an existing land use regulation.

(b) “Adjustment” does not include:

(A) A request to allow a use of property not otherwise permissible under applicable zoning requirements;

(B) Deviations from land use regulations or requirements related to accessibility, affordability, fire ingress or egress, safety, local tree codes, hazardous or contaminated site clean-up, wildlife protection, or statewide land use planning goals relating to natural resources, natural hazards, the Willamette River Greenway, estuarine resources, coastal, shorelands, beaches and dunes or ocean resources;

(C) A complete waiver of land use regulations or any changes beyond the explicitly requested and allowed adjustments; or

(D) Deviations to requirements related to the implementation of fire or building codes, federal or state air, water quality or surface, ground or stormwater requirements, or requirements of any federal, state or local law other than a land use regulation.

(2) Except as provided in section 39 of this 2024 Act, a local government shall grant a request for an adjustment in an application to develop housing as provided in this section. An application qualifies for an adjustment under this section only if the following conditions are met:

(a) The application is for a building permit or a quasi-judicial, limited or ministerial land use decision;

(b) The development is on lands zoned to allow for residential uses, including mixed-use residential;

(c) The residential development is for densities not less than those required under section 55 (3)(a)(C) of this 2024 Act;

(d) The development is within an urban growth boundary, not including lands that have not been annexed by a city;

(e) The development is of net new housing units in new construction projects, including:

(A) Single-family or multifamily;

(B) Mixed-use residential where at least 75 percent of the developed floor area will be used for residential uses;

(C) Manufactured dwelling parks;

(D) Accessory dwelling units; or

(E) Middle housing as defined in ORS 197A.420;

(f) The application requests not more than 10 distinct adjustments to development standards as provided in this section. A “distinct adjustment” means:

(A) An adjustment to one of the development standards listed in subsection (4) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; or

(B) An adjustment to one of the development standards listed in subsection (5) of this section where each discrete adjustment to a listed development standard that includes multiple component standards must be counted as an individual adjustment; and

*(g) The application states how at least **one** of the following criteria apply: (emphasis added)*

[In other words, if only 1 of the following approval criteria is met, the “adjustment” application must be approved by the local government.]

(A) The adjustments will enable development of housing that is not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations;

(B) The adjustments will enable development of housing that reduces the sale or rental prices per residential unit;

(C) The adjustments will increase the number of housing units within the application;

(D) All of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to moderate income households as defined in ORS 456.270 for a minimum of 30 years;

(E) At least 20 percent of the units in the application are subject to an affordable housing covenant as described in ORS 456.270 to 456.295, making them affordable to low income households as defined in ORS 456.270 for a minimum of 60 years;

(F) The adjustments will enable the provision of accessibility or visitability features in housing units that are not otherwise feasible due to cost or delay resulting from the unadjusted land use regulations; or

(G) All of the units in the application are subject to a zero equity, limited equity, or shared equity ownership model including resident-owned cooperatives and community land trusts making them affordable to moderate income households as described in ORS 456.270 to 456.295 for a period of 90 years.

(3) A decision on an application for an adjustment made under this section is a limited land use decision. Only the applicant may appeal the decision. No notice of the decision is required if the application is denied, other than notice to the applicant. In implementing this subsection, a local government may:

(a) Use an existing process, or develop and apply a new process, that complies with the requirements of this subsection; or

(b) Directly apply the process set forth in this subsection.

(4) A local government shall grant an adjustment to the following development standards:

(a) Side or rear setbacks, for an adjustment of not more than 10 percent.

(b) For an individual development project, the common area, open space or area that must be landscaped on the same lot or parcel as the proposed housing, for a reduction of not more than 25 percent.

(c) Parking minimums.

(d) Minimum lot sizes, not more than a 10 percent adjustment, and including not more than a 10 percent adjustment to lot widths or depths.

(e) Maximum lot sizes, not more than a 10 percent adjustment, including not more than a 10 percent adjustment to lot width or depths and only if the adjustment results in:

(A) More dwelling units than would be allowed without the adjustment; and

(B) No reduction in density below the minimum applicable density.

(f) Building lot coverage requirements for up to a 10 percent adjustment.

(g) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multifamily housing and mixed-use residential housing:

(A) Requirements for bicycle parking that establish:

(i) The minimum number of spaces for use by the residents of the project, provided the application includes at least one-half space per residential unit; or

(ii) The location of the spaces, provided that lockable, covered bicycle parking spaces are within or adjacent to the residential development;

(B) For uses other than cottage clusters, as defined in ORS 197A.420 (1)(c)(D), building height maximums that:

(i) Are in addition to existing applicable height bonuses, if any; and

(ii) Are not more than an increase of the greater of:

(I) One story; or

(II) A 20 percent increase to base zone height with rounding consistent with methodology outlined in city code, if any;

(C) Unit density maximums, not more than an amount necessary to account for other adjustments under this section; and

(D) Prohibitions, for the ground floor of a mixed-use building, against:

(i) Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and

(ii) Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces, except for active uses in specifically and clearly defined mixed use areas or commercial corridors designated by local governments.

(5) A local government shall grant an adjustment to design standards that regulate:

(a) Facade materials, color or pattern.

(b) Facade articulation.

(c) Roof forms and materials.

(d) Entry and garage door materials.

(e) Garage door orientation, unless the building is adjacent to or across from a school or public park.

(f) Window materials, except for bird-safe glazing requirements.

(g) Total window area, for up to a 30 percent adjustment, provided the application includes at least 12 percent of the total facade as window area.

(h) For manufactured dwelling parks, middle housing as defined in ORS 197A.420, multifamily housing and mixed-use residential:

(A) Building orientation requirements, not including transit street orientation requirements.

(B) Building height transition requirements, not more than a 50 percent adjustment from the base zone.

(C) Requirements for balconies and porches.

(D) Requirements for recesses and offsets.

V. PICKING UP WHERE WE LEFT OFF IN 2022

Because the proposed language to comply with the various Legislative Bills is not included in this staff report, the March 17, 2022 Planning Commission discussion is resurrected regarding ADU standards and single family dwelling architectural standards.

The PC's consensus on ADU standards and single family dwelling architectural standards did not go through the Planning Commission and City Council public hearing steps, therefore, to catch up, Commission's 2022 work is proposed to be included in this LA 2024-01 case regarding the housing amendments need to comply with the Legislative Bills.

The intent is not for this Commission to change the work of the 2022 Commission, but rather to reach consensus to include their proposed changes in LA 2024-01.

For background, on March 17, 2022, a Planning Commission agenda item was the review of the ADU standards in the LZDO. A staff report was provided to the Commission which included the ADU standards. The Commission discussed the standards and the following reflects the discussion.

As is often the case when Code language is reviewed, the review migrates to other sections of the Code and on March 17, in addition to the ADU language, the Commission recommended additional single family dwelling architectural standards be added to the existing list. The following reflects the recommendation.

The purpose of the March 17, 2022 staff report was to present to the Planning Commission the proposed amendments to the ADU standards and the additional single family dwelling architectural standards. The Commission reviewed the proposed changes, comment on them, and accepted them.

The following from the March 17 staff report is included here as a refresher of what was going on in 2022. The March 17 staff report said the following.

On November 18, 2021 the Planning Commission conducted a public hearing to delete the ADU off-street parking and ownership requirements to bring the Lafayette Zoning and Development Ordinance (LZDO) into conformance with State law. The City Council conducted a hearing in December 2021 and passed an ordinance adopting the amendments.

At the Commission's hearing to delete the parking and ownership requirements there appeared to be some interest in reviewing the numerous remaining ADU standards and having the opportunity to discuss them. On November 18 it was agreed the Commission would discuss the standards at the January 2022 meeting which would provide 2 months for the Commissioners to review the standards which were shown in the November 18 staff report regarding the deletion of the parking and ownership standards.

On January 20, 2022, an agenda item was the review of the LZDO ADU standards. A staff report was provided to the Commission which included all the ADU standards.

Overall, the Commission's March 17 discussion included only a couple of changes and reordering the list to a more logical order. The following lists the ADU standards with proposed amendments.

The following are the LZDO ADU standards. They reflect the City's 2021 text amendment to the LZDO that deleted the off-street parking and the ownership requirements.

As usual the language to be deleted is in [~~brackets and strikethrough~~] and language to be added is in ***bold italics***.

2.312 ACCESSORY DWELLING UNITS (ADUs)

2.312.02 ADU Standards

Where allowed, ADUs shall conform to the following standards:

- A. An ADU may be detached from the primary dwelling, an addition to the primary dwelling or the conversion of a portion of the primary dwelling, but an attached or detached garage **or carport** may not be converted to an ADU.

3/17 Discussion: The residential districts require a garage or carport for a single family dwelling. The prohibition on converting garages and carports is, if they are converted, the parking spaces for the primary dwelling must be replaced to comply with the requirement that a dwelling include a garage or carport. Where there is insufficient area on the lot to erect a replacement garage or carport, the code language at one section would be allowing the conversion, but in another section would be saying the conversion cannot occur due to insufficient area on the property for the parking spaces related to the primary dwelling.

- B. Number of Units. A maximum of one (1) ADU is allowed per detached single family dwelling on a legal lot of record. NO CHANGE.
- C. Floor Area. An ADU shall not exceed 800 square feet of gross floor area, or 40 percent of the primary dwelling's gross floor area, whichever is smaller. The floor area of a garage attached to the primary dwelling shall not be included in the calculation of the maximum floor area. An ADU's minimum floor area shall comply with the requirements of the Oregon Building Code Division. NO CHANGE.
- D. Building Construction. An ADU shall comply with applicable Oregon Building Code requirements. NO CHANGE.
- E. Building Height. A detached ADU shall not exceed the height of the primary dwelling. NO CHANGE.
- F. Parking. Off-street parking is not required for an ADU. Where the developer chooses to provide off-street parking for an ADU, the ADU parking space(s) is not required to be in a carport or garage, but the driveway and parking space surface shall be paved or concrete. The ADU parking space shall be accessed via an existing driveway. Where no existing driveway serves the property, a new driveway shall be installed in accordance with the Public Works Design Standards. NO PARKING
- G. An[y] ADU shall comply with the development standards of the underlying zoning district. MINOR CHANGE.
- H. An ADU shall not be a mobile home, a manufactured home or a storage container. A modular dwelling is permitted. NO CHANGE.
- I. Existing legal non-conforming dwellings may be converted to an ADU. Where the conversion expands the dwelling, the expansion shall comply with the requirements of the residential zoning districts. NO CHANGE.
- J. The ADU front door shall not be on a building elevation facing a public or private street. NO CHANGE.
- K. An ADU shall not be located in a front yard or a side yard adjacent to a street. NO CHANGE.

- L. A detached ADU shall be separated from the primary dwelling at least 6 feet. NO CHANGE.
- M. Architectural Standards. An ADU shall ***comply with the following and Section 2.316, Architectural Standards for Dwellings.***

3/17 Discussion: The five existing architectural standards, below, were discussed and compared to the single family dwelling architectural standards at Section 2.316. A Commissioner’s comment was that M, 3, (see below – top of p. 15) be combined into L and delete the other architectural standards, i.e., delete M, 1, 2 and 4.

The above proposed change to M and the below proposed changes to M, 1 – 4 are written from the perspective that the architectural standards in M that applied only to ADU’s (M, 1 and M, 3) could remain in the ADU standards as renumbered M, 1 and M, 2, and the others that duplicated the single family dwelling architectural standards at Section 2.316 (M, 2 and M, 4) could be deleted from the ADU list. Because the intent was for ADU’s to comply with the architectural standards in 2.316, Subsection M would be amended to require compliance with the single family dwelling architectural standards at Section 2.316 (See the bolded/italicized language in M above.)

Therefore M, 1 and 3 are retained (#3 is renumbered to #2) in the ADU standards and M, 2 and M, 4, are deleted because they are duplicated in 2.316. Finally, as shown in bold/italics above, M is augmented with language that requires ADU’s to comply with the standards in 2.316.

1. Provide a pitched roof at least “3 in 12” pitch;
- ~~2. Provide eaves extending from the wall at least 6 inches;~~
- ~~3. Be recessed back at least 1 foot behind the building elevation of the primary dwelling facing a public or private street; and .~~
- ~~4. Provide at least 3 of the following design elements in the elevation facing a public or private street, except a side yard or a rear yard adjacent to a public or private street:~~
 - ~~a. Dormer window(s) or gable window(s) at least 2 feet by 2 feet;~~
 - ~~b. Cupola(s);~~
 - ~~c. Bay or bow window(s);~~
 - ~~d. Exterior shutters on each window;~~
 - ~~e. Covered or uncovered porch at least 25 square feet in area;~~
 - ~~f. At least 2 pillars or posts associated with a covered porch.~~
- ~~5. Each of 4, a – f, counts as one design element. For example, 2 dormers count as one element and 2 shutters on a window count as one element.~~

3/17 Discussion: The Commission also discussed a possible logical order of the ADU standards and realized that, except for the first 2 or 3, there is no easily discernible order and asked staff to attempt a reasonable reordering of the 13 standards.

The proposed order of the ADU standards follows. The first 3 (A, H, I) set forth what an ADU can be, i.e., detached, etc., and then what it cannot be, i.e., a manufactured home, and then that it can be the conversion of a portion of a nonconforming dwelling. The existing alphabetized standards would be re-lettered as shown below.

The next item (K) states where ADUs cannot be located, i.e., in a front yard or side yard adjacent to a street.

Then the next several items (B, C, F, L) relate to dimensional standards, e.g., number of units, floor area, building height, and separation from the primary dwelling if the ADU is detached.

Then, the next item (J) regarding the front door seems to fit as the next item.

Then the next two items are more general, i.e., comply with the underlying zone (G), and comply with the building code (D).

The last 2 regarding parking and architectural standards are listed in no particular order, other than they need to be included and if M is currently the last item, then it can continue to be the last item.

The Commission agreed on an order and the old letters, A – M, will be reassigned as follows.

- A. An ADU may be detached from the primary dwelling, an addition to the primary dwelling or the conversion of a portion of the primary dwelling, but an attached or detached garage **or carport** may not be converted to an ADU.
- [H]B. An ADU shall not be a mobile home, a manufactured home or a storage container. A modular dwelling is permitted.
- [I]C. Existing legal non-conforming dwellings may be converted to an ADU. Where the conversion expands the dwelling, the expansion shall comply with the requirements of the residential zoning districts.
- [K]D. An ADU shall not be located in a front yard or a side yard adjacent to a street.
- [B]E. Number of Units. A maximum of one (1) ADU is allowed per detached single family dwelling on a legal lot of record.
- [G]F. Floor Area. An ADU shall not exceed 800 square feet of gross floor area, or 40 percent of the primary dwelling's gross floor area, whichever is smaller. The floor area of a garage attached to the primary dwelling shall not be included in the calculation of the maximum floor area. An ADU's minimum floor area shall comply with the requirements of the Oregon Building Code Division.
- [E]G. Building Height. A detached ADU shall not exceed the height of the primary dwelling.
- [L]H. A detached ADU shall be separated from the primary dwelling at least 6 feet.
- [J]I. The ADU front door shall not be on a building elevation facing a public or private street.
- [G]J. An y ADU shall comply with the development standards of the underlying zoning district.
- [D]K. Building Construction. An ADU shall comply with applicable Oregon Building Code requirements.

[F]L. Parking. Off-street parking is not required for an ADU. Where the developer chooses to provide off-street parking for an ADU, the ADU parking space(s) is not required to be in a carport or garage, but the driveway and parking space surface shall be paved or concrete. The ADU parking space shall be accessed via an existing driveway. Where no existing driveway serves the property, a new driveway shall be installed in accordance with the Public Works Design Standards.

M. Architectural Standards. An ADU shall ~~÷~~ **comply with the following and Section 2.316, Architectural Standards for Dwellings.**

1. Provide a pitched roof at least “3 in 12” pitch;
- ~~2. Provide eaves extending from the wall at least 6 inches;~~
- ~~3.~~ 2. Be recessed back at least 1 foot behind the building elevation of the primary dwelling facing a public or private street; ~~and .~~

The following is the information regarding the Planning Commission’s discussion regarding the single family dwelling architectural standards in Section 2.316.

The following are the LZDO single family dwelling architectural standards. On March 17 the discussion of the ADU standards included a discussion of the single family dwelling architectural standards in 2.316.

The Commission reached consensus on adding additional single family design standards from which developers could choose from and they are shown in **bold italics**.

NOTE: As stated at the March 17 meeting, only 3 architectural features are required out of the 11 existing, or the 15 proposed features. Section 2.316 does not require that any individual feature be constructed, rather it allows the developer to select which 3 will be constructed. And, of course, a developer is not limited to only 3, they can include more if they want to.

2.316.03 Standards

Detached single family dwellings shall provide at least 3 of the following design elements in the elevation which faces a public or private street, except a side yard or a rear yard adjacent to a public or private street:

- A. Eaves extending from the wall at least 6 inches;
- B. Dormer window(s) or gable window(s) at least 2 feet by 2 feet;
- C. Cupola(s);
- D. Bay or bow window(s);
- E. Exterior shutters on window(s);
- F. Recessed entry(s) at least 1 foot;

G. Front porch at least 100 square feet;

H. Covered front porch entry;

I. At least 2 pillars or posts *or knee braces or rod suspended roof* associated with a covered front porch entry;

J. Off-set(s) of at least 16 inches on the dwelling's *front elevation* wall;

K. Off-set(s) of at least 16 inches on the dwelling's *front elevation* roof;

L. *Window(s) not less than 12 square feet facing the street or access easement when access is via an easement;*

M. *A variation of no less than two building materials on the front elevation, the least of which shall be a minimum of 10 percent of the front elevation;*

N. *Windows in a garage door facing the street or access easement when access is via an easement;*

O. *Projections including, but not limited to pillars, posts, stonework, brickwork, over or at each side of the garage door(s). Projections shall be a minimum of 8 inches in depth.*

~~L.P.~~ Each of A-KO counts as one design element. For example, 2 dormer windows counts as one *element* and 2 shutters on each of 3 windows counts as one *element*.

VI. STAFF RECOMMENDATION

Staff recommends the Commission review the staff report and be prepared to ask questions during the staff presentation.

It is also recommended the Commission reach consensus to include the proposed ADU amendments and the amendments to the single family dwelling architectural standards from 2022 in LA 2024-01. Where consensus to do so is reached, the ADU amendments and the amendments to the single family dwelling architectural standards from 2022 will be included in the April 2024 Planning Commission meeting materials.

As is always the case, if you have questions prior to the March 21, 2024 Planning Commission meeting's work session on this staff report, please contact the city planner at 503 540-1619 or jjacks@mwvcog.org.