



City of Jacksonville

Planning Department

Legislative Land Development Code Amendments and Revision of Comprehensive Plan Historic Element

DATE: October 17, 2016
SUBJECT: File No. 2016-170
APPLICANT: City of Jacksonville
CITY STAFF: Dick Converse and Ian Foster

I. Introduction

Chapter 17.08 of the Jacksonville Unified Development Code permits text amendments whenever the public necessity, convenience, or the general welfare requires such modifications. The only specific criterion in the Code affecting amendments is a determination that there will be no significant effect on a transportation facility. The proposed amendment does not change zoning or land use designations or change the functional classification or implementation standards of any street or transportation system. The Code does not include any other criteria for reviewing a code amendment.

The proposed revisions to the Jacksonville Unified Development Code and the Comprehensive Plan Historic Element culminate years of effort to create documents that protect what makes Jacksonville special while clarifying review processes for new projects. In June 2015, staff drafted a *Citizens Advisory Committee Majority Report to the Council and the Planning Commission*, providing a background and justification for the proposed changes. This staff report incorporates the CAC report, with only a few additions.

Over the years, the Jacksonville Land Development Code was updated multiple times by a number of different authors. The intent was to reflect the changing needs of the community, and to continue protecting the City's status as a National Historic Landmark. However, with so many changes and added layers, the code became complicated and cumbersome for the user and practitioner.

As a result of administering the challenging and complicated Land Development Code (chapters 16, 17, & 18), the City of Jacksonville recognized a need for a complete update. In response, the City established a Citizens Advisory Committee (CAC) to complete this task. In accordance with Goal 1 of the Oregon Statewide Planning Goals and Guidelines, and locally administered through The Citizen

Involvement Chapter of the Jacksonville Comprehensive Plan, a CAC is required when there is a proposed, community-wide, legislative land-use policy change.

The CAC drafted a new development code that integrates the Oregon Model Code for Small Cities, modern day best practices, and standards that reflect the Jacksonville community.

The primary goal is to create a user-friendly code that is clear, intuitive, and easy to regulate and enforce. The new code will:

- Be more user friendly;
- Continue to protect the town's historic status;
- Create standards that are clear and easier to regulate and enforce; and
- Streamline the process.

This Report summarizes the CAC's work on the draft code for the Planning Commission and the City Council.

Background

The City of Jacksonville received a Certified Local Government Grant in order to update the historic section of the code. The Jacksonville Planning Director contacted the Rogue Valley Council of Governments (RVCOG) and the State Historic Preservation Office (SHPO) for support and guidance for the redrafting of the code. RVCOG suggested using the new Model Code for Small Cities, developed by the Oregon Department of Transportation (ODOT) and the Oregon Department of Land Conservation and Development (DLCDC), as a framework for the new code. The redrafted development code follows the Model Code for Small Cities, but is also tailored to meet the specific needs of the City of Jacksonville.

The City of Jacksonville contracted with a land use attorney to assist with and guide the code revision. After that, the city established a focus/study group to identify the most cumbersome and difficult portions of the existing code. This initial group consisted of residents, professionals, practitioners, and city officials. The group invited several practitioners for feedback regarding specific sections of the code. They included certified arborists, developers, and sign specialists.

Staff created a working draft of the code for the next phase of review. The Planning Commission (PC) held weekly work sessions for the initial review of the draft. Commissioners attended the weekly sessions as their time allowed. It was during these sessions that the group determined that zoning designations and densities should wait until the City completed a Buildable Lands Inventory and Housing Needs Analysis.

In September of 2014, the City Council formed a Citizens Advisory Committee (CAC). The CAC worked through the second working draft of the code; meeting once a week, from September 2014 through June of 2015. The Planning Commission then reviewed the draft in public workshops beginning in the summer of 2015 and continuing into 2016. A new map showing historic resources and adjacent parcels

was also created to reflect changes in the comprehensive plan Historic Element and the code.

II. SUMMARY OF PROPOSED CHANGES

The proposed Land Development Code consists of six chapters (articles), summarized as follows:

1. Introduction and General Provisions

This chapter establishes the purpose of the Code, and includes basic information about planning processes and enforcement.

2. Zoning Regulations

Zoning districts are included in this chapter. A significant difference from the current code are the tables that provide a simple way to determine permitted uses in each zone, development standards, and the review processes for each land use. For uses with additional requirements, it also includes “special use standards” for activities such as home occupations, accessory dwellings, and keeping of livestock. Finally, the chapter includes overlays affecting flood damage prevention, wetlands and riparian protection, and urban/wildland interfaces. The Historic Core Overlay is also listed, but the requirements are in Article 5 with the rest of the historic resource regulations.

3. Community Design Standards

This chapter contains standards intended to protect the public health, safety and welfare through compliance with access and circulation, parking, landscaping, fencing, public facilities, and sign standards. It essentially provides the site development for uses determined to be acceptable in Chapter 2.

4. General Review Procedures Focusing on the goal of creating a land use process that is easier to use and more consistent with other jurisdictions, the CAC proposed tiered levels of review, Types I - IV. (See, Chapter 4.1 General Review Procedures.) All land use and development permit applications and approvals, except building permits, will be decided through this tiered process. This replaces the current Certificate of Appropriateness process and Site Plan Review Procedures. (JMC 18.01.020 and 18.03.030).

The proposed levels of review are commonly used throughout Oregon and bring the code into alignment with state standards. While not required by statute, it reduces confusion for consultants and builders who work in multiple jurisdictions. A Type I process is an action suitable for administrative review based on objective standards, while a Type IV process is a legislative action such as a zone change or code amendment. The procedure classifications are as follows:

- **Type I Procedure** (Staff review and zoning clearance) Type I decisions are made by the City Planning Official, or designee, without public notice and without a public hearing. A Type I procedure is used in applying City

standards and criteria that do not require the use of discretion (i.e., clear and objective standards);

- **Type II Procedure** (Administrative Review with notice) Type II decisions are made by the City Planning Official, with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Planning Official may refer a Type II application to the Planning Commission or Historic Preservation Commission for its review and decision in a public meeting;
- **Type III Procedure** (Quasi-Judicial Review – Public Hearing) Type III decisions are made by the Planning Commission or Historic Preservation Commission after a public hearing, with an opportunity for appeal to the City Council; or in the case of a Quasi-Judicial zone change (e.g., a change in zoning on one property to comply with the Comprehensive Plan), a Type III decision is made by the City Council on recommendation of the Planning Commission. Quasi-Judicial decisions involve discretion but implement established policy. (The model code recommends that the Planning Commission decide zone changes not requiring a comprehensive plan amendment, with City Council review only upon appeal.)
- **Type IV** (Legislative Decisions) The Type IV procedure applies to the creation or revision, or large-scale implementation, of public policy (e.g., adoption of regulations, zone changes, annexation, and comprehensive plan amendments). Type IV reviews may be considered by the Planning Commission, who makes a recommendation to the City Council, or it may be taken up directly by the City Council. The City Council makes the final decision on a legislative proposal through the enactment of an ordinance. (The current code revision process is an example of a Type IV review.)

The remainder of the chapter includes processing standards and approval criteria for site design review, land divisions and property line adjustments, conditional use permits, amendments to the zoning map or code, adjustments and variances, planned unit developments, and non-conforming situations. Most of these are similar to current processes, but adjustment permit slight deviations from developments standards without having to meet all of the more difficult criteria for a variance.

5. Historic Overlay District

All development standards for historic resources are in this chapter. This is a significant improvement from the current ordinance where historic standards are mixed with requirements for other uses, creating confusion about which standards apply to a particular request. As noted elsewhere in this report, review will depend on whether or not a structure is historic, or a proposed use is adjacent to a historic resource. Except for the Downtown Historic District, all other properties will not be subject to historic resource criteria.

6. Definitions

Accurate definitions are crucial to administration of an ordinance. In its draft form, the chapter includes some terms having multiple definitions. The duplicates will be removed prior to Code adoption, but are included at this point to provide the decision-makers an opportunity to select the definition that best fits Jacksonville.

Notable Changes

Some notable changes to the code are outlined and described below. They include:

- Removal of Overlapping Layers of Review Criteria;
- HARC Jurisdiction;
- Removal of Chapter 17.48 Master Plan Requirements;
- Replacement of the Core Enhancement Overlay with the Downtown Historic District (DHD);
- Description of the DHD; and
- Additional Procedural and Content Changes. The new code changes the Review Levels to match state standards by changing the scale to Types I-IV (described above).

Removal of Overlapping Layers of Review Criteria

The focus group found a recurring theme that multiple layers of development code and design standards results in criteria that are difficult to understand and interpret. It is also difficult to determine if a property is subject to any or all of the standards and criteria.

As a result, the focus group determined to follow the intent of the original design standards and review criteria. Therefore, the new code is designed to accomplish the same objectives, but in a way that is clear, user friendly, and alleviates the unnecessary layers of bureaucracy. The draft code maintains many of the critical design standards of the current code. However, the CAC recommended removal of the following overlapping and vague Comprehensive Plan sections and approval criteria:

- Historic Character Units;
- View sheds and the current Review Level Area Maps.

The CAC confirmed with SHPO that the removal of these elements of the existing code will not endanger the status of the Landmark District in any way.

The Historic Character Units will not be replaced. Rather, the Review Level Areas map will be replaced with a much clearer Landmark list and regulations for those properties abutting a Landmark. Currently, the Comprehensive Plan identifies several view sheds, most of which are outside of the City Limits and outside of the City's jurisdiction. This requirement is confusing, and often misunderstood. Therefore, the CAC recommended removing the view shed language from the comprehensive plan and development code.

HARC Jurisdiction

Another recurring theme is that the role of the HARC grew outside of its intended purpose: to be a body for the review of historic structure applications. The HARC reviewed projects outside of the Historic Landmark District and for properties that are not designated Landmarks. The purpose of the HARC is to protect the District by protecting the landmark listed structures and control new development abutting landmark-listed structures. Over the years the HARC's review extended beyond its stated purpose. This made the review process for modern structures outside the landmark district, or surrounded by newer development, unnecessarily cumbersome. This also caused confusion and frustration among applicants.

The new code returns the focus of HARC to the preservation of historic landmarks. The intent is resources and staff time will be better spent protecting our listed landmarks. The proposed result is a change in focus, and in name, to the Historic Preservation Commission (HPC).

The HPC jurisdiction is limited to locations that affect historic structures, and is no longer applicable to all new development within the city, although all proposed development in the Downtown Historic District (DHD) remains in HPC jurisdiction.

The landmark list consists of those properties identified as contributing to the National Historic Landmark District recognized by the National Park Service, and properties that the City recognized as locally significant. The HPC's purview is to review any proposed exterior changes to these structures (as they do now). HPC has jurisdiction over any additions to existing structures directly abutting a landmark-listed property (as they do now) and any new construction directly abutting a landmark listed property (as they do now).

As part of the code revision, the Landmark List will be readily available and accessible both online and in the Planning Department so that users will be able to quickly determine whether or not their property is a Landmark and subject to the HPC review process.

Removal of Chapter 17.48 Master Plan Requirements

The current Master Plan Requirements developed through a collaborative grant with the Oregon Department of Transportation and the Rogue Valley Council of Governments. At the time, many cities in Oregon looked to create Transit Oriented Districts: walkable, pedestrian friendly commercial districts. The Fifth Street corridor seemed to be an appropriate area for design standards for redevelopment, resulting in Chapter 17.48. The first three sections listed below dealt strictly with street standards that are now covered by the Transportation Systems Plan (TSP).

17.48.010 Street Plans and Connectivity

17.48.020 Functional Classifications

17.48.030 Street Standards

The guidelines that the focus group, the PC and the CAC felt were important and still relevant have been incorporated into the commercial design standards section of the new code; the rest were removed. These sections are listed below.

- 17.48.040 Other Plan Requirements
- 17.48.050 General Plan Requirements
- 17.48.060 Specific Gateway Standards
- 17.48.070 North Fifth Street Guidelines

Replacement of the Core Enhancement Overlay with the Downtown Historic District (DHD)

The Comprehensive Plan adopted a stand-alone document that regulates the Core Enhancement Overlay District. This area is the main commercial historic core area encompassing California Street. The idea being that this area deserves special consideration for design, pedestrian amenities, and for businesses to attract customers. While this Core Enhancement Overlay area was well intentioned, it again was confusing and was not adopted into the code, so applicants were not aware of the additional requirements. The draft code refines it and creates a simpler way of enforcing the same idea. The CAC recommends replacing the Core Enhancement Overlay with the Downtown Historic District (DHD). The new DHD keeps the same goals and policies but is a much more effective tool. This new DHD is described below.

The DHD

California Street, with its extensive collection of late 19th century masonry buildings and concentration of listed landmark properties, is the essential element to Jacksonville's identity and an important part of the City's status as a National Historic Landmark. When the CAC began the task of redrafting Jacksonville's Development Code, the group recognized that the downtown core would continue to require special protections and standards. To that end, the CAC developed the Downtown Historic District (DHD), which, in addition to Article 5, adds standards and design guidelines specifically targeted toward downtown, and more specifically, California Street.



Figure 1: Proposed Downtown Historic District (DHD)

In order to create a code that is an effective preservation tool for the downtown, staff and the CAC synthesized Jacksonville’s current design standards with the Core Enhancement Plan, as well as best practices derived from state and national agencies. The intent is to have downtown guidelines that effectively protect the City’s status as a National Historic Landmark yet allow appropriate downtown development. By balancing the historic character and economic opportunities of the downtown core, Jacksonville can continue as a thriving, successful community.

The purpose of the DHD section of the code is to:

- Effect and accomplish the protection, enhancement, and perpetuation of the city’s National Historic Landmark status;
- Safeguard the city’s historic, aesthetic, and cultural heritages as embodied and reflected in the Downtown Historic District;
- Complement the National and Local Landmark designations;
- Foster civic pride in the city’s unique past and historic structures;
- Protect and enhance the City support to local business and industry; and
- Strengthen the economy of the city.

Best Practices

To create a development code that also serves as an effective tool for preservation, staff and the CAC researched best practices. The result is a Downtown Historic District (DHD) section that is informed by several components, including input from the State Historic and Preservation Office, the Secretary of the Interior’s Guidelines for Rehabilitation (regulatory standards established by the United States Department of the Interior for the preservation of historic properties), and historic protections from other Municipal Codes. The CAC incorporated the Core

Enhancement Plan and *Design Guidelines for Jacksonville, Oregon* into the new DHD standards and guidelines.

The end product is a code that includes modern day best practices by integrating national and state standards for historic preservation with standards and goals established through the Comprehensive Plan, reflecting the Jacksonville Community.

DHD Standards

Properties within the DHD are required to comply with additional protections and design guidelines. The standards in the DHD are established in order to encourage a high-quality built environment that enhances, rather than detracts from the existing historic structures. The standards are in place in order to protect the identity of the City and the City's most recognizable buildings. The guidelines prevent new construction from creating a false sense of history. The majority of the existing Design Guidelines and standards currently used by HARC will continue to be the standards within the DHD.

California Street Design Standards

Properties within the DHD that also front California Street are subject to additional design standards. The purpose is to ensure the protection of California Street. Some of the guidelines for California Street include:

- **Zero Lot Lines:** New buildings to be built on California Street between Oregon and 4th St. are required to build to the front property line of California Street.
- **Building Elements:** Building elements should be compatible with existing structures, but cannot create an artificial sense of history.

Additional Downtown Historic District Standards

In addition to the specific building design standards, the DHD section includes additional standards. These additional standards include:

- **Streetscape:** benches, chairs, bistro tables and other pedestrian amenities are allowed within the DHD
- **Signs:** Signs within the DHD are required to meet the standards in the base zone and additional standards such as:
 - No temporary construction or open house signs
 - Signs shall not overwhelm the building or any special architectural features

Role of the Historic Preservation Commission (HPC)

Any alteration, relocation, or demolition of any structure or property within the DHD must be reviewed by the HPC.

Additional Procedural and Content Changes

Sign Regulation

The Small City Model Land Use Code does not have a recommended sign code, recognizing that signage is a uniquely local proposition. Signs are an integral part of

the community allowing for varying commercial and personal communication. Every element of signage has the potential to impact the livability of our community. Our current Sign Regulations (JMC 18.15) are difficult for well-meaning citizens to follow. Additionally, in January 2015, the United States Supreme Court ruled in the Case, *Reed v. Town of Gilbert, Arizona*, that municipalities may only regulate sign types, and must remain content neutral. The current code regulates fonts, limits national brand logos, and requires signs not have a “cartoony” appearance. The new code revises the standards in order to comply with the Supreme Court ruling. The proposal anticipates a streamlined process where all sign permits are obtained pursuant to an administrative review of objective standards (removing subjective standards relating to font, logo or aesthetic) acknowledging that the current subjective standards have not always yielded uniformity of quality and style that would justify the delay, cost and process challenges to citizens and staff.

While many of the signage allowance provisions have been retained; the CAC is recommending allowing portable signs in all zones (sandwich board signs and other similar free standing displays such as a mannequin or teddy bear holding a chalkboard). All portable signs will need prior approval but the standards of size, placement and material are clear and objective. This is a balance of important interests: of the business interest of using portable signs to communicate with customers, as they are routinely used today, but also allowing for reasonable community protections (not in the right-of-way, pedestrian walkway and safely anchored), fair uniform availability of signage for each lot, and clarity of standards are critical for establishing expectations and enforcement.

Landscaping and Tree Removal

The Small City Model Code does not address tree removal since it is a uniquely local concern. The CAC recognizes and is committed to the preservation of the idea that landscaping and tree cover are critical elements of the quality of life in Jacksonville and livability as a community.

The current Code limits most tree removal to situations where the tree is either diseased or removal is “necessary” to protect public safety or historic structures, and is supported by a certified arborist report. The burdensome nature of this restriction has, on occasion, led to the unauthorized removal of trees and the strategy of “begging for forgiveness” if caught. The CAC believes there are situations where the removal of a significant sized tree may be warranted. The CAC has worked with many of the local arborists and studied tree removal codes for other cities.

The proposed Tree Removal provisions are designed to encourage compliance by making the process easier to remove trees on already developed private property. For instance, a homeowner of property developed with a single family dwelling will be required to obtain a Zoning Clearance Sheet, with a nominal fee and no arborist report. The proposed process of a Zoning Clearance Sheet for removal of trees on built residential lots is intended to be a way of making sure that no Heritage Trees are removed without review.

Those trees important to the community will be placed on the Heritage Tree list. The implementation of this portion of the new JDC will require the creation of the list of Heritage Trees. These are trees which add to the quality of life in Jacksonville; and as such, will be subject to the much higher level of scrutiny. The new code creates a review system to ensure the protection of Heritage Trees. In addition, penalties have increased and liability for violations extends broadly to anyone removing the trees in addition to owners.

Vacation Rentals

The internet has opened up a whole new era of vacation and short term rentals. Across the world travelers are regularly booking rooms directly from property owners using services such as Air BnB or VRBO (Vacation Rental by Owner). These new rental offerings are a way to provide rental income to property owners who may have an accessory dwelling unit or extra rooms and also provide an inventory of visitor accommodations to tourist-driven towns such as Jacksonville. But the impacts of short term rentals such as parking, noise and trash can negatively impact the livability of residential neighborhoods. Many Oregon communities, such as Ashland, Lincoln City and Bend, are struggling with the issue balancing these factors.

The CAC believes that balance can be struck to allow short term Vacation Rental Accommodations in residential neighborhoods if there is an owner or responsible contact person present. A property owner who wants to rent a VRA must first obtain a Business License that will ensure that negative impacts of parking and trash are addressed. In order to have a VRA approved, an applicant will need to go through a Type II review that provides notice to neighbors.

Planned Unit Development

PUD planning is a tool that has existed almost since zoning was widely adopted in the 1970s. It allows for flexibility in the site design and layout of larger projects in return for creating development that is 'better' than what would occur by simply following the strict guidelines of the development code. The CAC found that this is a valuable tool for Jacksonville but the current code limits it to only certain zones identified as "PUD". The current JMC also created some confusion with the timing, phasing, and expiration of an approved PUD (because often PUDs are large projects designed to be built over a period of time, in phases). The Model Code does contain a PUD or Master Plan design section but the CAC felt that in many ways the bones of the JMC structure were good and followed the general principle of 'not changing what is not broken.'

The new JDC maintains this tool but allows it as an option in any zone if the development can meet the standards. The CAC feels that the proposed standards are in ways harder to achieve, more realistic and clarified. The benefit to the developer of a "density bonus" (more units than otherwise allowed by the zone) was removed. The CAC felt that the benefits of the flexibility in design is a fair and valuable trade for the identified community benefits that must be shown to obtain

an approval for a PUD. Obtaining this flexibility will require either Planning Commission or HPC review.

Summary

The CAC is confident that the revised code accomplishes the goals identified by the focus group. The result is a code with standards and requirements that are clear for applicants and staff, which affords greater protection of Jacksonville's Historic Landmark District, and streamlines process. The CAC sends a favorable recommendation to the Planning Commission and the City Council for further review.

Staff concurs with the CAC recommendation. The hearings will provide opportunity for residents and agencies to comment on any portion of the proposed code and the Comprehensive Plan Historic Element. Hearings notice was provided to all owners of property inside the Jacksonville city limits. Written comments received by October 14, 2016, will be included in the hearings packet. All other comments and oral testimony will be added to the hearings record. The Planning Commission will evaluate those comments, adjust text as it deems appropriate, and recommend a course of action to the City Council.

The Department of Land Conservation and Development provided the following comments. Staff responses follow each comment.

1) The use tables for residential uses on 2-13 through 2-16 have a lot of blank boxes. It is unclear how this would be interpreted - for example, the duplex building type is not listed as an allowed use in any district, but is specifically prohibited in only one district - for the rest the boxes are blank. A lot of the boxes for setbacks and lot coverages, etc. are blank - does this mean that there are no setbacks in those districts?

Response: The tables have been revised to address this comment.

2) The multi-family allowed densities may be inconsistent - on page 2-13 the allowed densities are 10-15 du/ac., but on Page 2-14 in the table the allowed densities per square foot could, theoretically at least, exceed 15 du/ac.

Response: The Commission should determine which number it wants to use.

3) In Section 2.2.130, manufactured home standards, the language parrots state statutory language regarding styles similar to those on surrounding homes. This is not a clear and objective standard, and I believe that what cities need to do if they want to use this state statutory provision is to better define what constitutes "style" and "surrounding area" with clear and objective provisions. This is a problem with many, many codes around the state, not just Jacksonville, but I believe that someday we will get a LUBA case out of this provision that will require a lot of codes to be rewritten.

Response: This is a “problem” because cities use the model code that conforms to State Statute. The City could clarify its intentions by adding a definition regarding style and surrounding area specific to manufactures homes.

4) DLCDC recommends that the city look more closely at changes affecting viewsheds (see top of page 5 and bottom of page 13) and assess consistency with Goal 5 and OAR 660-23-0230. The Goal 5 rule for scenic views and sites requires that the standard Goal 5 process be used when making changes to a local inventory of significant scenic resources or changing protection measure for these resources. Changes to the local inventory will need to be based on a re-evaluation of their significance. Alternatively, the city can leave the inventory as is and justify changes in protection for these resources with conclusions from an analysis of the economic social environmental and energy consequences (ESEE analysis) of the proposed change. An ESEE analysis looks at the pros and cons of a decision to prohibit, limit or allow development that conflicts with significant resources. For assistance with applying the OAR 660-0230 to Jacksonville’s scenic resources contact Amanda Punton.

Response: This is a significant comment. Staff will review the Comprehensive Plan to determine whether or not any inventories resources would be affected by the change. Policy #7 of the Environmental Setting Element requires that the City “preserve and enhance the scenic character of Jacksonville. All other references to scenic corridors appear to be in the Historic Element. All historic sites existing prior to 1927 will remain, and no existing sites will be removed from the National Historic Registry.

III. POSSIBLE PLANNING COMMISSION ACTIONS:

1. Recommend City Council approval of the amendments
2. Recommend City Council denial
3. Continue the hearing to a date, time, and place certain
4. Table the hearing