

**ORDINANCE NO. 656
CITY OF DAYTON, OREGON**

**AN ORDINANCE OF THE DAYTON CITY COUNCIL AMENDING TITLE 1
(ADMINISTRATION) AND TITLE 7 (DAYTON LAND USE AND DEVELOPMENT
CODE) OF THE DAYTON MUNICIPAL CODE.**

WHEREAS, the Dayton Municipal Code (DMC) is a codification of the general ordinances of Dayton, Oregon, organized by subject matter under Title, of which include Titles 1, and 7; and

WHEREAS, in February of 2023, the Dayton City Council recognized the need to initiate a legislative text amendment (LA 2023-01) to amend Title 7, *Dayton Land Use and Development Code*, at their meeting of February 21, 2023; and

WHEREAS, on June 5, 2023, the City Council also recognized a need for initiating other limited code updates to Title 7 to include in LA 2023-01; and

WHEREAS, on June 8, 2023, the Planning Commission held a work session to discuss and clarify desired changes to Title 7, *Dayton Land Use and Development Code*, recognized the need for additional policy neutral changes that included changes to Title 1, and, after this work session, instructed city staff to schedule a public hearing on LA 2023-01; and

WHEREAS, on July 6, 2023, public notice for LA 2023-01 was provided to the Department of Land Conservation and Development with a description of all proposed changes; and

WHEREAS, on July 28, 2023, public notice for LA 2023-01 was published in the McMinnville News Register with a description of all proposed changes; and

WHEREAS, on August 10, 2023, the Dayton Planning Commission conducted the first of two required public hearings for LA 2023-01 at which time interested parties were provided full opportunity to be present and heard; and

WHEREAS, on October 2, 2023, the Dayton City Council conducted the second required public hearing for LA 2023-01 at which time interested parties were provided full opportunity to be present and heard on the proposed amendments to the DMC Titles 1 and 7 as amended.

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

Section 1. The City Council of the City of Dayton does hereby adopt the staff report dated September 25, 2023, including the findings of fact and conclusionary findings and supporting documentation contained in the staff report.

Section 2. The City Council of the City of Dayton does hereby amend Title 1 and Title 7 of the Dayton Municipal Code as included under "Exhibit A" of this Ordinance.

Section 3. This ordinance is effective thirty (30) days after its adoption.

PASSED AND ADOPTED by the City Council of the City of Dayton on this 6th day of November, 2023.

Mode of Enactment:

Date of first reading: 10/2/2023 In full _____ or by title only X

Date of second reading: 11/6/2023 In full _____ or by title only X

X No Council member present at the meeting requested that the ordinance be read in full.

_____ A copy of the ordinance was provided to each Council member; three copies were provided for public inspection in the office of the City Recorder no later than one week before the first reading of the Ordinance.

Final Vote:

In Favor: Maguire, Hildebrandt, Mackin, Wildhaber, Marquez

Opposed: None

Absent: Frank, Sandoval-Perez

Abstained: None

Trini Marquez
Trini Marquez, Mayor

11/16/2023
Date of Signing

ATTESTED BY:

Rocio Vargas
Rocio Vargas, City Recorder

11/16/2023
Date of Enactment

Attachment: Exhibit A

Exhibit A



City of Dayton

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STAFF REPORT

LA 2023-01 PUBLIC HEARING BEFORE CITY COUNCIL

HEARING DATE: October 2, 2023

REPORT DATE: September 25, 2023

SUBJECT: Text amendments to the Dayton Land Use Development Code to add applicability requirements for discontinued uses requiring new Site Development Review approval, update clear vision standards, update expiration dates for land use decisions, add provisions for phased subdivisions, and miscellaneous code cleanup.

APPROVAL

CRITERIA: Dayton Land Use Development Code, Section 7.3.112.03, A – D.

EXHIBITS: A. Notice of Planning Commission Action SDR 05-01/MAJVAR
05-02

I. REQUESTED ACTION

Conduct a public hearing on proposed legislative amendments to Chapters 1.16, 7.1.2, 7.2.1, and 7.3.1 of the Dayton Land Use Development Code (DLUDC), case file LA 2023-01. Options for action on LA 2023-01 include the following:

- A. Adopt the findings in the staff report, move that the City Council adopt LA 2023-01, and direct staff to return this item for reading of a draft Ordinance that reflects this action:
 1. As presented / recommended by staff; or
 2. As amended by the City Council (indicating desired revisions).
- B. Move that the City Council take no action on LA 2023-01.
- C. Continue the public hearing, preferably to a date/time certain.

II. BACKGROUND

City Council updated their Strategic Goals in February 2023, which included updates to the DLUDC involving new code provisions to address situations where new Site Development Review would be required for discontinued uses and updates to standards for clear vision areas. On June 5, 2023, the City Council initiated additional recommendations that include updating expiration dates for land use decisions and incorporating provisions to allow phased subdivisions. Additional background information on each of these categories of amendments is provided below.

Site Development Review for Discontinued Uses

The proposed amendments would establish certain conditions under which developments with existing Site Development Review approval would be considered discontinued and subject to new Site Development Review for development. The need for this amendment was identified in response to the recent revival of a project from 2005 that was thought to have been abandoned after an extended period of inactivity on the site. The proposed amendments would not affect the status of this project. The amendments will only apply to projects receiving site development approval after the adoption of LA 2023-01. The amendments would allow the Planning Commission to evaluate development in future situations through a new Site Development Review process that considers the current state of the site and neighboring development.

The language proposed in the current draft was informed by language addressing discontinued non-conforming uses found in the Department of Land Conservation and Development's (DLCDC) Model Development Code for Small Cities.

Updates to Clear Vision Area Standards

Clear vision areas are necessary to maintain clear lines of sight at the intersections of streets and driveways so that drivers can safely respond to oncoming traffic. See Exhibit A for ODOT guidelines for determining sight distances. Features such as structures, walls, and fences are restricted in these areas. The current standard places the clear vision triangles at the edge of the public right of way or property lines. This method presents problems for City Staff when trying to determine the location of the triangle in situations where the exact location of the property line or the edge of the right-of-way is not known. Further, current guidance from ODOT on measuring intersection sight distance recommends taking the sight distance measurements from the vehicle travel lane. The draft amendments would position the vision clearance triangle along the edge of the roadway consistent with current practice.

Updates to Land Use Expiration Dates and Phased Subdivisions

Land use approvals currently expire one year following the effective date of land use approval. Prior to the expiration of the one-year time limit, applicants may request a time extension not to exceed one year. If the project is not completed within this time, the land use approval expires, and the applicant is required to seek a new land use approval to complete the project. This can be an onerous timeline to meet for more complex applications, such as subdivisions, which typically require the design, permitting, and construction of public streets and infrastructure prior to issuance of site development permits and/or final platting.

Adding provisions for phased subdivisions allows a subdivision consisting of multiple phases to be reviewed and receive preliminary approval through a single land use action. Phased subdivisions are typical for large sites. On large sites, they encourage all phases to be planned and permitted together as part of an integrated and cohesive "master plan".

The draft amendments are crafted to be substantially consistent with the most recent version of the DLCDC Model Development Code for Small Cities.

Miscellaneous Code Cleanup

The amendment package includes several policy neutral code changes to correct and clarify existing code references related to property transactions, deck and patio encroachments, and Floodplain Development Permits.

III. PROCESS

Section 7.3.112 of the DLUDC requires text amendments to be approved through a Type IV review procedure as specified in Section 7.3.2.

On June 8, 2023, the Planning Commission held a work session to discuss and clarify desired changes, prior to passing a motion scheduling a public hearing.

On July 6, 2023, staff issued the required 35-day notice to the Department of Land Conservation and Development. On July 28th, 2023, written notice of the hearing before the Planning Commission was published in the McMinnville News Register which was not less than 10 days prior to the date of the hearing before the Planning Commission. On September 22, 2023, written notice of the hearing before the City Council was published in the McMinnville News Register which was not less than 10 days prior to the date of the hearing before the City Council.

Public Comments Received

The Planning Commission received oral testimony in opposition to the amendments to DLUDC 7.3.106.02 that would make Site Development Review applicable to approved developments that are discontinued or abandoned as defined under the proposed amendments. The testimony was provided by representatives of property owners of 16205 SE Kreder Road out of concern the amendments would require the owners to submit a new Site Development Review application to permit existing development on the site that was previously approved in 2005 under SDR 05-01/MAJVAR 05-02 (Exhibit B). The testifier raised ORS 227.178(3)(a) which states that approval or denial of an application shall be based on the standards and criteria that were applicable at the time the application was first submitted. Staff generally concurs that ORS 227.178(3)(a) does apply to the 2005 decision, and that the amendments to DLUDC 7.3.106.02 will only apply to approvals after the date the enacting ordinance is adopted. Staff observe that Condition A of SDR 05-01/MAJVAR 05-02 requires a site development review application for expansion of the development or any other additional improvements to the site.

IV. SUMMARY OF PROPOSED AMENDMENTS

The following lists the proposed amendments to the applicable sections of the DLUDC in the order they appear in the Code followed by bullet points summarizing the changes proposed.

1.16. Real Property Transactions

- Update code reference for property transactions that the City Manager is authorized to negotiate and approve on behalf of the City.

7.1.200.03 Definitions

- Add definition for “discontinued use”.
- Add definition for “edge of roadway”.
- Add definition for “roadway”.

7.2.1 Land Use Zoning

7.2.102.05 Single Family Residential (R-1)

- Insert existing references to side yard projection standards for decks and patios.

7.2.103.05 Limited Density Residential (R-2)

- Insert existing references to side yard projection standards for decks and patios.

7.2.104.05 Medium Density Residential (R-3)

- Insert existing references to side yard projection standards for decks and patios.

7.2.105.05 Commercial Residential

- Insert existing references to side yard projection standards for decks and patios.

7.2.113.05 Uses – Permitted And Subject to Flood Plain Development Permit

- Update Various Code References

7.2.203.02

- Update references to side yard projection standards for decks and patios.

7.2.308.08 Clear Vision Area

- Change “street right of way” to “edge of roadway” for all sections affecting the measurement of the clear vision area triangle along public streets.
- Increase the required dimension of street side portion of the clear vision area from 30 to 35 feet to accommodate the repositioning of the triangle along the roadway.
- Add an illustrative diagram depicting the clear vision area standards.

7.3.1 Application Requirements and Review Procedures

7.3.102.05 Time Limit

- Change the effective period for land use approvals from one year to two years.

7.3.106 Site Development Review

- Add a new subsection 7.3.106.02.B that includes conditions under which new a Site Development Review application is required to permit a discontinued use.

7.3.109 Subdivisions and Planned Unit Developments

- Add submittal requirements for phased subdivisions.
- Change the time limit on preliminary subdivision approvals from one year to two years.
- Add approval criteria for phased subdivisions.
- Add time limits for preliminary approvals for phased subdivisions of two years for the first phase and four years for all subsequent phases.

V. FINDINGS AND APPROVAL CRITERIA

7.3.112.01 Process

Amendments to the Comprehensive Plan and Development Code texts shall be reviewed in accordance with the Type IV review procedures specified in Section 7.3.201.

7.3.112.03 Criteria for Approval

Amendments to the Comprehensive Plan or Development Code text shall be approved if the evidence can substantiate the following:

A. Impact of the proposed amendment on land use and development patterns within the city, as measured by:

1. Traffic generation and circulation patterns;

Findings: The proposed amendments to the applicability requirements under Section 7.3.106 will not have any direct impact on traffic and circulations patterns. However, when a discontinued use is subject to a new Site Development Review procedure, the application will be required to address current traffic generation and circulation patterns. Through the Site Development Review process, the decision-making body will have the opportunity to apply new conditions, should they be necessary to mitigate any impact to the current offsite circulation patterns. The proposal may result in some potential benefits for traffic generation and circulation patterns for this reason. This criterion is met.

The updated standards for clear vision areas have the potential to positively impact traffic circulation. The proposed amendments aim to align section 7.2.308.08 with current ODOT guidance, ensuring the protection of sight distance areas at intersections and enabling all road users to make safe turning movements, thereby resulting in safer traffic circulation for all modes of travel. Additionally, these changes will enhance the ease with which City Staff can determine the appropriate location of the clear vision triangle, thereby ensuring consistent application of clear vision areas at intersections throughout the city. This criterion is met.

The proposed changes to the expiration dates and the implementation of provisions for phased subdivisions will not directly impact traffic generation and circulation patterns. However, there may be some ancillary benefits to allowing applicants more time to construct street improvements. This criterion is met.

2. *Demand for public facilities and services;*

Findings: The proposed amendments will not have any impact on demand for public facilities because the amendments do not involve any changes to code criteria or standards that regulate demand for city services such as streets, sewers, or water. Any demand for City services generated by the development affected by the amendments will not change.

3. *Level of park and recreation facilities;*

Findings: The level of park and recreation facilities is typically determined by population increases resulting from the development of new housing. The amendments do not involve density or locational requirements that would affect the level of park or recreation facilities needed to accommodate future population growth. This criterion is met.

4. *Economic activities;*

Findings: The proposed amendments will not have any direct impact on economic activities but may result in some ancillary benefits to economic activity. The new provisions for phased subdivisions could encourage faster home construction on lots in the first phases of a subdivision resulting in increased economic activity. This criterion is met.

5. *Protection and use of natural resources;*

Findings: The proposed amendments will not have any direct impact on the use of natural resources

6. *Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.*

Findings: The proposed amendments will not have any effect on any special plans or programs. The new expiration dates for land use approvals may have positive effects on public facility improvements because they will allow more time to design, permit and construct improvements when they are required as a condition of approval of a land use decision.

B. *A demonstrated need exists for the product of the proposed amendment.*

Findings: The demonstrated needs for the proposed amendments are as follows:

New Site Development Review for Discontinued Uses

The need for this amendment was identified in response to the recent revival of a 2005 Site Development Review that was thought to have been discontinued after an extended period of inactivity. Site conditions and neighboring development have changed over the past 18 years and the amendments would allow Planning Commission to evaluate development such as this through a new Site Development Review process that would consider the current state of the site and neighboring development.

Updates to Clear Vision Area Standards

Clear vision areas are necessary to maintain clear lines of sight at the intersections of streets and driveways so that drivers can safely respond to oncoming traffic. Features such as structures, walls, and fences are restricted in these areas. The current standard places the clear vision triangles at the edge of the public right of way or property lines. This method presents problems for City Staff when trying to determine the location of the triangle in situations where the exact location of the property line or the edge of the right-of-way is not known. Further, current guidance from the Oregon Department of Transportation on measuring intersection sight distance recommends taking the sight distance measurement from the vehicle travel lane. The draft amendments would position the vision clearance triangle along the edge of the roadway consistent with current practice.

Updates to Land Use Expiration Dates and Phased Subdivisions

Land use approvals currently expire one year following the date of final approval. Prior to the expiration of the one-year time limit, applicants may request a time extension not to exceed one year. If the project is not completed within this time, the land use approval expires, and the applicant is required to seek a new land use approval to complete the project. This can be an onerous timeline to meet for more complex applications, such as subdivisions, which typically require the design, permitting, and construction of public streets and infrastructure prior to issuance of site development permits and/or final platting. Adding provisions for phased subdivisions will allow a subdivision to be platted in phases after receiving preliminary approval. This will streamline the preliminary review process for larger subdivisions and promote more thoughtful and integrated long-term planning for larger sites.

This criterion is met.

- C. *The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.*

The applicable Statewide Planning Goals are satisfied as follows:

Goal 1. Citizen Involvement.

Findings: A public hearing on the proposed amendments was held before the Planning Commission on August 10, 2023, at City Hall at 6:30 p.m. and a second public hearing is scheduled before City Council on October 2, 2023. Public notice has been provided in accordance with noticing requirements in the Dayton Land Use and Development Code for legislative public hearings by the Planning Commission and the City Council. Goal 1 is met.

Goal 2. Land Use Planning.

Findings: Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. These are in place. The scope of this legislative proposal is limited and does not involve any amendments to the Comprehensive Plan policies. Existing Comprehensive Plan land use map designations and zoning designations remain unchanged. This amendment proposal does not add, subtract or modify the uses allowed outright or conditionally in existing zones. The proposal does not involve exceptions to the Statewide Goals. Staff therefore finds Goal 2 is met.

Goal 3 & 4. Agricultural Lands and Forest Lands

Findings: Goal 3 and 4 primarily pertain to rural areas, typically outside urban areas. Staff finds Goals 3 and 4 to be not applicable due to the limited scope of the proposed text amendments.

Goal 5. Natural Resources, Scenic and Historic Areas, and Open Spaces.

Findings: Staff observe how the proposed amendments do not impact natural resources or open spaces. Staff incorporate the scope of work description above in response to Goal 2. This amendment proposal does not add, subtract, or modify the list / description of historic resources identified to the Historical Property Overlay Zone. Goal 5 does not apply.

Goal 6. Air, Water and Land Resources Quality.

Findings: The proposal does not address Goal 6 resources. Based on the limited scope of proposed text amendments, staff finds Goal 6 to be not applicable.

Goal 7. Areas Subject to Natural Hazards.

Findings: The proposal does not address Goal 7 resources. Based on the limited scope of the proposed text amendments, staff finds Goal 7 to be not applicable.

Goal 8. Recreation Needs.

Findings: The proposal does not address Goal 8 resources. Based on the limited scope of work included in this report staff finds Goal 8 to be not applicable.

Goal 9. Economic Development.

Findings: Proposed amendments do not change the permitted uses in the commercial and industrial zones. Proposed changes to the DLUDC do not impact identified future employment areas identified through past Economic Opportunities Analysis. Accordingly, Goal 9 does not apply.

Goal 10. Housing.

Findings: The proposed amendments advance Goal 10 by streamlining the preliminary plat approval process of larger subdivisions. Allowing multiple subdivision phases to be approved under a single procedure will eliminate the need to secure individual approvals for each phase. These amendments will likely facilitate faster construction of homes in the earlier phases of a subdivision, which will advance statewide targets for housing production on residential land designated in the Comprehensive Plan. Extending the expiration dates will have benefits for multifamily projects by reducing the occurrence of extension requests and expirations. All the proposed amendments are consistent with the implementation guidelines under Goal 10. Goal 10 is met.

Goal 11. Public Facilities and Services.

Findings: Public facilities under Goal 11 include water, sanitary sewer, police and fire protection. Other services (e.g., health, communication services) are also listed in Goal 11. The proposed amendments do not have any direct impact on any of the master planning documents required under Goal 11. However, the proposed amendments to the expiration dates for land use approvals will advance Goal 11 by providing more time to design, and construct public facilities included in those plans when they are required to be constructed as conditions of approval for subdivisions and other land use decisions. The proposed amendments are consistent with Goal 11.

Goal 12. Transportation.

Findings: The amendments to the standards for clear vision areas will encourage a safe convenient and economic transportation system under Goal 12 by preserving safe sight distance at intersections. The proposed amendments to the DLUDC are found to comply with Oregon Administrative Rule (OAR) 660-012, commonly referred to as the Transportation Planning Rule, as there are no proposed changes or amendments to local transportation requirements or road classifications. Goal 12 is met.

Goal 13. Energy Conservation.

Findings: Based on the limited scope of work described in this report, staff finds Goal 13 to be not applicable.

Goal 14. Urbanization.

Findings: Based on the limited scope of the text amendments described in this report, staff finds Goal 14 to be not applicable. No change to the existing Urban Growth Boundary (UGB) is proposed.

Goal 15 for the Willamette River Greenway and Goals 16 – 19 for the Coastal Goals.

Findings: Staff observe Goals 15 through 19 to apply only to specific regions of the state (*Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes, Ocean Resources*). Goals 15 – 19 do not apply because the city is not on the Willamette River or in a coastal area.

The proposed amendments are consistent with the applicable Statewide Planning Goals. This criterion is met.

D. The amendment is appropriate as measured by at least one of the following criteria:

- 1. It corrects identified error(s) in the provisions of the plan.*
- 2. It represents a logical implementation of the plan.*
- 3. It is mandated by changes in federal, state, or local law.*
- 4. It is otherwise deemed by the council to be desirable, appropriate, and proper.*

Findings: The proposed amendments meet the criterion D.4 for the following reasons:

The changes to the applicability standards for Site Development Review (SDR) are desirable, appropriate, and proper because they would allow Planning Commission to evaluate discontinued uses in the context of current site conditions through a new Site Development Review application that responds to current site conditions.

The updates to the clear vision areas are desirable, appropriate, and proper to maintain clear lines of sight at the intersections of streets and driveways so that drivers can safely respond to oncoming traffic.

The updates to the expiration period for land use approvals are desirable, appropriate, and proper to allow applicants reasonable time to meet conditions of approval such as the design, permitting, and construction, of public streets and infrastructure prior to issuance of site development permits and/or final platting.

The provisions for phased subdivisions are desirable, appropriate, and proper to allow multiple phases of a subdivision to seek preliminary approval with a single land use approval procedure.

These criteria are met.

VI. PROPOSED AMENDMENTS – MARK-UP VERSION

The following mark-ups show the current language in the above referenced sections in Times New Roman font. The proposed amendments are shown in ~~strikeout~~ for language proposed to be deleted and in ***bold italics*** for language proposed to be added.

1.16. Real Property Transactions

1.16.01 Council Approval

Council approval is required for all real property transactions except as described in DC 4-13-01 1.16.02.

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7.1.200 Definitions

7.1.200.01 General Provisions

General and Specific Terms. The definitions contained in this Section include those that are applicable to the entire Code (general), and those terms that apply to specific Sections (specific). Terms used in specific Sections are identified as follows:

Discontinued Use: A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract.

Edge of Roadway: The portion of the roadway being along the current curb line for existing curbed streets, and along the future curb line for existing turnpike streets.

Roadway: The portion of a right-of-way that is improved for motor vehicle and bicycle travel, subject to applicable state motor vehicle licensing requirements. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

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7.2.1 Land Use Zoning

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7.2.102 Single Family Residential – (R-1)

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7.2.102.05 Dimensional Standards

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B. Minimum Yard Setback Requirements

1. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.
2. ***See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.***

7.2.103 Limited Density Residential – (R-2)

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7.2.103.05 Dimensional Standards

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B. Minimum Yard Setback Requirements

1. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.
5. ***See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.***

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7.2.104 Medium Density Residential – (R-3)

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7.2.104.05 Dimensional Standards

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B. Minimum Yard Setback Requirements

1. The garage setback shall be measured from the property line or the edge of a private access easement. The length of the driveway shall be determined by measuring along the centerline of the driveway.

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4. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

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7.2.105 Commercial Residential

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7.2.105.05 Dimensional Standards

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B. Minimum Yard Setback Requirements

1. See Sections 7.2.308.06.C and 7.2.308.07.E for standards that apply to decks and patios.

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7.2.113 Flood Plain Overlay District (FPO)

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7.2.113.05 Uses - Permitted And Subject To Flood Plain Development Permit

If otherwise allowed in the zone, dwellings, a manufactured home on a lot, a manufactured home in a manufactured home park, and other structures that involve a building permit such as commercial and industrial uses, including the placement of fill to elevate a structure or site grading to prepare a site for development, may be allowed subject to a written determination (flood plain development permit) that the following requirements are met:

- A. The structure is not located within a floodway. (See 7.2.113.07 L. ~~6~~) The required elevation to which the lowest floor of the structure must be elevated can be determined from the Flood Insurance Study.
- B. The structures will be located on natural grade or compacted fill.
- C. The lowest floor will be elevated to at least one (1) foot above the level of the base flood elevation and the anchoring requirements in Section ~~2.108.07.D~~ **7.2.113.07.F**.
- D. The Building Official has determined that any construction and substantial improvements below base flood level meet the requirements of Sections ~~2.110.07~~ **7.2.113.07.A.4**.
- E. The building permit specifies the required elevation of the lowest floor, any anchoring requirements and requires provision of certification under Section ~~2.110.07.D,3~~ **7.2.113.03.C**, prior to occupancy.

- F. A certificate signed by a licensed surveyor or civil engineer certifying that the lowest floor, including basement, is at or above the specific minimum is submitted to the Zoning Manager prior to use of the structure.
- G. No alteration of topography beyond the perimeter of the structure is proposed.
- H. A recreational vehicle may be located in a flood plain only during the non-flood season (June 1 through September 30), provided it is fully licensed and ready for highway use, or meet the requirements for manufactured homes. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

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7.2.3 General Development Standards

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7.2.308 Yard And Lot Standards

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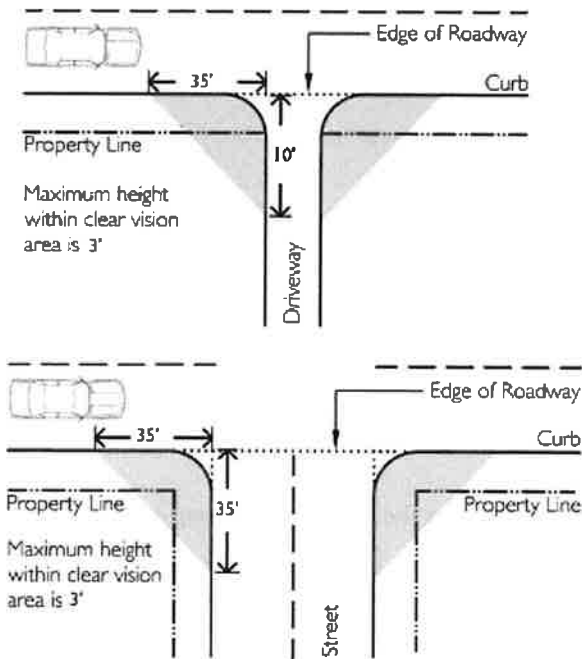
7.2.308.08 Clear Vision Area

A clear vision area shall be maintained where streets and private points of access intersect. The clear vision area shall conform with the following:

- A. Measurement. A clear vision area at an intersection shall be the triangular area established according to the following procedure:
 - 1. A line extending a certain number of feet from the intersection along ~~a~~ ***the edge of the roadway*** of a public street ~~right-of-way~~;
 - 2. A line extending a certain number of feet from the intersection along the intersecting access;
 - 3. A third line that creates the triangular clear vision area by connecting the ends of the lines described in 1, and 2, above.
- B. Street-Driveway. The clear vision area for a street-driveway intersection shall be 10 feet along the driveway from its intersection with the ~~street right-of-way~~ ***edge of the roadway*** and ~~30~~ **35** feet along the ~~street right-of-way~~ ***edge of the roadway*** at the point of intersection with the driveway.
- C. Street-Alley. The clear vision area for street-alley intersections shall be 10 feet along the alley from its intersection with the ~~street right-of-way~~ ***edge of the roadway*** and ~~30~~ **35** feet along the ~~right-of-way~~ ***edge of the roadway*** at the point of intersection with the alley.
- D. Street-Private Access Driveway. The clear vision area for street-access easement intersections shall be 10 feet along the access easement from its intersection with the ~~street right-of-way~~ ***edge of the roadway*** and ~~30~~ **35** feet along the ~~street right-of-way~~ ***edge of the roadway*** at the point of intersection with the access easement.
- E. Corner Lots. The clear vision area for corner lots shall be ~~20~~ **35** feet along the ~~right-of-way~~ ***edge of the roadway*** of each intersecting street.
- F. Prohibited Development. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding 36 inches in height, measured from the top of the curb or, where no curb exist, from the established street centerline grade, except that the following may be allowed in the clear vision area:

1. Trees, provided all branches and foliage are removed to a height of eight feet above grade;
2. Telephone, power, and cable television poles; and
3. Telephone switch boxes provided they are less than ten inches wide at the widest dimension.

Figure 7.2.308.08 Vision Clearance Areas



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7.3.1 Application Requirements

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7.3.102 General Provisions

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7.3.102.05 Time Limit

Approvals shall be effective for a period of ~~one~~ *two* years from the date of final approval.

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7.3.106.02 Applicability of Provisions

A. Applicability. Site Development Review shall be applicable to all new developments and major remodeling, except:

1. Single-family detached dwellings and Accessory Dwelling Units (ADUs);
2. A duplex; or

3. Any commercial, industrial or public facility expansion or remodel that does not exceed 25 percent of the total square footage of the structure existing at the time of the adoption of this Code and/or does not expand the activity/business area on the subject property beyond 25 percent (i.e., outdoor uses). (Updated by ORD 594, adopted 2/1/10 & enacted 3/2/10)
4. Wireless Communication Facilities for properties within a Public (P) zone district. Added ORD 608 effective 10/6/11.

B. When the discontinuation or abandonment of a previously approved use requires new site development review. If use of a property subject to a previous site development review approval is discontinued for any reason other than fire or other catastrophe beyond the owner's control for a period of more than two years, it shall be deemed abandoned and shall no longer be an approved use. For purposes of calculating the two-year period, a use is considered discontinued when:

- 1. The use of land is physically vacated;***
- 2. The use ceases to be actively involved in the sale of merchandise or the provision of services; for example, as evidenced by the removal of signs, goods, stock, or office equipment, or the disconnection of telephone or utility service;***
- 3. Any lease or contract under which the development has occupied the land is terminated;***
- 4. A request for final reading of water and power meters is made to the applicable utility districts;***
- 5. The owner's utility bill or property tax bill account became delinquent; or***
- 6. An event occurs similar to those listed in subsections 1-5, above, as determined by the City Manager.***

~~B.C.~~ Underlying Zone. All of the provisions and regulations of the underlying zone shall apply unless modified by other Sections of this Code.

...

7.3.109.02 Submittal Requirements

Submittal Material. The following submittal requirements shall apply to all Preliminary Plan applications for subdivisions and planned unit developments.

- A. All applications shall be submitted on forms provided by the City along with the appropriate fee. It shall be the applicant's responsibility to submit a complete application which addresses the review criteria of this Section. Notice shall be subject to the provisions in Section 7.3.204.
- B. Applicants for subdivisions shall submit the following:
 1. Appropriate identification stating the drawing is a preliminary plat.
 2. North point, scale and date.
 3. Name and addresses of land owner, applicant, engineer, surveyor, planner, architect or other individuals responsible for the plan.
 4. Map number and tax lot or tax account number of subject property.
 5. The boundary lines and approximate area of the subject property.
 6. Dimensions and size in square feet or acres of all proposed parcels.

7. The approximate location of existing streets, bikeways, pedestrian facilities, public or private, easements or right-of-ways adjacent to, or within, the subject property, and existing improvements on the property. (*Amended by Ordinance 589 – Effective 4/2/09*)
8. The location of any flood boundary.
9. The name, address and phone number of the applicant engineer, land surveyor, or person preparing the application.
10. Name of the subdivision.
11. Date the drawing was made.
12. Vicinity sketch showing location of the proposed land division.
13. Identification of each lot by number.
14. Gross acreage of property being subdivided or partitioned.
15. Direction of drainage and approximate grade of abutting streets.
16. Streets proposed and their names, approximate grade, and radius of curves.
17. Any other legal access to the subdivision, partition other than a public street.
18. Contour lines at two-foot intervals if 10% slope or less, five-foot intervals if exceeding 10% slope, and a statement of the source of contour information.
19. All areas to be offered for public dedication.

C. Applicants for a phased subdivision shall submit the items required in subsection “B.” above as well as the following additional items:

- 1. The tentative boundaries of each phase;***
- 2. The sequencing of the phases;***
- 3. The tentative configuration of lots in each phase; and***
- 4. A plan for the construction of all required city infrastructure in each phase.***

C.D. Applicants for a planned unit development shall submit the material required in item “B.” above as well as the following additional material:

5. Proposed uses of the property, including sites, if any, for attached dwelling units, recreational facilities, parks and playgrounds or other public or semi-public uses, with the purpose, condition and limitations of such reservations clearly indicated.
6. The approximate location and dimensions of all commercial or multi-family structures proposed to be located on the site.
7. Statement of improvements to be made or installed including streets, sidewalks, bikeways, trails, lighting, tree planting, landscaping, and time such improvements are to be made or completed.
8. Written statement outlining proposals for ownership and maintenance of all open space areas, private streets and any commonly owned facilities.

7.3.109.03 Review Procedures

- A. Planning Commission. All Preliminary Plans for subdivisions and PUDs shall be heard by the Planning Commission pursuant to the requirements for a Type II procedure as set forth in Section 7.3.202.
- B. Time Limit. Approvals of any preliminary plans for a subdivision *or* PUD shall be valid for ~~one~~ **two** years after the date of the written decision. A Final Plat for a Final Plan for a subdivision shall be recorded within this time period.
- C. ***For a phased subdivision, the Final Plat for the first phase of the subdivision shall be recorded not more than two years after the date of the written decision. Final Plats for all subsequent phases shall be recorded not more than four years after the date of the written decision.***

~~C.D.~~ Re-application Required. Failure to record a plat within the required time period shall void the approval and require a new application before the Planning Commission. The applicant will be subject to all applicable standards currently in effect.

7.3.109.04 Review Criteria

Approval of a subdivision, ***phased subdivision***, or PUD shall require compliance with the following:

- A. Each lot shall satisfy the dimensional standards and density standard of the applicable zoning district, unless a variance from these standards is approved or the development standards permit a modification of these requirements.
- B. Adequate public facilities shall be available to serve the existing and newly created parcels.
- C. The proposal shall comply with the applicable development standards in Section 7.2.307 (Land Divisions), or Section 7.2.311 (Planned Unit Developments).
- D. ***Phased Subdivision. The Planning Commission may approve plans for phasing a subdivision, and changes to approved phasing plans, provided the applicant’s proposal meets all of the following criteria:***

1. ***Public facilities shall be constructed in conjunction with or prior to each phase;***
2. ***Each phase is substantially and functionally self-contained and self-sustaining with regard to required public improvements***
3. ***The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that are required as part of the approved development proposal;***
4. ***The proposed phasing schedule shall be reviewed with the preliminary subdivision plat application; and***
5. ***Planning Commission approval is required for modifications to phasing plans.***

7.3.109.05 Form of Final Subdivision Plat

The final plat shall conform to the requirements in ORS Chapter 92 and applicable County surveying requirements.

7.3.109.06 Final Plat Review Of Subdivisions

- A. Final Review. The final subdivision or PUD plat shall be submitted to the City staff for review. Staff shall review the plat to assure compliance with the approved preliminary plat and with the conditions of approval. The City Manager shall signify staff approval of the final plat by signing the document. *Amended ORD 608 effective 10/6/11*
- B. Recording of Approved Plat. No building permit shall be issued, or parcel sold, transferred or assigned until the final approved Plat has been recorded with the County Recorder. The applicant shall be responsible for all recording fees.
- C. Improvements/Bonding. Prior to issuance of an occupancy permit, all improvements required by the conditions of approval shall be constructed or the construction shall be guaranteed through a performance bond or other instrument acceptable to the City Attorney.

VII. PROCESS AND STAFF RECOMMENDATION

Section 7.3.112.01 of the DLUDC requires text amendments to be approved through a Type IV review procedure as specified in Section 7.3.2. Staff recommends the City Council pass a motion adopting the staff report and recommending the City Council direct staff to return this item for reading of the draft Ordinance.

VIII. CITY COUNCIL ACTION – Sample Motion

A City Councilor may make a motion to either:

- 1. Adopt the findings in the staff report, move that the City Council adopt LA 2023-01, and direct staff to return this item for reading of a draft Ordinance. A sample motion is:
I move the City Council adopt the staff report and recommend the City Council approve the amendments as presented by staff and recommended by the Planning Commission.
- 2. Adopt a revised staff report with changes by the City Council and recommend the City Council approve the revised amendments. A sample motion is:
I move the City Council adopt a revised staff report with the following revisions (state the revision) and recommend the City Council approve the revised amendments.
- 3. Recommend the City Council deny the proposed amendments. A sample motion is:
I move the City Council deny the proposed amendments for the following reasons...and state the reasons for the denial.
- 4. Continue the hearing to a date/time certain. A sample motion is:
I move the City Council to continue the hearing to a date (state the date) and time (state the time) to obtain additional information, and state the information to be obtained.

Staff Report prepared by Curt Fisher, AICP, City Planner

EXHIBIT B

City of Dayton

In the Heart of Oregon's Garden Spot

Post Office Box 339
Dayton, Oregon 97114-0039
Phone: (503) 864-2221
Fax: (503) 864-2956



Historic Fort Yamhill

NOTICE OF PLANNING COMMISSION ACTION Site Development Review Case No. 05-01/Major Variance Case No. 05-02

June 20, 2005

I. BACKGROUND

- A. APPLICANTS: Don Angell.
- B. PARCEL LOCATION: The property is located at the juncture of Highway 18 and Kreder Road. There is no property address and the County Assessor places the property within Township 4 South; Range 3 West; Section 16; Tax Lot 200.
- C. PARCEL SIZE: Approximately 50 acres, of which approximately 31 acres are located within the City of Dayton.
- D. EXISTING DEVELOPMENT: The property contains an outdoor storage facility for recreational vehicles and has access to a public street. Public water and sewer are available to serve the site.
- E. ZONING: That portion of the site located within the City is zoned Industrial (I).
- F. REQUEST: The applicants are requesting approval of a Site Design Review to establish the recreational vehicle storage facility and a Major Variance to eliminate the paving requirement for access and storage.
- G. DECISION CRITERIA: Dayton Land Use and Development Code; Section 7.3.106 (Site Development Review) and Section Sections 7.3.108 (Major Variance).
- H. PLANNING COMMISSION HEARING DATE: June 11, 2005.

II. DECISION

The Planning Commission found the submitted Site Development Review and Major Variance applications complied with the applicable decision criteria and APPROVED the request subject to the following Conditions of Approval:

*NOTICE OF PLANNING COMMISSION DECISION
Site Design Review Case No. 05-01/Major Variance Case No. 05-02
Don Angell*

Page 1 of 2

Exhibit B
1 of 49

- A. The storage facility shall be limited to the identified 6.2 acre site. Any expansion of the property or establishment of other improvements shall require, at a minimum, a new site development review application.
- B. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

III. OTHER PERMITS AND RESTRICTIONS

The Applicant is herein advised that the use of the property involved in this application may require additional permits from the City or other local, State or Federal agencies.

The City of Dayton land use and review and approval process does not take the place of, or relieve the Applicant of responsibility for acquiring such other permits, or satisfy any restrictions or conditions thereon. The land use permit approval herein does not remove, alter or impair in any way any covenants or restrictions imposed on this property by deed or other instrument.

IV. APPEALS

This action will be official in 15 days, unless appealed within that time. Appeal is to the City Council and must be submitted at City Hall by:

5:00 PM. July 15 **2005.**

Should you wish to appeal this action, or have any questions or comments regarding this project, please contact City Hall for information on how to proceed.

Sincerely,

Debra Lien 6/30/05
Debra Lien, Asst. City Recorder Date

BEFORE THE DAYTON PLANNING COMMISSION
Site Development Review Case No. 05-01/Major Variance Case No. 05-02

In the Matter of the)	
)	
Application of)	1. Site Development Review
)	2. Major Variance
Don Angell)	

ORDER

I. NATURE OF THE APPLICATION

This matter comes before the Dayton Planning Commission on the application of the Don Angell for a Site Design Review to establish the recreational vehicle storage facility and a Major Variance to eliminate the paving requirement for access and storage on Industrial (I) zoned property.

II. GENERAL INFORMATION

A. Location and Zoning

The property is located at the juncture of Highway 18 and Kreder Road. There is no property address and the County Assessor places the property within Township 4 South; Range 3 West; Section 16; Tax Lot 200. The property is zoned Industrial (I).

B. Existing Development

The property contains approximately 50 acres, of which approximately 31 acres are located within the City of Dayton. This land within the City limits contains an outdoor storage facility for recreational vehicles and has access to a public street. Public water and sewer are available to serve the site.

C. Surrounding Zoning and Development

Oregon Highway 18 borders the property to the north and Kreder Road to the south. To the west is a recreational vehicle park on Commercial (C) zoned property and the Dayton Wastewater Treatment Facility of Public (P) zoned property. Property to the north of Highway 18 and south of Kreder Road is located within Yamhill County.

D. Background Information

The applicants are requesting approval of a Site Design Review to establish the recreational vehicle storage facility and a Major Variance to eliminate the paving requirement for access and storage.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was duly held on this application before the Dayton Planning Commission on June 11, 2005. At the hearing, Site Development Review Case No. 05-01/Major Variance Case No. 05-02 was made a part of the record. Notice of the hearing was sent to adjacent property owners. No ex parte contacts were declared and no objection was raised as to jurisdiction, conflicts of interest, bias, notice, evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and approved the application. The Commission found the proposal to be consistent with the decision criteria in the Dayton Land Use and Development Code and directed staff to prepare an Order for the Chair's signature.

B. City Council Action

The decision of the Planning Commission is final unless an appeal is filed pursuant to the provisions in the Dayton Land Use and Development Code. The appeal would be heard by the Dayton City Council.

IV. FINDINGS OF FACT-GENERAL

The Dayton Planning Commission, after careful consideration of the testimony and evidence in the record, adopts the following general Findings of Fact:

- A. The applicant is Don Angell.
- B. The property is located at the juncture of Highway 18 and Kreder Road. There is no property address and the County Assessor places the property within Township 4 South; Range 3 West; Section 16; Tax Lot 200.
- C. Approximately 50 acres, of which approximately 31 acres are located within the City of Dayton.

- D. The property contains an outdoor storage facility for recreational vehicles and has access to a public street. Public water and sewer are available to serve the site.
- E. That portion of the site located within the City is zoned Industrial (I).
- F. Oregon Highway 18 borders the property to the north and Kreder Road to the south. To the west is a recreational vehicle park on Commercial (C) zoned property and the Dayton Wastewater Treatment Facility of Public (P) zoned property. Property to the north of Highway 18 and south of Kreder Road is located within Yamhill County.
- G. The applicants are requesting approval of a Site Design Review to establish the recreational vehicle storage facility and a Major Variance to eliminate the paving requirement for access and storage.
- H. Approval or denial of this request shall be based upon the decision criteria contained in the Dayton Land Use and Development Code; Section 7.3.106 (Site Development Review) and Section 7.3.108 (Major Variance).

V. APPLICATION SUMMARY

- A. The subject 50 acre parcel includes land within the City, the City's Urban Growth Boundary and Yamhill County. Of the 31-acre portion located within the City, the owner established a storage yard for recreational vehicles as part of the adjacent RV park development. The current owner now wishes to expand the use to allow both RV park customers and area residents to use the storage facility. Of the 31-acre site, only some 6.2 acres are used for storage. The site is surrounded by a 6-foot, sight obscuring fence.
- B. Pursuant to Section 7.2.107.02.B.2, "(W)arehouse for short term storage, including mini-warehouse" is permitted within the Industrial zone. Further, Section 7.2.107.02.C.11, allows "(F)reight terminals, including loading docks, storage, warehousing and wholesale distribution, cold storage lockers and similar personal storage facilities such as mini-storage warehouses." On balance, the Commission concludes the personal storage of recreational vehicles is similar to these uses and is therefore allowed in the Industrial zone.
- C. Section 7.2.303.09.A, requires all driveways, parking and loading areas to be paved with asphalt or concrete. The applicant is requesting a variance to this standard to allow the use of a gravel surface. This is classified as a Major Variance as the request would effectively eliminate the requirement.

- D. Establishment of such a use is subject to the Site Development Review requirements in Section 7.3.106. This is a Type II application and subject to a hearing before the Planning Commission. The Major Variance is also a Type II application subject to a Commission' hearing.

VI. CRITERIA AND FINDINGS - SITE DEVELOPMENT REVIEW

- A. Section 7.3.106.06 establishes the criteria to evaluate a Site Development Plan. The City must consider the following factors:

1. Section 7.3.106.06.A. - Conformance with applicable General Development Standards in Section 7.2.3.

FINDINGS: This section establishes minimum improvement standards for new development including public facility requirements. This site is currently served by public sewer and water. Specific facility requirements are reviewed elsewhere in this report.

2. Section 7.3.106.06.B. - Adequacy of public and private facilities.

FINDINGS: The existing public and private facilities are adequate to serve the proposed development. However, the nature of the business does not require connection to water or sanitary sewer service.

3. Section 7.3.106.06.C. - Traffic safety, internal circulation and parking.

FINDINGS: There is a single point of access adjacent to the RV park. Vehicles are able to enter the site without interfering with traffic along Highway 18 or Kreder Road. Further, there is more than adequate room on site to allow the maneuvering of vehicles. Specific parking issues will be discussed below.

4. Section 7.3.106.06.D. - Provision for adequate noise and/or visual buffering from non-compatible uses.

FINDINGS: This site is located at the eastern edge of the City and essentially provides a service for the adjacent RV park. The site is currently fenced and screened. Nothing in this activity suggests the need for additional screening or buffering.

5. Section 7.3.106.06.E. - Conformance with development requirements of the underlying zone.

FINDINGS: The Industrial zone establishes specific development requirements which are reviewed in the following sections.

- D. Section 7.2.107.05 establishes the Industrial zone dimension requirements.

FINDINGS: There is no minimum lot size within the zone. The only applicable setback is along Highway 18 and Kreder Road where a 20-foot setback is required. There are no structures on the site (nor none planned) so that the proposal complies with these provisions.

- E. Section 7.2.107.06 establishes development standards within the commercial zone. Each *applicable* standard is reviewed, below:

1. Section 7.2.107.06.A - Off-street parking. Parking shall be as specified in Section 7.2.303.

FINDINGS: The Development Code does not provide parking requirements for outdoor storage facilities. Pursuant to Section 7.2.303.03.B, the City is allowed to establish requirements for uses not specifically listed. The use is limited to vehicle storage: the storage space is in effect the parking area for the customers. Further, there are no structures located on the property that require associated parking. For these reasons, a separate defined parking area is not required for the use.

2. Section 7.2.107.06.C - Site Development Review: Development within the I Zone shall be subject to the Site Development Review procedures in Section 7.3.1.

FINDINGS: The application and hearing before the Commission is consistent with this requirement.

3. Section 7.2.107.06.D - Landscaping: A minimum of 10% of the property shall be landscaped, including all required setback areas.

FINDINGS: Areas not used for storage remain in a natural vegetative state. This exceeds the minimum 10% requirement of this Section. The applicant indicates the grass will be mowed and weeds removed.

4. Section 7.2.107.06.E - Lot Coverage: The combined maximum building and parking area coverage shall not exceed 90%.

FINDINGS: Only 6.2 acres of the 31-acre site are developed. This is only 20% of the site which complies with this provision.

5. Section 7.2.107.06.F - Open Storage: Open storage of equipment and materials used for the manufacture or assembly of goods is prohibited in required setback areas. Otherwise, such storage shall be enclosed within a sight-obscuring fence, wall or berm a minimum of 8 feet in height.

FINDINGS: The open storage *is not* for the manufacture or assembly of goods. The storage area is for private vehicles only and is screened by a 6-foot fence. On balance, this is acceptable for the type of use.

- F. Vehicle storage is not the highest and best long term use of this site. However, it does allow the owner to generate income from the property while readily permitting redevelopment of the site. With the exception of paving, the proposal complies with all applicable Site Development Review provisions.
- G. The storage facility contains approximately 6.2 acres. The approved site development plan will be limited to the existing facility. Any expansion of the site, or installation of other improvements such as an office, would require a new land use application and review.

VII. CRITERIA AND FINDINGS - MAJOR VARIANCE

- A. The criteria for a Major Variance are found in Sections 7.3.108.04 and 7.3.108.05. Section 7.3.108.04 states a property owner may propose a modification or variance from a standard or requirement of this Code, *except* when one or more of the following apply:

1. Section 7.3.108.04A - The proposed variance would allow a use which is not permitted in the district.

FINDINGS: The variance would eliminate the paving requirement for the access driveway and vehicle parking (storage) area. This action however, does not establish a use that is otherwise prohibited in the zone.

2. Section 7.3.108.04.B - Another procedure and/or criteria are specified in the Code for modifying or waiving the particular requirement or standard.

FINDINGS: There is no other method to eliminate paving except by a variance.

3. Section 7.3.108.04.C - Modification of the requirement or standard is prohibited within the district.

FINDINGS: Modification of the paving requirement is not prohibited within the Industrial zone.

4. Section 7.3.108.04.D - An exception from the requirement or standard is not allowed in the district.

FINDINGS: The Industrial zone does not prohibit an exception to the paving requirement.

Based on these findings, the applicant may request a variance to the paving requirement for the storage facility.

- B. Pursuant to Section 7.3.108.05, the Planning Commission may grant a major variance from a requirement or standard of this Code, provided that the applicant provides evidence that all the following circumstances substantially exist:

1. Section 7.3.108.05.A - There are unnecessary, unreasonable hardships or practical difficulties which can be relieved only by modifying the requirements of the Code, and is the minimum relief to relieve the hardship. Adverse economic impact shall not be considered an unreasonable hardship or practical difficulty.

FINDINGS: The location and importance of this property are unique. It is located at the far eastern edge of the City and contains the largest single piece of Industrial zoned land within Dayton. This proposed use is at best an interim activity until such time the site fully develops. Requiring paving would potential reduce development options on the site.

2. Section 7.3.108.05.B - There are exceptional or extraordinary circumstances or conditions applying to the land, buildings, or use referred to in the application, which circumstances or conditions do not apply generally to the land, buildings, or uses in the same zone; however, non-conforming land, uses, or structures in the vicinity shall not in themselves constitute such circumstances or conditions.

FINDINGS: The circumstances relate to efficient development of the site. Paving reduces future development options or potentially increases costs associated with development. The gravel improvements support the proposed use while maintaining future options on the property.

3. Section 7.3.108.05.C - That granting the application will not be materially detrimental to the public welfare or be injurious to property or improvements in the neighborhood of the premises.

FINDINGS: The property is located adjacent to farm and public uses as well as a commercial RV park. As such, the graveled driveway and storage surface will not impact residential neighborhoods or create significant impacts affecting neighboring uses.

4. Section 7.3.108.05.D - That such variance is necessary for the preservation and enjoyment of the substantial property rights of petitioner.

FINDINGS: As the City's largest Industrial zoned property, the site has the potential for other uses than the storage facility. This variance preserves those options.

5. Section 7.3.108.05.E - That the granting of the application will not, under the circumstances of the particular case, adversely affect the health or safety of persons working or residing in the neighborhood of the property of the applicant.

FINDINGS: The variance allows the development of the property for a use allowed in the zone. The property location is such that the graveled surface will not impact residential neighborhoods or similar developments. On balance, approval of the variance does not create uses or activities that would adversely affect the health or safety of persons working or residing in the area.

6. Section 7.3.108.05.F - The degree of variance from the standard is the minimum necessary to permit development of the property for uses allowed in the applicable zone.

FINDINGS: The site is currently in use as a storage facility. The variance would allow continued use of the site.

7. Section 7.3.108.05.g. The variance request is not the result of a deliberate action or knowing violation on the part of the applicant.

FINDINGS: The applicant was aware of the paving requirement and submitted a variance. There is no violation on the part of the applicant.

- C. This is a unique situation. The site has far greater potential than simply storage for recreational vehicles. Requiring paving would not prohibit other uses but would potentially limit development options. The gravel driveway and storage area are sufficient for the activity without impacting adjacent uses.

VIII. CONCLUSION

The Site Development Review application complies, or can conditionally comply, with the decision criteria.

IX. CONDITIONS OF APPROVAL

The Dayton Planning Commission finds the submitted application complies with the Dayton Land Use and Development Code criteria provided certain conditions are made part of the approval. The Commission therefore, adopts the following Conditions of Approval:

- A. The storage facility shall be limited to the identified 6.2 acre site. Any expansion of the property or establishment of other improvements shall require, at a minimum, a new site development review application.
- B. Compliance with the Conditions of Approval shall be the sole responsibility of the applicant.

X. ORDER

It is hereby found that the application meets the relevant standards and criteria for a Site Development Review and Major Variance subject to the Conditions of Approval listed above.

THEREFORE, it is the decision of the Dayton Planning Commission to APPROVE the application subject to the Conditions of Approval in Section IX.

X. OTHER PERMITS AND RESTRICTIONS

The Applicant is herein advised that the use of the property involved in this application may require additional permits from the City or other local, State or Federal agencies.

The City of Dayton land use and review and approval process does not take the place of, or relieve the Applicant of responsibility for acquiring such other permits, or satisfy any restrictions or conditions thereon. The land use permit approval herein does not remove, alter or impair in any way any covenants or restrictions imposed on this property by deed or other instrument.

XI. APPEAL DATES

Any appeals pertaining to this application must be made to the Dayton City Council within 15 days the notice of this order is mailed.

APPROVED BY A 3-0 VOTE OF THE DAYTON PLANNING COMMISSION ON THE 11th DAY OF JUNE 2005.

DATED at Dayton, Oregon, this 28th day of June, 2005.

ATTEST: Gary F. Wirfs 29 Jun 2005
Gary Wirfs, Chair Date

ATTEST: Sue C. Hollis 6-29-05
Sue Hollis, City Administrator Date