

**STAFF REPORT TO THE PLANNING COMMISSION
FOR THE HEARING ON FEBRUARY 3, 2014**

**AMEND OFF-STREET PARKING REGULATIONS –
NON-RESIDENTIAL ACCESS
CASE FILE # PC-2013-2900**

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SECTION 1. INTRODUCTION

This staff report follows a Worksession held with the Multnomah County Planning Commission October 7, 2013 where amendments were considered to the county's Off-Street Parking and Loading standards (MCC) .4100 *et. seq.* These regulations are intended to assure safe and convenient vehicular access to non-residential uses in unincorporated Multnomah County. This staff report outlines proposed amendments to be considered for approval by the Planning Commission at a public hearing scheduled February 3, 2014.

SECTION 2. SUMMARY OF KEY ISSUES CONSIDERED SINCE THE WORKSESSION

The October Worksession discussion largely contemplated adding flexibility to the existing 20-foot access width requirement underlined below.

§ .4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 33.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

Additionally, the Commission considered revisions allowing surfacing materials other than pavement in limited circumstances. Staff highlighted gravel, in particular, as a potentially more cost effective option which occasionally is requested but is not approvable under current off-street parking and loading standards for the length of the driveway. Potential off-site impacts resulting from alternative surfacing materials (mostly dust) was another notable part of the October Worksession discussion.

Staff was advised by the Commission to continue on the path of refining amendments adding flexibility to the identified off-street parking and loading provisions. The table below highlights what staff learned and how this information informed the latest revisions presented in Section 3 of this report.

| The need to reduce width is based on “unique” physical characteristics of the site |
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| <p>The original proposal considered by the Commission in October involved the concept that only “unique” properties should qualify for access width reduction and that uniqueness should relate to on-site conditions such as topography or lot configuration. The goal was to craft a standard allowing relief to the 20-foot width requirement when deemed justifiable by some physical constraint.</p> <p>Although there appeared to be support for this general concept, further contemplation helped staff understand that “unique” would be a difficult standard to apply because it could be argued that every property is physically unique in some way. It was recommended by County Counsel that alternatively staff look to the county’s existing variance code language which is commonly used by other jurisdictions to consider whether relief from a standard is justifiable and therefore is language that has likely been tested by the Oregon Land Use Board of Appeals.</p> <p>Staff concluded that some, but not all, of the existing variance criteria fit quite well when assessing whether there is a practical difficulty or unnecessary hardship in strict application of a particular standard which meets the original intent of the proposed “unique” language.</p> <p>The latest approach envisions using select variance standards within the off-street parking code to reduce application review process, to make implementation easier and to help direct review of certain aspects of the request to the fire department.</p> |

| Dust “Harming” Neighbors and Impacting Surrounding Farm Crops |
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| <p>The Commission appeared to support the concept of adding a standard considering dust generated by auto travel along gravel driveways but raised concern about the using the term “harm” in that analysis. The Commission also expressed a desire to avoid requiring a formal engineering analysis for dust impacts as a matter of course. It was noted that many of the most common mitigation strategies (speed limits, vegetation control, binder application, etc.) are straightforward and shouldn’t require another level of review and expense by an engineer.</p> <p>The proposed language considering alternate surfacing materials borrows standards from the county’s variance code providing staff the ability to assess the potential for off-site impacts and for neighbors to have a standard to challenge if a perceived impact exists. The county’s variance criteria do not use the term “harm” and instead require that the authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity which seems to staff to be on-point.</p> <p>Staff also asked the Commission if a standard should be added to consider how dust may or may not impact surrounding farm crops based on research indicating heavy dust loading on fruit bearing plans, in particular, can cause problems with agricultural yield. A clear need for this</p> |

review did not appear to be identified during the Worksession discussion and concern was raised how this standard could be addressed without assistance from a professional with experience in crop science. It was noted that it could be difficult for staff to determine how fugitive dust from a gravel road might or might not impact surrounding crops and there appeared to be some level of discomfort adding the burden of requiring an applicant to hire an independent professional to provide this assessment. The observation was made that gravel driveways, and even gravel county roads, are common in rural areas.

A specific standard addressing agricultural impacts is no longer proposed. However, the proposal does contain general language requiring the applicant demonstrate that the authorization will not be injurious to property in the vicinity which will provide a neighboring farmer the ability to question how an adjacent proposal will minimize impacts to surrounding agricultural crops, if applicable.

Need for water quality standard?

Staff originally proposed a standard specifically considering impacts to water quality from alternative surfacing such as gravel. Staff noted that the county's Grading and Erosion Control code contains standards considering impacts to water quality which would be applicable when construction of a new gravel driveway was proposed. A desire was voiced by the Commission to avoid adding duplicative standards in various locations of county code in the event the Grading and Erosion Control standards would apply in all situations.

Staff researched this issue and concluded that the Grading and Erosion Control standards would apply in most situations but there could be scenarios where they do not such as a home occupation business proposal using an existing gravel driveway for access. The most current version of the proposed code includes a general off-site impact standard providing staff the ability to consider all off-site impacts, including to water quality, in the event a project was found exempt from a separate erosion control review.

“Porous” surfacing reference

The Commission recommended that the term “porous” be removed from the .4180(A)(2) provisions allowing alternative “porous” surfacing materials because gravel driveways do not always function like porous materials over time, particularly if not well maintained. It was also recommended that staff consider ways to re-incorporate this term within the standards to encourage use of porous materials. This term has been removed from the heading and a concept added to the standards that providing pervious drainage capacity is one potential mitigation strategy to minimize off-site impacts.

Outdated carrying capacity references

The Commission supported deferring specific access carrying capacity (i.e. how much weight the driveway can support) to the local fire service agencies rather than provide a specific wheel load capacity in county code such as seen with the 4,000 pound reference. The reason was because staff learned from multiple fire service providers that this wheel load threshold is outdated,

because different fire service agencies use different thresholds due to the weight of equipment used in each district and because these thresholds can change over time. These specific references have been stricken.

Fire risk in grass fields used for intermittent use parking

Staff was asked to research if there was a need for additional provisions to reduce risk of fire caused from parked cars (namely from hot catalytic converters) in un-maintained grass fields associated with intermittent uses such as farm stands. The concern was that parking on grass lots is common in the summer when grass tends to be dry. An undated United States Department of Interior Bureau of Land Management notice related to fire prevention prohibitions was submitted to the record by Commissioner DeBoni (Exhibit A).

A simple mowing and watering maintenance standard has been added, which can be included as a condition of future approvals of intermittent use parking within a field.

Columbia River Gorge National Scenic Area

The language for a few of the Off-Street Parking and Loading standards applicable within the Columbia River Gorge National Scenic Area Chapter 38 (see Section 3.2) differs slightly from other chapters as was recommended by staff at the Columbia River Gorge Commission.

For example, 38.4170(B)(3) introduces the concept that some level of justification should be recognized for a requested deviation from the 20-foot wide dimensional standard if the full 20-foot wide driveway might adversely affect scenic, natural, cultural or recreational resources. Additionally, it is noted in 38.4170(B)(4) and 38.4180(A)(2)(c) that the term ‘materially detrimental’ includes, but is not limited to a result that adversely affects the realization of the Management Plan or would establish a use that is not authorized in the underlying zone. This language is currently reflected in the county’s variance code applicable within the Scenic Area and the addition of this language within the Off-Street Parking and Loading simply serves as a reminder to not lose sight of the big picture.

Existing language related to parking fields for intermittent uses such as amusement parks, race tracks and stadiums in 38.4180(A) has also been removed. Gorge Commission staff recommended this language be eliminated because Multnomah County does not allow commercial events in the Scenic Area, other than in historic buildings, and therefore this provision is not necessary and should be deleted to avoid confusion. Staff notes that county code contains specific parking provisions related to Special Uses in Historic Buildings (38.7380) and a reference to these alternative provisions has been provided within the opening to the surfacing requirements in 38.4180(A)(1) as a reminder.

SECTION 3. PROPOSED AMENDMENTS

Please note the following formatting styles used within this section:

Regular text = Existing code language (no changes proposed)
Single underline text – Relocated existing code language (no changes proposed, other than location)
Double underline text = Proposed new code language
~~Strikethrough text~~ = Proposed code language to be deleted

Section 3.1. Proposed amendments to Off-Street Parking and Loading standards of Multnomah County Code Chapters 33, 34, 35 & 36:

OFF-STREET PARKING AND LOADING – OP

§ 33.4170 ACCESS *[The same changes are proposed for MCC 34.4170, 35.4170 & 36.4170]*

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 33.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed ~~paved~~ driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard requirement in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

(1) The fire service provider determines the proposal is in compliance with the adopted fire apparatus access standards for properties located inside the boundaries of a structural fire service provider; or, the building official determines the proposal is in compliance with the Oregon Fire Code for properties located outside the boundaries of a structural fire service provider;

(2) The proposal is in compliance with the County Road Rules and the County Design and Construction Manual Standards and the proposal is approved by the County Engineer;

(3) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard; and

(4) The authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties.

(C) ~~(B)~~ Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

§ 33.4180 IMPROVEMENTS *[The same changes are proposed for MCC 34.4180, 35.4180 & 36.4180]*

(A) Surfacing

(1) Except as otherwise provided in this section, All areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable, or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds. Parking areas with fewer than four required parking spaces may be surfaced with four inches of gravel.

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize Aalternate porous surfacing systems that provide a durable and dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d): capable of carrying a wheel load of 4,000 pounds may be used instead of the blacktop or cement materials in (1) above when approved by the County Engineer. However, approaches to public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer.

(a) The fire service provider determines the proposal is in compliance with the adopted fire apparatus access standards for properties located inside the boundaries of a structural fire service provider; or, the building official determines the proposal is in compliance with the Oregon Fire Code for properties located outside the boundaries of a structural fire service provider;

(b) The proposal is in compliance with the County Road Rules and the County Design and Construction Manual Standards and the proposal is approved by the County Engineer. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) The authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties; and

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(3) Notwithstanding paragraph (A)(1) of this section, Large parking fields for intermittent uses, such as special events associated with farm stands and public parks, sporting events, and the like, may be surfaced with gravel, ~~or~~ grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

Section 3.2. Proposed amendments to Off-Street Parking and Loading standards of Multnomah County Code Chapter 38:

OFF-STREET PARKING AND LOADING – OP

§ 38.4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 38.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed ~~paved~~ driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard requirement in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) – (4) are met:

(1) The fire service provider determines the proposal is in compliance with the adopted fire apparatus access standards for properties located inside the boundaries of a structural fire service provider; or, the building official determines the proposal is in compliance with the Oregon Fire Code for properties located outside the boundaries of a structural fire service provider;

(2) The proposal is in compliance with the County Road Rules and the County Design and Construction Manual Standards and the proposal is approved by the County Engineer;

(3) Application of the dimensional standard will result in practical difficulty, unnecessary hardship, or substantial adverse affect on the scenic, natural, cultural or recreational resources as provided in this chapter; and

(4) The authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Material detriment to the public welfare includes, but is not limited to, granting a deviation that would adversely affect the realization of the Management Plan or would establish a use that is not authorized in the underlying zone.

~~(C)(B)~~ Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

§ 38.4180 IMPROVEMENTS

(A) Surfacing

(1) Unless as otherwise provided in either this section or MCC 38.7380 for Special Uses in Historic Buildings; All areas used for parking, loading or maneuvering of vehicles,

including the driveway, shall be surfaced with at least either gravel or two inches of blacktop on a four inch crushed rock base or at least six inches of portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable. or other material providing a durable surface capable of carrying a wheel load of 4,000 pounds.

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize alternate surfacing systems that provide a durable and dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The fire service provider determines the proposal is in compliance with the adopted fire apparatus access standards for properties located inside the boundaries of a structural fire service provider; or, the building official determines the proposal is in compliance with the Oregon Fire Code for properties located outside the boundaries of a structural fire service provider;

(b) The proposal is in compliance with the County Road Rules and the County Design and Construction Manual Standards and the proposal is approved by the County Engineer. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) The authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties. Material detriment to public welfare includes, but is not limited to, granting a deviation that would adversely affect the realization of the Management Plan or establish a use that is not authorized in the underlying zone; and

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include but is not limited to such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(2) Large parking fields for intermittent uses such as amusement parks, race tracks, stadiums, and the like may be surfaced with gravel or grass and spaces may be unmarked if the parking of vehicles is supervised.

Section 3.3. Proposed amendments to Off-Street Parking and Loading standards of Multnomah County Code Chapter 11.15:

OFF-STREET PARKING AND LOADING – OP

11.15.6128 Access

A. Where a parking or loading area does not abut directly on a public street or private street approved under MCC 11.45, the Land Division Chapter, there shall be provided an unobstructed ~~paved~~ driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

B. The Approval Authority may permit and authorize a deviation from the dimensional standard requirement in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) – (4) are met:

1. The fire service provider determines the proposal is in compliance with the adopted fire apparatus access standards for properties located inside the boundaries of a structural fire service provider; or, the building official determines the proposal is in compliance with the Oregon Fire Code for properties located outside the boundaries of a structural fire service provider;
2. The proposal is in compliance with the County Road Rules and the County Design and Construction Manual Standards and the proposal is approved by the County Engineer;
3. There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard; and
4. The authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties.

C. B. Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

11.15.6132 Improvements

A. Surfacing

1. Except as otherwise provided in this section, All areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable, or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.
2. The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize alternate surfacing systems that provide a durable and dustless surface, including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required spaces, also meets the following standards in subparagraphs (c) and (d):
 - a. The fire service provider determines the proposal is in compliance with the adopted fire apparatus access standards for properties located inside the boundaries of a structural fire service provider; or, the building official determines the proposal is in compliance with the Oregon Fire Code for properties located outside the boundaries of a structural fire service provider;
 - b. The proposal is in compliance with the County Road Rules and the County Design and Construction Manual Standards and the proposal is approved by the County Engineer. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;
 - c. The authorization will not be materially detrimental to the public welfare or injurious to property in the vicinity or zoning district in which the property is located, or adversely affect the appropriate development of adjoining properties; and
 - d. Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include but is not limited to such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

3.2. Notwithstanding paragraph (A)(1) of this section, Large parking fields for intermittent uses, such as special events associated with farm stands and public parks, sporting events amusement parks, race tracks, stadiums, and the like, may be surfaced with gravel, or grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

Section 3.4. Proposed amendments to Burlington Rural Center Provisions of Multnomah County Code Chapter 33:

§ 33.3380 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 33.4100 through 33.4220 except as identified below for Review Uses and Conditional Uses.

New, replacement or expansion of existing commercial, industrial, or community service developments shall minimize stormwater drainage impacts for off-street parking by:

(A) Surfacing:

(1) All areas used for parking, loading or maneuvering of vehicles, including the driveway, shall either be hard surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of portland cement or other material providing a durable and dustless surface ~~capable of carrying a wheel load of 4,000 pounds~~, or shall be surfaced with a gravel mix, wherein the fine particles are removed at the production yard, that provides a durable and dustless surface, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable ~~capable of carrying a wheel load of 4,000 pounds~~.

(2) Approaches to paved public rights-of-way shall be paved for a minimum distance of 21' from the fog line, or for a greater distance when required by the County Engineer.

Section 3.5. Proposed amendments to Springdale Rural Center Provisions of Multnomah County Code Chapter 35:

§ 35.3380 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 35.4100 through 35.4220 except as identified below for Review Uses and Conditional Uses.

New, replacement or expansion of existing commercial, industrial, or community service developments shall minimize stormwater drainage impacts for off-street parking by:

(A) Surfacing

(1) All areas used for parking, loading or maneuvering of vehicles, including the driveway, shall either be hard surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of portland cement or other material providing a durable and dustless surface ~~capable of carrying a wheel load of 4,000 pounds~~ or shall be surfaced with a gravel mix, wherein the fine particles are removed at the production yard, that provides a durable and dustless surface, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable ~~capable of carrying a wheel load of 4,000 pounds~~.

(2) Approaches to paved public rights-of-way shall be paved for a minimum distance of 21' from the fog line, or for a greater distance when required by the County Engineer.

SECTION 4. EXHIBITS

The attachments listed below are part of this staff report:

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| Exhibit A | United States Department of Interior Bureau of Land Management Fire Prevention Order #NM-F00000-13-01 (undated). |
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