

Project Information

Subject Property: 693 Chemeketa Street NE (Marion County Tax Lots 073W22DD / 4900, 5000, 5100, and 5200)

Reference Number: 25-110757-PLN

Application Type: Replat Tentative Plan

Date Application Accepted: May 22, 2025

Applicant: Mark Hoyt
mark@shermlaw.com

Request for Adjustment to SRC 524.010(c) and 806.035(c)(3)

The City's completeness review letter indicates adjustments to SRC 524.010(c) and 806.035(c)(3) are necessary for the north-south and east-west internal lot lines proposed as part of the Replat. Because SRC 524.010(c) requires setbacks for vehicle use areas as required by SRC Chapter 806, and SRC 806.035(c)(3) requires a five foot set back from the property line, four adjustments are required as follows: 1) One for the west side of the new proposed north-south internal lot line; 2) one for the east side of the new proposed north-south internal lot line; 3) one for the south side of the new proposed east-west lines; and 4) one for the north side of the new proposed east-west lines.

As the conditions and standards applicable to all four areas where an adjustment is required for the application to proceed are the same, the following written statement addresses the criteria and standards for all four areas and provides the required justification for approval of the adjustments.

Criteria

The SRC allows provides for Adjustments "to allow deviations from the development standards of the UDC for developments that, while not meeting the standards of the UDC, will continue to meet the intended purpose of those standards. Adjustments provide for an alternative way to meet the purposes of the Code and provide for flexibility to allow reasonable development of property where special conditions or unusual circumstances exist." SRC 250.001.

All properties involved in this application are part of the Central Business District (CB) Zone. The purpose of the CB zone is to allow for "a compact arrangement of retail and commercial enterprises together with office, financial, cultural, entertainment, governmental, and residential use designed and situated to afford convenient access by pedestrians."

Here, the application does not propose any change of the uses on the land or any alterations to improvements. Two of the three properties involved in the Replat, Tax Lots 5100 and 5000 are currently subject to a permanent access and parking easement that effectively prevents future development of the parcels.

This application seeks a replat of the lot lines reorienting Tax Lot 5100 from a east-west oriented rectangle to a north-south oriented rectangle. As part of this application, the permanent parking and access easement will be converted to an access and parking easement that preserves the existing uses, paths of access and improvements, but can be terminated by the owner of either resulting parcels to facilitate future development.

Accordingly, the replat will not change any of the existing conditions, uses or paths of pedestrian or vehicle traffic on the parcels, but will take two parcels on which development is effectively prohibited, and create two parcels that can be developed. Converting parcels that cannot be developed, into parcels that can, furthers the purpose of the CB Zone to provide for compact arrangement of retail and commercial enterprises together with office, financial, cultural, entertainment, governmental, and residential use.

As no change in use, or alteration of any improvement is sought as part of this application, there will be no impact to the future configuration or use of the parcels. Thus, the Replat will allow for undevelopable land to become developable, and when the land is developed applicable standards can be applied to require improvements suited to the proposed development that meet and further the applicable standards.

Accordingly, approval of the Adjustments furthers the purpose of making land in the CB Zone available for development as provided in the zone and UDC.

As to specific criteria, an application for a Class 2 adjustment shall be granted if all of the following criteria are met:

- (A) The purpose underlying the specific development standard proposed for adjustment is:
 - (i) Clearly inapplicable to the proposed development; or
 - (ii) Equally or better met by the proposed development.

Response: As outlined above, the adjustments will allow a replat of land that is not currently developable making it developable, and because no changes to use, pedestrian or vehicle access, or alteration of any improvements are proposed, existing conditions will be preserved. By preserving existing conditions, when the properties made developable by the Replat are developed, the applicable standards can be applied consistent with the actual proposed development.

The adjustment to allow reconfiguration of the internal property lines will create developable land from land that cannot be developed, and preserve the ability to apply standards and requirements at the time of development. Thus, allowing the adjustments at least equally, if not better, meets the purpose of the applicable standards as it does nothing to impede the application of the standards, but creates land that can be developed, which will allow the standards to be applied when the land is developed.

- (B) If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area

This criterion is inapplicable – the proposed development is not located within a residential zone.

- (C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

Here, four adjustments are required. However, in effect, a single adjustment is being requested. Each of the four adjustment is to the same standard. Because the standard applies to both sides of the a lot line, and a new north-south and east west line is proposed, four adjustments to the same standard are requested. Even if viewed as four adjustments, the cumulative effect of the adjustments is still consistent with the overall purpose of the CB Zone.

As discussed above, the adjustments will allow a replat that will turn land that cannot be developed into land that can. The Replat Application does not propose and will not result in any change of use, pedestrian or vehicle circulation pattern, or alteration of any improvements. The result of the proposed replat will be that two currently undevelopable parcels become developable parcels, but nothing else changes.

Accept that if the parcels are developed, the applicable standards can be applied in light of the proposed developments. So, the cumulative effect of the four adjustments is to allow property that cannot be developed, and is therefor effectively exempt from application of the standards, into property that can be developed, and will be subject to the standards. Thus, the cumulative effect is not only consistent with the purpose of the zone, it furthers it by providing more land that can be developed as intended in the CB Zone.

Consideration of the adjustment to building frontage does not alter this result. Like the four property line related adjustments, the frontage adjustment is necessary to allow the replat. If the replat is allowed, as discussed below, two undevelopable lots with no frontage, become developable lots where frontage can be created.

As no changes to structures or improvements is proposed as part of the replat, existing conditions will not change. But if the adjustments and the replat are approved, land that is not subject to standards because it cannot be developed becomes subject to standards because it can. Accordingly, approving the adjustments is not only consistent with the purpose of the standards, it furthers them.

SRC 250.005(a)(2) sets forth circumstances under which an adjustment cannot be granted. It provides

Notwithstanding subsection (a)(1) of this section, an adjustment shall not be granted to:

- (A) Allow a use or activity not allowed under the UDC;
- (B) Change the status of a use or activity under the UDC;
- (C) Modify a definition or use classification;
- (D) Modify a use standard;
- (E) Modify the applicability of any requirement under the UDC;
- (F) Modify a development standard specifically identified as non-adjustable;
- (G) Modify a development standard that contains the word "prohibited";
- (H) Modify a procedural requirement under the UDC;
- (I) Modify a condition of approval placed on property through a previous planning action; or
- (J) The required landscaping in the Industrial Business Campus (IBC) Zone.

The required adjustments do not result in any prohibited results under SRC 250.005(a)(2).

As the requested adjustments not only meet, but further the intended purpose of the CB Zone and applicable standards and are do not result in any prohibited result, the adjustments should be approved so currently undevelopable land can be replated, creating two developable parcels where currently none exist. The result is to take land not currently subject to development standards because it cannot be developed, and turning it into land subject to development standards when it is developed.

Request for Adjustment to SRC 524.010(d)

The City's completeness review letter indicates an adjustment to SRC 524.010(d), which requires 90% building frontage along Chemeteka St NE, and 75% building frontage on Cottage Street is necessary. For reasons similar to those associate with the request for adjustments to SRC 524.010(c) and 806.035(c)(3), the requested adjustment to lot frontage should be approved.

As the requested adjustment is also in the CB Zone, the discussion of the purpose of the CB Zone and allowance for adjustments set forth above is incorporated here.

Like the adjustments discussed above, the requested adjustment is necessary to allow a replat to convert land that can't developed because of existing permanent easements, and turn it into two parcels that can be developed, because the easements will be converted to ones that can be terminated to facilitate development. Thus, allowance of the adjustments takes land that is not subject to standards because it cannot be developed, and turns it into land that is subject to standards because it can be developed.

Right now Tax Lots 5000 and 5100 are used exclusively as parking lots. No structures are present. And, because of the current permanent reciprocal parking and access easements, no structures can be placed on the lots. So, the current building frontage on each lot is 0%.

If the adjustment is allowed, and the replat approved, the portions of Tax Lots 5000 and 5100 fronting Chemeketa and Cottage streets can be developed, and frontage created as anticipated and desired in the zone. Thus, the requested adjustment does not alter the amount of frontage on Chemeketa or Cottage streets but will allow a new configuration of lots that clears the way for development to create frontage where none exists or can be developed. Creating land that can be developed, allowing increased building frontage consistent with zone furthers the purpose of the standard.

As to specific criteria, an application for a Class 2 adjustment shall be granted if all of the following criteria are met:

- (A) The purpose underlying the specific development standard proposed for adjustment is:
 - (i) Clearly inapplicable to the proposed development; or
 - (ii) Equally or better met by the proposed development.

Response: As outlined above, the adjustments will allow a replat of land that is not currently developable, making it developable. Once it is developable, frontage on two lots where it does not exist, and currently can't be created becomes possible. Accordingly, allowing the adjustments is not only consistent with the purpose of the standard it furthers it.

- (B) If located within a residential zone, the proposed development will not detract from the livability or appearance of the residential area

This criterion is inapplicable – the proposed development is not located within a residential zone.

- (C) If more than one adjustment has been requested, the cumulative effect of all the adjustments result in a project which is still consistent with the overall purpose of the zone.

As discussed above, allowing the adjustments is not only consistent with the purpose of the zone, it furthers the purpose by taking property that cannot be developed and will not be subject to standards, and converting it to property that can be developed, and will be subject to standards when developed. In short, the adjustments will result in an increase of developable land in the CB zone that will be subject to applicable requirements when developed, accordingly, approval of the adjustments furthers the purpose of the CB Zone.

SRC 250.005(a)(2)

The requested adjustment is not prohibited by any of the criteria in SRC 250.005(a)(2). Accordingly, as the requested adjustment furthers the purpose of the CB Zone, and is not prohibited, it should be approved, allowing currently undevelopable property to be added to the inventory of developable property in the CB Zone.