

**CITY OF COBURG PLANNING
PO BOX 8316 Coburg, OR 97408**

**STAFF REPORT
Coburg Community Charter School Conditional Sign Permit SN 01-24**

I. BASIC DATA

File number: SN 01-24

Applicant: Coburg Community Charter School
91274 North Coburg Road
Coburg, Oregon 97408

Property Owner: Eugene School District 4J
200 N Monroe St
Eugene, OR 97402

Agent: Dave Wallace

Request: A conditional sign permit application to allow a free-standing sign in a residential district to replace an existing non-conforming institutional sign at the school.

Property Location: 91274 North Coburg Road near the corner of North Coburg and Coburg Roads.

Assessor's map & tax lot: 16-03-29-00-04000

Zoning Designation: Traditional Residential (TR), Historic District Overlay

Comprehensive Plan Designation: Traditional Residential (TR)

Applicable Criteria: Sign Ordinance A-155-A Section 6. Residential District and Section 35. Conditional Sign Permits; Coburg Zoning Code Ordinance A-200-L Article X Section D. Type III Procedure; Coburg Comprehensive Plan

Report Date: September 11, 2024

Planning Commission Meeting Date: September 18, 2024

II. REQUEST

The applicant is requesting a conditional sign permit to allow a free standing sign that will replace an existing non-conforming sign on the subject property. The proposed sign dimension is 24” wide and 29” tall. (Attachment A)

III. STAFF RECOMMENDATION

Staff recommends the Conditional Sign Permit application be approved based on the findings and conclusions contained in this staff report. No conditions of approval are recommended but may be made by the Planning Commission based on Section 35 of Ordinance A-155.

IV. BACKGROUND

The subject property is zoned Traditional Residential in the Historic District overlay and contains a Comprehensive Plan Map designation of Traditional Residential. The subject property contains existing buildings used and leased by the Coburg Community Charter School with frontage onto North Coburg Road. Proposed sign is similar in size (slightly smaller) to an existing non-conforming free-standing sign. The north property line of the subject property abuts assessor’s map 16-03-29-00 tax lots 03900 & 3806 and the east property line abuts assessor’s map 16-03-29-00 tax lot 3802, all of which are located outside city limits and zoned Rural Residential (RR5) under Lane County jurisdiction. The south property line abuts tax lot 16-03-29-00-04001, which are zoned Traditional Residential.

V. APPROVAL CRITERIA AND ANALYSIS FOR CONDITIONAL SIGN PERMIT

Ordinance A-155 Section 4. General Requirements:

A. Sign Illumination. The artificial illumination of signs, either from an internal or external source, shall be designed to eliminate negative impacts on surrounding right-of-way and properties. The following standards shall apply to all illuminated signs:

- 1. No sign or light source shall create an unduly distracting or hazardous condition to a motorist, pedestrian or the general public. Colored lights or colored sign faces shall not be used at a location or in a manner so as to be confused or construed as traffic control devices.***
- 2. External light sources shall be directed and shielded to limit direct illumination of any object other than the sign.***
- 3. Signs shall not have blinking, flashing, or fluttering lights, or other illuminating devices that have a changing light intensity, brightness or color.***

Finding: The proposed sign features aluminum posts painted black and the face features digitally printed vinyl with a 3-line reader board for change letters. There is no

illumination of the sign proposed. Criterion met.

B. Sign permits may be processed as Building Permits which are considered a type of Type 1 Land Use Applications except when another processed is required by this Ordinance.

Finding: The proposed sign exceeds size limitations in the zoning district. A Conditional Sign Permit to allow for a sign that does not meet the requirements of Ordinance A-155 is subject to Planning Commission approval. Criterion met.

Ordinance A-155 Section 6. Residential District

A. All signs within the residential areas shall be subject to the following provisions:

- 1) No sign shall be illuminated with or by a flashing intermittent light source. All light shall be directed away from and not reflected upon adjacent premises. No illumination of any sign shall be permitted at [after] 10:00 p.m. or before 7:00 a.m. Free standing signs shall not be internally illuminated nor be illuminated by neon tubing.***
- 2) One sign not exceeding two square feet in area per side and bearing only property numbers, post box numbers, names of occupants, or the occupations of residents only in event of home occupation shall be allowed each residential dwelling unit.***
- 3) Home Occupation Signs shall not exceed three (3) square feet in area per side not exceed six feet in height.***
- 4) Subdivision Signs shall not exceed 32 square feet in area and not exceed 6 feet in height. One per entrance.***

B. Temporary Signs as defined in Section 3, subsection 23, items a-h, shall not exceed six (6) square feet in area not exceed six (6) feet in height.

C. Exempt Signs shall be allowed as follows:

- 1) Institutional Signs: Any sign or bulletin board setting forth or denoting the name of any public, charitable, religious, or non-profit institution when located on the premises of such institution, provided such sign or bulletin board shall not exceed 32 square feet in area and 6 feet in height.***
- 2) Public Signs: Signs of a public nature, which are non-commercial, which shall include safety signs, danger signs, signs indicating scenic or historical points of interest, signs required by a government agency, and all signs erected by a public officer in the performance of a public duty, shall not exceed 32 square feet in area.***
- 3) Memorial Signs and Tablets: Non-illuminated memorial signs or tablets indicating the name of building or date of erection, not exceeding two square feet in area, which are part of the building construction, or are to be attached as wall signs or anchored in the public right-of-way***

4) Seasonal Decorations: Seasonal decorations shall be permitted for a period of 40 days for displays purposes or on public or private property, providing such decorations are safely maintained. When on public property, approval of the City Council is required.

5) Flags: One official national, state, and local government flag or banner per property when installed in a manner that meets City ordinances and when flown and maintained with the respect due to these symbols of honor and authority, as specified by the U.S. Flag Code, are exempt from the provisions of these regulations. As per Section 4 of the U.S. Flag Code, the American flag should never be used for advertising purposes.

The flag structure shall not exceed 20 ft. in height or a height 10 percent greater than the maximum height of the primary structure on the property, whichever is greater. All structures over 10 ft. in height supporting flags require a Building Permit and inspection(s) of the footing and structure, as per current Oregon State Building Code, prior to installation of the structure.

D. Prohibited Signs.

1) Roof Signs

2) Animated Signs that rotate messages more frequently than every 20 seconds

3) Rotating Signs

4) Projecting Signs

5) Off-site signs, except for Open House Signs.

6) Signs illuminated by neon tubing, LED, or similar technology including 'OPEN' or 'CLOSED' signs.

Finding: The proposed non-illuminated sign is categorized as an Institutional sign under Exempt signs and exceeds the size limitations of 32 square feet in area and 6 feet in height. Proposed sign is 84.6 square feet in area and 10 feet in height, slightly smaller than an existing non-conforming free-standing sign. A Conditional Sign Permit to allow for a sign that does not meet the requirements of Ordinance A-155 is subject to Planning Commission approval and the impetus for this application. Criterion satisfied with conditional sign permit application as proposed sign does not meet size requirements.

Ordinance A-155 Section 35. Conditional Sign Permits:

A. Purpose: To allow Planning Commission review of signs that would ordinarily not be permitted under this Ordinance. The purpose of review shall be to determine that the characteristics of any such sign shall not be unreasonably incompatible with those signs permitted in the district and for the purpose of imposing conditions to insure that the basic purposes of this Ordinance are served. Nothing herein shall be construed to require the granting of the Conditional Sign Permit.

B. Conditional Signs: Where ambiguity exist in this Ordinance regarding the erection of a particular sign, the proper to be used, or a sign is not specifically permitted or prohibited in a particular district, that sign may be allowed under a Conditional Sign Permit in accordance with the provisions of this section.

C. Criteria: A Conditional Sign Permit may be granted only if substantive and probative evidence establishing specific findings of fact have been made that said permit conforms to all the following criteria.

(1) Conformity with the Coburg Comprehensive Plan and Zoning Ordinance.

(2) Compliance with special conditions established by the Planning Commission to carry out the purposes of the relevant sections(s) of this Ordinance.

Finding: The proposed sign is a replacement for an existing non-conforming free-standing sign and conforms with the policies and intent of the Coburg Comprehensive Plan and Zoning Code. The location of the proposed sign in relation to the site are compatible with the surroundings and arrangement. The proposed sign will provide for better identification of the school and dissemination of its information. Criterion met.

D. Conditions: The Planning Commission may impose the following conditions to minimize conflicts between proposed and existing signs.

(1) Modify setbacks, heights, square footage, and nature of signs to accomplish specific ends.

(2) Require modifications for safety purposes.

(3) Require abatement of light, noise, and vibration.

(4) Require the limitation of use.

(5) Require time limit on total duration of use.

(6) Additional conditions which may be necessary to implement policies of the Coburg Comprehensive Plan and Zoning Ordinance.

Finding: The proposed sign is a replacement for an existing non-conforming free-standing sign. Staff have no recommended conditions of approval.

E. Compliance: Compliance with conditions imposed in the Conditional Sign Permit are required, and failure to so comply constitutes a violation of this Ordinance.

F. Vested Interest in Approved Conditional Sign Permit: A valid Conditional Sign, Permit supersedes conflicting provisions of subsequent rezoning or amendments to this Ordinance, unless specifically provided otherwise herein, or by the condition of approval.

G. Revocation:

(1) Conditional Sign Permits are automatically revoked without special action if:

(a) the permit has not been exercised within one year after the date of approval, or

(b) the sign approved is discontinued for any reason for one continuous year or more.

(2) The Planning Commission may revoke any Conditional Sign Permit for

failure to comply with any prescribed condition of the approval.

(3) A hearing for revocation of a Conditional Sign Permit shall be held upon written application to the Planning Commission stating the basis of the revocation under this section or other provisions of this ordinance. The Planning Commission shall set a hearing date if it determines one is warranted.

Finding: Revocation of the conditional sign permit can be pursued using the procedure outline in Ordinance A-155 above. Criteria not applicable at this time.

H. The public hearing notification, hearing procedure, and appeals for Conditional Sign Permit applications and revocations shall be the same as those for a Conditional Use Permit or revocation thereof, under Ordinance No. A-133.

Finding: The conditional sign permit application is being processed using a Type III land use procedure which provides the same public hearing notification, hearing procedure and appeals processes as a Conditional Use Permit which is also a Type III land use procedure. Conditional Use Permit criteria were not addressed in this report as no use is proposed but the hearing notification, procedure and appeals processes are identical. Criteria met.

Article VII – District Regulations. Traditional Residential District (TR)

1. Purpose: The Traditional Residential District is intended to provide a livable neighborhood environment, preserve the small town and historic character of the traditional core of Coburg, ensure architectural compatibility, and provide for a variety of residential housing choices and other associated uses as determined to be desirable and/or necessary.

2. Uses and Structures

a. Permitted Principal Uses and Structures

(1) Residential

- (i) Single-family detached dwellings**
- (ii) Duplexes located on a corner parcel with each primary entry oriented to a different street**
- (iii) Group home, not to exceed five unrelated individuals**
- (iv) Manufactured homes on individual lots**
- (v) Residential Homes as defined by ORS 197.660-670**
- (vi) Residential Facilities, as defined by ORS 197.660-670, subject to locational standards in Section 11(b).**
- (vii) Cottage housing, subject to the standards in ARTICLE VIII.J.**

(2) Home Occupations as provided in ARTICLE VIII.O.

(3) Public and Institutional

- (i) Places of Worship subject to the locational standards in Section 11.**
- (ii) Public and private schools subject to the locational standards in**

Section 11.

(4) Bed and Breakfast Inns, subject to the locational standards in Section 11.

(5) Child care center providing care to six or fewer children. Child care centers with 7-12 children are permitted subject to the locational standards in Section 11.

b. Permitted Accessory Uses and Structures

(1) Accessory buildings and uses, such as garages, carports, or sheds, are permitted.

(2) One accessory dwelling unit, as provided in ARTICLE VIII.K.

c. Conditional Uses. The following uses require a conditional use permit under the procedure, criteria, and standards of ARTICLE XIII.

(1) Boarding, lodging or rooming house

(2) Child care center-providing care to thirteen or more children

(3) Nursing homes

(4) Public parks, playgrounds and community centers

(5) Public and semi-public buildings

(6) Public, private and parochial schools that do not meet the locational standards in Section 11

(7) Places of worship that do not meet the locational standards in Section 11

(8) Agricultural uses and crop cultivation subject to Nuisance Ordinance criteria and Section 10 requirements

(9) Gardens and greenhouses for commercial purposes

(10) Mixed-use development (a residential use with another permitted use or commercial use), subject to locational and design standards in Article VIII, Section M.

d. Prohibited Uses

(1) All uses not listed as permitted, accessory, or conditional

FINDING: The proposal does not impact the use of the site. No new use is proposed. Criterion not applicable.

3. Driveway Limitations in the Traditional Residential District

a. In the Traditional Residential District, driveways shall be limited to a maximum of one (1) per dwelling. One driveway shall be allowed for each unit of a duplex. A single driveway cannot be used by more than one dwelling.

Exception: A single driveway can serve one dwelling in addition to an approved accessory dwelling unit.

4. Minimum Lot Requirements

a. For properties not served by sanitary sewers, the minimum lot requirements shall be as follows:

**Single Family and Duplexes 10,000 Sq. Ft./lot
Min. Width 50 ft., 55 ft. for corner
Max. Lot. Coverage 30%**

b. For properties served by sanitary sewers, the minimum lot requirements shall be as listed below:

**Single Family detached and manufactured home on a lot 6,000 Sq. Ft./lot Duplex:
7,000 Sq. Ft./lot**

Min. Width: Single Family detached and manufactured home on a lot 50 ft., 55 ft. for corner; Duplex 65 ft.

Max. Lot. Coverage: Single Family detached and manufactured home on a lot 40%; Duplex 50%

c. The approval body may grant a 15% modification to the lot area and/or lot dimension standards, provided that:

(1) The modification is necessary to address physical constraints, such as topography, existing development, significant trees, and other natural and built features; and

(2) The overall density requirements of the subdivision are satisfied; and

(3) Where the proposed subdivision abuts an existing subdivision with standard or larger than standard sized lots, the proposed lots abutting the lots in the existing subdivision shall be at least the minimum lot size for the proposed subdivision.

Where substandard lots abut standard or larger sized lots, the approval body may require screening or other transitions to provide a buffer between uses.

FINDING: Proposed sign does not alter existing lot. Criterion not applicable.

5. Residential Density Standards

The following density standards apply to all new development where sanitary sewer is available. The standards are intended to ensure efficient use of buildable lands and provide for a range of needed housing.

a. The maximum density permitted on any parcel in the Traditional Residential District shall be 7.5 dwelling units per acre. The maximum density limitation does not apply to accessory dwelling units, cottage housing, or residential uses as part of a mixed-use development.

b. When lots are created through a land division, or site development is proposed for four or more dwelling units, a minimum density of 60 percent of the maximum density (or 5.4 dwelling units per acre) is required. (Minimum density calculations are based on net density. See density calculations definition.) This standard does not apply to the following developments:

(1) Partitions;

(2) Subdivisions of parcels totaling 20,000 square feet or less;

(3) Lot line adjustments;

- (4) Bed and Breakfast inns; and**
- (5) Development on physically constrained sites, where lot configuration, access limitations, topography, significant trees, wetlands or other natural features prevent development at the minimum density.**

c. The density standards may be averaged over more than one development phase (i.e., as in a master planned development).

d. Duplexes used to comply with the density standard shall be so designated on the final subdivision plat.

FINDING: Proposed sign illumination does not affect density. Criterion not applicable.

6. Minimum Yard Requirements.

a. Front yards.

(1) Setbacks shall be a minimum of 15 feet, with the following exceptions:

- (i) Garages, carports, and sheds shall be set back a minimum of 20 feet from the front property line and shall be set back a minimum of 5 feet from the longest wall of the front façade of the house.**

(2) Steps are permitted within the front yard setback.

(3) In any required front yard, no fence or wall shall be permitted that materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted that materially impedes vision across such yard between the heights of 30 inches and 10 feet.

(4) In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Planning Official may waive the requirement for the normal front yard and substitute, therefore, a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

(5) In the case of corner lots that do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

(6) In the case of the reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

(7) In the case of corner lots with more than two frontages, the Planning Official shall determine the front yard requirements, subject to the following limitations: (1) At least one front yard shall be provided having the full depth required generally in the district; (2) No other front yard on such lots shall have less than half the full depth required generally.

b. Side yard setbacks shall be seven feet from any property line, except:

(1) Corner lots shall have a side yard next to the street of 10 feet.

c. Rear yard. Primary structures shall be set back not less than 10 feet from the rear property line. Accessory structures that require a building permit shall be set back not less than five feet from the rear property line.

d. Schools. Schools shall provide and maintain setbacks of 50 feet from side and rear property lines, except on the street side of a corner lot where a setback of at least 25 feet shall be required. Alleys contiguous to or within the property being used for school purposes may be included in the required setback. This provision does not apply to residences used for home schooling.

e. All structures, including but not limited to buildings, fences, decks, and stairways, shall be a minimum of one foot from the Coburg Loop Path right-of-way.

FINDING: Proposed sign does not alter existing yards. Criterion not applicable.

7. Maximum Height Standards

a. Residential Buildings. The maximum height shall be 35 feet.

b. Accessory Buildings, including accessory dwellings. The maximum structural height shall be 15 feet. The maximum height may be 25 feet if a living unit is provided on the second floor.

c. Garages. Garages shall not exceed the maximum height of the primary structure. Where an ADU is located above a garage, the maximum height may be 35 feet.

d. All other buildings shall not exceed 35 feet.

e. Mixed Use. The maximum height shall be 45 feet.

FINDING: Proposed sign does not alter existing heights of structures. Criterion not applicable.

8. Parking and Access Requirements

See ARTICLE VIII for parking and access requirements.

9. Sign standards

See Sign Ordinance and ARTICLE VIII for requirements.

FINDING: Provisions provided in Sign Ordinance A-155 are being followed. Criterion met.

10. Standards for Agriculture and Livestock Uses

a. The total maximum number of animals permitted on a lot shall be as follows. (Area computation may be utilized one time only for allowable animal count):

Type of Animals Allowed	Minimum Square Feet Required	Square Feet per Animal Required
Honey Bee Colonies (per hive)	10,000	10,000
Fowl (not including roosters, Rabbits)	4,000	2,000;(maximum of 10 on 40,000 square feet)

FINDING: Proposed sign does not include any agriculture or livestock. Criterion not applicable.

11. Locational Standards

Buildings and uses subject to this section may be located only where they are:

- a. Adjacent to the Central Business District or Highway Commercial District or Light Industrial, either by sharing a property line or across a street or alley; and**
- b. Abutting a collector or arterial street.**

12. Compliance with Design Standards and Guidelines

a. All uses, structures and development in this district are subject to the applicable design and development standards in ARTICLE VIII.

FINDING: Proposed sign does include any buildings or uses. Criterion not applicable.

ARTICLE X. Section D. Type III Procedure

1. Pre-application Conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section F.3

FINDING: Pre-application meeting was held with Planning staff and the applicant team. Criterion met.

2. Application Requirements.

a. Application forms. Type III applications shall be made on forms provided by the City Planning Official or designee; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.

- b. Submittal Information. When a Type III application is required, it shall:**
 - (1) Include the information requested on the application form;**
 - (2) Be filed with one copy of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval;**
 - (3) Be accompanied by the required fee; and**

(4) Include one set of pre-stamped and pre-addressed envelopes for all real property owners of record who will receive a notice of the application as required in Section 3. The records of the Lane County Assessor's Office are the official records for determining ownership. The applicant shall produce the notice list. At the applicant's request, and upon payment of a fee noted on the City's fee list, the City shall prepare the public notice mailing list. The City or the applicant shall use the most current County real property assessment records (RLID) to produce the notice list. The City shall mail the notice of application.

FINDING: Applicant submitted all materials required for submittal (Attachment A). Application was deemed complete on August 7, 2024. Criterion met.

3. Notice of Hearing.

a. Mailed notice. The City shall mail the notice of the Type III action. The records of the Lane County Assessor's Office are the official records for determining ownership and can be accessed by RLID – Regional Land Use Information Database www.rlid.org. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Planning Official or designee in the following manner:

(1) At least 10 days before the hearing date, notice shall be mailed to:

- (i) The applicant and all owners or contract purchasers of record of the property that is the subject of the application;***
- (ii) All property owners of record within 300 feet of the site;***
- (iii) Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application;***
- (iv) Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;***
- (x) Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;***
- (xi) Any person who submits a written request to receive notice;***
- (xii) For appeals, the appellant and all persons who provided testimony in the original decision; and***
- (xiii) For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.***

(2) The City Planning Official or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.

(3) At least 14 business days before the hearing, notice of the hearing shall be

printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

b. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed and published per Subsection 1 above shall contain the following information:

- (1) The nature of the application and the proposed land use or uses that could be authorized for the property;**
- (2) The applicable criteria and standards from the development code(s) that apply to the application;**
- (3) The street address or other easily understood geographical reference to the subject property;**
- (4) The date, time, and location of the public hearing;**
- (5) A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;**
- (6) The name of a City representative to contact and the telephone number where additional information on the application may be obtained;**
- (7) A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Coburg City Hall at no cost and that copies shall be provided at a reasonable cost;**
- (8) A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;**
- (9) A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and**
- (10) The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Coburg Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."**

FINDING: Notice containing all of the required information was sent to neighboring property owners in a 300 foot radius of the subject property on September 4th, 2024. Notice was published in the Eugene Register Guard on August 20, 2024. Because North Coburg Road is a County Road under Lane County Jurisdiction, Lane County Transportation Planning (LCTP) was contacted and verified that the proposed sign meets vision clearance requirements. Mailing and publishing notices, affidavit and email correspondence with LCTP are included in Attachment B. Criteria met.

c. Posted Notice. Posted notice shall be provided, when required, as follows:

- (1) The applicant shall post notice on the subject property no earlier than 14 and no later than ten days prior to the end of the 14 day comment period. The notice shall remain in place throughout the comment period. The applicant shall file an affidavit of posting with the City no later than five days after the date of original posting. The affidavit shall be made a part**

of the file.

(i) Posted notice. Posted notice shall be deemed to have been provided upon the date when the sign is first posted. Subsequent removal of or damage to the sign by anyone other than the applicant or an officer of the City shall not invalidate the proceeding.

(2) Notice shall be posted on each street frontage of the subject property, in a conspicuous place that is visible from the public right-of-way. If no street abuts the subject property, the notice shall be placed as near as possible to the subject property in a conspicuous place that can be readily seen by the public.

(3) Posted notice shall be on signs approved by the Planning Official.

(4) The applicant shall remove the signs from the subject property after the comment period.

FINDING: Notice containing all of the required information was posted by the applicant on the subject property on September 4th, 2024. Affidavit of posting is included in Attachment B. Criterion met.

4. Conduct of the Public Hearing.

a. At the commencement of the hearing, the hearings body shall state to those in attendance:

(1) The applicable approval criteria and standards that apply to the application or appeal;

(2) A statement that testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;

(3) A statement that failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the State Land Use Board of Appeals on that issue;

(4) Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance") per paragraph 2 of this subsection, or by leaving the record open for additional written evidence or testimony per paragraph 3 of this subsection.

b. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of

the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;

c. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an ARTICLE X 134 Coburg Zoning Code opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.

(1) When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;

(2) An extension of the hearing or record granted pursuant to Section D is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;

(3) If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence;

(4) The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;

(5) In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;

(6) The review authority shall retain custody of the record until the City issues a final decision.

d. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts (see Section D(6)below) as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:

(1) At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined in Section D(5) below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;

(2) A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest

shall be disclosed at the hearing where the action is being taken;

(3) Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;

(4) If a member of the hearings body abstains or is disqualified, the City shall provide a substitute in a timely manner subject to the impartiality rules in Sections 4.1.400.D(4-5). In this case, a member of the City Council appointed by the Mayor may substitute for a member of the Planning Commission.

(5) If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be requalified to make a decision;

(6) Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this section.

e. Ex parte communications.

(1) Members of the hearings body shall not:

(i) Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per Section C above;

(ii) Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.

(2) No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

(i) Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

(ii) Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

(3) A communication between City staff and the hearings body is not considered an ex parte contact.

f. Presenting and receiving evidence.

(1) The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;

(2) No oral testimony shall be accepted after the close of the public hearing.

Written testimony may be received after the close of the public hearing, only as provided in Section D;

(3) Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

5. The Decision Process.

a. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;

b. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;

c. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection 2, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;

d. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Planning Official or designee within ten business days after the close of the deliberation;

e. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within ten business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

f. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the City Council's written decision or, in the case of Type I decision, within 21 days of the administrative decision date.

FINDING: Public hearing shall be conducted in accordance with the above requirements.
Criteria met.

V. ATTACHMENTS

Attachment A – Applicant’s materials

Attachment B – Notice materials