



TO: Kent Studebaker, Mayor
Members of the City Council

FROM: Scot Siegel, Director of Planning and Building Services
Erica Rooney, City Engineer

SUBJECT: Public Hearing for Ordinance 2768 – Amendment Granting City Engineer Authority to Reduce Special Street Setback for State Street and Establishing Appeal Procedure (LU 17-0075)

DATE: December 26, 2017 **DATE OF MEETING:** January 2, 2018

ACTION

Conduct a public hearing on Ordinance 2768 to consider the Planning Commission’s recommendation on amendments to the Community Development Code (CDC or code), granting the City Engineer authority to reduce the special street setback for State Street and establishing an appeal procedure for minor development decisions made by the City Engineer.

SUGGESTED MOTION

Move to approve LU 17-0075 and enact Ordinance 2768, including the findings and conclusions in **Exhibit A-1**, incorporating the two clarifying edits to the CDC text on page 3 of this report.

Alternatively, if Council revises the amendment, or has additional findings to address issues not raised at the Planning Commission, move to tentatively approve LU 17-0075, and direct staff to return with findings and conclusions, together with a final version of Ordinance 2768, for adoption February 6.

SUMMARY OF PROPOSED ORDINANCE

The proposed amendment grants the City Engineer authority to reduce the Special Street Setback [LOC 50.04.002] for properties abutting State Street, subject to compliance with the purpose of the standard. This procedure is necessary because of existing development patterns and constraints along the corridor.

Under the proposed ordinance, a decision to reduce the special street setback is made by the City Engineer through the minor development procedure [50.07.003.14.a], a limited land use

decision under ORS 197.195. Neither Planning staff nor the Development Review Commission would make the decision or review the City Engineer's decision. The City Engineer's decision would be incorporated into the findings for the land use decision if other matters were included in the minor development decision, or the City Engineer would issue the decision if the only subject of the minor development application was for reduction of the special street setback. The City Engineer's decision could be reviewed on appeal of the minor development by the City Council per the amendments to LOC 50.07.003.7.

Purpose and Need for Amendment

Most of the properties abutting the west side of State Street (that portion of Highway 43 between Terwilliger Boulevard and McVey Avenue) are developed with buildings that do not comply with the special street setback, which requires a minimum setback of 50 ft. measured from the street centerline for a total of 100 ft. of right-of-way.¹ These buildings are placed at or near the existing right of way line and generally have storefront entrances oriented to State Street; they include four City-designated historic landmarks at 368 South State Street (Lakewood School), 402 North State (Rogers Building I) 456 North State (Rogers Building II), and 468 North State (Bickner Building) [LOC Table 50.06.009-1], the Lake Theater, and other buildings such as Lakeview Village. These buildings could not be rebuilt in their current locations and comply with the 50 ft. special street setback. The same condition exists to a limited extent on the east side of State Street.

The purpose of the Special Street Setback is "To assure an adequate front yard setback is available in the event of possible future street improvements, such as additional lanes, pedestrian and bicycle facilities, transit facilities, drainage management improvements, lighting, and street landscaping." The Special Street Setback is a minimum dimensional standard that cannot be modified using the variance procedures in the Community Development Code (LOC 50.08) or under LOC Chapter 42 Streets and Sidewalks.

State Street is approximately 0.95 miles in length and has a typical right-of-way width of 80 ft. State Street is designated a Special Transportation Area by ODOT, which provides for lower posted speeds and an urban design treatment that is conducive to a walkable (main street) environment, including building entrances placed at or near the street, and wider sidewalks than would otherwise be required by ODOT. With the exception of the residential area southwest of State Street and North Shore Road, all of the properties adjacent to State Street are within the Downtown Redevelopment Design District, which supports this urban form.

State Street is currently improved with four travel lanes (two northbound and two southbound), center turn lane or landscaped median, southbound right turn pockets at A Avenue and McVey Avenue, sidewalks (6-foot wide typical, increasing to 15 ft. with street tree/planter and furnishing area). Two northbound left turn lanes are provided at A Avenue, one for both left turns and through traffic. There are six signalized intersections (from north to

¹ LOC 50.04.002.2 already provides that the City Engineer "establishes the centerline from which the special street setback reference line is measured."

south) at B Avenue, A Avenue, Foothills Road, North Shore Road/Oswego Village Center, Middlecrest Road/Wilbur Street, and McVey Avenue, and the posted speed is 25 miles per hour. (See map on page 3 of Attachment 2 to Exhibit A-1.) There are no bike lanes in either direction in this segment.

There is not a current plan for this corridor to identify necessary improvements. Therefore, until a plan is prepared, it is appropriate to account for existing development patterns and physical constraints when determining frontage improvements and right-of-way dedications for development applications.

Additional Clarifying Amendments

After the Planning Commission’s review of the proposed ordinance, staff identified the need to clarify the language. The current text states the Special Street Setback “shall not be reduced,” but text currently states that it may be reduced by the City Engineer (Boones Ferry Road), and now a similar exception is proposed for State Street. The text “except as provided in the Table” should be added, as follows:

5. SPECIAL STREET SETBACK LIST Revised 12/17

The special street setbacks set forth in Table [50.04.002-1](#) shall not be reduced.

except as provided in the Table.

TABLE 50.04.002-1: SPECIAL STREET SETBACKS			
Affected Streets	From	To	Special Setback
Bangy Rd.	South of Alyssa Terrace		30 ft.
Bergis Rd.	Cornell St.	Stafford Rd.	30 ft.
Bergis Rd.	Cornell St.	Skylands Rd.	25 ft.
Boones Ferry Rd.	Mercantile Dr.	Madrona St.	50 ft., unless reduced by the City Engineer, finding that the purpose is met by a lesser amount.
Boones Ferry Rd.	Madrona St.	West Sunset Dr.	50 ft.
Bonita Rd.			30 ft.
Bryant Rd.	Boones Ferry Rd.	Lake View Blvd.	40 ft.
Bryant Rd.	Lake View Blvd.	Childs Rd.	30 ft.
Burma Rd.			25 ft.

There is also the need to clarify the Variance section of the code, because “shall not be reduced” means that you cannot get a variance, but the Special Street Setback is not listed in the “Variance Not Allowed” section of the code. Hence, the following edit should be made:

LOC 50.08.001.2

2. VARIANCES NOT ALLOWED

No variance shall be granted for the following:

- a. To permit a use not permitted in the applicable zoning district (unless that variance is required by state or federal law based on the special rights of the occupant).
- b. To increase the allowable residential density in any zoning district.
- c. To vary a Code standard that has already been modified by a planned development approval, except that zone standards applicable to a planned development may be varied through the residential infill design review process.
- d. To modify review and approval procedures.
- e. To a setback required under LOC [50.05.010](#), Sensitive Lands Overlay Districts. This provision does not prevent modification of protected riparian areas or setbacks as permitted in that section.
- f. To a setback required under LOC 50.04.002, Special Street Setback.

FISCAL IMPACT

The proposed amendment may have a positive fiscal impact by removing an unnecessary regulatory obstacle to redevelopment in the East End Redevelopment District.

RECOMMENDATION

The Planning Commission recommends approval of LU 17-0075 and enactment of Ordinance 2768 with Findings (Attachment 1). If Council agrees with the text clarifications proposed by staff it would adopt Ordinance 2768 with alternate version of **Attachment 2**, dated 12/18/17.

EXHIBITS

A. Draft Ordinances

- A-1 Draft Ordinance 2768, dated 11/27/17
 - Attachment 1-Draft City Council Findings
 - Attachment 2-Amendments to the CDC, 11/27/17
 - Attachment 2-Alternate Version-Amendments to the CDC, 12/18/17

B. Findings, Conclusions and Order

- B-1 Planning Commission Findings, Conclusion and Order, dated 12/18/17
(Please note the Ordinance and Attachments referenced in the Findings are not included. Refer to Exhibit A-1, Ordinance 2768, and Attachments above.)

C. Minutes

- C-1 Planning Commission Minutes – Draft Excerpt, 12/11/17

D. Staff Reports

- D-1 Planning Commission Staff Report, 11/30/17

E. Graphics/Plans (no current exhibits)

F. Written Materials

- F-1 Letter from Marah Danielson, Oregon Department of Transportation, 12/08/17

G. Letters

- G-1 E-Mail from Skip Ormsby, Birdshill Neighborhood Association, 12/05/17

Use the link below to visit the City's "Project" page. In the "Search" box enter LU 17-0075 then press "Submit": <http://www.ci.oswego.or.us/projects>