



Memorandum

Date: December 17, 2010

To: Planning Commission

From: Chris Kerr, Senior Planner

Subject: Proposed CDC amendments related to pre-application conference requirements and temporary signage in the right-of-way (CDC 10-04)

On December 1, 2010 the Planning Commission held a public hearing on the proposed code amendments relating to pre-application conference requirements and temporary signage in the right-of-way. Unfortunately, staff made an error in the public notice that was provided for that meeting which necessitates having the Planning Commission hold a public hearing on the proposed amendments on January 5, 2011.

New information since December 1st

During the Commission's discussions at the December 1st meeting, they recommended one edit be made to the amendment package (described below) and they requested that the item come back to them for a final vote after further review by the City attorney's office. I have included two attachments with this report. Attachment A includes the revised proposed code amendments (dated 12-20-2010) as well as all of the public correspondence received on this item. The 12-20-2010 version of the code amendments includes the edit requested by the Planning Commission to Section 99.030B(3). The edit removes the phrase "*due to extenuating circumstances*". It also includes edits recommended by Staff and the City attorney's office. All of the edits made to the document since the December 1st meeting are highlighted in grey-tone in the document.

Attachment B is the previous Staff Report in its entirety.

Recommendation:

Staff recommends that the Planning Commission recommend approval of the **12-20-2010 version** of the proposed code amendments, without the optional "Alternative 1", to Chapters 25, 52, 58 and 99 of the Community Development Code.

Attachments

ATTACHMENT A

PROPOSED AMENDMENTS PERTAINING TO
TEMPORARY SIGNS IN THE RIGHT-OF-WAY
AND
PRE-APPLICATION CONFERENCES

Proposed Amendments to Chapters 25, 52, 58 and 99 of the Community Development Code

PLANNING COMMISSION PUBLIC HEARING DRAFT

12/20/2010

<p>Note:</p> <p>Plain text = existing regulation Strike through = proposed deletion to existing regulations <u>Underline</u> = proposed addition <i>Italic</i> = staff comment ... = unaffected text omitted <u>Underline</u> = addition to the 11/18/2010 draft Strike through = deletion from the 11/18/2010 draft</p>

The proposed amendments to the Community Development Code address two issues. The proposed amendments to Chapters 25, 58 and 99 are intended to clarify which development applications require pre-application conferences. The proposed amendments to Chapter 52 would permit limited, temporary signage within the public right-of-way.

Chapter 25: OVERLAY ZONES – HISTORIC DISTRICT

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25.140 APPLICATION AND SUBMITTAL REQUIREMENTS

Standard requirements (*Staff Comment: existing underline*): All applications for alteration, relocation, development, or demolition made pursuant to this section shall include:

- A. ~~Notes from the pre-application conference if required by Section 99.030.B. A pre-application conference with the Planning Director is required prior to formal submittal. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.~~

Chapter 58: WILLAMETTE FALLS DRIVE COMMERCIAL DISTRICT DESIGN STANDARDS

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58.070 APPLICATION AND SUBMITTAL REQUIREMENTS

- A. Applicants shall attend a pre-application conference if required by Section 99.030 B. ~~A pre-application conference with the Planning Director is required prior to formal submittal.~~

(Staff Comment: The proposed edits to Chapters 25 and 58 are necessary to clarify that certain minor applications do not require pre-application conferences).

Chapter 99: PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

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99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

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- B. Pre-application conferences. ~~required~~
1. Applicants for each of the following types of applications shall attend a pre-application conference:
~~The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Directors, for a pre-application, unless the requirement for a pre-application conference is specifically waived by another section of this code.~~
 - a. Boundary changes, per Chapter 81;
 - b. Amendments to the Comprehensive Plan;
 - c. Amendments to the Zoning Map;
 - d. Conditional Uses;
 - e. Design Review (Class I and Class II);
 - f. New construction or remodels in a Historic District, except for minor alterations and maintenance as specified in Section 25.100;
 - g. New construction or remodels in the Willamette Falls Drive Commercial District, except for painting, signage, awnings, or architectural in-kind replacements;
 - h. Alteration of Historic Landmarks, except for minor alterations and maintenance as specified in Section 26.060 B;
 - i. Minor Partitions;
 - j. Land Divisions;
 - k. Enlargement of non-conforming uses or alteration a structure containing a non-conforming use;
 - l. Planned Unit Developments;
 - m. Variances;
 - n. Development subject to Chapter 32, Water Resource Areas;
 - o. Development subject to Chapter 27, Flood Management Area;
 - p. Development subject to Chapter 28, Willamette and Tualatin River Protection; and
 - q. Right-of-way and easement vacations.

(Staff Comment: This list itemizes, in one central location, all of the development applications that require pre-application conferences. It also clarifies that applicants for minor development permits, such as home occupations, temporary uses, sidewalk uses, signs, final plats, lot line adjustments and

revegetation plans do not have to attend pre-application conferences. The proposed language does not any change the City's current practices.)

2. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed above if he or she determines that the potential development request is of significant complexity or magnitude to merit a pre-application conference.
3. The Planning Director may waive the requirement for a pre-application conference for any application if provided he or she determines makes a determination that such a conference is not warranted due to extenuating circumstances.

(Staff Comment: Subsections 2 and 3 are proposed in order to allow the Planning Director to use their professional discretion with regard to pre-applications. The intent is to provide some flexibility into the Code that acknowledges that there may be unusual circumstances or unique development applications that would require a pre-application conference as well as situations whereby a pre-application would not serve any useful purpose.)

42. At such conference, the Planning Director or designee shall:
 - a. Cite the applicable federal and State laws and rules and the Comprehensive Plan policies and map designation;
 - b. Cite the applicable substantive and procedural ordinance provisions;
 - c. Provide technical data and assistance which will aid the applicant;
 - d. Identify other policies and regulations that relate to the application; and
 - e. Identify other pertinent factors that relate to the application.
 - f. Provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures.
53. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the application.
64. At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process.
75. The Planning Director shall prepare administrative procedures designed to allow citizens to attend and participate in pre-application conferences for applications. Lack of neighborhood association participation in a pre-application conference is not a procedural defect entitling any party to a delay in the hearing process.
86. If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.

Chapter 52: SIGNS
52.020 DEFINITIONS

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Sign, Sunday. A temporary A-frame sign allowed within the public right-of-way on Sundays, subject to the requirements of Section 52.109 E.

52.109 EXEMPTIONS

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E. Sunday Signs are allowed within the public right-of-way in any residential district on Sundays between the hours of eight ~~(8)~~ a.m. and six ~~(6)~~ p.m., subject to the following standards conditions:

1. Sunday Signs shall conform to the following design standards:
 - a. The sign shall be a two-sided A-frame type sign;
 - b. Each sign face shall be no larger than five square feet in area;
 - c. The sign, including the support structure, shall be no taller than 30 inches;
 - d. The sign owner's name, address and telephone number shall be placed on the sign; and
 - e. The sign shall not be attached or anchored in any way to trees, other objects or public property, including, but not limited to, utility or light poles, parking meters, the ground or pavement.

(Staff Comment: The exemption section of the sign code also includes other unique signs like 'parking signs.' The proposed square footage and height limitations for Sunday Signs are less than are allowed for other temporary signs in the West Linn Sign Code.)

2. Sunday Signs shall conform to the following locational standards:
 - a. The sign shall be located entirely outside the paved roadway and any shoulder, median or traffic island;
 - b. The sign shall be located entirely outside the area of a right-of-way that is between the lines created by extending the edges of any curb ramp to the property line. Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway;
 - c. The sign shall ~~maintain not obstruct~~ a continuous pedestrian passageway of at least four feet in width;
 - d. The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to transit stops, designated disabled parking spaces, or building exits, including fire escapes;
 - e. The sign shall not be placed in parking spaces or bicycle paths;
 - f. The sign shall not be placed on any driveway; and
 - g. The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the City or another public agency.

52.310 TEMPORARY SIGN DESIGN STANDARDS

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⁵ Temporary Sunday Signs are permitted subject to the requirements of Section 52.109 E.

(Staff comment: This new footnote is proposed to the "Temporary Sign Design Standards" Table found in the CDC.)

Alternative 1

(This language below came from the Lake Oswego Code. It was previously approved by the City Council on a temporary basis. However, as outlined in the Staff Report, staff does not recommend codifying this language due to practical and legal reasons, however, it could be added to Section 52.109 E(2) "Sunday Signs")

...

h. The sign shall not be placed in the public right-of-way if an owner or occupant of the abutting real property has denied permission for such placement.

3. Contact abutting property owners.

a. Persons placing a Sunday sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located. Except as described in Subsection 3(b) below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure on the abutting real property. The notice shall include the following:

i. The name, address, and telephone number of the person placing the sign in the right-of-way; and

ii. A description of the effort made to contact the owner or occupant of the abutting lot on the street frontage.

b. Written notice is not required under Subsection 3(a) above if:

i. The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

ii. The abutting real property is posted with a "No Solicitation" sign; or

iii. There is no dwelling or other habitable structure on the abutting real property.

c. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate Subsection E(2) or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage,

hazard or violation. Any person who places a portable sign in the public right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

Kerr, Chris

From: Kerr, Chris
Sent: Tuesday, December 07, 2010 1:55 PM
To: 'Karie Oakes'
Cc: Sonnen, John; Zak, Teresa
Subject: RE: Chapter 99 amendments: CDC 10-04

Karie – thanks for the comments –You are correct about the technical issue in #6 below, the item was not heard at the Nov. 17th meeting. We will send out a new notice and will have the PC hearing on Jan. 5th. (therefore, it will not be on the Dec. 15th PC meeting). I'll forward your comments to the Planning Commissioners; since there will be another public hearing, so you can testify yourself on Jan. 5th as well. Since we will be re-noticing for another meeting and we know which chapters the PC and staff are proposing to amend, I'll revise the CDC chapters in the notice to alleviate any confusion.

Also, the link on the web you referenced has been modified to the additional correspondence for that item: here: http://westlinnoregon.gov/sites/default/files/projects/2010-12-01_adfditional_correspondenc.pdf

Call me with any questions.

Chris Kerr

From: Karie Oakes [mailto:kariooke@aol.com]
Sent: Monday, December 06, 2010 8:11 AM
To: Kerr, Chris
Subject: Chapter 99 amendments: CDC 10-04

Dear Mr. Kerr:

I am interested in the proposed amendments pertaining to pre-application conferences scheduled for a Planning Commission Work Session on December 15, 2010. Please include my following concerns, as listed, in the record for CDC 10-04.

1) The draft as posted online includes amendments to CDC Chapter 99, however, the summary posted states, "Community Development Code proposed amendments to Chapters 2, 24, 25, 26, 27, 28, 32, 52, 55, 56, 57, 58, 60, 65, 75, 81, 85, and 99 of the Community Development Code." Aside from Chapter 52, pertaining to signs, this includes fifteen chapters pertaining to pre-application conferences and Chapter 2 pertaining to definitions. This is confusing as to whether there are changes to these other fifteen chapters.

Please confirm that the draft does not contain omission of provisions for required pre-application conferences in each of these fifteen chapters. If I understand correctly, the intention of this draft is to add language to Chapter 99 that codifies practice, without policy changes, and centralizes the kind of development applications requiring a pre-application conference in CDC 99.030.

I am opposed to omitting provisions requiring pre-application conferences from each of these fifteen chapters, as these provisions provide emphasis on the requirement for a pre-app. It has been my experience that in Chapter 99 criteria regarding process, the City frequently does not follow it. The requirement for a pre-app should be left in the respective approval criteria sections.

For the same reason, I do not want the word "required" stricken from 99.030(B). Proposed amendments are:

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

B. Pre-application conference **required**.

2. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed above if he or she determines that the request is of significant complexity or magnitude to merit a pre-application conference.

3. The Planning Director may waive the requirement for a pre-application conference for any application provided he or she makes a determination that such a conference is not warranted due to extenuating circumstances.

2) The addition of 99.030(2) and 99.030(3) constitutes a change in policy. The Planning Director should not be given this broad and discretionary authority, where the public and applicant are not allowed an opportunity to review or appeal the PD decision to require or waive a pre-app.

Review by a higher authority is paramount to the quasi-judicial process and exists throughout the CDC. For example, 99.035(C) requires the PD to report his reasons for a waiver of a requirement for an application and the decision is subject to review and denial.

99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED

C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (Ord. 1568. 2008)

3) The staff report response to approval criteria is only for the amendments pertaining to signs, and not those pertaining to pre-application. I would argue that proposed amendments 99.030(2) and 99.030(3) do not meet the approval criteria.

Giving the PD authority to waive a pre-app will adversely affect public awareness and participation in those land use cases because it takes the pre-app meeting, attended by neighborhood association representatives, out of the process. The program of neighborhood association pre-application representatives was established seven years ago for the purpose of stimulating citizen involvement early on and in all phases of the planning process. NA reps are notified by the City of all pre-app meetings via email.

Pre-application meetings supports Comprehensive Plan Goal #1 and Policies #1 and #4 for Citizen Involvement and these amendments do not meet these approval criteria.

1. Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two-way dialogue between citizens and City elected and appointed officials.

1. Support neighborhood associations as a forum for discussion and advice on issues affecting the community.

4. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.

4) Related Resolution 2010-16, as adopted by the City Council, makes no mention of giving the Planning Director authority to waive and require pre-application conferences.

5) The Planning Commission is not authorized to take final action on CDC 10-04 during a work session, as is scheduled for agenda item # 2 at the meeting on Dec. 15, 2010. Citizens do not expect final decisions at work sessions and may not attend. Additionally, the venue changed and the work session will not be televised. Meeting minutes have become extremely truncated with the Granicus system. This all compromises transparency.

6) Notice of the public hearing was incorrect. The notice states the hearing is scheduled for Nov. 17, 2010, but the agenda for that meeting does not include it. Additionally, the hearing date is posted on the project page as Nov. 17, 2010 and was likewise published in the Tidings. The hearing was held on Dec. 1, 2010 without proper notice.

7) The link (http://westlinnoregon.gov/sites/default/files/projects/additional_correspondence.pdf) on the project page to additional correspondence dated 12/01/10 is incorrect as it links to the October 21, 2001 Suncrest DR application staff report. I would like to review that correspondence.

Thank you,

Karie Oakes



November 22, 2010

Robert Martin, Chairman
Planning Commission
West Linn City Hall
22500 Salamo Road
West Linn, OR 97068

Re: December 1, 2010 West Linn Planning Commission Meeting
CDC Amendment Related to Chapter 52: Temporary Signage in the Right-of-Way

Dear Chairman Martin:

On behalf of the Portland Metropolitan Association of Realtors® (PMAR) and its nearly 6,400 members, I am writing to express PMAR's appreciation for your consideration of the proposed amendments to the City of West Linn's Community Development Code as it pertains to the use of temporary signs within the public right-of-way.

Every day, individuals and families are buying and selling homes in West Linn. In 2007, Realtors® helped sell more than \$287 million worth of property in the City. In 2008 and 2009 Realtors® were part of transactions totaling more than \$166 million and \$386 million respectively. And year to date 2010, Realtors® were part of transactions totaling approximately \$140 million. The benefit to the community of home sales is extensive. [Source RMLS]

PMAR appreciates the City of West Linn's continued support of Realtors'® efforts to transact properties as demonstrated by City Council's previous actions to suspend enforcement of its temporary sign code to allow greater flexibility in how signs are used within the city. We urge the Planning Commission's approval and recommendation to City Council of the proposed amendments to Chapter 52 of the West Linn Community Development Code.

Sincerely yours,

/s/ Daryl Winand

Daryl Winand
Governmental Affairs Specialist
Portland Metropolitan Association of Realtors®

cc: Members West Linn Planning Commission: Vice Chair Michael Jones, Michael Babbitt, Laura Horsey, Christine Steel, Jennifer Tan, Dean Wood
PMAR Governmental Affairs Committee
Jeff Wiren, PMAR 2011 President
Dorian Barnhart, PMAR 2011 Vice President Governmental Affairs
Jane Leo, PMAR Governmental Affairs Director
Kathy Querin, PMAR Chief Executive Officer


825 NE Multnomah Street, Suite 1145, Portland, Oregon 97232

ATTACHMENT B



Memorandum

Date: November 18, 2010

To: Planning Commission 

From: Chris Kerr, Senior Planner

Subject: CDC amendments related to pre-application conference requirements and temporary signage in the right-of-way

Purpose

Staff is seeking a recommendation from the Planning Commission on the attached proposed amendments to the Community Development Code that will address two specific issues. First, the amendments to Chapters 25, 58 and 99 will clarify which development applications are required to hold a pre-application conference prior to submittal. Second, the amendments to Chapter 52 will allow for limited temporary signage within the public right-of-way in a residential zoning district on Sundays between the hours of 8 AM and 6 PM.

Background

These amendments were initiated by the City Council on April 26, 2010 with the approval of Resolutions 2010-15 and 2010-16 (both attached). Both Resolutions were unanimously approved by the Council and required Staff to "initiate amendments to the CDC" to address two distinct issues:

Issue #1: Pre-application conference requirements

In spring of this year, it came to the attention of City Staff that Section 99.030 B of the CDC includes a provision which requires all land use applications to hold a pre-application conference prior to submitting an application:

"99.030 B. Pre-application conference required.

1. The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Director, for a pre-application conference, unless the requirement for a pre-application conference is specifically waived by another section of this code." (bolded for emphasis)

This language requires that applicant's for all development approvals regulated under the CDC attend a pre-application conference, unless there is a specific waiver elsewhere in the code. The CDC already stipulates, within each Chapter, when a pre-application conference is required for every type of application; and in fact, there are no provisions anywhere in the CDC that 'waive' the

need for pre-application conferences. Therefore, if the current Code language were to be enforced, applications for signs, home occupations, temporary use permits, sidewalk uses, final plats, lot line adjustments, re-vegetation plans, and appeals of land use decisions would be required to hold a pre-application conference prior to submittal of a formal application. The City has never required pre-application conferences to be held for any of these application types in the past, as it is impractical and unnecessary. It takes a minimum of two weeks after a pre-application conference is requested to advertise and hold the conference with Staff. Additionally, the minimum cost of a pre-application conference is \$350. Requiring pre-application conferences for these minor permits is unworkable in many instances, would serve no practical benefit to the City, and would place an onerous and unnecessary burden on applicants and City Staff.

In April of 2010, after becoming aware of the potential problems associated with Section 99.030 B of the CDC, Staff requested that the City Council formally suspend enforcement of this erroneous language. The Council passed Resolution 2010-16 on April 26, 2010 which suspended enforcement of this component of the CDC as it relates to minor development applications; and the Council directed Staff to process a CDC amendment correcting this problem.

Issue #2: Temporary signs in the right-of-way

In the summer of 2009, the City Council expressed an interest in allowing limited temporary signage within the public right-of-way. This was in response concerns raised by real estate agents as well as resident's attempting to sell their homes, that the City's prohibition on signage in the right-of-way was burdening the marketing of existing houses in an already flailing real estate market. Staff presented the Council with an example of the City of Lake Oswego's "portable sign" language, which has been in effect for over a decade and been viewed favorably by that community and the real estate industry. The City Council reviewed Lake Oswego's Code language, and in July of 2009, our City Council adopted Resolution 09-17 which directed Staff to "suspend enforcement of the sign code related to temporary signs in the public right-of-way" through September of 2009, and to immediately enforce the 'portable sign' requirements of Lake Oswego. The City Council placed the 'sunset' provision into the Resolution in order to revisit the impacts of this action after implementation. On two occasions since then, the City Council has passed 'extensions' of that Resolution; hence, the City has been enforcing the Lake Oswego 'portable sign' regulations since July of 2009. Since that time, Staff has not noticed any increase in citizen complaints or staff enforcement issues of these regulations.

Below is a summary of the City Council Resolutions related to the ROW signage issue:

- Resolution 09-17: July 13, 2009; suspends enforcement of signage in ROW and applies Lake Oswego 'portable sign' regulations. Sunsets on September 30, 2009.
- Resolution 09-21: October 12, 2009; extends the same action until March 31, 2009.
- Resolution 2010-15: extends the same action until December 31, 2010 and directs Staff to initiate CDC amendments to permanent adopt the 'portable sign' regulations.

Discussion

The attached proposed amendments to the CDC are both consistent with the formal Resolutions passed by the City Council that initiated them. The amendments related to the pre-application conference requirements will bring the Code into compliance with the City's current practices and will clarify and codify, in a single location (Section 99.030B) exactly which applications are required to hold pre-application conferences. It does not result in any new policies or practices by Staff. All

development applications that currently require a pre-application conference will continue to be required to do so if these amendments are adopted.

On November 16, 2010, Staff presented the City's Historic Review Board with the proposed code amendments related to pre-application conferences for developments that are subject to the City's historic regulations. The Board concurred with the recommended amendments without any additional changes.

With one exception proposed by Staff as described below, the proposed new temporary right-of-way sign regulations ("Sunday Signs") to be located in Chapter 52 essentially adopt Lake Oswego's 'portable sign' regulations which were approved by the City Council and which have been enforced by our City for over a year. The only aspect of the new temporary sign regulations that Staff is recommending be modified from the practices which were previously approved by the Council is to remove the provisions that grant an adjacent property owner the authority to allow or deny requests for signs on City right-of-way.

These provisions are still included for the Planning Commission to consider as optional language as "Alternative 1". Staff is concerned about the enforcement and potential legal issues related to permitting individuals to remove signs that are located on City right-of-way is not recommending including this language. Alternative 1 stipulates the written notice requirements, required 'good faith' efforts, and the specific means by which an adjacent property owner would take down a sign. The language, while well intended, essentially delegates the City's approval authority and enforcement powers to individual property owners. This is impractical and may place the City at risk of litigation issues from all parties involved.

Approving the proposed code amendments without the optional "Alternative 1" provisions will still meet the community goal of allowing for limited, temporary signage in rights-of-way on Sundays in residential zones.

Approval Criteria:

Chapter 98 of the CDC provides administrative procedures for legislative amendments to the CDC. Section 98.100 lists the factors upon which a decision shall be based. The applicable factors along with staff's response are as follows:

1. *The statewide planning goals and rules adopted under ORS Chapter 197 and other applicable state statutes.*

Staff has forwarded a draft of these code provisions to the Department of Land Conservation and Development ("DLCD") for their review. Neither Staff nor DLCD have identified any statewide planning goals, rules or statutes that are applicable to these code amendments.

2. *Any federal or state statutes or rules found applicable;*

As stated above, in accordance with State statutes, a draft of these code provisions to the Department of Land Conservation and Development ("DLCD") for their review. Neither Staff nor DLCD have identified any statewide statutes or rules that are applicable to these code amendments. The proposed Code language has been reviewed by Staff and the City attorney for compliance with any applicable federal statutes.

or she determines that the request is of significant complexity or magnitude to merit a pre-application conference.

3. The Planning Director may waive the requirement for a pre-application conference for any application provided he or she makes a determination that such a conference is not warranted due to extenuating circumstances.
42. At such conference, the Planning Director or designee shall:
 - a. Cite the applicable federal and State laws and rules and the Comprehensive Plan policies and map designation;
 - b. Cite the applicable substantive and procedural ordinance provisions;
 - c. Provide technical data and assistance which will aid the applicant;
 - d. Identify other policies and regulations that relate to the application; and
 - e. Identify other pertinent factors that relate to the application.
 - f. Provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures.
53. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the application.
64. At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process.
75. The Planning Director shall prepare administrative procedures designed to allow citizens to attend and participate in pre-application conferences for applications. Lack of neighborhood association participation in a pre-application conference is not a procedural defect entitling any party to a delay in the hearing process.
86. If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.

Chapter 52: SIGNS

52.020 DEFINITIONS

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Sign, Sunday. A temporary A-frame sign allowed within the public right-of-way on Sundays, subject to the requirements of Section 52.109 E.

52.109 EXEMPTIONS

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- E. Sunday signs are allowed within the public right-of-way in any residential district on Sundays between the hours of eight (8) a.m. and six (6) p.m., subject to the following conditions:
 1. Sunday signs shall conform to the following design standards:
 - a. The sign shall be a two-sided A-frame type sign;
 - b. Each sign face shall be no larger than five square feet in area;

3. *Applicable plans and rules adopted by Metro;*

There are no applicable Metro plans or rules applicable to these code amendments.

4. *The applicable Comprehensive Plan policies and map;*

The proposed amendments will further the following Comprehensive Plan Policies and Action Measures by clarifying the current provisions of the Code and assisting with the economic development of the City through more flexible sign regulations.

Goal 9: Economic Development: Policy #9: Adopt City regulations that are easy to understand and contain development standards that can be uniformly applied.

Goal 9: Economic Development: Action Measure: #1: Explore ways to support and improve the business climate for businesses in the City.

Goal 9: Economic Development: Action Measure #5: Investigate incentives and improve regulations to support locally owned businesses.

The proposed amendments will not affect the Comprehensive Plan map.

5. *The applicable provisions of the implementing ordinances;*

The proposed amendments are consistent with the existing provisions of the CDC.

Recommendation:

Staff recommends that the Planning Commission recommend approval of the attached proposed code amendments, without the optional "Alternative 1", to Chapters 25, 52, 58 and 99 of the Community Development Code.

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Prepared 11/18/2010

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25.140 APPLICATION AND SUBMITTAL REQUIREMENTS

Standard requirements (*Staff Comment: existing underline*): All applications for alteration, relocation, development, or demolition made pursuant to this section shall include:

- A. See Section 99.030 B regarding pre-application conferences. ~~A pre-application conference with the Planning Director is required prior to formal submittal. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.~~

Chapter 58: WILLAMETTE FALLS DRIVE COMMERCIAL DISTRICT DESIGN STANDARDS

...

58.070 APPLICATION AND SUBMITTAL REQUIREMENTS

- A. See Section 99.030 B regarding pre-application conferences. ~~A pre application conference with the Planning Director is required prior to formal submittal.~~

(Staff Comment: The proposed edits to Chapters 25 and 58 are necessary to clarify that certain minor applications do not require pre-application conferences).

Chapter 99: PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

...

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

...

- B. Pre-application conferences. ~~required~~
1. Applicants for each of the following types of applications shall attend a pre-application conference:
The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Directors, for a pre application, unless the requirement for a pre application conference is specifically waived by another section of this code.
- a. Boundary Changes;
 - b. Amendments to the Comprehensive Plan;
 - c. Amendments to the Zoning Map;
 - d. Conditional Uses;
 - e. Design Review (Class I and Class II);
 - f. New construction or remodels in a Historic District, except for minor alterations and maintenance as specified in Section 25.100;
 - g. New construction or remodels in the Willamette Falls Drive Commercial District, except for painting, signage, awnings, or architectural in-kind replacements;
 - h. Alteration of Historic Landmarks, except for minor alterations and maintenance as specified in Section 26.060 B;
 - i. Minor Partitions;
 - j. Land Divisions;
 - k. Enlargement of non-conforming uses or alteration a structure containing a non-conforming use;
 - l. Planned Unit Developments;
 - m. Variances;
 - n. Water Resource Area;
 - o. Flood Management Area;
 - p. Willamette and Tualatin River Protection; and
 - q. Right-of-way and easement vacations.

(Staff Comment: This list itemizes, in one central location, all of the development applications that require pre-application conferences. It does not represent any change from the City's current practices.)

2. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed above if he

- c. The sign, including the support structure, shall be no taller than 30 inches;
- d. The sign owner's name, address, and telephone number shall be placed on the sign; and
- e. The sign shall not be attached or anchored in any way to trees, other objects or public property, including, but not limited to, utility or light poles, parking meters, the ground or pavement;

(Staff Comment: The exemption section of the sign code also includes other unique signs like 'parking signs.' The proposed square footage and height limitations for these signs are less than are allowed for other temporary signs in the West Linn Sign Code.)

2. Sunday signs shall conform to the following locational standards:

- a. The sign shall be located entirely outside the paved roadway and any shoulder, median or traffic island;
- b. The sign shall be entirely outside the area of a right-of-way that is between the lines created by extending the edges of any curb ramp to the property line. Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway;
- c. The sign shall not obstruct a continuous pedestrian passageway of at least four feet in width;
- d. The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to transit stops, designated disabled parking spaces, or building exits, including fire escapes;
- e. The sign shall not be placed in parking spaces or bicycle paths;
- f. The sign shall not be placed on any driveway; and
- g. The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the City or another public agency.

52.310 TEMPORARY SIGN DESIGN STANDARDS

² Temporary Sunday Signs are permitted subject to the requirements of Section 52.109 E.

(Staff comment: This new footnote is proposed to the "Temporary Sign Design Standards" Table found in the CDC.)

Alternative 1

(This language below came from the Lake Owego Code. It was previously approved by the City Council on a temporary basis. However, as outlined in the Staff Report, staff does not recommend codifying this language due to practical and legal reasons, however, it could be added to Section 52.109 E(2) "Sunday Signs")

...

h. The sign shall not be placed in the public right-of-way if an owner or occupant of the abutting real property has denied permission for such placement.

3. Contact abutting property owners.

a. Persons placing a Sunday sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located. Except as described in Subsection 3(b) below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure on the abutting real property. The notice shall include the following:

i. The name, address, and telephone number of the person placing the sign in the right-of-way; and

ii. A description of the effort made to contact the owner or occupant of the abutting lot on the street frontage.

b. Written notice is not required under Subsection 3(a) above if:

i. The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

ii. The abutting real property is posted with a "No Solicitation" sign; or

iii. There is no dwelling or other habitable structure on the abutting real property.

c. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate Subsection E(2) or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage,

hazard or violation. Any person who places a portable sign in the public right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

**RESOLUTION NO. 2010-15
WEST LINN, OREGON**

**A RESOLUTION OF THE WEST LINN CITY COUNCIL DIRECTING STAFF TO
SUSPEND ENFORCEMENT OF THE SIGN CODE RELATED TO TEMPORARY SIGNS
IN THE PUBLIC RIGHT OF WAY FOR SPECIFIC TIMES, PLACES AND MANNER
THROUGH DECEMBER 31, 2010**

WHEREAS, section 52.200 A. of the West Linn Community Development Code specifically prohibits signs in the public right of way; and

WHEREAS, City staff regularly enforces this section of the Community Development Code; and

WHEREAS, the nation and the local region is currently suffering through one of the worst economic periods of our nation's history; and

WHEREAS, the real estate market is suffering making it very difficult for West Linn homeowners to sell their houses; and

WHEREAS, some real estate agents have indicated that the City's prohibition of signs in the public right of way may contribute to the challenge to sell houses in West Linn; and

WHEREAS, the City Council desires to attempt to reduce the burden of marketing houses for a temporary period; and

WHEREAS, the City Council desires to continue to prevent placement of temporary signs that might restrict safe pedestrian use of sidewalks, and

WHEREAS, a neighboring community has a sign code that allows for specific temporary signs to be placed in public right of way at specific locations and with specific requirements for the owners of the signs; and

WHEREAS, the City Council would like to explore the possibility of allowing a similar opportunity to place temporary signs for on an ongoing basis in West Linn;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN THAT:

Section 1: City staff is hereby directed to suspend enforcement of the provisions of section 52.200 A. of the Community Development Code for temporary signs that meet the requirements set forth in Attachment A.

Section 2: The time, place and manner described in Attachment A shall be applicable to all zoning districts in West Linn.

Section 3: Staff is directed to initiate amendments to the CDC to consider allowing the temporary signage be permitted in the public right-of-way as described in Attachment A.

Section 4: That Section 1 of this Resolution is effective from the time this Resolution is adopted through December 31, 2010.

Section 5: This Resolution is effective upon passage.

This Resolution is adopted this 26th day of April, 2010.


JOHN KOVASH, COUNCIL PRESIDENT

ATTEST:


TINA LYNCH, CITY RECORDER

APPROVED AS TO FORM:


CITY ATTORNEY

REVISED

Attachment A

Portable signs, as defined below in section v. , shall be allowed within the public right-of-way in any residential zone on Sundays between the hours of eight (8) a.m. and six (6) p.m. under the following conditions:

i. Any person placing a sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right of way where the sign will be located. Except as described in section ii. below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure, on the abutting real property. The notice shall include all of the following:

(1) The name and address of the person placing the sign in the right-of-way;

(2) A telephone number where the person can be reached during the entire time that the sign is in the right-of-way;

(3) A description of the effort made to contact the owner or occupant to obtain permission to place the sign in the right-of-way

ii. No written notice shall be required under section i. above if:

(1) The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

(2) The abutting real property is posted with a "No Solicitation" sign ; or

(3) There is no dwelling or other habitable structure on the abutting real property.

iii. No sign shall be placed in the public right-of-way if an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located has denied permission for such placement, or has clearly communicated by any means that such signs are not allowed in the abutting right-of-way.

iv. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate section v. or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage, hazard or violation. Any person who places a portable sign in the public right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

v. Portable signs placed in the public right-of-way shall meet all of the following standards:

(1) Only A-frame type signs are allowed;

(2) Legible contact information shall appear on the sign, including the sign owner's name and address and a telephone number where the sign owner can be reached during the entire time that the sign remains in the right-of-way;

(3) The sign shall be entirely outside the roadway and any shoulder;

(4) The sign shall not be placed in a median, traffic island, or other area within the roadway;

(5) The sign shall be no larger than five square feet in area, counting one side of the sign;

(6) The sign, including the support structure, shall be no taller than 30 inches;

(7) The sign shall be entirely outside the area of a right-of-way corner that is between the lines created by extending the edges of any curb ramp to the property line;

(8) Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway.

(9) The sign shall not obstruct a continuous through pedestrian zone of at least five feet in width;

(10) The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to any of the following:

(A) transit stop areas;

(B) designated disabled parking spaces; or

(C) building exits including fire escapes.

(11) The sign shall not be attached or anchored in any way to trees, other objects or public property, including without limitation utility or light poles, parking meters, the ground or the pavement;

(12) The sign shall not be placed in parking spaces or bicycle paths;

(13) The sign shall not be placed on any driveway, with the exception of a driveway that serves only property owned or occupied by the person placing the sign.

(14) The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the city or another public agency.

**RESOLUTION NO. 2010-16
WEST LINN, OREGON**

**A RESOLUTION OF THE WEST LINN CITY COUNCIL DIRECTING STAFF TO
SUSPEND ENFORCEMENT OF COMMUNITY DEVELOPMENT CODE
SECTION 99.030 B. 1. AS IT RELATES TO PRE-APPLICATION
REQUIREMENTS FOR CERTAIN MINOR DEVELOPMENT APPLICATIONS
THROUGH DECEMBER 31, 2010**

WHEREAS, Subsection 99.030 B. 1. of the West Linn Community Development Code ("CDC") specifically requires a pre-application conference for all development applications listed in CDC Chapter 99, unless there is a specific waiver elsewhere in the CDC; and

WHEREAS, the City processes minor applications for signs; temporary uses; home occupations; temporary use permits; sidewalk use; final plats; lot line adjustments; re-vegetation plans; and appeals for which staff has routinely not required the conduct of pre-application meetings, and

WHEREAS, Subsection 99.030 B. 1. calls for staff to conduct a pre-application conference for each of these minor application types and the CDC does not contain waivers from the pre-application requirement for these minor applications; and

WHEREAS, the application of CDC Subsection 99.030 B. 1. to the minor applications listed above would be overly burdensome, counter productive and may create an undue hardship for applicants; and

WHEREAS, Subsection 99.030 B. 1. creates confusion for those administering the Code as other Sections of the Code specify which types of development applications require pre-applications conferences prior to submittal; and

WHEREAS, the City desires to amend the CDC to require pre-application conferences only for more significant land use applications than those considered to be minor, where it serves the public interest; and

WHEREAS, there is high volume of applications for the uses listed above; and

WHEREAS, the suspension of enforcement of Subsection 99.030 B. 1. for the applications listed above will relieve applicants and staff of unnecessary burden while the City considers possible amendments to the CDC; and

WHEREAS, this Resolution will provide clarification and continuity for Staff, residents and applicants with regard to the pre-application conference requirements;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN THAT:

Section 1: City Staff is hereby directed to suspend enforcement of the provisions of Subsection 99.030 B. 1. of the Community Development Code only for the applications for signs; temporary uses; home occupations; sidewalk uses; final plats; lot line adjustments; re-vegetation plans; and appeals.

Section 2: Staff is directed to initiate amendments to the CDC to consider the exemption of the application types listed in Section 1 from CDC Subsection 99.030 B. 1.

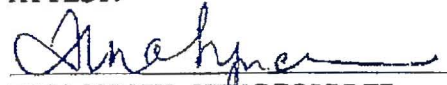
Section 3: That Section 1 of this Resolution is effective from the time this Resolution is adopted through December 31, 2010.

Section 4: This Resolution is effective upon passage.

This Resolution is adopted this 26th day of April, 2010.


JOHN KOVASH, COUNCIL PRESIDENT

ATTEST:


TINA LYNCH, CITY RECORDER

APPROVED AS TO FORM:


CITY ATTORNEY

REVISED