

**GENERAL SUMMARY OF PLANNING COMMISSION MODIFICATIONS TO CODE STREAMLINING  
PROJECT**

December 27, 2013

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**Chronology of Planning Commission meetings on this topic:**

1	<i>April 1, 2013</i>	<i>Joint Work Session with City Council</i>
2	July 3, 2013	Work Session
3	July 31, 2013	Work Session
4	August 7, 2013	Meeting
5	August 14, 2013	Work Session
6	August 19, 2013	Work Session
7	August 21, 2013	Work Session
8	September 4, 2013	Meeting
9	September 11, 2013	Special Meeting
10	October 2, 2013	Meeting
11	October 30, 2013	Special Meeting
12	November 20, 2013	Meeting

**Summary of proposed amendments with description and initiating body:**

The attached table provides information on each amendment proposed: including; a brief description of the amendment, areas of disagreement between Staff and the PC (identified with shading), whether the proposed amendment was reviewed and approved for consideration by the City Council in July, and whether the amendment was initiated by Staff or the PC.

**Additional Attachment:**

*“Amendments for Consideration: July 10, 2013”* This is the complete list of amendments for consideration that the Council approved in July. I updated it on October 15th to identify amendments that Staff was removing from consideration from this code amendment package due to their complexity.

Note that every amendment proposed by Staff is included on the original list that was approved by the EDC and City Council; no new items were added.

**Votes on motions made by the Planning Commission:**

The PC voted on each individual amendment in the package; below are the votes on the more significant items:

- a. Retain de novo appeals – 7:0 in favor
- b. Modify tree protection language consistent with PC recommendation – 7:0 in favor
- c. Deny the amendment package proposed by Staff with “extreme prejudice” – 7-0 in favor
- d. Final PC recommendation for complete package – 7:0 in favor

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
1	Remove 2003 City Council Goals from the Comprehensive Plan.	Annual City Council Goals should not be construed as decision making criteria in the context of the City’s Comprehensive Plan. Creates opportunities for legal challenges due to potential for inconsistent interpretations of the CDC.	Yes	Staff
		Planning Commission disagrees and has rewritten and proposed new “Citizen Vision Goals”. The Planning Commission believes there are elements in the 2003 Goals, such as the City’s opposition to growth in the Stafford Basin, that are not codified elsewhere and that these goals should be retained to ensure these desires are maintained throughout future land-use related decisions.		
2	Modify the definition of “conditional use” to match the CDC definition.	The CDC and Comprehensive Plan have different definitions for “conditional use”. This change makes those definitions consistent and avoids confusion and legal challenge.	Yes	Staff
		The Planning Commission agrees with making the definition consistent between documents, however, recommends including some of the existing terms used in the Comprehensive Plan definition, as new conditional use approval criteria.		
3	Modify portions of Goal 9 of the Comp Plan to emphasize the City’s commitment to economic development.	These changes emphasize the City’s commitment to promoting economic development.	Yes	Staff
		The Planning Commission generally agrees, but has minor disagreements on some of the “Background” language.		

-  Staff and Planning Commission not in agreement on this item
-  Item not approved by Council for consideration at July 10 meeting

No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
4	Amend quasi-judicial appeals to be heard as “on the record” rather than “de novo.”	Requires applicants to submit their best effort at the initial hearing. Reduces the cost associated with appeal hearings and is expected to provide for better quasi-judicial decisions.	Yes	Staff
		The Planning Commission disagrees with this recommendation and suggests the existing de novo process be preserved in its entirety. The Planning Commission believes it provides additional opportunities for input and testimony from residents.		
5	Revise variance criteria regarding topography and takings.	The variance criteria are being rewritten to be clearer and more legally defensible.	Yes	Staff
		The Planning Commission agrees with most of the changes to this section, but wants to keep criteria relating the Comprehensive Plan.		
6	Revise variance criteria to allow dimensional adjustments and minor variances to be approved under less rigorous criteria.	Generally codifies historical interpretation of CDC in these situations and reduces legal liability. This should make it easier for minor deviations from the code to be utilized by applicants.	Yes	Staff
7	Create a new type of variance classification (Special Waiver) for projects that would like to propose a superior design/project that does not meet the letter of the regulations.	This approach would permit more flexibility and creativity in the design and development of commercial sites while ensuring consistency with the purpose and intent of the City’s commercial base zones. It would be voluntary and require greater subjectivity of review. The PC made the initial suggestion for this change prior the Council meeting in July	Yes	PC
8	Reduce the number of paper copies submitted by the applicant from three to one.	Electronic copies are more convenient and save paper and printing costs.	Yes	Staff

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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
9	Eliminate lot dimensional requirements except for lot frontage and width.	Provides greater flexibility in designing lots and, maintains existing lot size and separation between adjacent residences.	Yes	Staff
10	Repeal Chapters 31 (Erosion Control) and 33 (Stormwater Quality and Detention) in their entirety.	These chapters are redundant with construction requirements that are reviewed by the Public Works and Building Departments. Additionally, many of these details are not known at the time of land use approval. These standards are more appropriately reviewed during the construction phase.	Yes	Staff
11	Allow adjacent on-street parking to count toward the required minimum parking total. Also, revise parking standards for consistency with the Regional Transportation Plan.	Allows more land to be used for productive, commercial purposes, and reduces development costs.	Yes	Staff
		Planning Commission proposes to not allow on street parking to count toward the minimum requirement as it will reduce the total number of parking spaces available.		
12	Permit amendments to “approved conditional uses” to be reviewed similarly to amendments to “uses permitted outright.”	Currently, any proposed modification to a previously approved conditional use is reviewed as a new conditional use and subject to the same standards and submittal requirements as new conditional uses. This amendment would allow minor CUP modifications to be addressed the same way as all other development amendments in the City.	Yes	Staff
13	Eliminate the permit process for A-frame signs.	Proposal would add language specifying the size, location and appearance of A-frame signs, but a permit would not be required.	Yes	Staff
14	Change “hotels” from a Conditional Use to a Use Permitted Outright in the General Commercial and OBC Zones.	This would make approval process for a desired use (hotel) easier to navigate and predict. The impacts associated with hotels are similar to impacts of other uses permitted outright in the GC and OBC zones.	Yes	Staff

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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
15	Remove arbitrary standards from Chapter 55 (Design Review).	These changes are proposed in numerous areas of the amendment package and are intended to result in more predictable development.	Yes	Staff
16	Exempt certain minor activities (sidewalks, transit shelters, bike racks) in the public right-of-way and fences on non-residential properties and exterior artwork/statuary from Class I Design Review.	Unnecessary burden for minor public projects. Acts as a disincentive for desirable amenities that benefit the community	Yes	Staff
17	Permit residents to own and maintain egg-laying chickens at their place of residence.	Staff is proposing regulations that would permit household chickens in the City, subject to new nuisance standards proposed in the Municipal Code. This would be consistent with the City's unofficial policy and practice over the past five years.	Yes	Staff
		The Planning Commission disagrees with this proposal.		
18	Permit outdoor seating for commercial uses to extend beyond the storefront with permission from the adjacent property owner.	Would permit restaurants to have more outdoor seating.	Yes	Staff
19	Amend Chapter 60: conditional Use criteria in order to reduce ambiguity	Staff initially proposed modifications to the CUP approval criteria to remove ambiguity and provide more objective standards. However, in September, after several meetings with the PC, Staff recommended removing them from this round of amendments to allow for more detailed consideration.	Yes	Staff/PC

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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
		The PC recommends making changes to the CUP criteria as part of this package. They are similar to Staff’s initial recommendation, but include more detail.		
20	Amend Chapter 28 (Willamette and Tualatin River Protection) to clarify that acquisition and easements will be negotiated with willing sellers in accordance with City policy regarding property acquisition.	<p>The Planning Commission believes this addition gives property owners more comfort in understanding how property easements and dedications will be acquired. There is similar language in the recently approved Trails Master Plan</p> <p>Staff has not had time to make a recommendation on this item yet. The term ‘willing seller’ seems ambiguous. The City’s policies for property (easement) acquisition are already contained in the Municipal Code.</p>	No	PC
21	Amend Chapter 56 (Parks Design Review) to require all paths and trails greater than 200-feet to be reviewed under the Class II Design Review Criteria and decided by the Planning Commission.	<p>The Planning Commission recommends making paths/trails subject to a public hearing by the Planning Commission with more detailed application requirements and criteria. Currently, all trails over 200-feet in length are reviewed and decided by the Planning Director – trails less than 200-feet in length do not require Design Review.</p> <p>Staff has not had time to develop a position on this item yet and would like to better understand the additional impacts that may be associated with the broader review, criteria and public hearing requirements for these public paths/trails. This could have a significant impact on the City’s park system; input from the City’s Parks and Recreation Advisory Board may be of assistance.</p>	No	PC

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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
22	Change Section 55.100(B)(2)(b) to require <u>at least</u> 20 percent of the non-type I and II lands or 20 percent of the significant trees, whichever is greater, to be set aside for tree protection.	The PC wants to modify current ambiguous language that requires applicants to set aside <u>up to</u> 20 percent of non-type I and II lands for tree protection. The City has interpreted the existing code language differently over the years.	Yes	Staff/PC
		Staff initially proposed modifications to this section to require the protection of significant trees, rather than applying tree easements over the ground. During the Planning Commission hearings, staff recommended postponing the item from the current amendment package in order to review the issue more carefully.		
23	Modify Chapter 99 (Procedures for Quasi-judicial Decision-making) to require decisions by a lower approval body to be called up by at least a majority of Planning Commission or City Council members.	Currently, a decision by a lower approval body may be called up, outside of a hearing, by two members of the Planning Commission or City Council. Staff believes that the City Charter and Oregon Public Meetings Law require that the decision to call up a lower decision must be made by a majority of members in a public meeting.	Yes	Staff
		The Planning Commission disagrees and proposes to retain the existing language, allowing two members of the Planning Commission or City Council to call up a decision.		
24	Amend Section 99.040 (Quasi-judicial decision-making) to require that staff reports be made available to the public <u>15</u> days in advance of the scheduled public hearing.	Currently Staff reports are provided 10 days before the hearing, the PC wants the public to have more time to review staff reports.	No	PC
		Staff disagrees with this proposal and believes that decreasing the amount of time that has staff has to review an application and prepare their report and recommendation would jeopardize the quality of staff's analysis of the proposal. (Note: State law requires 7 days.)		

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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
25	Remove language authorizing an additional buffer between commercial and residential uses.	<p>Current language is ambiguous/arbitrary. It states that the City may require an additional 50-foot buffer between commercial structures and residential property, but does not specify when this is required.</p> <p>The Planning Commission agrees the language is ambiguous but disagrees with Staff’s approach and proposes to modify the existing language to clarify that the purpose of the additional buffer is to mitigate “adverse impacts.”</p>	Yes	Staff
26	Add a minimum front yard setback of 20-feet for commercial properties along Highway 43.	<p>The Planning Commission believes the current requirement of no setback in this corridor is inappropriate for uses along this corridor and dangerous, as drivers cannot easily see vehicles and pedestrians approaching from side streets.</p> <p>Staff disagrees with PC’s proposal. There are many reasons to have a zero setback in this area: slows vehicular traffic, improves the appearance of the streetscape, makes it easier to walk along the sidewalks to shop and provides better pedestrian access to stores. Larger setbacks actually reduce safety because they encourage vehicles to travel faster (because drivers perceive a larger field of vision, they are more comfortable travelling faster).</p>	No	PC
27	Revise Section 99.030 to not obligate the City to cite applicable federal and state laws and comprehensive plan policies during the pre-application meeting.	<p>Staff is concerned that, Comprehensive plan policies are written too broadly and subjectively to consistently apply as decision-making criteria. In practice, the City has never fully provided this information.</p> <p>Planning Commission agrees that it is unnecessary to cite applicable state and federal laws but disagrees with removing the citing of comprehensive plan policies for pre-application meeting.</p>	Yes	Staff

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No.	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
28	Amend appeal language to no longer exclude neighborhood associations from paying for appeals	Aside from being inequitable, Staff believes that no-charge appeals encourage frivolous appeals and unnecessarily drives up costs for the City and the applicant.	Yes	Staff
		Planning Commission does not support changes to any practices with neighborhood associations, including fees for appeals.		

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## **CUT THE RED TAPE: AMENDMENTS FOR CONSIDERATION**

*JULY 10*

**Oct. 15: Strike-out items are NOT proposed by Staff for inclusion in the amendment package.**

### **Modifications to Comprehensive Plan**

1. The 2003 City Council Goals are proposed to be removed from the Comprehensive Plan. Staff does not recommend including the annual goals of any individual Council into the Plan.
2. Adding clarifying language stating that the definitions of terms used in the Plan are only applicable when used in the Plan and not to other documents in the City. Also, modifying the definitions of certain terms, such as “conditional use”, that are incorrectly defined and in direct conflict with the CDC.
3. Modifying portions of Goal 9: Economic Development to more accurately recognize the importance Economic Development as a priority in the City and to align it with the City’s approved Economic Development Plan.

### **Modifications to Community Development Code**

1. The City’s land use appeal process is proposed to be modified to have land use appeal hearings be held “on the record” as opposed to the current “de novo” hearings. The scope of the appeal hearing would be limited to the specific issues requested by the appellant. Arguments will be permitted written and orally, but not new evidence would be permitted. However, Staff’s proposal will include allowances to open the record in limited circumstances (i.e. to correct procedural or factual errors).
2. The variance criteria regarding topography and takings requirements, are proposed to be revised (e.g., topographical constraints are not a unique feature to properties in West Linn).
3. The Class I variance limitations and criteria are proposed to be modified to allow applicants greater flexibility in requesting minor modifications to the code that don’t adversely impact the surroundings.
4. ~~Amendments that would recognize that an approved Conditional Use is not subject to future non-conforming use requirements.~~
5. Remove various unnecessary application and submittal requirements throughout the Code, such as the number and type of copies required. The Planning Director will have greater discretion to require electronic or paper copies depending on the application.
6. Eliminate lot dimensional requirements except for area and frontage width.
7. ~~Increase building heights in multi-family residential and commercial zones to five and six floors. These would still be subject to the increased ‘transitional setbacks’ when adjacent to residential housing.~~
8. Remove Stormwater quality/detention and any other public works design standards from the CDC and align them with the West Linn Public Works Design Standards (PWDS). For example, the detailed engineering requirements for stormwater should not be duplicated in the CDC. They are not criteria for review, can cause conflicts; and in any case, are already required under the City’s PWDS.

- ~~9. Revise Conditional Use standard regarding “consistent with applicable policies of the comprehensive plan”. This standard is overly broad, subjective and inconsistent with the purposes of conditional uses. Also, consider refining ‘community need’ and tightening other standards for clarity.~~
10. Allow on-street parking to count toward minimum requirements for new development and revise minimum and maximum parking requirements to be consistent with the Regional Transportation Plan. This will result in a reduction of parking requirements.
- ~~11. Consider a limitation on the extent of improvements that can be requested to rectify non-conforming aspects of a site such that they are proportionate to value of proposed project (e.g., 10 percent).~~
- ~~12. Modify the land use review procedures such that non-discretionary decisions (subdivisions, design review) would be made by the Planning Director. All legislative and discretionary decisions (e.g. Planned Unit Development (PUD), Conditional Use Permit (CUP), rezoning, variances, and certain appeals) would still require Planning Commission approval. This change would ‘move’ non-discretionary decisions currently heard by the Planning Commission back to the Planning Director but would maintain the same, more extensive, notification requirements that currently exist.~~
- ~~13. Require neighborhood association (NA) meetings for only large-scale projects (e.g. for all items requiring Planning Commission approval and a slightly smaller threshold)~~
- ~~14. Simplify the complex and detailed requirements of applicants to request a meeting with NA’s.~~
15. Allow modifications of approved CUP’s to be reviewed under the same standards as a modification to any other development approval. Currently, *any* modification to an approved CUP is required to be reviewed as a new CUP.
- ~~16. Modify the code to require that 20 percent of significant trees be preserved, rather than 20 percent of the site area. Additionally, eliminate the requirement for conservation easements for any individual trees.~~
- ~~17. Eliminate the lot coverage requirement in commercial districts.~~
18. Eliminate permit requirements for temporary A-frame signs. The City has regulations for these signs (which are limited to 60 days), this change would remove the requirement to get a permit and pay a fee.
19. Expand the list of permitted uses in commercial zones (GC and OBC). This would not add any new uses to any district, but instead would make certain uses (hotel in particular) permitted uses in the district rather than conditional uses.
20. Remove a variety of individual arbitrary standards from Chapter 55 (e.g., “manifestly superior”, etc.).
21. Exempt certain minor activities from the Class 1 design review process. This would include many activities in the public right-of-way (sidewalks, transit shelters, bike racks) as well from fences on non-residential property, exterior artwork/statuaries, etc.
22. Create a separate floating zone (“PCD”) with a separate discretionary approval process that would allow commercial developments that do not meet our stringent code requirements, but meet the intent of the Code, as long as the PCD is approved by the City Council.

### **Modifications to Municipal Code**

1. The Tree Removal Permit requirements are proposed to be amended to remove automatic approval of permit in 20 days and make it longer.
2. Sections of both the WLMC and CDC are proposed to be amended to clarify circumstances in which poultry is allowed. The action would codify the City's unofficial policy of permitting chickens in residential district (subject to standards). The policy the City has been using is not consistent with the WLMC or the CDC.

### **Fees**

1. Increase the fees for land use appeals to more accurately capture the costs incurred. Staff also recommends charging all parties (including NA's) the same fee for an appeal as well as clarifying the language on how the Council "calls-up" appeals (in accordance with public meeting laws).
2. Moving some of the current deposit requirements for applications to fixed fees.
3. Allow system development charges (SDC's) to be payable prior to the issuance of a certificate of occupancy rather than at time of building permit.
4. Setting a minimum amount for the bonding requirements of public improvements.
5. Modifying the City's standard language for performance bonds to be consistent with standard practices.
6. Eliminate the 5/8" water meter and establish a standard size (3/4") which will lower the connection fee for some homes.

### **Procedures**

1. Allow outdoor seating areas to extend beyond the building's storefront with permission from the adjacent property owner.

### **Important proposals NOT included with this project**

1. Re-writing the Mixed Use, or transitional zoning, district regulations.
2. Consideration of reductions to the City's SDC's.
3. Re-organizing the CDC in its entirety. Piecemeal changes are always helpful, but it is still extremely confusing, with antiquated and conflicting requirements.
4. Creating Public Use/ROW zoning district to address uses in public facilities, parks, schools, etc.
5. Re-write our non-conforming chapters for legal consistency.