



Memorandum

Date: April 18, 2014

To: West Linn City Council

From: Chris Kerr, Community Development Director

Subject: CDC-13-01 – Economic Development Regulatory Streamlining Project (CDC 13-01)

For discussion at our Monday work session, please find attached a revised table of the proposed CDC amendments for this project. The table has been revised to remove items that you asked not to be considered at this time. The following items were removed:

1. Assessing a fee to neighborhood associations for land use appeals.
2. Modifying the conditional use criteria.
3. Adding language to the Code addressing how riverfront easements will be acquired by the City.
4. Requiring trails over 200 feet to be reviewed by the Planning Commission.

Attachment

Table 1 Summary of proposed CDC and Municipal Code amendments and arguments in support and/or opposition [REVISED APRIL 18, 2014](#)


No. ¹	Proposed amendment	General description/comments	Approved for consideration by CC	Initiated by
Comprehensive Plan				
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, they were not created for that purpose. Their inclusion provides opportunities for legal challenges due to potential for inconsistent interpretations of the CDC.	Yes	Staff
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
3	Modify portions of Goal 9 of the Comp Plan to emphasize the City’s commitment to economic development.	<p>These changes emphasize the City’s commitment to promoting economic development.</p> <p>The Planning Commission generally agrees, but has minor disagreements on some of the “Background” language.</p>	Yes	Staff
Land Use Appeals				

 PC recommendation where Staff and PC not in agreement
 Item not approved by Council for consideration at July 10 meeting


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4	Amend quasi-judicial appeals to be heard as “on the record” rather than “de novo.”	<p>Requires applicants to submit their “best” application during the initial hearing. Reduces the cost associated with appeal hearings and is expected to provide for better quasi-judicial decisions.</p> <p>The Planning Commission disagrees with this recommendation and suggests the existing de novo process be preserved in its entirety. The Planning Commission believes opportunities for input and testimony from residents should never be reduced.</p>	Yes	Staff
5	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.	<p>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.</p> <p>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.</p>	Yes	Staff
Variances and Special Waivers				

- PC recommendation where Staff and PC not in agreement
- Item not approved by Council for consideration at July 10 meeting

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6	Revise variance criteria regarding topography, takings and conditional uses.	<p>Staff suggests rewriting the variance criteria for clarity and to be more legally defensible. One of the changes includes removing the requirement to apply Comprehensive plan policies to variance applications.</p> <p>The Planning Commission agrees with most of the changes to this section, but wants to keep criteria relating to the policies in the Comprehensive Plan.</p>	Yes	Staff
7	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, while still requiring approval criteria to be met.	Yes	Staff
8	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 but will require greater subjectivity of review. The PC made the initial suggestion for this change prior to the Council meeting in July	Yes	PC
Procedural Amendments				

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9	Reduce the number of paper copies submitted by the applicant from three to one.	Electronic copies save paper and printing costs and are often requested in-lieu of paper copies.	Yes	Staff
10	Exempt certain minor activities (sidewalks, transit shelters, bike racks in the public right-of-way, fences on non-residential properties from Class I Design Review.	Unnecessary burden for minor public projects. Acts as a disincentive for desirable amenities that benefit the community.	Yes	Staff
11	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 amendments to all other approved development in the City.	Yes	Staff
12	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

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
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13	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
Greater Flexibility				
14	Eliminate lot dimensional requirements except for lot frontage and width.	<p>The current provisions have proven ineffective. This change will provide greater flexibility in designing lots and, will maintain existing lot size and separation between adjacent residences.</p> <p>The Planning Commission recommends making some modifications, but would maintain the dimensional requirements on smaller lots. They also recommend increasing some commercial setbacks.</p>	Yes	Staff
15	Allow adjacent on-street parking to count toward the required total minimum parking. Also, revise parking standards for consistency with the Regional Transportation Plan.	<p>Allows more land to be used for productive, commercial purposes, and reduces development costs; which encourages redevelopment.</p> <p>Planning Commission proposes to not allow on street parking to count toward the minimum requirement as it will reduce the total number of available parking spaces.</p>	Yes	Staff

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16	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 Planning Department's policy and practice over the past five years.	Yes	Staff
		The Planning Commission disagrees with this proposal.		
17	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
Remove Ineffectual and Redundant Language				

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18	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
19	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.	<p>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.</p> <p>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.</p>	Yes	Staff/PC
20	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.	<p>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.)</p> <p>Currently Staff reports are provided 10 days before the hearing. The PC wants the public to have more time to review staff reports.</p>	No	PC

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21	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 wants to require that Staff cite all comprehensive plan policies at the pre-application meeting.</p>	Yes	Staff

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