

The former West Linn Council expected Red Tape code amendments would cut down on the number of appeals. But the right to appeal a land use decision is an important part of Oregon's Land Use Law. The main goal of removing "Denovo" was to expedite land use decisions by not allowing any new information to be heard during an appeal. However, if we want to make the best decision possible, we need to have the most complete and accurate information possible.

For example, the Planning Commission approved a hotel application in 2008 without knowing it posed safety hazards. A report from the TVFR Fire Marshall dated 4/16/2009 revealed that the hotel could become a potential fire trap if built as planned. Denovo made it possible for the City Council to hear that important new information.

Although Denovo allowed new information to be heard, the application itself had to stay basically the same. CDC 99.120 required applicants to return to the original hearing body if changes exceeded 10% or start over if changes exceeded 25% and CDC 99.330 limited substantial changes to approved applications.

However, the 2013 City Council interpreted Denovo differently when they allowed Lake Oswego/Tigard to present a significantly "new" application on appeal. As a result, Denovo was blamed for the LOT appeal.

I do not see a down side to Denovo. I have never heard of information being held back from PC hearings in hopes of a CC appeal. No developer or person I know would want to spend more time and money on an appeal if they don't have to. Here are some suggestions for restoring Denovo with clear definitions:

1. Require a basis for the appeal with the ability to raise additional issues.
2. Denovo is the ability for any party to present new information about an essentially unchanged approved application on appeal. The applicant must return to the original hearing body if changes exceed 10% or start over if changes exceed 25%.

