



Agenda Report 2017-06-19-01

Date: June 7, 2017

To: Russ Axelrod, Mayor
Members, West Linn City Council

From: Darren Wyss, Associate Planner, Community Development Department *DW*

Through: John Boyd, Planning Manager *JB*
Eileen Stein, City Manager *ES*

Subject: Community Development Code Amendment (CDC-17-01)

Purpose

To consider a proposed amendment to Community Development Code Chapter 21 to permit special use areas on three City owned properties in the Office Business Center (OBC) zone.

Question(s) for Council:

Should the Council adopt this Community Development Code amendment as recommended by the Planning Commission?

Public Hearing Required:

Yes

Background & Discussion:

The White Oak Savanna Park properties were recommended for acquisition/development in both the West Linn 1998 Park, Recreation and Open Space Plan, and the 2007 Park, Recreation and Open Space Plan. In the 2007 Plan, the properties were identified as suitable for special use areas and trails, although the OBC zone currently only permits Indoor Participant Sports and Recreation. This designation would not allow a Special Use Area park. Parks staff has concluded that a land use map designation of Special Use Area, which is defined in Section 56.015 of the Development Code, will allow the proposed nature play area park use, which again is not currently allowed in the OBC zone.

Subsequent to the 2007 Park Plan being adopted, the City worked to acquire the properties and the following series of events occurred:

2009 – At the direction of City Council, the City acquired approximately 14 acres of the White Oak Savanna properties with the help of grants from Metro and the Oregon Parks and Recreation Department.

2016 – At the direction of City Council, the City acquired the remaining approximately 6 acres of the White Oak Savanna properties with the help of another Metro grant and donations from the community.

2017 – The City Council dedicated the White Oak Savanna properties as a City park.

In order for the City to take the next step and develop the nature play area in the park, the land must be zoned to allow this use. The City Attorney was asked by the City Council how the City might accomplish this through a text amendment of the OBC zone without permitting that use on all properties within the zone. The City Attorney indicated this could be accomplished through a text amendment which included Special Use Area as a permissible use, subject to mapping the specific properties to be allowed this use. The Council authorized staff to initiate such an amendment.

The Planning Commission held its legislative public hearing on the proposed amendment on May 17, 2017 and recommended approval (see Attachment 2). One written comment was received after the Planning Commission public hearing (see Attachment 4). Staff has provided response to the comments for Council consideration (see Attachment 4).

The Council received a briefing and reviewed the proposed amendment at a work session on June 5, 2017.

The proposed amendment is found in Ordinance 1660 (see Attachment 1).

Budget Impact:

None

Council Options:

1. Adopt the proposal as recommended by the Planning Commission.
2. Adopt the proposal as recommended by the Planning Commission with changes.
3. Do not adopt the proposal as recommended by the Planning Commission.

Staff Recommendation:

Staff supports the Planning Commission recommendation and recommends Council approval of Ordinance 1660.

Potential Motions:

1. Move to adopt Ordinance 1660 as recommended by the Planning Commission.
2. Move to adopt Ordinance 1660 with the following changes to the Planning Commission recommendation.
3. Move to not adopt Ordinance 1660 as recommended by the Planning Commission.

Attachments:

1. Ordinance 1660
2. Planning Commission Recommendation Memorandum
3. Planning Commission Staff Report, dated May 17, 2017
4. Public Comments and Associated Memorandum

ORDINANCE NO. 1660

AN ORDINANCE RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE SECTION 21.030(10) TO ALLOW OUTDOOR RECREATION AS A FORM OF PERMITTED USE IN THE OFFICE BUSINESS CENTER (OBC) ZONE ONLY ON THE PROPERTY LOCATED AT 2445 TANNER DRIVE, WEST LINN FOR PURPOSES OF A CITY PARK AND DECLARING AN EMERGENCY

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, in 2009 at the direction of City Council, the City agreed to take title to approximately 14 acres, otherwise known as Tax Lots 21E 35D 0704 and 21E 35D 0700; and

WHEREAS, in 2016 at the direction of City Council, the City agreed to take title to approximately 6 acres, otherwise known as Tax Lot 21E 35D 0703, and completed the transfer of the three White Oak Savanna properties; and

WHEREAS, by Resolution No 2017-04, the City Council designated the property as City-owned White Oak Savanna Park in accordance with the West Linn Charter and further directed staff to amend the Community Development Code to allow outdoor recreation as a form of permitted recreation in the Office Business Center (OBC) Zone only for this site; and

WHEREAS, The White Oak Savanna Park is now complete and consists of approximately 20 acres of park land; and

WHEREAS, the City is moving forward with the plans for construction of the nature play area at The White Oak Savanna Park; and

WHEREAS, the Parks and Recreation Department indicates that the park will closely align with the definition of a “special use area” as defined by the 2007 Parks, Recreation and Open Space Plan; and

WHEREAS, adding that use to Community Development Code Section 21.030 implements the City’s Council’s direction that the property be used for outdoor recreation;

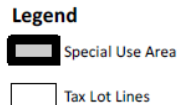
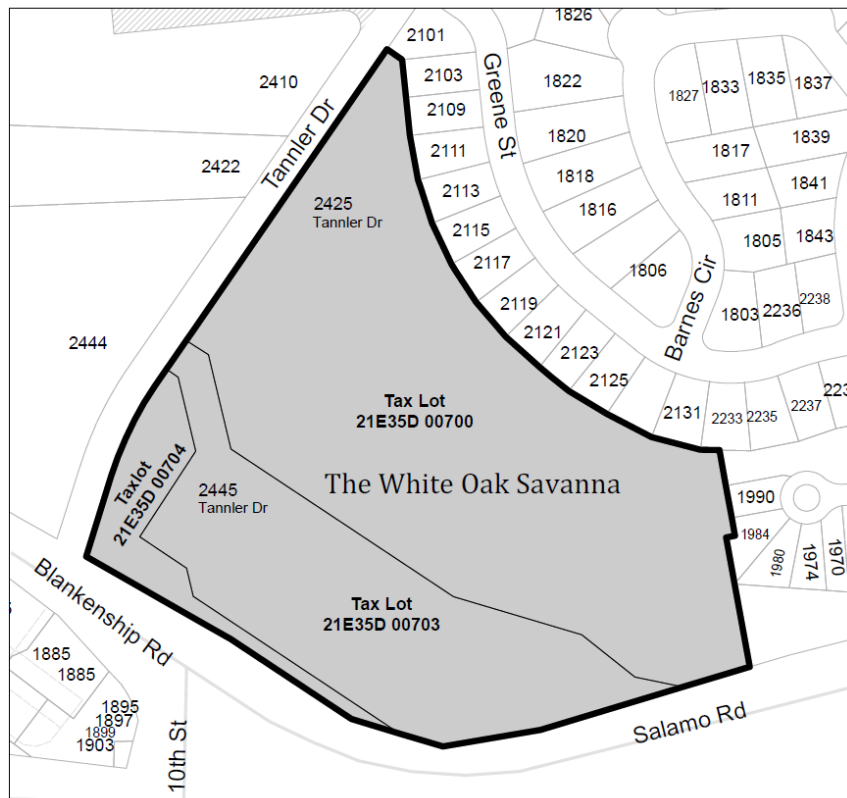
NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Amendment. West Linn Community Development Code Section 21.030, Permitted Uses, is amended to read as follows:

21.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care.
6. Financial, insurance and real estate services.
7. Hotel/motel, including those operating as extended hour businesses.
8. Medical and dental services.
9. Parking facilities.
10. Participant sports and recreation, indoor.
11. Personal services and facilities.
12. Professional and administrative services.
13. Utilities, minor.
14. Transportation facilities (Type I).
- 15. Special use areas only if located on those properties indicated on the map below.**



SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

SECTION 5. Effective Date. Conditions in the City of West Linn are such that this Ordinance is necessary for the immediate preservation of the public health, peace, welfare and safety. An emergency is declared to exist in order to fulfill the terms of the intergovernmental agreements for this project and to take advantage of improved weather conditions for construction of the project. To accomplish this, notices must be given to Metro, DLCD and other entities and the park plans must go through the City's design review process, all of which put the project on a very tight timeline to avoid the loss of funds and avoid weather-related construction delays; therefore, this Ordinance shall be in full force and effect after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the 19th day of June 2017, and duly PASSED and ADOPTED this ____ day of _____, 2017.

RUSSELL B. AXELROD, MAYOR

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY



Memorandum

Date: May 18, 2017
To: West Linn City Council
From: West Linn Planning Commission
Subject: CDC-17-01 Recommendation

The Planning Commission held a public hearing on May 17, 2017 for the purpose of making a recommendation to the City Council on the adoption of the proposed Community Development Code Amendment found in Ordinance 1660 (Land Use File CDC-17-01). The proposed amendment was previously discussed at the Commission's May 3, 2017 worksession.

After conducting the public hearing, the Commission deliberated and voted unanimously (5 to 0) to recommend adoption of the proposed amendment as presented in Ordinance 1660. Neither written nor oral testimony was submitted prior to or at the public hearing.

Respectfully,

Charles Mathews
Vice-Chair



CITY OF
West Linn

**STAFF REPORT
FOR THE PLANNING COMMISSION**

FILE NUMBER: CDC-17-01

HEARING DATE: May 17, 2017

REQUEST: To consider a recommendation to City Council for adoption of proposed text amendment to West Linn Community Development Code Chapter 21.

APPROVAL CRITERIA: Community Development Code (CDC) Chapters 98 and 105

STAFF REPORT PREPARED BY: Tim Ramis, City Attorney

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GENERAL INFORMATION

- APPLICANT:** City of West Linn
- DESCRIPTION:** A proposal for a text amendment to West Linn Community Development Code Section 21.030(10).
- APPROVAL CRITERIA:** Community Development Code (CDC) Chapter 98 provides administrative procedures for legislative amendments to the Community Development Code. Section 98.100 of the CDC lists the factors upon which a decision shall be based. These are briefly described below and addressed in greater detail in a separate Section of this report:
1. The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes;
 2. Any federal or state statutes or rules found applicable;
 3. Applicable plans and rules adopted by the Metropolitan Service District (Metro);
 4. The applicable Comprehensive Plan policies and map; and,
 5. The applicable provisions of implementing ordinances.
- PUBLIC NOTICE:** Legal notice was published in the West Linn Tidings on May 4, 2017 and provided to required public agencies and persons who requested notice in writing on May 4, 2017.
- 120-DAY RULE:** Not applicable to this legislative action.

EXECUTIVE SUMMARY

Staff is seeking a recommendation from the Planning Commission regarding the attached May 4, 2017 Hearing Staff Report for “CDC 17-01 – Amendment to Section 21.030(10) of the Community Development Code”. This staff report supports the proposed amendment to Section 21.030(10) of the Community Development Code (CDC). The purpose of the proposed amendment is to modify the CDC to address Office Business Center zoning, including use permitted outright for “Special Use Areas” as that term is defined in CDC Section 56.015 and the 2007 Parks, Recreation and Open Space Plan.

Generally, this amendment addresses City Council’s direction in Resolution No. 2017-04 to amend Community Development Code Section 21.030(10) to allow outdoor recreation as a form of permitted recreation in the Office Business Center (OBC) zone only on this site. Currently, the only form of recreation that is a permitted use in this zone is that of indoor participant sports and recreation. The amendment was initiated by the City Council pursuant to CDC 98.030(B).

This project is a preliminary step for the development of the White Oak Savanna Park identified the 2007 Parks, Recreation and Open Space Plan.

RECOMMENDATION

Staff recommends that the Planning Commission consider the proposed CDC amendment, if warranted, revise the amendment, and **RECOMMEND** approval of the draft ordinance to the City Council.

PROJECT BACKGROUND

The 2007 Parks, Recreation and Open Space Plan recommended the acquisition and development of approximately 20 acres identified as the Oak Savannah area located above Interstate 205 for a special use site. Subsequent to the 2007 Park Plan being adopted, the City worked to acquire the properties and the following series of events occurred:

2009 – At the direction of City Council, the City acquired approximately 14 acres of the White Oak Savanna properties with the help of grants from Metro and the Oregon Parks and Recreation Department.

2016 – At the direction of City Council, the City acquired the remaining approximately 6 acres of the White Oak Savanna properties with the help of another Metro grant and donations from the community.

2017 - By Resolution No 2017-04, the City Council designated the property as City-owned White Oak Savanna Park in accordance with the West Linn Charter and further directed staff to amend the Community Development Code to allow special use areas as a form of permitted use in the Office Business Center (OBC) Zone only for this site.

This proposed amendment would allow the City to move forward with the plans for construction of a nature play area at The White Oak Savanna Park. The proposed amendment was introduced and discussed at a May 3, 2017 work session of the Planning Commission. All of the above actions are in addition to the required public hearing notification processes and procedures that will be undertaken with the upcoming hearing before the Planning Commission (May 17, 2017).

PUBLIC COMMENTS

At the time this Staff Report was prepared, the City had received no written comment on the proposed CDC amendment.

ADDENDUM
PLANNING COMMISSION STAFF REPORT
May 4, 2017

APPLICABLE CRITERIA AND COMMISSION FINDINGS

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative

CDC 98.040 Duties of Director

A. The Director shall:

1. *If appropriate, or if directed by the City Council or Planning Commission in their motion, consolidate several legislative proposals into a single file for consideration;*
2. *Upon the initiation of a legislative change, pursuant to this chapter:*
 - a. *Give notice of the Planning Commission hearing as provided by CDC [98.070](#) and [98.080](#);*

Findings: The Planning Commission public hearing will be held on May 17, 2017, with the City Council public hearing scheduled for June 12, 2017. Legislative notice was provided as required and documentation can be found in Exhibit PC-1.

b. Prepare a staff report that shall include:

- 1) *The facts found relevant to the proposal and found by the Director to be true;*
- 2) *The Statewide planning goals and rules adopted under Chapter 197 ORS found to be applicable and the reasons why any other goal or rule is not applicable to the proposal except that goals 16 through 19 which are not applicable to the City of West Linn need not be addressed;*
- 3) *Any federal or State statutes or rules the Director found applicable;*
- 4) *Metro plans and rules the Director found to be applicable;*
- 5) *Those portions of the Comprehensive Plan found to be applicable, and if any portion of the plan appears to be reasonably related to the proposals and is not applied, the Director shall explain the reasons why such portions are not applicable;*
- 6) *Those portions of the implementing ordinances relevant to the proposal, and if the provisions are not considered, the Director shall explain the reasons why such portions of the ordinances were not considered; and*
- 7) *An analysis relating the facts found to be true by the Director to the applicable criteria and a statement of the alternatives; a recommendation for approval, denial, or approval with modifications; and at the Director's option, an alternative recommendation;*

Findings: Relevant facts and associated analysis for applicable Statewide Planning Goals, federal and state statutes and rules, Metro plans and rules, West Linn Comprehensive Plan goals and policies, and West Linn Community Development Code criteria are found in the sections of the Staff Report below.

- c. Make the staff report and all case file materials available 10 days prior to the scheduled date of the public hearing under CDC [98.070](#);*

Findings: The staff report, proposed amendment, and all other associated project materials were made available on May 5, 2017, twelve days prior to the hearing.

- d. Cause a public hearing to be held pursuant to CDC [98.070](#);*

Findings: The West Linn Planning Commission is scheduled to hold the first evidentiary public hearing on May 17, 2017, with the West Linn City Council scheduled to hold its public hearing and make a final decision on June 12, 2017.

CDC 98.100 Standards for Decision

A. The recommendation of the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

1. The Statewide planning goals and rules adopted under Chapter 197 ORS and other applicable State statutes;

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for the adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

Findings: The City has a citizen involvement program which has been acknowledged by the State. This legislative process to review the proposed amendment will require two public hearings (one before the Planning Commission on May 17th and one before City Council on June 12th pursuant to CDC Chapter 98).

Information was distributed and available throughout the process via the City’s website. All of the aforementioned venues provided the opportunity for gathering feedback and comments.

As part of the legislative process, public notice requirements for both the Planning Commission and City Council public hearings were met (see Exhibit PC-1). The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the May 4, 2017 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City’s webpage where the draft of the proposed amendment can be viewed.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework. The Comprehensive Plan was acknowledged by DLCD as being consistent with the statewide planning goals.

Findings: The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The amendment to the West Linn Community Development Code is being undertaken to update the City’s acknowledged land use planning program in a manner consistent with current conditions and citizen values. The amendment is being processed in accordance to the City’s adopted procedures, which requires any applicable statewide planning goals, federal or state statutes or regulations, Metro regulations or plans, comprehensive plan policies, and the City’s implementing ordinances be addressed as part of the decision-making process. The amendment is being processed as a post-acknowledgement plan amendment (PAPA) and noticing requirements have been met. All applicable review criteria have been addressed within this staff report; therefore, the requirements of Goal 2 have been met.

Statewide Planning Goal 5 – Natural Resources:

This goal requires the inventory and protection of natural resources, open spaces, historic sites and areas.

Findings: The City is currently in compliance with the State’s Goal 5 program and Metro’s Title 13: Nature in Neighborhoods program, which implements Goal 5. The amendment does not alter the City’s

acknowledged Goal 5 inventories or associated land use programs. No changes will occur to current natural resource protections. As a result, the amendment is in compliance with Goal 5 process requirements.

Statewide Planning Goal 6 – Air, Water, and Land Resource Quality:

To maintain and improve the quality of air, water, and land resources of the state.

Findings: The City is currently in compliance with Metro’s Title 3: Water Quality and Flood Management program, which implements Goal 6. The amendment does not alter the City’s acknowledged land use programs regarding water quality and flood management protections. As a result, the amendment is in compliance with Goal 6.

Statewide Planning Goal 7 – Areas Subject to Natural Hazards:

To protect people and property from natural hazards.

Findings: The City is currently in compliance with Goal 7 and Metro’s Title 3: Water Quality and Flood Management program. The amendment does not alter the City’s acknowledged Goal 7 land use programs. No changes will occur to current natural hazard protections. As a result, the amendment is in compliance with Goal 7.

Statewide Planning Goal 8 – Recreational Needs:

This goal requires the satisfaction of the recreational needs of the citizens of the state and visitors.

Findings: The proposed amendment does not address or alter any City recreational programs or land use requirements related to parks and recreation. The proposed amendment will allow the creation of a city park with unique natural features including a white oak tree grove, a panoramic view from the park and a nature play area all easily accessed from the I-205 freeway. The amendment is in compliance with Goal 8.

Statewide Planning Goal 9 – Economic Development:

To provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Findings: The City is currently in compliance with Goal 9 and Metro’s Title 1: Requirements for Housing and Employment Accommodation and Title 4: Industrial and Other Employment Areas. The amendment does not alter the City’s compliance with Goal 9. The property is not shown on Metro’s Title 4 map.

Statewide Planning Goal 10 – Housing:

To provide adequate housing for the needs of the community, region and state.

Findings: The City is currently in compliance with Goal 10 and the Metropolitan Housing Rule (OAR 660-007/Division 7), and Metro’s Title 1: Requirements for Housing and Employment Accommodation. The amendment does not alter the City’s compliance with Goal 10 and is consistent with this goal.

Statewide Planning Goal 11 – Public Facilities and Services:

To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as framework for urban and rural development.

Findings: The City is currently in compliance with Goal 11 through its acknowledged Comprehensive Plan. This includes an adopted Public Facility Plan as required by Oregon Revised Statute 197.712 and Oregon Administrative Rule 660-011. The amendment does not alter the City's compliance with Goal 11 and is consistent with this goal.

Statewide Planning Goal 12 – Transportation:

To provide and encourage a safe, convenient, and economic transportation system.

Findings: The City is currently in compliance with Goal 12 and Metro's Regional Transportation Plan through its acknowledged Comprehensive Plan and TSP as required by Oregon Administrative Rule 660-012 (Transportation Planning Rule). The amendment does not alter the City's compliance with Goal 12 and is consistent with this goal.

Statewide Planning Goal 13 – Energy Conservation:

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.

Findings: The City is currently in compliance with Goal 13 through its acknowledged Comprehensive Plan. The amendment does not alter the City's compliance with Goal 13 and is consistent with this goal.

Statewide Planning Goal 14 – Urbanization:

To provide for orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Findings: The City is currently in compliance with Goal 14 and Metro's Title 11: Planning for New Urban Areas through its acknowledged Comprehensive Plan and land use regulations. The City also has a signed Urban Growth Management Agreement with Clackamas County as required by ORS 195.065. The amendment does not alter the City's compliance with Goal 14 and is consistent with this goal.

Statewide Planning Goal 15 – Willamette River Greenway:

To provide for keeping the land green along the banks of the river and providing for recreation access.

Findings: The City is currently in compliance with Goal 15 through its acknowledged Comprehensive Plan and land use regulations. The amendment does not alter the City's compliance with Goal 15 and are consistent with this goal.

Conclusion: Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable Statewide Planning Goals.

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

Findings: Staff is not aware of any applicable state or federal regulations that are impacted by the proposed draft ordinance. The City has an acknowledged Comprehensive Plan and associated land use regulations that comply with applicable state statutes and administrative rules. The Oregon Department of Land Conservation and Development and the Oregon Department of Transportation were sent notice of the proposed amendment and provided the opportunity to comment. The amendment does not alter the City's compliance with any state or federal statutes or rules.

Conclusion: Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable federal or state statutes or rules.

3. *Applicable plans and rules adopted by the Metropolitan Service District;*

The Metro Urban Growth Management Functional Plan

Findings: The City of West Linn is currently in compliance with the Metro Urban Growth Management Functional Plan (UGMFP). Metro staff was sent notice of the proposed amendment and provided the opportunity to comment. The proposed change will not impact compliance with requirements found in the UGMFP.

Conclusion: Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable plans and rules adopted by Metro.

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

Goal 1: Citizen Involvement

Policy 4. Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.

Findings: As part of the legislative process, public notice of the Planning Commission and City Council public hearings was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the May 4, 2017 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed.

Policy 5. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.

Findings: Information was distributed throughout the process via the City website. The Planning Commission held a work session on May 3, 2017 to discuss the proposal.

As part of the legislative process, public notice of the Planning Commission and City Council public hearings was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the May 4, 2017 issue of the West Linn Tidings. The notice invited public input and included the phone number of a contact person to answer questions. The notice also included the address of the City's webpage where the entire draft of the proposed amendment could be viewed. The aforementioned venues provided the opportunity for gathering feedback and comments.

Goal 2: Land Use Planning

Section 3: Mixed Use/Commercial Development

Policy 4. Design and locate existing or proposed commercial uses in a manner that:

a. Protects remaining natural spaces, significant stands of trees, wildlife corridors, streams/riparian zones, and historic resources.

Finding: The proposed amendment is consistent with the policy of protecting remaining natural spaces and significant stands of trees. The property subject to the proposed amendment is approximately 20 acres of natural area which includes a grove of white oak trees and a panoramic view. The property is recommended as a special use area in the West Linn 1998 Park, Recreation and Open Space Plan and the 2007 Park, Recreation and Open Space Plan and is shown in the City’s comprehensive plan as part of the Goal 5 Wildlife Habitat Inventory. The property is currently zoned Office Business Center (OBC). The proposed amendment would protect the natural space while providing recreational opportunities for those employees and residents using the adjacent commercial area.

Section 5: Intergovernmental Coordination

Policy 1. Maintain effective coordination with other local governments, special districts, state and federal agencies, Metro, the West Linn-Wilsonville School District, and other governmental and quasi-public organizations.

Policy 4. Coordinate with Metro planning activities on all areas in which Metro has jurisdiction and as specified in Goal 14 of this Plan.

Finding: Notice was sent to West Linn-Wilsonville School District, Metro, Clackamas County, ODOT, and all West Linn Neighborhood Associations. They were provided the opportunity to review and comment on the amendment proposed for adoption.

Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources Goals

Scenic Environment

Policy 2. Preserve prominent scenic views as seen from public streets, parks, and open spaces in a manner consistent with other goals and policies to protect natural resources.

Finding: The City’s 2007 Parks, Recreation and Open Space Plan identifies “Oak Savannah Park” as a proposed park (Page 61 - 2007 West Linn Parks, Recreation and Open Space Plan). The plan states: “[T]his 20-acre proposed site, located adjacent to the ODOT property (SU-3), also offers panoramic views.” The proposed amendment is consistent with preserving the prominent scenic view as seen from the park and will provide a buffer area around the grove of white oak trees located on the property between the I-205 freeway and a commercial area. In addition, the proposed park will provide habitat for wildlife and prevent erosion by maintaining vegetation on a hillside above the freeway.

Natural Environment

Policy 3. Provide buffer areas around heritage trees, significant trees, and tree clusters to ensure their preservation.

Finding: As referenced above, the City’s 2007 Parks, Recreation and Open Space Plan identifies “Oak Savannah Park” as a proposed park. The plan recommends that the area “could be used for special

uses, *as an oak preservation area*, and as a trailhead.” (Emphasis added). The proposed amendment is consistent with preserving the oak trees and providing buffer areas around these significant trees because the trees will have a buffer from the freeway to the south and the adjacent commercial area. The proposed text amendment to allow a special use area will ensure the trees’ preservation as the trees will be located in a carefully designed nature play area.

Policy 7. Enhance and expand vegetation, particularly native species, on hillsides and in natural areas to prevent erosion and improve wildlife habitat.

Finding: The proposed amendment will allow for creation of a special use area on approximately 20 acres located on the hillside above the I-205 freeway. The property contains a grove of white oak trees which have been identified by the City since at least 1998 as potential park property. In addition, the property is identified on the City’s Goal 5 Wildlife Habitat Inventory (Figure 5-4, Goal 5, City of West Linn Comprehensive Plan). The planned special use area will allow the City the opportunity to enhance and expand vegetation in the grove and natural area through careful planting and maintenance, with the result being erosion prevention and improved habitat.

Policy 10. Manage open space, habitat, and ecological/scientific areas as identified in the West Linn Goal 5 inventory and protection plan in order to preserve their unique qualities.

Finding: The property subject to proposed amendment is identified in the City’s Goal 5 Wildlife Habitat Inventory (Figure 5-4, Goal 5, City of West Linn Comprehensive Plan). The proposed amendment will allow the City to manage this habitat and preserve its unique quality and is consistent with the property’s inclusion in the inventory.

Policy 11. Control activities and uses within the areas identified above to maintain ecological values, while providing for compatible recreational and educational activities.

Finding: The City has designated the property subject to the proposed amendment as a city park thereby making the property subject to city charter provisions, and design review should the proposed amendment be approved. Further the City Council has directed that the area be used for outdoor recreation. Recognizing the unique features of the area, the City is planning to create a nature play area. The design review process will provide the opportunity for planning and input on the activities and uses within the special use area while ensuring a balance between the needs of nature and recreational and educational activities.

Policy 15. Preserve natural resource areas through public acquisition and other methods such as conservation easements.

Finding: The area subject to the proposed text amendment contains a grove of white oak trees which has been identified by the City since at least 1998 as potential park property. The proposed park property was recommended for acquisition/development in both the West Linn 1998 Park, Recreation and Open Space Plan and the 2007 Park, Recreation and Open Space Plan. The City acquired approximately 14 acres in 2009 and acquired an additional 6 acres in 2016. The City Council dedicated the acquired property as a city park by Resolution No. 2017-04. The proposed text amendment is consistent with City’s goal of preserving natural resources through public acquisition.

Goal 8: Parks and Recreation

Policy 2. Develop and maintain the City's park system based on the following classification system:

- a. linear parks and trails*
- b. mini-parks*
- c. neighborhood parks*
- d. community parks*
- e. regional parks*
- f. special use areas*
- g. natural areas/greenways*
- h. landscaped areas*

Finding: The proposed amendment is consistent with the City's park system classification. The 2007 Park, Recreation and Open Space Plan identified the property as a proposed special use area (Figure 6. Proposed Park System). The property is currently zoned Office Business Center which only permits indoor participant sports and recreation. The proposed amendment will allow use of the property as a special use area, consistent with the City's parks plan.

Policy 3. Provide facilities that meet the needs of existing or projected city residents, including children, young adults, families, handicapped persons, and the elderly.

Finding: The proposed amendment will allow the property to be used as a special use area. The subsequent design review process will be used to address the needs of the community. As a special use area, the City has flexibility in the design of the park to ensure it meets the needs of all residents with a combination of play area, natural area and trails.

Policy 4. Provide a range of active/passive and structured/non-structured recreation experiences.

Finding: With the site consisting of approximately 20 acres, there is the opportunity to provide natural areas and trails, the more active play areas, and panoramic vistas unique to the City's park system. The proposed text amendment to allow a special use area would allow the City to provide a range of experiences consistent with this goal.

Policy 5. Provide for specialized recreation needs such as soccer fields, baseball diamonds, tennis courts, swimming pools, senior centers, and other facilities that have City-wide demand, based on the 2007 Parks, Recreation and Open Space Plan and the 2013 West Linn Trails Plan.

Finding: The proposed amendment is consistent with the recreation needs identified in the 2007 Parks, Recreation and Open Space Plan and the 2013 West Linn Trails Plan. The parks plan recommends acquisition and use of the property as a special use area. The proposed amendment will zone the property for a special use area. The trails plan shows a Secondary Route, Off-street Trail crossing the property (Map 9: Off-street & In Right-of-Way Trails By Route Classification, Page 39). The proposed trail is allowed in a special use area. The special use area will provide specialized recreation, as identified by the respective plans, which is unique to this property.

Policy 6. Design City parks to encourage best use consistent with their natural features and carrying capacity.

Finding: The proposed amendment will allow for recreational use of the property consistent with the views, the white oak savanna and the rather large size of the proposed park. It will offer appropriate activities and areas to enjoy a number of activities such as trails, bird watching, play areas, picnicking and other uses consistent with the park's natural features.

Policy 9. Plan for park usage of a quiet, contemplative nature as well as for more active uses such as athletics.

Finding: The proposed amendment will allow use of the property as a special use area. The size of the park, the white oak grove and the view will allow quiet, contemplative use of the park while other parts of the property may be utilized for a play area.

Goal 9: Economic Development

Policy 11. Encourage the economic vitality of the four existing commercial areas.

Finding: The proposed amendment would allow for the creation of a park adjacent to a commercial area. The proposed park will make nearby employment oriented development more attractive by providing recreational opportunities for employees within walking distance.

Goal 12: Transportation

Pedestrians

6. Implements the recommendation in the City's Transportation System Plan and 2013 West Linn Trails Plan.

Finding: The proposed amendment is consistent with the recommendation found in the 2013 West Linn Trail System Plan for a Secondary Route, Off-Street Trail to be located on the property (Map 9: Off-street & In Right-of-Way Trails By Route Classification, Page 39).

Conclusion: Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable West Linn Comprehensive Plan policies and map.

5. The applicable provisions of the implementing ordinance.

Finding: Staff is not aware of any additional applicable provisions, which are not found above, of the implementing ordinances related to the proposed amendment.

Conclusion: Based on the analysis above, the Commission finds the proposed amendment is consistent with applicable provisions of the implementing ordinance.

EXHIBIT PC-1 – AFFIDAVIT OF NOTICE AND MAILING PACKET

AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

GENERAL

File No. CDC-17-01 Applicant's Name COAL
Development Name _____
Scheduled Meeting / Decision Date 5-17-17

NOTICE: Notices were sent at least 20 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE A ✓

A. The applicant (date) _____ (signed) _____
B. Affected property owners (date) _____ (signed) _____
C. School District/ Board (date) 5-4-17 (signed) J. Shroyer
D. Other affected gov't. agencies (date) 5-4-17 (signed) J. Shroyer
E. Affected neighborhood assns. (date) 5-4-17 (ALL) (signed) J. Shroyer
F. All parties to an appeal or review (date) _____ (signed) _____

At least 10 days prior to the scheduled hearing or meeting, notice was published/posted:

Tidings (published date) 5-4-17 (signed) J. Shroyer
City's website (posted date) 5-4-17 (signed) J. Shroyer

SIGN

At least 10 days prior to the scheduled hearing, meeting or decision date, a sign was posted on the property per Section 99.080 of the Community Development Code.

(date) _____ (signed) _____

NOTICE: Notices were sent at least 14 days prior to the scheduled hearing, meeting, or decision date per Section 99.080 of the Community Development Code. (check below)

TYPE B

A. The applicant (date) _____ (signed) _____
B. Affected property owners (date) _____ (signed) _____
C. School District/ Board (date) _____ (signed) _____
D. Other affected gov't. agencies (date) _____ (signed) _____
E. Affected neighborhood assns. (date) _____ (signed) _____

Notice was posted on the City's website at least 10 days prior to the scheduled hearing or meeting.
Date: _____ (signed) _____

STAFF REPORT mailed to applicant, City Council/Planning Commission and any other applicable parties 10 days prior to the scheduled hearing.

(date) 5-5-2017 (signed) Don S. Cole

FINAL DECISION notice mailed to applicant, all other parties with standing, and, if zone change, the County surveyor's office.

(date) _____ (signed) _____

**CITY OF WEST LINN
PUBLIC HEARING CDC-17-01**

**TO ADOPT TEXT AMEMNDMENTS TO COMMUNITY DEVELOPMENT
CODE CHAPTER 21.**

The West Linn Planning Commission will hold a public hearing on **Wednesday, May 17, 2017, at 6:30 p.m.** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider adoption of Ordinance Number 1660. Following the hearing, the Planning Commission will make a recommendation to the City Council. The Council will make a final decision regarding the Planning Commission recommendation following its own public hearing on **Monday, June 12, 2017 at 6:30 p.m.**, in the Council Chambers of City Hall, 22500 Salamo Road, West Linn.

The hearings will be conducted in accordance with the rules of CDC Section 98 and 105. Anyone wishing to present written testimony on this proposed action may do so prior to, or at the public hearings. Oral testimony may be presented at the public hearings. At the public hearing(s), the Planning Commission and City Council will receive a staff presentation, and invite both oral and written testimony. The Commission or Council may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law. Failure to raise an issue in person or by letter at some point prior to the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

Ordinance Number 1660 proposes an amendment to allow Special Use Areas as a permitted use in Community Development Code Chapter 21. The amendment would allow the development of a park on City owned property in the Office Business Center zone.

At least 10 days prior to the hearing, a copy of Ordinance 1660 and associated staff report will be available for inspection or purchase at a cost of \$0.25 a page after the first five pages at the Planning Department, 22500 Salamo Road. The information is also available on the West Linn website at <http://westlinnoregon.gov/planning/community-development-code-text-amendment-permit-special-use-areas-three-specific-city>

For further information, please contact Darren Wyss, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, phone (503) 722-5512, or via e-mail at dwyss@westlinnoregon.gov.



CITY OF West Linn

CITY OF WEST LINN NOTICE OF UPCOMING PLANNING COMMISSION PUBLIC HEARING

**PROJECT # CDC-17-01
MAIL: 5/4/17 TIDINGS: 5/4/17**

CITIZEN CONTACT INFORMATION

To lessen the bulk of agenda packets, land use application notice, and to address the worries of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.

EXHIBIT PC-2 – PROPOSED AMENDMENT (ORD 1660)

ORDINANCE NO. 1660

AN ORDINANCE RELATING TO THE AMENDMENT OF WEST LINN COMMUNITY DEVELOPMENT CODE SECTION 21.030(10) TO ALLOW OUTDOOR RECREATION AS A FORM OF PERMITTED USE IN THE OFFICE BUSINESS CENTER (OBC) ZONE ONLY ON THE PROPERTY LOCATED AT 2445 TANNER DRIVE, WEST LINN FOR PURPOSES OF A CITY PARK AND DECLARING AN EMERGENCY

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~bold lined through~~ and additions are bold underlined.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, in 2009 at the direction of City Council, the City agreed to take title to approximately 14 acres, otherwise known as Tax Lots 21E 35D 0704 and 21E 35D 0700; and

WHEREAS, in 2016 at the direction of City Council, the City agreed to take title to approximately 6 acres, otherwise known as Tax Lot 21E 35D 0703, and completed the transfer of the three White Oak Savanna properties; and

WHEREAS, by Resolution No 2017-04, the City Council designated the property as City-owned White Oak Savanna Park in accordance with the West Linn Charter and further directed staff to amend the Community Development Code to allow outdoor recreation as a form of permitted recreation in the Office Business Center (OBC) Zone only for this site; and

WHEREAS, The White Oak Savanna Park is now complete and consists of approximately 20 acres of park land; and

WHEREAS, the City is moving forward with the plans for construction of the nature play area at The White Oak Savanna Park; and

WHEREAS, the Parks and Recreation Department indicates that the park will closely align with the definition of a “special use area” as defined by the 2007 Parks, Recreation and Open Space Plan; and

WHEREAS, adding that use to Community Development Code Section 21.030 implements the City’s Council’s direction that the property be used for outdoor recreation;

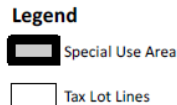
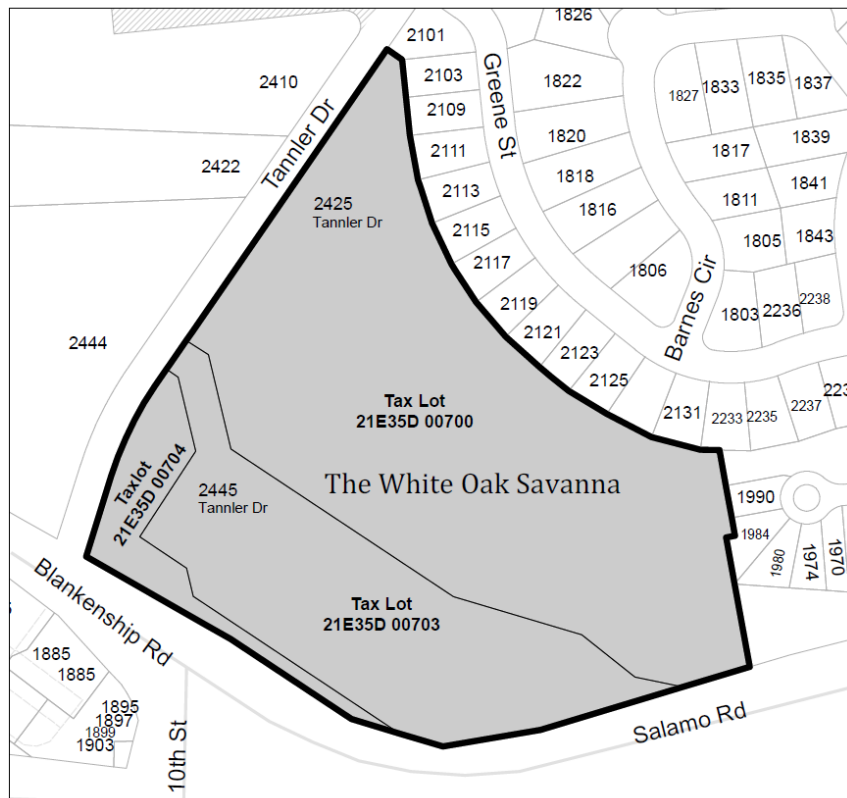
NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:

SECTION 1. Amendment. West Linn Community Development Code Section 21.030, Permitted Uses, is amended to read as follows:

21.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Business equipment sales and services.
2. Business support services.
3. Communications services.
4. Cultural exhibits and library services.
5. Family day care.
6. Financial, insurance and real estate services.
7. Hotel/motel, including those operating as extended hour businesses.
8. Medical and dental services.
9. Parking facilities.
10. Participant sports and recreation, indoor.
11. Personal services and facilities.
12. Professional and administrative services.
13. Utilities, minor.
14. Transportation facilities (Type I).
- 15. Special use areas only if located on those properties indicated on the map below.**



SECTION 2. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3. Savings. Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions of the ordinance were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

SECTION 4. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word “ordinance” may be changed to “code”, “article”, “section”, “chapter” or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

SECTION 5. Effective Date. Conditions in the City of West Linn are such that this Ordinance is necessary for the immediate preservation of the public health, peace, welfare and safety. An emergency is declared to exist in order to fulfill the terms of the intergovernmental agreements for this project and to take advantage of improved weather conditions for construction of the project. To accomplish this, notices must be given to Metro, DLCD and other entities and the park plans must go through the City's design review process, all of which put the project on a very tight timeline to avoid the loss of funds and avoid weather-related construction delays; therefore, this Ordinance shall be in full force and effect after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 33(c) of the City Charter on the ____ day of _____, 2017, and duly PASSED and ADOPTED this ____ day of _____, 2017.

RUSSELL B. AXELROD, MAYOR

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

Memorandum

Date: June 7, 2017

To: Russ Axelrod, Mayor
Members, West Linn City Council

From: Darren Wyss, Associate Planner, Community Development Department

Subject: CDC-17-01 - Response to Comments

At its June 19, 2017 meeting, the West Linn City Council will hold a public hearing on the West Linn Planning Commission's recommended approval of CDC-17-01, a text amendment to permit special use areas on three City owned properties in the Office Business Center (OBC) zone. The proposed amendments were discussed at the Commission's May 17, 2017 public hearing. The City received no public comments on the proposal before the Planning Commission recommendation. After the conclusion of the hearing, one letter was received and is attached. This memorandum provides a summary of the comments in the letter, along with staff responses and recommendations. Staff response first focuses on the purpose of the OBC zone.

Comments Related to "Inconsistency with the purpose of the OBC zone"

The comments state that allowing a park on an OBC zoned property is inconsistent with the purpose of the OBC zone.

Staff Response: Section 21.030.10 of the CDC permits indoor participant sports and recreation. The change to outdoor sports and recreation as a special use area is not a change that is inconsistent with the purpose of the OBC zone, because recreational use of the property is already approved for the OBC zone. The proposed park will make nearby employment oriented development more attractive by providing passive recreational opportunities for employees within walking distance.

The purposes of the zone (CDC 21.010) include: "to accommodate the location of intermediate uses between residential districts (not actual residences) and areas of more intense development." In other words, one purpose of the zone is to provide a buffer between the residential uses to the north and the more intense commercial and freeway development to the south. This purpose is satisfied by the proposed text amendment, which would place a civic recreational use in between the residential district to the north and the more intensive freeway commercial development to the south.

Staff Recommendation: Adopt the proposed amendment as presented in Ordinance 1660.

Comments Related to “Additional Pressure on Other OBC Property”

The comments oppose the amendment because the commenter suggests that the text amendment will put additional pressure on other OBC zoned properties.

Staff Response: The three properties have been identified by the City since at least 1998 as potential park property. This identification and subsequent planning, such as placement of the properties on the City’s Goal 5 Wildlife Habitat Inventory (Figure 5-4, Goal 5, City of West Linn Comprehensive Plan), and acquisition occurred in public processes. The local development and business communities have been aware for many years that the property was unlikely to be available for commercial development. Therefore there will not be any change in market expectations about the use of the property or additional pressure on other OBC zoned property.

Staff Recommendation: Adopt the proposed amendment as presented in Ordinance 1660.

Comments Related to “Inconsistency with the City’s acknowledged employment lands inventory”

The comments state that allowing a park in an OBC zone is inconsistent with the City’s acknowledged employment lands inventory.

Staff Response: Approximately 3.8 acres of the approximately 20 acres of City-owned parkland subject to proposed Ordinance 1660 were identified as “Buildable Employment Lands” in the City’s Economic Opportunities Analysis adopted by Ordinance No. 1645 on August 8, 2016. As discussed above, the Office Business Center currently allows Indoor Participant Sports and Recreation, so it is not inconsistent to allow such a use in an outdoor park. The properties are now all in public ownership making it more suitable for recreational activities supporting employment use rather than for private sector development of employment uses.

The parcels are also not included in Metro’s inventory of regionally significant industrial lands, for which the Metro Code does prohibit parks. Therefore the parcels are not subject to the amenity prohibition in the Metro Code.

The parcels are identified with alternative classifications in other chapters of the comprehensive plan, such as the Goal 5 inventory and the Parks Master Plan, and the City Council has the authority to weigh the alternative classifications and decide which one best supports the comprehensive plan as a whole. To paraphrase LUBA, there is nothing in Goal 9 that requires the City to only allow office and commercial uses in the OBC zone. The fact that the text amendment would allow a civic, non-commercial use is not inconsistent with Goal 9. *Friends of Marion County v. City of Keizer*, 45 Or LUBA 236, 2003

If the text amendment is approved and the properties are used as a special use area, the site can be removed from the Buildable Employment Lands inventory during the next inventory update.

Staff Recommendation: Adopt the proposed amendment as presented in Ordinance 1660.

Tannler Properties, LLC

May 17, 2017

City of West Linn
Planning Commission
22500 Salamo Road
West Linn, Oregon 97068

RE: OBC Zone

As a business and property owner in West Linn I am writing to express my concerns about the proposed text amendment to the OBC zoning. They are as follows:

- I am opposed to the text amendment because it puts additional pressure on other OBC zoned properties.
- Allowing a park in an OBC zone is inconsistent with the City's acknowledged employment lands inventory.
- Allowing a park on an OBC zoned property is inconsistent with the purpose of the OBC zone.

I urge the Planning Commission to encourage the City Council to keep the original intent and purpose of the OBC zone intact.

Thank you for your attention.

Sincerely,

Jeff Parker

Tannler Properties, LLC
1800 Blankenship Road, Suite 325
West Linn, OR 97068
503-742-1942

RE Applicant's Nov 9, 2015 appeal: The city agreed to extend the date of the hearing at the request of the Applicant only because it could not have its preferred attorney on the assigned date. The extension was granted for the schedule, and was not intended for the Applicant to submit additional written testimony – in essence to prepare a second appeal (the Nov 9 submittal). It appears that the Nov 9 submittal also 'exceeds the scope of the original appeal' by including additional factors and evaluations. Therefore, in my opinion, the Nov 9 submittal should not be accepted and the hearing should proceed based on the original appeal filed by the Applicant (Sept 30 submittal).

Couple points:

- just have to provide the applicant right of rebuttal so not allowing the second appeal does not limit the applicants rights to make the points it wishes orally – that's the purpose of an appeal hearing.
- The deadline in the original notice was the deadline established for the appeal – the schedule change was never intended to modify that deadline and therefore allow submittal for additional testimony.
- option for council: to allow the additional submittal except certain pages or sections deemed beyond the scope of the original appeal.

First Floor Issue:

I do not find the language at CDC 21.050 2 to be unclear or ambiguous. The code clearly states that multi-family units can only occur above the first floor of structures. I would add that such use is only allowed under 'prescribed' conditions provided that all conditions are satisfied.

It's important to understand that it's sometimes difficult, and sometimes not possible, to contemplate and write code for every instance or use that may be proposed. That's ok - this is why we have statements and guidance about "Intent and Purpose" throughout our code. Our Comprehensive Plan and our lists of intended uses (or exclusion of unintended uses) in our land use regulations and zoning language all shed light on how to interpret our code. These factors must be consulted when evaluating and interpreting code for a case such as this.

In addition, state law (ORS 197) provides guiding principles for local governments to interpret local code matters. These include the need to evaluate whether any use or proposed use is consistent with various factors, including:

- whether the use is consistent with the express language of our Comprehensive Plan
- whether the use is consistent with the purpose (and intent) of our Comprehensive Plan
- whether the use is consistent with our local land use regulations and zoning, and
- whether the use is consistent with the underlying policies that form the basis of our Comprehensive Plan provisions or our land use regulations and zoning.

CDC 21.010 indicates that the 'Purpose' of the OBC zoned land is *to provide for groups of businesses and offices in centers, to accommodate the location of intermediate uses between residential districts (not actual residences) and areas of more intense development, to provide opportunities for employment and for business and professional services in close proximity to residential neighborhoods and major transportation facilities, to expand the city's economic potential to provide a range of compatible and supportive uses and to locate office employment where it can support other commercial uses*. I do not find the proposed development to include

these uses envisioned for the OBC zone. Further, CDC 21.030 lists the principal intended uses of the OBC zone – and multi-family or residential uses are not listed for the zone.

Thus, it's clear in our code language and state statute that Intent and Purpose are factors to use which provide context for interpreting our standards, and in this case also possible uses within a specific zone, and when interpreting uses in the OBC zone specifically for this case.

Also, I question and don't really accept the viability of a 300 sq ft office space (1,973 sq ft total) to fulfill development an approximate 7-acre property zoned for office/business centers. This does not remotely meet the intent for development of OBC zoned land. In addition, because of the limited OBC zoned lands remaining in West Linn, it's important that such properties maximize the principal intended use/objective of the OBC zone. In my opinion, home-based businesses are an entirely different animal and cannot be used to justify the proposed meager use of the OBC zoned land.

Also, because this matter concerns OBC zoned land, it is the economic development aspects of our Comprehensive Plan (Goal 9) that should take precedent, not the residential aspects of our Comprehensive Plan (Goal 10) which is the focus of arguments by the Applicant, for example in terms of housing need, density and other related factors.

It's clearly evident in the application and file record that multi-family residential use is the proposed primary use of the OBC zoned land. In addition, it's clear that the large parking garages, which dominate the first floor of the structures, are to serve the proposed multi-family residential development – again on OBC zoned land.

In reviewing the extensive record for this case, I also noted an article from the Tidings where the owner of the property (Mr. Parker) is quoted as saying "The market on the office building is gone" and "right now there is no other use for the property." It might be that right now the market is not ideal, but the market will return and West Linn will need it's limited OBC zoned lands to meet its longer-term economic objectives.

I would note also that to my knowledge, nowhere in West Linn, and in particular Willamette, do we find multi-family residential units or residential-related uses on the first floor of our office/business structures.

When you consider the Purpose of the OBC zone (CDC 121.010), the uses and development permitted under prescribed conditions for the OBC zone (CDC 121.050 2), the consistency and land use regulation and zoning factors outlined in state law (ORS 197), and all other factors of this case, the proposed use for the building structures in the OBC zone is not satisfied. Therefore, I believe the planning commission findings are correct.

Parking Issue:

The proposed parking garages are clearly associated with the multi-family residential units and uses and have nothing to do with Office Business Center uses, which should be the principal use of OBC zoned land as its intended.

Based on CDC 121.050 2, such residential-related uses are not allowed on the first floor of any structures.

In addition, the proposed garage structures cannot be considered "accessory structures", as interpreted by the Applicant, because of their size alone. As noted in the Applicant's appeal (Exhibit 7), accessory structures under our code must be less than 1,500 sq ft. However, the parking garages in the proposed development are generally larger than 10,000 sq ft. Thus, the garages are not accessory structures, but are clearly an integral part of the proposed principal use which is multi-family residential.

Based on these factors alone, I believe the planning commission correctly found that such residential-related use is not allowed on the first floor of structures on OBC zoned land.