



Agenda Report 2017-10-09-02

Date: September 20, 2017

To: Mayor Axelrod and West Linn City Council

From: John R. Williams, Community Development Director *JRW*

Through: Eileen Stein, City Manager *ES*

Subject: Public Hearing on Community Development Code Amendment (CDC 17-02)/Ord. No. 1662

Purpose

To hold a public hearing and discussion of the Planning Commission's recommendation to approve CDC 17-02/Ordinance No. 1662. This proposal implements changes to West Linn's Community Development Code regarding submittal requirements and approval standards for grading, geotechnical hazards and storm detention and treatment elements of development.

Question(s) for Council:

Following a work session discussion on September 18 and a public hearing on October 9, does the Council wish to approve CDC 17-02 and adopt Ordinance No. 1662, potentially with amendments?

Public Hearing Required:

Yes.

Background & Discussion:

CDC 17-02 comprises a set of code amendments in response to direction from the Mayor, City Council and Planning Commission to strengthen CDC submittal requirements and approval standards relating to storm water, geotechnical issues and grading. The proposed amendments follow direction provided to staff in several meetings and a Planning Commission work session, and have been further revised following the Planning Commission's September 6 public hearing and the City Council's September 18 work session.

Code amendments are approved by City Council Ordinance following a public hearing. Prior to the City Council hearing, the Planning Commission also conducts a public hearing and provides a recommendation to Council. The Planning Commission discussed the proposed changes in detail, focusing discussion on the balance of regulation to best achieve community goals on this matter. Five changes were recommended by the Commission, which are described in Attachment 1.

The Council discussed a number of policy considerations on September 18, and agreed to continue that conversation on October 9. Further changes to Ordinance No. 1662 may result from that discussion. In advance of that, only two small changes have been made following the Council's work session discussion:

- Replacing "shall" with "must" throughout to clarify the requirements are mandatory; and
- Adding the phrase "including from" to code sections addressing storm water off-site impacts, as follows: "There will be no adverse off-site impacts, **including from** increased intensity of runoff downstream or constrictions causing ponding upstream."

Attachment 2, the Planning Commission staff report, details the background and intention of the proposed amendments and addresses applicable criteria. One written comment was received prior to the Planning Commission hearing, and is included herein. Additionally, one citizen testified at the Commission hearing.

Council Options:

The City Council intends to continue a conversation about potential amendments related to report requirements, land type definitions, applicability, and the balance of regulation, on October 9.

Staff Recommendation:

Approve CDC 17-02 by adopting Ordinance No. 1662, following a public hearing and potential Council amendments. As a reminder, this legislative amendment is not governed by a 120-day timeline limitation so on October 9 the Council may request additional information/draft language from staff and continue discussion of this topic to future meeting dates.

Potential Motion:

“I move that the Council adopt CDC 17-02, including the findings of fact and conclusions presented in the staff report, and Ordinance No. 1662 *(or with the following changes...)*.”

Attachments:

1. Planning Commission Final Findings and Recommendation
2. CDC 17-02 staff report and exhibits including Draft Ordinance No. 1662 and public comment received to date

WEST LINN PLANNING COMMISSION
FINAL FINDINGS AND RECOMMENDATION
CDC 17-02

**IN THE MATTER OF A RECOMMENDATION TO THE CITY COUNCIL ON
PROPOSED TEXT AMENDMENTS TO COMMUNITY DEVELOPMENT
CODE CHAPTERS 2, 24, 28, 32, 55, 56, 60, 85 and 92**

I. Overview

At the August 16, 2017 meeting the West Linn Planning Commission (“Commission”) opened a public hearing and continued the action to September 6, 2017, when a public hearing was held to consider the request by the City Council, to make recommendations to City Council on Ordinance No. 1662 - proposed amendments intended to strengthen definitions, submittal requirements and approval criteria for development applications related to grading, geotechnical issues, storm water treatment and detention. The hearing was conducted pursuant to the provisions of CDC Chapter 98. A work session on the proposed amendments was conducted by the Commission on May 3, 2017.

The hearing commenced with a staff report presented by John Williams, Community Development Director. One person (Rebecca Adams) submitted public testimony prior to the hearing, and one person (Alice Richmond) testified in-person at the hearing. The hearing was closed and a motion was made by Commissioner Mathews and seconded by Commissioner King to recommend Council approve the proposed amendment with the Commission’s suggested changes. The motion passed unanimously.

II. The Record

The record was finalized at the September 6, 2017 hearing. The record includes the entire file from CDC 17-02.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The Commission finds that it has received all information necessary to make a recommendation to Council based on the Staff Report and attached findings; public comment, if any; and the evidence in the whole record, including any exhibits received at the hearing.

IV. Findings

The Commission adopts the Staff Report for August 16, 2017, with attachments, including specifically the analysis of applicable criteria and proposed findings contained in the staff report

starting on page 6, as its findings, which are incorporated by this reference. The Commission concludes that all of the required approval criteria are met.

V. Recommendation

The Commission recommends that Ordinance No. 1662 contained in file CDC 17-02 be revised to reflect the Commission's changes and approved by City Council based on the Record, Findings of Fact and Findings above. The Commission's recommended changes to Ordinance No. 1662 include:

- Ensuring that geotechnical engineers can perform the required geotechnical reports (this change was accomplished by removing the specific report title and type of professional required to submit the report and instead relying on a summary list of report expectations);
- Correcting slope type definitions in Section 9 so that they are consistent with the definitions in Section 1 (this change was accomplished by deleting the separate definitions and referring to the standard definitions in CDC Chapter 2);
- Correcting the CUP notice radius in Section 13 which conflicted with standards in CDC Chapter 99 (this change was accomplished by deleting the subsection);
- Changing "eliminate known risks" to "mitigate known risks" throughout the Ordinance in the sections that address approval criteria for geotechnical issues; and
- Requiring the Planning Director, or designee, to make an affirmative decision that a storm detention and treatment plan prepared by a civil engineer is necessary for development applications on Type IV lands. The intent of this change is to allow relief from this requirement on sites with limited slopes and storm water issues. (This change was accomplished by adding the phrase "Per CDC 99.035, the Planning Director may require the information in the subsections above for Type IV lands if the information is needed to properly evaluate the proposed site plan" as appropriate throughout the ordinance.)


GARY WALVATNE, CHAIR
WEST LINN PLANNING COMMISSION


DATE

Action on this recommendation to City Council will be processed according to the provisions of Chapter 98 of the Community Development Code and any other applicable rules and statutes.



CITY OF West Linn

STAFF REPORT FOR THE PLANNING COMMISSION

FILE NUMBER: CDC-17-02

HEARING DATE: August 16, 2017

REQUEST: To consider a recommendation to City Council for adoption of proposed text amendments to multiple chapters of the West Linn Community Development Code.

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

STAFF REPORT PREPARED BY: John Williams, Community Development Director *JRW*

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GENERAL INFORMATION

APPLICANT: City of West Linn

DESCRIPTION: A proposal for text amendments to multiple chapters of the West Linn Community Development Code. Specifically, amendments are proposed for:

- CDC 2.030 (definitions)
- CDC 24.080 and 24.100 (PUD submittal requirements and approval criteria)
- CDC 28.090 and 28.130 (submittal requirements and grading plans within the Willamette and Tualatin River Protection Areas)
- CDC 32.050 and 32.060 (submittal requirements and approval criteria in Water Resource Areas)
- CDC 55.100, 55.110 and 55.130 (design review submittal requirements, site analysis and approval standards)
- CDC 56.100 and 56.130 (parks design review standards)
- CDC 60.060 and 60.070 (conditional use permit applications and approval standards)
- CDC 85.170 and 85.200 (subdivision submittal requirements and approval standards)
- CDC 92.010 (required public improvements for all development)

The amendments are described in detail in Exhibit 2.

**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 August 3, 2017 and provided to required public agencies and persons who requested notice in writing on July 24, 2017.

120-DAY RULE: Not applicable to this legislative action.

EXECUTIVE SUMMARY

CDC 17-02 comprises a set of code amendments in response to direction from the Mayor, City Council and Planning Commission to strengthen CDC submittal requirements and approval standards relating to storm water, geotechnical issues and grading. The proposed amendments follow direction provided to staff in several meetings and a Planning Commission work session.

Code amendments are approved by City Council Ordinance following a public hearing. Prior to this the Planning Commission also conducts a public hearing and provides a recommendation to Council.

This staff report details the background and intention of the proposed amendments and addresses applicable criteria. Staff is seeking a recommendation from the Planning Commission regarding CDC 17-02.

RECOMMENDATION

Staff recommends that the Planning Commission **RECOMMEND** approval of draft Ordinance 1662 to the City Council with any modifications deemed appropriate by the Commission.

PROJECT BACKGROUND

Recent land use applications have resulted in extensive discussions about geotechnical, storm water and grading issues, and whether the CDC and Municipal Code provide the appropriate authority for the City's review of these issues. The Mayor, City Council and Planning Commission prioritized a review of these topics in 2017 through the annual planning docket process. The Mayor and Council directed the Planning Commission to take the lead on this discussion and potential amendments.

This discussion is connected to the previous deletion of Chapters 31 (Erosion Control) and 33 (Stormwater Management) from the CDC. However, early on in the process it became clear that a simple reinstatement of the old code sections would not accomplish Commission and Council goals. Therefore staff began drafting a set of amendments to thoroughly modernize and strengthen the CDC. On May 3 staff presented an initial proposed approach to the Planning Commission at a work session, along with several policy questions. The Commission confirmed that the goal of this project is to ensure that decision-makers on development applications have adequate code authority to review the geotechnical and surface water elements of development applications and approve, approve with conditions, or deny applications based on conformance with the City's standards. The Commission supported staff's initial approach to addressing this goal, provided direction on several points, and requested that staff create a final draft to move forward with code amendments. Specifically, the Commission directed staff to make changes that:

- Add geotechnical review and reports to the list of amendments;
- Ensure the scale of work to submit an application is proportional to the scope of the challenges and potential hazards on the site; and
- Allow exemptions for smaller projects as appropriate.

The attached draft ordinance has been extensively amended since the May 3 discussion to address identified flaws and to implement Commission direction.

Essentially, the code amendments (Exhibit 2) comprise the same text repeated numerous times (for each application type). Revised submittal requirements and approval criteria addressing geotechnical and surface water drainage issues are proposed to be added into:

- Planned Unit Development submittal requirements and approval criteria;
- Willamette and Tualatin River Protection Area submittal requirements and approval criteria;
- Water Resource Protection area submittal requirements and approval criteria;
- Design Review submittal requirements and approval criteria;
- Parks Design Review standards;
- Conditional Use Permit submittal requirements and approval criteria;
- Subdivision and Partition submittal requirements and approval criteria; and
- Standards for public improvements for all development (the general standard which also catches any development that does not go through a quasi-judicial process)

The amendments make the following changes:

- Applicants for all application types will be required to submit a grading plan and a storm drainage and treatment plan prepared by a civil engineer, demonstrating where grading will take place, how slopes will be stabilized, and how all storm detention and treatment facilities comply with West Linn’s Public Works Design Standards. A less stringent option would be to link this requirement to steeper slopes only, however staff is aware that storm issues have arisen recently on sites without significant slope. **Staff recommends that the Commission review this requirement to ensure that you wish all applications to prepare such submittals.**
- When more than 50% of a site has slopes over 10%, applicants will need to submit a report prepared by a certified engineering geologist, following State of Oregon guidelines, describing the site, describing investigations conducted, assessing conditions, reviewing the City’s Natural Hazard Mitigation Plan and providing conclusions and recommendations regarding limitations and risks of development and recommendations for mitigation and monitoring. This proposed trigger has been developed in response to Commission direction that not every application be required to pay for this complex professional work. **Staff recommends that the Commission review this proposed standard to ensure it meets community needs while addressing the Commission’s desire to not create overly onerous requirements.**
- Approval standards for all application types are expanded to include storm detention, treatment and geologic hazards. Language is added allowing the review authority to impose conditions considered necessary to assure landslides and property damage do not occur.
- The CDC’s definition of slope categories is amended to reflect data available and to fix a loophole. Previously, Type III slopes were defined as 15-25% slope. However, 10% and over is the data available to the City and applicants, therefore staff proposes dropping the break point between Type III and Type IV lands to 10% from 15%. Also, a loophole that could exempt many significantly sloped sites is proposed to be fixed by a small change to the definition of each type of land (for example, changing “25 percent to 35 percent” to “over 25 percent”). **Staff recommends the Planning Commission review this proposed categorization and discuss its impact on potential development as part of its decision-making.**

The grading and storm water amendments are based on the fact that the City’s Municipal Code already contains rigorous, legally binding, Council-approved Public Works Design and Construction Standards addressing all manner of construction issues including geotechnical and surface water. The standards are hundreds of pages long; the Storm Drain requirements alone include 16 pages of design requirements and 21 pages of technical construction specifications. Rather than duplicating these very lengthy standards in every relevant section of the CDC, staff proposes to ensure that the CDC references these standards in the submittal and approval criteria for every type of application that could have geotechnical/surface water issues.

The geotechnical standards are proposed to be linked to the State of Oregon’s guidelines for engineering geologic reports, and are also linked to West Linn’s Natural Hazard Mitigation Plan.

At its work session on this topic, the Commission asked staff to ensure most applicants are required to provide additional information that has been found lacking in recent applications, but to find a balance of regulation that would not be overly onerous to small applicants and projects with very limited storm, grading or geotechnical issues. This is difficult to achieve in writing code. The proposed amendments are somewhat broad but may be tempered by CDC 99.035, “Additional Information Required, Waiver of Requirements and Report Required.” This allows staff to waive the requirements if any applications come in that clearly should not require particular reports. In waiving such requirements, staff must explain its decision, which is subject to review and overturning by the approval authority (Planning Commission, City Council or Historic Review Board). Staff believes this ability will provide a pressure relief valve, however **staff recommends that the Commission review the overall balance of regulation proposed in this application and propose changes as appropriate.**

Following the Planning Commission hearing and discussion on this proposal, and changes as found to be appropriate, the Planning Commission makes a recommendation to Council. Council also holds a public hearing and makes the final decision via adoption of an ordinance.

PUBLIC COMMENTS

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

ANALYSIS OF APPLICABLE CRITERIA AND PROPOSED FINDINGS

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative

CDC 98.035 Citizen Engagement in Legislative Changes

B. New and modified land use legislative changes to this code will be developed by a representative working group of citizens and assisted by planning staff, unless the City Council determines that a working group is not necessary.

Findings: On April 3 2017 the City Council found that a working group was not necessary and directed the Planning Commission to work with staff and prepare a recommendation to Council.

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 August 16, 2017, with the City Council public hearing scheduled for October 9, 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 August 3, 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 August 16, 2017, with the West Linn City Council scheduled to hold its public hearing and make a final decision on October 9, 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 pursuant to CDC Chapter 98.

The City Council and Planning Commission held a publicly noticed joint work session to discuss this project on April 3, 2017 and the Planning Commission further discussed the project at a publicly noticed work session on May 3 2017. 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 August 3, 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 DLCDC 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 reductions will occur to current natural resource protections and the changes will better protect West Linn's natural resources through increased information available to the community and stronger standards relating to storm water, geotechnical issues and grading. 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, and provides strong standards relating to storm water, geotechnical issues and grading related to new development. 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 and the amendments will provide stronger standards relating to storm water, geotechnical issues and grading. 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 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.

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 is 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 was 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 August 3, 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 August 3, 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 1: Residential Development

Subgoal 3: Consideration of the concept of carrying capacity should also include the transportation network, storm water management, air quality and overall quality of life. (Implemented through Policy 7), that residential lands shall not be subject to development limitations such as topography, flooding, soil characteristics, drainage, high water table, etc.

Finding for Goal 3 and Policy 7: The proposed amendment directly implements this policy, allowing the City to more effectively identify areas suitable for development and areas with development limitations.

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 for policies 1 and 4: Notice was sent to Metro, DLCD, and all West Linn Neighborhood Associations. They were provided the opportunity to review and comment on the amendment proposed for adoption.

(There is no Goal 3 or Goal 4 in West Linn's Comprehensive Plan)

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

Section 2; Natural Environment

Policy 4. Require that areas containing tree clusters, significant trees, and native vegetation along natural drainage courses and waterways in areas of new development be maintained to the maximum extent possible to preserve habitats, prevent erosion, and maintain water quality.

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

Policy 8. Require and enforce erosion control standards for new development.

Finding for policies 4, 7, and 8: The site analysis and geotechnical information required by the proposed code amendments will assist with accomplishing the erosion control elements of these policies.

Policy 9. Maintain and improve existing storm water detention and treatment standards to ensure that the impact of new development does not degrade water quality and wildlife habitat.

Finding: The proposed amendments will ensure the City is able to review and enforce storm water detention and treatment standards.

Goal 6: Air, Water, and Land Resources Quality

Section 2: Water Quality (Goal: Maintain or Improve the quality of West Linn's water resources)

Policy 1. Require that new development be designed and constructed to prevent degradation of surface and groundwater quality by runoff.

Finding: The storm drainage submittal requirements and approval standards will, in combination with the City's public works design standards, ensure this policy is implemented more effectively.

Policy 2. Require that City construction projects, maintenance activities and operating procedures be designed and operated so as to not degrade surface or ground water quality.

Finding: City construction projects subject to these application types will be covered by the proposed submittal requirements and approval standards, ensuring this policy is implemented.

Policy 5. Where feasible, use open, naturally vegetated drainageways to reduce stormwater runoff and improve water quality.

Finding: The storm drainage submittal requirements and approval standards will, in combination with the City's public works design standards, ensure this policy is implemented more effectively.

Policy 6. Meet the goals of Title 3 of the Metro Urban Growth Management Functional Plan.

Finding: As noted above, the City is currently in compliance Metro's Title 3: Water Quality and Flood Management and the proposed amendments will ensure more effective implementation of the City's policies and requirements.

Policy 7. Require up to date erosion control plans for all construction and actively enforce applicable city codes and regulations.

Policy 8. Encourage the use of alternative permeable materials for construction of parking areas to reduce stormwater runoff and improve water quality.

Finding for policies 7 and 8: The storm drainage submittal requirements and approval standards will, in combination with the City's public works design standards, ensure this policy is implemented more effectively.

Goal 7: Areas Subject to Natural Disasters and Hazards

Policy 1. Require development and associated alterations to the surrounding land to be directed away from hazardous areas.

Policy 2. Restrict development except where design and construction techniques can mitigate adverse effects.

Policy 3. Require soils and geologic studies for development in hazardous areas.

Policy 4. Promote slope and soil stability and the use of natural drainageways in areas with landslide potential by retaining existing vegetation in those areas to the greatest extent possible.

Finding for policies 1, 2, 3 and 4: The storm drainage, geotechnical and grading requirements and approval standards proposed in these amendments will, in combination with the City's public works design standards, ensure these policies are implemented more effectively.

Policy 5. Follow state and regional designations and construction standards regarding earthquake hazards.

Policy 12. Refer to current seismic information during development review, including in the pre-application meeting, and when enacting new regulations governing the location of structures and land uses.

Finding for policies 5 and 12: The geotechnical submittal requirements and approval standards will ensure this policy is implemented more effectively.

Goal 8 Parks and Recreation

Finding: None of the goals or policies under Goal 8 apply to this application.

Goal 9 Economic Development

Finding: None of the goals or policies under Goal 9 apply to this application.

Goal 10: Housing

Policy 8: Adhere to clear and objective standards to promote timely and predictable plan review.

Finding: The proposed amendments increase the clarity and objectivity of West Linn's CDC, allowing applicants, citizens and review authorities to understand whether proposed developments meet the standards.

Goal 11: Public Facilities and Services (General Goal: Require that essential public facilities and services (transportation, storm drainage, sewer and water service) be in place before new development and encourage the provision of other public facilities and services.)

Policy 2: Development shall not be approved unless:

- a. the proposal has adequate access to the transportation ,storm drainage, potable water, and sewer systems; and,*
- b. these infrastructures have adequate capacity to serve the development.*

Finding: The proposed amendments directly implement part of this policy, by ensuring adequate information is provided for review authorities to determine whether adequate storm drainage is available prior to approving any proposed development activities.

Section 3: Storm Drainage (Goal: Create and maintain a drainage management system that manages the amount and rate of surface water runoff; eliminates interbasin transfers of storm drainage; minimizes property damage from runoff; and controls pollution entering receiving streams.)

Policy 1. Where possible, require storm water runoff within development areas to be pretreated, using natural channels as points of discharge from local runoff collection systems. The Storm Drainage Master Plan, West Linn, Oregon, 1996, will be the key reference for determining drainage corridors and is a supporting document of the Comprehensive Plan.

Policy 2. Require adequate maintenance of culverts and drainageways in coordination with property owners to ensure that the natural drainage system operates at maximum efficiency.

Policy 3. Protect downstream areas from increased storm water runoff by managing runoff from upstream development and impacts on adjacent natural drainageways and their associated vegetation.

Policy 4. Seek alternatives to the use of impervious surfaces within areas of dense standing trees and shrubs next to natural drainage courses and in other natural areas.

Policy 5. Design road crossings to minimize or eliminate impacts on natural drainage courses.

Policy 6. Require that construction practices for all land development projects, private and public, be conducted in such a way as to avoid exposing cuts, grading areas, and trenches to stormwater so that soil erosion is minimized, and soil will not be washed into natural drainage areas.

Policy 7. Require that riparian vegetation along the streams and drainageways be maintained and preserved or re-established where necessary. In order to maintain or operate public facilities, selective cutting, trimming, and thinning will be allowed along waterways.

Policy 8. Encourage use of permeable surfaces in developments.

Policy 9. Adopt regulations to allow for the development of Green Streets in suitable locations.

Finding for Policies 1 through 9: The proposed amendments directly implement this policy by ensuring stronger submittal requirements and providing approval standards linked to the City's design requirements.

Goal 12: Transportation

Policy 11: Reduce storm water impacts from roadways by allowing "green streets," as a design alternative in appropriate locations.

Finding: The proposed amendments ensure that streets in new development meet the city's storm drainage design requirements, which are periodically updated to allow for new approaches to design alternatives as appropriate.

Goal 13: Energy Conservation

Finding: None of the goals or policies under Goal 13 apply to this application.

Goal 14: Urbanization

Finding: None of the goals or policies under Goal 13 apply to this application.

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

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

EXHIBIT PC-2 – PROPOSED AMENDMENT (ORD 1662)

ORDINANCE NO. 1662

AN ORDINANCE RELATING TO SUBMITTAL REQUIREMENTS AND APPROVAL STANDARDS FOR GRADING, GEOTECHNICAL HAZARDS AND STORM DETENTION AND TREATMENT ELEMENTS OF DEVELOPMENT

Annotated to show ~~deletions~~ (bold strikeout) and additions (bold underline) to the code sections being modified. An ellipsis within parentheses (...) indicates text not shown to reduce length of this document.

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, The City Council wishes to ensure that development within the City of West Linn is designed, constructed and maintained in a manner that ensures long-term safety for residents while preserving and improving environmental health; and

WHEREAS, requiring applicants to submit storm detention and treatment plans and geotechnical reports created by registered, certified professionals will allow adequate review of development proposals by West Linn citizens, elected officials, advisory committees and staff; and

WHEREAS, creating approval criteria and standards for new development proposals will ensure that new development is allowed only when safety and environmental standards, including those defined in the City's Public Works Design Standards, have been met; and

WHEREAS, clarifying the City's definitions of land types by slope will ensure appropriate implementation of the proposed code amendments; and

WHEREAS, the Council's decision is based on the findings contained in these Whereas Clauses, together with the findings, conclusions, and substantial evidence found in the associated land use record for file CDC 17-02, which is incorporated by this reference.

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

Section 1. Amendment. West Linn Community Development Code ("CDC") Section 2.030 relating to definitions is amended to read as follows:

For the purpose of these regulations, the following terms or words are defined as follows:

(...)

Types of land. Lands are categorized into one of four types (I, II, III or IV), depending on their features including slope, drainage and geology. In considering slope of the site, lands shall be classified into the steepest category for which they qualify.

Type I lands. Lands that have severe constraints that preclude the use of standard development techniques and technical criteria. Type I lands exist in one or more of the following areas:

1. Slope: Land that has slopes of 35 percent or more over more than 50 percent of the site, as shown on the RLIS topography GIS layer.
2. Drainage: All lands within the designated floodway as shown on the appropriate FEMA flood panel.
3. Geological hazard: All landslide areas shown on the City's Natural Hazard Mitigation Plan ("NHMP") and identified as "landslide potential exists" on Map 16 of the NHMP, or areas outside Map 16, but within Map 17, Landslide Vulnerable Analysis Area.

Type II lands. Lands which have constraints that are sufficient to preclude most standard types of development. Constraints in these areas generally do not constitute a health or safety hazard, but require the use of non-standard technical design criteria. Type II lands exist in one or more of the following areas:

1. Slope: Land that has slopes ~~between over~~ 25 percent ~~to 35 percent~~ on more than 50 percent of the site, as shown on the RLIS topography GIS layer.
2. Drainage: All drainage courses identified on the water resource area maps or areas identified as protected Goal 5 wetlands, and areas outside the floodway, but within the floodway fringe, also known as the 100-year floodplain.
3. Geology: All known mineral and aggregate deposits identified on the Comprehensive Plan map as protected Goal 5 resources.

Type III lands. These lands are considered within the major portion of the City's developable lands. Standard development criteria can be applied through normal implementation measures. Type III lands have slopes ~~over between 15 percent~~ 10 percent ~~to 25 percent~~ on more than 50 percent of the site, as shown on the RLIS topography GIS layer.

Type IV lands. These lands are considered to have few, if any, constraints to development and are within the major portion of the City's developable lands. Normal development standards will apply in these areas. Type IV lands have slopes **10 percent or under** ~~between 25 percent to 35 percent~~ on more than 50 percent of the site, as shown on the RLIS topography GIS layer.

SECTION 2. Amendment. West Linn Community Development Code (“CDC”) Section 24.080, relating to planned unit development submittal requirements, is amended to read as follows:

24.080 SUBMITTAL REQUIREMENTS

The submittal requirements shall apply to non-exempt projects as identified in CDC 55.025, and shall include the following:

- A. Narrative discussing proposal and applicability of the PUD and addressing approval criteria of this chapter; ~~and~~ design review, CDC 55.100; ~~and~~ **CDC 92.010(E)**.
- B. Narrative and table showing applicable density calculations.
- C. Map showing how the densities will be distributed within the project site.
- D. Compliance with submittal requirements of Chapter 55 CDC, Design Review, including full response to approval criteria for Chapter 55 CDC, Design Review, and Chapter 85 CDC, if it is a single-family PUD.
- E. Narrative, tables, and showing all density transfers.
- F. Tables and maps identifying ~~all~~ **acreage, location and type of development constraints due to slope, drainage and geologic hazards. For** Type I, II, ~~and~~ **III and IV** lands ~~by acreage, location and type (please refer to definitions of these lands in~~ Chapter 02 CDC), **the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:-**
 - 1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;**
 - 2. Assessment of engineering geological conditions and factors;**
 - 3. Review of the City of West Linn’s Natural Hazard Mitigation Plan and applicability to the site; and**
 - 4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.**
- G. Other material as required by the Planning Director. (Ord. 1408, 1998; Ord. 1463, 2000)

SECTION 3. Amendment. West Linn CDC Section 24.100, relating to planned unit development approval criteria, is amended to read as follows:

24.100 APPROVAL CRITERIA

A. The approval criteria of CDC 55.100, design review, **and CDC 92.010(E)** shall apply to non-exempted projects per CDC 55.025. Single-family detached, single-family attached, and duplex residential units proposed shall comply with the provisions of Chapter 43 CDC at time of building permit application.

SECTION 4. Amendment. West Linn CDC Section 28.090(C), relating to submittal requirements: application, within Willamette and Tualatin River Protection Areas, is amended to read as follows:

(...)

C. The application for a protection area permit shall include the completed application and:

1. Narrative which addresses the approval criteria of CDC 28.110.
2. A site plan, with HCA boundaries shown and by low, moderate, high type shown (CDC 28.120).
3. A grading plan if applicable (CDC 28.130).
4. Architectural drawings if applicable (CDC 28.140).
5. A landscape plan if applicable (CDC 28.150).
6. A mitigation plan if applicable (CDC 28.160).

7. A storm detention and treatment plan and narrative statement pursuant to 92.010(E).

SECTION 5. Amendment. West Linn CDC Section 28.130, relating to grading plans within Willamette and Tualatin River Protection Areas, is amended to read as follows:

~~GRADING PLAN Docks shall be reviewed and approved by the Department of State Lands for the area within their jurisdiction.~~ The grading plan shall be at the same scale as the site plan (CDC 28.120) and shall show or attach:

A. The location and extent to which grading will take place indicating general contour lines, slope ratios, ~~and~~ slope stabilization proposals, and location and height of retaining walls, if proposed.

~~B. The location of the proposed drainageways. Tables and maps identifying acreage, location and type of development constraints due to slope, drainage and geologic hazards. For Type I, II, and III lands (refer to definitions in Chapter 2 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:~~

1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;
2. Assessment of engineering geological conditions and factors;
3. Review of the City of West Linn's Natural Hazard Mitigation Plan and applicability to the site; and
4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.

~~C. FEMA elevation certificate. Sufficient factual data to support the conclusions of the plan.~~

~~D. "No rise analysis" for potential impacts to the designated floodplain or floodway, if necessary. Identification information, including the name and address of the owner, developer, project designer, and the project engineer.~~

~~D. (Ord. 1576, 2008; Ord. 1635 § 18, 2014)~~

SECTION 6. Amendment. West Linn CDC Section 32.050(F), relating to applications for development within Water Resource Areas, is amended to read as follows:

(...)

~~3. Topographic information at two-foot contour increments identifying both existing grades and proposed grade changes. A storm detention and treatment plan and narrative statement pursuant to 92.010(E).~~

~~4. A slope map delineating slopes zero to 25 percent and over 25 percent. Tables and maps identifying acreage, location and type of development constraints due to slope, drainage and geologic hazards. For Type I, II, and III lands (refer to definitions in Chapter 2 CDC), the applicant must provide a geologic report, with text, figures and~~

attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

- a. Site characteristics, geologic descriptions and a summary of the site investigation conducted;
- b. Assessment of engineering geological conditions and factors;
- c. Review of the City of West Linn’s Natural Hazard Mitigation Plan and applicability to the site; and
- d. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.

SECTION 7. Amendment. West Linn CDC Section 32.060, relating to approval criteria for development within Water Resource Areas, is amended to read as follows:

B. Storm water and storm water facilities

(...)

6. Storm detention and treatment and geologic hazards. Per the submittals required by CDC 32.050(F)(3) and 92.010(E), all proposed storm detention and treatment facilities must comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and the applicant must provide sufficient factual data to support the conclusions of the submitted plan.

E. Per the submittals required by 32.050(F)(4), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

SECTION 8. Amendment. West Linn CDC Section 55.100(I), relating to Class II Design Review approval standards, is amended to read as follows:

The approval authority shall make findings with respect to the following criteria when approving, approving with conditions, or denying a Class II design review application:

(...)

2. Storm detention and treatment and geologic hazards. Per the submittals required by CDC 55.130 and 92.010(E), all proposed storm detention and treatment facilities must comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and the applicant must provide sufficient factual data to support the conclusions of the submitted plan.

Per the submittals required by 55.130(D), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

SECTION 9. Amendment. West Linn CDC Section 55.110, relating to design review site analysis, is amended to read as follows:

55.110 SITE ANALYSIS

The site analysis shall include:

A. A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bike ways, transit stops and utility access.

B. A site analysis on a drawing at a suitable scale (in order of preference, one inch equals 10 feet to one inch equals 30 feet) which shows:

1. The property boundaries, dimensions, and gross area.

2. Contour lines at the following minimum intervals:

a. Two-foot intervals for slopes from zero to 25 percent; and

b. Five- or 10-foot intervals for slopes in excess of 25 percent.

3. Tables and maps identifying **-all acreage, location and type of development constraints due to slope, drainage and geologic hazards, including a A slope analysis which identifies portions of the site according to the land types (I, II, III and IV) defined in Chapter 2 CDC).slope ranges as follows:**

a. Type I (under 15 percent);

- ~~b. Type II (between 15 to 25 percent);~~
- ~~c. Type II (between 25 to 35 percent);~~
- ~~d. Type I (over 35 percent).~~

SECTION 10. Amendment. West Linn CDC Section 55.130, relating to design review submittal requirements and standards, is amended to read as follows:

55.130 GRADING AND DRAINAGE PLANS

For Type I, II and III lands (refer to definitions in Chapter 2 CDC), a registered civil engineer must prepare a grading and drainage plan and a storm detention and treatment plan pursuant to CDC 92.010(E) shall be, at a scale sufficient to evaluate all aspects of the proposal, and a statement that demonstrates shall include the following:

A. The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.

B. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards. A registered civil engineer shall prepare a plan and statement that shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off-site impacts from a 10-year storm.

C. There is sufficient factual data to support the conclusions of the plan. Storm detention and treatment plans may be required.

D. Per CDC 99.035, the Planning Director may require the information in subsections A, B and C above for Type IV lands if the information is needed to properly evaluate the proposed site plan.

E. For Type I, II and III lands (refer to definitions in Chapter 2 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

- 1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;**
- 2. Assessment of engineering geological conditions and factors;**

3. Review of the City of West Linn’s Natural Hazard Mitigation Plan and applicability to the site; and
4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.

ED. Identification, information, including the name and address of the owner, developer, project designer, and the project engineer. (Ord. 1463, 2000; Ord. 1613 § 15, 2013; Ord. 1622 § 28, 2014)

SECTION 11. Amendment. West Linn CDC Section 56.100(H), relating to Class II parks design review approval standards, is amended to read as follows:

(...)

3. Storm detention and treatment and geologic hazards. Per the submittals required by CDC 56.130 and 92.010(E), all proposed storm detention and treatment facilities must comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and the applicant must provide sufficient factual data to support the conclusions of the submitted plan.

Per the submittals required by 56.130(C), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

SECTION 12. Amendment. West Linn CDC Section 56.130, relating to parks design review standards, is amended to read as follows:

56.130 GRADING AND DRAINAGE PLANS

For Type I, II and III lands (refer to definitions in Chapter 2 CDC), a registered civil engineer must prepare a grading plan and a storm detention and treatment plan pursuant to CDC 92.010(E), ~~The grading and drainage plan shall be~~ at the same scale as the site analysis (CDC 56.110), and a statement that demonstrates ~~shall include the~~ following:

A. The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.

B. *Repealed by Ord. 1622.*

C. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and there is sufficient factual data to support the conclusions of the plan.

D. Per CDC 99.035, the Planning Director may require the information in subsections A, B and C above for Type IV lands if the information is needed to properly evaluate the proposed site plan.

~~CE.~~ Tables and maps identifying all acreage, location and type of development constraints due to slope, drainage and geologic hazards. For Type I, II and , III and IV lands by acreage, location and type (please refer to definitions of these lands in Chapter 92 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

- 1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;**
- 2. Assessment of engineering geological conditions and factors;**
- 3. Review of the City of West Linn's Natural Hazard Mitigation Plan and applicability to the site; and**
- 4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.**

~~A registered civil engineer shall prepare a plan and statement that shall be supported by factual data that clearly shows that there will be no adverse impacts from increased intensity of runoff off site, or the plan and statement shall identify all off-site impacts and measures to mitigate those impacts. The plan and statement shall, at a minimum, determine the off site impacts from a 25 year storm.~~

~~D. Storm detention and treatment plans may be required.~~

EF. Identification information, including the name and address of the owner, developer, project designer, and the project engineer. (Ord. 1622 § 28, 2014)

SECTION 13. Amendment. West Linn CDC Section 60.060, relating to conditional use permits, is amended to read as follows:

60.060 APPLICATION

- A. A conditional use application shall be initiated by the property owner or the owner’s authorized agent.
- B. A prerequisite to the filing of an application is a pre-application conference at which time the Director shall explain the requirements and provide the appropriate forms as specified in CDC 99.030(B) and (C).
- C. A prerequisite to the filing of an application is a meeting with the respective City-recognized neighborhood association, per CDC 99.038, at which time the applicant will present his/her proposal and receive comments.
- D. An application for a conditional use shall include the completed application form and:
 - 1. A narrative which addresses the approval criteria set forth in CDC 60.070 and which sustains the applicant’s burden of proof; ~~and~~
 - 2. A site plan as provided by CDC 60.080; ~~and~~.
 - 3. If site modification or construction is proposed, a storm detention and treatment plan and narrative pursuant to CDC 92.010(E).**

One original application form must be submitted. One copy at the original scale and one copy reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. One copy of all other items must be submitted. The applicant shall also submit one copy of the complete application in a digital format acceptable to the City. When the application submittal is determined to be complete, additional copies may be required as determined by the Community Development Department.

~~E. Names and addresses of all who are property owners of record within 300 feet of the site shall be determined by the Director.~~

- F. The applicant shall pay the requisite fee. (Ord. 1401, 1997; Ord. 1442, 1999; Ord. 1621 § 25, 2014; Ord. 1622 § 16, 2014)

SECTION 14. Amendment. West Linn CDC Section 60.070, relating to conditional use permit approval standards and conditions, is amended to read as follows:

60.070 APPROVAL STANDARDS AND CONDITIONS

A. The Planning Commission shall approve, approve with conditions, or deny an application for a conditional use, except for a manufactured home subdivision in which case the approval standards and conditions shall be those specified in CDC 36.030, or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:

1. The site size and dimensions provide:
 - a. Adequate area for the needs of the proposed use; and
 - b. Adequate area for aesthetic design treatment to mitigate any possible adverse effect from the use on surrounding properties and uses.
2. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features.
3. The granting of the proposal will produce a facility that provides an overall benefit to the City.
4. Adequate public facilities will be available to provide service to the property at the time of occupancy.
5. The applicable requirements of the zone are met, except as modified by this chapter.
6. The supplementary requirements set forth in CDC Chapters 52 to 55, and Section 92.010(E) are met ~~CDC~~, if applicable, ~~are met~~.
7. The use will comply with the applicable policies of the Comprehensive Plan.

SECTION 15. Amendment. West Linn CDC Section 85.170, relating to subdivision submittal requirements, is amended to read as follows:

85.170 SUPPLEMENTAL SUBMITTAL REQUIREMENTS FOR TENTATIVE SUBDIVISION OR PARTITION PLAN

The following information shall be submitted to supplement the tentative subdivision plan:

(...)

C. Grading.

1. If areas are to be graded, a plan showing the location of cuts, fill, and retaining walls, and information on the character of soils shall be provided. The grading plan shall show proposed and existing contours at intervals per CDC 85.160(E)(2).

2. The grading plan shall demonstrate that the proposed grading to accommodate roadway standards and create appropriate building sites is the minimum amount necessary.

3. The grading plan must identify proposed building sites and include tables and maps identifying acreage, location and type of development constraints due to slope, drainage and geologic hazards. For Type I, II, and III lands (refer to definitions in Chapter 2 CDC) , the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:

- 1. Site characteristics, geologic descriptions and a summary of the site investigation conducted;**
- 2. Assessment of engineering geological conditions and factors;**
- 3. Review of the City of West Linn’s Natural Hazard Mitigation Plan and applicability to the site; and**
- 4. Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.**

(...)

F. **Storm. A storm detention and treatment plan and narrative compliant with CDC 92.010(E) A proposal shall must** be submitted for storm drainage and flood control including profiles of proposed drainageways with reference to the most recently adopted Storm Drainage Master Plan. (Ord. 1382, 1995; Ord. 1401, 1997; Ord. 1425, 1998; Ord. 1442, 1999; Ord. 1584, 2008; Ord. 1604 § 65, 2011; Ord. 1635 § 33, 2014; Ord. 1636 § 54, 2014; Ord. 1650 § 1 (Exh. A), 2016)

SECTION 16. Amendment. West Linn CDC Section 85.200, relating to subdivision approval criteria, is amended to read as follows:

85.200 APPROVAL CRITERIA

No tentative subdivision or partition plan shall be approved unless adequate public facilities will be available to provide service to the partition or subdivision area prior to final plat approval and the Planning Commission or Planning Director, as applicable, finds that the following standards have been satisfied, or can be satisfied by condition of approval.

(...)

(E) Grading. Grading of building sites shall conform to the following standards unless physical conditions demonstrate the propriety of other standards:

(...)

(6) Per the submittals required by CDC 85.170(C)(3), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

(...)

(H) Storm Detention and Treatment. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and there is sufficient factual data to support the conclusions of the submitted plan.

~~*Deleted during July 2014 supplement.*~~

SECTION 17. Amendment. West Linn CDC Section 92.010, relating to required public improvements for all development, is amended to read as follows:

92.010 PUBLIC IMPROVEMENTS FOR ALL DEVELOPMENT

The following improvements shall be installed at the expense of the developer and meet all City codes and standards:

(...)

E. ~~**Storm detention and treatment Surface drainage and storm sewer system.**~~
For Type I, II and III lands (refer to definitions in Chapter 2 CDC), Aa registered civil engineer shall must prepare a storm detention and treatment plan, at a scale sufficient to evaluate all aspects of the proposal, and a statement which shall be supported by factual data and that demonstrates:

- 1. The location and extent to which grading will take place indicating general contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.**
- 2. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards. Developers are encouraged to adapt storm water management approaches that make use of natural systems and infiltration to**

~~manage storm runoff, including the use of vegetated swales, rain gardens, and other like systems where appropriate.~~

3. There will be no adverse off-site impacts, including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream.
4. There is sufficient factual data to support the conclusions of the plan.
5. Per CDC 99.035, the Planning Director may require the information in subsections 1, 2, 3, and 4 above for Type IV lands if the information is needed to properly evaluate the proposed site plan.

SECTION 18. 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 19. 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 thereof 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 20. 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 **[18-21]**) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references, typographical errors or minor omissions that do not alter the intention of these amendments.

SECTION 21. Effective Date. This ordinance shall take effect on the 30th day 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 9th day of October 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: August 16, 2017
To: Planning Commissioners
From: John Boyd, Planning Manager
Subject: Public Testimony for Public Hearing CDC-17-02

On August 14, 2017 Staff received written testimony from Rebecca Adams with a suggestion for an additional revision.

No other comments were received.

Arnold, Jennifer

From: Rebecca Adams <radams014@gmail.com>
Sent: Monday, August 14, 2017 10:05 AM
To: Arnold, Jennifer; #Board - Planning Commission
Subject: Please add to Written Testimony for upcoming hearing on CDC-17-02

Hi Jennifer,

I'm not sure if the PC email is working anymore, but I see your email is working!
Could you please forward this to the PC as soon as possible so they have a little time to consider my small suggestion before the hearing.

Thank you.

Dear Planning Commission,

When our former administration removed the Storm and Geo hazard criteria from our code a few years ago, it left the community vulnerable and left our judging bodies with hands tied. I am so relieved to see you now finally have an opportunity to remedy that vulnerability and constriction. Please approve what you evaluate is reasonable language to fix our code so that judging bodies are free to discuss and condition the best storm and geohazard solutions to development applications in West Linn. It has been a long time coming.

Correcting the code's contradictory descriptions of Types I,II, III, and IV lands is a relief also.

There is one line that shows up a few times which I hope you will discuss as to whether it is written in the best possible way. I completely agree with the idea of this line, but worry it might over-promise a guarantee which could then open the city to legal suits. This is the line:

"The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to assure that landslides or property damage will not occur. "

I suppose the word "may" gives you some option to chose not to condition it, but if you want to condition it, I think the bar has been set too high. I do not think it is possible to 100% "assure" landslides or property damage will not occur given there is some unpredictability in how water and soil move around. If the judges felt unable to 100% assure, they may feel that had to just choose not to address it at all to protect the city and themselves from liability. So perhaps the line could say something a little less absolute along the lines of:

"The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to eliminate the known risks that landslides or property damage will not occur. "

Thank you for considering these ideas and all your hard work.

I hope that before long we have intact code again!

Rebecca Adams
1941 Buck

West Linn, OR
97068