

Agenda Report

Date: April 26, 2017

To: Chair Walvatne and West Linn Planning Commission

From: John R. Williams, Community Development Director; Lance Calvert, Public Works Director;
Megan Thornton, Assistant City Attorney; John Boyd, Planning Manager

Subject: Initial draft of Ordinance addressing review of geotechnical and surface water issues during quasi-judicial land use applications

Purpose

Initiate discussion with the Planning Commission to ensure that the Community Development Code (CDC) and Municipal Code allow for appropriate review of geotechnical and surface water elements of development applications.

Question(s) for Commission:

What are the Council and Commission's goals for this work? Are the proposed code amendments the simplest, clearest and most effective way to achieve those goals?

Public Hearing Required:

No public hearing is required on May 3. However, a public hearing would be required prior to adoption of any amendments to the CDC or Municipal Code.

Background & Discussion:

Recent land use applications have resulted in extensive discussions about geotechnical and surface water issues, and whether the CDC and Municipal Code provide the appropriate authority for the City's review of these issues. This discussion is connected to the previous deletion of Chapters 31 (Erosion Control) and 33 (Stormwater Management) from the CDC. The Mayor, City Council and Planning Commission have prioritized a review of these topics through the annual planning docket process. The Mayor and Council have directed the Planning Commission to take the lead on this discussion.

Based on all of these conversations, staff believes that the Council and Commission's goal 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. *Question 1: is this the right outcome statement?*

Presuming this is the goal, Planning, Legal and Public Works staff have reviewed the CDC and Municipal Code and propose several amendments. These 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.

Therefore, the proposed CDC amendments (Attachment 1) include changes and additions to:

- Planned Unit Development 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)

As drafted, each set of changes is addressed in a separate Section of the proposed Ordinance. *Question 2: are the proposed code amendments the simplest and clearest way to best achieve the Council and Commission’s goals on this topic?*

Options:

1. Amend the goal statement proposed by staff. This would shape further discussion of code amendment options.
2. Retain the goal statement and amend the proposed code language.
3. At times, the Council and Commission have discussed simply reinstating Chapters 31 and 33 of the CDC. If the goal statement proposed on page one is accurate, staff does not recommend reinstating these code sections because they duplicate other elements of the Municipal Code, often with slightly conflicting or outdated language, and because these sections do not clearly connect the City’s Public Works Standards with quasi-judicial approval criteria.

Potential Motion:

Should the Commission wish to move forward with code amendments, a motion to “request staff begin all steps necessary to process amendments (as modified by discussion, if appropriate) to the Community Development Code” would be appropriate. Alternatively, the Commission could agree to further discussion at future meetings before moving forward on a formal adoption process.

Attachments:

The City of West Linn’s Public Works Design and Construction Standards are not included as an attachment due to length. They are available on the City’s website at <https://westlinnoregon.gov/publicworks/engineering> - on the right side of the page follow the link to “Design and Construction Standards.”

1. Initial ordinance draft illustrating potential code amendments

ORDINANCE NO. 16XX

AN ORDINANCE RELATING TO [INSERT ORDINANCE DESCRIPTION HERE - SHOULD BE CAPITALIZED, CALIBRI 12, BOLD]

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, xxx;

WHEREAS, xxx; and

WHEREAS, xxx

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

SECTION 1. 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 Type I, II, III and IV lands by acreage, location and type (please refer to definitions of these lands in Chapter 02 CDC).

G. Other material as required by the Planning Director. (Ord. 1408, 1998; Ord. 1463, 2000)

SECTION 2. 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.

B. The application shall also demonstrate compliance with the following criteria:

1. The proposal shall preserve the existing amenities of the site to the greatest extent possible by relating the type and design of the development to the topography, landscape features, and natural amenities existing on the site and in the vicinity.

2. The proposed PUD shall provide a desirable, attractive, and stable environment in harmony with that of the surrounding area through thorough, well-developed, detailed planning and by comprehensively correlating the provisions of this code and all applicable adopted plans.

3. The placement and design of buildings, use of open spaces, circulation facilities, off-street parking areas, and landscaping shall be designed to best utilize the potentials of the site characterized by special features of geography, topography, size, and shape.

4. The PUD shall be developed so that it is compatible with neighboring development in terms of architecture, massing, and scale. Where that cannot be accomplished, appropriate transitions shall be provided that are deferential or sympathetic to existing development.

C. All densities, density transfers, transitions, density bonuses, and proposed setbacks shall conform to provisions of this chapter as required by CDC 24.080 and 24.110 through 24.170 inclusive. (Ord. 1463, 2000; Ord. 1547, 2007)

SECTION 3. 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. A slope analysis which identifies portions of the site according to the slope ranges as follows:
 - a. Type IV (under 15 percent);
 - b. Type III (between 15 to 25 percent);
 - c. Type III (between 25 to 35 percent);
 - d. Type IV (~~over~~ 35 percent or more).

SECTION 4. Amendment. West Linn CDC Section 55.130, relating to design review standards, is amended to read as follows:

55.130 STORM DETENTION AND TREATMENT GRADING PLAN

A registered civil engineer shall prepare a storm detention and treatment and drainage plan shall be at a scale sufficient to evaluate all aspects of the proposal and 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. 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.**

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

56.130 STORM DETENTION AND TREATMENT GRADING PLAN

A registered civil engineer shall prepare a storm detention and treatment and drainage plan shall be at the same scale as the site analysis (CDC 56.110) and 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. 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. 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. **There is sufficient factual data to support the conclusions of the plan. Storm detention and treatment plans may be required.**

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

SECTION 6. Amendment. West Linn CDC Sections 60.060 and 60.070, relating to conditional use permits, are 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.

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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. A storm detention and treatment plan as provided by 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)

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 92.10(E) are met CDC**, if applicable, ~~are met~~.
 7. The use will comply with the applicable policies of the Comprehensive Plan.
- ...

SECTION 7. 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.

D. Water.

1. A plan for domestic potable water supply lines and related water service facilities, such as reservoirs, etc., shall be prepared by a licensed engineer consistent with the adopted Comprehensive Water System Plan and most recently adopted updates and amendments.

2. Location and sizing of the water lines within the development and off-site extensions. Show on-site water line extensions in street stubouts to the edge of the site, or as needed to complete a loop in the system.
3. Adequate looping system of water lines to enhance water quality.
4. For all non-single-family developments, calculate fire flow demand of the site and demonstrate to the Fire Chief. Demonstrate to the City Engineer how the system can meet the demand.

E. Sewer.

1. A plan prepared by a licensed engineer shall show how the proposal is consistent with the Sanitary Sewer Master Plan and subsequent updates and amendments. Agreement with that plan must demonstrate how the sanitary sewer proposal will be accomplished and how it is efficient. The sewer system must be in the correct zone.
2. Sanitary sewer information will include plan view of the sanitary sewer lines, including manhole locations and depths. Show how each lot or parcel would be sewered.
3. Sanitary sewer lines shall be located in the public right-of-way, particularly the street, unless the applicant can demonstrate why the alternative location is necessary and meets accepted engineering standards.
4. Sanitary sewer line should be at a depth that can facilitate connection with down-system properties in an efficient manner.
5. The sanitary sewer line should be designed to minimize the amount of lineal feet in the system.
6. The sanitary sewer line shall minimize disturbance of natural areas and, in those cases where that is unavoidable, disturbance shall be mitigated pursuant to the appropriate chapters (e.g., Chapter [32](#) CDC, Water Resource Area Protection).
7. Sanitary sewer shall be extended or stubbed out to the next developable subdivision or a point in the street that allows for reasonable connection with adjacent or nearby properties.
8. The sanitary sewer system shall be built pursuant to Department of Environmental Quality (DEQ), City, and Tri-City Service District sewer standards. This report should be prepared by a licensed engineer, and the applicant must be able to demonstrate the ability to satisfy these submittal requirements or standards at the pre-construction phase.

F. Storm. A storm detention and treatment plan ~~A proposal~~ shall be submitted for storm drainage and flood control including profiles of proposed drainageways with reference to the most recently adopted Storm Drainage Master Plan and complies with CDC 92.010(E). (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 8. Amendment. West Linn CDC Section 92.010, related to required improvements, 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.~~

A registered civil engineer shall prepare a storm detention and treatment plan at a scale sufficient to evaluate all aspects of the proposal and 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 is sufficient factual data to support the conclusions of the plan.

SECTION 9. 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 10. 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 11. 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 [9-12]) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical errors.

SECTION 12. 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 ____ 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