



# CITY OF West Linn

## Memorandum

Date: June 15, 2023  
To: West Linn Planning Commission  
From: John Floyd, Associate Planner  
Subject: Public Comments Received for CDC-23-02

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Two additional public comments were received for the CDC-23-02 (Clear and Objective Code Amendments) public hearing after the publication of the staff report on June 9, 2023 and before close of business on Thursday, June 15, 2023. The comments, submitted by DLCD and Metro, are attached. Any additional comments will be sent under a separate cover memo.



# Oregon

Tina Kotek, Governor

Department of Land Conservation and Development

Community Services Division

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June 13, 2023

Darren Wyss, Planning Director  
City of West Linn



Re: Proposed amendments to the municipal code; File No. CDC-23-02

Dear Mr. Wyss,

Thank you for your recent submittal of the proposed CDC-23-02 plan amendment to DLCD. We have reviewed the proposed amendments and we commend the city for taking on such a large effort to update the code language for consistency with statute, namely ORS 197.307, which requires development standards that apply to housing be clear and objective.

We respectfully note for you a few areas in the proposed code amendment language where the language could be improved to be consistent with statute, rule, and in some cases, to be more clear and objective:

- In Chapter 85.200.A.3, there is language proposed that would require mitigation when transportation standards are currently not met or where an affected roadway is “projected to fail to meet the standard.” To ensure clarity here, we suggest specifying *at what time* those facilities are “projected to fail.” Some roadways may be projected to fail in the short term based on the applicant’s traffic analysis, while others may be projected to fail in a future planning horizon year based on analysis done for the city’s Transportation System Plan, for example, in 2040. It also may be helpful to clarify the meaning of ‘programmed’ in this context. The full paragraph in the proposed code, as currently written, is:

*“In situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard, and an improvement project is not programmed, the development shall avoid further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.”*

- The municipal code references the 5<sup>th</sup> edition of the ITE Trip Generation manual, which is from 1991. There is a much newer edition available (11<sup>th</sup> edition, published in 2021) that improves upon the methodology and is likely more accurate, as well as more likely to be in use by today’s traffic engineers.
- The new definition of “dwelling unit” appears to be clear and objective, although it does leave in a reference to “one family,” which is inconsistent with HB 2583. We suggest

replacement of “one family” with “one household,” or using the definition provided in DLCD’s model code:

***Dwelling Unit.*** *A building, or a portion of a building, that has independent living facilities including provisions for sleeping, cooking, and sanitation, and that is designed for residential occupancy by a group of people. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units or accessory dwelling units, as applicable, unless the additional cooking facilities are clearly accessory to the primary use, such as an outdoor grill or wet bar.*

- Regarding the code language for senior citizen/handicapped housing facilities, we have a few suggestions:
  - The best practice for this type of use is to use the term “senior housing”. Under fair housing law there is a broad definition of disability: “a physical or mental impairment which substantially limits one or more of such person’s major life activities”, such as walking, seeing, hearing, thinking, breathing, performing manual tasks, learning, working, caring for oneself, etc. Including “handicapped” in the name for this housing type could discourage individuals/seniors with other non-physical disabilities from applying for this housing; senior housing is a more neutral term.
  - To avoid violating the Fair Housing Act, we recommend defining “couple” (as Metro also suggests) in an inclusive manner that encompasses a range of familial relationships and doesn’t discriminate against any other protected class. This could involve using broad language that acknowledges diverse relationships and living arrangements without imposing restrictions based on specific characteristics such as marital status.
  - It is not clear if there is overlap between this use and a residential home or residential facility. If you mean for these to be distinct uses, it may be helpful to clarify that in your definitions.
  
- In the R-2.1 section, the provision in 16.050(8)(c) includes language regarding "easy access." This should be defined in order to be clear and objective.

Again, thank you for your work to improve your housing development standards. DLCD looks forward to continuing coordination to promote housing production in West Linn.

Sincerely,

Kelly Reid, DLCD Regional Representative

CC: Gordon Howard, Community Services Director, DLCD  
Ethan Stuckmayer, Housing Manager, DLCD

**From:** [Glen Hamburg](#)  
**To:** [Floyd, John](#)  
**Subject:** RE: Comments on CDC-23-02  
**Date:** Wednesday, June 14, 2023 8:04:11 AM  
**Attachments:** [image001.png](#)

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Good morning John,

While our transportation planners are still reviewing the proposed amendments for consistency with the Regional Transportation Functional Plan (RTFP), I wanted to make one addition comment/request.

Various City code provisions, including existing provisions and the proposed amendments in 85.200(A)(4), have requirements to maintain density at or above 70 percent of the relevant maximum density. We ask that the City's written findings address Functional Plan Subsection 3.07.120(b) and either: identify when the City adopted a minimum density for zones where these existing and proposed provisions would be applied (except for zones that authorize the specified mix-use development), and what those minimum densities are; or explain how a minimum density of at least 80 percent of the maximum density would still be required in these zones, even with the proposed amendments. If the City is proposing to reduce its minimum zoned capacity, please have written findings addressing 3.07.120(a), (c), (d), and/or (e), as appropriate.

Kind regards,

**Glen Hamburg** | Metro | Associate Regional Planner  
Cell: 971.666.1048  
My gender pronouns: he/him/his



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**From:** Floyd, John <[JFloyd@westlinnoregon.gov](mailto:JFloyd@westlinnoregon.gov)>  
**Sent:** Wednesday, June 7, 2023 7:41 AM  
**To:** Glen Hamburg <[Glen.Hamburg@oregonmetro.gov](mailto:Glen.Hamburg@oregonmetro.gov)>  
**Subject:** [External sender]RE: Comments on CDC-23-02

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Hi Glen,

Thanks for submitting thoughtful comments. Glad people read the 35 day notices as we don't always receive a response. I'll add them to the record and we'll consider the suggestions.

John

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**From:** Glen Hamburg <[Glen.Hamburg@oregonmetro.gov](mailto:Glen.Hamburg@oregonmetro.gov)>

**Sent:** Monday, June 5, 2023 1:05 PM

**To:** Floyd, John <[JFloyd@westlinnoregon.gov](mailto:JFloyd@westlinnoregon.gov)>

**Subject:** Comments on CDC-23-02

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Hello John,

In reviewing the various amendments proposed in CDC-23-02 submitted to DLCD's PAPA system, I wanted to offer the following comments:

1. The proposed definition of "accessory dwelling unit" (ADU) would continue to include a requirement that the ADU be "intended to provide convenient and affordable housing opportunities". Because this requirement is subjective and may not be consistent with Metro and state law, it is recommended that the City consider removing this requirement.
2. The amendments propose to retain certain conditions on senior citizen/handicapped housing facilities, including a condition that "in the case of couples, one member of the couple shall be 60 years or older". "Couple", however, may be subjectively perceived as only including two individuals with a certain kind of relationship (e.g., a legal marriage) but not others. It is recommended that the City consider whether the code would benefit from having a more explicit definition of what constitutes a "couple".
3. A new definition of "tree" and various tree-related amendments are proposed. Metro asks that the City's written findings identify how the CDC-23-02 amendments are consistent with relevant requirements of Urban Growth Management Functional Plan (UGMFP) Title 13.

Kind regards,

**Glen Hamburg** | Metro | Associate Regional Planner

Cell: 971.666.1048

My gender pronouns: he/him/his



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**John Floyd**  
*Associate Planner*  
Planning  
Pronouns: he, him, his

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