



CITY OF West Linn

Memorandum

Date: June 21, 2023
To: West Linn Planning Commission
From: John Floyd, Associate Planner
Subject: Public Comments Received for CDC-23-02

A total of six comment letters have been received for the CDC-23-02 (Clear and Objective Code Amendments) public hearing between publication of the [staff report](#) on June 9th and noon today. The first two comment letters, submitted by DLCD and Metro, were provided to the Planning Commission in a June 15th [Memo](#). As of noon today, four additional comment letters from Metro have been submitted and are attached for the Planning Commission's review.

Issues raised in the six letters are excerpted and discussed below:

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT (DLCD)

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."

Staff Response: The referenced language currently exists within the code under the definition of **Adequate Public Facilities** and is being relocated to CDC 55.100, 60.070, and 85.200 as it is poor practice to locate development standards within definitions. To address the comment above, staff recommends



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insertion of language in red below in the affected chapters, subject to further refinement by staff in consultation with the City Attorney, City Engineer, and DLCDC prior to adoption by Council.

“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 at a date determined within a Transportation Impact Analysis, 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 5th edition of the ITE Trip Generation manual, which is from 1991. There is a much newer edition available (11th 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.

Staff Response: This comment pertains to an older draft distributed with the 35-day PAPA notice to DLCDC. The proposed amendments now reference the 11th edition.

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 DLCDC’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.

Staff Response: The proposed text amendments to Chapter 2 (Definitions) address HB2583 by redefining the term family to remove occupancy limits and clarify that a family consists of one or more persons related or unrelated by blood. See commentary on page 20 and the revised definition on page 30 of the staff report as excerpted below.

Family. ~~Two~~One or more persons related ~~or unrelated by blood, marriage, legal adoption, or guardianship; or a group of not more than five persons all or part of whom are not so related by blood or marriage~~ living together as a single housekeeping unit in a dwelling unit.



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Regarding the code language for senior citizen/handicapped housing facilities, we have a few suggestions:

o 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.

Response: To address concerns regarding fair housing and eligibility, staff recommends expanding the definition of "senior/handicapped housing" to include "and/or" language as follows:

Senior citizen/handicapped housing facilities. Living facilities for seniors and/or persons with disabilities which provide living units, congregate dining, recreational facilities and other services and requiring 24-hour staffing assistance.

o 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.

Response: Staff recommends replacing the word "couple" with "household" wherever standards for senior citizen/handicapped housing facilities are mentioned in the code. This includes CDC Subsections 14.050, 15.050, and 16.050.

o 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.

Response: Staff believes the uses are clearly distinguished in the code as distinct uses, and further clarifications are made as part of a future text amendment package.

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.

Response: This code language appears in chapters 14.050(8)(c), 15.050(8)(c), and 16.050(8)(c) and is associated standards for senior/handicapped housing. Staff recommends deletion of the word "easy" as demonstrated below, in order to remove discretion.



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c. Community space and related equipment shall be required to provide social and recreational opportunities for project occupants. Included may be such facilities as game rooms, meeting rooms, music or craft rooms. At least one community room within a project shall include a service area with a kitchen sink, counter top and storage cabinets, and shall have **easy access to a storage area sized to store tables, chairs and janitorial supplies. All complexes shall have a minimum of 15 square feet of community space per occupant, based on one person per bedroom.**

METRO

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.

Response: Staff recommends deletion of the phrase as recommended by Metro.

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”.

Response: See prior response to DLCD regarding this issue.

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.

Response: The proposed text amendments specifically exclude changes to chapters 28 and 32 and related overlays that address Goal 5 resource protections in Titles 3 and 13 of the Metro Functional Plan. The new definition of tree is required as none presently exist, and are primarily intended to make landscape standards more clear and objective. See also findings on pages 12 and 13 of the staff report.

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



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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.

Response: The City adopted the 70% minimum density standard in 1998 under [Ordinance 1408](#) (page 3 of Exhibit A), prior to the 2011 compliance date specified in Subsection 3.07.120(b) of the functional plan. The purpose of the proposed amendments is to relocate and clarify the existing standards into more clear and objective language, and neither increase nor decrease the 70% minimum. In a follow up email of June 21, 2023, Metro staff concurred these facts satisfy their request.

I asked my transportation colleagues for some more specific direction on what they'd like to see the City's findings address in the RTFP. They responded that the findings could focus on Subsections 3.08.110(E) and (F).

Response: The specified subsections of the [Regional Transportation Functional Plan \(RTFP\)](#) pertain to standards for the construction of a new street. The City's existing and acknowledged CDC is currently in compliance with these requirements, and the proposed amendments do not propose to alter that compliance in that they are being reformatted for clarity and clear and objective language, and not a change in policy or outcome.

Upon further review, staff recommends the retention of language in CDC 85.200.A.13 (Page 473 of the staff report) to ensure continued compliance with RTFP 3.08.110(E) that limits cul-de-sacs to no more than 200 feet or 25 homes. The proposed deletion of the 25-home limit was intended to reflect evolving TVF&R standards that now allow more than 25 homes on a cul-de-sac. Staff now recommends retention to ensure compliance with the RTFP.

b. New cul-de-sacs and other closed-end streets, consistent with subsection (A)(~~413~~)(a) of this section, shall not exceed 200 feet in length ~~or serve more than 25 dwelling units unless the design complies with~~ and shall comply with all adopted Tualatin Valley Fire and Rescue (TVFR) access standards ~~and adequately provides for anticipated traffic, consistent with the Transportation System Plan (TSP).~~

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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Kind regards,

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



From: Floyd, John <JFloyd@westlinnoregon.gov>
Sent: Wednesday, June 7, 2023 7:41 AM
To: Glen Hamburg <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

From: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>

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

To: Floyd, John <JFloyd@westlinnoregon.gov>

Subject: Comments on CDC-23-02

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

22500 Salamo Rd.
West Linn, Oregon 97068
JFloyd@westlinnoregon.gov
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From: [Glen Hamburg](#)
To: [Floyd, John](#)
Subject: RE: Comments on CDC-23-02
Date: Friday, June 16, 2023 7:18:06 AM
Attachments: [image001.png](#)

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I just heard back from our transportation planners. They state that the proposed amendments “seem consistent with our regional connectivity requirements in the RTFP”. Of course, it would be helpful, at least for the record, that the City’s final proposal include written findings addressing applicable criteria.

Thanks for your patience,

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From: Floyd, John <JFloyd@westlinnoregon.gov>
Sent: Thursday, June 15, 2023 5:27 PM
To: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>
Subject: [External sender]RE: Comments on CDC-23-02

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From: [Glen Hamburg](#)
To: [Floyd, John](#)
Subject: RE: Comments on CDC-23-02
Date: Wednesday, June 21, 2023 7:25:51 AM
Attachments: [image001.png](#)
[image003.png](#)

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Good morning John,

Yes, that explanation satisfies the criterion sufficiently. Thank you for taking the time to look in to and confirm that.

Glen Hamburg | Metro | Associate Regional Planner
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From: Floyd, John <JFloyd@westlinnoregon.gov>
Sent: Tuesday, June 20, 2023 6:10 PM
To: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>
Subject: [External sender]RE: Comments on CDC-23-02

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Glen,

Thanks for the follow up and confirmation, and we'll adopt the necessary findings.

Regarding your June 14th comments regarding compliance with 3.07.120. The City adopted the 70% minimum density standard in 1998 under [Ordinance 1408](#) (page 3 of Exhibit A), well before the 2011 cutoff specified in the functional plan. The purpose of the amendments is to relocate and clarify the existing standards into more clear and objective language, and neither increase nor decrease the 70% minimum. Can you confirm that findings containing this information will address your concern?

13. Amend Section 85.200(J)(7) as follows:
Density requirement. Density shall occur at [~~85~~] 70 percent or more of the maximum density allowed by the underlying zoning.

1408
Exhibit A
3 of 70

3

Thanks,

John

From: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>
Sent: Friday, June 16, 2023 7:18 AM
To: Floyd, John <JFloyd@westlinnoregon.gov>
Subject: RE: Comments on CDC-23-02

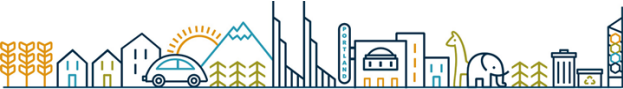
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Planning

Pronouns: he, him, his

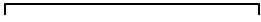
22500 Salamo Rd.

West Linn, Oregon 97068

JFloyd@westlinnoregon.gov

westlinnoregon.gov

503-742-6058



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John Floyd
Associate Planner
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From: [Glen Hamburg](#)
To: [Floyd, John](#)
Subject: RE: Comments on CDC-23-02
Date: Wednesday, June 21, 2023 7:31:07 AM
Attachments: [image001.png](#)

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Hi again John,

I asked my transportation colleagues for some more specific direction on what they'd like to see the City's findings address in the RTFP. They responded that the findings could focus on Subsections 3.08.110(E) and (F).

I hope that gives some better, more reasonable guidance to the City.

Regards,

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



From: Glen Hamburg
Sent: Friday, June 16, 2023 7:18 AM
To: Floyd, John <JFloyd@westlinnoregon.gov>
Subject: RE: Comments on CDC-23-02

Good morning John,

I just heard back from our transportation planners. They state that the proposed amendments “seem consistent with our regional connectivity requirements in the RTFP”. Of course, it would be helpful, at least for the record, that the City's final proposal include written findings addressing applicable criteria.

Thanks for your patience,

Glen Hamburg | Metro | Associate Regional Planner
Cell: 971.666.1048

My gender pronouns: he/him/his



From: Floyd, John <JFloyd@westlinnoregon.gov>
Sent: Thursday, June 15, 2023 5:27 PM
To: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>
Subject: [External sender]RE: Comments on CDC-23-02

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Hi Glen,

Appreciate the additional comments. Do you know when your transportation planners might have final comments? I know we're coming up to a holiday weekend, but we want to make sure we can address your concerns before our Planning Commission makes a recommendation to Council. They are scheduled to take this up next Wednesday. If you believe comments will take longer, we can discuss a continuance with the PC.

Thanks,

John

From: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>
Sent: Wednesday, June 14, 2023 8:04 AM
To: Floyd, John <JFloyd@westlinnoregon.gov>
Subject: RE: Comments on CDC-23-02

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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



From: Floyd, John <JFloyd@westlinnoregon.gov>
Sent: Wednesday, June 7, 2023 7:41 AM
To: Glen Hamburg <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

From: Glen Hamburg <Glen.Hamburg@oregonmetro.gov>
Sent: Monday, June 5, 2023 1:05 PM
To: Floyd, John <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



John Floyd

Associate Planner

Planning

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John Floyd

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