

Agenda Bill 2024-12-09-XX

Date Prepared: November 22, 2024

For Meeting Date: December 09, 2024

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Code Process Amendment Package Public Hearing

Purpose:

To hold a public hearing and consider adoption of the Code Process Amendment Package via Ordinance 1755.

Question(s) for Council:

Should Council adopt the Code Process Amendment Package as recommended by the Planning Commission?

Public Hearing Required:

Yes

Background & Discussion:

The Code Process Concepts 2024 project stems from development review-related hearings and processes the City Council (CC) and Planning Commission (PC) had been involved in recently. Based on the discussion during these items, there were areas for improvement in the West Linn Community Development Code (CDC) to make the processes more effective in serving community needs. The four code process concepts are:

1. Extensions of Approval
2. Appeals of Development Permits
3. Home Occupations
4. Expedited Land Division & Middle Housing Land Divisions

The CC was originally presented with the code process concepts at its October 16, 2023 meeting; and later held a joint work session along with the Planning Commission (PC) on March 18, 2024. At the joint work session, the CC directed the PC to work with staff to develop revised code language for the four code process concepts and to bring an amendment package to the CC for adoption.

The PC held five work sessions from April 2024 to August 2024 to discuss the code process concepts and develop revised code language. The PC found consensus on August 21st and directed staff to bring the code amendment package into the legislative adoption process. The proposed amendments to CDC

Chapters 2, 37, 85, and 99 are intended to better serve the community needs, make the code language clear and objective, and ensure continued compliance with state statutes and administrative rules.

The PC legislative public hearing was held on October 16, 2024. After a brief discussion, the PC made a unanimous recommendation (see Attachment 2) for the City Council to adopt the proposed code amendments found in Ordinance 1755 (see Attachment 3).

The City Council held a work session on November 4, 2024 to discuss the proposed code amendments, ask clarifying questions, and make any requests for more information. Council directed staff to bring back additional information on the following topics:

1. Review proposed amendments to CDC 99.250.A.(3) with City Attorney to ensure it clearly requires submittal of code criteria believed to have been overlooked or incorrectly interpreted or applied.
2. Potential impacts to existing home occupations with “pupils/student” by removing the unlimited trips allowance and setting a maximum of 12 vehicle trips per day.
3. Pros/cons of de novo versus on-the-record appeal hearings and a comparison of the appeal processes of other jurisdictions in the Metro region.
4. Potential role of a Hearings Officer in the appeal process.

Council held a second work session on November 18, 2024 and directed staff to bring the recommended amendments to a legislative public hearing on December 9th.

Budget Impact:

None anticipated.

Sustainability Impact:

None anticipated.

Council Options:

1. Adopt Ordinance 1755 as recommended by Planning Commission; or
2. Adopt Ordinance 1755 as recommended by the Planning Commission and include additional amendments proposed by the City Attorney and found in the staff memo (Attachment 1); or
3. Adopt Ordinance 1755 with additional changes; or
4. Do not adopt Ordinance 1755.

Staff Recommendation:

Approve CDC-24-02, as recommended by the Planning Commission, by adopting Ordinance 1755 with the additional proposed changes from the City Attorney found in Attachment 1.

Potential Motion:

1. Move to adopt Ordinance 1755 as recommended by the Planning Commission with additional changes as proposed by the City Attorney in Attachment 1.

Attachments:

1. Staff Memo, dated November 22, 2024
2. Ordinance 1755
3. Planning Commission Recommendation, dated October 24, 2024
4. Planning Commission Staff Report and Findings, dated October 16, 2024
5. City Council Public Hearing Affidavit of Notice

Attachment 1: Staff Memo Dated 11/22/2024

Memorandum

Date: November 22, 2024

To: Rory Bialostosky, Mayor
Members, West Linn City Council

From: Darren Wyss, Planning Manager

Subject: Recommended Updates to Code Process Amendments

The City Council held a [work session on November 4, 2024](#) and on [November 18, 2024](#) ([supplemental memo](#)) to discuss the proposed Code Process Amendments Package as recommended by the Planning Commission. The Council asked clarifying questions and directed staff to bring back additional information. After the work sessions, the Council directed staff to bring forward the amendment to a legislative public hearing scheduled for December 9, 2024.

Coinciding with the Council work sessions was a final review of the recommended code amendment language by the City's contracted land use attorney. The following recommendations (**strikeouts** and [new language](#)) were provided by the contracted land use attorney for Council consideration.

1. Definition Updates – one minor word change and one minor addition to the following definitions.

Middle Housing. A type of housing that ~~includes~~ consists of duplexes, triplexes, quadplexes, townhouses, and cottage clusters as defined in Oregon Revised Statute 197A.420.

Middle Housing Land Division. The division of a lot or parcel of land that contains or is proposed to contain middle housing under the rules established in Oregon Revised Statute 92.031.

2. CDC 85.230.A(1) – remove this submittal requirement as middle housing land divisions are not required to meet the criteria for expedited land divisions; they only use the same procedures.

85.230 MIDDLE HOUSING LAND DIVISIONS

A middle housing land division, as defined by ORS 92.031, permits the division of property that contains middle housing. A middle housing land division is subject to limited review criteria and processed using the expedited land division rules of ORS 197.360 to 380.

A. Submittal Requirements.

~~1. **Written responses to Oregon Revised Statute 197.360(1) describing how the proposal qualifies for an expedited land division.**~~

~~2. **1. Written responses to Oregon Revised Statute 92.031.**~~

3. CDC 99.250.(D) – Remove language to avoid confusion related to the discretion of the appeal authority to weigh evidence in making the decision.

€ **D.** The hearing on the appeal or review shall be de novo; however, all evidence presented to any lower approval authority shall be made part of the record and shall be considered and given equal weight as evidence presented on appeal.

4. CDC 99.250 – clean up language to clearly require a citation to approval criteria or development standards.

A. The notice of **An** appeal **application** shall contain **the following information**:

1. **Date and case file number of** A reference to the **decision being** application sought to be appealed. ~~;~~ and

2. **Documentation that the appellant** A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.

3. A statement describing the basis of the appeal, including:

a. that includes a citation to the West Linn Municipal Code and/or Community Development Code approval criteria or development standard(s) that are not met in the application, or that the appellant claims believed to have been overlooked or incorrectly interpreted or applied.; ~~and or~~

b. The aspect of the proposal believed to have been overlooked or incorrectly evaluated.

B. The appeal application shall be accompanied by the required fee.

C. If the appeal application and required fee are not submitted within the appeal period, or if the appeal application does not contain the required elements specified in West Linn CDC Section 99.250.A(1-3), the application shall not be accepted.

€ **D.** The hearing on the appeal or review shall be de novo; however, all evidence presented to any lower approval authority shall be made part of the record and shall be considered and given equal weight as evidence presented on appeal.

~~D. The appeal or review application may state grounds for appeal or review.~~

5. ***CDC 99.325.C(2) – clarify the original extension application must be approved prior to expiration and remove reference to appeals.***

C. General Provisions

1. An approved land use application is eligible for one extension.

2. To be effective, An extension application must be approved by the decision-making authority prior to the expiration date of the original approval, including resolution of all appeal periods.

3. If an extension is approved, the expiration date for the original approval is extended an additional two years from the effective date of the original approval.

6. ***CDC 99.325(E) – include specifications for “recognized professional” to meet clear and objective requirements.***

E. Approval Criteria

The approval authority will approve an extension application when all of the following criteria are met:

1. The applicant has provided evidence that a good faith effort was made to utilize the approval within the specified time period or the need for the extension is the result of conditions or circumstances outside the control of the applicant or property owner; and

2. If the original application included a transportation impact study, a natural resources report, geotechnical report, and/or tree inventory report an updated report must be provided with the extension application that shows no significant changes on or near the development site have occurred that would affect the conclusions and recommendations of the existing report(s). A letter from a recognized professional satisfies this criterion if it states that conditions have not changed since the approval of the original application and no new analysis is warranted.

3. For purposes of this section, a recognized professional is defined as:

a. CDC 85.170.B.2.f(1) for transportation impact studies.

b. CDC 32.050.K.4(a) for natural resources reports.

c. CDC 85.170.C.(3) for geotechnical reports.

If you have questions about the meeting or materials, please feel free to email or call me at dwys@westlinnoregon.gov or 503-742-6064.

Attachment 2: Ordinance 1755

ORDINANCE NO. 1755

AN ORDINANCE ADOPTING TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE CHAPTERS 2, 37, 85, AND 99 IN ORDER TO UPDATE LANGUAGE FOR HOME OCCUPATIONS, EXTENSIONS OF APPROVAL, APPEALS OF DEVELOPMENT PERMITS, EXPIDITED LAND DIVISIONS, AND MIDDLE HOUSING LAND DIVISIONS

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~lined through~~ and additions are underlined in **red font**.

WHEREAS, Chapter II, Section 4, of the West Linn City Charter provides: Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

WHEREAS, in 2023 City staff and the City Attorney's office identified five code processes in need of improvement to be clear and objective, comply with state regulations, and better serve community interests; and

WHEREAS, the City Council appointed the West Linn Planning Commission (PC) on March 18, 2024 to act as the working group and work with staff to improve four code processes by recommending a proposed code amendment package; and

WHEREAS, the PC held five work sessions from April 2024 to August 2024; and

WHEREAS, the PC held a public hearing, which was noticed in accordance with City standards, on October 16, 2024, and recommended approval of the proposed Code Process Concepts Code Amendment Package; and

WHEREAS, the West Linn City Council held a public hearing, which was noticed in accordance with City standards, on December 9, 2024, to consider the Planning Commission recommendation, receive public testimony, and evaluate the decision-making criteria; and

WHEREAS, the Council's decision is based on the findings contained in these Whereas Clauses, together with findings, conclusions, and substantial evidence found in the associated land use record file CDC-24-02, which is incorporated by this reference.

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

SECTION 1. Amendments. The West Linn Community Development Code Chapters 2, 37, 85, and 99 are amended to include new text and rescind existing text as shown in Exhibit A.

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

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

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

SECTION 9. 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 _____, 2024, and duly PASSED and ADOPTED this _____ day of _____, 2024.

RORY BIALOSTOSKY, MAYOR

ATTEST:

KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

WEST LINN COMMUNITY DEVELOPMENT CODE

Chapter 2 DEFINITIONS

02.010 INTERPRETATION

For the purpose of this code, certain terms or words used herein shall be interpreted as follows:

- A. The word “shall” is mandatory, the word “may” is permissive.
- B. The word “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”

(...)

02.030 SPECIFIC WORDS AND TERMS

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

Accessory dwelling unit (ADU). Attached or detached dwelling unit which is secondary to the primary dwelling unit. The unit includes its own independent living facilities with provisions for living, sleeping, eating, cooking, and sanitation, and is designed for residential occupancy independent of the primary dwelling unit.

(...)

Middle Housing. A type of housing that consists of duplexes, triplexes, quadplexes, townhouses, and cottage clusters as defined in Oregon Revised Statute 197A.420.

Middle Housing Land Division. The division of a lot or parcel of land that contains or is proposed to contain middle housing under the rules established in Oregon Revised Statute 92.031.

Minor modification. A change in the approved design that is equal to or less than a 10 percent increase in the length, width or height of the facility. A change of location by under 20 feet laterally for any part of the structure, ramp, dock, etc., also constitutes a minor modification.

(...)

Referee. An individual or group appointed by the City to decide the appeal of an Expedited Land Division and/or a Middle Housing Land Division. A Referee may not be an employee or City Official.

Religious institutions. A building constructed or utilized primarily for worship, together with its accessory uses, and buildings where persons regularly assemble for religious worship and which is controlled by a religious body organized to sustain worship.

(...)

Chapter 37 HOME OCCUPATIONS

37.010 PURPOSE

The purpose of this chapter is to provide for home occupations in residential zones as a means of providing convenient employment opportunities and decreasing the dependence on the auto. The standards contained in this chapter are intended to assure that home occupations will be compatible and consistent with the residential uses and will not have a detrimental effect on neighboring properties.

37.020 GENERAL STANDARDS

A. A home occupation shall comply with all the following operating standards:

1. The home occupation shall be **incidental and accessory** ~~a secondary use to the residential use of the property~~ ~~primary use of the house as a residence.~~
2. **The home occupation must be operated entirely within the dwelling unit or a fully enclosed accessory structure that meets building code requirements.** ~~In no way shall the appearance of the residential structure or yard be altered to accommodate the Home Occupation, or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, show windows, signs, or advertising visible outside the premises to attract customers or clients, other than a sign as permitted per subsection (A)(9) of this section.~~
3. **No part of the home occupation shall be operated outdoors, including the display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way.** ~~There shall be no outdoor use or storage of material or mechanical equipment that is not part of the residential use.~~
4. **There shall be no outward appearance of the business activity other than a sign permitted per CDC Chapter 52.** ~~An accessory building which meets the provisions of Chapter 34 CDC may be used for the home occupation.~~
5. ~~Any parking generated by patrons shall be accommodated on-site.~~
6. ~~Off-street parking areas with three or more spaces shall be screened by a fence constructed per Chapter 44 CDC specifications, topography, vegetation, or a combination of these methods. Screening vegetation must be in place by the time the applicant submits a home occupation application, or be reasonably expected to provide effective screening within one and one-half years of approval of said application.~~

- ~~5. 7.~~ No equipment or process shall be used in a home occupation which creates noise, odor, smoke, fumes, fallout, vibration, heat, glare, or electrical interference ~~resulting~~ detectable to the normal senses off the lot.
- ~~6. 8.~~ No more than three employees, other than the residents, shall be engaged in service on the premises at any given time.
- ~~9.~~ The use of signs shall meet the requirements of Chapter ~~52~~ CDC unless modified by this chapter.
- ~~7. 10.~~ Occupied or unoccupied vehicles associated with the home occupation shall not have engines idling at any time. ~~except during the immediate loading or unloading of cargo, mail, packages or passengers.~~ Vehicles associated with the home occupation shall not be loaded or unloaded between the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday, or between the hours of ~~6~~**5:00** p.m. to 9:00 a.m. on Saturday and Sunday and **Federal Holidays**. ~~Other noise-generating machinery associated with conducting a home occupation shall also follow these guidelines.~~
- ~~8. 11.~~ The owner of the business must reside in the **dwelling unit** ~~primary structure~~ on the premises.
- ~~9. 12.~~ ~~Only one~~ **One commercial** vehicle, **as defined by the Oregon Vehicle Code**, no larger than a three-quarter-ton **gross vehicle weight** truck may be **parked outside of a structure**. ~~used by the occupant, directly or indirectly, in connection with a home occupation. An off-street parking space shall be provided for this vehicle.~~
- ~~10. 13.~~ The **home occupation** use creates no more than eight total vehicle trips per day including employees, all deliveries, and customers. One trip is equal to one vehicle entering the site and exiting the site. Home occupations with pupils or students, such as, but not limited to, dance, music or language classes, **can create no more than twelve total vehicle trips per day including employees, all deliveries, and customers.** ~~are exempt from the vehicle trip limitation.~~ **Pick-up and drop-off of a pupil or student is equal to one vehicle trip.**

37.030 SPECIFIC HOME OCCUPATION USES PROHIBITED

- A. *Repealed by Ord. [1635](#).*
- B. Any home occupation involving the on-site sale, ~~or~~ resale, **repair, or restoration** of automobiles, trucks, boats, trailers, or other motorized vehicles.

(...)

Chapter 85 LAND DIVISIONS – GENERAL PROVISIONS

85.070 Administration and Approval Process

- A. The application shall be filed by the record owner(s) of the property or by an authorized agent who has a letter of authorization from the property owners of record. The burden of proof will be upon the applicant to demonstrate the validity of the ownership, if challenged.
- B. Action on the application for a tentative plan shall be as provided by Chapter 99 CDC.
1. The Planning Director shall approve, deny, or approve with conditions an application for a partition subject to the provisions of CDC 85.200, 99.060(A), and 99.110. The Director's decision may be appealed to the City Council as provided by CDC 99.240(A).
 2. The Planning Commission shall approve, deny, or approve with conditions an application for a tentative plan for a subdivision subject to the provisions of CDC 85.200, 99.060(B), and 99.110. A petition for review of the Planning Commission's decision may be filed as provided by CDC 99.240.
 - 3. The Planning Director shall approve, deny, or approve with conditions an application for an expedited land division subject to the provisions of CDC 85.220, 99.060(A), and 99.110. The decision may be appealed to a referee as provided by CDC 99.060(E).**
 - 4. The Planning Director shall approve, deny, or approve with conditions an application for a middle housing land division subject to the provisions of CDC 85.230, 99.060(A), and 99.110. The decision may be appealed to a referee as provided by CDC 99.060(E).**
 - ~~3.~~ **5.** Action on the final plat shall be ministerial and taken by the Planning Director and City Engineer, and the Planning Director and City Engineer shall approve a final subdivision or partition plat upon the finding that the approval criteria set forth in CDC 89.050 have been satisfied. The Planning Director's and City Engineer's decision may be appealed to the Planning Commission by the applicant, and the Planning Commission shall make its decision based on testimony from the applicant and the Director.

(...)

85.220 EXPEDITED LAND DIVISIONS

An expedited land division, as defined by ORS 197.360, is an alternative process for the review of preliminary partition or subdivision plats. An expedited land division compresses review timelines, provides for different noticing requirements, and mandates a specific appeal process.

A. Submittal Requirements.

1. Written responses to Oregon Revised Statute 197.360(1) describing how the proposal qualifies for an expedited land division.
2. Confirmation of participation in a pre-application conference per CDC 85.140.
3. Required neighborhood meeting materials per CDC 99.038 for subdivision proposals.
4. Materials identified in CDC 85.150 to CDC 85.190.

B. Approval Criteria.

1. Oregon Revised Statute 197.360 to 380.
2. West Linn Community Development Code Chapter 85.200

85.230 MIDDLE HOUSING LAND DIVISIONS

A middle housing land division, as defined by ORS 92.031, permits the division of property that contains middle housing. A middle housing land division is subject to limited review criteria and processed using the expedited land division rules of ORS 197.360 to 380.

A. Submittal Requirements.

1. Written responses to Oregon Revised Statute 92.031.
2. Tree plan that includes:
 - a. Site plan with existing trees identified.
 - b. Inventory by tree size, tree species, and proposed to retain or remove.
3. Site plan that includes:
 - a. Utility connections and locations.
 - b. Access locations.
 - c. Proposed easements for utilities, access, or common areas.
 - d. Proposed street improvement details and right-of-way dedications.
 - e. Footprint of middle housing structures and proposed property lines.
4. Approved Tualatin Valley Fire and Rescue service provider permit.
5. Preliminary plat that includes:

- a. Property lines and dimensions.**
- b. Public and private utility easements.**
- c. Required right-of-way dedication.**

B. Approval Criteria.

1. Oregon Revised Statute 92.031.

(...)

Chapter 99 PROCEDURES FOR DECISION MAKING: QUASI JUDICIAL

(...)

99.060 APPROVAL AUTHORITY

This section explains the authority of the Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

A. Planning Director authority. The Planning Director, **or designee**, shall have the authority to:

- 1. Approve, deny, or approve with conditions the following applications:
 - a. A temporary use or structure application for a period no more than 120 days, including all extensions (Chapter 35 CDC), and not associated with another land use approval.

(...)

t. Willamette River Greenway Permit (Chapter 28 CDC).

u. Extensions of approval **without modifications**, ~~when the Planning Director acted as the initial decision-making authority.~~

v. Extension of approval with proposed modifications when the Planning Director acted as the initial decision-making authority.

w. ~~w.~~ Class I Historic Design Review (Chapter 25 CDC).

x. ~~w.~~ A demolition permit for a non-contributing or not in period primary structure or an accessory structure (Chapter 25 CDC).

y. Expedited Land Division

z. Middle Housing Land Division

B. Planning Commission authority. The Planning Commission shall have the authority to:

1. Make a recommendation to approve, deny, or approve with conditions to the Council:

(...)

2. Approve, deny, or approve with conditions the following applications:

- a. A temporary use or structure application (Chapter 35 CDC) for a minimum of 121 days to no more than one year, or an application associated with another land use approval

(...)

- k. Extensions of approval **with proposed modifications** when the Planning Commission acted as the initial decision-making authority.

(...)

- C. City Council authority. The Council shall have the authority to:

(...)

- D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

1. Approve, deny, or approve with conditions an application regarding the following:

- a. Class II Historic Design Review;

(...)

- e. ~~An e~~Extension of an approval **with proposed modifications** when the Historic Review Board acted as the initial decision-making authority.

(...)

- ~~E. Expedited land divisions. Expedited land divisions shall be processed by the Planning Commission without a public hearing pursuant to Oregon Revised Statutes (ORS) 197.360 through 197.380. Pursuant to ORS 197.360(3), the following City permits may be processed concurrently with an expedited land division application:~~

- ~~1. Pursuant to ORS 197.360(3), the following City permits may be processed concurrently with an expedited land division application:~~

~~a. Planned unit development.~~

~~b. Willamette River Greenway~~

~~c. Flood Management area.~~

~~d. Tualatin River.~~

~~e. Water Resource Area.~~

~~f. Design Review.~~

~~2. The Planning Commission shall make their decision based solely upon the record and staff recommendation.~~

~~3. Appeals of the Planning Commission decision on an expedited land division shall be reviewed pursuant to Chapter 197 ORS. (Ord. 1442, 1999; Ord. 1463, 2000; Ord. 1474, 2001; Ord. 1510, 2004; Ord. 1525, 2005; Ord. 1545, 2007; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1597 §§ 17, 18, 2010; Ord. 1613 § 24, 2013; Ord. 1614 § 15, 2013; Ord. 1622 §§ 9, 28, 2014; Ord. 1635 § 38, 2014; Ord. 1638 § 3, 2015; Ord. 1655 § 9, 2016; Ord. 1735 § 5 (Exh. D), 2022; Ord. 1745 § 1 (Exh. A), 2023)~~

E. Referee

1. Approve, deny, or approve with conditions the following applications:

a. Appeal of an expedited land division per ORS 197.375.

b. Appeal of a middle housing land division per ORS 197.375.

(...)

99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. Notice of proposed action or a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

(...)

E. Table of notices. The following notice summary identifies the appropriate type of notice for the various land use applications of CDC 99.060.

Land Use Action	Type of Notice
Amendment or Modification of Application or Permit	Same as original application
Appeal or Review of Decision	A
<u>Appeal of Expedited Land Division or Middle Housing Land Division</u>	<u>Per State Statute requirements</u>
Boundary Change	Special

Code Interpretation	Notice to parties requesting the interpretation
(...)
<u>Extension of Approval – No modification</u>	<u>B</u>
Extension of Approval – <u>Proposed modification</u>	Same notice as original application

(...)

99.250 APPLICATION FOR APPEAL OR REVIEW

A. The notice of **An** appeal **application** shall contain **the following information**:

1. **Date and case file number of** A reference to the **decision being** application sought to be appealed, ~~and~~
2. **Documentation that the appellant** A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.
3. **A statement describing the basis of the appeal that includes a citation to the West Linn Municipal Code and/or Community Development Code approval criteria or development standard(s) that are not met in the application, or that the appellant claims have been incorrectly interpreted or applied.**

B. The appeal application shall be accompanied by the required fee.

C. If the appeal application and required fee are not submitted within the appeal period, or if the appeal application does not contain the required elements specified in West Linn CDC Section 99.250.A(1-3), the application shall not be accepted.

~~C. **D.** The hearing on the appeal or review shall be de novo; however, all evidence presented to any lower approval authority shall be made part of the record and shall be considered and given equal weight as evidence presented on appeal.~~

~~D. The appeal or review application may state grounds for appeal or review.~~

(...)

99.325 EXTENSIONS OF APPROVAL

~~A. An extension may be granted by the original decision-making body by an additional two years from the effective date of approval pertaining to applications listed in CDC 99.060(A), (B), (C), (D) or (E), as applicable, upon finding that:~~

~~1.— The applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and~~

~~2.— There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or~~

~~3.— The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.~~

~~B.— Repealed by Ord. 1675.~~

~~C.— Repealed by Ord. 1675.~~

~~D.— Repealed by Ord. 1635.~~

~~E.— Extension procedures.~~

~~1.— The application for extension of approval with modifications to the original approval may be submitted only after a pre-application meeting under CDC 99.030(B). If no modifications are made to the original approval, a pre-application conference is not required.~~

~~2.— The application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038 for those cases that require compliance with that section. If no modifications are made to the original approval, no neighborhood meeting is required.~~

~~3.— Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.~~

~~4.— Notice of the decision shall be issued consistent with CDC 99.080.~~

~~5.— The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call-up pursuant to this chapter.~~

A. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.

B. Applicability

This chapter applies to all approved land use applications that are subject to expiration but have not yet expired.

C. General Provisions

1. An approved land use application is eligible for one extension.
2. To be effective, an extension application must be approved by the decision-making authority prior to the expiration date of the original approval.
3. If an extension is approved, the expiration date for the original approval is extended an additional two years from the effective date of the original approval.

D. Approval Process

1. If the extension application does not propose modification to the original approval, the assigned approval authority is the Planning Director, as provided in Section 99.060(A). If no modifications are proposed to the original approval, no neighborhood meeting is required.
2. If the extension application proposes modifications of the original approval or any conditions of approval, the extension application shall comply with amendment procedures set forth in CDC Section 99.120, and CDC Section(s) 55.050 and CDC Section 85.085 when applicable.
3. An application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038, if a neighborhood meeting was required of the original application.
4. If the original approval included multiple applications and does not propose modifications, a single extension application may include all applications associated with the original approval.

E. Approval Criteria

The approval authority will approve an extension application when all of the following criteria are met:

1. The applicant has provided evidence that a good faith effort was made to utilize the approval within the specified time period or the need for the extension is the result of conditions or circumstances outside the control of the applicant or property owner; and
2. If the original application included a transportation impact study, a natural resources report, geotechnical report, and/or tree inventory report an updated report must be provided with the extension application that shows no significant changes on or near the development site have occurred that would affect the conclusions and

recommendations of the existing report(s). A letter from a recognized professional satisfies this criterion if it states that conditions have not changed since the approval of the original application and no new analysis is warranted.

3. For purposes of this section, a recognized professional is defined as:

a. CDC 85.170.B.2.f(1) for transportation impact studies.

b. CDC 32.050.K.4(a) for natural resources reports.

c. CDC 85.170.C.(3) for geotechnical reports.

Attachment 3: Planning Commission Recommendation



Memorandum

Date: October 24, 2024
To: West Linn City Council
From: West Linn Planning Commission
Subject: CDC-24-02 Recommendation –Code Process Concepts Amendment Package

The Planning Commission held a legislative public hearing on October 16, 2024, for the purpose of making a recommendation to the City Council on adoption of a proposed Code Process Concepts Amendment Package.

In March 2024, the City Council directed the Planning Commission to analyze and discuss code language in relation to Home Occupations, Appeals of Approvals, Extensions of Approval, Expedited Land Divisions, and Middle Housing Land Divisions, and then recommend code amendments to create clearer language rules. The Planning Commission met five times from March 2024 to September 2024 to evaluate the policy questions and proposed code amendments.

After conducting the public hearing, the Commission deliberated and voted seven (7) to zero (0) to recommend City Council adopt the proposal as presented with two minor changes:

1. Capitalize “Referee” in the second sentence of the new CDC Chapter 2 Definition of Referee.
2. Include “or designee” in CDC Chapter 99.060(A) to read as follows:
 - A. Planning Director authority. The Planning Director, or designee, shall have the authority to:

The inclusion of “or designee” is to address situations when there is a Planning Manager or other titled position and not a Planning Director. No written or oral testimony was submitted for the public hearing.

Respectfully,



John Carr
Chair, West Linn Planning Commission

Attachment 4: Planning Commission Staff Report



CITY OF West Linn

STAFF REPORT FOR THE PLANNING COMMISSION

FILE NUMBER: CDC-24-02

HEARING DATE: October 16, 2024

REQUEST: To consider adoption of text amendments to West Linn Community Development Code Chapters 2, 37, 85, and 99 to provide clear and objective code language, comply with State Statutes, and clarify City processes for Home Occupations, Extensions of Approval, Appeals of Development Permits, Expedited Land Divisions and Middle Housing Land Divisions.

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

STAFF REPORT PREPARED BY: Aaron Gudelj, Associate Planner

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GENERAL INFORMATION

- APPLICANT:** City of West Linn
- DESCRIPTION:** The City of West Linn proposes to amend Community Development Code (CDC) Chapters 2, 37, 85, and 99 to provide clear and objective code language, comply with State Statutes, and clarify City processes for Home Occupations, Extensions of Approval, Appeals of Development Permits, Expedited Land Divisions, and Middle Housing Land Divisions.
- APPROVAL CRITERIA:** Community Development Code (CDC) Chapter 98 provides administrative procedures for legislative amendments to the Comprehensive Plan and/or 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 Metropolitan Service District (Metro);
 4. The applicable Comprehensive Plan policies and map; and,
 5. The applicable provisions of implementing ordinances.
- 120-DAY RULE:** Not applicable to this legislative action.
- PUBLIC NOTICE:** Legal Notice was published in the West Linn Tidings on October 2, 2024 and provided to required public agencies and persons who requested notice in writing on October 3, 2024.

EXECUTIVE SUMMARY

The Code Process Concepts 2024 project stems from development review-related hearings and processes the City Council (CC) and Planning Commission (PC) had been involved in recently. Based on the discussion during these items, there were areas for improvement in the CDC to make the processes more effective in serving community needs.

The City Attorney and Staff worked to summarize five Code Process Concepts for initial CC and PC discussions. The CC and PC were presented with the five Code Process Concepts and the Council directed Staff to work with the PC to draft revised code language and bring an amendment package for adoption for four of the Code Process Concepts. The four Code Process Concepts are:

1. Extensions of Approval
2. Appeals of Development Permits
3. Home Occupations
4. Expedited Land Division & Middle Housing Land Divisions

The PC held five work sessions from June 2024 to September 2024 to discuss the code process concepts, develop revised code language, and bring forward an amendment package for adoption.

PUBLIC COMMENT

The Planning Commission received comments during the work sessions from Shannen Knight (Chair, Committee for Community Involvement) March 30, 2024 via email (See Exhibit PC-3) and Karie Oaks (President Marylhurst Neighborhood Association) verbal testimony at the [June 5, 2024 meeting](#).

RECOMMENDATION

Staff recommends the Planning Commission finds the proposed amendments to meet the necessary approval criteria. Therefore, staff recommends the Planning Commission **RECOMMEND** to the West Linn City Council that it approves Ordinance 1755, adopting amendments to the West Linn Community Development Code Chapters 2, 37, 85, and 99.

PROJECT BACKGROUND AND PURPOSE

The City Council (CC) was originally presented with five Code Concepts at its [October 16, 2023](#) meeting; later the Planning Commission (PC) was presented with the same five Code Concepts at its meeting on [November 15, 2023](#). The CC and PC then held a joint work session on [March 18, 2024](#) and directed Staff to work with the PC to develop revised code language for four of the five code process concepts, and bring an amendment package for adoption to the City Council. The four Code Process Concepts identified at the CC/PC Joint Work Session were:

1. Extensions of Approval
 - a. Clarify extension approval date, expiration date, number of extensions, length of extension, and approval authority for various types of extensions.
2. Appeal Process
 - a. Require appellant to identify code criteria that is not being met/misapplied and why.
3. Home Occupation Permits
 - a. Clean up ambiguous terms, clarify vehicle trips exemption, clarify outdoor use/storage, review application process.
4. Expedited Land Divisions and Middle Housing Land Divisions
 - a. Bring code into compliance with State statute.

The Planning Commission held five work sessions on the Code Process Concepts from April 2024 thru August 2024; the five work sessions were on the following dates:

1. [PC Work Session April 3, 2024](#)
 - a. All four topics discussed
2. [PC Work Session June 5, 2024](#)
 - a. Appeal Process discussed
 - b. Extensions of Approval discussed
3. [PC Work Session July 17, 2024](#)
 - a. Appeal Process discussed
 - b. Home Occupations discussed
 - c. Extensions of Approval discussed
4. [PC Work Session August 7, 2024](#)
 - a. Home Occupations discussed
 - b. Expedited & Middle Housing Land Divisions discussed
5. [PC Work Session August 21, 2024](#)
 - a. All four topics discussed

Below are recaps of the Planning Commission Work Sessions:

Topic #1 Extensions of Approval (CDC Chapter 99)

The code language for extensions of approval is ambiguous in places. A few of the issues sought to be resolved through this Code Process Concept discussion are the expiration date of

an approval specifics, the number of extensions allowed, and approval authority for various types of extension applications.

April 3, 2024 PC Work Session Summary (Extensions of Approval)

[PC Work Session April 3, 2024 Video](#)

[PC Work Session April 3, 2024 Meeting Notes](#)

[PC Work Session April 3, 2024 Staff Memorandum](#)

The Planning Commission was asked the following five questions:

1. *Should the City require approval of an extension prior to expiration of the original approved application?*

PC Direction: Require approval of the extension prior to expiration of original approval.

2. *Should the expiration of an extension of approval (currently two years) be tied to the original expiration date (moot point if #1 above is implemented) or the date of approval under the current process/policy?*

PC Direction: No discussion – moot point given the feedback from question #1.

3. *Should the City limit the number of extensions permitted? If yes, what should be the maximum number allowed?*

PC Direction: No consensus. One and two extensions discussed; more PC discussion and direction needed.

4. *Should the length of the extension remain at two years or would an increase to three years make sense?*

PC Direction: An Approved extension should remain good for two years.

5. *Should the City process an extension application as a staff decision if there are no proposed modifications, regardless of the original decision-maker? This would potentially help avoid issues around timing of the extension were required to be approved prior to the expiration date (as discussed in #1 above).*

PC Direction: No clear direction; PC requested information on neighboring jurisdiction's processes.

June 5, 2024 PC Work Session Summary (Extensions of Approval)

[PC Work Session June 5, 2024 Video](#)

[PC Work Session June 5, 2024 Meeting Notes](#)

[PC Work Session June 5, 2024 Staff Memorandum](#)

The Staff Memorandum provided a comparison of neighboring jurisdiction's processes; and questions #3 and #5 from the April 3, 2024 work session were discussed again.

3. *Should the City limit the number of extensions permitted? If yes, what should be the maximum number allowed?*

PC Direction: A consensus was reached to limit the number of extensions to one total, consistent with neighboring jurisdictions.

5. *Should the City process an application as a staff decision if there are no proposed modifications, regardless of the original decision-maker? This would potentially help avoid issues around timing of the extension were required to be approved prior to the expiration date.*

PC Direction: A consensus was reached to allow extensions with no modifications to be a staff level decision and if modifications are proposed the extension application would go to the original decision-maker, which is consistent with neighboring jurisdictions.

The PC also requested the Planning Director approval authority language to include the Planning Director 'or designee' for clarity.

July 17, 2024 PC Work Session (Extensions of Approval)

[PC Work Session July 17, 2024 Video](#)

[PC work Session July 17, 2024 Meeting Notes](#)

[PC Work Session July 17, 2024 Staff Memorandum](#)

The PC requested documentation of the Planning Manager authority to act as the Planning Director given that the Planning Director position no longer exists and the Community Development Code approval authority is designated at the Planning Director.

August 7, 2024 PC Work Session (Extensions of Approval)

[PC Work Session August 7, 2024 Video](#)

[PC Work Session August 7, 2024 Meeting Notes](#)

[PC Work Session August 7, 2024 Staff Memorandum](#)

Staff provided a memo from the City Manager verifying the Planning manager as the approval authority in lieu of the Planning Director

August 21, 2024 PC Work Session (Extensions of Approval)

[PC Work Session August 21, 2024 Video](#)

[PC Work Session August 21, 2024 Meeting Notes](#)

[PC Work Session August 21, 2024 Staff Memorandum](#)

No discussion of extensions of approval occurred.

Based on the direction from the PC, the proposed amendments to CDC Chapter 99.060, 99.080, 99.325 are included in the attached amendment package.

Topic #2 Appeals of Development Approvals (CDC Chapter 99)

Currently The CDC does not require an appellant to identify the code criteria they feel has not been met or misapplied, or a procedural error that has occurred – this can create ambiguous

appeal applications with no clear understanding of the appellant’s argument. The lack of clear understanding of an appellants argument can create an unfair burden to the parties involved - including the applicant, City Council, Staff, and the public – and does not allow for reasonable preparation for the appeal hearing by all parties involved. Prior to the adoption of [City of West Linn Ordinance 1663](#) (November 2017) the City required an appellant to provide specific criteria that were subject of the appeal.

The PC held four work sessions to discuss the above Appeals of Development Approvals – a summary of each work session is below:

April 3, 2024 PC Work Session (Appeals of Development Approvals)

[PC Work Session April 3, 2024 Video](#)

[PC Work Session April 3, 2024 Meeting Notes](#)

[PC Work Session April 3, 2024 Staff Memorandum](#)

At the April 3, 2024 work session the PC was presented with two questions:

1. *How much specificity should be required regarding the appeal criteria on an appeal application? Should the general statement as to why the specific code sections are believed to be non-compliant, or should an appellant be required to identify evidence in the record to support their appeal application?*

PC Direction: Appellants should state at least one code criteria not being met or being misapplied.

2. Should the appeal hearing only be applicable to the appellants specified concerns and their concerns only?

PC Direction: Appellants should specify their issue/concern. “De-novo with focus” was mentioned but ultimately the existing de-novo style hearing should be retained.

The PC requested Staff to bring information on neighboring jurisdictions appeals process for discussion at the next work session.

June 5, 2024 PC Work Session (Appeals of Development Approvals)

[PC Work Session June 5, 2024 Video](#)

[PC Work Session June 5, 2024 Meeting Notes](#)

[PC Work Session June 5, 2024 Staff Memorandum](#)

President of Marylhurst Neighborhood Association Karie Oakes spoke in favor of de-novo appeal hearings stating that de novo helps the city make better decisions, does not think appellants have enough time to find applicable criteria for the appeal application, and appellants issue is on the record from the previous hearings.

The PC came to a consensus to require an appellant to provide specificity of the issue(s)/concern in the appeal application. The lack of specificity by an appellant does not allow

for proper preparation for the appeal hearing by all parties involved. Also, the PC discussed the de-novo style hearing being maintained.

July 17, 2024 PC Work Session (Appeals of Development Approvals)

[July 17, 2024 PC Work Session Video](#)

[July 17, 2024 PC Work Session Meeting Notes](#)

[July 17, 2024 PC Work Session Staff Memorandum](#)

The PC requested the removal of the word ‘detailed’ from proposed code amendments as it is too subjective and directed Staff to bring forward into the legislative process.

August 21, 2024 PC Work Session (Appeals of Development Approvals)

[PC Work Session August 21, 2024 Video](#)

[PC Work Session August 21, 2024 Meeting Notes](#)

[PC Work Session August 21, 2024 Staff Memorandum](#)

The PC requested staff include a definition of “Land Use Referee” as part of the amendment package.

Based on direction from the PC, the proposed amendments to CDC Chapter 2 (definitions) and Chapter 99.250 are attached.

Topic #3 Home Occupations (CDC Chapter 37)

The current code language for Home Occupations contains ambiguous approval criteria that could be more clear and objective since approval of Home Occupations is intended to be non-discretionary. Recent incidents in the City have brought to the forefront the debate as to whether outdoor space can be used for a Home Occupation, the allowable vehicle trips for Home Occupations, and the effectiveness of the current application/review process.

The PC held four work sessions on Home Occupations to discuss these issues – a summary of the work sessions is below:

April 3, 2024 PC Work Session (Home Occupations)

[PC Work Session April 3, 2024 Video](#)

[PC Work Session April 3, 2024 Meeting Notes](#)

[PC Work Session April 3, 2024 Staff Memorandum](#)

The PC was presented with three questions:

1. *Should the City return to processing Home Occupations as a land-use review i.e. Type I and Type II review?*

PC Direction: The PC consensus was the current review process should remain as-is. There was no support for changing to a Type I and Type II review process.

2. *Should the existing uses currently exempt from vehicle trips – ‘dance, music, or language classes.... with pupils or students,’ – continue to be exempt from vehicle trips?*

PC Direction: No consensus was reached. The PC requested information to compare other jurisdictions’ code language on vehicle trips.

3. *Does the PC believe that HOP businesses should not be allowed to conduct any of their business outside, including storage of materials or equipment?*

PC Direction: The PC consensus was that interpretation of the Home Occupation code should not allow Home Occupations to conduct business and/or store materials/equipment associated with the business outside.

The PC requested a comparison of surrounding jurisdictions code language relative to Home Occupations as well as their review process.

July 17, 2024 PC Work Session (Home Occupations)

[July 17, 2024 PC Work Session Video](#)

[July 17, 2024 PC Work Session Meeting Notes](#)

[July 17, 2024 PC Work Session Staff Memorandum](#)

The PC was presented with a comparison of neighboring jurisdiction code/processes and revisited the unanswered regarding vehicle trip exemptions.

2. *Should the existing uses currently exempt from vehicle trips – ‘dance, music, language classes....with pupils or students,’ - continue to be exempt from vehicle trips?*

PC Direction: The PC agreed to remove the exemption because of potential neighborhood impacts and to allow Home Occupations with ‘pupils and students’ to have 12 total vehicle trips per day while maintaining the existing eight total vehicle trips per day for all other Home Occupations.

August 7, 2024 PC Work session (Home Occupations)

[August 7, 2024 PC Work Session Video](#)

[August 7, 2024 PC Work Session Meeting Notes](#)

[August 7, 2024 PC Work Session Staff Memorandum](#)

No further revisions or discussion on the proposed code language.

August 21, 2024 PC Work Session (Home Occupations)

[PC Work Session August 21, 2024 Video](#)

[PC Work Session August 21, 2024 Meeting Notes](#)

[PC Work Session August 21, 2024 Staff Memorandum](#)

The PC requested the code language for vehicle trips to be more clear that one vehicle trip is equal to the ‘pick-up and drop-off of a pupil or student.’

Based on the direction from the PC, the proposed amendments to CDC Chapter 37 are included in the amendment package.

Topic #4 Expedited Land Divisions (ELD) and Middle Housing Land Divisions (MHL) (CDC Chapter 85)

Currently, the West Linn CDC requires an Expedited Land Division and/or Middle Housing Land Division to be “processed by the Planning Commission without a public hearing” ([CDC Chapter 99.060\(E\)](#)). [Oregon State Statute \(ORS\) 197.365\(4\)\(b\)\(A\)](#) and [ORS 92.031\(4\)\(a\)](#) states that a local government “Shall not hold a hearing on the application,” in regards to Expedited Land Divisions (ELD) and Middle Housing Land Divisions (MHL). Based on legal guidance from the City Attorney the City has been processing ELD’s and MHL’s as staff level decisions.

It should be noted that the appeal process of an ELD and MHL would go to an independent referee pursuant to [ORS 197.375\(2\)](#) as opposed to the City Council.

The PC held three work sessions on ELD’s and MHL’s and below is a summary of those work sessions:

April 3, 2024 PC Work Session (ELD & MHL)

[PC Work Session April 3, 2024 Video](#)

[PC Work Session April 3, 2024 Meeting Notes](#)

[PC Work Session April 3, 2024 Staff Memorandum](#)

The PC was presented with information on state statutes and the ELD process for a regular partition/subdivision and a MHL. This included a discussion on the referee appeal process mandated by statute.

The PC expressed concern regarding an appeal being processed and decided by an independent referee from outside the community but acknowledged the need for the City to comply with State Statute. The PC directed Staff to return with preliminary code language for review and discussion.

August 7, 2024 PC Work session (Home Occupations)

[August 7, 2024 PC Work Session Video](#)

[August 7, 2024 PC Work Session Meeting Notes](#)

[August 7, 2024 PC Work Session Staff Memorandum](#)

The PC was presented with draft code amendments with new definitions and language to clarify the submittal requirements and approval criteria for ELD’s and MHL’s and did not request any changes to the proposal.

August 21, 2024 PC Work Session (Home Occupations)

[PC Work Session August 21, 2024 Video](#)

[PC Work Session August 21, 2024 Meeting Notes](#)

The PC was presented with the draft code amendments and discussed the definition of “referee”. Based on the direction from the PC at the three work sessions the proposed amendments to West Linn CDC Chapter(s) 2, 85.070, 85.220, 85.230, and 99.060 are included in the amendment package.

**FINDINGS
PLANNING COMMISSION STAFF REPORT
OCTOBER 16, 2024**

APPLICABLE CRITERIA AND COMMISSION FINDINGS

West Linn Community Development Code

Chapter 98 - Procedures for Decision Making: Legislative

CDC 98.035 Citizen Engagement in Legislative Changes

A. Purpose. The purpose of a legislative working group is to provide a forum to discuss different points of view on a proposed land use legislative change.

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.

1. After receiving direction from the City Council, the Committee for Citizen Involvement shall recommend a purpose, goals, and a list of appointees for each proposed working group to the City Council for approval.
2. The working group will contain interested stakeholders, a member of the Planning Commission, and a staff representative.
3. The working group shall comply with WLMC 2.060 regarding the selection of officers and the other generally applicable citizen advisory group provisions.

Findings: City Council determined a legislative working group was not necessary and tasked the West Linn Planning Commission to act as the working group at its September 19, 2022 meeting.

C. Conduct of working group meetings.

1. Staff will prepare a suggested draft of the proposed changes. This draft will provide a starting point for discussion and education.
2. The working group will use the draft as a starting point for discussion, but then reconcile the implications of the draft with the goals established by the Council for the working group.
3. After each working group meeting staff will incorporate approved changes and prepare an updated working draft.

4. All working group meetings will be public meetings with an opportunity for anyone in attendance to provide public comment. The meetings and minutes will be conducted in accordance with the Council Rules, West Linn Municipal Code, City Charter, and State law.
 5. In the event a consensus cannot be reached on an issue, the working group will prepare alternatives. Each alternative and its rationale will be presented to the Planning Commission.
 6. Prior to submission to the Planning Commission, proposed code changes will be submitted to the City Attorney for review. The review should be limited to the identification of areas where the proposed language conflicts with other parts of this code, State law or Federal law. As an alternative, legal counsel may attend and advise during the creation of the draft.
- D. Presentation to the Planning Commission. When the working group reaches consensus that the code changes are ready, the proposed code changes will be presented by the Director to the Planning Commission pursuant to CDC 98.040(A)(2). If the working group fails to reach a consensus on the code changes, all proposals will be presented to the Planning Commission. Pursuant to CDC 98.110(A), the Planning Commission shall recommend approval, denial, or approval with modifications to the Council.

Findings: Planning Commission meetings were held consistent with the procedures above. Staff prepared draft changes and presented relevant technical information as a starting point for discussion. The draft changes evolved in an iterative manner, with staff revising the text as directed and presenting the revised draft for consideration and approval. All meetings were open to the public and streamed live. On August 21, 2024, after four meetings, a consensus on a final recommendation on a proposed Code Process Concepts Amendment Package was reached and the Planning Commission directed staff to bring the proposed amendments forward for a legislative public hearing. The final draft was submitted for City Attorney review.

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;

Findings: The proposal is for one legislative action. Adopting CDC code amendments to provide clearer language for Home Occupations, Appeals, Extensions of Approvals, Expedited Land Divisions, and Middle Housing Land Divisions and to comply with [ORS 197.360 thru 197.380](#) and [ORS 92.031](#).

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 October 16, 2024 with the City Council public hearing scheduled for December 9, 2024. Legislative notice was provided as required and documentation can be found in Exhibit PC-4. Notice was provided to the Department of Land Conservation and Development on August 30, 2024, meeting the required 35-day notice timeline. Measure 56 Notice, per ORS 227.186, was not required as part of this proposal.

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 Functional Plan requirements, 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 amendments, and all other associated project materials were made available on October 3, 2024, thirteen 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 October 16, 2024, with the West Linn City Council scheduled to hold its public hearing and make a final decision on December 9, 2024.

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 amendments will require two public hearings (one before the Planning Commission on October 16, 2024 and one before City Council on December 9, 2024) pursuant to CDC Chapter 98.

In developing code amendments to comply with ORS 197.360 thru 197.380, and ORS 92.031 and provide clearer language in relation to Home Occupations, Appeals of Approvals, Extensions of Approval, Expedited Land Divisions, and Middle Housing Land Divisions the City Council appointed the West Linn

Planning Commission to act as the working group. All working group meetings were open to the public. A list of the public work sessions where public feedback could be submitted is found below.

- April 3, 2024 – Planning Commission Work Session 1
- June 5, 2024 – Planning Commission Work Session 2
- July 17, 2024 – Planning Commission Work Session 3
- August 7, 2024 – Planning Commission Work Session 4
- August 21, 2024 – Planning Commission Work Session 5

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

All Planning Commission work sessions were open to the public and noticed in accordance with City rules and regulations, including direct emails to all neighborhood associations and all persons signed up to receive notice of Planning Commission meetings. All work session materials, including meeting recordings and summaries, were available on 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 the Planning Commission and City Council public hearings were met (see Exhibit PC-4). The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the October 2, 2024 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 proposal can be viewed.

Statewide Planning Goal 2 – Land Use Planning:

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

Findings:

The City of West Linn has an acknowledged Comprehensive Plan and enabling ordinances. The amendments to the West Linn Community Development Code are being undertaken to ensure compliance with the ORS 197.360 thru 197.380, and ORS 93.031 and to provide more clear language in relation to Home Occupations, Appeals of Approvals, Extensions of Approval, Expedited Land Divisions, and Middle Housing Land Divisions.

The amendments are being processed in accordance with 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 amendments are being processed as a post-acknowledgement plan amendment (PAPA). The proposed Code Process Concepts Amendment Package will ensure West Linn is in compliance with ORS statutes, the administrative rules, and Oregon Statewide Planning Goals. In addition, the proposed amendments will comply with all other provisions of the administrative rules. All public 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, Scenic and Historic Areas, and Open Spaces:

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 amendments do not alter the City’s acknowledged Goal 5 inventories or associated land use programs. No changes will occur to current natural resource protections. As a result, the amendments are 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 amendments do not alter the City’s acknowledged land use programs regarding water quality. The amendments are consistent 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. No changes will occur to city programs related to flood management or other natural hazards. The amendments are consistent 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 amendments do not address or alter any City recreational programs or land use requirements related to parks and recreation. The amendments are 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 4: Industrial and Other Employment Areas. The amendments do 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: Housing Capacity. The City adopted a Housing Capacity Analysis in compliance with HB2003 (2019) in October 2023 and is in the process of developing the required follow-up Housing Production Strategy. No changes to permitted residential uses are proposed. The amendments do not alter the City’s compliance with Goal 10. The amendments seek to comply with ORS 197.360 thru 197.380, ORS 92.031 and administrative rules. The amendments are 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 Public Facility Plan shows the City's water, sanitary sewer, transportation, and stormwater facilities have adequate capacity to service future development in the community. The amendments do not alter the City's compliance with Goal 11 and are 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 proposed amendments do not alter the City's compliance with Goal 12.

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 amendments do not alter the City's compliance with Goal 13 and are 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 amendments do not alter the City's compliance with Goal 14 and are 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 amendments do not alter the City's compliance with Goal 15 and are consistent with this goal.

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

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

Oregon Revised Statute 92.031

Findings: The proposed Code Process Concepts Amendment Package brings the City of West Linn into compliance with ORS 92.031 by clarifying the approval process and authority for a Middle Housing Land Division, as well as the appeal authority being a land use referee.

Oregon Revised Statutes 197.360 to 380

Findings: The proposed Code Process Concepts Amendment Package brings the City of West Linn into compliance with ORS 197.360 to 380 by assigning the approval process and authority for an Expedited Land Division to the Planning Director, and clarifying the appeal authority is a land use referee.

Conclusion: Based on the analysis above, the Commission finds the proposed amendments are 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 purpose of the Metro Urban Growth Management Functional Plan (UGMFP) is to implement regional goals and objectives, including the Metro 2040 Growth Concept and Regional Framework Plan. The City is currently in compliance with the UGMFP, and the proposed amendments do not conflict with any goals, policies, or regulations adopted into the UGMFP.

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

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

Goal 1: Citizen Involvement

Policy 2. Support neighborhood associations as a forum for discussion and advice on issues affecting the community.

Findings: A copy of the agenda was sent to the president of all eleven recognized neighborhood associations for all five Planning Commission work sessions. A public hearing notice was sent to all 11 recognized neighborhood associations for the October 16, 2024 Planning Commission public hearing, as well as the City Council public hearing scheduled for December 9, 2024. Each president had the opportunity to relay information back to the associations for feedback and comment. Meeting agendas and materials were available for review and comment on the City's website.

Policy 3. Encourage individuals to organize and work in groups to develop recommended programs or position on various issues.

Findings: The City Council appointed the Planning Commission as the working group for the project. All work sessions were open to the public for feedback and comment. After five work sessions, the Planning Commission on August 21, 2024, directed staff to schedule a public hearing for its proposed Code Process Concepts Amendment Package.

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 October 2, 2024 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.

A copy of the agenda was sent to the president of all eleven recognized neighborhood associations for all five Planning Commission work sessions. Each president had the opportunity to relay information back to the associations for feedback and comment. All work session materials, including meeting recordings and summaries, were available throughout the process on the City's website. All the venues provided the opportunity for gathering feedback and comments.

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 website and email. All the venues provided the opportunity for gathering feedback and comments.

In developing code amendments, the City Council appointed the West Linn Planning Commission to act as the working group. All five working group meetings were open to the public. A list of the public work sessions where public feedback could be submitted is listed below.

- April 3, 2024 – Planning Commission Work Session 1
- June 5, 2024 – Planning Commission Work Session 2
- July 17, 2024 – Planning Commission Work Session 3
- August 7, 2024 – Planning Commission Work Session 4
- August 21, 2024 – Planning Commission Work Session 5

All Planning Commission work sessions were open to the public and noticed in accordance with City rules and regulations, including direct emails to all neighborhood associations and all persons signed up to receive notice of Planning Commission meetings. All work session materials, including meeting recordings and summaries, were available on the City's website.

As part of the legislative process, public notice requirements for the Planning Commission and City Council public hearings were met (see Exhibit PC-4). The notice was sent to persons who requested notice, affected government agencies, neighborhood associations, and was published in the October 2, 2024 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 proposal can be viewed.

Goal 2: Land Use Planning

Section 1: Residential Development

Goal 1: Maintain land use and zoning policies that continue to provide for a variety of living environments and densities within city limits.

Findings: The State of Oregon has identified Expedited Land Divisions and Middle Housing Land Divisions as an effective tool for providing a range of available housing types at varying densities. The proposed Code Process Amendment Package will bring the West Linn CDC into compliance with Expedited Land Division and Middle Housing Land Division standards mandated by the State thru ORS 197.360 thru 197.380, and ORS 92.031.

Section 5: Intergovernmental Coordination

Goal 1. Provide a coordinated approach to problems that transcend local government boundaries.

Findings: The State of Oregon has consistently identified housing availability and homelessness as top land use priorities in the State. Expedited Land Divisions and Middle Housing Land Divisions are viewed as one of the tools to increase the availability of housing in the State. The proposed amendments will bring the West Linn CDC into compliance with the State statues related to Expedited Land Divisions and Middle Housing Land Divisions - ORS 197.360 thru 197.380, and ORS 92.031.

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.

Findings: Notice was sent to Department of Land Conservation and Development, Metro, Clackamas County, ODOT, TriMet, Lake Oswego, Oregon City, Stafford-Tualatin CPO, West Linn Chamber of Commerce, and all West Linn Neighborhood Associations. They were provided the opportunity to review and comment on the amendments proposed for adoption.

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

Findings: None of the goals or policies under Goal 5 apply to this application.

Goal 6: Air, Water & Land Resources Quality

Section 1: Air Quality

Goal. Maintain or improve West Linn's air quality.

Policy 5. Encourage employment, mixed uses, and home occupations within West Linn to reduce commuting and reduce the distance traveled for shopping and other essential services.

Findings: The proposed Code Process Concepts amendment package will encourage the continued operation of Home Occupations and reduce the likelihood of noise impacts to surrounding properties.

Section 4: Noise Control

Goal. Maintain and promote a quiet and healthful environment for the citizens of West Linn.

Findings: The proposed code amendments will encourage the continued operation of Home Occupations, while providing clear and objective language on the prohibition of outdoor use by a Home Occupation and will promote a quiet environment for the citizens of West Linn.

Goal 7: Areas Subject to Natural Disasters and Hazards

Findings: None of the goals or policies under Goal 7 apply to this application.

Goal 8: Parks and Recreation

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

Goal 9: Economic Development

Goal 1: Policy 4. Promote home occupations by developing and implementing supportive zoning and building codes and services and other regulations.

Findings: The proposed Code Process Concepts Amendment Package will continue to allow Home Occupations in the City while ensuring their compatibility with their surrounding uses.

Goal 1. Policy 6. Adopt City regulations that are predictable, easy to understand and contain standards that can be uniformly applied.

Findings: The proposed Code Process Concepts Amendment Package will provide clearer code language in relation to Home Occupations, Extensions of Approval, Appeals of Approvals, Expedited Land Divisions, and Middle Housing Land Divisions.

Goal 1. Policy 7. Consider, when appropriate, encouraging economic development through streamlined permitting processes and development fees.

Findings: The proposed Code Process Concepts Amendment Package will allow Expedited Land Division and Middle Housing Land Divisions to be processed without a public hearing as required by state statute, thus streamlining the review and decision-making process.

Goal 10: Housing

Policy 1: Support Statewide Planning Goal 10 by ensuring for the availability of adequate numbers of needed housing units.

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: Housing Capacity. The City adopted a Housing Capacity Analysis in compliance with HB2003 (2019) in October 2023 and is in the process of developing the required follow-up Housing Production Strategy. The proposed amendments will eliminate the outdated CDC language requiring a public hearing process for Expedited Land Division applications and ensure compliance with state statute. Compliance with state statutes will likely to increase the number of housing units in the City. The amendments are consistent with this goal.

Policy 3: Provide the opportunity for development of detached and attached single-family units, duplexes, triplexes, quadplexes, cottage clusters, garden apartments, town houses, row houses, multiplex units and boarding houses, lodging or rooming houses, and manufactured housing.

Findings: The City currently allows the types of residential uses listed in Policy 3. The proposed Code Process Amendment Package would eliminate the outdated CDC language requiring an Expedited Land Division to go through a public hearing process, and instead the review process would be administrative, compliant with state statute, and more efficient. The amendments are consistent with this goal.

Policy 7. Allow for flexibility in lot design, size, and building placement to promote housing variety and protection of natural resources.

Findings: The proposed Code Process Concepts Amendment Package will eliminate the outdated CDC language requiring a public hearing for an Expedited Land Division or Middle Housing Land Division and bring the City into compliance with state statutes. These types of land divisions allow for flexibility in lot design, size and building placement. The amendments are consistent with this goal.

Goal 11: Public Facilities and Services

Goal 12: Transportation

Goal 13: Energy Conservation

Goal 14: Urbanization

Goal 15: Willamette River Greenway

Findings: None of the goals or policies under Goals 11-15 apply to this application.

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

5. The applicable provisions of the implementing ordinance.

Chapter 105 – Amendments to the Code and Map

CDC 105.030 Legislative Amendments to this Code and Map

Legislative amendments to this code and to the map shall be in accordance with the procedures and standards set forth in Chapter 98 CDC.

Findings: The legislative process is being carried out in conformance with CDC Chapter 98 per Findings found in this Staff Report.

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

EXHIBIT PC-1: ORDINANCE 1755 – PROPOSED CODE AMENDMENTS

WEST LINN COMMUNITY DEVELOPMENT CODE

Chapter 2 DEFINITIONS

02.010 INTERPRETATION

For the purpose of this code, certain terms or words used herein shall be interpreted as follows:

- A. The word “shall” is mandatory, the word “may” is permissive.
- B. The word “used” or “occupied” shall include the words “intended, designed, or arranged to be used or occupied.”

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02.030 SPECIFIC WORDS AND TERMS

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

Accessory dwelling unit (ADU). Attached or detached dwelling unit which is secondary to the primary dwelling unit. The unit includes its own independent living facilities with provisions for living, sleeping, eating, cooking, and sanitation, and is designed for residential occupancy independent of the primary dwelling unit.

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Medical and dental services. Establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis and treatment (including outpatient surgery), or rehabilitation services provided by physicians, dentists, nurses, and other health personnel as well as the provision of medical testing and analysis services, but excludes those classified as any civic use or group residential use types. Typical uses include: medical offices, eye care offices, dental offices and laboratories, or health maintenance organizations.

Middle Housing. A type of housing that includes duplexes, triplexes, quadplexes, townhouses, and cottage clusters as defined in Oregon Revised Statute 197A.420.

Middle Housing Land Division. The division of a lot or parcel of land that contains middle housing under the rules established in Oregon Revised Statute 92.031.

Minor modification. A change in the approved design that is equal to or less than a 10 percent increase in the length, width or height of the facility. A change of location by under 20 feet laterally for any part of the structure, ramp, dock, etc., also constitutes a minor modification.

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Recycling collection center (commercial). A facility where glass, cans, and papers, or similar recyclable materials are collected for the purpose of being transferred to a paper salvage or recycling facility.

Referee. An individual or group appointed by the City to decide the appeal of an Expedited Land Division and/or a Middle Housing Land Division. A referee may not be an employee or City Official.

Religious institutions. A building constructed or utilized primarily for worship, together with its accessory uses, and buildings where persons regularly assemble for religious worship and which is controlled by a religious body organized to sustain worship.

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Chapter 37 HOME OCCUPATIONS

37.010 PURPOSE

The purpose of this chapter is to provide for home occupations in residential zones as a means of providing convenient employment opportunities and decreasing the dependence on the auto. The standards contained in this chapter are intended to assure that home occupations will be compatible and consistent with the residential uses and will not have a detrimental effect on neighboring properties.

37.020 GENERAL STANDARDS

A. A home occupation shall comply with all the following operating standards:

1. The home occupation shall be **incidental and accessory** ~~a secondary use to the residential use of the property~~ ~~primary use of the house as a residence.~~
2. **The home occupation must be operated entirely within the dwelling unit or a fully enclosed accessory structure that meets building code requirements.** ~~In no way shall the appearance of the residential structure or yard be altered to accommodate the Home Occupation. or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character by the use of colors, materials, construction, lighting, show windows, signs, or advertising visible outside the premises to attract customers or clients, other than a sign as permitted per subsection (A)(9) of this section.~~
3. **No part of the home occupation shall be operated outdoors, including the display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way.** ~~There shall be no outdoor use or storage of material or mechanical equipment that is not part of the residential use.~~
4. **There shall be no outward appearance of the business activity other than a sign permitted per CDC Chapter 52.** ~~An accessory building which meets the provisions of Chapter 34 CDC may be used for the home occupation.~~

- ~~5. Any parking generated by patrons shall be accommodated on site.~~
- ~~6. Off street parking areas with three or more spaces shall be screened by a fence constructed per Chapter 44 CDC specifications, topography, vegetation, or a combination of these methods. Screening vegetation must be in place by the time the applicant submits a home occupation application, or be reasonably expected to provide effective screening within one and one-half years of approval of said application.~~
- ~~5. 7. No equipment or process shall be used in a home occupation which creates noise, odor, smoke, fumes, fallout, vibration, heat, glare, or electrical interference resulting detectable to the normal senses off the lot.~~
- ~~6. 8. No more than three employees, other than the residents, shall be engaged in service on the premises at any given time.~~
- ~~9. The use of signs shall meet the requirements of Chapter 52 CDC unless modified by this chapter.~~
- ~~7. 10. Occupied or unoccupied vehicles associated with the home occupation shall not have engines idling at any time, except during the immediate loading or unloading of cargo, mail, packages or passengers. Vehicles associated with the home occupation shall not be loaded or unloaded between the hours of 7:00 p.m. and 7:00 a.m. Monday through Friday, or between the hours of ~~6~~5:00 p.m. to 9:00 a.m. on Saturday and Sunday and **Federal Holidays**. Other noise-generating machinery associated with conducting a home occupation shall also follow these guidelines.~~
- ~~8. 11. The owner of the business must reside in the **dwelling unit** primary structure on the premises.~~
- ~~9. 12. Only One commercial vehicle, as defined by the Oregon Vehicle Code, no larger than a three-quarter-ton **gross vehicle weight** truck may be **parked outside of a structure**, used by the occupant, directly or indirectly, in connection with a home occupation. An off street parking space shall be provided for this vehicle.~~
- ~~10. 13. The **home occupation** use creates no more than eight total vehicle trips per day including employees, all deliveries, and customers. One trip is equal to one vehicle entering the site and exiting the site. Home occupations with pupils or students, such as, but not limited to, dance, music or language classes, **can create no more than twelve total vehicle trips per day including employees, all deliveries, and customers**, are exempt from the vehicle trip limitation. **Pick-up and drop-off of a pupil or student is equal to one vehicle trip.**~~

37.030 SPECIFIC HOME OCCUPATION USES PROHIBITED

- A. *Repealed by Ord. 1635.*

B. Any home occupation involving the on-site sale, ~~or~~ resale, repair, or restoration of automobiles, trucks, boats, trailers, or other motorized vehicles.

37.040 THE APPLICATION

- A. A home occupation application shall be initiated by the occupant. If the occupant is not the owner of the premises, the signature of the owner is required on the application.
- B. The applicant shall pay the requisite fee.

37.050 PERMITS

- A. A home occupation permit shall be required for a home occupation, subject to the provisions of this chapter, prior to issuance of a business license.
- B. A copy of each home occupation permit, including the permit number, shall be kept by the Planning and Building Department and on the premises of the business.
- C. A home occupation permit is non-transferable to any other person or any other property, and shall expire upon discontinuance of the home occupation by the person to whom it is issued.

37.060 ADMINISTRATION AND APPROVAL STANDARDS

- A. Home occupations.
 - 1. A home occupation is a decision made by the Planning Director in accordance with the provisions of CDC 99.060(A), except that no notice shall be required.
 - 2. The Planning Director shall approve, approve with conditions, or deny an application for a home occupation in accordance with the standards set forth in CDC 37.020(A) for home occupations.
 - 3. The Director’s decision may be appealed by the applicant to the City Council as provided in CDC 99.240(A).

37.070 APPROVAL AND STRICT COMPLIANCE REQUISITE FOR BUSINESS LICENSE

No business license will be issued for a home occupation until the home occupation application is approved and the applicant certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval.

37.080 REVOCATION

The Director may revoke a home occupation permit if the criteria of CDC 37.020(A), respectively, are violated.

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Chapter 85 LAND DIVISIONS – GENERAL PROVISIONS

85.070 Administration and Approval Process

- A. The application shall be filed by the record owner(s) of the property or by an authorized agent who has a letter of authorization from the property owners of record. The burden of proof will be upon the applicant to demonstrate the validity of the ownership, if challenged.
- B. Action on the application for a tentative plan shall be as provided by Chapter 99 CDC.
 - 1. The Planning Director shall approve, deny, or approve with conditions an application for a partition subject to the provisions of CDC 85.200, 99.060(A), and 99.110. The Director’s decision may be appealed to the City Council as provided by CDC 99.240(A).
 - 2. The Planning Commission shall approve, deny, or approve with conditions an application for a tentative plan for a subdivision subject to the provisions of CDC 85.200, 99.060(B), and 99.110. A petition for review of the Planning Commission’s decision may be filed as provided by CDC 99.240.

3. The Planning Director shall approve, deny, or approve with conditions an application for an expedited land division subject to the provisions of CDC 85.220, 99.060(A), and 99.110. The decision may be appealed to a referee as provided by CDC 99.060(E).

4. The Planning Director shall approve, deny, or approve with conditions an application for a middle housing land division subject to the provisions of CDC 85.230, 99.060(A), and 99.110. The decision may be appealed to a referee as provided by CDC 99.060(E).

~~3.~~ **5. Action on the final plat shall be ministerial and taken by the Planning Director and City Engineer, and the Planning Director and City Engineer shall approve a final subdivision or partition plat upon the finding that the approval criteria set forth in CDC 89.050 have been satisfied. The Planning Director’s and City Engineer’s decision may be appealed to the Planning Commission by the applicant, and the Planning Commission shall make its decision based on testimony from the applicant and the Director.**

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85.220 EXPEDITED LAND DIVISIONS

An expedited land division, as defined by ORS 197.360, is an alternative process for the review of preliminary partition or subdivision plats. An expedited land division compresses review timelines, provides for different noticing requirements, and mandates a specific appeal process.

A. Submittal Requirements.

1. Written responses to Oregon Revised Statute 197.360(1) describing how the proposal qualifies for an expedited land division.
2. Confirmation of participation in a pre-application conference per CDC 85.140.
3. Required neighborhood meeting materials per CDC 99.038 for subdivision proposals.
4. Materials identified in CDC 85.150 to CDC 85.190.

B. Approval Criteria.

1. Oregon Revised Statute 197.360 to 380.
2. West Linn Community Development Code Chapter 85.200

85.230 MIDDLE HOUSING LAND DIVISIONS

A middle housing land division, as defined by ORS 92.031, permits the division of property that contains middle housing. A middle housing land division is subject to limited review criteria and processed using the expedited land division rules of ORS 197.360 to 380.

A. Submittal Requirements.

1. Written responses to Oregon Revised Statute 197.360(1) describing how the proposal qualifies for an expedited land division.
2. Written responses to Oregon Revised Statute 92.031.
3. Tree plan that includes:
 - a. Site plan with existing trees identified.
 - b. Inventory by tree size, tree species, and proposed to retain or remove.
4. Site plan that includes:
 - a. Utility connections and locations.
 - b. Access locations.
 - c. Proposed easements for utilities, access, or common areas.
 - d. Proposed street improvement details and right-of-way dedications.
 - e. Footprint of middle housing structures and proposed property lines.
5. Approved Tualatin Valley Fire and Rescue service provider permit.

- 6. Preliminary plat that includes:**
 - a. Property lines and dimensions.**
 - b. Public and private utility easements.**
 - c. Required right-of-way dedication.**

B. Approval Criteria.

1. Oregon Revised Statute 92.031.

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Chapter 99 PROCEDURES FOR DECISION MAKING: QUASI JUDICIAL

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99.060 APPROVAL AUTHORITY

This section explains the authority of the Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

A. Planning Director authority. The Planning Director shall have the authority to:

- 1. Approve, deny, or approve with conditions the following applications:
 - a. A temporary use or structure application for a period no more than 120 days, including all extensions (Chapter 35 CDC), and not associated with another land use approval.

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- t. Willamette River Greenway Permit (Chapter 28 CDC).
- u. Extensions of approval **without modifications.** ~~when the Planning Director acted as the initial decision-making authority.~~

v. Extension of approval with proposed modifications when the Planning Director acted as the initial decision-making authority.

w. ~~w.~~ Class I Historic Design Review (Chapter 25 CDC).

x. ~~w.~~ A demolition permit for a non-contributing or not in period primary structure or an accessory structure (Chapter 25 CDC).

y. Expedited Land Division

z. Middle Housing Land Division

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B. Planning Commission authority. The Planning Commission shall have the authority to:

- 1. Make a recommendation to approve, deny, or approve with conditions to the Council:

.....

- 2. Approve, deny, or approve with conditions the following applications:

- a. A temporary use or structure application (Chapter 35 CDC) for a minimum of 121 days to no more than one year, or an application associated with another land use approval

.....

- k. Extensions of approval **with proposed modifications** when the Planning Commission acted as the initial decision-making authority.

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C. City Council authority. The Council shall have the authority to:

.....

D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

- 1. Approve, deny, or approve with conditions an application regarding the following:
 - a. Class II Historic Design Review;

.....

- e. ~~An e~~ Extension of an approval **with proposed modifications** when the Historic Review Board acted as the initial decision-making authority.

.....

~~E. Expedited land divisions. Expedited land divisions shall be processed by the Planning Commission without a public hearing pursuant to Oregon Revised Statutes (ORS) 197.360 through 197.380. Pursuant to ORS 197.360(3), the following City permits may be processed concurrently with an expedited land division application:~~

- ~~1. Pursuant to ORS 197.360(3), the following City permits may be processed concurrently with an expedited land division application:~~

- ~~a. Planned unit development.~~

- ~~b. Willamette River Greenway~~

- ~~c. Flood Management area.~~

~~d. Tualatin River.~~

~~e. Water Resource Area.~~

~~f. Design Review.~~

~~2. The Planning Commission shall make their decision based solely upon the record and staff recommendation.~~

~~3. Appeals of the Planning Commission decision on an expedited land division shall be reviewed pursuant to Chapter 197 ORS. (Ord. 1442, 1999; Ord. 1463, 2000; Ord. 1474, 2001; Ord. 1510, 2004; Ord. 1525, 2005; Ord. 1545, 2007; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1597 §§ 17, 18, 2010; Ord. 1613 § 24, 2013; Ord. 1614 § 15, 2013; Ord. 1622 §§ 9, 28, 2014; Ord. 1635 § 38, 2014; Ord. 1638 § 3, 2015; Ord. 1655 § 9, 2016; Ord. 1735 § 5 (Exh. D), 2022; Ord. 1745 § 1 (Exh. A), 2023)~~

E. Referee

1. Approve, deny, or approve with conditions the following applications:

a. Appeal of an expedited land division per ORS 197.375.

b. Appeal of a middle housing land division per ORS 197.375.

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99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. Notice of proposed action or a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

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E. Table of notices. The following notice summary identifies the appropriate type of notice for the various land use applications of CDC 99.060.

Land Use Action	Type of Notice
Amendment or Modification of Application or Permit	Same as original application
Appeal or Review of Decision	A
<u>Appeal of Expedited Land Division or Middle Housing Land Division</u>	<u>Per State Statute requirements</u>

Boundary Change	Special
Code Interpretation	Notice to parties requesting the interpretation
.....
<u>Extension of Approval – No modification</u>	<u>B</u>
Extension of Approval – <u>Proposed modification</u>	Same notice as original application

99.250 APPLICATION FOR APPEAL OR REVIEW

- A. The notice of **An** appeal **application** shall contain **the following information**:
 - 1. **Date and case file number of** A reference to the **decision being** application sought to be appealed, ~~and~~
 - 2. **Documentation that the person filing the application** A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.
 - 3. **Statement describing the basis of the appeal, including:**
 - a. **The West Linn Municipal Code and/or Community Development Code approval criteria or development standard believed to have been overlooked or incorrectly interpreted or applied; and or**
 - b. **The aspect of the proposal believed to have been overlooked or incorrectly evaluated.**
- B. The appeal application shall be accompanied by the required fee.
- C. If the appeal application and applicable fee are not submitted within the required appeal period, or if the appeal application does not contain the required items specified in West Linn CDC Section 99.250.A(1-3) above, the application shall not be accepted by the City.**
- ~~E.~~ **D.** The hearing on the appeal or review shall be de novo; however, all evidence presented to any lower approval authority shall be made part of the record and shall be considered and given equal weight as evidence presented on appeal.

99.260 PERSONS ENTITLED TO NOTICE ON APPEAL – TYPE OF NOTICE

Upon appeal, notice shall be given by the Director to all persons having standing as provided by CDC 99.140 to notice as required by CDC 99.080.

99.270 CONTENTS OF PUBLIC NOTICE OF APPEAL HEARING

Notice given to persons entitled to mailed notice under CDC 99.260 shall:

- A. Reference the application sought to be appealed;
- B. List the date, time, and location of the hearing;
- C. State the appellant or petitioner name(s);
- D. List any grounds for appeal or review stated in the application for appeal or review, but state that the appeal or review is not limited to the stated grounds for appeal or review and that all relevant issues may be considered;
- E. State that the hearing on appeal shall be de novo; however, evidence presented to the lower approval authority shall be considered and given equal weight as evidence presented on appeal;
- F. Include the name of government contact and phone number; and
- G. State that the application and record are available for inspection at no cost, and copies at a reasonable cost.

99.280 TYPE OF APPEAL HEARING AND SCOPE OF REVIEW

- A. All appeals and reviews shall be de novo.
 - 1. The record of the previous application, hearing, and decision shall be incorporated and considered as evidence in the appeal procedure.
 - 2. If any party requests a continuance of the appeal hearing, the City Council may grant a continuance to allow a further hearing or may allow only written submissions. The City Council may limit the scope of any additional testimony or argument after the initial hearing on appeal.

.....

99.325 EXTENSIONS OF APPROVAL

~~A. An extension may be granted by the original decision making body by an additional two years from the effective date of approval pertaining to applications listed in CDC 99.060(A), (B), (C), (D) or (E), as applicable, upon finding that:~~

- ~~1. The applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and~~

~~2.— There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or~~

~~3.— The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.~~

~~B.— Repealed by Ord. 1675.~~

~~C.— Repealed by Ord. 1675.~~

~~D.— Repealed by Ord. 1635.~~

~~E.— Extension procedures.~~

~~1.— The application for extension of approval with modifications to the original approval may be submitted only after a pre-application meeting under CDC 99.030(B). If no modifications are made to the original approval, a pre-application conference is not required.~~

~~2.— The application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038 for those cases that require compliance with that section. If no modifications are made to the original approval, no neighborhood meeting is required.~~

~~3.— Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.~~

~~4.— Notice of the decision shall be issued consistent with CDC 99.080.~~

~~5.— The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call up pursuant to this chapter.~~

A. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.

B. Applicability

This chapter applies to all approved land use applications that are subject to expiration but have not yet expired.

C. General Provisions

1. An approved land use application is eligible for one extension.
2. An extension application must be approved by the decision-making authority prior to the expiration date of the original approval, including resolution of all appeal periods.
3. If an extension is approved, the expiration date for the original approval is extended an additional two years from the effective date of the original approval.

D. Approval Process

1. If the extension application does not propose modification to the original approval, the assigned approval authority is the Planning Director, as provided in Section 99.060(A). If no modifications are proposed to the original approval, no neighborhood meeting is required.
2. If the extension application proposes modifications of the original approval or any conditions of approval, the extension application shall comply with amendment procedures set forth in CDC Section 99.120, and CDC Section(s) 55.050 and CDC Section 85.085 when applicable.
3. An application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038, if a neighborhood meeting was required of the original application.
4. If the original approval included multiple applications and does not propose modifications, a single extension application may include all applications associated with the original approval.

E. Approval Criteria

The approval authority will approve an extension application when all of the following criteria are met:

1. The applicant has provided evidence that a good faith effort was made to utilize the approval within the specified time period or the need for the extension is the result of conditions or circumstances outside the control of the applicant or property owner; and
2. If the original application included a transportation impact study, a natural resources report, geotechnical report, and/or tree inventory report an updated report must be provided with the extension application that shows no significant changes on or near the development site have occurred that would affect the conclusions and recommendations of the existing report(s). A letter from a recognized professional satisfies this criterion if it states that conditions have not changed since the approval of the original application and no new analysis is warranted.

**EXHIBIT PC-2: DRAFT PLANNING COMMISSION TRANSMITTAL LETTER TO
CITY COUNCIL**

Memorandum

Date: October 17, 2024
To: West Linn City Council
From: West Linn Planning Commission
Subject: CDC-24-02 Recommendation –Code Process Concepts Amendment Package

The Planning Commission held a legislative public hearing on October 16, 2024, for the purpose of making a recommendation to the City Council on adoption of a proposed Code Process Concepts Amendment Package.

In March 2024, the City Council directed the Planning Commission to analyze and discuss code language in relation to Home Occupations, Appeals of Approvals, Extensions of Approval, Expedited Land Divisions, and Middle Housing Land Divisions, and then recommend code amendments to create clearer language rules. The Planning Commission met five times from April 2024 to August 2024 to evaluate the policy questions and proposed code amendments.

After conducting the public hearing, the Commission deliberated and voted # to # to recommend City Council adopt (or adopt with changes or not adopt) the proposal as presented (with the following changes or explain not adopt recommendation). Written testimony was submitted by # community members and # community members provided oral testimony at the public hearing.

The primary topics of the testimony included:

- Topic 1
- Topic 2
- Topic 3
- Etc.

Respectfully,

John Carr
Chair, West Linn Planning Commission

EXHIBIT PC-3: PUBLIC COMMENTS

Wyss, Darren

From: A Sight for Sport Eyes <sporteyes@yahoo.com>
Sent: Saturday, March 30, 2024 3:29 PM
To: Planning Commission (Public)
Subject: RE: CDC Amendments

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

Dear Planning Commission,

Please accept this testimony for your work session on the CDC code changes. I would like to comment on #2, Appeal Process for Development Projects.

I understand that this will streamline things a bit, and I do agree that it is easier if people are clear in what they are appealing. I wouldn't mind requiring that people list the grounds for appeal. Limiting what can be heard in the appeal to only what they put in that brief is the issue I have. You often have residents, not lawyers appealing who are not familiar with code. They do their best to learn how to appeal in a very short amount of time, but might miss things they don't understand or know about in the code.

I also think we need to look at why the 2017 council changed to the de novo process. If I look at this [West Linn Tidings](#) article, this move to de nova was to:

“ to allow for what they feel to be a more inclusive and comprehensive appeal process.”

“Inclusive” being the key word for me here. Again, the lay person is not going to know our code inside and out. If you limit what can be appealed, this means only those able to hire attorneys are really going to be able to make the best case under this proposal. Also of note is this quote:

“The current council, on the other hand, felt handcuffed by the on the record process, particularly during a series of recent development appeal hearings when evidence the councilors viewed as important could not be introduced.”

If evidence is in the record for the PC hearing but is not listed in the appeal document, then it wouldn't be able to be introduced in the City Council hearing which is the exact reason council changed the code in 2017.

The change to “on the record” was done in 2014, and only lasted a few years before being changed back in 2017. While this is being sold as “de novo”, it is basically the same thing as “on the record”. The slight nuance I see is with an “ on the record” hearing, if the appeal was done for traffic, lets say, and then the appeal had a new traffic report they wanted to add to the record, they couldn't add it to the “on the record” hearing. However, it could be added to the record in this version of “de novo”. But if another person wanted to testify about a WRA code and the appellant only mentioned traffic in their appeal, then the WRA code testimony would not be allowed, even though the WRA testimony was heard at the PC hearing. That is how I am reading this change. So in essence, this creates the same challenges Council

had with their other hearings. They wouldn't be able to hear testimony that was heard at the PC hearing because if it isn't specifically stated in the appeal brief.

I did a Google search on "de novo" as it is used in Oregon law. This is what I found:

"de novo" refers to a new trial on an entire case, where the issues of law and fact are determined without referring to any previous legal conclusion or assumption made by the previous court. The term is Latin for "anew," "from the beginning," or "afresh". In de novo review, the appellate court does not defer to the decisions made in the trial court and looks at the issue as if the trial court had never ruled on it."

From this definition, this code change does not meet the "spirit of the law". It is not going to allow the hearing to be "anew". It is not "looking at the issue as if the Planning Commission had never ruled on it". It is limiting the hearing to evidence only put forth in the appellant's brief. Again, these are the same issues that the 2017 council had, and why they made the code changes then.

Let's also consider that not all applications go to the Planning Commission. If it is a planning manager decision, unless you live within 500 feet of the application, you don't know there is this application being reviewed. Thus, the first time one finds out about a decision may be during the appeal, and the appeal hearing may be the only chance to give testimony. This "de novo" process requires a lay person to do time consuming research in a short amount of time (14 days) on code language they are unfamiliar with, to ensure they cover every piece of code issues in their appeal. Or, it requires the lay person to pay to hire an attorney in order to ensure all the proper parts of the code are addressed in the appeal. Again, an inequity as most people don't have discretionary funds to do this.

On CCI (Committee for Community Involvement) we threw out the idea of being a resource for people to come and discuss land use issues. Perhaps if we had something like this in place where the lay person could have some free help in drafting their appeal, this code change would be more palatable. But since in a planning manager decision, the rest of the public may only see this application for the first time at the council hearing, we need a full de novo process so issues missed by the lay person can be addressed at the single public hearing.

Also, usually only one person appeals, as the cost is high. Thus, this proposed process requires the person filing the appeal cover all potential issues. Again, in my example before, perhaps the appellant only cares about traffic so they write their appeal about traffic. This means if someone also wants to appeal for the WRA issues, they have to file a separate appeal and pay the \$400 to ensure their testimony will be admissible in the appeal hearing. Again, these are barriers to equity.

While I know the argument that will be made that one could just ask for their concerns to be addressed in the appeal document, in my "what if" scenario, this would require the neighbor to somehow get a hold of this random stranger and ask them "can my arguments be part of your appeal". While they could say yes, many people don't like the help of strangers, nor do they have time to meet within that short 2 week period. This again, puts it back on the resident to pay \$400 to do their own appeal in order to ensure their point of view can be addressed. I had this happen when we appealed to LUBA on the Athey Creek School. The person who was decided to be the appellant did not want to include my concerns in their brief. (LUBA limits you to so many words, and he didn't have time to meet with me). So I had to pay the few

hundred dollars to appeal myself in order for my concerns to be heard. This is why I know this will be an issue.

I did check. I found that cities and certain municipalities can limit “de novo” to what is in the appeal in Oregon, however, maybe staff can tell you what cities actually do this. Another thing I would like to know is if a decision is appealed to LUBA, are arguments made in the PC hearing allowed to be brought forward at the LUBA hearing if they were not heard by council? If arguments from the PC hearing could be made to LUBA, it makes this change slightly more palatable as evidence missed in the appeal could be at least heard at LUBA.

I’m hoping you can see that this version of de novo limits public participation, and creates potential cost barriers for the public. It doesn’t meet the “spirit of the law” as it does limit what evidence can be submitted in a de novo hearing. It allows some new evidence, but not all, and does not allow for a “anew” hearing as de novo intends. I can see keeping the language of 3.a and 3.b that was removed in 2017, but keeping the underlined language of C. for a full de novo process. That would be an acceptable compromise. It encourages people to be clear about the code issues in question, but does not limit others from having their voices heard if the appellant does not address their concerns. Another option could be requiring written testimony for other code issues not addressed in the brief. This would give staff and the applicant time to prepare comments on those issues. I do think this too could create issues still, but at least gives people time to see if their issues are addressed in the brief or not which is better than nothing.

Perhaps I’m the only one that feels this way. Maybe the CCI should take create a plan for public engagement on this issue to ensure PC hears various points of views on this.

A quick note on one of the other proposed code changes. Perhaps the EDC (Economic Development Committee) should look at the Home Occupation code changes, or likewise the CCI could ensure that the public is well aware of these potential changes as they could affect their existing home based business, or could increase traffic to a street that a current home based business is operating.

Thank you for your time and service to the city.

Shannen Knight

A Sight for Sport Eyes
1553 11th St.
West Linn, OR 97068
503-699-4160
888-223-2669
Fax: 888-240-6551
www.sporteyes.com

EXHIBIT PC-4: AFFIDAVIT AND NOTICE PACKET

**AFFIDAVIT OF NOTICE
LEGISLATIVE DECISION**

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

PROJECT

File No.: **CDC-24-02**
 Project: Code Process Concepts 2024
 Planning Commission Hearing: 10/16/24
 City Council Hearing: 12/9/24

MAILED NOTICE

Notice of Upcoming Planning Commission and City Council Hearings was mailed at least 10 days before the Planning Commission hearing, per Section 98.070 and 98.080 of the Community Development Code to:

ODOT	9/25/24	<i>Lynn Schroder</i>
TRIMET	9/25/24	<i>Lynn Schroder</i>
Clackamas County Planning Department	9/25/24	<i>Lynn Schroder</i>
City of Oregon City	9/25/24	<i>Lynn Schroder</i>
City of Lake Oswego	9/25/24	<i>Lynn Schroder</i>
All Neighborhood Associations	9/25/24	<i>Lynn Schroder</i>
Stafford-Tualatin CPO	9/25/24	<i>Lynn Schroder</i>
West Linn-Wilsonville SD	9/25/24	<i>Lynn Schroder</i>
West Linn Chamber of Commerce	9/25/24	<i>Lynn Schroder</i>
Jeremy Barnett	9/25/24	<i>Lynn Schroder</i>
Tzer En Cheng	9/25/24	<i>Lynn Schroder</i>
Department of Land Conservation and Development	08/30/24	<i>Aaron Gudelj</i>

EMAILED NOTICE

Notice of Upcoming Planning Manager Decision was emailed at least 10 days before the decision date to:

METRO – per request	9/25/24	<i>Lynn Schroder</i>
All Neighborhood Associations	9/25/24	<i>Lynn Schroder</i>
Persons Requesting Notification -PC agenda distribution list	9/25/24	<i>Lynn Schroder</i>
Jeremy Barnett	9/25/24	<i>Lynn Schroder</i>
Tzer En Cheng	9/25/24	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City’s website at least 20 days before the Planning Commission hearing, per Section 98.070 and 98.080 of the CDC:

9/25/24	<i>Lynn Schroder</i>
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TIDINGS

Notice of the Planning Commission and City Council hearings was posted in the West Linn Tidings at least 10 days before the Planning Commission hearing, per Section 98.070 and 98.080 of the CDC.

10/2/24	<i>Lynn Schroder</i>
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STAFF REPORT

The proposed amendments and staff report were posted on the website and provided to Planning Commissioners at least 10 days before the hearing, per Section 98.040 of the CDC.

10/3/24	<i>Lynn Schroder</i>
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FINAL DECISION

A Notice of Final Decision was mailed to the Department of Land Conservation and Development and persons who participated in the proceedings or otherwise requested such notice no later than 5 working days after the final decision per Section 98.140 of the CDC.

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**CITY OF WEST LINN
PUBLIC HEARING NOTICE
CDC-24-02**

**TO ADOPT TEXT AMENDMENTS TO THE WEST LINN COMMUNITY DEVELOPMENT CODE
CHAPTERS 2, 37, 85, AND 99 IN ORDER TO UPDATE LANGUAGE FOR HOME OCCUPATIONS,
EXTENSIONS OF APPROVAL, APPEALS OF DEVELOPMENT PERMITS, EXPEDITED LAND DIVISIONS, AND
MIDDLE HOUSING LAND DIVISIONS.**

The West Linn Planning Commission will hold a hybrid public hearing on **Wednesday, October 16, 2024 at 6:30pm** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider adopting text amendments to West Linn Community Development Code Chapters 2, 37, 85, and 99. The purpose of the amendments is to provide clear and objective code language, comply with Oregon State Statutes, and clarify City processes' for Home Occupations, Extensions of Approval, Appeals of Development Permits, Expedited Land Divisions and Middle Housing Land Divisions.

Following the Planning Commission hearing, the Commission will make a recommendation to the City Council. The Council will make a final decision regarding the Commission recommendation following its own hybrid public hearing on **Monday, December 9, 2024 at 6:00pm** in the Council Chambers of City Hall.

At least 10 days before the hearings, a copy of the proposed amendments and associated staff report will be available for inspection at no cost at City Hall and on the City website <https://westlinnoregon.gov/projects>. Alternately, copies may be obtained for a minimal charge per page.

The hybrid hearings will be conducted in accordance with the rules of CDC Chapters 98 and 105. The public can attend in person or watch the meeting online at <https://westlinnoregon.gov/meetings> or Cable Channel 30.

The Commission and Council will receive a staff presentation and invite oral and written testimony at public hearings. The Body may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the proposed amendments as provided by state law.

Anyone wishing to present written testimony for consideration should submit all materials before 12:00 pm on the meeting day or in-person at the hearing. Persons interested in party status must establish standing by submitting oral or written testimony before or at the public hearings. Written comments may be submitted to agudelj@westlinnoregon.gov. Failure to raise an issue in person or by letter before the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue.

To participate remotely during the meeting, please complete the form at: <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> by 4:00 pm on the meeting day. Staff will email a Webex invitation before the meeting. If you do not have email access, please call 503-742-6061 for assistance 24 hours before the meeting. If you require special assistance under the Americans with Disabilities Act, please call City Hall 48 hours before the meeting date 503-657-0331.

For further information, please contact Aaron Gudelj, Associate Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, (503)742-6057 or agudelj@westlinnoregon.gov.

Publish: West Linn Tidings, October 2, 2024



**NOTICE OF UPCOMING
PLANNING MANAGER DECISION**

**PROJECT # CDC-24-02
MAIL: 10/3/24 TIDINGS: N/A**

CITIZEN CONTACT INFORMATION

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

Attachment 5: CC Affidavit and Notice Packet



**AFFIDAVIT OF NOTICE
LEGISLATIVE DECISION**

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Department of Land Conservation and Development	8/30/24	Darren Wyss

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9/25/24	Lynn Schroder
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10/2/24	Lynn Schroder
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PLANNING COMMISSION STAFF REPORT

The proposed amendments and staff report were posted on the website and provided to Planning Commissioners at least 10 days before the hearing, per Section 98.040 of the CDC.

10/3/24	<i>Lynn Schroder</i>
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CITY COUNCIL STAFF REPORT

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11/22/24	<i>Darren S. Wyss</i>
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FINAL DECISION

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Publish: West Linn Tidings, October 2, 2024