

Memorandum

Date: Last updated on July 30, 2026

To: Honorable Mayor Bialostosky and West Linn City Council

From: Steve Koper, Community Development Director

Subject: Tannler Land Use Application (DR-25-04/LLA-25-02) Procedure

The purpose of this memorandum is to provide the City Council with an outline summarizing the procedural steps the City will follow in processing Application DR-25-04/LLA-25-02. This memo provides an overview of the mechanics of the review process in light of recently operative state legislation and the City's Community Development Code (CDC). This memorandum is not legal advice or a legal opinion. The hearing process, deliberations, and timeline will be governed by applicable state and local law and the City's adopted CDC.

Procedural Framework and Authority

State Law Preemption and Local Code Requirements

- New statutory amendments in HB 4037 (2026), Section 17, revising ORS 197A.400(5), affect procedures for housing development review. Where state law preempts local procedures, the City must follow state law. In all other respects, the City must continue to apply its CDC until amended by the City Council.

Mixed-Use Application Structure

- Application DR-25-04/LLA-25-02 contains both residential and commercial components. The statutory amendments define procedures for residential development but do not prescribe procedures for mixed-use applications containing commercial elements. For this reason, the City must apply CDC procedures to commercial elements to the extent they do not conflict with state law.

Role of the Planning Commission

Required Decisionmaker

- Under CDC 55.030.C.1 and CDC 99.060.B.2.h, the Planning Commission is the designated decisionmaker for Class II Design Review applications. State law does not preempt the identity of the local decision-maker. Therefore, the Planning Commission must act as the initial decisionmaker for both residential and commercial aspects.

Hearing Requirement (Commercial Component)

- CDC 99.170.A requires a public hearing on matters within the Planning Commission's original jurisdiction. This requirement is not preempted for the commercial portion of the application. Accordingly, the City must hold a hearing limited to commercial aspects of the proposal.

Deliberations (Residential Component)

- HB 4037 (2026), Section 17 expressly preempts the City from holding a public hearing for the residential portion of the application. The Planning Commission will instead conduct deliberations, consider written submissions and the record, and issue a decision for the residential component, without a hearing.

Process Timeline and Notifications

Record Compilation

- Per CDC Chapter 99, the Planning Department will assemble the record prior to the hearing and deliberations.

Noticing Requirements

- Notices will be issued consistent with CDC 99 and applicable state law. Parties will receive hearing notices, procedures for participation, and deadlines for submission of written testimony.

Sequence of Events

- To reflect both CDC requirements and state preemption:
 - Public Hearing on commercial components only.
 - Planning Commission Deliberations on both commercial and residential components.
 - Planning Commission Decision approving, approving with conditions, or denying each portion of the application.

Hearing Procedures (Commercial Component Only)

- Conducted under quasi-judicial procedures in CDC Chapter 99.
- Opportunity for oral testimony
- The Planning Commission regulates the course and decorum of proceedings, ensures due process, determines time limits, and may limit testimony to applicable criteria.
- A standard hearing sequence will include:
 - Opening of the hearing and procedural script
 - Staff summary of procedural background
 - Applicant presentation
 - Public and Neighborhood Association testimony pursuant to CDC and Council Rules
 - Applicant rebuttal
 - Closing of the record or continuation as permitted under CDC 99 and applicable state law

Deliberations (Residential Component Only)

- Conducted by the Planning Commission without a public hearing.
- The applicant and interested parties may submit written testimony prior to the deadline for comments identified in the public notice.
- The Commission may discuss applicable criteria, review staff analysis, and reach a decision consistent with ORS 197A.400 procedures.
- Deliberations allow the applicant to meet its burden of proof through written materials submitted prior to the deadline identified in the public notice.

Final Decision

- The Planning Commission will adopt written findings addressing both commercial and residential aspects of the project.
- The Planning Department will mail the final decision to all parties of record per applicable state laws.
- All commercial aspects of the decision other than mandatory adjustments may be appealed to the City Council by any party of record. The residential aspect of the decision and all mandatory adjustments may only be appealed to the City Council by the applicant.