



**AGENDA BILL 2011-02-14-06**

**Subject:** Proposed code amendments that clarify which types of projects require pre-application conferences and authorize limited temporary signage within City right-of-way on Sundays.

**For Council:** February 14, 2011

**Land Use Case Number:** CDC-10-04

**Public Hearing:** Yes

**City Manager's Initials:**   CJ  

**Attachments:**

1. Staff Memorandum to City Manager
2. Proposed code amendments
3. Previously approved Council Resolutions related to this subject
4. Correspondence received

**Initiated by:**

- Planning Department

**Budget Impact:**

- None

**Sustainability Considerations:**

- None

**Policy Question(s) for Council Consideration:**

- Should the City amend the Community Development Code (CDC) to permit limited, temporary signage within City right-of-way?
- Should the City amend the CDC to delineate which applications shall, and shall not, require pre-application conferences?

**Summary:**

- The proposed amendments to Chapters 25, 58 and 99 will clarify which types of development applications require a pre-application conference prior to submittal.
- The proposed amendments to Chapter 52 will allow for limited temporary signage within the City's right-of-way in residential zoning districts on Sundays between 8:00 AM and 6:00 PM.
- The City Council previously approved Resolutions requiring staff to process these amendments.

**Recommended Motion:**

*Move to adopt Ordinance 1599 which amends the CDC to clarify which types of developments are required to have pre-application conferences and authorizes limited temporary signage within City right-of-way on Sundays.*



## Memorandum

Date: January 31, 2011

To: Chris Jordan, City Manager

From: Chris Kerr, Senior Planner

Subject: Community Development Code amendments related to pre-application conference requirements and temporary signage in the right-of-way

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### **Purpose**

Staff is seeking City Council approval of proposed amendments to the Community Development Code (CDC) that address two specific issues:

1. The proposed amendments to Chapters 25, 58 and 99 clarify which types of development applications require a pre-application conference prior to submittal.
2. The proposed amendments to Chapter 52 will allow for limited temporary signage within the City's right-of-way within residential zoning districts on Sundays between 8:00 AM and 6:00 PM.

### **Background**

On April 26, 2010, the City Council approved Resolutions 2010-15 and 2010-16 (Attachment 3 in the Agenda Bill) which required Staff to "initiate amendments to the CDC" to address two distinct issues, which are described as follows:

*Issue #1: Pre-application conference requirements.* CDC Section 90.030 B below requires that applicant's for all development approvals regulated under the CDC attend a pre-application conference, unless there is a specific waiver from that requirement elsewhere in the code. There are no provisions anywhere in the CDC that 'waive' the need for pre-application conferences.

*"99.030 B (1. **The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Director, for a pre-application conference, unless the requirement for a pre-application conference is specifically waived by another section of this code.**" (Bolded for emphasis)*

Therefore, this existing code language requires applicants for minor permits, including those for signs, home occupations, temporary uses, sidewalk uses, final plats, lot-line adjustments, re-vegetation plans, and appeals of land use decisions to attend a pre-application conference prior to submittal of an application. However, the City has never required pre-application conferences for any of these minor application types as it is impractical and unnecessary. For example, it takes a minimum of two weeks after a pre-application conference is requested to advertise and hold the conference with staff. Additionally, the cost of a pre-application conference is either \$350 or \$1,000, depending on application type. Requiring pre-application conferences for these minor permits would serve no practical benefit to the City and it would waste City resources and place unnecessary time delays and financial burdens on applicants.

In April of 2010, after becoming aware of the problems associated with the literal interpretation of CDC Section 90.030 B, staff requested that the City Council suspend enforcement of this requirement related to minor permit applications. The Council passed Resolution 2010-16 on April 26, 2010, which suspended enforcement of this component of the CDC as it relates to minor development applications and directed staff to subsequently process a CDC amendment correcting this problem.

*Issue #2: Temporary signs in the right-of-way.* In the summer of 2009, the City Council expressed an interest in allowing limited temporary signage within the right-of-way. This was in response to concerns raised by real estate agents, as well as residents attempting to sell their homes, that the City's prohibition on signage in the right-of-way was impairing the marketing of existing houses in an already flailing real estate market. Staff presented the Council with an example of the City of Lake Oswego's "portable sign" language, which has been in effect for over a decade and is viewed favorably by the real estate industry. The City Council reviewed Lake Oswego's Code language, and in July of 2009, adopted Resolution 09-17 which directed staff to "suspend enforcement of the sign code related to temporary signs in the public right-of-way" through September of 2009, and to immediately implement the 'portable sign' requirements of Lake Oswego. The City Council placed a 'sunset' provision into the Resolution in order to revisit the impacts of this action after implementation. On two occasions since then, the City Council extended the Resolution; hence, the City has applied the Lake Oswego 'portable sign' regulations since July of 2009. During this time, staff has not noted an increase in related citizen complaints or code violations.

Below is a summary of the City Council Resolutions related to the right-of-way signage issue:

- Resolution 09-17: July 13, 2009; suspends enforcement of signage in right-of-way and applies Lake Oswego's 'portable sign' regulations. Sunsets on September 30, 2009.
- Resolution 09-21: October 12, 2009; extends the same action until March 31, 2009.
- Resolution 2010-15: April 2010; extends the same action until December 31, 2010 and directs staff to initiate CDC amendments to permanently adopt portable sign regulations.

## **Discussion**

The proposed amendments related to pre-application conference requirements will bring the code into compliance with the City's current practice and will clarify and codify, in a single location (Section 99.030 B), which applications are subject to pre-application conference requirements.

The proposed amendments to Chapter 52, which will provide for a new type of temporary right-of-way sign ("Sunday sign"), essentially adopt Lake Oswego's portable sign regulations in accordance with the

City Council's direction. However, as described in the next section, the Planning Commission and staff recommend deletion of one component of Lake Oswego's regulations.

*Advisory Board Review.* On November 16, 2010, staff presented to the City's Historic Review Board (HRB) the proposed code amendments related to pre-application conferences for developments that are subject to the City's historic regulations. The HRB concurred with the staff's recommended amendments as presented.

*Public hearings.* The Planning Commission discussed the proposed amendments at their November 17, 2010 meeting and held public hearings on these code amendments on December 17, 2010 and January 5, 2011. Two people testified regarding the proposed amendments. One person suggested revisions to the proposal and one person spoke in favor of the proposed amendments. Written testimony was provided by two individuals (see Attachment 4 of the Agenda Bill). Following the close of the public hearing, a person submitted additional comments (see Attachment 4). These comments were not considered by the Planning Commission. The issue that was raised is addressed under issues below.

### **Issues**

*New authority to waive and/or require pre-application conferences.* The major concern raised at the Planning Commission hearings pertained to the proposed Sections 99.030 B (3) and (4) of the pre-application conference requirements. These proposed new provisions grant authority to the Planning Director to require a pre-application conference if he or she determines it's warranted and to waive the pre-application conference requirement when it would be clearly unwarranted. The intent of these provisions is to provide some flexibility in the code in recognition that there may be unusual circumstances or unique development applications that would require a pre-application conference as well as situations when a pre-application conference would not serve any useful purpose. The Commission agreed with the intent of these provisions but was concerned that such a determination could be made without any public notification. After significant discussion on the issue, the Commission modified the initial code amendment language to require the City to notify the applicable neighborhood association president and the Planning Commission whenever a determination to waive a pre-application conference is made. An email submitted following the close of the public hearing record (see Attachment 4, email from Karie Oakes dated 1/19/2011), and therefore not considered by the Planning Commission, calls for notifying all neighborhood association presidents of any Director's decision to waive the pre-application requirement.

*Listing of uses not requiring a pre-application conference.* The other noteworthy change made by the Planning Commission to the draft amendments proposed by staff was to include a subsection that clarifies which applications will not require a pre-application conference. The original code amendment only listed the types of applications that require a pre-application conference.

*Elimination of the property owners' ability to decide which signs can be erected on public right-of-way fronting their lot.* The proposed Sunday sign regulations are substantively the same as the version the Council adopted on a temporary basis, with one exception. The original language requires 'good faith' efforts to gain the adjacent property owner's permission to erect the sign in the right-of-way, stipulates written notice requirements in the event the property owner is not available, and identifies the specific means by which an adjacent property owner would take down a sign. The language, while well intended, essentially delegates the City's approval authority and enforcement powers to individual property owners. This is impractical and may place the City at risk of litigation. For example, property owners could decide which signs to permit based on content, which would be contrary to a US Supreme

Court decision. The Planning Commission and staff recommend removing the provisions that grant property owners the authority to allow or deny requests for signs on the abutting City right-of-way and to remove signs that are located on City right-of-way. However, these original provisions are included for the Council's consideration as optional language entitled "Alternative 1". Approving the proposed Sunday sign amendments without the optional Alternative 1 provisions will allow for limited, temporary signage within City rights-of-way on Sundays in residential zones.

The other modification of note made to the code language for the new Sunday signs that differs from the original Resolutions approved by the Council clarifies that the signs are only authorized within the City's right-of-way. The Oregon Department of Transportation (ODOT) contacted the City and noted that temporary signs are not permitted within its right-of-way.

**Approval Criteria:**

Chapter 98 of the CDC provides administrative procedures for legislative amendments to the CDC. Section 98.100 lists the factors upon which a decision shall be based. The applicable factors, including staff's response are as follows:

1. *The statewide planning goals and rules adopted under ORS Chapter 197 and other applicable state statutes.*

Staff has forwarded a draft of the proposed code provisions to the Department of Land Conservation and Development ("DLCD") for their review. Neither staff nor DLCD have identified any statewide planning goals, rules or statutes that are applicable to these code amendments.

2. *Any federal or state statutes or rules found applicable;*

As stated above, in accordance with State statutes, a draft of these code provisions was sent to the DLCD" for their review. Neither staff or the DLCD have identified any state statutes or rules that are applicable to these code amendments. The proposed code language has been reviewed by staff and the City Attorney for compliance with any applicable federal statutes.

3. *Applicable plans and rules adopted by Metro;*

There are no Metro plans or rules applicable to the proposed code amendments.

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

The proposed amendments will not affect the Comprehensive Plan map. The proposed amendments will further the following Comprehensive Plan Policies and Action Measures by clarifying the current provisions of the code and assisting with the economic development in the city through more flexible sign regulations.

Goal 9: Economic Development: Policy #9: Adopt City regulations that are easy to understand and contain development standards that can be uniformly applied.

Goal 9: Economic Development: Action Measure: #1: Explore ways to support and improve the business climate for businesses in the City.

Goal 9: Economic Development: Action Measure #5: Investigate incentives and improve regulations to support locally owned businesses.

5. *The applicable provisions of the implementing ordinances;*

The proposed amendments are consistent with the CDC.

**Options**

- A. The City Council could approve the amendments as proposed; or
- B. The City Council could approve of some, or all, of the amendments with modifications; or
- C. The City Council could deny the proposal, thereby leaving the Code 'as is'.

**Recommendation**

The Planning Commission recommends approval of the proposed amendments included in Attachment 2 of the Agenda Bill, without the optional "Alternative 1." Staff concurs.

PROPOSED AMENDMENTS PERTAINING TO  
**TEMPORARY SIGNS IN THE RIGHT-OF-WAY**  
**AND**  
**PRE-APPLICATION CONFERENCES**

Proposed Amendments to Chapters 25, 52, 58 and 99 of the Community Development Code

**CITY COUNCIL PUBLIC HEARING DRAFT**

2/1/2011

**Note:**

Plain text = existing regulation  
~~Strike through~~ = proposed deletion to existing regulations  
Underline = proposed addition  
*Italic* = staff comment  
... = unaffected text omitted

*The proposed amendments to the Community Development Code address two issues. The proposed amendments to Chapters 25, 58 and 99 are intended to clarify which development applications require pre-application conferences. The proposed amendments to Chapter 52 would permit limited, temporary signage within the City right-of-way.*

**Chapter 25: OVERLAY ZONES – HISTORIC DISTRICT**

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**25.140 APPLICATION AND SUBMITTAL REQUIREMENTS**

Standard requirements (**Staff Comment: existing underline**): All applications for alteration, relocation, development, or demolition made pursuant to this section shall include:

- A. Notes from the pre-application conference if required by Section 99.030 B. ~~A pre-application conference with the Planning Director is required prior to formal submittal. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.~~

## Chapter 58: WILLAMETTE FALLS DRIVE COMMERCIAL DISTRICT DESIGN STANDARDS

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### 58.070 APPLICATION AND SUBMITTAL REQUIREMENTS

- A. ~~Applicants shall attend a pre-application conference if required by Section 99.030 B. A pre-application conference with the Planning Director is required prior to formal submittal.~~

*(Staff Comment: The proposed edits to Chapters 25 and 58 are necessary to clarify that certain minor applications that are subject to special historic standards do not require pre-application conferences).*

## Chapter 99: PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

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### 99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

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- B. ~~Pre-application conferences~~required.
1. Subject to Subsection 99.030 B(4), a pre-application conference is required for, but not limited to, each of the following applications:  
~~The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Directors, for a pre-application, unless the requirement for a pre-application conference is specifically waived by another section of this code.~~
    - a. Boundary changes, per Chapter 81;
    - b. Amendments to the Comprehensive Plan;
    - c. Amendments to the Zoning Map;
    - d. Conditional Uses;
    - e. Design Review (Class I and Class II);
    - f. New construction or remodels in a Historic District, except as provided for in Subsection 99.030 B(2)(h);
    - g. New construction or remodels in the Willamette Falls Drive Commercial District, except as provided for in Subsection 99.030 B(2)(i);
    - h. Alteration of Historic Landmarks, except as provided for in Subsection 99.030 B(2)(j);
    - i. Minor Partitions;
    - j. Land Divisions;
    - k. Enlargement of non-conforming uses or alteration of a structure containing a non-conforming use;
    - l. Planned Unit Developments;
    - m. Variances;
    - n. Development subject to Chapter 32, Water Resource Areas;
    - o. Development subject to Chapter 27, Flood Management Area;
    - p. Development subject to Chapter 28, Willamette and Tualatin River Protection; and
    - q. Right-of-way and easement vacations.
  2. Subject to Subsection 99.030 B(3), the following applications are exempt from the Subsection 99.030 B(1) pre-application conference requirement:

- a. Signs;
- b. Home occupations;
- c. Temporary use permits;
- d. Sidewalk uses;
- e. Final plats;
- f. Lot line adjustments;
- g. Re-vegetation plans;
- h. Minor alterations and maintenance in a Historic District, as specified in Section 25.100;
- i. Painting, signage, awnings, or architectural in-kind replacements in the Willamette Falls Drive Commercial District;
- j. Minor alteration of a Historic Landmark, as specified in Section 26.060 B; and
- k. Appeals of land use decisions.

*(Staff Comment: This itemizes, in one central location, which development applications are required to have pre-application conferences prior to submittal. It also clarifies that applicants for minor development permits, such as home occupations, temporary uses, sidewalk uses, signs, final plats, lot line adjustments and revegetation plans do not have to attend pre-application conferences. These lists are consistent with the City's historical practices.)*

- 3. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed in Section 99.030 B(1) if he or she determines that the potential development is of significant complexity or magnitude to merit a pre-application conference.
- 4. The Planning Director may waive the requirement for a pre-application conference for any application if he or she determines that such a conference is not warranted. Upon making such a determination, the Planning Director shall provide written notification (i.e., email or letter) to the Planning Commission and applicable neighborhood association president.

*(Staff Comment: Subsections 3 and 4 above are proposed in order to allow the Planning Director to use their professional discretion with regard to pre-applications. The intent is to provide some flexibility into the Code that acknowledges that there may be unusual circumstances or unique development applications that would require a pre-application conference as well as situations whereby a pre-application would not serve any useful purpose.)*

- 52. At such conference, the Planning Director or designee shall:
  - a. Cite the applicable federal and State laws and rules and the Comprehensive Plan policies and map designation;
  - b. Cite the applicable substantive and procedural ordinance provisions;
  - c. Provide technical data and assistance which will aid the applicant;
  - d. Identify other policies and regulations that relate to the application; and
  - e. Identify other pertinent factors that relate to the application.
  - f. Provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures.

63. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the application.
74. At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process.
85. The Planning Director shall prepare administrative procedures designed to allow citizens to attend and participate in pre-application conferences for applications. Lack of neighborhood association participation in a pre-application conference is not a procedural defect entitling any party to a delay in the hearing process.
96. If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.

**Chapter 52: SIGNS**  
**52.020 DEFINITIONS**

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Sign, Sunday. A temporary A-frame sign allowed within City right-of-way on Sundays, subject to the requirements of Section 52.109 E.

**52.109 EXEMPTIONS**

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- E. Sunday Signs are allowed within City right-of-way in any residential district on Sundays between the hours of eight a.m. and six p.m., subject to the following standards:
1. Sunday Signs shall conform to the following design standards:
    - a. The sign shall be a two-sided A-frame type sign;
    - b. Each sign face shall be no larger than five square feet in area;
    - c. The sign, including the support structure, shall be no taller than 30 inches;
    - d. The sign owner's name, address and telephone number shall be placed on the sign; and
    - e. The sign shall not be attached or anchored in any way to trees, other objects or public property, including, but not limited to, utility or light poles, parking meters, the ground or pavement.

*(Staff Comment: The exemption section of the sign code also includes other unique signs like 'parking signs.' The proposed square footage and height limitations for Sunday Signs are less than are allowed for other temporary signs in the West Linn Sign Code.)*

2. Sunday Signs shall conform to the following locational standards:
  - a. The sign shall be located entirely outside the paved roadway and any shoulder, median or traffic island;
  - b. The sign shall be located entirely outside the area of a right-of-way that is between the lines created by extending the edges of any curb ramp to the property line. Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway;
  - c. The sign shall maintain a continuous pedestrian passageway of at least four feet in width;
  - d. The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to transit stops, designated disabled parking spaces, or building exits, including fire escapes;
  - e. The sign shall not be placed in parking spaces or bicycle paths;
  - f. The sign shall not be placed on any driveway; and
  - g. The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the City or another public agency.

**52.310 TEMPORARY SIGN DESIGN STANDARDS**

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<sup>2</sup> Temporary Sunday Signs are permitted subject to the requirements of Section 52.109 E.

*(Staff comment: This new footnote is proposed to the "Temporary Sign Design Standards" Table found in the CDC.)*

## Alternative 1

*(Staff Comment: The language below is based on the Lake Owego Code. It was previously approved by the City Council in a slightly different format. However, as outlined in the Staff Report, staff does not recommend codifying this language due to practical and legal reasons, however, it could be added to Section 52.109 E(2) "Sunday Signs")*

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h. The sign shall not be placed in City right-of-way if an owner or occupant of the abutting real property has denied permission for such placement.

3. Contact abutting property owners.

a. Persons placing a Sunday sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located. Except as described in Subsection 3(b) below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure on the abutting real property. The notice shall include the following:

i. The name, address, and telephone number of the person placing the sign in the right-of-way; and

ii. A description of the effort made to contact the owner or occupant of the abutting lot on the street frontage.

b. Written notice is not required under Subsection 3(a) above if:

i. The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

ii. The abutting real property is posted with a "No Solicitation" sign; or

iii. There is no dwelling or other habitable structure on the abutting real property.

c. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate Subsection E(2) or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage, hazard or violation. Any person who places a portable sign in City right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

**RESOLUTION NO. 2010-15  
WEST LINN, OREGON**

**A RESOLUTION OF THE WEST LINN CITY COUNCIL DIRECTING STAFF TO  
SUSPEND ENFORCEMENT OF THE SIGN CODE RELATED TO TEMPORARY SIGNS  
IN THE PUBLIC RIGHT OF WAY FOR SPECIFIC TIMES, PLACES AND MANNER  
THROUGH DECEMBER 31, 2010**

**WHEREAS**, section 52.200 A. of the West Linn Community Development Code specifically prohibits signs in the public right of way; and

**WHEREAS**, City staff regularly enforces this section of the Community Development Code; and

**WHEREAS**, the nation and the local region is currently suffering through one of the worst economic periods of our nation's history; and

**WHEREAS**, the real estate market is suffering making it very difficult for West Linn homeowners to sell their houses; and

**WHEREAS**, some real estate agents have indicated that the City's prohibition of signs in the public right of way may contribute to the challenge to sell houses in West Linn; and

**WHEREAS**, the City Council desires to attempt to reduce the burden of marketing houses for a temporary period; and

**WHEREAS**, the City Council desires to continue to prevent placement of temporary signs that might restrict safe pedestrian use of sidewalks, and

**WHEREAS**, a neighboring community has a sign code that allows for specific temporary signs to be placed in public right of way at specific locations and with specific requirements for the owners of the signs; and

**WHEREAS**, the City Council would like to explore the possibility of allowing a similar opportunity to place temporary signs for on an ongoing basis in West Linn;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN THAT:**

**Section 1: City staff is hereby directed to suspend enforcement of the provisions of section 52.200 A. of the Community Development Code for temporary signs that meet the requirements set forth in Attachment A.**

**Section 2: The time, place and manner described in Attachment A shall be applicable to all zoning districts in West Linn.**

Section 3: Staff is directed to initiate amendments to the CDC to consider allowing the temporary signage be permitted in the public right-of-way as described in Attachment A.

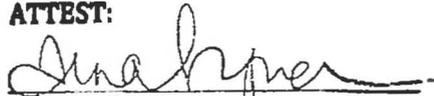
Section 4: That Section 1 of this Resolution is effective from the time this Resolution is adopted through December 31, 2010.

Section 5: This Resolution is effective upon passage.

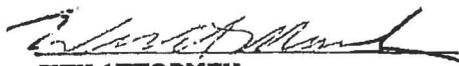
This Resolution is adopted this 26<sup>th</sup> day of April, 2010.

  
JOHN KOVASH, COUNCIL PRESIDENT

ATTEST:

  
TINA LYNCH, CITY RECORDER

APPROVED AS TO FORM:

  
CITY ATTORNEY

**REVISED**

## **Attachment A**

Portable signs, as defined below in section v. , shall be allowed within the public right-of-way in any residential zone on Sundays between the hours of eight (8) a.m. and six (6) p.m. under the following conditions:

i. Any person placing a sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right of way where the sign will be located. Except as described in section ii. below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure, on the abutting real property. The notice shall include all of the following:

(1) The name and address of the person placing the sign in the right-of-way;

(2) A telephone number where the person can be reached during the entire time that the sign is in the right-of-way;

(3) A description of the effort made to contact the owner or occupant to obtain permission to place the sign in the right-of-way

ii. No written notice shall be required under section i. above if:

(1) The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

(2) The abutting real property is posted with a "No Solicitation" sign ; or

(3) There is no dwelling or other habitable structure on the abutting real property.

iii. No sign shall be placed in the public right-of-way if an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located has denied permission for such placement, or has clearly communicated by any means that such signs are not allowed in the abutting right-of-way.

iv. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate section v. or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage, hazard or violation. Any person who places a portable sign in the public right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

v. Portable signs placed in the public right-of-way shall meet all of the following standards:

(1) Only A-frame type signs are allowed;

(2) Legible contact information shall appear on the sign, including the sign owner's name and address and a telephone number where the sign owner can be reached during the entire time that the sign remains in the right-of-way;

(3) The sign shall be entirely outside the roadway and any shoulder;

(4) The sign shall not be placed in a median, traffic island, or other area within the roadway;

(5) The sign shall be no larger than five square feet in area, counting one side of the sign;

(6) The sign, including the support structure, shall be no taller than 30 inches;

(7) The sign shall be entirely outside the area of a right-of-way corner that is between the lines created by extending the edges of any curb ramp to the property line;

(8) Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway.

(9) The sign shall not obstruct a continuous through pedestrian zone of at least five feet in width;

(10) The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to any of the following:

(A) transit stop areas;

(B) designated disabled parking spaces; or

(C) building exits including fire escapes.

(11) The sign shall not be attached or anchored in any way to trees, other objects or public property, including without limitation utility or light poles, parking meters, the ground or the pavement;

(12) The sign shall not be placed in parking spaces or bicycle paths;

(13) The sign shall not be placed on any driveway, with the exception of a driveway that serves only property owned or occupied by the person placing the sign.

(14) The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the city or another public agency.

**RESOLUTION NO. 2010-16  
WEST LINN, OREGON**

**A RESOLUTION OF THE WEST LINN CITY COUNCIL DIRECTING STAFF TO  
SUSPEND ENFORCEMENT OF COMMUNITY DEVELOPMENT CODE  
SECTION 99.030 B. 1. AS IT RELATES TO PRE-APPLICATION  
REQUIREMENTS FOR CERTAIN MINOR DEVELOPMENT APPLICATIONS  
THROUGH DECEMBER 31, 2010**

**WHEREAS**, Subsection 99.030 B. 1. of the West Linn Community Development Code ("CDC") specifically requires a pre-application conference for all development applications listed in CDC Chapter 99, unless there is a specific waiver elsewhere in the CDC; and

**WHEREAS**, the City processes minor applications for signs; temporary uses; home occupations; temporary use permits; sidewalk use; final plats; lot line adjustments; re-vegetation plans; and appeals for which staff has routinely not required the conduct of pre-application meetings, and

**WHEREAS**, Subsection 99.030 B. 1. calls for staff to conduct a pre-application conference for each of these minor application types and the CDC does not contain waivers from the pre-application requirement for these minor applications; and

**WHEREAS**, the application of CDC Subsection 99.030 B. 1. to the minor applications listed above would be overly burdensome, counter productive and may create an undue hardship for applicants; and

**WHEREAS**, Subsection 99.030 B. 1. creates confusion for those administering the Code as other Sections of the Code specify which types of development applications require pre-applications conferences prior to submittal; and

**WHEREAS**, the City desires to amend the CDC to require pre-application conferences only for more significant land use applications than those considered to be minor, where it serves the public interest; and

**WHEREAS**, there is high volume of applications for the uses listed above; and

**WHEREAS**, the suspension of enforcement of Subsection 99.030 B. 1. for the applications listed above will relieve applicants and staff of unnecessary burden while the City considers possible amendments to the CDC; and

**WHEREAS**, this Resolution will provide clarification and continuity for Staff, residents and applicants with regard to the pre-application conference requirements;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN THAT:**

**Section 1: City Staff is hereby directed to suspend enforcement of the provisions of Subsection 99.030 B. 1. of the Community Development Code only for the applications for signs; temporary uses; home occupations; sidewalk uses; final plats; lot line adjustments; re-vegetation plans; and appeals. .**

**Section 2: Staff is directed to initiate amendments to the CDC to consider the exemption of the application types listed in Section 1 from CDC Subsection 99.030 B. 1.**

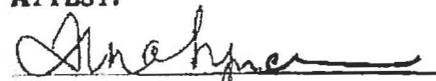
**Section 3: That Section 1 of this Resolution is effective from the time this Resolution is adopted through December 31, 2010.**

**Section 4: This Resolution is effective upon passage.**

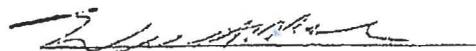
**This Resolution is adopted this 26<sup>th</sup> day of April, 2010.**

  
**JOHN KOVASH, COUNCIL PRESIDENT**

**ATTEST:**

  
**TINA LYNCH, CITY RECORDER**

**APPROVED AS TO FORM:**

  
**CITY ATTORNEY**

**REVISED**

## Sonnen, John

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**From:** Karie Oakes [karieokee@aol.com]  
**Sent:** Wednesday, January 19, 2011 1:02 PM  
**To:** Kerr, Chris; Sonnen, John  
**Cc:** treecej@comcast.net  
**Subject:** Fwd: Staff Memo for the PC meeting 1-19-11 project CDC-10-04

John,

I understand that Chris Kerr will not be attending tonight's Planning Commission meeting. Would you please include for the record this comment regarding the proposed new language for CDC-10-04 ?

Planning Commissioners, please consider changing language for proposed 99.030(B)(4) to require written notification to **all** neighborhood association presidents. This would be an improvement for two reasons. It would help disseminate the Planning Director's decision to more citizens through leaders who are in turn, responsible to disseminate the information to their respective pre-application representative and members.

A land-use decision does not necessarily affect only the members of the neighborhood association of which the proposed development is located or a neighborhood association within 500 feet. Neighborhoods and citizens should be provided the opportunity to decide for themselves if they will be affected by a decision.

Projects affecting traffic, transportation, parks, capital improvements, historic preservation, water resources are of city-wide concern. Even smaller or seemingly insignificant projects like signs may be of concern to a citizen who passes by. Pre-application meetings are open to any citizen who reads and signs the informational brochure about them. The decision of the Planning Director to require or not require a pre-app meeting will affect the timing of the opportunity for the public to become involved and the more people notified of this the better.

The language "applicable" is undefined and thereby does not provide clear direction to city staff of who to notice. Notice to all presidents would remedy this. "Applicable" should not be confused with the requirements for a land-use applicant to have a meeting with affected neighborhood associations.

*4. The Planning Director may waive the requirement for a pre-application conference for any application if he or she determines that such a conference is not warranted. Upon making such a determination, the Planning Director shall provide written notification (i.e. email or letter) to the Planning Commission and applicable neighborhood association president.*

Please change the highlighted language above to: "all neighborhood association presidents."

Thank you for your time and considerations.

Karie Oakes

-----Original Message-----

From: Zak, Teresa <tzak@westlinnoregon.gov>  
To: 'Karie Oakes' <karieokee@aol.com>  
Cc: Kerr, Chris <ckerr@westlinnoregon.gov>  
Sent: Fri, Jan 14, 2011 11:39 am  
Subject: Staff Memo for the PC meeting 1-19-11 project CDC-10-04

Staff memo.

Have a great weekend.

Teresa

**Kerr, Chris**

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**From:** Kerr, Chris  
**Sent:** Tuesday, December 07, 2010 1:55 PM  
**To:** 'Karie Oakes'  
**Cc:** Sonnen, John; Zak, Teresa  
**Subject:** RE: Chapter 99 amendments: CDC 10-04

*Karie – thanks for the comments – You are correct about the technical issue in #6 below, the item was not heard at the Nov. 17<sup>th</sup> meeting. We will send out a new notice and will have the PC hearing on Jan. 5<sup>th</sup>. (therefore, it will not be on the Dec. 15<sup>th</sup> PC meeting). I'll forward your comments to the Planning Commissioners; since there will be another public hearing, so you can testify yourself on Jan. 5<sup>th</sup> as well. Since we will be re-noticing for another meeting and we know which chapters the PC and staff are proposing to amend, I'll revise the CDC chapters in the notice to alleviate any confusion.*

*Also, the link on the web you referenced has been modified to the additional correspondence for that item: here: [http://westlinnoregon.gov/sites/default/files/projects/2010-12-01\\_additional\\_correspondenc.pdf](http://westlinnoregon.gov/sites/default/files/projects/2010-12-01_additional_correspondenc.pdf)*

*Call me with any questions.*

*Chris Kerr*

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**From:** Karie Oakes [mailto:kariookee@aol.com]  
**Sent:** Monday, December 06, 2010 8:11 AM  
**To:** Kerr, Chris  
**Subject:** Chapter 99 amendments: CDC 10-04

Dear Mr. Kerr:

I am interested in the proposed amendments pertaining to pre-application conferences scheduled for a Planning Commission Work Session on December 15, 2010. Please include my following concerns, as listed, in the record for CDC 10-04.

1) The draft as posted online includes amendments to CDC Chapter 99, however, the summary posted states, "Community Development Code proposed amendments to Chapters 2, 24, 25, 26, 27, 28, 32, 52, 55, 56, 57, 58, 60, 65, 75, 81, 85, and 99 of the Community Development Code." Aside from Chapter 52, pertaining to signs, this includes fifteen chapters pertaining to pre-application conferences and Chapter 2 pertaining to definitions. This is confusing as to whether there are changes to these other fifteen chapters.

Please confirm that the draft does not contain omission of provisions for required pre-application conferences in each of these fifteen chapters. If I understand correctly, the intention of this draft is to add language to Chapter 99 that codifies practice, without policy changes, and centralizes the kind of development applications requiring a pre-application conference in CDC 99.030.

I am opposed to omitting provisions requiring pre-application conferences from each of these fifteen chapters, as these provisions provide emphasis on the requirement for a pre-app. It has been my experience that in Chapter 99 criteria regarding process, the City frequently does not follow it. The requirement for a pre-app should be left in the respective approval criteria sections.

For the same reason, I do not want the word "required" stricken from 99.030(B). Proposed amendments are:

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

B. Pre-application conference required.

2. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed above if he or she determines that the request is of significant complexity or magnitude to merit a pre-application conference.

3. The Planning Director may waive the requirement for a pre-application conference for any application provided he or she makes a determination that such a conference is not warranted due to extenuating circumstances.

2) The addition of 99.030(2) and 99.030(3) constitutes a change in policy. The Planning Director should not be given this broad and discretionary authority, where the public and applicant are not allowed an opportunity to review or appeal the PD decision to require or waive a pre-app.

Review by a higher authority is paramount to the quasi-judicial process and exists throughout the CDC. For example, 99.035(C) requires the PD to report his reasons for a waiver of a requirement for an application and the decision is subject to review and denial.

**99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED**

*C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (Ord. 1568. 2008)*

3) The staff report response to approval criteria is only for the amendments pertaining to signs, and not those pertaining to pre-application. I would argue that proposed amendments 99.030(2) and 99.030(3) do not meet the approval criteria.

Giving the PD authority to waive a pre-app will adversely affect public awareness and participation in those land use cases because it takes the pre-app meeting, attended by neighborhood association representatives, out of the process. The program of neighborhood association pre-application representatives was established seven years ago for the purpose of stimulating citizen involvement early on and in all phases of the planning process. NA reps are notified by the City of all pre-app meetings via email.

Pre-application meetings supports Comprehensive Plan Goal #1 and Policies #1 and #4 for Citizen Involvement and these amendments do not meet these approval criteria.

*1. Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two-way dialogue between citizens and City elected and appointed officials.*

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

*4. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

4) Related Resolution 2010-16, as adopted by the City Council, makes no mention of giving the Planning Director authority to waive and require pre-application conferences.

5) The Planning Commission is not authorized to take final action on CDC 10-04 during a work session, as is scheduled for agenda item # 2 at the meeting on Dec. 15, 2010. Citizens do not expect final decisions at work sessions and may not attend. Additionally, the venue changed and the work session will not be televised. Meeting minutes have become extremely truncated with the Granicus system. This all compromises transparency.

6) Notice of the public hearing was incorrect. The notice states the hearing is scheduled for Nov. 17, 2010, but the agenda for that meeting does not include it. Additionally, the hearing date is posted on the project page as Nov. 17, 2010 and was likewise published in the Tidings. The hearing was held on Dec. 1, 2010 without proper notice.

7) The link ([http://westlinnoregon.gov/sites/default/files/projects/additional\\_correspondence.pdf](http://westlinnoregon.gov/sites/default/files/projects/additional_correspondence.pdf)) on the project page to additional correspondence dated 12/01/10 is incorrect as it links to the October 21, 2001 Suncrest DR application staff report. I would like to review that correspondence.

Thank you,

Karie Oakes



November 22, 2010

Robert Martin, Chairman  
Planning Commission  
West Linn City Hall  
22500 Salamo Road  
West Linn, OR 97068

Re: December 1, 2010 West Linn Planning Commission Meeting  
CDC Amendment Related to Chapter 52: Temporary Signage in the Right-of-Way

Dear Chairman Martin:

On behalf of the Portland Metropolitan Association of Realtors® (PMAR) and its nearly 6,400 members, I am writing to express PMAR's appreciation for your consideration of the proposed amendments to the City of West Linn's Community Development Code as it pertains to the use of temporary signs within the public right-of-way.

Every day, individuals and families are buying and selling homes in West Linn. In 2007, Realtors® helped sell more than \$287 million worth of property in the City. In 2008 and 2009 Realtors® were part of transactions totaling more than \$166 million and \$386 million respectively. And year to date 2010, Realtors® were part of transactions totaling approximately \$140 million. The benefit to the community of home sales is extensive. [Source RMLS]

PMAR appreciates the City of West Linn's continued support of Realtors'® efforts to transact properties as demonstrated by City Council's previous actions to suspend enforcement of its temporary sign code to allow greater flexibility in how signs are used within the city. We urge the Planning Commission's approval and recommendation to City Council of the proposed amendments to Chapter 52 of the West Linn Community Development Code.

Sincerely yours,

*/s/ Daryl Winand*

Daryl Winand  
Governmental Affairs Specialist  
Portland Metropolitan Association of Realtors®

cc: Members West Linn Planning Commission: Vice Chair Michael Jones, Michael Babbitt, Laura Horsey, Christine Steel, Jennifer Tan, Dean Wood  
PMAR Governmental Affairs Committee  
Jeff Wiren, PMAR 2011 President  
Dorian Barnhart, PMAR 2011 Vice President Governmental Affairs  
Jane Leo, PMAR Governmental Affairs Director  
Kathy Querin, PMAR Chief Executive Officer

825 NE Multnomah Street, Suite 1145, Portland, Oregon 97232



## Memorandum

Date: January 31, 2011

To: Chris Jordan, City Manager

From: Chris Kerr, Senior Planner

Subject: Community Development Code amendments related to pre-application conference requirements and temporary signage in the right-of-way

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### **Purpose**

Staff is seeking City Council approval of proposed amendments to the Community Development Code (CDC) that address two specific issues:

1. The proposed amendments to Chapters 25, 58 and 99 clarify which types of development applications require a pre-application conference prior to submittal.
2. The proposed amendments to Chapter 52 will allow for limited temporary signage within the City's right-of-way within residential zoning districts on Sundays between 8:00 AM and 6:00 PM.

### **Background**

On April 26, 2010, the City Council approved Resolutions 2010-15 and 2010-16 (Attachment 3 in the Agenda Bill) which required Staff to "initiate amendments to the CDC" to address two distinct issues, which are described as follows:

*Issue #1: Pre-application conference requirements.* CDC Section 90.030 B below requires that applicant's for all development approvals regulated under the CDC attend a pre-application conference, unless there is a specific waiver from that requirement elsewhere in the code. There are no provisions anywhere in the CDC that 'waive' the need for pre-application conferences.

*"99.030 B (1. **The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Director, for a pre-application conference, unless the requirement for a pre-application conference is specifically waived by another section of this code.**" (Bolded for emphasis)*

Therefore, this existing code language requires applicants for minor permits, including those for signs, home occupations, temporary uses, sidewalk uses, final plats, lot-line adjustments, re-vegetation plans, and appeals of land use decisions to attend a pre-application conference prior to submittal of an application. However, the City has never required pre-application conferences for any of these minor application types as it is impractical and unnecessary. For example, it takes a minimum of two weeks after a pre-application conference is requested to advertise and hold the conference with staff. Additionally, the cost of a pre-application conference is either \$350 or \$1,000, depending on application type. Requiring pre-application conferences for these minor permits would serve no practical benefit to the City and it would waste City resources and place unnecessary time delays and financial burdens on applicants.

In April of 2010, after becoming aware of the problems associated with the literal interpretation of CDC Section 90.030 B, staff requested that the City Council suspend enforcement of this requirement related to minor permit applications. The Council passed Resolution 2010-16 on April 26, 2010, which suspended enforcement of this component of the CDC as it relates to minor development applications and directed staff to subsequently process a CDC amendment correcting this problem.

*Issue #2: Temporary signs in the right-of-way.* In the summer of 2009, the City Council expressed an interest in allowing limited temporary signage within the right-of-way. This was in response to concerns raised by real estate agents, as well as residents attempting to sell their homes, that the City's prohibition on signage in the right-of-way was impairing the marketing of existing houses in an already flailing real estate market. Staff presented the Council with an example of the City of Lake Oswego's "portable sign" language, which has been in effect for over a decade and is viewed favorably by the real estate industry. The City Council reviewed Lake Oswego's Code language, and in July of 2009, adopted Resolution 09-17 which directed staff to "suspend enforcement of the sign code related to temporary signs in the public right-of-way" through September of 2009, and to immediately implement the 'portable sign' requirements of Lake Oswego. The City Council placed a 'sunset' provision into the Resolution in order to revisit the impacts of this action after implementation. On two occasions since then, the City Council extended the Resolution; hence, the City has applied the Lake Oswego 'portable sign' regulations since July of 2009. During this time, staff has not noted an increase in related citizen complaints or code violations.

Below is a summary of the City Council Resolutions related to the right-of-way signage issue:

- Resolution 09-17: July 13, 2009; suspends enforcement of signage in right-of-way and applies Lake Oswego's 'portable sign' regulations. Sunsets on September 30, 2009.
- Resolution 09-21: October 12, 2009; extends the same action until March 31, 2009.
- Resolution 2010-15: April 2010; extends the same action until December 31, 2010 and directs staff to initiate CDC amendments to permanently adopt portable sign regulations.

## **Discussion**

The proposed amendments related to pre-application conference requirements will bring the code into compliance with the City's current practice and will clarify and codify, in a single location (Section 99.030 B), which applications are subject to pre-application conference requirements.

The proposed amendments to Chapter 52, which will provide for a new type of temporary right-of-way sign ("Sunday sign"), essentially adopt Lake Oswego's portable sign regulations in accordance with the

City Council's direction. However, as described in the next section, the Planning Commission and staff recommend deletion of one component of Lake Oswego's regulations.

*Advisory Board Review.* On November 16, 2010, staff presented to the City's Historic Review Board (HRB) the proposed code amendments related to pre-application conferences for developments that are subject to the City's historic regulations. The HRB concurred with the staff's recommended amendments as presented.

*Public hearings.* The Planning Commission discussed the proposed amendments at their November 17, 2010 meeting and held public hearings on these code amendments on December 17, 2010 and January 5, 2011. Two people testified regarding the proposed amendments. One person suggested revisions to the proposal and one person spoke in favor of the proposed amendments. Written testimony was provided by two individuals (see Attachment 4 of the Agenda Bill). Following the close of the public hearing, a person submitted additional comments (see Attachment 4). These comments were not considered by the Planning Commission. The issue that was raised is addressed under issues below.

### **Issues**

*New authority to waive and/or require pre-application conferences.* The major concern raised at the Planning Commission hearings pertained to the proposed Sections 99.030 B (3) and (4) of the pre-application conference requirements. These proposed new provisions grant authority to the Planning Director to require a pre-application conference if he or she determines it's warranted and to waive the pre-application conference requirement when it would be clearly unwarranted. The intent of these provisions is to provide some flexibility in the code in recognition that there may be unusual circumstances or unique development applications that would require a pre-application conference as well as situations when a pre-application conference would not serve any useful purpose. The Commission agreed with the intent of these provisions but was concerned that such a determination could be made without any public notification. After significant discussion on the issue, the Commission modified the initial code amendment language to require the City to notify the applicable neighborhood association president and the Planning Commission whenever a determination to waive a pre-application conference is made. An email submitted following the close of the public hearing record (see Attachment 4, email from Karie Oakes dated 1/19/2011), and therefore not considered by the Planning Commission, calls for notifying all neighborhood association presidents of any Director's decision to waive the pre-application requirement.

*Listing of uses not requiring a pre-application conference.* The other noteworthy change made by the Planning Commission to the draft amendments proposed by staff was to include a subsection that clarifies which applications will not require a pre-application conference. The original code amendment only listed the types of applications that require a pre-application conference.

*Elimination of the property owners' ability to decide which signs can be erected on public right-of-way fronting their lot.* The proposed Sunday sign regulations are substantively the same as the version the Council adopted on a temporary basis, with one exception. The original language requires 'good faith' efforts to gain the adjacent property owner's permission to erect the sign in the right-of-way, stipulates written notice requirements in the event the property owner is not available, and identifies the specific means by which an adjacent property owner would take down a sign. The language, while well intended, essentially delegates the City's approval authority and enforcement powers to individual property owners. This is impractical and may place the City at risk of litigation. For example, property owners could decide which signs to permit based on content, which would be contrary to a US Supreme

Court decision. The Planning Commission and staff recommend removing the provisions that grant property owners the authority to allow or deny requests for signs on the abutting City right-of-way and to remove signs that are located on City right-of-way. However, these original provisions are included for the Council's consideration as optional language entitled "Alternative 1". Approving the proposed Sunday sign amendments without the optional Alternative 1 provisions will allow for limited, temporary signage within City rights-of-way on Sundays in residential zones.

The other modification of note made to the code language for the new Sunday signs that differs from the original Resolutions approved by the Council clarifies that the signs are only authorized within the City's right-of-way. The Oregon Department of Transportation (ODOT) contacted the City and noted that temporary signs are not permitted within its right-of-way.

**Approval Criteria:**

Chapter 98 of the CDC provides administrative procedures for legislative amendments to the CDC. Section 98.100 lists the factors upon which a decision shall be based. The applicable factors, including staff's response are as follows:

1. *The statewide planning goals and rules adopted under ORS Chapter 197 and other applicable state statutes.*

Staff has forwarded a draft of the proposed code provisions to the Department of Land Conservation and Development ("DLCD") for their review. Neither staff nor DLCD have identified any statewide planning goals, rules or statutes that are applicable to these code amendments.

2. *Any federal or state statutes or rules found applicable;*

As stated above, in accordance with State statutes, a draft of these code provisions was sent to the DLCD" for their review. Neither staff or the DLCD have identified any state statutes or rules that are applicable to these code amendments. The proposed code language has been reviewed by staff and the City Attorney for compliance with any applicable federal statutes.

3. *Applicable plans and rules adopted by Metro;*

There are no Metro plans or rules applicable to the proposed code amendments.

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

The proposed amendments will not affect the Comprehensive Plan map. The proposed amendments will further the following Comprehensive Plan Policies and Action Measures by clarifying the current provisions of the code and assisting with the economic development in the city through more flexible sign regulations.

Goal 9: Economic Development: Policy #9: Adopt City regulations that are easy to understand and contain development standards that can be uniformly applied.

Goal 9: Economic Development: Action Measure: #1: Explore ways to support and improve the business climate for businesses in the City.

Goal 9: Economic Development: Action Measure #5: Investigate incentives and improve regulations to support locally owned businesses.

5. *The applicable provisions of the implementing ordinances;*

The proposed amendments are consistent with the CDC.

**Options**

- A. The City Council could approve the amendments as proposed; or
- B. The City Council could approve of some, or all, of the amendments with modifications; or
- C. The City Council could deny the proposal, thereby leaving the Code 'as is'.

**Recommendation**

The Planning Commission recommends approval of the proposed amendments included in Attachment 2 of the Agenda Bill, without the optional "Alternative 1." Staff concurs.

PROPOSED AMENDMENTS PERTAINING TO  
**TEMPORARY SIGNS IN THE RIGHT-OF-WAY**  
**AND**  
**PRE-APPLICATION CONFERENCES**

Proposed Amendments to Chapters 25, 52, 58 and 99 of the Community Development Code

**CITY COUNCIL PUBLIC HEARING DRAFT**

2/1/2011

**Note:**

Plain text = existing regulation  
~~Strike through~~ = proposed deletion to existing regulations  
Underline = proposed addition  
*Italic* = staff comment  
... = unaffected text omitted

*The proposed amendments to the Community Development Code address two issues. The proposed amendments to Chapters 25, 58 and 99 are intended to clarify which development applications require pre-application conferences. The proposed amendments to Chapter 52 would permit limited, temporary signage within the City right-of-way.*

**Chapter 25: OVERLAY ZONES – HISTORIC DISTRICT**

...

**25.140 APPLICATION AND SUBMITTAL REQUIREMENTS**

Standard requirements (**Staff Comment: existing underline**): All applications for alteration, relocation, development, or demolition made pursuant to this section shall include:

- A. Notes from the pre-application conference if required by Section 99.030 B. ~~A pre-application conference with the Planning Director is required prior to formal submittal. The Director shall determine the appropriateness of the proposal and the completeness of the materials to be submitted. The Director may consult with members of the Historic Review Board in this process.~~

## Chapter 58: WILLAMETTE FALLS DRIVE COMMERCIAL DISTRICT DESIGN STANDARDS

...

### 58.070 APPLICATION AND SUBMITTAL REQUIREMENTS

- A. ~~Applicants shall attend a pre-application conference if required by Section 99.030 B. A pre-application conference with the Planning Director is required prior to formal submittal.~~

*(Staff Comment: The proposed edits to Chapters 25 and 58 are necessary to clarify that certain minor applications that are subject to special historic standards do not require pre-application conferences).*

## Chapter 99: PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

...

### 99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

...

- B. ~~Pre-application conferences~~required.
1. Subject to Subsection 99.030 B(4), a pre-application conference is required for, but not limited to, each of the following applications:  
~~The applicant shall be required to meet with the Planning Director, or designee of the Director, or any other governmental agency representative deemed appropriate by the Directors, for a pre-application, unless the requirement for a pre-application conference is specifically waived by another section of this code.~~
    - a. Boundary changes, per Chapter 81;
    - b. Amendments to the Comprehensive Plan;
    - c. Amendments to the Zoning Map;
    - d. Conditional Uses;
    - e. Design Review (Class I and Class II);
    - f. New construction or remodels in a Historic District, except as provided for in Subsection 99.030 B(2)(h);
    - g. New construction or remodels in the Willamette Falls Drive Commercial District, except as provided for in Subsection 99.030 B(2)(i);
    - h. Alteration of Historic Landmarks, except as provided for in Subsection 99.030 B(2)(j);
    - i. Minor Partitions;
    - j. Land Divisions;
    - k. Enlargement of non-conforming uses or alteration of a structure containing a non-conforming use;
    - l. Planned Unit Developments;
    - m. Variances;
    - n. Development subject to Chapter 32, Water Resource Areas;
    - o. Development subject to Chapter 27, Flood Management Area;
    - p. Development subject to Chapter 28, Willamette and Tualatin River Protection; and
    - q. Right-of-way and easement vacations.
  2. Subject to Subsection 99.030 B(3), the following applications are exempt from the Subsection 99.030 B(1) pre-application conference requirement:

- a. Signs;
- b. Home occupations;
- c. Temporary use permits;
- d. Sidewalk uses;
- e. Final plats;
- f. Lot line adjustments;
- g. Re-vegetation plans;
- h. Minor alterations and maintenance in a Historic District, as specified in Section 25.100;
- i. Painting, signage, awnings, or architectural in-kind replacements in the Willamette Falls Drive Commercial District;
- j. Minor alteration of a Historic Landmark, as specified in Section 26.060 B; and
- k. Appeals of land use decisions.

*(Staff Comment: This itemizes, in one central location, which development applications are required to have pre-application conferences prior to submittal. It also clarifies that applicants for minor development permits, such as home occupations, temporary uses, sidewalk uses, signs, final plats, lot line adjustments and revegetation plans do not have to attend pre-application conferences. These lists are consistent with the City's historical practices.)*

- 3. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed in Section 99.030 B(1) if he or she determines that the potential development is of significant complexity or magnitude to merit a pre-application conference.
- 4. The Planning Director may waive the requirement for a pre-application conference for any application if he or she determines that such a conference is not warranted. Upon making such a determination, the Planning Director shall provide written notification (i.e., email or letter) to the Planning Commission and applicable neighborhood association president.

*(Staff Comment: Subsections 3 and 4 above are proposed in order to allow the Planning Director to use their professional discretion with regard to pre-applications. The intent is to provide some flexibility into the Code that acknowledges that there may be unusual circumstances or unique development applications that would require a pre-application conference as well as situations whereby a pre-application would not serve any useful purpose.)*

- 52. At such conference, the Planning Director or designee shall:
  - a. Cite the applicable federal and State laws and rules and the Comprehensive Plan policies and map designation;
  - b. Cite the applicable substantive and procedural ordinance provisions;
  - c. Provide technical data and assistance which will aid the applicant;
  - d. Identify other policies and regulations that relate to the application; and
  - e. Identify other pertinent factors that relate to the application.
  - f. Provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures.

63. The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the application.
74. At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process.
85. The Planning Director shall prepare administrative procedures designed to allow citizens to attend and participate in pre-application conferences for applications. Lack of neighborhood association participation in a pre-application conference is not a procedural defect entitling any party to a delay in the hearing process.
96. If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.

**Chapter 52: SIGNS**  
**52.020 DEFINITIONS**

...

Sign, Sunday. A temporary A-frame sign allowed within City right-of-way on Sundays, subject to the requirements of Section 52.109 E.

**52.109 EXEMPTIONS**

...

- E. Sunday Signs are allowed within City right-of-way in any residential district on Sundays between the hours of eight a.m. and six p.m., subject to the following standards:
1. Sunday Signs shall conform to the following design standards:
    - a. The sign shall be a two-sided A-frame type sign;
    - b. Each sign face shall be no larger than five square feet in area;
    - c. The sign, including the support structure, shall be no taller than 30 inches;
    - d. The sign owner's name, address and telephone number shall be placed on the sign; and
    - e. The sign shall not be attached or anchored in any way to trees, other objects or public property, including, but not limited to, utility or light poles, parking meters, the ground or pavement.

*(Staff Comment: The exemption section of the sign code also includes other unique signs like 'parking signs.' The proposed square footage and height limitations for Sunday Signs are less than are allowed for other temporary signs in the West Linn Sign Code.)*

2. Sunday Signs shall conform to the following locational standards:
  - a. The sign shall be located entirely outside the paved roadway and any shoulder, median or traffic island;
  - b. The sign shall be located entirely outside the area of a right-of-way that is between the lines created by extending the edges of any curb ramp to the property line. Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway;
  - c. The sign shall maintain a continuous pedestrian passageway of at least four feet in width;
  - d. The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to transit stops, designated disabled parking spaces, or building exits, including fire escapes;
  - e. The sign shall not be placed in parking spaces or bicycle paths;
  - f. The sign shall not be placed on any driveway; and
  - g. The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the City or another public agency.

**52.310 TEMPORARY SIGN DESIGN STANDARDS**

...

<sup>2</sup> Temporary Sunday Signs are permitted subject to the requirements of Section 52.109 E.

*(Staff comment: This new footnote is proposed to the "Temporary Sign Design Standards" Table found in the CDC.)*

## Alternative 1

*(Staff Comment: The language below is based on the Lake Owego Code. It was previously approved by the City Council in a slightly different format. However, as outlined in the Staff Report, staff does not recommend codifying this language due to practical and legal reasons, however, it could be added to Section 52.109 E(2) "Sunday Signs")*

...

h. The sign shall not be placed in City right-of-way if an owner or occupant of the abutting real property has denied permission for such placement.

3. Contact abutting property owners.

a. Persons placing a Sunday sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located. Except as described in Subsection 3(b) below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure on the abutting real property. The notice shall include the following:

i. The name, address, and telephone number of the person placing the sign in the right-of-way; and

ii. A description of the effort made to contact the owner or occupant of the abutting lot on the street frontage.

b. Written notice is not required under Subsection 3(a) above if:

i. The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

ii. The abutting real property is posted with a "No Solicitation" sign; or

iii. There is no dwelling or other habitable structure on the abutting real property.

c. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate Subsection E(2) or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage, hazard or violation. Any person who places a portable sign in City right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

**RESOLUTION NO. 2010-15  
WEST LINN, OREGON**

**A RESOLUTION OF THE WEST LINN CITY COUNCIL DIRECTING STAFF TO  
SUSPEND ENFORCEMENT OF THE SIGN CODE RELATED TO TEMPORARY SIGNS  
IN THE PUBLIC RIGHT OF WAY FOR SPECIFIC TIMES, PLACES AND MANNER  
THROUGH DECEMBER 31, 2010**

**WHEREAS**, section 52.200 A. of the West Linn Community Development Code specifically prohibits signs in the public right of way; and

**WHEREAS**, City staff regularly enforces this section of the Community Development Code; and

**WHEREAS**, the nation and the local region is currently suffering through one of the worst economic periods of our nation's history; and

**WHEREAS**, the real estate market is suffering making it very difficult for West Linn homeowners to sell their houses; and

**WHEREAS**, some real estate agents have indicated that the City's prohibition of signs in the public right of way may contribute to the challenge to sell houses in West Linn; and

**WHEREAS**, the City Council desires to attempt to reduce the burden of marketing houses for a temporary period; and

**WHEREAS**, the City Council desires to continue to prevent placement of temporary signs that might restrict safe pedestrian use of sidewalks, and

**WHEREAS**, a neighboring community has a sign code that allows for specific temporary signs to be placed in public right of way at specific locations and with specific requirements for the owners of the signs; and

**WHEREAS**, the City Council would like to explore the possibility of allowing a similar opportunity to place temporary signs for on an ongoing basis in West Linn;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN THAT:**

**Section 1: City staff is hereby directed to suspend enforcement of the provisions of section 52.200 A. of the Community Development Code for temporary signs that meet the requirements set forth in Attachment A.**

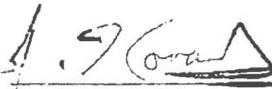
**Section 2: The time, place and manner described in Attachment A shall be applicable to all zoning districts in West Linn.**

**Section 3: Staff is directed to initiate amendments to the CDC to consider allowing the temporary signage be permitted in the public right-of-way as described in Attachment A.**

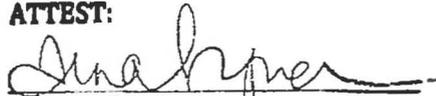
**Section 4: That Section 1 of this Resolution is effective from the time this Resolution is adopted through December 31, 2010.**

**Section 5: This Resolution is effective upon passage.**

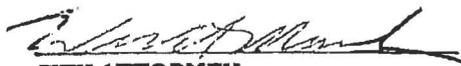
**This Resolution is adopted this 26<sup>th</sup> day of April, 2010.**

  
**JOHN KOVASH, COUNCIL PRESIDENT**

**ATTEST:**

  
**TINA LYNCH, CITY RECORDER**

**APPROVED AS TO FORM:**

  
**CITY ATTORNEY**

**REVISED**

## **Attachment A**

Portable signs, as defined below in section v. , shall be allowed within the public right-of-way in any residential zone on Sundays between the hours of eight (8) a.m. and six (6) p.m. under the following conditions:

i. Any person placing a sign in the public right-of-way shall first make a good faith effort to obtain the permission of an owner or occupant of the real property abutting the portion of the right of way where the sign will be located. Except as described in section ii. below, if the person is unable to contact an owner or occupant after a good faith effort, the person shall, at the time the sign is placed in the right-of-way, leave written notice in a conspicuous place at or near the entry to the primary dwelling, or, if there is no dwelling, the entry to the primary habitable structure, on the abutting real property. The notice shall include all of the following:

(1) The name and address of the person placing the sign in the right-of-way;

(2) A telephone number where the person can be reached during the entire time that the sign is in the right-of-way;

(3) A description of the effort made to contact the owner or occupant to obtain permission to place the sign in the right-of-way

ii. No written notice shall be required under section i. above if:

(1) The notice cannot be left in the required location without committing a trespass, or violating any other law, ordinance or regulation;

(2) The abutting real property is posted with a "No Solicitation" sign ; or

(3) There is no dwelling or other habitable structure on the abutting real property.

iii. No sign shall be placed in the public right-of-way if an owner or occupant of the real property abutting the portion of the right-of-way where the sign will be located has denied permission for such placement, or has clearly communicated by any means that such signs are not allowed in the abutting right-of-way.

iv. An owner or occupant of real property may take down and lay flat upon the ground, in the same location, any portable sign that has been placed in the portion of the right-of-way abutting such real property without the permission of any owner or occupant of such real property. In the event that laying the sign upon the ground in the same location would cause damage to landscaping or personal property, would violate section v. or would otherwise create a hazard to public safety, the owner or occupant may lay the sign upon the ground at the closest location within the right-of-way that would not result in such damage, hazard or violation. Any person who places a portable sign in the public right-of-way without the permission of an owner or occupant of abutting real property shall be deemed to have given consent to the sign being taken down in the manner described in this subsection.

v. Portable signs placed in the public right-of-way shall meet all of the following standards:

(1) Only A-frame type signs are allowed;

(2) Legible contact information shall appear on the sign, including the sign owner's name and address and a telephone number where the sign owner can be reached during the entire time that the sign remains in the right-of-way;

(3) The sign shall be entirely outside the roadway and any shoulder;

(4) The sign shall not be placed in a median, traffic island, or other area within the roadway;

(5) The sign shall be no larger than five square feet in area, counting one side of the sign;

(6) The sign, including the support structure, shall be no taller than 30 inches;

(7) The sign shall be entirely outside the area of a right-of-way corner that is between the lines created by extending the edges of any curb ramp to the property line;

(8) Where no curb exists, the sign shall be placed outside the roadway at least five feet from the edge of the roadway.

(9) The sign shall not obstruct a continuous through pedestrian zone of at least five feet in width;

(10) The sign shall not obstruct pedestrian and wheelchair access from the sidewalk to any of the following:

(A) transit stop areas;

(B) designated disabled parking spaces; or

(C) building exits including fire escapes.

(11) The sign shall not be attached or anchored in any way to trees, other objects or public property, including without limitation utility or light poles, parking meters, the ground or the pavement;

(12) The sign shall not be placed in parking spaces or bicycle paths;

(13) The sign shall not be placed on any driveway, with the exception of a driveway that serves only property owned or occupied by the person placing the sign.

(14) The sign shall not be placed in any portion of the right-of-way abutting real property owned or controlled by the city or another public agency.

**RESOLUTION NO. 2010-16  
WEST LINN, OREGON**

**A RESOLUTION OF THE WEST LINN CITY COUNCIL DIRECTING STAFF TO  
SUSPEND ENFORCEMENT OF COMMUNITY DEVELOPMENT CODE  
SECTION 99.030 B. 1. AS IT RELATES TO PRE-APPLICATION  
REQUIREMENTS FOR CERTAIN MINOR DEVELOPMENT APPLICATIONS  
THROUGH DECEMBER 31, 2010**

**WHEREAS**, Subsection 99.030 B. 1. of the West Linn Community Development Code ("CDC") specifically requires a pre-application conference for all development applications listed in CDC Chapter 99, unless there is a specific waiver elsewhere in the CDC; and

**WHEREAS**, the City processes minor applications for signs; temporary uses; home occupations; temporary use permits; sidewalk use; final plats; lot line adjustments; re-vegetation plans; and appeals for which staff has routinely not required the conduct of pre-application meetings, and

**WHEREAS**, Subsection 99.030 B. 1. calls for staff to conduct a pre-application conference for each of these minor application types and the CDC does not contain waivers from the pre-application requirement for these minor applications; and

**WHEREAS**, the application of CDC Subsection 99.030 B. 1. to the minor applications listed above would be overly burdensome, counter productive and may create an undue hardship for applicants; and

**WHEREAS**, Subsection 99.030 B. 1. creates confusion for those administering the Code as other Sections of the Code specify which types of development applications require pre-applications conferences prior to submittal; and

**WHEREAS**, the City desires to amend the CDC to require pre-application conferences only for more significant land use applications than those considered to be minor, where it serves the public interest; and

**WHEREAS**, there is high volume of applications for the uses listed above; and

**WHEREAS**, the suspension of enforcement of Subsection 99.030 B. 1. for the applications listed above will relieve applicants and staff of unnecessary burden while the City considers possible amendments to the CDC; and

**WHEREAS**, this Resolution will provide clarification and continuity for Staff, residents and applicants with regard to the pre-application conference requirements;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST LINN THAT:**

**Section 1: City Staff is hereby directed to suspend enforcement of the provisions of Subsection 99.030 B. 1. of the Community Development Code only for the applications for signs; temporary uses; home occupations; sidewalk uses; final plats; lot line adjustments; re-vegetation plans; and appeals. .**

**Section 2: Staff is directed to initiate amendments to the CDC to consider the exemption of the application types listed in Section 1 from CDC Subsection 99.030 B. 1.**

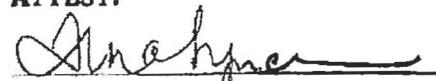
**Section 3: That Section 1 of this Resolution is effective from the time this Resolution is adopted through December 31, 2010.**

**Section 4: This Resolution is effective upon passage.**

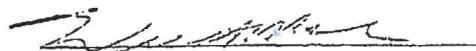
**This Resolution is adopted this 26<sup>th</sup> day of April, 2010.**

  
**JOHN KOVASH, COUNCIL PRESIDENT**

**ATTEST:**

  
**TINA LYNCH, CITY RECORDER**

**APPROVED AS TO FORM:**

  
**CITY ATTORNEY**

**REVISED**

## Sonnen, John

---

**From:** Karie Oakes [karieokee@aol.com]  
**Sent:** Wednesday, January 19, 2011 1:02 PM  
**To:** Kerr, Chris; Sonnen, John  
**Cc:** treecej@comcast.net  
**Subject:** Fwd: Staff Memo for the PC meeting 1-19-11 project CDC-10-04

John,

I understand that Chris Kerr will not be attending tonight's Planning Commission meeting. Would you please include for the record this comment regarding the proposed new language for CDC-10-04 ?

Planning Commissioners, please consider changing language for proposed 99.030(B)(4) to require written notification to **all** neighborhood association presidents. This would be an improvement for two reasons. It would help disseminate the Planning Director's decision to more citizens through leaders who are in turn, responsible to disseminate the information to their respective pre-application representative and members.

A land-use decision does not necessarily affect only the members of the neighborhood association of which the proposed development is located or a neighborhood association within 500 feet. Neighborhoods and citizens should be provided the opportunity to decide for themselves if they will be affected by a decision.

Projects affecting traffic, transportation, parks, capital improvements, historic preservation, water resources are of city-wide concern. Even smaller or seemingly insignificant projects like signs may be of concern to a citizen who passes by. Pre-application meetings are open to any citizen who reads and signs the informational brochure about them. The decision of the Planning Director to require or not require a pre-app meeting will affect the timing of the opportunity for the public to become involved and the more people notified of this the better.

The language "applicable" is undefined and thereby does not provide clear direction to city staff of who to notice. Notice to all presidents would remedy this. "Applicable" should not be confused with the requirements for a land-use applicant to have a meeting with affected neighborhood associations.

*4. The Planning Director may waive the requirement for a pre-application conference for any application if he or she determines that such a conference is not warranted. Upon making such a determination, the Planning Director shall provide written notification (i.e. email or letter) to the Planning Commission and applicable neighborhood association president.*

Please change the highlighted language above to: "all neighborhood association presidents."

Thank you for your time and considerations.

Karie Oakes

-----Original Message-----

From: Zak, Teresa <tzak@westlinnoregon.gov>  
To: 'Karie Oakes' <karieokee@aol.com>  
Cc: Kerr, Chris <ckerr@westlinnoregon.gov>  
Sent: Fri, Jan 14, 2011 11:39 am  
Subject: Staff Memo for the PC meeting 1-19-11 project CDC-10-04

Staff memo.

Have a great weekend.

Teresa

**Kerr, Chris**

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**From:** Kerr, Chris  
**Sent:** Tuesday, December 07, 2010 1:55 PM  
**To:** 'Karie Oakes'  
**Cc:** Sonnen, John; Zak, Teresa  
**Subject:** RE: Chapter 99 amendments: CDC 10-04

*Karie – thanks for the comments – You are correct about the technical issue in #6 below, the item was not heard at the Nov. 17<sup>th</sup> meeting. We will send out a new notice and will have the PC hearing on Jan. 5<sup>th</sup>. (therefore, it will not be on the Dec. 15<sup>th</sup> PC meeting). I'll forward your comments to the Planning Commissioners; since there will be another public hearing, so you can testify yourself on Jan. 5<sup>th</sup> as well. Since we will be re-noticing for another meeting and we know which chapters the PC and staff are proposing to amend, I'll revise the CDC chapters in the notice to alleviate any confusion.*

*Also, the link on the web you referenced has been modified to the additional correspondence for that item: here: [http://westlinnoregon.gov/sites/default/files/projects/2010-12-01\\_additional\\_correspondenc.pdf](http://westlinnoregon.gov/sites/default/files/projects/2010-12-01_additional_correspondenc.pdf)*

*Call me with any questions.*

*Chris Kerr*

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**From:** Karie Oakes [mailto:kariookee@aol.com]  
**Sent:** Monday, December 06, 2010 8:11 AM  
**To:** Kerr, Chris  
**Subject:** Chapter 99 amendments: CDC 10-04

Dear Mr. Kerr:

I am interested in the proposed amendments pertaining to pre-application conferences scheduled for a Planning Commission Work Session on December 15, 2010. Please include my following concerns, as listed, in the record for CDC 10-04.

1) The draft as posted online includes amendments to CDC Chapter 99, however, the summary posted states, "Community Development Code proposed amendments to Chapters 2, 24, 25, 26, 27, 28, 32, 52, 55, 56, 57, 58, 60, 65, 75, 81, 85, and 99 of the Community Development Code." Aside from Chapter 52, pertaining to signs, this includes fifteen chapters pertaining to pre-application conferences and Chapter 2 pertaining to definitions. This is confusing as to whether there are changes to these other fifteen chapters.

Please confirm that the draft does not contain omission of provisions for required pre-application conferences in each of these fifteen chapters. If I understand correctly, the intention of this draft is to add language to Chapter 99 that codifies practice, without policy changes, and centralizes the kind of development applications requiring a pre-application conference in CDC 99.030.

I am opposed to omitting provisions requiring pre-application conferences from each of these fifteen chapters, as these provisions provide emphasis on the requirement for a pre-app. It has been my experience that in Chapter 99 criteria regarding process, the City frequently does not follow it. The requirement for a pre-app should be left in the respective approval criteria sections.

For the same reason, I do not want the word "required" stricken from 99.030(B). Proposed amendments are:

**99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES**

**B. Pre-application conference required.**

2. The Planning Director shall have the authority to require a pre-application conference prior to the submittal of any application that is not listed above if he or she determines that the request is of significant complexity or magnitude to merit a pre-application conference.

3. The Planning Director may waive the requirement for a pre-application conference for any application provided he or she makes a determination that such a conference is not warranted due to extenuating circumstances.

2) The addition of 99.030(2) and 99.030(3) constitutes a change in policy. The Planning Director should not be given this broad and discretionary authority, where the public and applicant are not allowed an opportunity to review or appeal the PD decision to require or waive a pre-app.

Review by a higher authority is paramount to the quasi-judicial process and exists throughout the CDC. For example, 99.035(C) requires the PD to report his reasons for a waiver of a requirement for an application and the decision is subject to review and denial.

**99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED**

*C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (Ord. 1568. 2008)*

3) The staff report response to approval criteria is only for the amendments pertaining to signs, and not those pertaining to pre-application. I would argue that proposed amendments 99.030(2) and 99.030(3) do not meet the approval criteria.

Giving the PD authority to waive a pre-app will adversely affect public awareness and participation in those land use cases because it takes the pre-app meeting, attended by neighborhood association representatives, out of the process. The program of neighborhood association pre-application representatives was established seven years ago for the purpose of stimulating citizen involvement early on and in all phases of the planning process. NA reps are notified by the City of all pre-app meetings via email.

Pre-application meetings supports Comprehensive Plan Goal #1 and Policies #1 and #4 for Citizen Involvement and these amendments do not meet these approval criteria.

*1. Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two-way dialogue between citizens and City elected and appointed officials.*

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

*4. Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.*

4) Related Resolution 2010-16, as adopted by the City Council, makes no mention of giving the Planning Director authority to waive and require pre-application conferences.

5) The Planning Commission is not authorized to take final action on CDC 10-04 during a work session, as is scheduled for agenda item # 2 at the meeting on Dec. 15, 2010. Citizens do not expect final decisions at work sessions and may not attend. Additionally, the venue changed and the work session will not be televised. Meeting minutes have become extremely truncated with the Granicus system. This all compromises transparency.

6) Notice of the public hearing was incorrect. The notice states the hearing is scheduled for Nov. 17, 2010, but the agenda for that meeting does not include it. Additionally, the hearing date is posted on the project page as Nov. 17, 2010 and was likewise published in the Tidings. The hearing was held on Dec. 1, 2010 without proper notice.

7) The link ([http://westlinnoregon.gov/sites/default/files/projects/additional\\_correspondence.pdf](http://westlinnoregon.gov/sites/default/files/projects/additional_correspondence.pdf)) on the project page to additional correspondence dated 12/01/10 is incorrect as it links to the October 21, 2001 Suncrest DR application staff report. I would like to review that correspondence.

Thank you,

Karie Oakes



November 22, 2010

Robert Martin, Chairman  
Planning Commission  
West Linn City Hall  
22500 Salamo Road  
West Linn, OR 97068

Re: December 1, 2010 West Linn Planning Commission Meeting  
CDC Amendment Related to Chapter 52: Temporary Signage in the Right-of-Way

Dear Chairman Martin:

On behalf of the Portland Metropolitan Association of Realtors® (PMAR) and its nearly 6,400 members, I am writing to express PMAR's appreciation for your consideration of the proposed amendments to the City of West Linn's Community Development Code as it pertains to the use of temporary signs within the public right-of-way.

Every day, individuals and families are buying and selling homes in West Linn. In 2007, Realtors® helped sell more than \$287 million worth of property in the City. In 2008 and 2009 Realtors® were part of transactions totaling more than \$166 million and \$386 million respectively. And year to date 2010, Realtors® were part of transactions totaling approximately \$140 million. The benefit to the community of home sales is extensive. [Source RMLS]

PMAR appreciates the City of West Linn's continued support of Realtors'® efforts to transact properties as demonstrated by City Council's previous actions to suspend enforcement of its temporary sign code to allow greater flexibility in how signs are used within the city. We urge the Planning Commission's approval and recommendation to City Council of the proposed amendments to Chapter 52 of the West Linn Community Development Code.

Sincerely yours,

*/s/ Daryl Winand*

Daryl Winand  
Governmental Affairs Specialist  
Portland Metropolitan Association of Realtors®

cc: Members West Linn Planning Commission: Vice Chair Michael Jones, Michael Babbitt, Laura Horsey, Christine Steel, Jennifer Tan, Dean Wood  
PMAR Governmental Affairs Committee  
Jeff Wiren, PMAR 2011 President  
Dorian Barnhart, PMAR 2011 Vice President Governmental Affairs  
Jane Leo, PMAR Governmental Affairs Director  
Kathy Querin, PMAR Chief Executive Officer

825 NE Multnomah Street, Suite 1145, Portland, Oregon 97232