

STAFF REPORT

CITY OF LAKE OSWEGO

PLANNING AND BUILDING SERVICES DEPARTMENT

APPLICANT

City of Lake Oswego

FILE NO.

LU 18-0007, Ordinance 2783

LOCATION

Citywide

STAFF

Leslie Hamilton, AICP

DATE OF REPORT

March 2, 2018

PLANNING COMMISSION HEARING DATE

March 12, 2018

I. APPLICANT'S REQUEST

The City of Lake Oswego is proposing to amend Chapter 50 (Community Development Code) of the Lake Oswego Code for the purpose of clarifying and updating various sections. The proposed amendments include provisions that will:

- Clarify the setback determination on Through Lots
- Correct terminology related to trees in the Lake Grove Village Center Overlay (LGVCO), and establish a lower tree mitigation rate within the LGVCO
- Establish a “lock in” period of three years for code standards, as applicable to subdivision approvals
- Permit a mid-week farmer’s market with the same restrictions as allowed for “Saturday Market”
- Establish minimum dimensions for required courtyards in the Downtown Redevelopment Design (DRD) district

The sections proposed for revision relate to several general topic areas and a number of them are more fully described in Section III of this report. The draft code amendments, which would enact these changes, are included in Attachment 2 to Exhibit A-1.

II. APPLICABLE REGULATIONS

A. City of Lake Oswego Comprehensive Plan

Community Culture – Civic Engagement, Policies 1, 2, 4 and 5
Land Use Planning - Land Use Administration, Policy D-1
Inspiring Spaces and Places – Goal 1, Policy 7

B. City of Lake Oswego Community Development Code

LOC 50.07.003.16.a	Legislative Decisions Defined
LOC 50.07.003.16.c	Required Notice to DLCD
LOC 50.07.003.16.d	Planning Commission Recommendation Required
LOC 50.07.003.16.e	City Council Review and Decision

III. INTRODUCTION / BACKGROUND INFORMATION

The purpose of the proposed updates and amendments is to correct errors, eliminate text ambiguity or redundancy, and clarify text. This process is part of the City’s ongoing effort to make the regulations more business-friendly and resident-friendly while maintaining community standards.

Proposed Ordinance 2783 consists of over 20 text amendments. The text boxes in Attachment 2 describe the reason for each amendment, and include commentary on its background and discussion points. The amendments that generated the most discussion at the work sessions are further described below.

Item 8, Setback Determination on Through Lots (Page 9 of Attachment 2): “Through Lots” are lots that have frontage on more than one street. This section, under Special Determination of Yards, requires a front yard setback along all street frontages unless there is a prevailing front yard pattern that indicates otherwise. In determining the prevailing yard pattern, the text refers to the “adjoining” lots. However, “adjoining” is not a defined term in the Development Code. The amendment replaces “adjoining lots” with “abutting lots on the same block face”, which is the same method for determining Front Yard Setback Averaging in LOC 50.04.003.3.a.

Item 11, Courtyards in the Downtown Redevelopment Design (DRD) District (Pages 12 and 15 of Attachment 2): In the DRD, courtyards are required on facades that are longer than 200 feet. This amendment identifies the following minimum dimensions for these courtyards: 225 square feet, with no dimension less than 15 feet.

Item 13, Tree Mitigation in Lake Grove Village Center Overlay (Page 20 of Attachment 2): Tree mitigation in the LGVCO escalates quickly because trees must be mitigated

(either planted on site or a fee paid to the City) based on the total diameter inches removed. For example, removing one 27" tree in the LGVC Overlay requires either (1) nine 3-inch caliper trees to be planted on site, or (2) a mitigation fee of \$1,215 (\$135 per tree) paid into the Tree Fund (mitigation fees go into a Tree Fund for tree planting and habitat conservation projects citywide.) A pending land use case in the LGVCO requests the removal of eight trees with a cumulative diameter of 193 inches; this translates into 64 mitigation trees. Because the site is only large enough to accommodate seven mitigation trees on site, the remaining 57 trees must be mitigated through Tree Fund payments, which would total \$7,695. Elsewhere in the City, the mitigation rate is 1:1 per tree, and the Tree Fund fee for one tree is \$135.

Staff reviewed the legislative history of the LGVCO and could find no specific reference to the reasoning behind the 1": 1" mitigation rate [LU 06-0025]; it was likely an additional deterrent to removing mature trees, or an opportunity to replace lost canopy at an accelerated rate. The Commission agreed that the current mitigation rate was onerous, and directed staff to return with options for a smaller rate. The proposed amendment (page 20 of Attachment 2) establishes a 50% mitigation rate. Using the example above from Quarry Road, this rate would result in a requirement to plant 32 trees, or pay \$3,375 into the Tree Fund for the balance of trees (25) that cannot be accommodated on site. The matrix below compares the current LGVCO tree mitigation rates applicable to a pending development application on Quarry Road (a 13,756 sq. ft. site) in the LGVCO, the proposed LGVCO mitigation rates, and the mitigation rates for a similar project located outside of the LGVCO.

	Quarry Rd Project, Current Code	Quarry Rd Project, Proposed Code	Non-LGVCO Project
Trees Removed	8	8	8
Cumulative Inches Removed	193	193	193
Number of Required Mitigation Trees	64	32	8
Size of Mitigation Trees	3" caliper	3" caliper	Deciduous: 1.5" caliper, Evergreen: 6' in height
Trees Proposed On-Site	7	7	7
Balance of Mitigation Trees Required	57	25	1
Tree Fund Payment for Balance	\$7,695	\$3,375	\$135

Item 18, Mailed Notice for Neighborhood Meetings and Land Use Applications (Pages 28-30 of Attachment 2): Certain public notices are required to be sent to Neighborhood Associations (NA) or government agencies by certified mail. Staff has found that this requirement is not always effective, particularly if the contact is not home or does not visit the post office regularly. The proposed amendments provide that notices of a Neighborhood Meeting will be sent by regular mail (or email if consented) to NA chairs and officers, and notices of a new land use application will be sent by regular mail (or email if consented) to the Oregon State Department of Transportation for projects within the Willamette River Greenway. As a result of the noticing amendment to the NA chairs, the applicant will be required to submit copies of the letters (or email) when the land use application is submitted to the City.

Item 20, Subdivision Standards “Lock-in” Provision (Page 31 of Attachment 2): Per ORS 92.040(2), Application for Approval of Subdivision or Partition, holders of subdivision approvals may elect to develop under the development standards that were in effect when their project was applied for. The affected standards include not just lot dimensional standards, but all land use regulations. *Bend Athletic Club v. City of Bend*, 239 Or. App. 89 (2010) (access to arterial street “locked-in”). Per subsection (3), it is incumbent on the local jurisdiction to establish the duration that the standard would be locked in; otherwise, the standards are locked in for 10 years. The Code previously had a lock-in period of one year for certain standards, but that provision was removed because at that time subdivisions were reviewed as Planned Developments, which locked in the subject standards in perpetuity. The proposed amendment establishes a lock-in period of three years, which is consistent with the expiration of other development approvals, i.e., CUPs, DRs and PDs.

The following items were removed from this amendment package:

Item 7, Increased Setbacks between Low Density Residential and High Density Residential: This item would apply increased setbacks on high-density residential lots that would abut a low-density residential lots upon annexation of the low-density lot. Currently, the requirement for increased setbacks only applies between lots that are both within the City. Because this item would require Measure 56 noticing, it will be grouped with other amendments – potentially the Annual 2018 amendments – that would also require Measure 56 noticing. This is a cost savings to the City.

Items 21 and 22, Design Variance Criteria: These items will be considered in the Commission’s 2018 project to review the Residential Infill Design (RID) procedures comprehensively.

Item 24, Floor Area: At the work session in February, the Commission requested that staff return with additional analysis related Floor Area comparisons between the R-6 zone and low density zones (R-7.5, R-10 and R-15). Based on the analysis, this issue may be grouped with the review of other development standards in the R-6 zone.

IV. NOTICE OF APPLICATION

A. Newspaper Notice

On March 1, 2018, public notice of the proposed CDC text amendments and Planning Commission public hearing was published in the *Lake Oswego Review*.

B. Measure 56 Notice

Since the proposed text amendments do not change the base zoning classification of property or limit or prohibit land uses previously allowed in the affected zone, notice of the proposal was not required by ORS 227.186 (Measure 56).

C. DLCD Notice

Pursuant to LOC 50.07.016, staff has provided notice of the proposed CDC text amendments to the Oregon Department of Land Conservation and Development (DLCD).

V. COMPLIANCE WITH APPROVAL CRITERIA

A. City of Lake Oswego Comprehensive Plan

Staff has identified six Comprehensive Plan Policies applicable to this proposal:

Community Culture – Civic Engagement

Policies 1, 2, 4 and 5.

Policy 1: *Provide opportunities for citizen participation in preparing and revising local land use plans and ordinances.*

Policy 2: *Provide citizen involvement opportunities that are appropriate to the scale of a given planning effort. Large area plans, affecting a large portion of community residents and groups require citizen involvement opportunities of a broader scope than that required for more limited land use decisions.*

Policy 4: *Encourage citizens to participate through their neighborhood without excluding participation as individuals or through other groups.*

Policy 5: *Seek citizen input through service organizations, interest groups and individuals, as well as through neighborhood organizations.*

Findings: The CDC, which implements the Comprehensive Plan, contains requirements for a citizen involvement program which clearly defines the procedures by which the general public will be notified in the on-going land use planning process and enables citizens to comprehend the issues and become involved in decision making. All required notification measures and opportunities for input as specified in the Code were provided during this process, including noticing to all Neighborhood Associations and business organizations. A Public Review Draft was circulated between December 12, 2017 and January 12, 2018, and public hearings will be held before the Planning Commission and City Council. All required notification measures and opportunities for input as specified in the Code were provided during this process, including noticing to all Neighborhood Associations and business organizations. Public hearings will be held before the Planning Commission and City Council. Therefore, the process followed for these amendments is in compliance with the above cited Comprehensive Plan policies.

Conclusion: The City has provided adequate opportunities for public participation consistent with the cited Comprehensive Plan policies.

Land Use Planning, Section D Land Use Administration

Policy D-1.

Policy D-1: *Coordinate the development and amendment of City plans and actions related to land use with other affected agencies, including county, state, Metro, federal agency, and special districts.*

Findings: Staff has provided the required notification to the County, State, and Metro consistent with this policy.

Conclusion: The proposal is consistent with this policy.

Inspiring Spaces and Places

Goal 1, Policy 7.

Goal 1, Policy 7: *Enhance the unique character of Lake Oswego's neighborhoods and commercial districts as the City grows and changes by adopting plans, codes, guidelines and other implementation measures.*

Findings: The proposed amendments to the courtyard requirements in the Downtown Redevelopment Design District enhance the unique character of these districts by clarifying the design requirements for awnings and courtyards, which are traditional features of commercial development and

can maintain and enhance the character and design qualities of these commercial districts.

Conclusion: The proposal is consistent with this policy.

VI. RECOMMENDATION

Based on the information presented in this report, staff recommends approval of the proposed amendments to the CDC to provide clarification and correction and update relevant sections to reflect current City practices.

EXHIBITS

- A. Draft Ordinance
 - A-1 Ordinance 2783, draft 02/22/18
 - Attachment 1: City Council Findings and Conclusions [Not yet available]
 - Attachment 2: Community Development Code Amendments, draft 02/28/18
- B. Findings, Conclusions and Order [No current exhibits; reserved for hearing use]
- C. Minutes [No current exhibits; reserved for hearing use]
- D. Staff Reports [No current exhibits; reserved for hearing use]
- E. Graphics/Plans [No current exhibits; reserved for hearing use]
- F. Written Materials [No current exhibits; reserved for hearing use]
- G. Letters [No current exhibits; reserved for hearing use]

