

STAFF REPORT

CITY OF LAKE OSWEGO

PLANNING AND BUILDING SERVICES DEPARTMENT

APPLICANT

City of Lake Oswego

FILE NO.

LU 14-0018

LOCATION

Citywide

STAFF

Jessica Numanoglu, Senior Planner

DATE OF REPORT

July 16, 2014

PLANNING COMMISSION HEARING DATE

July 28, 2014

I. APPLICANT'S REQUEST

The City of Lake Oswego is proposing legislative Community Development Code (CDC) text amendments to LOC 50.01.006 Nonconforming Structures and Uses and LOC 50.08 Adjustments, Alternative and Variances, in order to update, streamline and simplify these code sections, making them easier to understand and administer (Exhibit A-1). Related amendments are also proposed for the following CDC sections: LOC 50.04.003 Exceptions, Projections and Encroachments; LOC 50.05.007 Lake Grove Village Center Overlay District; LOC 50.07 Review and Approval Procedures; and LOC 50.10.003 Definitions.

Ordinance 2644, which would enact these changes, is attached as Exhibit A-1.

II. APPLICABLE REGULATIONS

A. City of Lake Oswego Comprehensive Plan

Land Use Planning Goal:

Development (Community Development Code)

Policy A-1.b

Policy A-1.g

Policy A-2.a

Policy A-2.c

Development Review

Policy B-8

Policy B-9

Land Use Administration

Policy D-1

Community Culture Goal:

Civic Engagement

Policy 1

Policy 2

Policy 3

Policy 4

Policy 5

Inspiring Places and Spaces Goal:

Goal 1: Policy 9

B. City of Lake Oswego Community Development Code

LOC 50.07.003.16.a	Legislative Decisions Defined
LOC 50.07.003.16.b	Criteria for a Legislative Decision
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

C. Statewide Planning Goal or Administrative Rule adopted pursuant to ORS Chapter 197

Goal 1	Citizen Involvement
Goal 2	Land Use Planning

III. BACKGROUND AND DISCUSSION

Introduction

In 2010, the City Council commissioned an audit of the CDC to establish a framework to create a more user-friendly and modernized development code. The Council endorsed a two-phase approach recommended by the audit. Phase 1, completed in March 2012, consolidated and reorganized the CDC and Phase 2 addresses more than 100 substantive, policy-related issues that were identified during the Code Audit and Phase 1. It was envisioned that Phase 2 would be accomplished by addressing groups of amendments in stages over several years, subject to direction by the City Council. The proposed updates to the Nonconforming Structures and Uses and Adjustments, Alternatives and Variances sections (henceforth, "Nonconforming and Variances") are the first group of policy-related amendments to be addressed in Phase 2.

The main purpose of the proposed amendments is to modernize, streamline, and clarify the Nonconforming and Variance code sections in order to increase user-friendliness and improve the ease of administration.

A summary of the proposed amendments is provided in this report, below, and are grouped into the following major topic areas:

1. Nonconforming Uses and Structures
2. Adjustments, Alternatives and Variances
3. Related Amendments to other Code Sections
 - a. LOC 50.05.007 Lake Grove Village Center Overlay District;
 - b. LOC 50.07 Review and Approval Procedures; and
 - c. LOC 50.10.003 Definitions.

The proposed amendments are in draft Ordinance 2644 (Attachments B and C of Exhibit A-1) and are indicated by strikeout and underline. The draft ordinance also contains explanatory footnotes that will be removed when the final ordinance is prepared for adoption by the City Council. The footnotes provide detailed background and rationale for the proposed changes.

Planning Commission Work Sessions

The Commission held three work sessions on the proposed Nonconforming and Variance Amendments: April 29 and November 13, 2013, and June 23, 2014. At the first two work sessions, the Commission reviewed and provided feedback to staff on the Annotated Outline of Revisions for the Nonconforming and Variance sections and the draft code amendments. At the June 23 work session, the Commission reviewed public comments that were received on the Public Discussion Draft of the proposed amendments and received public comment for the purpose of identifying issues relating to the proposal. The Commission did not deliberate upon the proposed amendments at the work sessions, but provided direction to staff in the preparation of proposed Ordinance 2466. Public testimony may be presented at the public hearing on matters previously reviewed by the Commission.

[Note: Public comment at a work session is not deemed to be testimony in the public hearing record. Persons were advised that if they wished to provide either written or oral testimony upon the proposed amendments, they should appear in the public hearing in the manner set forth in the Public Hearing Notice.]

Based on the Commission's direction at the June 23 work session, staff made revisions to draft Ordinance 2644 as follows:

- The draft amendments initially proposed to establish separate standards for expansions of nonconforming commercial, industrial, public, institutional and multi-family structures in design districts vs. the same type of structures not located in design districts. The Commission directed staff to remove this proposed amendment because it was concerned the limitation could negatively impact redevelopment in the Lake Grove Village Center Overlay (LGVCO) district, which has not had a lot of redevelopment yet. In addition, large expansions of nonconforming structures are not common and there are other standards that serve to limit large expansions of nonconforming structures, such as landscaping and parking requirements.
- The initial draft amendments proposed to delete the applicability provision in the LGVCO district that allows the general Nonconforming standards that apply to the rest of the City to be superseded in the LGVCO district. The Commission directed staff to revise draft Ordinance 2644 to continue to allow the general Nonconforming standards to be superseded in the LGVCO district, but to propose a definition of "remodel" in order to put some limits on the extent that a nonconforming structure can be rebuilt under the LGVCO remodeling standards. The Commission was concerned that applying the general Nonconforming standards in the LGVCO district would remove flexibility that is needed to encourage redevelopment in that area.

The LGVCO district currently supersedes the general Nonconforming provisions relating to the rebuilding of damaged nonconforming structures (see LOC 50.05.007.3.d). This means that a nonconforming structure that is damaged by any means (including partial demolition by the property owner) could be rebuilt as long as the rebuilding complies with select LGVCO standards that apply to "remodeling". Because "remodeling" is not defined, it is possible for a nonconforming building to be almost entirely rebuilt and only subject to select LGVCO standards rather than new development that would be subject to all of the LGVCO standards. When there is no threshold on how much a nonconforming structure can be damaged (by any means) before it has to fully comply with the code, it prolongs the life of the nonconformities by allowing the buildings to be substantially reconstructed without implementing all the district standards.

Staff has included a definition of "remodel", which would only apply in the LGVCO district, on page 9, Attachment B of Exhibit A-1 and flagged by yellow highlighting. The stated purpose of the applicability section in the LGVCO district is to encourage incremental growth of existing, small local businesses, by allowing greater flexibility in application of the standards for remodeling of existing structures in the district. In order to maintain this flexibility, staff's draft definition of "remodel" measures the percentage of exterior structural wall elements that are removed, or in the case where a building is not principally supported by exterior bearing walls, the percentage of principal support structures, such as columns and structural frames, that are removed. This allows property owners to make extensive interior improvements and cosmetic

changes to the exterior of the building that affects less than 50% of the exterior walls or internal structural components as a remodel. However, where more than 50% of the exterior walls or internal structural components are removed, the development would be considered new construction. Alterations that are undertaken solely to bring an existing building into compliance with the Building Code would not be counted towards the 50% measurement.

Staff believes this definition provides flexibility to allow existing businesses to make substantial improvements, while establishing a reasonable limitation on remodeling. The definition also significantly reduces the amount of staff interpretation involved in determining what constitutes a remodel, providing more certainty for business owners and the surrounding neighborhood. The Commission needs to decide whether to adopt the recommended definition of “remodel” as proposed, modify the proposed definition, or decline to adopt a definition of “remodel” in the LGVCO district.

- The initial draft amendments proposed to codify the City’s current practice of allowing changes between nonconforming uses in the same use category without the need to obtain a conditional use permit because the change is considered to be a continuation of the existing nonconforming use (e.g., a nonconforming law office is replaced by an accountant, which is still a professional office use category). Because subsequent changes to the Commercial Use Table are expected to occur as part of the Commercial Code Streamlining project, the Commission directed staff to address this issue as part of that project. As a result, staff has deleted this proposed amendment from Ordinance 2644.
- The Commission identified several Nonconforming code sections that should be reworded for clarity. Staff made edits to these sections, which are flagged by yellow highlighting in Attachment B of Exhibit A-1.

Summary of Proposed Code Amendments

The following amendments to the CDC apply to properties throughout the City.

1. Nonconforming Uses and Structures [LOC 50.01.006]

The 2010 Code Audit report noted that the current Nonconforming section only covers nonconforming structures and uses and does not address two additional common types of nonconformities: lots and site features (e.g., landscaping and parking). The existing code section also currently uses a number of vague and inconsistent terms and requires a high degree of staff interpretation because many nonconforming issues/topics are not adequately covered. The length of the Nonconforming code section is proposed to be expanded. While the code section will be longer, the additional code text should increase understanding and streamline and simplify administration by reducing the amount of staff interpretation that will be necessary.

Below is a brief summary of the major amendments included in the Nonconforming section of proposed Ordinance 2644. More detailed notes on these amendments are included in Attachment B of Exhibit A-1.

- Provisions covering nonconforming lots and site features are added.
- A new provision is added that would allow portions of a development that were erroneously approved through the Minor or Major Development procedure and constructed according to the approved plans, to be deemed nonconforming instead of illegal.

At the June 23 work session, the Commission was mixed on whether this provision was a good idea. One Commissioner expressed concerns that this provision could result in a lack of accountability by staff or the applicant, or the potential for bribery. Other Commissioners were concerned that a property owner could bear the consequences of an oversight by staff and noted that since the provision would only apply to applications subject to public notice and appeal, there was opportunity for review and objection by the public (for further discussion, see footnote 2 on page 1, Attachment B of Exhibit A-1).

- Language is added to distinguish between “nonconforming” and “illegal”.
- Nonconforming industrial, commercial, and institutional structures could expand in a conforming manner without having to obtain a conditional use permit. Nonconforming institutional and public use structures, which were not previously covered in this section, would now be addressed, eliminating confusion as to what modifications can be made to nonconforming institutional and public use structures.
- New nonconforming use standards are added, outlining when these uses can be changed or expanded.
- A provision is added to codify current practice for calculating how much landscaping/open space is required for development projects, e.g., expansion of structures, on sites that are nonconforming to the landscape and/or open space standards.
- The standards relating to damage and reconstruction of nonconforming single-family, duplex, and accessory structures and historic landmarks are edited and reorganized for clarity. Reference to “destruction due to lack of structural maintenance” is deleted and replaced with “destruction due to an intentional act of an owner” because of the difficulty of determining what constitutes a lack of structural maintenance. “Intentional Act” is a newly defined term.
- A cross-reference to the nonconforming provisions in the Sensitive Lands section is added. (As the Sensitive Lands section is amended this fall, the cross-reference will be updated).
- The time limitations for the reconstruction of nonconforming structures are consolidated in one section and made consistent (one year) for all types of nonconforming structures. Currently, there are slight differences in the time

limitations for reconstructing nonconforming single-family, duplex, accessory and historic structures vs. all other structures.

- Per the Commission's direction at the June 23 work session, a provision allowing an extension to the time limitation is added to address situations where a nonconforming structure is subject to a pending insurance claim or litigation.
- The time period after which a discontinued nonconforming use can no longer be restarted is extended from six months to one year, with a new provision for up to two one-year extensions. "Discontinued" is a newly defined term.

2. **Adjustments, Alternatives and Variances [LOC 50.08]**

Currently, there are 11 different procedures by which an applicant may be able to adjust or vary CDC standards. The proposed amendments consolidate and streamline these procedures to increase understanding and simplify administration.

Below is a brief summary of the major amendments proposed to the Variance section. More detailed notes on these amendments are included in Attachment C of Exhibit A-1.

- The R-DD Administrative Modification section (LOC 50.08.001.2.a), which allows a modification to dimensional standards of up to two feet, and the Solar Access Yard Setback Adjustments (LOC 50.08.001.3), which allows changes to the solar access setback standards, are moved to the outright permitted exceptions in LOC 50.04.003.3. Both are currently based on clear and objective criteria.
- The R-6 Administrative Modification procedure (LOC 50.08.001.1) is eliminated because the modifications allowed by this procedure are already available through a minor variance or have never been used. However, because a minor variance allows up to a 20% reduction to a yard setback and the R-6 Administrative Modification limits modifications to front yard setbacks in that zone to only two feet, a new limitation for minor variances is added, which limits a variance to a front yard setback in the R-6 zone to a maximum of two feet.
- All of the remaining procedures are consolidated into three broad categories: Minor Variance, Design Variance, and Major Variance. The criteria for these procedures have also been consolidated, although some procedures, such as the LGVCO Major Adjustments and RID Review, largely retain their existing criteria, which have been edited for clarity and easier administration.
 - **Minor Variance:** The existing Minor Variance, LGVCO Minor Adjustments and Reasonable Accommodation Variance are consolidated into the Minor Variance category. The existing Minor Variance criteria are adapted with edits and additions to apply to all Minor Variances, except Reasonable Accommodation variances, which will retain its existing criteria with edits for clarity. A new Minor Variance criterion is being added to address the public streetscape environment.

- Design Variance: The R-DD Administrative Modification (between 2-5 feet), R-DD Exceptions to Standards, LGVCO Major Adjustments, FMU Exceptions to Standards, and RID procedures are being consolidated in the Design Variance category. A set of general criteria will apply to all Design Variances and additional criteria will apply to the R-DD and LGVCO districts and to the RID procedure.

The LGVCO adjustment procedure is amended to allow adjustments to any applicable standard in LOC Chapter 50 instead of only the LGVCO standards (except certain LGVCO standards that are explicitly prohibited from being adjusted). This aligns the LGVCO adjustments with the Downtown Redevelopment Design District (DRDD) Exception procedure, which has always allowed exceptions to any applicable standard in LOC Chapter 50 through a single process.

The LGVCO adjustment criteria requiring the applicant to show that a “regulatory taking” would occur if the adjustment was not granted, and that the proposed adjustment is the “least variance necessary” is deleted because both of these criteria are relevant to hardship variances, not design variances.

The LGVCO “reviewing authority considerations” for Major Adjustments is converted to approval criteria and revised for clarity.

The RID criteria are edited for clarity and brevity; the review procedure would no longer be applicable to residential developments on residentially-zoned lots in design districts (e.g. R-DD, LGVCO and West Lake Grove Design District); the area around the subject property to be considered in applying the RID criteria would be increased from 200 feet to 300 feet; and the review procedures would be changed to be consistent with other minor development applications.

During the Planning Commission’s June 23 work session the Commission discussed the possibility of further limiting the scope of RID reviews such that RID would no longer be used to increase the size of an existing residence. The Commission asked staff to research options for amending the code to this effect. On further discussion with the Planning Director, Chair Gaar indicated that the suggested code change is not timely as the Commission would need more information on how RID is used in practice and the potential consequences of the code change before initiating any amendment. He also indicated that the concept warrants broader community dialogue.

- Major Variances: Hardship Variances are renamed to Major Variances. The existing hardship criteria are revised for clarity and to integrate the factors and considerations into criteria.

Additionally, the criterion that requires that the request not be in conflict with the Comprehensive Plan and the factor to consider whether a reasonable use similar to “like properties” can be made of the property without a variance have been deleted. These provisions are deleted because purchasers of small or irregular parcels or properties subject to unique constraints are generally not permitted the same size or scale of development as purchasers of unconstrained properties; constrained lots are not “like properties” to unconstrained lots. The criterion that the request is not in conflict with the Comprehensive Plan is deleted because the Code as a whole (including variance procedures) implements the Comprehensive Plan and individual variance requests are very difficult to evaluate in terms of broader Comprehensive Plan goals.

3. Related Amendments to Other Code Sections

The following amendments to code sections other than the Nonconforming and Variance code sections are necessary to ensure internal consistency and clarity:

Exceptions Projections and Encroachments [LOC 50.04.003]:

The R-DD Administrative Modification (up to two feet) and the Solar Access Yard Setback Adjustment are moved to the General Exceptions to Yard Requirements section because both procedures have clear and objective criteria and are reviewed ministerially. No change to the decision making process is proposed. Minor text edits for clarity are proposed.

Lake Grove Village Overlay District [LOC 50.05.007]:

Per the Commission’s direction at the June 23 work session, a definition of “remodel” is being included in the LGVCO district standards in order to establish limits on how much an existing nonconforming building can be remodeled. The intent is to prevent nonconforming buildings from being effectively reconstructed in compliance with LGVCO standards applicable to remodeling instead of standards applicable to new construction. See discussion on pages 4-5, above, and page 9, Attachment B of Exhibit A-1.

Review and Approval Procedures [LOC Article 50.07]:

The Summary Procedures Table is edited to reflect three new variance categories: Minor Variance, Design Variance and Major Variance.

Edits to the Public Notice, Appeal and Minor Development Decision sections are made to provide uniform administrative procedures. This will bring the RID

procedure into alignment with all other Minor Development applications; having a different notice and decision procedure for RID applications is confusing.

Definitions [LOC 50.10.003]:

New definitions are provided for Nonconforming situations. New terms “damaged”, “intentional act”, and “maintenance”, and revised terms “alter” and “owner”, are proposed to clarify the code and reduce the need for staff interpretation.

IV. NOTICE OF APPLICATION

A. Newspaper Notice

On July 17, 2014, public notice of the proposed CDC text amendments and Planning Commission public hearing was published in the *Lake Oswego Review*.

B. ORS 227.186 (Measure 56) Notice

The City followed the procedures required by ORS 227.186 (Ballot Measure 56) for notification of the owners of property proposed to be directly affected by the changes. As the proposed amendments may potentially affect properties owners throughout the City, this notice was mailed citywide on July 7, 2014.

C. DLCD Notice

Pursuant to LOC 50.07.003.16.c and ORS 197.610, staff provided notice of the proposed CDC text amendments to the Oregon Department of Land Conservation and Development (DLCD).

D. Metro Notice

Pursuant to Metro Code 3.07.810 and .820, staff provided notice of the proposed CDC text amendments to Metro not less than 45 days prior to the hearing date.

V. COMPLIANCE WITH APPROVAL CRITERIA

Legislative amendments to the CDC shall comply with the following criteria:

A. Any Applicable State Law;

There are no other known applicable state laws to review under this criterion.

B. Applicable Provisions of the City of Lake Oswego Comprehensive Plan; and

Staff finds that the following Comprehensive Plan Policies are applicable to this proposal:

Land Use Planning

Compliance with Lake Oswego Comprehensive Plan, Development (Community Development Code) Goal, Policies A-1.b and A-1.g.

Policies A.1.b and A-1.g: *Maintain land use regulations and standards to: *** (b) promote compatibility between development and existing and desired neighborhood character, and *** (g) promote architectural and site design quality.*

Findings: The proposed criteria for Minor Variances require development to maintain existing neighborhood character.

Design Variances require a showing that either the physical characteristics of the site or existing structure make compliance impractical, or that the proposed development will better accomplish the purpose, goals or objectives of the district or adopted neighborhood plan. Additionally, the proposed criteria for Design Variances require that the resulting development either be exceptional in quality of detailing, appearance or materials, or create a positive unique relationship to other nearby structures, views or open space.

The proposed Nonconforming standards promote compatibility between development and the existing or desired neighborhood character by establishing limits on the reconstruction of nonconforming structures and requiring any expansions of nonconforming structures to conform to the requirements of the Code.

Conclusion: The proposed amendments are consistent with these policies.

Land Use Planning

Compliance with Lake Oswego Comprehensive Plan, Development (Community Development Code) Goal, Policies A-2.a and A-2.c.

Policies A.2.a and A-2.c: *Ensure that land use regulations have sufficient flexibility to: *** (a) allow developers and the City to propose measures to adapt development to unique and difficult site conditions, *** and (c) avoid negative impacts on surrounding properties.*

Findings: The proposed Variance Standards allow site dimensional or other development standards to be varied in order to accommodate reasonable

development opportunities on uniquely constrained or difficult sites or to avoid or minimize impacts on surrounding properties.

The proposed Nonconforming Standards allow property owners some flexibility to expand or adapt nonconforming structures to better accommodate new or existing uses by allowing conforming expansions of the structures. In cases where an existing conditional use or nonconforming use wants to occupy the expansion area, a CUP is required to assure the use is reasonably compatible with nearby uses.

Through the development review process, the City has conditioning authority that it may use to ensure that variance approvals and approvals for the alteration of nonconforming situations avoid negative impacts on surrounding properties.

Conclusion: The proposed amendments are consistent with these policies.

Land Use Planning

Compliance with Lake Oswego Comprehensive Plan, Development Review Goal, Policies B-8 and B-9.

Policies B-8 and B-9: *** (8) *Allow development of permitted uses on legally created nonconforming lots subject to all applicable land use regulations; and (9) Allow for legalization of illegally created lots and opportunity to develop these parcels, provided development occurs pursuant to applicable land use regulations including those intended to prevent negative impacts on the surrounding neighborhood.*

Findings: The proposed Nonconforming Standards continue to allow permitted uses and development on nonconforming lots, subject to the proposed requirements. LOC 50.01.006.5 allows a nonconforming lot to be developed as permitted in the zone. The proposed amendments do not change the definition of Lot or what constitutes a legal lot for the purposes of development.

Conclusion: The proposed amendments are consistent with these policies.

Land Use Planning

Compliance with Lake Oswego Comprehensive Plan, Land Use Administration Goal, Policy D-1.

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

Findings: This proposal includes public notice of the proposed text amendment in compliance with adopted land use regulations. Staff has also provided notice of the proposal to Metro and the DLCD.

Conclusion: The proposal is consistent with this policy.

Community Culture

Compliance with Lake Oswego Comprehensive Plan, Civic Engagement Goal, Policies 1-5.

Policies 1-5:

- *Provide citizen involvement opportunities appropriate to the scale of a given planning effort, and ensure those affected by a Plan have opportunities to participate in the planning process.*
- *Ensure that information related to land use planning and decision-making is readily accessible to the public and easy to understand.*
- *Utilize City boards and Commissions, neighborhood associations, and other community groups to ensure a diverse and geographically broad range of citizen input in land use issues.*
- *Provide opportunities for citizens to engage in land use planning and decision-making, including opportunities for individual citizens who may otherwise not participate.*
- *Ensure direct and ongoing two-way communications between the City and Lake Oswego citizens regarding land use issues.*

Findings: Staff held public three open houses, three work sessions with the Commission, and attended various organization meetings and released a Public Discussion Draft of the code amendments in order to inform the public about the proposed amendments and to solicit feedback.

The first open house was held on April 11, 2013, during the code concept phase of the project in order to review and discuss the Annotated Outline of Revisions for the Nonconforming and Variance Code Amendments. The meeting was attended by members of the First Addition–Forest Hills, Old Town, Waluga, Lake Grove, and Evergreen neighborhood associations as well as other interested citizens. Several of the neighborhood associations expressed interest in meeting with staff to further discuss issues specific to their neighborhood. Staff met with individual board members of the First Addition–Forest Hills and Lake Grove Neighborhood Associations in May 2013.

A work session was held with the Commission on April 29, 2013, to review and discuss the Annotated Outline of Revisions for the Nonconforming and Variance Code Amendments. A second work session was held with the Planning Commission on November 13, 2013, to review the draft code amendments.

A second public open house was held on March 27, 2014, to provide a summary of the draft code amendments and solicit feedback.

Staff attended the LONAC meeting on May 3, 2014 and the Lake Grove Business Association meeting on May 6, 2014, to give a brief presentation on the draft code amendments and an overview of the process and timeline.

A third public open house was held on May 15, 2014. At the meeting, staff gave a presentation on the draft code amendments and an overview of the process and timeline. A Public Discussion Draft of the amendments was distributed at the meeting and posted online.

A third work session was held with the Commission on June 23, 2014 to review the public comments and receive additional public testimony on the Discussion Draft.

Conclusion: The proposal is consistent with these policies.

Inspiring Spaces and Places

Compliance with Lake Oswego Comprehensive Plan, Goal 1, Policy 9

Goal 1, Policy 9: *Preserve the visual attractiveness of the community by limiting adverse visual impacts to the City's public spaces and streetscape.*

Findings: A new criterion is proposed for Minor Variances requiring that the proposed development have little or no negative impact on the streetscape. In addition, the DRDD, LGVCO and RID Variances include criteria that address the public streetscape and/or public spaces to preserve or improve the visual attractiveness of these environments.

Conclusion: The proposal is consistent with this policy.

C. Applicable Statewide Planning Goal or Administrative Rule Adopted Pursuant to ORS Chapter 197

Statewide Planning Goal 1, Citizen Involvement

This Goal requires jurisdictions to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. The City's Comprehensive Plan and Community Development Code contain all necessary 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 these documents were provided during this process. The City has also followed the procedures required by ORS 227.186 (Ballot Measure 56) for notification of the owners of property proposed to be directly affected by the changes. As the proposed amendments may potentially affect properties owners throughout the City, this notice was sent citywide. Three public open houses were held on April 11, 2013, and March 27 and May 15, 2014, to share information about proposed updates and receive public feedback. Public hearings will be held before the Planning Commission and City Council. Therefore, the process followed for these amendments is in compliance with Statewide Planning Goal 1.

Statewide Planning Goal 2, Land Use Planning

This Goal requires jurisdictions to develop a land use planning process and policy framework as a basis for all decisions and actions related to the use of the land and to assure an adequate factual basis for such decisions and actions. This application provides the required information and responses to the applicable approval standards for a Community Development Code text amendment and therefore is consistent with Statewide Planning Goal 2. Furthermore, the application has been coordinated with the applicable jurisdictions and agencies as required by Goal 2. Therefore, this amendment is in compliance with Statewide Planning Goal 2.

VI. CONCLUSION / RECOMMENDATION

The proposed amendments are in compliance with City Comprehensive Plan policies, state laws, and statewide planning goals.

Based on the information presented in this report, staff recommends that the Commission support the proposed CDC text amendments to update, simplify, and streamline the Nonconforming Uses and Structures and Adjustments, Alternatives, and Variances Code sections.

The proposed code amendments include revised language for the Commission's consideration. References to the revised language that require a decision by the Commission are described below:

1. Definition of "illegal" (page 1, Attachment B of Exhibit A-1).
2. Definition of "remodel" in the LGVCO district (page 9, Attachment B of Exhibit A-1).
3. Extension of the time limitations to reconstruct a damaged nonconforming structure in cases where the structure is pending review under an insurance claim or litigation (page 8, Attachment B of Exhibit A-1).

4. Definition of “discontinue” as it relates to a nonconforming use (page 8, Attachment B of Exhibit A-1).

EXHIBITS

A. Draft Ordinances

A-1 Draft Ordinance 2644, dated July 15, 2014, with Attachments B and C

B. Findings, Conclusion and Order

[No current exhibits]

C. Minutes

[No current exhibits]

D. Staff Reports

[No current exhibits]

E. Graphics/Plans

[No current exhibits; reserved for hearing use]

F. Written Materials

[No current exhibits]

G. Letters

[No current exhibits; reserved for hearing use]

BACKGROUND MATERIAL AND REFERENCES

Staff reports and public meeting materials that were prepared for the Nonconforming and Variance Code Amendments, can be found by visiting the project web page for LU 14-0018.

Use the link below to visit the City’s “Project” page. In the “Search” box enter LU 14-0018 then press “Submit”:

<http://www.ci.oswego.or.us/projects>