



TO: Kent Studebaker, Mayor
Members of the City Council

FROM: Scot Siegel, Director of Planning and Building Services

SUBJECT: Public Hearing for Ordinance 2754 – Criteria for Design Variances in Downtown
Redevelopment Design District (LU 17-0039)

DATE: August 22, 2017 **DATE OF MEETING:** September 5, 2017

ACTION

Conduct a public hearing on Ordinance 2754 to consider the Planning Commission’s recommendation on amendments to the Community Development Code (CDC or code), clarifying and updating the design variance criteria for developments in the Downtown Redevelopment Design (DRD) District.

SUGGESTED MOTION

Move to approve LU 17-0039 and enact Ordinance 2754, including the findings and conclusions in **Exhibit A-1.1**.

Alternatively, if the Council revises the amendment or has additional findings, move to tentatively approve LU 17-0039 and direct staff to return with findings and conclusions, together with a final version of Ordinance 2754, for adoption on September 19, 2017.

INTRODUCTION/BACKGROUND

A City Council priority for 2017 is to allow more architectural variety in the downtown while maintaining consistency with adopted plans. Although the code currently affords design flexibility through the existing variance procedure, the Council is interested in clarifying the code and streamlining the permit process while ensuring high quality design.

The code requires that new construction and substantial building remodels in the DRD District comply with the requirements of the DRD District Overlay, which is a set of building and site design standards adopted in 1997 that implement the Downtown Urban Design Plan, including

the vision of Village Character¹. These standards are found in [LOC 50.05.004.5 through LOC 50.05.004.12](#), or in LOC 50.05.004.13 for projects that are subject to the DRD District’s Clear and Objective Housing Standards.

Though not identified in the Downtown Urban Design Plan, one of the code standards is “Lake Oswego Style,” which requires consistency with at least one of three Lake Oswego Style options: English Tudor, Arts and Crafts, or Oregon Rustic [[LOC 50.11.001 Appendix A – Lake Oswego Style](#)], per LOC 50.05.004.5a, 6.a. Building designs may also draw on elements of more than one of the prescribed styles to comply with the standard.

At its [May 16, 2017 study session](#), the Council reviewed examples of projects built in conformance with Lake Oswego Style, and variances granted, since 1997.

Proposed Amendment

Pursuant to the City Council’s direction, and consistent with input from the Planning Commission and public, the proposal amends the DRD District design variance criteria to support greater architectural variety in the downtown. Specifically, the amendment clarifies the existing criteria, which already afford flexibility, and adds criteria for addressing unique building functions and sustainability.

A unique building function might include, for example, an auditorium or theater where compliance with minimum standards for windows is impractical. The proposed amendment also allows exceptions (design variances) to implement sustainable building features². The proposal specifically identifies energy production (solar, wind, or geothermal), enhanced indoor air quality, use of daylight for interior lighting, acoustic building performance, protection of views of Lakewood Bay or Mt. Hood, water efficiency (e.g., rainwater harvest), and increased seismic resiliency (above and beyond minimum building code requirements) as eligible features. It should be possible for most building projects to implement these features without

¹The Downtown Redevelopment Design District, LOC 50.05.004.4, states, “As used in this section, ‘village character’ means a community of small-scale structures that appears and operates like a traditional small town. A village is typically composed of an assembly of smaller mixed used structures often centered on a square or other public space or gathering area, such as a body of water, a transportation route or a landmark building. Adherence to village character is not intended to require an historical reproduction of a turn of the century small town, but rather to encourage the development of a sophisticated small city that is pedestrian friendly, creates a sense of community and attracts people to the downtown in the same manner and using similar design concepts as historic small towns and neighborhood centers.” The specific required means and methods to achieve “village character” are set forth in the later referenced code sections.

² With the exception of seismic resiliency, the sustainable building features proposed in the code are similar to those that are evaluated for certification under the Leadership through Energy and Environmental Design (LEED) rating system for new construction and substantial remodels, though the City is not proposing to adopt LEED. See Exhibit F-3.

the need for a variance; however, the proposed amendment provides relief where an applicant demonstrates that a variance is necessary. This is consistent with the City Council direction to streamline the development review process and remove unnecessary regulatory obstacles to sustainability.

The proposed code changes (in ~~strikeout~~ and underline format with commentary) are contained in **Exhibit A-1.1, Attachment 2**.

Problem Statement and Public Review Process

On April 24, 2017, the Planning Commission conducted an initial work session and received public input on the DRD District Overlay and Lake Oswego Style. The City Council held a study session on May 6 to consider the Commission's initial input. There was general consensus that since adoption of the DRD District standards twenty years ago, the code has allowed a variety of architectural designs, and that collectively these building projects have enhanced the appearance and functionality of downtown. There was also consensus that the Urban Design Plan and East End Redevelopment Plan continue to provide a solid policy basis or foundation for downtown urban design. However, there was concern that the code presents barriers to innovative design and may discourage sustainability. There was also concern among some that over time downtown buildings may become too similar in appearance, for example where a certain style or design element (e.g., gabled and hipped roofs) is repeated too often.

"Lake Oswego Style" is within the permitted scope of design variances; however, for approval the variance must either meet the General Design Variance Criteria, or it must be necessary to "create a complementary relationship with a viable existing structure on an abutting lot that is not designed in Lake Oswego Style." The General Design Variance criteria, when applied to the DRD District, can be difficult to interpret and time consuming to apply, because numerous code sections and plans may or may not be applicable. Therefore, the proposed amendment clarifies these variance criteria, rather than revising or replacing the DRD District standards.

The City published a Public Review Draft (**Exhibit F-1**) of the proposed code amendments with a three week comment period beginning June 16. Reviewer comments (**Exhibit F-2**) included support and opposition to some of the recommendations, including adding a variance criterion for sustainable building features. One commenter suggested including seismic resiliency as a possible reason for design variances; based on the City's commitment to emergency management planning for natural disasters (in city operations and facilities), and the intent to encourage others to do the same, that suggestion is included in the proposal. Another commenter suggested revising the DRD District standards to allow more discretion in how they are interpreted, as an alternative to amending the variance criteria. That approach was not taken because it would be difficult to administer and could lead to more appeals.

Other Alternatives Considered But Dismissed

The proposal does not replace Lake Oswego Style, but instead clarifies the design variance criteria. Staff considered exempting certain sites or subareas of the downtown from Lake

Oswego Style, but determined that could have unintended consequences and could be unfair to property owners not within the exempted area. Staff also considered adding styles to the code, but found that it would be difficult to anticipate new styles that the City might want to allow, and making the code more complex would conflict with the City Council's desire to simplify the code. Finally, staff considered amending the DRD District standards to provide specific exemptions based on building functionality and sustainability. However, that too would make the code more complex. Sustainable building technology is constantly evolving, making it difficult to anticipate every application; different applications could require adjusting different standards, which could have unintended consequences, as well.

CONCLUSION

The proposed amendment clarifies the design variance criteria for the DRD District with a focus on high quality design, functionality, and consistency with adopted downtown plans. The proposed code amendment balances the competing objectives of "flexibility" and "certainty" in the development review process. It meets the City Council's intent to more clearly allow architectural variety, while providing a development review process that is as efficient as possible and does not impose undue costs or delays on applicants.

FISCAL IMPACT

The proposed amendment may reduce staff labor in reviewing downtown development by clarifying the design variance criteria.

RECOMMENDATION

Based on the staff report and Planning Commission public hearing record, staff recommends that the Council approve LU 17-0039, and enact Ordinance 2754 (**Exhibit A-1.1**), including the findings and conclusions.

EXHIBITS

A. Draft Ordinances

A-1.1 Draft Ordinance 2754, dated 08/22/17 (supersedes Exhibit A-1)

Attachment 1:

- City Council Findings and Conclusions

Attachment 2:

- Proposed Draft Code Amendments, 08/10/17
(Track-changes and commentary included for reference only)

B. Findings, Conclusion and Order

B-1 Planning Commission Findings, Conclusion and Order, 08/14/17

C. Minutes

C-1 Planning Commission Minutes, 07/24/17

D. Staff Reports

D-1 Planning Commission Staff Report, 07/13/17

E. Graphics/Plans

[No current exhibits; reserved for hearing use]

F. Written Materials

F-1 Public Review Draft, 06/16/17

(Due to size this exhibit is not included with the staff report. Please view on the land use webpage using link provided below.)

F-2 Citizen Comments Received on Public Review Draft

F-3 LEED Rating System Table

G. Letters

[No current exhibits; reserved for hearing use]

BACKGROUND MATERIAL AND REFERENCES

Staff reports and public meeting materials that were prepared for these code amendments can be found by visiting the project web page for LU 17-0039.

Use the link below to visit the City's "Project" page. In the "Search" box enter LU 17-0039 then press "Submit":

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