

PHASE 1 CODE REORGANIZATION WORK GROUP RECOMMENDATIONS

This document summarizes the issues that were forwarded to the Code Reorganization Work Group (Work Group) during the drafting of the reorganized Community Development Code. The recommendations of the Work Group are included below the description of each issue in red lettering.

Three items that were originally forwarded to the Work Group were still pending at the time of the first work session with the City Council and Planning Commission to review the draft reorganized code on November 8, 2011. It was decided at that work session that the Planning Commission would provide direction on the three remaining items at the work session to be held with the Commission on November 14, 2011. The recommendations of the Planning Commission on these three issues are included below the description of the issues in red lettering.

1. **Non-Conforming Characteristics of Use [See LOC 50.01.006.7 in the Reorganized Code]:** The time period at the end of the paragraph, below, has expired. Is the deletion of the last sentence (shown in ~~strikeout~~, below) a substantive change?

NON-CONFORMING CHARACTERISTICS OF USE

Any matter regulated by this Code not directly related to a structure or type of use, that does not conform to the requirements of this Code may continue, but shall not be increased, enlarged, expanded or reconstructed. Any changes in such characteristics of use must not increase the nonconformity, but may take place to decrease the non-conformity. The rights granted by this section do not apply to the matters regulated by LOC 50.21.005 (vision clearance). ~~Any characteristics of use existing on December 16, 1982 which does not comply with LOC 50.21.005 must conform by December 16, 1983.~~

WORK GROUP RESPONSE: The deletion of the sentence shown in ~~strikeout~~, above, is not substantive.

2. **Base Zoning Districts, Residential Districts [See LOC 50.02.001.1.b in the Reorganized Code]:** There is no content (except names) in the descriptions of the low, medium and high density residential districts because once the uses and dimensions were moved out, there was nothing left. All other zones (commercial, industrial, special purpose) have purposes statements. Usually a modern code would include a purpose statement or intent statement. Is the addition of three purpose statements, below, substantive?

PROPOSED NEW PURPOSE STATEMENTS

Residential Low Density (R-15, R-10 and R-7.5): *To provide lands for single family residential development with densities ranging from two to five dwelling units per gross acre.*

Residential Medium Density (R-6, R-5 and R-DD): To provide lands for single- and multiple-family residential development with densities ranging from seven to eight dwelling units per gross acre.

High Density Zones (R-3, R-2, R-0 and R-W): To provide lands for single and multiple-family residential development with densities of at least 12 dwelling units per gross acre.

PLANNING COMMISSION RESPONSE: The proposed purpose statements are factual and as drafted, would not be considered a substantive change; however, the purpose statements should be rewritten to be aligned with the Comprehensive Plan. Insert the purpose statements as drafted above for now, and flag this section to be rewritten as part of Phase 2.

3. **Height of Structure in the PF Zone [See LOC 50.02.003.2.b.ii in the Reorganized Code]:** The method of calculating height in this section is written out, but it is difficult to read and understand. Would inserting the formula shown in underline, below, be substantive?

Height of Structure

Except as otherwise permitted by LOC 50.04.003.4, the maximum height of any portion of a structure shall be the greater of:

- (1) 35 ft., or
- (2) A height as determined by the ratio of one ft. in height for every three and one-half ft. of distance from the portion of the structure to the lot line of the nearest residentially zoned property, to a maximum height of 75 ft. [Height = Setback from Residential Zone/3.5].

WORK GROUP RESPONSE: The addition of the formula is not substantive.

4. **Commercial, Industrial and Marylhurst Land Use Policies.** The text refers the reader to the following Appendices, which are policy documents.
- LOC 50.11.005: Appendix E, Commercial Land Use Policies [Referenced in LOC 50.02.002.2.a.iv.(1): Each commercial area identified on the City’s Comprehensive Plan Map also is described in LOC 50.11.005: Appendix E. The specific conditions for each area, other than those identified in subsections c(i), c(ii), and c(iii), below, are by this reference made a part of this Code and are conditions and limitations of each zone].
 - LOC 50.11.006: Appendix F, Marylhurst Campus Institutional Area Policy [Referenced in LOC 50.02.003.1.c: The approved plan for the Marylhurst Campus Institutional Area is contained in LOC 50.11.006: Appendix F. The land use designations and conditions of that portion of the Plan are by this reference made a part of this Code and are conditions and limitations of the zone].
 - LOC 50.11.002: Appendix B., Industrial Land Use Policy Element [Referenced in LOC 50.02.002.2.b.iv.(1): The specific conditions for each area are by this reference made part of this Code and are conditions and limitations of each zone].

The consultant requested direction on how to incorporate the above-listed documents into the new Code. One option would be to differentiate the regulatory and the policy statements in each Appendix, then incorporate the regulatory statements into the new Code. Is this substantive? Another option would be to leave them as separate reference documents in appendices at the end of the Code.

WORK GROUP RESPONSE: Embed graphics from the appendices that are specifically referenced in the text of the Code and leave the remaining text in separate Appendices for now. As part of Phase 2 , identify the regulatory policies in the resulting appendices, move them into the code text, and delete remaining non-regulatory text.

5. **Downtown Redevelopment Design District and LOC 50.11.001 Appendix A, Lake Oswego Style – Building Design Elements [LOC 50.05.004 in the Reorganized Code].** This Appendix is referenced 14 times in LOC 50.05.004. While the Appendix includes a narrative of the origins and ideals of the Arts and Crafts Style in England and the contributions of certain architects and designs to the movement, etc., the Code references are to the “illustrations” in general or to specific graphics, never to the document in its entirety. The cited graphics have been embedded in Section 50.05.004, Downtown Redevelopment Design District; what is left behind are the illustrations of specific design styles and the descriptive text. Similar to the previous question, should the rest of this document, minus the maps and graphics that have been embedded into the text, be(1) incorporated into the Code, or (2) maintained as a separate reference document in an appendix at the end of the Code?

WORK GROUP RESPONSE: Embed graphics from the appendices that are specifically referenced in the text of the Code and leave the remaining text in separate Appendices for now. As part of Phase 2 , identify the relevant portions in the resulting appendices, move them into the code text, and delete remaining text.

6. **Street Front Setback Plane [LOC 50.06.001.2.b in the Reorganized Code]:** The Code contains development standards that are applicable to a number of zones (e.g., the Street Front Setback Plane and the Side Yard Setback Plane apply in the R-0, R-2, R-3, R-5, R-6, R-7.5, R-10 and R-15 zones). Rather than repeat the standard, the Reorganized Code places common development standards together under Residential Structure Design. However, the language on Street Front Setback Planes is not consistent throughout the Code as to how far up the Plane extends.

Existing text:

- *50.06.060(2) and 50.07.040(1) in existing code: “The profile of a structure that fronts on a street shall fit behind a plane that starts at the setback line (front yard or side yard abutting a street) and extends upward, to 20 feet in height, then slopes toward the center of the lot up to 28 feet in height at the highest point of the roof...”*

- 50.08.045(1) in *existing* code: “...slopes toward the center of the lot up to the maximum allowed height at the highest point of the roof...”

If the language were standardized, one code section could address it. The code section could refer to the table where maximum base heights are outlined. Staff suggests the Plane extend “up to the maximum base height of the zone” - because the peek-a-boo height exception allows a portion of the roof to extend up to 6 feet above the base height, the original sentence is internally inconsistent, i.e., 28 feet in height is not necessarily the highest point of the roof. Is standardizing the text substantive?

Proposed text:

The profile of a structure that fronts on a street shall fit behind a plane that starts at the setback line (front yard or side yard abutting a street) and extends upward to 20 feet in height, then slopes toward the center of the lot up to maximum base height of the zone, as illustrated below in Figure 50.06.001-A.

WG RESPONSE: This change is not substantive.

7. **Additional Setback Standards [LOC 50.04.001.2.e.i(2)(a) in the Reorganized Code]:** This section is hard to understand. Will amending the text for clarity as proposed, below in ~~strikeout~~ and underline, be a substantive change? (Also applies to 50.04.001.3.e.iii for R-0, R-2 and R-3).

Existing Text:

Where a lot zoned R-5 abuts a lot zoned R-6, 7.5, 10, or 15, the building shall be setback from the common line either not less than the required yard setback or a distance equal to the height of the primary building in the higher density zone, whichever is greater.

Proposed Text:

Where a lot zoned R-5 abuts a lot zoned R-6, 7.5, 10, or 15, the building on the R-5 lot shall be setback from the common line a distance equal to ~~either not less than~~ the required R-5 yard setback or ~~a distance equal to~~ the height of the primary building on the R-5 lot ~~in the higher density zone~~, whichever is greater. See Appendix 50.06.050-A.

WG RESPONSE: This change is not substantive.

8. **Front Porch Required in R-6 [LOC 50.06.001.3.b.i in the Reorganized Code] :** Staff suggests bringing the minimum depth of the porch forward in the text, as it is “stand alone” and does not have an either/or clause like the width (see proposed text in ~~strikeout~~ and underline, below). Is this substantive?

Existing Text:

All new dwellings shall include a covered front porch a minimum width of 50% of the building width at the front building line and six feet deep. Porch supports shall be provided and shall be wood or masonry or a solid material with the appearance of wood or masonry.

Proposed Text:

All new dwellings shall include a covered front porch a minimum depth of six feet and a minimum width of either 50% of the building width, as measured within 40 feet of the front lot line, or 15 feet, whichever is greater (See Figure 50.06.001-D) ~~and six feet deep~~. Porch supports shall be provided and shall be wood or masonry or a solid material with the appearance of wood or masonry.

WORK GROUP RESPONSE: The proposed text change is not substantive.

9. **Landmark Designation List [LOC 50.06.009.4.b in the Reorganized Code]:** The list of landmarks has been kept separately by the City Recorder, so that when a landmark is added or removed, the list can easily be updated. By Measure 56, all land use decisions must be adopted by ordinance. Shall the list be continued to be maintained by City Recorder or shall it be incorporated into the Code?

Existing Text:

Appendix A includes a list of properties and the field form, graphics page and statement of significance for each property. This is an abbreviated listing, which is not officially codified per LOC 58.02.025(2)(a). Documentation for each property may be obtained from the Planning Department.

WG RESPONSE: The Work Group generally wanted to defer to the City Attorney on this one, but first wanted to know how other jurisdictions dealt with additions to the Landmark List. A survey of nearby cities reveals an inconsistent approach: Portland, Eugene and Oregon City update their landmark lists administratively, and most others that were surveyed do not include the landmark lists in their Codes. The City Attorney advised that we can continue to amend the list administratively, as the *process* to add or remove landmarks is a land use decision and the Work Group concurred.

10. **Deletion of the term “resource buffer” in various code sections [see attached memo to the Code Reorganization Work Group, dated August 23, 2011, for affected code sections and their location in the Draft Code]:** The Sensitive Lands Article was amended in 2010 to replace the term “resource buffer” (also referred to as “buffer” and “buffer area”) with “protected riparian area.” The term was replaced or deleted in the Sensitive Lands Article, but is also referenced in some other articles in the code, which were inadvertently missed. Is the replacement (or deletion) of “resource buffer”, “buffer”, and “buffer area” with “protected riparian area” in

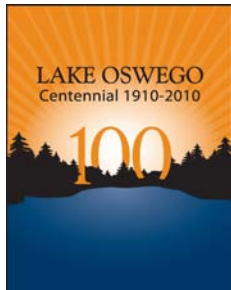
these other code sections a substantive change? Please see attached memo, dated August 23, 2011, for more information.

PLANNING COMMISSION RESPONSE: The proposed changes are not substantive. As a separate issue, the term “protected riparian area” needs to be clarified in the definitions that it is part of the RP district. This should be addressed in Phase 2.

- 11. Change the term “Dwelling, Multiple” to “Dwelling, Multi-family” [LOC 50.10.003.2 in the Reorganized Code]:** At the City Council hearing on October 4, 2011, for the proposed CDC amendments (Ord. 2525), it was suggested during the deliberations stage that the term "multiple dwelling" should be changed to "multi-family dwelling" as that is the more commonly understood term. Since it was too late to make that change as part of Ord. 2525, it was suggested that this might be changed as part of the Code Reorganization. The current definition would remain exactly as it is today, but the term “Dwelling, Multiple” would be replaced with the term “Dwelling, Multi-family” in the definition and in other parts of the code that “multiple dwelling” is referred to. Is this a substantive change?

PLANNING COMMISSION RESPONSE: The proposed change is not substantive.

ATTACHMENT: Memo to the Code Reorganization Work Group, dated August 23, 2011



MEMORANDUM

TO: Phase 1 Code Reorganization Work Group

FROM: Jessica Numanoglu, Senior Planner

SUBJECT: Feedback requested for proposed CDC edits

DATE: August 23, 2011

Background Information

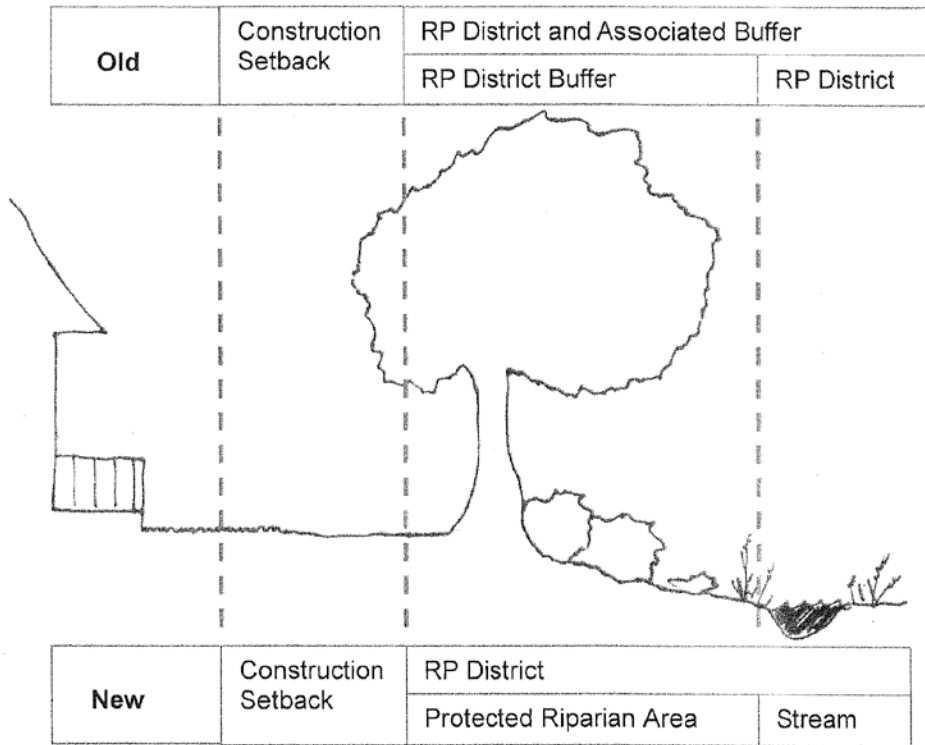
In December of 2010, City Council adopted Ordinance 2567 amending Sensitive Lands Article 50.16 to better define terms used in the Code and provide more flexibility to land owners. One of the amendments included the replacement of the term "resource buffer" with the term "protected riparian area" associated with RP district resources. The RP district includes both the delineated resource and the "protected riparian area." Below is an excerpt from the Council report explaining the change.

The full Council report and Ordinance 2567 are available at the following link:
<http://www.ci.oswego.or.us/calendar/councilmtgs/documents/121310packetpart1.pdf>.

Clarification of Terms

A second group of changes were proposed to clarify the terms "ditch," "resource buffer" and "construction setback." Proposed changes would incorporate the Division of State Lands definitions for "ditch" and incorporate the definition of "non-jurisdictional ditch" by reference.

The proposed Ordinance would also make a number of changes in the code to replace the term "resource buffer," with "protected riparian area," and consistently refer to the water resource and its riparian buffer together as the "RP District." This change is intended to simplify the terms and eliminate the "construction setback on the resource buffer on the RP district." A diagram illustrates the new and old terms applied.



To reinforce the change, a definition of “protected riparian area” would also be added to the definitions section of the development code.

Issue for consideration by the Work Group

During the Phase 1 Code Reorganization review, staff found that although the term “resource buffer” was replaced with “protected riparian area” in Article 50.16, the term was not changed in other articles of the Community Development Code (CDC) referencing RP districts. Staff believes that replacing the term “resource buffer” with “protected riparian area”, or deleting the term where it is not necessary, is not a substantive change; it is clear that the Ordinance intended to completely replace “resource buffer” with “protected riparian area” and that the term was unintentionally overlooked in other articles of the CDC. However, staff would appreciate hearing from the work group whether they concur with staff on this issue.

Below is a list of the code sections where the term “resource buffer” or “buffer” (referring specifically to RP districts) is found. I’ve copied and pasted affected sections of existing code language and used strikethrough and underline in red to show the proposed changes. Please advise whether the Work Group would consider these substantive changes that should be deferred to Phase 2 of the project or whether these corrections can be made as part of Phase 1.

Article 50.02.005 Definitions

~~Buffer Area (Resource)—An area adjacent to a designated RP District resource where development is limited in order to enhance resource functions and values by providing insulation from human disturbances and domestic animals.~~

Staff comment: Delete entire definition of “Buffer Area”. “Protected Riparian Area” was added to the definitions by Ordinance 2567 and replaces “buffer area (resource).”

In-kind Vegetation. *Vegetation similar to vegetation found in the impacted resource or ~~resource~~ ~~buffer-protected riparian area~~ in type and size.*

Tree Grove. *A stand of three or more trees (of the same species or a mixture) which form a visual and biological unit, including the area between the forest floor and the canopy, including skyline trees, and including any understory vegetation existing within the canopied area. A stand of trees must be at least 15 feet in height and must have a contiguous crown width of at least 120 feet to qualify as a tree grove.*

- a. *Associated Tree Grove.* *A tree grove that is contiguous with the boundaries of a designated stream corridor or wetland and contributes to the resource value of the riparian area by extending and operating in conjunction with the habitat of the riparian area and providing flood control and water quality enhancement. Such tree groves are located within the ~~buffer-protected riparian~~ areas of a wetland or stream corridor but may extend beyond the ~~buffer-protected riparian area~~.*
- b. *Isolated Tree Grove.* *A grove of trees that is not associated with a stream corridor or wetland as described in subsection (a) of this definition.*

Article 50.46 Park and Open Space

50.46.025 Procedures.

...4. *Lands shall be selected by the City for reservation as open space areas or parks in accordance with the following priorities:*

- a. *Delineated RP resources ~~and buffer area~~.*
- b. *RC District Protection Areas.*
- c. *Proposed Public Open Space and Parks including intra-city bike/pedestrian pathways.*
- d. *Woodlands, tree groves.*
- e. *Specimen trees.*
- f. *Natural meadows.*
- g. *Topographic variations, such as rock outcrops, cliffs, extreme slopes, riverbanks.*
- h. *Conveniently located areas where recreation opportunities can be created. Examples include trails, nature study sites, picnic areas, or view points.*
- i. *Scenic views and vistas.*
- j. *Others.*

Article 50.79 Types of Development and Review Criteria for Each Type of Development

50.79.010 Ministerial Development Classification.

2. Ministerial developments include:

...b. Construction or exterior modification of a detached single family dwelling, duplex, zero lot line dwelling or a structure accessory to such structures which:

...ii. Is not located within a delineated RP resource or ~~buffer area~~ protected riparian area or RC protection area pursuant to LOC Article 50.16.

...h. Construction or alteration of public transportation or utility facilities consistent with the Comprehensive Plan and land use regulations and is not located in a delineated RP Resource ~~or buffer~~ or RC protection area pursuant to LOC Article 50.16.

50.79.020 Minor Development Classification.

2. "Minor Development" includes:

...q. Construction of any public or private road, or major transportation or utility facility within a delineated RP District ~~or buffer~~ or RC protection area.