

STAFF REPORT

CITY OF LAKE OSWEGO

PLANNING AND BUILDING SERVICES DEPARTMENT

APPLICANT

City of Lake Oswego

FILE NO.

LU 17-0039

LOCATION

Downtown Redevelopment Design District

STAFF

Scot Siegel

DATE OF REPORT

July 13, 2017

PLANNING COMMISSION HEARING DATE

July 24, 2017

I. APPLICANT'S REQUEST

A request from the City of Lake Oswego for a text amendment to the Lake Oswego Community Development Code (CDC or code), clarifying and updating the design variance criteria for developments in the Downtown Redevelopment Design District (DRDD).

Ordinance 2754, 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)

Policies A-1.b, A-1.g, A-1.i, and A-3

Design Standards and Guidelines

Policies C-1.a and C-3

Community Culture Goal:

Civic Engagement

Policies 1

Inspiring Places and Spaces, Goal 1:

Policies 1.b, 2, and 7-9

B. Metro Urban Growth Management Functional Plan

Title 6: Centers, Corridors, Station Communities and Main Streets, Metro Code
Section 3.07.620

C. State Transportation Planning Rule

OAR 660-012-0060 Plan and Land Use Regulation Amendments

D. City of Lake Oswego Community Development Code

LOC 50.07.003.3.c.	Published Notice for Legislative Hearing
LOC 50.07.003.16a	Legislative Decisions Defined
LOC 50.07.003.16b	Criteria for Legislative Decision
LOC 50.07.003.16c	Required Notice to DLCD
LOC 50.07.003.16.d.iii	Planning Commission Recommendation Required
LOC 50.07.003.16.e	City Council Review and Decision

III. INTRODUCTION/BACKGROUND INFORMATION

A City Council priority for 2017 is to allow more architectural variety in the downtown while maintaining consistency with adopted plans. Although the Community Development Code affords design flexibility (through the variance procedure), the Council is interested in streamlining the code where it can while ensuring high quality design.

The Community Development Code requires that new construction and substantial building remodels in the DRDD comply with the requirements of the DRDD Overlay, which is a set of building and site design standards adopted in 1997 that implement 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 DRDD's Clear and Objective Housing Standards.

One of the DRDD Building Design 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

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.

designs may also draw on elements of more than one of the prescribed styles to comply with the standard.

Proposed Amendment

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

A unique building function might include, for example, construction of an auditorium or theater where compliance with minimum fenestration or other standards is impractical. The code would also allow exceptions (design variances) where necessary to implement sustainable building features; consistent with green building best practices², the proposal specifically identifies energy production (solar or wind), 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. For many building projects it should be possible to implement these features without 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 amendment (in ~~strikeout~~ and underline format with commentary) is contained in **Exhibit A-1, Attachment 2**. For additional background, please refer to the Public Review Draft dated June 16, 2017 (**Exhibit F-1**) and comments received on that draft (**Exhibit F-2**).

Analysis

On April 24, 2017, the Planning Commission conducted an initial work session on Lake Oswego Style where it received public input. The City Council followed with a study session on May 6. There is general consensus that since adoption of the DRDD 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. However, there is concern that the code presents barriers to innovative design and may discourage sustainability. There is also a sense that over time downtown buildings may become too similar in appearance, where certain architectural styles or design elements (e.g., gabled and hipped roofs) are repeated too often.

The existing code contains a design variance procedure for projects in the DRDD, and “Lake Oswego Style” is within the permitted scope of DRDD design variances; however, the application must either meet the General Design Variance Criteria, or it must be necessary to “create a

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.

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 DRDD, can be difficult to interpret and time consuming to apply, because they reference numerous code sections and plans which may or may not be applicable. Therefore, the proposed amendment focuses on clarifying these variance criteria, rather than revising or replacing the DRDD standards.

Other Options Considered But Dismissed

The proposal does not replace Lake Oswego Style, but instead clarifies the DRDD design variance criteria, because the current code already allows design variety within the Lake Oswego Style, and also affords latitude to grant variances to the Style (and other DRDD standards). Staff considered exempting certain sites or subareas of the downtown from Lake Oswego Style, but determined that could have unintended consequences and would be unfair to some property owners. 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. Finally, the staff considered amending the DRDD standards to incorporate the above described exceptions; however, that would make the code more complex, contrary to the City Council direction to streamline the regulations. In addition, it is not possible to anticipate every application of sustainable building technology, which is constantly evolving, and different applications could require adjusting different DRDD standards, which could have unintended consequences.

Conclusion

As discussed above, the City Council is interested in allowing more architectural variety in the downtown. The Council also wants the development review process to be as efficient as possible and not impose undue costs on applicants. Therefore, the proposed amendment clarifies the design variance criteria for buildings in the DRDD, with a focus on high quality design, sustainability, and consistency with adopted downtown plans.

IV. NOTICE OF APPLICATION

A. Newspaper Notice

On July 13, 2017 public notice of the amendment and Planning Commission public hearing will be published in the *Lake Oswego Review*.

B. ORS 227.186 (Measure 56) Notice

As the proposed text amendment does not limit permitted uses, no notice of the proposal was required by ORS 227.186 (Measure 56) to owners of property in the affected zone.

C. DLCD Notice

Pursuant to LOC 50.07.003.16.c and ORS 197.610, staff provided required notice of the proposed CDC text amendment to the Oregon Department of Land Conservation and Development (DLCD) not less than 35 days prior to the hearing.

D. Metro Notice

Pursuant to Metro Code 3.07.810 and .820, staff provided notice of the proposed CDC text amendment to Metro not less than 35 days prior to the hearing.

V. COMPLIANCE WITH APPROVAL CRITERIA

A. City of Lake Oswego Comprehensive Plan

Land Use Planning Goal Policies:

Development (Community Development Code)

A-1. Maintain land use regulations and standards to:

b. Promote compatibility between development and existing and desired neighborhood character;

g. Promote architectural and site design quality;

i. Enhance opportunities for mixed use development in Employment Centers, Town Centers, Commercial Corners, and appropriately zoned areas within Neighborhood Villages.

A-3. Ensure high-quality building and site design through the application of clear and objective standards for residential development, and design review; utilize the development review process for commercial, industrial, and institutional development to ensure high-quality building and site design and overall appearance.

Response: The proposed amendment maintains and clarifies the existing design variance criteria, the purpose of which is “to allow adjustments of certain standards where the resulting design would be superior to development in the surrounding neighborhood or would better achieve the purpose/objectives of the applicable zone or design district and design standards...” The design variance process indirectly supports opportunities for mixed use development because this type of development often requires design flexibility. Finally, the proposed amendment does not modify the city’s clear and objective standards for residential development, but clarifies an optional, discretionary track for development review

approval, which in some circumstances applicants may prefer over clear and objective standards.

These criteria are met.

Design Standards and Guidelines

C-1. Enact and maintain regulations and standards which require:

- a. New development to enhance the existing built environment in terms of size, scale, bulk, color, materials and architectural design;*

C-3. Ensure through development and design standards that both public and private developments enhance the aesthetic quality of the community.

Response: The proposed amendment requires that DRDD design variances result in projects that are “exceptional in the quality of detailing, appearance and materials”, and create “a positive unique relationship to other nearby structures, views or open space, and streetscapes.” By exceeding minimum code requirements, resulting projects will “enhance” the existing built environment and aesthetic quality of the community.

These criteria are met.

Community Culture Chapter/ Civic Engagement Policies:

- 1. 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.*

Response: The amendments are being reviewed in a public hearing before the Planning Commission, and a public hearing will also be held before the City Council. Notice of both hearings have or will be mailed to neighborhood and business associations and other affected organizations. Prior to the public hearings, the City held a work session with the Planning Commission on April 22, where it received public comments on the scope of the proposed amendment. The City also published a Public Review Draft (PRD) of the proposal, notifying all recognized neighborhood associations, the Chamber of Commerce, members of the Development Review Commission, and the developers and design professionals who participated in the April 22 work session. The PRD and comments received on it are contained in Exhibits F-1 and F-2.

This criterion is met.

Inspiring Places and Spaces Chapter, Goal 1 Policies:

1. *Adopt implementation measures and guidelines that ensure:*

 - b. *New development in mixed-use, commercial and employment areas:*
 - i. *Promotes a safe and attractive pedestrian environment;*
 - ii. *Reflects high-quality aesthetics, considering size, scale and bulk, color, materials, architectural style and detailing, and landscaping; and*
 - iii. *Includes buffering and screening to protect residential uses and neighborhoods.*
2. *Adopt and maintain design standards and provide incentives that encourage exceptional or high quality design.*
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.*
8. *Protect Lake Oswego’s village aesthetic by adopting and maintaining implementation measures and guidelines that preserve the residential character of ... neighborhoods, safeguard places of historical significance...and encourage urban form that results in pedestrian-friendly retail districts in existing commercial areas, including buildings oriented to the street and active ground-floor uses.*
9. *Preserve the visual attractiveness of the community by limiting adverse visual impacts to the City’s public spaces and streetscape.*

Response: The proposed amendment addresses the City Council’s desire to see more architectural variety in the DRDD while maintaining village character. The amendment ensures that projects approved with design variances are “exceptional in the quality of detailing, appearance and materials”, and create “a positive unique relationship to other nearby structures, views or open space, and streetscapes.” Such positive relationships would include but are not limited to pedestrian safety, high-quality aesthetics (considering size, scale and bulk, color, materials, architectural style and detailing, and landscaping), and buffering and screening to protect residential uses and neighborhoods. By exceeding minimum code requirements, resulting projects will preserve Lake Oswego’s visual attractiveness while allowing for changes over time that enhance the existing built environment and aesthetic quality of the community.

These criteria are met.

B. Metro Urban Growth Management Functional Plan

Title 6: Centers, Corridors, Station Communities and Main Streets, Metro Code Section 3.07.620

Response: The DRDD is within the Lake Oswego Town Center, as designated by Metro. For cities to receive transportation funding for projects within town centers, Metro Code requires that they have an action plan for implementing mixed use development and multimodal transportation within the subject area. The proposed amendment is consistent with the purpose of Title 6; the design variance process indirectly supports opportunities for mixed use development because this type of development often requires design flexibility.

This criterion is met.

C. State Transportation Planning Rule

The City of Lake Oswego is required to comply with the State's Transportation Planning Rule (TPR) [OAR 660-012-0060]. The purpose of the transportation planning rule is to provide and encourage a safe, convenient and economic transportation system; to coordinate a land use and transportation system that supports a pattern of travel and land use in urban areas that will avoid air pollution, and traffic and livability problems; ensure a mix of transportation facilities and services to ensure economic, environmentally sound, and accessibility for all Oregonians; and to ensure coordination among levels of government and transit providers.

If an amendment to land use regulation would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of the TPR, unless the amendment is allowed under section (3), (9) or (10) of the TPR. A land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

Response: No changes to the functional classification of an existing or planned transportation facility are proposed.

- (b) Change standards implementing a functional classification system; or

Response: No changes to standards implementing a functional classification of an existing or planned transportation facility are proposed. (Functional classifications are not subject to modification through a variance.)

- (c) Result in any of the effects listed in paragraphs (A) through (C), below, based on projected conditions measured at the end of the planning period identified in the adopted TSP [Transportation System Plan]. As part of evaluating projected conditions, the amount of traffic projected to be

generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

Response: The proposed amendment does not result in any of the listed effects.

These criteria are met.

D. Lake Oswego Community Development Code (CDC) Procedural Requirements

LOC 50.07.003.3.c.	Published Notice for Legislative Hearing
LOC 50.07.003.16a	Legislative Decisions Defined
LOC 50.07.003.16b	Criteria for Legislative Decision
LOC 50.07.003.16c	Required Notice to DLCD
LOC 50.07.003.16.d.iii	Planning Commission Recommendation Required
LOC 50.07.003.16.e	City Council Review and Decision

Response: The Community Development Code 50.07.003.16.a defines “legislative decisions” to include amendments to Comprehensive Plan policies. Public hearings by the Planning Commission for recommendations to the City Council for “legislative decisions” are required to have at least ten days prior published notice, per LOC 50.07.003.16.d.iii and 50.07.003.3.c. Notice is defined as being published in a newspaper of general circulation in the City of Lake Oswego at least ten days in advance of the hearing, and mailed at least ten days in advance to the Commission for Citizen Involvement and to all recognized neighborhood associations. The notice shall include:

- i. The time, date, and place of the public hearing;
- ii. A brief description of the proposed legislative amendment; and
- iii. A phone number for obtaining additional information.

Notice of the public hearing was posted at City Hall, the Adult Community Center, and the Library on July 13, 2017. The hearing notice will be published in the Lake Oswego Review newspaper on July 13, 2017. Legislative notice was mailed per LOC requirements on July 12, 2017.

The criteria for a legislative decision are addressed in Sections A-D, above. The City notified DLCD and Metro of the proposed action 35 days before the initial evidentiary hearings.

The CDC requirements for the proposed legislative decision, including public notice requirements for the public hearing, are met.

VI. CONCLUSION/RECOMMENDATION

The proposed amendment is 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 recommend adoption of the Code amendment stated in Exhibit A-1 by City Council.

EXHIBITS

A. Draft Ordinances

A-1 Draft Ordinance 2754, dated 07/13/17

Attachment 1:

- City Council Findings and Conclusions (Not yet available)

Attachment 2:

- Proposed Draft Code Amendments with track-changes and commentary (for reference only), 07/12/17

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

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>

