



**STAFF REPORT AND RECOMMENDATION**

**FILE NO.:** Legislative File: L 16-02 – Adoption of Type I Site Plan Review Process

**HEARING DATES:** Planning Commission  
Monday, July 27, 2016  
7:00 p.m., City Hall - Commission Chambers  
625 Center Street, Oregon City, OR 97045

City Commission  
Wednesday, July 20th, 2016  
7:00 p.m., City Hall - Commission Chambers  
625 Center Street, Oregon City, OR 97045

**APPLICANT:** Oregon City Community Development Department  
Laura Terway, AICP, Planning Manager  
625 Center Street, Oregon City, Oregon 97045

**REVIEWER:** Kelly Reid, AICP, Assistant Planner  
Laura Terway, ACIP, Interim Planning Manager

**REQUEST:** Amendments to Oregon City Municipal Code Chapter 17.62, Site Plan and Design Review, and 17.50, Administration and Procedures, to amend the review process for certain types of development applications.

**LOCATION:** City-wide.

**RECOMMENDATION:** Staff recommends approval of the proposed amendments to OCMC 17.62 and 17.50.

*Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the planning commission.*

*The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable. Once the planning commission hearing has been scheduled and noticed in accordance with Section 17.50.090(C) and any other applicable laws, the community development director shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing. At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative proposals. If the planning commission recommends adoption of some form of the proposal, the planning commission shall prepare and forward to the city commission a report and recommendation to that effect.*

*Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city*

*commission decision shall be enacted as an ordinance. Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).*

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT THE PLANNING DIVISION OFFICE AT (503) 657-0891.

### **Proposed Amendment**

The proposal is to amend the site plan and design review chapter of the municipal code (Chapter 17.62) to allow a streamlined review process for projects of a smaller scope. The amendments allow some types of minor site plan applications to be reviewed as a Type I process, which involves no discretion.

Site Plan and Design Review is required for exterior alterations to commercial, office, multi-family, and industrial properties to verify compliance with applicable standards in the Oregon City Municipal Code. The Planning Department has four levels at which development is reviewed; Type I, Type II, Type III, and Type IV, and at each level the amount of discretion escalates and decision-making authority changes. The Planning Department utilizes a minor site plan and design review process to review smaller commercial projects, such as building additions, storefront changes, or parking lot changes. The minor site plan and design review process is a Type II process that includes a minimum 14-day public comment period and a written staff report and notice of decision, usually taking six to twelve weeks. The notice allows public input on discretionary criteria in which the proposal is being reviewed.

The code requires site plan and design review for any new non single or two family development or development within commercial, industrial, or institutional zoning designations, which can include improvements as small as adding a window or door to a building façade, changing building materials, or a small addition on a commercial property. The level of review is the same for the addition of a new entrance door on a retail building as it would be for a new office or condominium complex. Over the past several years, projects have been reviewed at the minor site plan level which do not have discretion in the decision making process, such as:

- Addition of a transparent roll up garage door to a building on Main Street;
- Addition of 93 square feet of storage space to a gas station building at Main and 14<sup>th</sup>; and
- Storefront changes and new exterior lighting at the office building at 615 High Street,

Both staff and the development community have identified an opportunity for a more efficient review process for smaller projects that do not involve discretionary criteria. Examples include projects such as the installation of new windows and doors, changes to building materials, changes to landscaping, minor parking lot modifications, or small additions. The Planning Department has drafted code amendments that will simplify the review process and reduce the review time needed for review of these smaller development projects, which do not include any discretionary criteria. The proposed amendments contain a list of improvements that may be reviewed under a Type I process.

The amendments contain a list of projects that can be reviewed through a Type I process, along with the application materials needed. In order to maintain public notice processes and the public's ability to comment on Site Plan and Design Review applications that have greater impacts to the surrounding properties, the following types of projects are NOT proposed to be reviewed as Type I and will remain at the Type II or above level:

- Projects which that involve any discretionary criteria;
- Projects within the Natural Resource, Historic, or Geologic Hazard overlay that require Type II or higher review;
- Projects that involve conditional uses;
- Projects that involve existing legal nonconforming uses;
- Projects that trigger stormwater management requirements;
- Projects that request design modifications;

- Projects that require nonconforming upgrades; and
- Changes in use (for example, a single family home becoming a retail or office building)

The amendments also outline the application requirements for the Type I process. In addition to the code amendments, staff has prepared a Type I application packet to meet these new requirements. Customers will fill out the Type I application packet instead of preparing a traditional land use application package.

### **Planning Process and Public Involvement**

The City's consideration of this amendment update included public involvement through work sessions with the Planning Commission, the Citizen Involvement Committee, the Community Development Department Stakeholders Group, and a focus group of local business representatives. The legislative decision making process includes a project website, public hearings process, and newspaper and email noticing.

### **Public Notice**

Notice of the first evidentiary Planning Commission and City Commission public hearings for the proposal was published in the Clackamas Review on June 1, 2016.

In accordance with ORS 197.610 and OAR 660-018-000, a Post Acknowledgement Plan Amendment notice will be provided to the Oregon Department of Land Conservation and Development within 20 days of the City's final decision.

Copies of the applicable notices are provided in the Exhibits.

### **Public Comment**

Public comments provided throughout the planning process have been incorporated by Planning Staff into the document as needed.

Planning staff has received one public comment from William Gifford of the Hillendale Neighborhood Association that endorsed the proposed changes. The full email can be found in Exhibit 1.

No other public comments were received.

### **DECISION-MAKING CRITERIA:**

#### *Chapter 17.68 - ZONING CHANGES AND AMENDMENTS*

##### *17.68.010 - Initiation of the amendment.*

*A text amendment to this title or the comprehensive plan, or an amendment to the zoning map or the comprehensive plan map, may be initiated by:*

- A. A resolution request by the city commission;*
- B. An official proposal by the planning commission;*
- C. An application to the planning division presented on forms and accompanied by information prescribed by the planning commission.*
- D. A Legislative request by the Planning Division.*

*All requests for amendment or change in this title shall be referred to the planning commission.*

**Finding:** The text amendment has been initiated as a Legislative request by the Planning Division.

##### *17.68.020 - Criteria.*

*The criteria for a zone change are set forth as follows:*

- A. The proposal shall be consistent with the goals and policies of the comprehensive plan.*

**Finding: Complies as Proposed.** The proposal amends section 17.62 and Table 17.50.030 of the municipal code to modify the land use review process for certain types of projects. Affected properties include all commercial, multifamily, industrial, or institutionally zoned properties that apply for minor site plan and design review. The Comprehensive Plan addresses design review within the Land Use Chapter, stating:

“Design Review. Site plan and design review provisions are intended to promote design integrity and neighborhood livability. New design guidelines were added to the zoning ordinance in 2001. It is expected that the guidelines will continue to be refined to strike the right balance of predictability for developers and neighborhood protection and livability. The City hopes to develop a design overlay for the Downtown.”

This proposal is consistent with the comprehensive plan’s forethought that the guidelines would be refined over time to strike a balance between predictability for developers and neighborhood protection and livability. The proposed amendments do not change any standards, they only change the process in which the planning staff reviews proposed developments against those standards.

The Type I review process involves decisions that require no exercise of discretion and these applications are reviewed at the staff level.

Chapter 17.50 of the Oregon City Municipal code states:

“Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision making process requires no notice to any party other than the applicant. The community development director’s decision is final and not appealable by any party through the normal city land use process.”

These decisions involve application of the existing development code’s clear and objective criteria. Examples of development that are processed under the Type I review process include new single family homes or duplexes, lot line adjustments, and sign permits. In most instances, planning approval takes place over the counter upon submittal of an application. However, planning staff may take about a week to review Type I applications that require further review of materials or apply code standards.

The development standards that apply to small improvements such as new windows, façade changes, and fencing are clear and objective and involve no discretionary decision making by staff. Further, the most common projects proposed for review under the minor site plan process are similar to projects that are already reviewed at a Type I level.

The proposed code amendments will simplify and reduce the review time needed for small development projects. The proposed amendments contain a list of types of improvements that would be reviewed under a Type I process. The adoption of this new process could also encourage site improvements by removing barriers to development.

With the proposed changes, costs for small development projects will be reduced, property owners will be able to obtain permits in a more timely manner, and the efficiency of the Planning Division will improve. The Planning Division estimates that at least half of all minor site plan projects would fall within the Type I category.

For all of these reasons, the proposed amendments meet the Comprehensive Plan’s intention to update site plan and design review guidelines and processes as envisioned by the City when the Comprehensive Plan was acknowledged.

The amendment also complies with the following applicable goals and policies of the Comprehensive Plan:

*Goal 1.2 Community and Comprehensive Planning*

*Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.*

*Policy 1.2.1*

*Encourage citizens to participate in appropriate government functions and land-use planning.*

**Finding: Complies as Proposed.** The proposal amends section 17.62 and Table 17.50.030 of the municipal code to allow non-discretionary decisions to be made by staff. These changes would not affect the public's ability to comment and participate in discretionary decisions for Type II, III, and IV processes.

*Goal 1.4 Community Involvement*

*Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.*

*Policy 1.4.1*

*Notify citizens about community involvement opportunities when they occur.*

**Finding: Complies as Proposed.** The proposed changes would not affect the public's ability to comment and participate in discretionary decisions for Type II, III, and IV processes. In order to maintain public notice processes and the public's ability to comment on Site Plan and Design Review applications that have greater impacts to the surrounding properties, the following types of projects are NOT proposed to be reviewed as Type I and will remain at the Type II or above level:

- Projects which that involve any discretionary criteria;
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- Projects that involve conditional uses;
- Projects that involve existing legal nonconforming uses;
- Projects that trigger stormwater management requirements;
- Projects that request design modifications;
- Projects that require nonconforming upgrades; and
- Changes in use (for example, a single family home becoming a retail or office building)

*B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.*

**Finding: Not applicable.** No development or zone change is proposed.

*C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.*

**Finding: Not applicable.** No development or zone change is proposed.

*D. Statewide planning goals shall be addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.*

**Finding:** The acknowledged Comprehensive Plan contains specific provisions regarding design review, thus, the Statewide Planning Goals do not need to be addressed.

*17.68.025 - Zoning changes for land annexed into the city.*

**Finding: Not Applicable.** No zone change for annexed land is proposed.

*17.68.030 - Public hearing.*

*A public hearing shall be held pursuant to standards set forth in Chapter 17.50.*

*A. Quasi-judicial reviews shall be subject to the requirements in Chapter 17.50.*

B. *Legislative reviews shall be subject to the requirements in Chapter 17.50.*

**Finding: Complies.** Public hearings are scheduled as required by Chapter 17.50.

*17.68.040 - Approval by the commission.*

*If the planning commission approves such request or application for an amendment, or change, it shall forward its findings and recommendation to the city commission for action thereon by that body.*

**Finding: Complies.** The Planning Commission will forward recommendations and findings to the City Commission.

*17.68.050 - Conditions.*

*In granting a change in zoning classification to any property, the commission may attach such conditions and requirements to the zone change as the commission deems necessary in the public interest, in the nature of, but not limited to those listed in Section 17.56.010:*

A. *Such conditions and restrictions shall thereafter apply to the zone change;*

B. *Where such conditions are attached, no zone change shall become effective until the written acceptance of the terms of the zone change ordinance as per Chapter 17.50.*

**Finding: Not Applicable.** No zone change is proposed.

*17.68.060 - Filing of an Application.*

*Applications for amendment, or change in this title shall be filed with the planning division on forms available at the planning division office. At the time of filing an application, the applicant shall pay the sum listed in the community development department fee schedule.*

**Finding: Complies as Proposed.** The Planning Division initiated this legislative amendment.

## **RECOMMENDATION**

The Planning Commission may recommend that the City Commission adopt the proposed amendments to Chapter 17.62 and table 17.50.030 of the municipal code finding that they are consistent with the City's Comprehensive Plan.

Staff recommends approval of the proposed amendments to OCMC 17.62 and 17.50 (Exhibit 2) to the City Commission.

## **EXHIBITS**

1. Public Comment
2. Proposed Amendments to the Oregon City Municipal Code