

February 27, 2019

Mayor Dan Holladay &  
City Commissioners  
625 Center Street  
Oregon City, OR 97045

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RE: Proposed Development Code Amendments

Dear Mayor Holladay and City Commissioners:

I am writing to again express concerns regarding issues relating to some of the provisions contained in the chapters of the Oregon City Municipal Code that are presently under review:

- Chapter 16.08.065 (currently 070) – Lot size reduction.  
It was our understanding the Commission in previous conversations had decided to retain the lot size averaging provisions of the existing code. Lot size averaging is an essential tool to allow for physical features of development sites such as topographic constraints or existing homes being located in areas that prevent achieving densities consistent with the underlying zoning. I would suggest striking the new language and leaving the current code requirements relating to lot averaging as-is.
- Chapter 14.04.060 – Annexation factors: This section has been revised to add another factor for consideration in annexation proposals. Factor #8 as written:  
*“Whether significant site grading or tree removal (greater than fifty percent of the “forest canopy”), excluding farm or forest practices as defined under ORS 30.930, has occurred on the property since the date when the annexation application was filed with the City.”* This provision impacts a property owner’s rights by restricting what he/she can do with their property while outside Oregon City’s jurisdiction. If adopted, this factor penalizes a property owner by threatening denial of an annexation for making decisions that are legal under Clackamas County’s jurisdiction and thus within the property owner’s discretion. I would request that this factor NOT be adopted.

Chapter 17.41.060 - Tree removal and replanting—Mitigation (Option 1): We are concerned about the language that is being added that states, “Tree inventories for the purposes of mitigation calculations may be prepared by a licensed surveyor.” As written, it is unclear whether this simply applies to the inventorying of trees (meaning a surveyor may locate and identify the size and species of trees) or whether it also relates to the actual mitigation calculations. Mitigation planting plans are not created or drafted by a land surveyor. Land use planners or civil engineers prepare these plans at the onset of a project and during preliminary planning and application submittals.

I would request changing the proposed code to read: *“Tree inventories identifying location, size and type of trees for the purposes of mitigation calculations may be prepared by a licensed surveyor. A civil engineer or land use planner” may prepare the mitigation calculations and plan.”*

- Chapter 17.41.060-1 – Tree Replacement Requirement Table: The current mitigation table is extremely skewed and confusing with respect to determining “construction areas” vs. “non-construction areas.” The replacement mitigation count for removing (1) 31” tree is (15) replacement trees. That’s an extremely high 1:15 ratio. I would propose keeping the tree

replacement tables consistent with ALL tree removal requirements (street trees, mitigation trees, etc.). Use one table, with the same mitigation counts, that can be used in all scenarios:

*Less than 6" caliper of tree being removed = 1 tree to be replaced*

*6" to 30" caliper of tree being removed = 2 trees to be replaced*

*30" and over caliper of tree being removed = 3 trees to be replaced*

- Chapter 12.08.015 - Street tree selection, planting and maintenance requirements:

Often times on constrained sites, with those sites being most suited to meet the goals of equitable housing, the total required street tree count can't be met. These sites simply can't hold the total required number of trees when following the city spacing/planting guidelines. Current code requires an in-lieu-of payment for those trees that can't fit within a site per the spacing requirements. If a development is maximized with street trees per the guidelines, and falls short of the maximum count required, there should be no further action or fees due to the developer. As long as the spacing requirements are met, and the site is planted to its fullest capacity within the planting guidelines, that should be that. I would propose adding the following language to the code as written:

*"If site or other constraints prevent meeting the required total number of tree plantings, no further tree plantings or fees shall be required".*

- Chapter 12.08.035 – Tree Removal and Replacement – TREE MITIGATION TABLE

The tree mitigation replacement requirements for both street trees and mitigation trees are extremely high. The proposed code reflects a table utilized to determine mitigation counts, and gets very skewed as trees to be removed increase in diameter. Currently the code requires (8) replacement trees for every removed tree that is at/over 31" in caliper. These counts become astronomical. For example, one building lot that has (5) 32" trees within the building envelope will require (40) mitigation trees under current code. An 8:1 ratio is massive. I would request reducing the mitigation counts in BOTH street tree and mitigation replacement tables to:

*Less than 6" caliper of tree being removed = 1 tree to be replaced*

*6" to 30" caliper of tree being removed = 2 trees to be replaced*

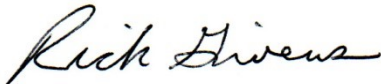
*30" and over caliper of tree being removed = 3 trees to be replaced*

- Chapter 16.08.025 - Preliminary subdivision plat—Required plans information.

This code section requires a surveyor prepare the preliminary plats. This is not industry standard. Land Use Planners prepare these with the application. FINAL PLATS are prepared by surveyors, not preliminary plan submittals. I would request the insertion of *"land use planner"* as an allowable professional to prepare preliminary plats at application stage.

Thank you for consideration of my testimony on these matters.

Sincerely yours,



Rick Givens