



STAFF REPORT AND RECOMMENDATION

July 29, 2019

FILE NO.: GLUA-19-00022

APPLICATION TYPE: Legislative

HEARING DATE: City Commission
7:00 p.m., August 7, 2019
Commission Chambers, 625 Center St, Oregon City, OR 97045

APPLICANT: Oregon City Community Development Department

REQUEST: Proposed amendments to the Oregon City Municipal Code: Historic Overlay in Chapter 17.40

LOCATION: City-Wide

REVIEWER: Kelly Reid, AICP, Planner

RECOMMENDATION: Staff recommends approval of this application based on the satisfaction of all required criteria for a Legislative action.

PROCESS: OCMC 17.50.170.

- A. *Purpose. 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.*
- B. *Planning Commission Review.*
 - 1. *Hearing Required. 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.*
 - 2. *The community development director's Report. 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.*
 - 3. *Planning Commission Recommendation. 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.*
- C. *City Commission Review.*

1. *City Commission Action. 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.*
2. *Notice of Final Decision. 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 KELLY REID IN THE PLANNING DIVISION OFFICE AT 503-722-3789.

I. PROPOSAL

The proposal is for an amendment to the Oregon City Municipal Code. OCMC Chapter 17.40, Historic Overlay, contains processes and procedures for Historic Review. Section 17.40.060 contains procedures and criteria for exterior alterations to historic properties. There are two conflicting subsections identifying the review process for work that meets the Historic Review Board (HRB) policies, 17.40.060.D, which calls for administrative (staff) review, and 17.40.060.K, which contains provisions for public notice and a public hearing if requested by anyone receiving the notice. This code amendment removes the notice and hearing provisions by striking section 17.40.060.K, and clarifies the language in the remaining subsection.

No criteria is proposed to change; this amendment only addresses the procedures for adoption of HRB policies and for review of work that meets the HRB policies.

HRB Policies were first established in 1986 to allow property owners to receive approval of minor alterations to historic resources from staff without a public hearing by the Historic Review Board or associated fee. The policies are meant to provide clear non-discretionary direction to historic property owners on exterior changes including but not limited to roofing, siding, windows and doors, foundations, fences, porches, gutters, and accessory structures.

The proposed code amendment includes the following:

1. Work that meets the HRB policies would be reviewed administratively (by staff) rather than by the Historic Review Board at a hearing.
2. Removal of references to specific HRB policies and rather references them generally.
3. Relocation of provisions that the Historic Review Board may adopt new or revised policies with public notice and with comment from the Planning Commission and City Commission.

It is important to note that either staff or the applicant may refer a proposal to the Historic Review Board if it does not meet the HRB policies. The Historic Review Board has the discretion to determine whether the proposal meets the design guidelines for alterations. HRB decisions are appealable to the City Commission and then to LUBA.

The proposed amendments are attached as Exhibit 1.

II. PUBLIC NOTICE AND COMMENTS

Public Notice was provided 20 days prior to the first evidentiary hearing via email to affected agencies, neighborhood associations and Oregon City boards and committees, and published. Notice of the proposed amendment was provided to a variety of groups and government agencies including, Metro and the Department of the Land Conservation and Development. The Planning Division held a meeting with the Citizen Involvement Committee on July 1, 2019, and a Work Session with the Planning Commission on June 24, 2019, and a Work Session on June 11, 2019 with the City Commission to discuss the proposed changes.

The City received a public comment regarding the proposal and heard public testimony throughout the hearing process. The comment did not include support or opposition to the proposed amendment, but rather addressed the content of the HRB policies and the City's enforcement of those policies.

Comments submitted are attached as Exhibit 2 and addressed in this staff report where applicable.

III. DECISION-MAKING CRITERIA:

OREGON CITY MUNICIPAL CODE (OCMC)

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 by the 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.

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

Finding: This request is for text amendments to the Oregon City Municipal Code and was initiated by the Planning Division on behalf of a request by the City Commission.

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. Statewide Planning Goals are also shown to indicate how the Oregon City Comprehensive Plan (OCCP) Goals and Policies implement the applicable Statewide Planning Goal.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 1 – CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

OCCP Goal 1.1 Citizen Involvement Program

Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decision making process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.

OCCP Policy 1.1.1

Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

OCCP 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.

OCCP Policy 1.2.1

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

OCCP Policy 1.2.1

Encourage development and refinement of CIC and neighborhood association bylaws that will govern the groups' formation and operations.

OCCP Goal 1.3 Community Education

Provide education for individuals, groups, and communities to ensure effective participation in decision-making processes that affect the livability of neighborhoods.

OCCP Goal 1.4 Community Involvement

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

OCCP Policy 1.4.1

Notify citizens about community involvement opportunities when they occur.

Finding: Complies as Proposed. Public Notice was provided 20 days prior to the first evidentiary hearing via email to affected agencies, neighborhood associations and Oregon City boards and committees, and published. Notice of the proposed amendment was provided to a variety of groups and government agencies including, Metro and the Department of the Land Conservation and Development. The Planning Division held a meeting with the Citizen Involvement Committee on July 1, 2019, and a Work Session with the Planning Commission on June 24, 2019, and a Work Session on June 11, 2019 with the City Commission to discuss the proposed changes.

The proposed code amendments clarify that the process is a staff level review, and include the removal of provisions for public notice and an opportunity for a public hearing in 17.490.060.K. The HRB policies, however, are not discretionary, instead they are clear and objective. The code that provides for notice and potential public hearings gives property owners and neighbors a false sense of influence and involvement, when in actuality there is no discretion involved in the decision. The HRB policies themselves have been adopted and updated through public processes with robust community engagement. The community engagement with respect to HRB policies is through the writing of the policies themselves, rather than the application and enforcement of the policies once adopted.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 2 – LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Complies as Proposed. The proposed code amendments include clarifications that give applicants more certainty and clarity about city processes. That certainty provides confidence for applicants to understand if their development or redevelopment plans comply with the standards in the Oregon City Municipal Code.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 3: AGRICULTURAL LANDS

Finding: Complies as Proposed. The proposed amendments would not preclude the use of agricultural lands.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 4: FOREST LANDS

Finding: Complies as Proposed. The proposed amendments would not preclude the use of forest lands.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

Statewide Planning Goal 5 requires that open spaces and natural, scenic, and historic resources be protected.

OCCP Goal 5.3 Historic Resources

Encourage the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.

Policy 5.3.7

Encourage property owners to preserve historic structures in a state as close to their original construction as possible while allowing the structure to be used in an economically viable manner.

Finding: Complies as Proposed.

The proposed amendments would not preclude the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City. The amendments do not impact the status of the Canemah National Register District or the McLoughlin Conservation District. No changes to review criteria or design guidelines are proposed as part of this amendment. The amendments simply clarify the process for HRB policies, which allow property owners to use their properties in an economically viable manner while also ensuring the structures retain their historic character. The HRB policies offer a more streamlined process without review fees, which better encourages property owners to preserve their historic structures.

Goal 5.4 Natural Resources

Identify and seek strategies to conserve and restore Oregon City's natural resources, including air, surface and subsurface water, geologic features, soils, vegetation, and fish and wildlife, in order to sustain quality of life for current and future citizens and visitors, and the long-term viability of the ecological systems.

Finding: Complies as Proposed. The proposed amendments do not affect natural resources.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 6: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Finding: Complies as Proposed. The overlay districts, such as the Natural Resource Overlay District, Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

OCCP Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards

Finding: Complies as Proposed. The proposed amendments will not affect natural hazards overlay districts. The overlay districts, such as the Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Finding: Complies as Proposed. The proposed amendments do not impact parks and recreation.

COMPREHENSIVE PLAN / STATEWIDE GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

OCCP Policy 9.2.1

Seek input from local businesses when making decisions that will have a significant economic impact on them.

Finding: Complies as Proposed. The City did not specifically seek comment from local businesses; the proposal is simply a code clean up regarding administrative processes.

OCCP Policy 9.2.2

Carefully consider the economic impacts of proposed programs and regulations in the process of implementing the City's Comprehensive Plan.

Finding: Complies as Proposed. The proposal includes clarifications that will provide greater levels of certainty for developers of property.

OCCP Policy 9.2.3

Simplify, streamline, and continuously improve the permitting and development review process.

Finding: Complies as Proposed. The proposal includes clarifications that will provide greater levels of certainty for developers of property.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

Finding: Complies as Proposed. The code amendments provide clarity to the existing code standards that apply to historic homes, resulting in greater certainty for the development community.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Complies as Proposed. The proposed amendments have no impact on public facilities.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system.

Finding: Complies as Proposed. The proposed amendments have no impact on transportation.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 13: ENERGY CONSERVATION

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles

Finding: Complies as Proposed. The proposed amendments have no impact on energy conservation.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 12: URBANIZATION

Establish an "urban growth boundary" to identify and separate urbanizable land from rural land.

Finding: Complies as Proposed. The proposed amendments have no impact on the urban growth boundary.

COMPREHENSIVE PLAN / STATEWIDE PLANNING GOAL 12: WILLAMETTE RIVER GREENWAY

To protect the Willamette River corridor's natural, scenic and recreational qualities and to preserve its historical sites, structures, facilities, and objects for education and enjoyment.

Finding: Complies as Proposed. The proposed amendments have no impact on the Willamette River Greenway.

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: Complies as Proposed. The proposal does not change uses allowed in any zoning districts or the ability of services and facilities.

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: Complies as Proposed. No land uses are proposed to change and this proposal will have no impact on the transportation system.

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

Finding: See responses above. The Oregon City Comprehensive Plan addresses the Statewide Planning Goals, as shown above under the findings in this staff report.

IV. RECOMMENDATION

Staff recommends that the Planning Commission recommend approval of the proposed text amendments to Chapter 17.40 of the Oregon City Municipal Code.

V. EXHIBITS

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