

# RIVERGROVE CODE TEXT AMENDMENTS

## STAFF REPORT



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From: Ben Schonberger, AICP

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Re: Rivergrove Text Code Amendments

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## I. PROJECT SUMMARY

Currently, the City of Rivergrove's land development ordinance (LDO) gives an unusual role to the Planning Commission, assigning work to the commission that is typically the role of administrative or technical staff. Winterbrook Planning reviewed the existing code for regulations in that place direct responsibility in the hands of the Planning Commission for tasks that are predominantly administrative and technical. For example, the current LDO requires the full Planning Commission, as part of a regular meeting, to hold pre-application conferences with applicants to acquaint them with the applicable regulations (Section 4.030). Likewise, the full commission is assigned the job of determining whether applications are complete, that is, have submitted all the required information (Section 4.050). These tasks, among others in the Rivergrove LDO are largely administrative and are nearly always addressed by staff and in other cities.

Relying on the Planning Commission to conduct pre-application conferences and determine application completeness increases the administrative burden on the Commission. Additionally, the volunteer Planning Commission meets only monthly. The LDO requires some tasks be completed at the "next regular meeting of the Commission." The monthly meeting schedule risks the Commission having to respond without sufficient time for review if a regularly scheduled meeting occurs immediately after a submission. Conversely, some applicants could wait a month unnecessarily if a submission occurs immediately after the regular meeting. In addition to placing an unnecessary burden on the Planning Commission, the current administrative process slows down the development process for applicants.

The proposed amendments to the Rivergrove zoning code documented in this staff report allow delegation of administrative or technical tasks to staff rather than having administrative processes completed at Planning Commission meetings. Planning staff may be employed directly or indirectly by the city. The Planning Commission will still be the ultimate decision maker in cases where policy judgement or discretion is required.

Consequently, this staff report outlines recommendations for a proposed text amendment to the LDO that would allow the administrative and technical tasks to be delegated to city staff, with the final decision made by the Planning Commission. Changes to the language of the development code are specified in Section II. Section III provides findings addressing the process for legislative changes to the code. Finally, as required by code, Section IV addresses the Rivergrove Comprehensive Plan goals and policies.

In short, the proposed changes align with both the city code and the comprehensive plan goals and policies. If adopted, the proposed changes would relieve the administrative burden on the Planning Commission and allow for more timely processing of development applications.

## II. PROPOSED AMENDMENTS: RIVERGROVE LDO

### **LDO 4.010(b), Procedures for Processing Development permits**

*~~"At its next regular meeting a~~ After an application and proposed development is submitted, the Commission or its designee shall determine the type of procedure the ordinance specifies for processing and shall identify the affected agencies to which the application shall be referred. In the event of doubt about which type of procedure the application should be processed, it shall be processed under the higher number type. An application shall be processed under the highest numbered type of procedure required for any part of the development proposal."*

**Note:** The proposed change will result in allowing staff employed directly or indirectly by the city to determine the type of procedure the ordinance specifies for processing the application outside of a regularly scheduled Planning Commission meeting. The proposed change will result in a reduction of the burden placed on the Planning Commission to complete administrative tasks and allow for a streamlined development review process.

#### **LDO 4.030, Pre-Application Conference**

*“An applicant or ~~his~~ an authorized representative may request the Commission’s designee to conduct a pre-application conference. ~~Upon such request, the conference shall be held at the next regular meeting of the Commission.~~ The purpose of the conference shall be to acquaint the applicant with the substantive and procedural requirements of this ordinance, provide for an exchange of information regarding applicable elements of the plan and development requirements, arrange any technical and design assistance that will aid the applicant, and to otherwise identify policies and regulations that create opportunities or pose significant problems for the proposed development, and to simplify and expedite the development process. If requested by the applicant at the time of the conference, the Commission’s designee shall provide the applicant with a brief written summary of the conference within five working days of ~~the conference~~. The summary shall include confirmation of the procedures to be used to process the application, a list of materials to be submitted, and the criteria and standards which may apply to the approval of the application.”*

**Note:** The proposed changes will result in allowing staff employed directly or indirectly by the city to conduct a pre-application conference outside of a regularly scheduled Planning Commission meeting. Additionally, the proposed changes will result in allowing staff to provide the applicant with the required written summary of the conference within five working days rather than five days. This small change is consistent with development ordinances elsewhere and will ensure that the Commission or staff has the adequate time to produce the written summary of the pre-application conference. These changes remove the administrative burden of conducting and summarizing the pre-application conference from the Planning Commission. Allowing pre-application conferences outside of regularly scheduled Planning Commission meetings will improve the efficiency of the development review process.

#### **LDO 4.050, Submission of Pre-Application**

*“Application materials shall be submitted to the City Recorder who shall ~~mark~~ take note of the date of submission on each copy of the materials submitted. ~~At the next regular meeting of the Commission,~~ The Commission or its designee shall determine whether the application is complete. If the Commission determines that the application is incomplete or does not comply with this ordinance, The Commission or its designee shall immediately provide the applicant with a written statement indicating whether the application is complete enough to process, and if not, what information shall be submitted to make the application complete. notify the applicant of the negative determination by mailing an explanation to the applicant. An application on which a negative determination has been made may be resubmitted under Section 4.080 after revision and correction. If a development permit application is complete and complies with this ordinance, the Commission or its designee shall accept it and note the date of acceptance and the approvals needed for granting the permit ~~on all copies~~.*

**Note:** The proposed changes will result in the removal of the restriction that determining application completeness must be conducted at a regular meeting of the Planning Commission. Determining

application completeness is an administrative task that can be conducted by the Commission or their designee and does not need to occur during a meeting. The proposed amendment removes the word “immediately” and outlines a general process for notifying the applicant about completeness, removing the specification that the applicant must be mailed an explanation of the negative determination. Additionally, the proposed changes will result in requiring the Commission or its designee to provide the applicant with a written statement indicating completeness regardless of whether the application is complete. The proposed changes will result in the removal of the “City Recorder” language which is irrelevant because Rivergrove does not have a City Recorder. This language was removed so that any city staff can take note of the date of submission on application materials. Additionally, the proposed changes will result in the removal of all text about multiple copies of application materials. The purpose of this change is to update the text to reflect the current reality that most applications are submitted electronically.

#### **LDO 4.060, Referral and Review of Permit Applications**

*“Upon acceptance of an application, the Commission or its designee shall do the ~~following at the next regular meeting.~~*

- 1. Transmit one copy of the application, or appropriate parts of it, to each referral agency for review and comment, including those responsible for determination of compliance with state and federal requirements. If the referral agency does not return its comment within ten (10) days, unless an extension of no more than ten (10) days has been granted by the Commission or its designee, the referral agency shall be presumed to have no comment. The Commission or its designee shall grant a request for an extension only under unusual circumstances or where a Type III procedure is involved.*
- 2. Transmit an application involving approval by others for disposition as otherwise required by this ordinance. The Commission or its designee shall, to the greatest extent possible, consolidate action on approvals.*
- 3. If a Type III procedure is required, provide for notice and hearing as required by Article 8.”*

**Note:** The proposed changes allow the Commission or its designee to complete the administrative steps outlined in the LDO outside of a regularly scheduled Planning Commission meeting. The proposed changes will result in a decreased administrative burden on the Planning Commission and a more efficient development review process.

### **III. FINDINGS AGAINST CITY CODE**

Amending the Rivergrove development code qualifies as a Type IV procedure, a procedure used in reaching decisions on ordinance amendments. The process for a Type IV procedure is outlined in LDO 4.120. Findings of fact are provided here for each section of that code, demonstrating that all procedural requirements for the proposed development code text amendment are being met.

#### **Type IV Procedure – LDO 4.120**

*This type of procedure is intended for use in reaching decisions on ordinance amendments, street vacations, and other similar issues that are characterized by the establishment or revision of City land use policy and it is not intended for use in processing development permit applications.*

- a. *The Commission shall schedule a public hearing pursuant to Article 8 before the Commission. Form of notice and the persons entitled to it shall be as set out in Sections 8.030 to 8.050. At the hearing, the City staff, and all interested persons may present evidence and testimony relevant to the proposal, giving specific reasons why the proposal does or does not meet the plan or this ordinance and may suggest any modifications that would bring the proposal into compliance. Where criteria are involved, the Commission shall make a finding for each that applies. A written report and recommendation shall be submitted to the City Council.*

**Finding:** The proposal follows the Type IV procedure. A public hearing will be held before the Commission where evidence and testimony may be presented. Subsequently, a written report and recommendation will be submitted to the City Council for approval. Per this section of the code, a Type IV procedure requires giving specific reasons why the proposal “does or does not meet the [comprehensive] plan.” Section V of this report outlines how the proposal meets the comprehensive plan.

- b. *If the Commission has recommended against a proposal or fails to act on a proposal, the City Council may terminate further consideration of the proposal. Upon a favorable recommendation by the Commission and for proposals that have not been terminated, the City Council shall conduct a public hearing pursuant to Article 8. The Council shall set a date for the hearing and provide for notice in the form and to the persons that are required in Sections 8.030 to 8.050. At the hearing the City Council shall review the report of the Commission and all interested persons shall be given the opportunity to present new information and evidence relevant to the proposal and to present testimony why the proposal should be approved or denied.*

**Finding:** This section is procedural, and the Planning Commission and City Council are expected to follow the steps outlined here. If, as expected, the Planning Commission recommends bringing the text amendments to the City Council, a public hearing will be conducted pursuant to Article 8. That hearing will include a report of the Planning Commission on their recommendations.

- c. *The City Council shall make a finding for each of the criteria applicable and may reverse, modify or sustain the findings of the report of the Commission.*

**Finding:** The proposal and the anticipated process meets the procedure as outlined in this section. At City Council, that body will act on the findings of the Planning Commission, as described.

- d. *To the extent that a policy is to be established or revised, the City Council shall make its decision only according to procedures set forth above. The decision shall be enacted by ordinance.*

**Finding:** The proposal and the anticipated process meets the procedure as outlined in this section.

#### **IV. FINDINGS AGAINST CITY COMPREHENSIVE PLAN GOALS AND POLICIES**

A text amendment to the development code qualifies as a Type IV procedure and requires giving reasons why the proposed code does or does not meet the Rivergrove Comprehensive Plan goals and policies. Rivergrove’s Comprehensive Plan follows the same pattern as Oregon’s statewide planning goals. Of the

19 goals and policies, the proposed text amendment is a procedural change that is only relevant to statewide planning goals 1 and 2.

**GOAL 1: CITIZEN INVOLVEMENT**

*Goal 1 calls for “the opportunity for citizens to be involved in all phases of the planning process.”*

**Finding:** The proposed changes meet the comprehensive plan for Goal 1: Citizen Involvement. Goal 1, Policy 3 states that “The citizens of Rivergrove shall be given the opportunity to propose plan changes or review and comment on any proposed plan changes.” The proposed changes to the development code meet the comprehensive plan policies for citizen involvement by allowing all interested persons to present evidence and testimony relevant to the proposal during the public hearing.

**GOAL 2: LAND USE PLANNING**

*Goal 2 outlines the basic procedures of Oregon’s statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable “implementation ordinances” to put the plan’s policies into effect must be adopted. It requires that plans be based on “factual information”; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed.*

**Finding:** The proposed changes meet the comprehensive plan for Goal 2: Land Use Planning. Goal 2, Policy 4 states that comprehensive plan “text amendments may be initiated by the Planning Commission, City Council, a property owner, his or her authorized representative, or a resident of the City.” Given that the Planning Commission initiated the text amendment outlined in this staff report, the proposal satisfies Policy 4.

**GOAL 3: AGRICULTURAL LANDS**

**GOAL 4: FOREST LANDS**

**GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES**

**Finding:** The proposed changes are procedural and allow city staff to take on certain administrative responsibilities, like application completeness reviews, that are now reserved for the full Planning Commission. These changes have no substantive effect on agricultural land, forest land, or natural resources. These goals do not apply to the proposed text amendment.

**GOAL 6: AIR, WATER AND LAND RESOURCES QUALITY**

*Goal 6 requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.*

**GOAL 7: AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS**

*Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply “appropriate safeguards” (floodplain zoning, for example) when planning for development there.*

**Finding:** The proposed changes alter the process for determining application completeness by allowing staff to complete this procedural step. Rivergrove is located on the banks of a river and protection of areas related to the river are an important part of local land use regulations. However, changing the

entity responsible for certain administrative tasks related to development review does not substantively change these protections in any way.

**GOAL 8: RECREATION NEEDS**

**GOAL 9: ECONOMY OF THE STATE**

**GOAL 10: HOUSING**

**GOAL 11: PUBLIC FACILITIES AND SERVICES**

**GOAL 12: TRANSPORTATION**

**GOAL 13: ENERGY**

**GOAL 14: URBANIZATION**

**GOAL 15: WILLAMETTE GREENWAY**

**GOAL 16: ESTUARINE RESOURCES**

**GOAL 17: COASTAL SHORELANDS**

**GOAL 18: BEACHES AND DUNES**

**GOAL 19: OCEAN RESOURCES**

**Finding:** The proposed changes allow city staff to take on certain administrative responsibilities, like application completeness reviews, that are now reserved for the full Planning Commission. The proposed changes are procedural and will not impact statewide planning goals 8 through 19: recreation needs, economy of the state, housing, public facilities and services, transportation, energy, urbanization, Willamette greenway, estuarine resources, coastal shorelands, beaches and dunes, and ocean resources.