



**MILWAUKIE**  
*Dogwood City of the West*

# DRAFT CODE AMENDMENTS COMMENTARY

Land Use and Development Review  
(LUDR)  
Tune-Up Project

December 2010 Draft  
File No. ZA-10-02 & CPA-10-03

Milwaukie Municipal Code

Title 19 Zoning Ordinance

Milwaukie Comprehensive Plan

Chapter 1 Citizen Involvement  
Chapter 2 Plan Review and Amendment Process

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### Notes:

This document explains the proposed code amendments. The “Draft Code Amendments” document shows the actual proposed amendments.

## NONCONFORMING USES AND DEVELOPMENT

### Chapter 19.800

Nonconforming uses and development are uses and development that do not conform to the City's current land use and development regulations either because they were established prior to the enactment of such regulations or because they conformed at the time they were established but applicable City regulations have since changed. The City's current nonconforming code provisions describe property owners' rights to maintain, alter, expand, demolish, and rebuild a nonconforming use, structure, or site improvement. The proposed code replaces the City's existing chapter governing nonconformities in its entirety. It continues to address all of the property owners' rights listed above and adds a process whereby the City may amortize high-impact nonconforming uses.

#### Summary of Proposed Key Policy Changes:

- Deletes the provision that allows for the alteration or extension of nonconforming structures through this chapter. The current code allows for nonconforming structures to potentially vary from existing development standards more than conforming structures through the avenues available to them, i.e. through the City's existing variance or home improvement exception allowances. As proposed, alterations to nonconforming structures may still be allowed; however, they would be subject to the same variance process and approval criteria as conforming structures.
- Clarifies and allows for more flexibility for replacement of uses or structures destroyed by accident or natural hazard. The proposed changes are consistent with the ORS and the City Attorney's recommendation.
- Provides a process whereby high impact nonconforming uses may be amortized or otherwise discontinued.
- Moves the nonconforming determination section out of this chapter and expands its usefulness by allowing determinations in other situations.
- Increases the time frame within which nonconforming uses lose their nonconforming status through discontinuance or abandonment from 6 months to 12 months. This may result in the perpetuation of some nonconforming uses; however, staff believes that the 6-month timeframe is so short as to be meaningless and may result in long-term vacancies or underutilization of property, especially in the downtown area. Extending the time frame to 12 months is also consistent with the time frame available to property owners to rebuild a nonconforming structure that was accidentally destroyed.

## AMENDMENTS TO MAPS AND ORDINANCES

### Section 19.902

This section establishes the criteria and process for how changes to land use regulations and the Comprehensive Plan are made. The proposed code replaces the City's existing chapter governing map and ordinance amendments in its entirety, but remains very similar to the chapter it is replacing.

#### Summary of Proposed Key Policy Changes:

##### 19.902.3.B

The proposed code relocates the Comprehensive Plan amendment approval criteria from Chapter 2 of the Comprehensive Plan to this section of the zoning code, as it is more appropriate to have approval criteria in the City's implementing ordinance (i.e. zoning code) than its policy document (i.e. Comprehensive Plan). The proposed code modifies them slightly to make them easier to apply during the hearing process.

##### 19.902.4.B

The proposed code distinguishes between zoning map and zoning text amendments and provides separate approval criteria for each. This subsection contains the process and criteria for zoning text amendments, which are fairly straightforward and remain mostly unchanged from the current code. Approval criteria that more relate to site-specific zoning map amendments were appropriately relocated.

##### 19.902.5.A

The proposed code changes the way zoning map amendments are processed. As proposed, zoning map amendments (or zone changes) are treated differently depending upon the size of the area proposed for rezoning. Changes that affect large geographic areas are considered legislative in nature in that they are policy decisions. Changes to smaller areas are considered quasi-judicial in nature in that they apply existing policies and procedures to the circumstances of specific properties. Legally, there is no definitive threshold for what constitutes a legislative zone change versus a quasi-judicial zone change. The review process in the proposed code reflects this uncertainty but provides some guidance and defers to the City Attorney to make the decision about which process is appropriate.

##### 19.902.5.B

The proposed code modifies the zoning map amendment approval criteria to focus less on the specifics of what development might occur within a zone and more on the general compatibility of the proposed zone in relation to existing surrounding zones. It is presumed that any future development would comply with the relevant standards and criteria required by its designated zone.

## CODE INTERPRETATIONS AND DIRECTOR DETERMINATIONS

### Section 19.903

The current code includes provisions for both director's interpretations of code provisions and director's determinations of the status of structures, uses, and lots with regard to their legality. Because these processes are similar in nature and level of review, the proposed code places both of these provisions into one section.

#### Summary of Proposed Key Policy Changes:

##### 19.903.1

- The purpose statement establishes parameters for Code Interpretations by stating that an interpretation is not a substitute for the legislative process of amending the code, but that it can be used for interim situations where a code change is needed until the legislative amendments can be made.

##### 19.903.3

- The Code Interpretation process includes factors on which a code interpretation can be based to aide the decision process (see 19.903.4.A).
- The Code Interpretation process includes notice of a Code Interpretation to the Planning Commission and City Council (19.903.3.B.2). The current code does not require this notice.
- The Director's Determination process incorporates two existing types of determinations (nonconforming status and legality of lots) and adds two other types (similar use determinations and an 'other' category). Each type has its own decision criteria (see 19.903.B.1-4). This change empowers the Planning Director to make these types of determinations and is in direct response to the community's requests for these types of determinations.

## CONDITIONAL USES

### Section 19.905

The proposed code clarifies and revises the City's existing provisions for conditional uses. It changes the way modifications to existing conditional uses are handled and removes conditional use status from discontinued conditional uses. The types of uses that require conditional use review and approval are unchanged from the current code.

#### **Summary of Proposed Key Policy Changes:**

##### **19.905.3 Review Process**

The proposed code establishes new distinctions between establishment of a conditional use, major modification to an existing conditional use, and minor modification to an existing conditional use. The distinct review types are analogous to the existing review types for Community Service Uses.

##### **19.905.5 Conditions of Approval**

The proposed code authorizes the decision maker(s) to impose conditions that are necessary to make a conditional use compatible with its surroundings. The list is intentionally broad so as to provide guidance to decision makers and to inform code users about the broad range of conditions that may be considered. The current code has the same basic policy approach but with a much shorter list of possible conditions.

##### **19.905.7 Review of Existing Conditional Use Permits**

The proposed code clarifies and slightly revises the City's current procedures for handling conditional uses that are out of compliance with their approvals or are having unanticipated impacts. The general approach is to notify the conditional use operator and have them voluntarily correct the situation. The matter may be elevated to the Planning Commission for review if the owner does not correct the problem or if the correction is ineffective.

##### **19.905.8 De Facto Conditional Use Status and Loss of Conditional Use Status**

The proposed code clarifies the current code regarding de facto conditional uses. It grants conditional use status to a legally established use that is listed as a conditional use in the current code but did not undergo conditional use review.

The proposed code includes new provisions regarding the expiration of a use's conditional use status. Under the current code, conditional uses do not have an expiration date if the use changes or is discontinued. The proposed code would automatically remove conditional use status for properties that undergo a change in use. It would also remove conditional use status for properties where the use is discontinued for 3 years. The discontinuation clause applies only to non-residential conditional uses that receive conditional use approval or become de facto conditional uses after the proposed regulations are enacted.

**19.905.9.A Standards Governing Conditional Uses**

The proposed code amends the yard requirements for conditional uses in residential zones. Instead of requiring that conditional uses in residential zones have a yard width equal to at least two-thirds the height of the principal structure, the proposed code allows for the Planning Commission to impose additional yard width requirements as a condition of approval to address impacts related to building height, mass, and proximity to residential land uses. Staff believes that the current approach is unnecessarily rigid and ineffective and that the proposed approach effectively empowers the Planning Commission to determine the most appropriate yard width requirements on a case-by-case basis.

## DEVELOPMENT REVIEW

### Section 19.906

Development Review is a new application whose purpose is to ensure compliance with the standards and provisions of the City's land use regulations through an efficient review process that effectively coordinates the City's land use and development permit review functions. Under the current code, the City processes a sizeable number of permits on an ad-hoc basis at the staff level. This review sometimes includes decisions on discretionary criteria, which should occur with some level of public notice. The proposed Development Review application formalizes the City's current practices and allows for public notice where appropriate. It is not meant to add additional process, expense, or time to the permit approval process any more than is necessary to adequately implement the City's land use and development standards. In most instances, the average homeowner who is seeking permits from the City would not experience any change in the way the City issues permits.

#### **Summary of Proposed Key Policy Changes:**

##### **19.906.2.A**

The proposed code requires Type I Development Review prior to or concurrent with the issuance of development permits. As proposed, development projects triggering Type I Development Review are reviewed against standards that are clear and objective and/or that require a minimal amount of professional judgment.

In some instances, a Type I Development Review may be the first and only land use review required for a development project. In other instances, a Type I Development Review may be a project's second land use review and come after a project's approval by the Planning Commission or Planning Director. In the case of the latter, the Planning Director may waive the follow-up Type I Development Review if the project adequately addressed all applicable development standards in the initial land use review process. Whether it is a project's first or second land use review, the purpose of the Type I Development Review is the same, namely to ensure that a project meets all applicable development standards prior to the issuance of development permits.

##### **19.906.2.B**

The proposed code requires Type II Development Review in a limited number of situations or upon the request of an applicant. The primary difference between Type I and Type II review is that Type II review includes evaluation of a development project against discretionary standards or criteria. Type II reviews allows for more notice and more detailed review and, as proposed, would typically be triggered by larger-scale development projects. Type II review, as proposed, would not typically be required for development proposals that required other Type II or III land use reviews.



### **19.906.2.C**

The proposed code exempts certain types of development from the development review process because they have either a limited review by the Planning Department (e.g. tenant improvements, right-of-way work, or temporary events), or are reviewed against a limited number of clear and objective development standards. Development exempted from the development review process is still required to comply with all applicable development standards prior to the issuance of development permits.

### **19.906.3**

The proposed code establishes how the development permit review application fits within the overall land use approval and development permit review processes. Development review may be a concurrent application or may be required after other land use approvals are obtained. For most large development projects, a development review application will likely be needed prior to the issuance of development permits.

### **19.906.4**

The proposed code provides appropriate approval criteria for Type I and II development review applications. They facilitate a thorough review of a development project against all applicable development standards and any conditions of approval from land use approvals earlier on in the process.

Type I reviews are a review against standards that are clear and objective or require a minimal amount of professional judgment. This should be a straightforward "checklist" type of review to ensure that a project meets the numerical development standards of the code.

Type II reviews likely include a review against clear and objective standards, but also include a review against subjective and/or context-sensitive criteria. Since the Type II review process provides for referral and public notice, nearby residents, neighborhood district associations, and other agencies have the chance to comment on whether the approval criteria are met.

## EXTENSIONS TO EXPIRING APPROVALS

### Section 19.908

The proposed code amends the City's review procedures (Chapter 19.1000). This amended chapter includes a new provision that provides for the automatic expiration of approved land use decisions that have not been utilized after a specified period of time. This provision is intended to protect the community from some of the problems associated with land use approvals that don't expire, which include, but are not limited to, the following:

- Project construction is delayed or dragged out for a long period of time resulting in extended disruption to neighbors and visual blight.
- Surrounding conditions change between land use approval and construction, and the project has unmitigated impacts on the neighborhood, a natural resource area, or the transportation network.
- Staff changes between land use approval and construction resulting in less efficient and/or effective review of the project during development review.
- Neighbors are surprised when the project is constructed years or decades after an approval has been issued.

To balance the need and desire for expiration of approvals, the proposed code includes a formal process for reviewing and possibly extending the time period during which land use approvals are valid on a case-by-case basis.

#### Summary of Proposed Key Policy Changes:

##### 19.908.2 Applicability

- Allows for the extension of only unexpired approvals.

##### 19.908.3 Review Process

- Allows for a maximum extension of two years with no limit on the number of extensions that may be requested.
- Provides for Type II review process for applications that were originally approved through either the Type II or III review process in order to provide for the most appropriate public notice and opportunity for comment. Applications originally approved through the Type I review process would have their extension requests processed through the Type I process

##### 19.908.4 Approval Criteria

- Allows for an extension only after it has been determined that conditions in and around the proposed development site are substantially the same.

## **MODIFICATIONS TO EXISTING APPROVALS**

### **Section 19.909**

It is not uncommon for development plans to change after land use approval and during development permit review as more detailed design and engineering is completed for a specific development proposal. The proposed code creates a formal process for reviewing these kinds of modifications. It codifies staff's existing practice of reviewing some modifications administratively and sending others back to Planning Commission for review.

#### **Summary of Proposed Key Policy Changes:**

##### **19.909.3 Review Process**

- Allows the Planning Director to determine when a modification is substantial enough to warrant more formal review and approval.
- Creates two categories of modifications—major and minor—and requires Type III review of major modifications and either Type I or II review for minor modifications. For minor modifications, the proposed code allows the Planning Director to process the application through the review level that provides for the most appropriate public notice and opportunity for participation.
- Limits the scope of review of the modification to the modified portions of the development proposal and any other portions of the development proposal that are affected by the modification.

## VARIANCES

### Section 19.911

Variations are meant to provide relief from specific code provisions that have the unintended effect of preventing reasonable development or imposing undue hardship. The proposed code replaces the City's existing variance chapter in its entirety with the intention of fixing the following problems:

- The existing code does not contain a purpose statement for variations. Absent such a statement, the approval criteria set the tone for implementing this section of code.
- The existing approval criteria for variations are extremely narrow and rigid and allow for limited discretion even when being reviewed by a discretionary review body. They do not allow variations that would result in better projects and/or have undiscernible impacts, and they have the effect of not allowing small adjustments to standards on any but the most complex sites.
- Type II and Type III variations currently have the same approval criteria, which defeats the purpose of having two kinds of variations.
- The existing home improvement exception standards are unclear and overly complex.

#### **Summary of Proposed Key Policy Changes:**

- Adds a purpose statement.
- Clarifies which standards are eligible for variations.
- Allows variations that improve the function or design of a project through a Type III review process.
- Allows small variations that are not detrimental to surrounding properties through a Type II review process, such as small variations to lot coverage and yard requirements. It does not allow variations to building height to be reviewed through the Type II process.
- Creates new approval criteria for both types of variations that allow for an appropriate amount of discretion based on the associated level of review.
- Folds the existing home improvement exception provisions into the new variance approval criteria, which have the effect of allowing comparable types of requests through the new streamlined variance approach.
- Adds a provision that the existing use exception process cannot be used to allow a use that is prohibited by the underlying base zone. (The current proposal does not change the existing use exception approval criteria but for some very minor editing for clarity.)

## REVIEW PROCEDURES AND ADMINISTRATION

### Chapter 19.1000

Review procedures provide the basic framework for how the City conducts land use and development permit review. They determine what kinds of projects trigger land use review, who receives notices about hearings and decisions, when the City has to make a land use decision, and who makes the final decision (e.g. Planning Director, Planning Commission, or City Council).

The City's current review procedures are problematic in a number of ways. Generally, the existing language tends to be inconsistent, unclear, and incomplete. Furthermore, some of the procedural language may not be fully in compliance with state statutes that regulate land use review. The intent of these proposed amendments is to clarify and streamline the City's review procedures and ensure consistency with state statutes. The current proposal replaces the City's existing Administrative Provisions chapter (Chapter 19.1000) in its entirety.

The City currently has five types of land use reviews, namely: Type I, Type II, Minor Quasi-judicial, Major Quasi-judicial, and Legislative. The current proposal eliminates the distinction between major and minor quasi-judicial and renames the review types as follows:

- Type I Review: Administrative review process, decided by Planning Director
- Type II Review: Administrative review process with public notice, decided by Planning Director
- Type III Review: Quasi-judicial review process with public notice and hearing, decided by Planning Commission
- Type IV Review: Legislative review process with public notice and hearing, decided by City Council

The current Major Quasi-judicial land use review is used by the City solely for processing Zoning Map and Comprehensive Plan map amendments and requires a hearing before both the Planning Commission and City Council. Having a separate land use process for amendments is redundant and can create additional, unnecessary process (i.e., two public hearings when one is sufficient). The draft language proposes to process map amendments through either the Type III or Type IV procedure, depending on the scale and scope of the amendment, which will provide for a more streamlined review process for small-scale zone changes.

For each review type, the proposed code provides the following information in a consistent format:

- Preapplication conference requirements
- Application requirements

- Public notice requirements (if applicable)
- Decision authority
- Decision-making requirements
- Appeal procedures

The following is a more detailed overview and summary of key changes being proposed for each section of this chapter:

### **Summary of Proposed Key Policy Changes:**

#### **Section 19.1001 General Provisions**

This section introduces the four land use review types, outlines who can initiate a land use application, provides an overview of how applications are reviewed, and establishes a general process for how decisions are made.

One notable proposed change in this section is that it provides for the automatic expiration of approved land use decisions that have not been utilized after a specified time period. Depending on the type of application, approvals will generally expire after two to four years unless an extension is granted by the City. Extension requests will require a separate application pursuant to proposed new language in Chapter 19.908. This is a significant change from the current code language, which only addresses certain types of approvals (conditional use, exceptions/variances, and nonconforming use approvals) and provides just six months before they expire.

A second important change is the appeal authorities for land use decisions (see Table 19.1001.5). As proposed, the Planning Commission would be the City's final authority for appeals of Type I and Type II decisions. Currently, appeals of Type I and Type II decisions may be appealed to Planning Commission and then to City Council. The appeal authority for Type III and Type IV decisions is unchanged.

#### **Section 19.1002 Preapplication Conference**

The intent of this language is to codify the City's existing practice of requiring a preapplication conference for certain types of land use applications. The proposed language does not represent any changes to current policy, but simply clarifies which types of land use reviews require a preapplication conference. Generally, a preapplication conference is optional for Type I applications and is required for Type II, III and IV applications. The City may waive the preapplication conference requirement for proposals that are not considered complex.

#### **Section 19.1003 Application Submittal**

This section establishes submittal requirements for applications, outlines the completeness review process, and addresses resubmittal of previously denied applications. Much of the city's existing code language pertaining to application submittal is located in

various parts of the code. This new language is intended to consolidate submittal requirements into one section.

This section also contains proposed language regarding the procedures for handling modifications to land use applications that are currently under review by the City (see Section 19.1003.6).

One noteworthy change in the proposed language is that it allows an applicant 180 days to submit additional materials for an application that has been deemed incomplete by the City (see Section 19.1003.3.E). The current code allows only 15 days; however, state statute (ORS 227.178) requires 180 days before an application can be considered void.

### **Section 19.1004 Type I Review**

This section lays out the procedure for a Type I land use review, which is an administrative review that does not require public notice or a hearing. The proposed language for a Type I review is generally similar to the City's current language in terms of noticing requirements, decision authority and appeals. One departure from the existing language relates to the decision timelines; current code states that the City will issue a decision within 10 days of application submittal. The proposed language states that the City has 120 days to issue a final decision (see Section 19.1004.5). The 120-day period is consistent with state law. While the City will strive to issue Type I decisions quickly, it is more appropriate to use state law in the code rather than the City's internal customer service goals. The 120-day period is used consistently throughout all review types in the proposed Procedures chapter.

### **Section 19.1005 Type II Review**

For a Type II review, the proposed code retains the general level of notice and process as the current code. Noteworthy changes to the Type II review are:

- Proposed language requires the applicant to post a sign on the subject property to display relevant development proposal information (see Section 19.1005.3.C).
- Proposed language codifies City staff's current practice of referring applications to Neighborhood District Associations for their review and comment (see Section 19.1005.3.A).
- Proposed language eliminates the ability of the public, Planning Director, and/or Design and Landmarks Committee to elevate an application to the Planning Commission for a hearing. However, it continues to allow an applicant or aggrieved party to appeal the decision to the Planning Commission for a hearing.
- Proposed language provides notice of application submittal in lieu of tentative notice of decision, effectively maintaining the same level of opportunity for public comment, notice of decision, and appeal (see Section 19.1005.3). Mailing a notice rather than a tentative notice of decision provides staff a better opportunity to send a clear and

concise notice to citizens. It may also reduce the processing time for a Type II decision by two weeks.

### **Section 19.1006 Type III Review**

The following changes are included in the proposed Type III procedure:

- As mentioned previously, the Type III procedure combines the City's existing Minor and Major Quasi-judicial procedures into one. This affects how changes to the Zoning Map are processed. In the proposed code, Zoning Map amendments that affect only small areas can be processed as a Type III application. This will allow some zoning map amendments to be heard and reviewed only by the Planning Commission, instead of requiring a hearing before the Planning Commission and then before City Council. The Type IV procedure presented in the next section will be used to process legislative (broader impact, multiple parcels) Zoning Map and/or Comprehensive Plan map amendments.
- Proposed language eliminates any requirement for a newspaper notice. Though required only for two specific land use reviews, the City's practice has been to publish a hearing notice in the newspaper for all Type III hearings. City staff has determined that newspaper notice is not an effective or comprehensive method for issuing public notice.
- Language regarding the Design and Landmarks Committee (DLC) as a decision making body has been removed. The proposed code clarifies that the DLC's public meeting process is an additional step in the review of downtown design review applications (see Section 19.1010).
- Proposed language codifies City staff's current practice of referring applications to Neighborhood District Associations for their review and comment (see Section 19.1006.3.B).

### **Section 19.1007 Type IV Review**

The proposed Type IV section contains a considerable amount of new language relative to the existing code and is intended to clarify and strengthen the legislative process for the City. The proposed language is consistent with the existing code in that it requires two public hearings, one before the Planning Commission and one before City Council. Public noticing requirements are also consistent with current practice and are codified in greater detail in this proposal, including DLCD, Measure 56, and Metro noticing requirements (see Section 19.1007.2).

This section also contains a number of changes from current code and City practice, including:

- More directive language regarding public involvement. Aside from newspaper notice, the current code has almost no requirements for public notice or involvement in legislative amendments. The proposed language eliminates the newspaper notice



requirement, and instead adds language that requires opportunity for public review and input at an early stage in the amendment process (see Section 19.1007.3.B). The proposed code language is not prescriptive about what must be done, but is clear that substantive public involvement is required.

- Proposed language clarifies that any person, organization, or governmental body can initiate a legislative application. This is consistent with current practice but is not explicit in the current code.
- Proposed language requires that the initial public hearing before the Planning Commission be held within 180 days of a complete application (see Section 19.1007.5.B). The 180-day timeline is consistent with state law.

### **Section 19.1008 Public Hearings**

The proposed Public Hearings language outlines the process for public hearings in the City. This section is intended to clarify and consolidate such provisions and ensure consistency with state statutes. Generally, the City's hearing bodies rely upon their bylaws for specific rules of procedure. This proposed language is more general in nature and contains provisions that should apply at all public hearings, regardless of the hearing body. There are no significant departures from existing practice represented in the proposed language; rather, it is intended to consolidate language and provide a more comprehensive explanation of the hearings process. The section provides clarification on the following:

- Proposed language states that the City is responsible for scheduling hearings, providing public notice, preparing minutes, and mailing decision notices for all hearings.
- Proposed language includes provisions for challenging the impartiality of a member of the hearing body at a hearing (Section 19.1008.4).
- Proposed language explains *ex-parte* contact and the rules for disqualification of a hearing body member (Sections 19.1008.6-7).
- Proposed language outlines the provisions for continuance of a hearing (see Section 19.1008.10).

### **Section 19.1009 Appeals**

The proposed Appeals section outlines the conditions under which an appeal may be filed and provides specific information for different types of appeals (Type I, Type III, etc.). The proposed language clarifies the appeals process and ensures consistency with state requirements. The following is a summary of the appeals processes for different review types:

- Parties that can appeal a decision are specifically listed in the appeal procedures for each review type. The requirements for filing an appeal are also included (see Section 19.1009.1).

- The code establishes two types of appeal hearings that define the scope of the appeal, standard of review, and rights of parties to raise new arguments (see Section 19.1009.3).
- Appeal of a Type I decision can only be made by the applicant and goes to the Planning Commission for a public hearing (Section 19.1009.3).
- Appeal of a Type II decision may be initiated by the applicant or any person/organization who feels adversely impacted or aggrieved by the decision. This language is consistent with state law. Type II appeals go to a public hearing before the Planning Commission for the final, local decision (Section 19.1009.4). This is a change from the current code, as it would give Planning Commission the final decision making authority on ministerial decisions that are appealed. Any appeal after that would go to the Land Use Board of Appeals (LUBA).
- Appeal of a Type III decision may be made by the applicant or a party with standing (Section 19.1009.5). Standing is granted to any party who participated by providing oral testimony or written comment/evidence on the record during the hearing or public comment period. This language is consistent with state law. A Type III appeal goes to public hearing before the City Council for a "review of the record." This is a change from the current code, as it would limit the scope of the appeal to what was in the record. New arguments would be allowed, but new evidence would not be allowed. Any appeal after that would go to the Land Use Board of Appeals (LUBA).

### **Section 19.1010 Design Review Meetings**

This section of the proposal would add a new section specific to the Design and Landmarks Committee and their consideration of downtown design review applications. Many of the procedures listed in this section are slight modifications of the hearing procedures in Section 19.1008. The key provisions of this new section are:

- Design review meetings have notice requirements similar to the notice requirements for a Type III application. The mailed notice would come 10 days before the meeting (see Section 19.1010.2).
- The requirements for a design review recommendation are specified (see Section 19.1010.10).
- Rules have been added to ensure that a design review meeting can be held within the timeframe required by the 120-day land use clock. If a meeting cannot be scheduled in a timely manner and an extension to the 120-day clock is not granted by the applicant, the proposed code authorizes the Planning Director to issue the design review recommendation (see Section 19.1010.1).

### **Related Code Amendments**

Since the Procedures chapter works in concert with many other provisions of Title 19, amendments to this chapter could not be done in isolation. Consequently, additional amendments to other chapters are being proposed to effectively implement the new Procedures chapter and improve the overall functioning of Title 19. These related amendments are located in the proposed Chapter 19.900 and are summarized below so as to give the reader a more comprehensive understanding of all the procedural changes being proposed and how they relate to one another. Actual draft language for these related sections is provided separately.

Development Review. The purpose of this Type I and Type II application is to ensure compliance with the standards and provisions of the City's land use regulations through an efficient review process that effectively coordinates the City's land use and development permit review functions.

Extensions to Expiring Approvals. The purpose of this Type I and Type II application is to provide for an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.

Modifications to Existing Approvals. The purpose of this Type I, Type II, and Type III application is to provide an appropriate and efficient review process for evaluating minor and major modifications to approved land use applications and development plans after approvals have been obtained but prior to issuance of development permits.

## COMPREHENSIVE PLAN

### Chapter 1 Citizen Involvement & Chapter 2 Plan Review and Amendment Process

The proposed amendments to the Comprehensive Plan affect limited procedural aspects of public notice and the Comprehensive Plan amendment process. Though a broader evaluation of the City's public involvement policies may be timely and warranted, the proposed amendments are less ambitious. The focus of these amendments is to remove procedures and criteria from the Comprehensive Plan that are more appropriately located in the zoning code and to keep the broader policies that will continue to drive the City's land use and development review process in the Comprehensive Plan.

Only the numbered objectives of the Comprehensive Plan for which amendments are proposed are shown in the draft amendments. All other sections are proposed to remain as written.

#### Summary of Proposed Key Policy Changes:

##### Chapter 1, Objective #3

The proposed amendments to this objective make the Comprehensive Plan less specific about the exact means of how communication with the public occurs, while maintaining the overall quality and openness of the communication. The proposed amendments to the zoning code (Subsection 19.1007.3.B) enforce the public involvement principles of this objective by requiring that there be opportunity for public input and involvement in the legislative amendment process.

##### Chapter 2, Objective #1

The proposed amendments to this objective remove the specific evaluation criteria and procedural steps involved with amending the Comprehensive Plan from the plan itself. These items are proposed for relocation to the zoning code.

The specific criteria for amendments are proposed for relocation to Section 19.902, Amendments to Maps and Ordinances. The procedural portions of the amendment process are proposed for relocation to the Type IV land use review process in Chapter 19.1000, Review Procedures and Administration.