CITY OF PHOENIX
PHOENIX, OREGON

ORDINANCE NO. 954

AN ORDINANCE AMENDING THE PHOENIX LAND DEVELOPMENT CODE, CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3.

WHEREAS, changes to the Type II Procedure are consistent with the Comprehensive Plan, specifically the Economic Element, Goal 1, "To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones."; and

WHEREAS, changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of transportation infrastructure; and

WHEREAS, the City has provided notification to the Department of Land Conservation and Development as required by ORS 197 and the Phoenix Land Development Code; and

WHEREAS, the Planning Commission held a public hearing on May 12, 2014 and took any public testimony regarding the proposed changes; and

WHEREAS, the Planning Commission voted to recommend approval of the attached amendments to the City Council based upon the findings contained in the Staff Report number LDC 14-07; and

WHEREAS, the Public Hearing on July 21, 2014, was duly noticed and the public was given the opportunity to testify on the proposed changes; and

WHEREAS, the Land Development Code has an adopted procedure (Chapter 4.7) to amend the Land Development Code; and

WHEREAS, the Council, after considering the recommendation of the Planning Commission and staff, and public testimony received at this hearing, has decided to approve the proposed amendment to the Land Development Code in accordance with this procedure;

NOW THEREFORE, The City Council of the City of Phoenix ORDAINS as follows:

Section 1. The Findings for this amendment are included in the attached Staff Report for LDC: 14-07, Exhibit A.

Section 2: The Land Development Code Chapter 4 is amended as proposed in Exhibit B.

Section 3. Effective Date: This ordinance shall become effective 30 after adoption.

PASSED AND ADOPTED by the City Council and signed by me in authentication of thereof on this 21st day of July, 2014.

Mayor

ATTEST:

City Manager/ Recorder

CITY OF PHOENIX
O • R • E • G • O • N

PO Box 330 • Phoenix, OR 97535

PLANNING DEPARTMENT (541) 535-2050 • FAX (541) 535-5769

TITLE: **AMENDMENT TO PHOENIX LAND DEVELOPMENT CODE REGARDING PROCEDURES, AMENDING CHAPTER 4**

FILE NUMBER: LDC:14-07

APPLICANT: City of Phoenix

STAFF REPORT: Available April 15, 2014 at the City of Phoenix, 112 W. 2nd Street (M-F, 8:00 a.m. to 5:00 p.m.) or on the website (www.phoenixoregon.net). For more information, call City of Phoenix, Planning Office, 541-535-2050

DATE OF PLANNING COMMISSION HEARING: May 12, 2014

PROJECT INFORMATION: In response to a request from the Phoenix Planning Commission, the Staff has researched and prepared amendments to the Phoenix Development Code and Municipal Code to 1.) Eliminate requirements for pre-application for Type II applications; 2.) Change procedures to meet State law; and 3.) Add requirements to meet Trip Budget Overlay Zone requirements.

I. PROPOSED AMENDMENTS: The proposed amendments are:

4.1 Types of Applications and Review Procedures

4.1.4 - Type II Procedure (Administrative)

A. Pre-Application. A pre-application conference is ~~**required**~~ ***recommended*** for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

4.1.6 – Type IV Procedure (Legislative)

A. Pre-Application Conference

B. Timing of requests. The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. ***Legislative requests are not subject to the 120-day review under ORS 227.178.***

C. Application requirements

Footnote: Italics indicate new language; strikeouts indicate deleted language

D. Notice of hearing

1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.
2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:

   a. ***At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).***

   b. At least 20 days, but not more than 40 days.

   c. ***At least 10 days before scheduled City Council public hearing, public notices shall be published on the City of Phoenix website.***

   d. The Planning Department shall file an affidavit of mailing ***or public notice*** in record as provided in Subsection a. and b.

   ~~b. The Department of Land Conservation and Development (DLCD) shall be noticed in writing of proposed Comprehensive Plan and development code amendments at least 45 days before the first public hearing at which public testimony or new evidence will be received.~~

   e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).

Chapter 4.2 - Development Review and Site Plan Review

4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with Subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.

B. Site Design Review Information. An application for Site Design Review shall include the following information: (not shown are the items 1 through 9)

C. Site Design Review Additional Information for Overlay Zones. An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).*

Chapter 4.4 – Conditional Use Permits

4.4.5 – Additional Development Standards for Conditional Use Types

A. General Submission Requirements.

B. Site Design Review Information.

C. Traffic studies. Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.

1. *For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.*

4.7 – Land Use District Map and Text Amendments

4.7.2 Legislative Amendments

Legislative Amendments. Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to *the criteria listed in 4.7.2.B and to* Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

A. Criteria for Legislative Amendments.

1. *The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:*
   - *(a.) The proposed amendment is consistent with the purpose of the subject section and article.*
   - *(b.) The proposed amendment is consistent with other Provisions of this Code.*
   - *(c.) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.*

4.7.3 – Quasi-Judicial Amendments

4.7.3 – Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application ~~or Code revision~~. Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 –

Type III Procedure (Quasi-Judicial), using standards of approval in Subsection "B" below. The approval authority shall be as follows:

1.
2.
3.

II. COMPLIANCE WITH DEVELOPMENT CODE PROVISIONS: Amendments to the Phoenix Land Development Code must comply with Section 4.7.2 of the Phoenix Land Development Code, which states that legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to Section 4.7.2.B and 4.7.6, as applicable.

Section 4.7.2 – Demonstration of compliance with Section 4.7.2

FINDING: This proposed amendment will be reviewed by the Planning Commission at a noticed public hearing. Their recommendation will be presented to the Phoenix City Council at a noticed public hearing. The hearing by the Planning Commission was noticed by posting the information on the City of Phoenix website beginning March 25, 2014.

FINDING: The Department of Land Conservation and Development was notified with an application mailed February 24, 2014 and a Staff report email sent on March 25, 2014.

FINDING: A copy of all notification sis available at the City Planning Office.

Section 4.7.3.B.1 – Demonstration of compliance with all applicable Comprehensive Plan policies and map designations. Where this criterion cannot be met, a Comprehensive Plan amendment shall be a prerequisite to approval.

FINDING: The changes to the Type II Procedure with Comprehensive Plan policies. Specifically, Economic Element, Goal 1, "To foster economic development through the retention, renewal, upgrading, expansion, and linkage of existing commercial and industrial business, and recruitment of new ones." The change will eliminate a step that is unnecessary and expensive when the proposal is simple.

FINDING: The changes to the notice of the State are in compliance with Comprehensive Plan policies as they will put the City in compliance with current State law.

Section 4.7.3.B.2 – Demonstration of compliance with all applicable standards and criteria of this Code and other applicable implementing ordinances.

FINDING: The proposed changes do not impact other applicable standards.

Section 4.7.3.B.3 – Evidence of change in the neighborhood or community or a mistake or inconsistency in the Comprehensive Plan or the Land Use Map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, if applicable.

FINDING: The proposed change is not based on a mistake in the Comprehensive Plan or the Land Use Map. The proposed change does not impact transportation needs in the City.

FINDING: The changes to the Site Design Review and Conditional Use Permit to review submissions will correct an error in the Development Code (sections 4.2.5 and 4.4.5) which did not link the adoption of a Trip Budget Overlay Zone to requirements of development.

Section 4.7.6 – Transportation Planning Rule, Subsection B, requires that amendments to land use standards which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: The changes to the process will have no transportation impact to the City transportation facility.

FINDING: The changes to the development requirements regarding the Trip Budget Overlay Zone are specifically designed to protect the function, capacity, and level of service of a State facility.

FINDING: The proposed amendments comply with Sections 4.7.3 and 4.7.6 of the Phoenix Development Code.

III. RECOMMENDATION: Staff recommends that the Planning Commission review the amendments to Chapter 4 of the Phoenix Development Code and the Phoenix Municipal Code, take testimony and direct Staff on a recommendation to City Council.

Footnote: Italics indicate new language; strikeouts indicate deleted language

EXHIBIT B
CHAPTERS 4.1.4, 4.1.6, 4.2.5, 4.4.5, 4.7.2 AND 4.7.3 OF THE CITY OF PHOENIX LAND DEVELOPMENT CODE (PLCD), AS AMENDED BY ORDINANCE 954 ON JULY 21, 2014, SHALL READ AS FOLLOWS:

4.1.4 - Type II Procedure (Administrative)

A. Pre-Application. A pre-application conference is recommended for Type II applications. Pre-application conference requirements and procedures are in Chapter 4.1.7 – General Provisions.

B. Scope of appeal. The appeal shall be a de novo hearing and shall be the initial evidentiary hearing required under ORS 197.763 as the basis for an appeal to the Land Use Board of Appeals.

C. Application requirements

1. Application Forms. Type II applications shall be made on forms provided by the Planning Department;

2. Submittal Information. The application shall:
   a. Include the information requested on the application form;
   b. Be filed with two copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
   c. Be accompanied by the required fee;
   d. Include two sets of mailing labels for all real property owners of record who will receive a notice of the application as required in Chapter 4.1.4 – Type II Procedure (Administrative), Section C. The records of the Jackson County Department of Assessment and Taxation are the official records for determining ownership. The applicant shall demonstrate that the most current assessment records have been used to produce the notice list;
   e. Include an impact study for all land division applications. The impact study shall quantify/assess the effect of the development on public facilities and services. The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, the sewer system, and the noise impacts of the development. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users. In situations where this Code requires the dedication of real property to the City, the applicant shall either specifically agree to the dedication requirement, or provide evidence that shows that the real property dedication requirement is not roughly proportional to the projected impacts of the development.

D. Notice of Application for Type II Administrative Decision

1. Before making a Type II Administrative Decision, the Planning Department shall provide noticing in the following forms:
   a. By mail, all owners of record of real property within 200 feet of the subject site;
   b. Any person who submits a written request to receive a notice; and

c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.

2. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application, before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process;

3. Notice of a pending Type II Administrative Decision shall:
   a. Provide a 14-day period for submitting written comments before a decision is made on the permit;
   b. List the relevant approval criteria by name and number of code sections;
   c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;
   d. Include the name and telephone number of a contact person regarding the Administrative Decision;
   e. Identify the specific permits or approvals requested;
   f. Describe the street address or other easily understandable reference to the location of the site;
   g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;
   h. State that all evidence relied upon by the Planning Director to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;
   i. State that after the comment period closes, the Planning Director shall issue a Type II Administrative Decision. The decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;
   j. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Phoenix Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

E. Administrative Decision Requirements. The Planning Director shall make Type II written decisions addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action.

F. Public Hearing Option. Applicant may request a public hearing with the Planning Commission in lieu of administrative review. The City will charge a fee for a Type III Procedure if the applicant requests a public hearing.

G. Notice of Decision

1. Within five days after the Planning Director signs the decision, a Notice of Decision shall sent by mail to:
   a. All property owners of record with in 100 feet of the site;

b. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;
c. Any person who submits a written request to receive notice, or provides comments during the application review period;
d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.
e. Any neighborhood or community organization recognized by the City whose boundaries include the site.

2. The Planning Department shall cause an affidavit of mailing and posting of the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and posted, and shall demonstrate that the notice was mailed to the people and within the time required by law.

3. The Type II Notice of Decision shall contain:
   a. A description of the applicant's proposal and the use or uses authorized by the City's decision on the proposal ;
   b. The address or other geographic description of the property proposed for development;
   c. The name of the planning official to be contacted and the telephone number where additional information on the decision may be obtained.
   d. A statement that a copy of the application and decision, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Phoenix City Hall at no cost and that copies shall be provided at a reasonable cost;
   e. A statement that the decision will not become final until the period for filing a local appeal has expired and a statement that the person who is mailed written notice of the decision cannot appeal the decision directly to the Land Use Board of Appeals under ORS 197.830;
   f. A statement that all persons entitled to notice or who are otherwise adversely affected or aggrieved by the decision may appeal the decision;
   g. A statement briefly explaining how an appeal can be filed, the deadline for filing an appeal, and where further information can be obtained concerning the appeal process; and

H. Final decision and effective date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

I. Appeal. A Type II administrative decision may be appealed to the Planning Commission as follows:

1. The following people have legal standing to appeal a Type II Administrative Decision:
   a. The applicant;
   b. Any person who was mailed written notice of the Type II administrative decision;
   c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal procedure.
   a. Notice of appeal. Any person with standing to appeal, as provided in subsection 1, above, may appeal a Type II Administrative Decision by filing a Notice of Appeal according to the following procedures;
      (1) A Notice of Appeal shall be filed with the Planning Department within 14 days of the date the Notice of Decision was mailed;
      (2) The Notice of Appeal shall contain:
         (a) An identification of the decision being appealed, including the date of the decision;
         (b) A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
         (c) A statement explaining the specific issues raised on appeal;
         (d) Filing fee.
      (3) The amount of the filing fee shall be established by the City. The maximum fee for an initial hearing shall be the City's cost for preparing and for conducting the hearing or the statutory maximum, whichever is less.
   b. Appeal procedures. Type III notice and hearing procedures shall be used for all Type II Administrative Appeals, as provided in Sections 4.1.5 – Type III Procedure (Quasi-Judicial), Sections C through G;

J. **Appeal to City Council.** The decision of the Planning Commission regarding an appeal of a Type II Administrative Decision is the final decision of the City unless appealed to City Council. An appeal to City Council shall follow the same notification and hearing procedures as for the Planning Commission appeal.

4.1.6 – Type IV Procedure (Legislative)

A. **Pre-Application conference.** A pre-application conference is required for all Type IV applications. The requirements and procedures for a pre-application conference are described in Chapter 4.1.7 – General Provisions. Section C.

B. **Timing of requests.** The City Planner shall not review non-City sponsored or State required proposed Type IV actions more than five times annually, based on a City Council Resolution approved schedule for such actions. Legislative requests are not subject to the 120-day review under ORS 227.178.

C. **Application requirements**
   1. Application forms. Type IV applications shall be made on forms provided by the Planning Department;
   2. Submittal Information. The application shall contain:
      a. The information requested on the application form;
      b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);
      c. The required fee; and
      d. Findings or a narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.
      e. Mailing labels.

D. **Notice of hearing**
   1. Required hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.
   2. Notification requirements. Notice of public hearings for the request shall be given by the Planning Department in the following manner:
      a. At least 35 days before the date of the first public hearing on an ordinance that proposed to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposed to rezone property or to amend the Phoenix Land Development Code, a notice shall be sent to the Department of Land Conservation and Development (DLCD), in accordance with State law (ORS 197).

      b. At least 20 days, but not more than 40 days, , before the date of the first hearing on an ordinance that proposes to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
         (1) Each owner whose property would be rezoned in order to implement the ordinance (i.e., owners of property subject to a Comprehensive Plan amendment shall be notified if a zone change would be required to implement the proposed comprehensive plan amendment);
         (2) Any affected governmental agency;
         (3) Recognized neighborhood groups or associations affected by the ordinance;
         (4) Any person who requests notice in writing; and
         (5) For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

c. At least 10 days before a scheduled City Council public hearing, public notices shall be published on the City of Phoenix website, City Hall, and other locations as appropriate.

d. The Planning Department shall file an affidavit of mailing or public notice in the record as provided in Subsection a. and b.

e. Notifications for annexations shall follow the provisions of this Chapter, except as requirement for local government boundary commissions (ORS 199).

3. Content of notices. The notices shall include the following information:
   a. The number and title of the file containing the application, and the address and telephone number of the Planning Office where additional information about the application can be obtained;
   b. A description of the location of the proposal reasonably calculated to give notice of the location of the geographic area;
   c. A description of the proposal in enough detail for people to determine that a change is proposed, and the place where all relevant materials and information may be obtained or reviewed;
   d. The time, place, and date of the public hearing; a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall (See subsection E below); and
   e. Each notice required by Section D shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of Phoenix Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

4. Failure to receive notice. The failure of any person to receive notice shall not invalidate the action, providing:
   a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;
   b. Published notice is deemed given on the date it is published.

E. Hearing Process and Procedure

1. Unless otherwise provided in the rules of procedure adopted by the City Council:
   a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:
      (1) Regulate the course, sequence, and decorum of the hearing;
      (2) Direct procedural requirements or similar matters; and
      (3) Impose reasonable time limits for oral presentations.
   b. No person shall address the Commission or the Council without:
      (1) Receiving recognition from the presiding officer; and
      (2) Stating their full name and residence address.
   c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Commission and of the Council, shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;
b. The Planning Director's report and other applicable staff reports shall be presented;
c. The public shall be invited to testify;
d. The public hearing may be continued to allow additional testimony or it may be closed; and
e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

F. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

G. Decision-Making Considerations. The recommendation by the Planning Commission and the decision by the City Council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197 (for comprehensive plan amendments only);

2. Comments from any applicable federal or state agencies regarding applicable statutes or regulations;

3. Any applicable intergovernmental agreements; and

4. Any applicable comprehensive plan policies and provisions of this Code that implement the comprehensive plan. Compliance with Chapter 4.7 – Land Use District Map and Text Amendments shall be required for Comprehensive Plan Amendments, and Land Use District Map and Text Amendments.

H. Approval Process and Authority

1. The Planning Commission shall:
   After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative.

2. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal, within 30 days of its first public hearing on the proposed change, the Planning Director shall:
   a. Report the failure together with the proposed change to the City Council; and
   b. Provide notice and put the matter on the City Council's agenda, a public hearing to be held, and a decision to be made by the Council. No further action shall be taken by the Commission.
3. The City Council shall:
   a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;

b. Consider the recommendation of the Planning Commission; however, it is not bound by the Commission's recommendation; and
c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

I. Vote Required for a Legislative Change

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial, or adoption of an alternative.

2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

J. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the City Official. The City shall also provide notice to all persons as required by other applicable laws.

K. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

L. Record of the Public Hearing

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record;

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record;

3. The official record shall include:
   a. All materials considered by the hearings body;
   b. All materials submitted by the Planning Director to the hearings body regarding the application;
   c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;
   d. The final ordinance;
   e. All correspondence; and
   f. A copy of the notices that were given as required by this Chapter.

Chapter 4.2 - Development Review and Site Plan Review

4.2.5 – Site Design Review Application Submission Requirements

All of the following information is required for Site Design Review application submittal:

A. General Submission Requirements. The applicant shall submit an application containing all of the general information required by Chapter 4.1.4 – Type II Procedure (Administrative) or Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), as applicable. The type of application shall be determined in accordance with subsection A of 4.2.4 – Site Design Review Application Review Procedure. Site Design Review requires a pre-application conference in accordance with Chapter 4.1.7 – General Provisions, Section C.

B. Site Design Review Information. An application for Site Design Review shall include the following information:

1. A map showing the applicant's entire property and the surrounding property to a distance sufficient to determine the location of the development in the City, and the relationship between the proposed development site and adjacent property and development. The property boundaries, dimensions, and gross area shall be identified;

2. Proposed site plan. The site plan shall contain the following information, if applicable:
   a. North arrow and scale
   b. The proposed development site, including boundaries, dimensions, and gross area;
   c. The name and address of project designer, engineer, surveyor, and/or planner, if applicable.
   d. The location, size, and species of trees having a 2" diameter that are proposed to be removed or modified by the development;
   e. The location and dimensions of all proposed public and private streets, drives, rights-of-way, and easements;
   f. The location and dimensions of all existing and proposed structures, utilities, pavement, and other improvements on the site. Setback dimensions for all existing and proposed buildings shall be provided on the site plan;
   g. The location and dimensions of entrances and exits to the site for vehicular, pedestrian, and bicycle access;
   h. The location and dimensions of all parking and vehicle circulation areas (show striping for parking stalls and wheel stops, as applicable);
   i. Pedestrian and bicycle circulation areas, including sidewalks, internal pathways, pathway connections to adjacent properties, and any bicycle lanes or trails;
   j. Loading and service areas for waste disposal, loading, and delivery;
   k. Outdoor recreation spaces, common areas, plazas, outdoor seating, street furniture, and similar improvements;
   l. Location, type, and height of outdoor lighting;
   m. Location of mail boxes, if known;
   n. Location of bus stops and other public or private transportation facilities.
   o. Locations, sizes, and types of signs.
   p. Location of trash enclosures or other waste storage areas.
   q. Identification of slopes greater than 35 percent.

r. Potential natural hazard areas, including any areas identified as subject to a 100-year flood, areas subject to high water table, and areas mapped by the city, county, or state as having a potential for geologic hazards;
s. Resource areas, including marsh and wetland areas, streams, wildlife habitat identified by the City or any natural resource regulatory agencies as requiring protection;
t. Site features, including existing structures, pavement, drainage ways, canals and ditches;
u. Locally or federally designated historic and cultural resources on the site and adjacent parcels or lots;
v. Other information determined by the Planning Director to be pertinent. The City may require studies or exhibits prepared by qualified professionals to address specific site features (e.g., traffic, environmental features, natural hazards, etc.), in conformance with this Code.

3. Architectural drawings. Architectural drawings shall be submitted showing:
   a. Building elevations with building height and width dimensions;
   b. Building materials, color, and type.
   c. The name of the architect or designer.

4. Preliminary grading plan. A preliminary grading plan prepared by a registered engineer shall be required for developments which would result in the grading (cut or fill) of 1,000 cubic yards or greater. The preliminary grading plan shall show the location and extent to which grading will take place, indicating general changes to contour lines, slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed. Surface water detention and treatment plans may also be required, in accordance with Chapter 3.8 – Storm and Surface Water Management Standards.

5. Landscape plan. A landscape plan is required and shall show the following:
   a. The location and height of existing and proposed fences and other buffering or screening materials;
   b. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas;
   c. The location, size, and species of the existing and proposed plant materials (at time of planting);
   d. Existing and proposed building and pavement outlines;
   e. Specifications for soil at time of planting, irrigation plans, and anticipated planting schedule.
   f. Other information as deemed appropriate by the Planning Director. An arborist's report may be required for sites with mature trees that are protected under Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls.

6. Sign drawings shall be required in conformance with Chapter 3.6 – Signs.

7. Copies of all existing and proposed restrictions or covenants.

8. Letter or narrative report documenting compliance with the applicable approval criteria contained in Chapter 4.2.6 – Site Design Approval Criteria.

9. Uses that are likely to generate significant levels of vehicle traffic (e.g., due to shipping, receiving, and/or customer traffic) shall require a Conditional Use Permit, in accordance with Chapter 4.4 – Conditional Use Permits. "Significant traffic" means that the average number of daily trips, or the average number of peak hour trips, on any existing street would increase by 15 percent or greater as a result of the development. The city may require a traffic impact analysis prepared by a qualified professional prior to deeming a land use application complete, and determining whether the proposed use requires conditional use approval. Applicants may be required to provide a traffic analysis for review by Oregon Department of Transportation (ODOT) for developments that increase traffic on state highways. The Conditional Use Permit shall include appropriate transportation improvement requirements, as identified by the traffic analysis and/or ODOT, in conformance with Chapter 3.5.2 – Transportation Standards.

C. **Site Design Review Additional Information for Overlay Zones.** An application for Site Design Review for a property located in an overlay zone shall include the following information:

1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), submit a traffic analysis for review by Oregon Department of Transportation (ODOT).

Chapter 4.4 – Conditional Use Permits

4.4.5 – Additional Development Standards for Conditional Use Types

A. **Concurrent Variance Applications.** A Conditional Use Permit shall not grant Variances to regulations otherwise prescribed by the Development Code. Variance applications may be filed in conjunction with the conditional use application and both applications may be reviewed at the same hearing.

B. **Additional development standards.** Development standards for specific uses are contained in Chapter 2 – Land Use Districts.

C. **Traffic studies.** Traffic studies may be required for any applications that the Planning Department or the Planning Commission deems necessary.
   1. For properties within the Trip Budget Overlay Zone (Chapter 2.9), a traffic analysis must be submitted to Oregon Department of Transportation (ODOT) and approved by ODOT.

D. In the case of a use existing prior to the effective date of this ordinance, any change of use expansion of lot area or expansion of structure shall conform with the requirements for conditional use.

4.7 – Land Use District Map and Text Amendments

4.7.2 Legislative Amendments

A. **Legislative Amendments.** Legislative amendments are policy decisions made by City Council. They are reviewed using the Type IV Procedure in Chapter 4.1.6 – Type IV Procedure (Legislative) and shall conform to the criteria listed in 4.7.2.B and to Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.

B. **Criteria for Legislative Amendments.**
   1. The text of this Development Code may be recommended for amendment and amended provided that all the following criteria are met:
      a. The proposed amendment is consistent with the purpose of the subject section and article.
      b. The proposed amendment is consistent with other Provisions of this Code.
      c. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, and most effectively carries out those goals and policies of all alternatives considered.

4.7.3 – Quasi-Judicial Amendments

A. Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application Quasi-judicial map amendments shall follow the Type III Procedure as governed by Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), using standards of approval in Subsection "B" below. The approval authority shall be as follows:

1. The Planning Commission shall decide land use district map changes that do not involve comprehensive plan map amendments;

2. The Planning Commission shall make a recommendation to the City Council on an application for a comprehensive plan map amendment. The City Council shall decide such applications; and

3. The Planning Commission shall make a recommendation to the City Council on a land-use district change application that also involves a comprehensive plan map amendment application. The City Council shall decide both applications.

B. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be a prerequisite to approval;

2. Demonstration of compliance with all applicable standards and criteria of this Code, and other applicable implementing ordinances;

3. Evidence of change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use district map regarding the property that is the subject of the application; and the provisions of Chapter 4.7.6 – Transportation Planning Rule Compliance, as applicable.