

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Policy Session Worksheet

Presentation Date: 5/4/21 **Approx. Start Time:** 2:00 p.m. **Approx. Length:** 1 hour

Presentation Title: File ZDO-280: FY 2021 Minor and Time Sensitive Comprehensive Plan and ZDO Amendments

Department: Planning and Zoning Division, Department of Transportation and Development (DTD)

Presenters: Glen Hamburg, Senior Planner; Jennifer Hughes, Planning Director

Other Invitees: Dan Johnson DTD Director; Cheryl Bell, DTD Assistant Director of Development; Karen Buehrig, Long-Range Planning Manager

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

Input on the set of amendments being developed as a part of the Minor and Time Sensitive Comprehensive Plan and Zoning and Development Ordinance (ZDO) Amendments package. The input falls into two categories:

- Direction related to six substantive land use issues; and
- Questions or concerns about other proposed amendments summarized in Attachment A.

Staff is also requesting direction on whether to move the amendments forward to the public hearings process with the Planning Commission and the Board.

EXECUTIVE SUMMARY:

The adopted 2019-2021 Long-Range Planning Work Program includes a project titled “*Minor and Time-Sensitive ZDO Amendments*”. This project is intended to focus annually on relatively minor changes to the County’s Comprehensive Plan and Zoning and Development Ordinance (ZDO) to comply with any new state and federal mandates, clarify existing language, correct errors, or adopt optional provisions that require only minimal analysis. The last package of such “minor amendments” was Ordinance ZDO-276, which was adopted by the Board of County Commissioners (BCC) in September 2020.

This year, staff is proposing the amendments package address the six substantive issues described here in this worksheet, as well as the 10 more routine “clean up” measures listed in Attachment A.

This amendment package is planned for public hearings this summer. The Planning Commission held study sessions on February 22 and April 12, 2021, where they discussed the six substantive issues in detail and provided staff with their initial feedback. Following is a summary of each of the six issues.

1. Extend pre-application conference validity period:

Before an application can be submitted for certain types of land use permits, including applications for conditional uses, partitions, subdivisions, design review, and zone changes, the applicant must have completed a pre-application conference (“pre-app”). The pre-app is a somewhat informal meeting with County staff and representatives of other interested agencies to provide the prospective applicant information on relevant development regulations, policies, procedures, and fees. At the pre-app, prospective applicants are provided a preliminary review of their proposal for compliance with applicable development standards; significant issues and design alternatives are identified; and project-specific questions are answered. The pre-app is useful to the applicant because it can identify challenges to a potential project before significant investments are made. Pre-apps are also useful to the County as they encourage higher quality applications that can be processed more efficiently.

ZDO Section 1307 currently limits the pre-app’s validity period to one year. If a complete land use permit application for the prospective development is not submitted within one year of when the pre-app is held, a new pre-app must be paid for, scheduled between multiple parties, and held with the prospective applicant, even if their development proposal has not changed.

Staff have identified that one year can be insufficient for an applicant to prepare a complete permit application following their pre-app, particularly when the application is for a more substantial request, when there are other related applications to be considered concurrently, or when there are significant events during that one year (e.g., a pandemic, wildfires, or ice storms). Additionally, requiring a new pre-app and an additional pre-app fee from applicants after one year has passed and before a permit application can be accepted creates additional cost and delays for prospective developers in the County.

Options for moving forward:

- a. Extend the pre-app validity period to two years (24 months).
- b. Extend the pre-app validity period to 18 months.
- c. Retain the existing 12-month pre-app validity period.

Recommendations from Planning Commission and staff: Members of the Planning Commission have expressed that extending the pre-app validity period to 18 months could be appropriate to provide applicants more time to complete necessary application materials without additional meetings and fees. Staff would support the pre-app validity period being extended to an even two years (24 months) in order to provide yet more time for the applicant, but also to simplify the tracking of pre-app expiration dates.

2. Clarify and expand allowances for metal as an exterior building material for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling:

The ZDO does not regulate the kinds of building materials that can be used for detached single-family dwellings, a single two-family dwelling (duplex), or a single three-family dwelling (triplex), or that can be used for structures accessory to those residential uses or to farming or forestry activities (e.g., pole barns) in rural areas.

The ZDO does, however, have limitations on the type of exterior building materials that can be used for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling (i.e., multiple duplexes or triplexes on the same lot). The limitations differ slightly depending on the particular area of the County where the development is located, but they generally allow the use of brick, tile, masonry, stucco, stone or synthetic equivalent, pre-cast masonry, gypsum reinforced fiber concrete, wood lap siding, architecturally treated concrete, glass, and/or wood, while prohibiting the use of metal as an exterior building material, unless:

- The particular proposed exterior, including the metal siding, is found to be "high-image"; or
- The developer can show that their proposed metal exterior would result in a development that achieves stated purposes for the site and building design standards as well or better than other allowed exterior materials. This option is available in most but not all areas.

A "high-image" metal exterior has been inferred by staff to imply being comprised of material that is attractive, highly durable, color-safe, without visually-distracting mounting hardware, and, in the case of metal, more than just painted corrugated siding. However, the term "high-image" is not defined in the ZDO, which creates ambiguity for prospective developers and for the County.

Furthermore, when a particular metal or other exterior building material is determined to not be "high-image", the developer must take the extra, somewhat burdensome step of arguing how their proposed metal nonetheless fulfills the nine purpose clauses listed in the *Site and Building Design* section of the ZDO. Ultimately, the County may not agree that the proposed metal meets those subjective purpose clauses and may prohibit the use of that metal as an exterior building material.

Staff and members of the County's Design Review Committee believe that it would at least be useful to identify types of metal exterior building materials that are acceptable for these types of new development more specifically than simply allowing "high-image" metal. Staff also believes that certain exterior metal treatments should be expressly allowed.

Options for moving forward:

- a. Allow the use of metal – of any kind, in any amount, with or without visible exterior fasteners, anti-corrosion treatments, or dent-protection features – as an exterior building material for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling ***in urban and rural zones.***

- b. Allow the use of metal – of any kind, in any amount, with or without visible exterior fasteners, anti-corrosion treatments, or dent-protection features – as an exterior building material for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling **only in rural zones**.
- c. Allow the use of metal as an exterior building material for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling **in urban and rural zones, with some design requirements and limitations in urban zones**, such as a prohibition on corrugated metal siding or the use of shipping containers with exterior decals in urban areas, or a requirement that metal buildings in urban areas include some other exterior element, such as stone or wood.
- d. Allow the use of metal as an exterior building material for new institutional, commercial, and industrial development, multifamily dwellings, and developments of more than one two- or three-family dwelling **only in rural zones**, provided that at least the lower portions of the building’s exterior that are more susceptible to being bumped by vehicles be brick or some other dent-resistant material and provided that the metal has some anti-corrosion treatment.
- e. Continue to allow metal as an exterior building material only if it is considered to be “high image” or is otherwise found to be consistent with stated design purposes.

Recommendations from Planning Commission and staff: Members of the Planning Commission expressed support for Option (a), with no distinction between urban and rural zones, and with no limits on how metal can be used as an exterior building material. Staff recommends Option (c), to allow the use of metal in urban and rural zones, but with certain design requirements and limitations in urban zones.

3. Expressly allow additional signage for drive-thrus, subject to standards:

The ZDO regulates the type, amount, and location of signage¹ that a commercial development can have. Currently, the ZDO does not specifically provide drive-thru businesses with any additional signage allowances than any other commercial use, despite drive-thrus generally needing additional free-standing or on-building signs in drive-thru lanes to display menus and other information to drive-thru customers. In many instances, if the ZDO’s existing sign regulations were to be enforced as written, drive-thru businesses are limited to one free-standing sign (e.g., “pole sign”), whether that’s the main free standing sign advertising the business or another free-standing sign in the drive-thru. The Planning Commission and staff have identified this as inappropriately limiting on drive-thru businesses.

¹ ZDO Section 202 defines a “sign” as follows: “A presentation or representation, other than a house number, by words, letters, figures, designs, pictures or colors displayed out of doors in view of the general public so as to give notice relative to a person, a business, an article of merchandise, a service, an assemblage, a solicitation, or a request for aid or other type of identification. This definition specifically includes billboards, ground signs, freestanding signs, wall signs, roof signs, logo signs, and signs on the following: marquees, awnings, canopies, street clocks and furniture and includes the surface upon which the presentation or representation is displayed.” A menu board and other similar display in a commercial drive-thru is a “sign” according to this definition.

Importantly, the County cannot regulate signs according to their content, so it would not be possible to have regulations that allow or disallow additional signage based on whether the signs list menu items and prices or just a business name and/or logo, for example. Nonetheless, it would be possible to allow drive-thru businesses additional signage when that additional signage is oriented toward drive-thru lanes and sized to serve drive-thru customers.

Options for moving forward:

- f. Allow approved commercial drive-thrus to have additional signage oriented toward their drive-thru lanes, provided their size is only as necessary to serve drive-thru customers (e.g., with an eight-foot height limit).
- g. Continue to *not* allow drive-thru businesses any additional signage for drive-thru displays.

Recommendations from Planning Commission and staff: Members of the Planning Commission and staff support Option (a).

4. Repeal certain County limitations on property line adjustments (PLAs) in natural resource zones:

The ZDO includes certain limitations on how property lines can be adjusted between existing lots that are in a natural resource zone (i.e. zoned Ag/Forest (AG/F), Exclusive Farm Use (EFU), or Timber (TBR)). Some of those limitations are not imposed by the state, but are rather the County's own limitations that can be repealed. For example, the County limits the amount of land area that a lot can be reduced in size by a property line adjustment (PLA) to no more than five percent of the lot's current size, despite this limitation not being in state statute.

Members of the public have requested that consideration be given to the repeal of these County limitations on PLAs in natural resource zones in order to make it possible and easier for property owners to modify their property lines.

Staff have observed that limiting how much land can be transferred between two properties in a natural resource zone, or limiting the number of times that such a property can be reduced in size by separate PLAs, does not necessarily help to protect farm or forest land for agricultural or forestry related land uses; indeed, the County's limit on how much land can be transferred between properties could limit natural resource operations in cases when those operations need to acquire property from neighbors (e.g., for farming or forestry).

Options for moving forward:

- a. Repeal the County's limitations on the number and extent of PLAs in natural resource zones that exceed any limitations imposed by the state.
- b. Retain the County's existing limitations on PLAs in natural resource zones.

Recommendations from Planning Commission and staff: Members of the Planning Commission have expressed support for repealing the County's limitations, and staff agree.

5. Offer an approval pathway for offices for government uses in more urban residential zones:

In most urban residential zones, including low density residential zones, the ZDO already allows a broad range of governmental uses, such as fire stations, libraries, public schools, public utility facilities, and public parks, to be approved, as well as accessory offices that are clearly ancillary to and necessary to support an approved government use on the same property, such as an office for the staff of the fire station or an office for the principal.

The ZDO does not, however, allow for offices for governmental uses in most urban residential zones when those offices are not ancillary to and necessary for the operation of another permitted government use on the same property. For example, a fire district could neither co-locate offices for the entire district on the same site with a neighborhood fire station nor establish just the office use on a site.

This is in contrast to what is allowable in most other zones. The ZDO offers a pathway for these kinds of offices for governmental uses to be permitted in the County's rural residential, urban and rural commercial, and urban and rural industrial zones, including in the Mt. Hood area, either outright as a primary use or with a conditional use permit issued only after a review of project- and neighborhood-specific conditions. Government offices can also be approved in certain high density residential zones as a limited or conditional use.

The prohibition on government offices in most urban residential zones has stymied interests in siting certain public administrative functions, including offices for a local fire district and a regional public park authority, on residential properties that may otherwise be appropriate for the use and that may be supported by the local community. At the same time, a review of legislative history indicates that the existing prohibition is not the result of a conscious policy decision, but perhaps the unintended result of a restructuring of the ZDO in years past (in a sense, a potential drafting error).

Allowing "stand-alone" government offices in all urban residential zones as a conditional use would be consistent with how the use is allowed elsewhere in the County and would require there to be a public hearing and a formal consideration of traffic, parking, and other impacts, as well as utility service capacity, building design, and landscaping, all before any approval is issued.

Options for moving forward:

- a. Allow government offices in urban residential zones as a conditional use.
- b. Allow government offices in urban residential zones as a conditional use, but only when in conjunction with another permitted use on the same property (i.e., allow a park services administration building only when there is also a public park on the same property).
- c. Continue to allow government offices only as an accessory use in most urban residential zones.

Recommendations from Planning Commission and staff: Members of the Planning Commission and staff support Option (a), having not identified a benefit to requiring government offices, otherwise appropriate for the site and neighborhood, to be allowed only when accessory to some other government use on the property.

6. Expand opportunities for developers to choose to pay FILO instead of being required to make certain road frontage improvements, and expand the types of roads that can be improved with collected FILO funds:

The ZDO often requires frontage improvements (e.g., curbs, sidewalks) to be built by developers in the Portland Metro Urban Growth Boundary (UGB) concurrent with their development. However, the ZDO also allows developers of smaller-scale residential projects in the UGB, such as a new single-family residence on a vacant lot or a land division creating no more than three residential parcels, to choose to instead pay a “fee in lieu of” (FILO) constructing those improvements themselves, if they prefer.

FILO is only an option for these smaller-scale developers in the Portland Metro UGB when the County’s Department of Transportation and Development has deemed FILO to be an acceptable alternative to construction for specific reasons, such as when: there are significant topographical constraints to building the frontage improvements; the improvements would not connect to any existing sidewalk within 200 feet; or the improvements are already included in the Five-Year Capital Improvement Program for construction by the County.

Revenues that are collected through this FILO option from projects in the UGB are spent on pedestrian improvements elsewhere in the UGB that are determined to be more necessary and beneficial, such as sidewalk improvements near schools. By law, collected FILO revenues are allocated to a designated “Sidewalk Improvement Fund” and can only be spent on sidewalk or pedestrian pathway construction on certain classifications of roads within the UGB.

To-date, collected FILO funds have contributed to four projects: a new sidewalk along SE Torbank Rd connecting to Oak Grove Elementary; a new sidewalk along SE Kellogg Rd in front of an existing manufactured home park; installation of ADA-compliant curb ramps along Oak Grove Blvd; and filling in missing sidewalks between existing residential development, Sieben Park, and Happy Valley Library.

Development Engineering staff have recommend expanding the list of qualifying opportunities for developers to choose to pay FILO. Specifically, they recommend that developers of smaller-scale residential development in the Portland Metro UGB be allowed to pay FILO instead of being required to build frontage improvements when those frontage improvements would, if constructed, create storm drainage constraints or if the improvements would not connect to any existing improvements.

Development Engineering staff have also recommend that the ZDO be amended so that collected FILO funds can be spent on pedestrian improvements along any road classification type in the UGB, including arterial roads such as South End, Beutel, and Leland roads near Oregon City, SE River Rd in the Oak Grove neighborhood, SE Thiessen Rd between Gladstone and Milwaukie, and SE 122nd Ave near Happy Valley.

Options for moving forward:

- a. Allow developers of smaller-scale residential development in the Portland Metro UGB to choose to pay FILO instead of themselves constructing frontage improvements when their frontage improvements would create storm drainage constraints or would not connect to any existing improvements, and allow collected FILO revenues to be spent on pedestrian improvements along any road classification type in the UGB.
- b. Continue to require developers of smaller-scale residential development in the Portland Metro UGB to construct frontage improvements even if the improvements would create storm drainage constraints or they would not connect to any existing improvements, and continue to prohibit collected FILO revenues from being spent on pedestrian improvements along arterial roads.

Recommendations from Planning Commission and staff: The Planning Commission has underscored the importance of the equitable use of collected FILO revenues and the collection of a fee sufficient to cover the cost of construction. Per the adopted fee schedule, the fee paid in lieu of making frontage improvements is based on an engineer’s and the County’s estimate of what those frontage improvements would cost. Staff has found that FILO-funded projects are largely in the same areas of the County where FILO revenues are collected, and that FILO-funded projects support uses with wide community benefit, such as schools, libraries, and parks, rather than benefitting just a few private property owners. Development Engineering staff recommend Option (a).

FINANCIAL IMPLICATIONS (current year and ongoing):

Is this item in your current budget? YES NO

The adoption process for these amendments is included in the current budget.

What is the funding source? General Fund – Long-Range Land Use Planning Program

STRATEGIC PLAN ALIGNMENT:

- How does this item align with your Department’s Strategic Business Plan goals?

The project aligns with the Long-Range Planning Program’s purpose of providing land use and transportation plan development, analysis, coordination, and public engagement services to residents; businesses; local, regional, and state partners; and County decision-makers so they can plan and invest based on a coordinated set of goals and policies that guide future development.

- How does this item align with the County’s Performance Clackamas goals?

The recommendations in this worksheet align with the Performance Clackamas goals to **“Build Public Trust through Good Government”** and **“Grow a Vibrant Economy”**.

LEGAL/POLICY REQUIREMENTS:

None of the six substantive issues described in this worksheet are required by law or policy to be addressed. Attachment A identifies 10 additional, less substantive issues that staff recommends be addressed in ZDO-280; Issues #5 and #9 on that attachment (related to land divisions along certain zoning boundaries and extension of sewer services, respectively) would align with state restrictions and allowances, and Issue #6 related to roads and similar development in urban and rural zones would align with existing allowances in the County's Comprehensive Plan.

PUBLIC/GOVERNMENTAL PARTICIPATION:

- Making these "minor amendments" to the County's land use regulations annually is included in the Long-Range Planning Work Program, which was formally adopted after public hearings to determine Long-Range Planning priorities.
- Public study sessions were held with the Planning Commission on February 22 and April 12, 2021, at which the six substantive issues outlined in this worksheet were discussed.
- Public notice will be provided, as required by law, for any proposed amendments to the ZDO and Comprehensive Plan that come before the Planning Commission and Board for formal consideration at a public hearing.

OPTIONS:

- (1) Direct staff to draft amendments consistent with their recommendations in this worksheet and Attachment A, and proceed to the public hearing phase
- (2) Direct staff to make Board-identified changes to the proposals in this worksheet or Attachment A, and then proceed to the public hearing phase
- (3) Direct staff to take no further action on this project, except for those proposed amendments in Attachment A that are necessary to comply with state laws and the County's Board-adopted Comprehensive Plan (Items 5 and 8 of Attachment A)

RECOMMENDATION:

Staff Recommends **Option 1 above:** Direct staff to draft amendments consistent with their recommendations in this worksheet and Attachment A, and proceed to the public hearing phase

ATTACHMENTS

Attachment A, Summary of Additional Amendments Proposed for Consideration under File ZDO-280

Attachment B, *DRAFT* April 12, 2021, Planning Commission Study Session Minutes

SUBMITTED BY:

Division Director/Head Approval _____

Department Director/Head Approval *Dan Johnson*

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Glen Hamburg @ 503-742-4523
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ATTACHMENT A

Summary of Additional Amendments Proposed for Consideration under File ZDO-280

1. **Identify commercial dog boarding, dog daycare, and dog grooming facilities as already permitted uses in the Community Commercial (C-2) District:**

While not expressly listed in the ZDO as a permitted use in the C-2 District, the County already determined in a formal, binding 2016 land use decision that commercial dog boarding/daycare/wash and grooming facilities are similar to one or more other land uses allowed in the zoning district and are, therefore, also allowable in the district today. Staff proposes to amend ZDO Table 510-1: *Permitted Uses in the Urban Commercial and Mixed-Use Zoning Districts*, to identify these uses as permitted in the C-2 District.
2. **Clarify when a time extension application can be submitted and how long an approved time extension is valid:**

The ZDO allows time extensions on certain approved land use permit applications, but is silent on how far in advance a time extension request can be made before the expiration of the original permit's (typically four-year) period for implementation. The ZDO is also unclear on the timing of time extensions vis-à-vis approved modifications to permits and the appeal periods following approval of a permit application. Staff will propose amendments in ZDO-280 to clarify these issues.
3. **Clarify how the timing of an approved modification fits with the implementation period for an approved land use permit:**

The ZDO allows modifications to certain kinds of permit approvals, but is unclear how the timing of a modification request, if approved, aligns with the expiration of the implementation period of the original permit. ZDO-280 will include amendments to clarify this issue as well.
4. **Identify required permit types for certain existing land use applications:**

Section 1307 lists the type of application and review process (e.g., "Type I", "Type II", "Type III", or "Type IV") required for certain permits. However, the list is out of date. Staff will propose updates to the list so that it identifies the correct type of application needed for additional permits the County already offers/requires.
5. **Recognize that land divisions along a boundary between Forest and Agriculture Comprehensive Plan land use designation boundaries are prohibited under state law, unless the resulting parcels meet the applicable minimum lot size or certain exceptions to the minimum lot size.**
6. **Recognize that unplatted parcels can be consolidated through a PLA process under Oregon Revised Statutes (ORS) Chapter 92, and that a replat is needed/possible to eliminate or vacate a platted property line.**
7. **Simplify existing regulatory language related to replats.**
8. **Recognize in the ZDO that the County's Comprehensive Plan already allows roads and similar development in urban and rural zones (but not natural resource zones) outright.**
9. **Identify existing allowances in Oregon Administrative Rules (OARs) for extension of sewer service outside a UGB.**
10. **Correct typographic errors, inconsistent terminology, and outdated references, and repeal any standards identified as unenforceable.**

ATTACHMENT B

DRAFT PLANNING COMMISSION MINUTES

April 12, 2021

Meeting held via Zoom meeting online

Commissioners present: Mary Phillips, Louise Lopes, Gerald Murphy, Carrie Pak, Thomas Peterson, Brian Pasko, Steven Schroedl, Tammy Stevens, Michael Wilson.

Commissioners absent: Mary Phillips

Staff present: Jennifer Hughes, Glen Hamburg.

Commission Chair Stevens called the meeting to order at 6:30 pm.

General public testimony not related to agenda items: none.

Commissioner Stevens opened the study session for FY 2021 Minor and Time Sensitive ZDO Amendments. Glen Hamburg presented issues related to text amendments that may be brought before the Planning Commission in a public hearing later this summer. It would be another package of legislative text amendments to both the County Comprehensive Plan and the ZDO to clarify some of our existing language, fix errors, and to adopt some optional provisions that would require minimal analysis.

Some of the items in the clarifications and corrections package include:

1. Dog boarding, daycare, and grooming in the C-2 district. This is already allowed in this zone but is not specifically listed as an allowed use in the ZDO. Staff proposes to expressly list it as an allowed use in the zone;
2. Time extension submittals and validity. Right now, you can ask for an extension before a land use approval expires, but there is no specific language that says how long ahead of the expiration an extension can be requested;
3. Timing of approved modifications. We want to clean up some of the ambiguity in our current language as to the timing of how an approved modification fits with the original land use approval's implementation period;
4. Updated list of required permit types. Our current list of permit requirements in the ZDO is not up to date. We have some types of permits that are not listed, as well as some types of listed permits that are no longer an option;
5. Land divisions along Agricultural and Forest Comprehensive Plan boundaries. Our zoning code doesn't actually speak to this right now. For example, if you have a piece of property that is split-zoned, such as part TBR and part EFU, according to State law, it would likely not be possible to simply divide that property along the zoning boundary unless both halves meet their required minimum lot sizes. We just want to make sure that this is made clear in the ZDO;
6. Eliminating/vacating property lines. We recently learned that it is technically feasible to do a property line adjustment or a replat to simply eliminate a property line. So if you had two lots of record, it is possible to apply for a property line adjustment or replat to effectively erase the property line and combine those two lots of record. Right now we don't address this in our zoning code;
7. Simplifying language for replats. We have a lot of language in our code about replats, which, as the name implies is redoing a plat. If you had a platted subdivision with 10 different lots, and you wanted to change the boundaries of those properties, or if you wanted to add another lot out of those that are existing, or if you wanted to combine some of them, you are generally doing a replat. We are just looking at simplifying the language that we already have in our code;

8. Roads and similar development in urban and rural zones. We recognize in the Comprehensive Plan that in urban and rural zones, you can build roads. We don't expressly recognize this though in the ZDO. It has always been implied, but we would like to make it expressly clear in the ZDO that it is allowed in urban and rural zones (but not necessarily natural resource zones);
9. Extension of sewer service outside of UGBs. It is also the case under State law that in certain cases, you can extend urban sewer services outside of the urban growth boundaries. We just need to clarify that in our code as well;
10. Typos, inconsistencies, outdated references, etc. These are things that we just keep track of throughout the year and fix as we go along.

More substantive changes for consideration are:

1. Extension of validity for pre-application conferences from one year to two years. Pre-application conferences are informal meetings between the applicant, Planning staff, and representatives from other relevant agencies for more complicated types of applications, such as home occupation exceptions, partitions, conditional uses, and subdivisions. It is an opportunity for the applicant to explain what they want to do before submitting a formal application. The applicant is provided guidance on how to fill out the application and what may or may not be feasible. Right now the pre-apps are only valid for one year, which means that the applicant must submit their land use application within that timeframe or they are required to go through another pre-app, which can be expensive and cause time delays for applicants. Commissioner Pak feels that two years may be a bit long since requirements often change during that amount of time. She suggests something in between what we have now and two years. Commissioner Wilson asked how often these pre-applications expire. Glen said that we don't have any actual statistics on how often this happens, but we can look into it before proposing any amendments to it. Commissioner Wilson agrees with Commissioner Pak and suggests 18 months as an expiration period. Commissioner Pasko asked if there could be some sort of provision that would allow staff to use their discretion within the two year period, something where staff could require a new pre-app if there were substantive regulatory changes but would also allow flexibility to not require another one if it wasn't necessary. Commissioner Stevens shared her experience going through the pre-application process for a subdivision. It was a very valuable for her to hear from all of the various departments and to be given guidance on what she needed to have prepared. She is very supportive with Commissioner Pasko's suggestion of giving staff some discretion whether or not to extend the pre-app expiration; one year is not a lot of time to get everything together for an application in some of these instances. Commissioner Murphy thinks that the extra months would be valuable, but two years is a really long time. Commissioner Schroedl said that when you are waiting for responses from other agencies and utilities, a year can go by very quickly and you may not get the responses you need from all of the agencies within this time. He would be interested in hearing what surrounding counties do and the rationale as to why they do it the way they do. Commissioner Peterson feels that if an applicant is making progress on their application, then staff should have the discretion of extending the deadline if the applicant can provide a reasonable explanation. Glen's main concern is whether or not we can give staff more discretion of when a new pre-app is required and, if we can, what discretionary language we use to guide staff in their determination. Our processes should be clear and fair, so we will have to take a look at how we might do that.
2. Clarify allowances for metal as an exterior building material, and expressly allow metal siding at least in the rural areas. This only concerns new institutional, commercial, and industrial development, as well as multi-family dwellings and developments of more than one two-family dwelling (duplex) or three-family dwelling (triplex) on the same property; we are not talking about detached single-family residences, singular duplexes or triplex, or pole barns in natural resource zones. When somebody is

proposing one of the aforementioned types of development, they have to go through our design review process. One of the criteria that this process looks at is exterior building materials. Right now our rules only allow exterior materials such as brick, tile, masonry, stucco, stone, or some sort of pre-cast masonry, wood, glass, etc. Metal is only allowed if it is “high image” or achieves the purposes of the site/building design standards as well or better than other expressly allowed materials. The term ‘high image’ is a subjective term which nobody seems to have a definition for. As a standard, it is something that has been frustrating for staff as well as developers to try and interpret. Metal can also be allowed if it meets the list of nine purposes listed in the relevant section of the zoning code, which are all vague. This pathway for approving metal exteriors is also highly subjective and staff may disagree with the developer as to whether their proposal achieves those nine purpose clauses. The goal in this package of amendments could be to expressly allow the use of metal as an exterior building material, with clarity on what types of metal can be used and how it is used on a structure. There is some interest with the Board of County Commissioners to consider expressly allowing metal siding at least in the rural areas, but it may make sense to allow metal siding even in urban areas as well. For clarification, Jennifer pointed out that we are not talking about commercial farm or commercial forestry buildings. We do not regulate those because there is no design review process for them. Commissioner Murphy said that he actually wishes metal exteriors were more common in fire-prone areas like where he lives. It is something that needs to be considered, especially in the rural areas. There are some types of metal exteriors that actually look really good. We are only discussing the exterior building materials, not the interior. Commissioner Wilson is also surprised that this is not already allowed. Commissioner Lopes thought that industrial buildings were typically metal, so this is a surprise to her. She can understand potential restrictions on metal exteriors in residential areas, but it doesn’t make any sense in the industrial areas. Commissioner Pasko would like to see examples of something that would not be allowed. Glen shared photos of buildings that have used different types of metal on their exteriors and instances where metal was blended with other materials to make the structures more attractive. Some of our design review staff suggested requiring some sort of brick or masonry along the bottom portion of any metal building so that it doesn’t dent when vehicles bump into them. We could also discuss requiring a paint or other finish to make allowed metal exteriors more attractive. Should there be requirements for finishes, treatments, mixtures of materials, etc.? The original intent was to avoid having the types of buildings that are not architecturally attractive. Commissioner Pasko pointed out that a lot of these buildings would still look more or less the same, even if they were covered with wood instead of metal. He is inclined to allow metal outright, with the exception of shipping containers. The design review process could flush out the architectural aesthetic. Commissioner Murphy said that the same buildings, if done with a wood finish, would be susceptible to cracking and falling apart. Metal buildings can look high end when done artistically. Commissioner Peterson said that the Port of Portland has been using these metal materials for years and with good reason. They are very attractive and they last longer. It doesn’t seem like a problem to allow metal siding at all. Commissioner Wilson doesn’t think that anyone would have a problem with any of the metal buildings shown if there was some attractive landscaping. He thinks that they should be allowed. Commissioner Schroedl talked about different types of finishes that can be used on metals and asked if there is any wording in the code that talks about percentages of metal to be allowed. Glen said that there is not. There are jurisdictions that have percentage limitations, but we don’t. Commissioner Murphy pointed out that manufactured homes are made of metal siding and nobody has brought that up. Commissioner Pak said that what we are trying to avoid is personal taste and subjectivity, which there is always going to be some level of that.

3. Allow additional signage for drive-thrus, subject to standards. This issue is fairly straightforward in that our zoning code does not speak specifically to signs in commercial drive-thrus. We have

standards for free-standing signs, but nothing in the code that addresses menu board signs in commercial drive-thrus. Commercial drive-thru businesses are limited to the same signage limits, despite their particular need for additional signage in drive-thru lanes. It is pretty typical to have menu signs as you go through a drive-thru. Some other jurisdictions have size limitations on drive-thru signs, and some require that they be faced away from public rights-of-way. Some require that there be vegetation that at least partially shields their view from off site. Companies and big corporations are always coming up with all sorts of unique ways to get additional signage for their needs. It is important to keep in mind that we cannot regulate sign content. What we can do is to regulate based on the sign's use such that if you have a drive-thru lane you get extra signs related to the drive-thru. Commissioner Wilson said that whether or not a sign is ugly is really personal preference. Commissioner Murphy thinks that drive-thru signs really have a lot of value, and that they provide a service to the customer by allowing them to stay in their car. Commissioner Peterson can see both sides—he appreciates the signs when he goes to a drive-thru, but when they add blinking lights and other distracting and obnoxious things then it goes too far. This is mostly a matter of cleaning up our code so that there is guidance for staff. We don't currently have any language in our code that expressly allows additional signage for drive-thrus, but they have been allowed for decades. What we are considering doing is adding language to the ZDO clarifying that they are allowed within certain parameters. Generally, there is an interest in having a size limit to help reinforce that it is indeed a sign for the drive-thru as opposed as being an additional advertising mechanism.

4. Repeal the County's own limitations on property line adjustments (PLAs) in natural resource zones. The County has rules that are more restrictive than what the State has in terms of PLAs for properties in a natural resource zone. For example, the County has a rule that says you can only reduce the size of one of the two properties in a natural resource zone through a PLA by no more than 5%, meaning you can't move a property line with my neighbor in a way that makes your lot smaller or theirs smaller by more than 5% of its current size. Another rule that the County has is that you can only reduce the size of a natural resource zoned property through a PLA once. Feedback from the general public is that this is too limiting and does not serve any useful purpose. The original intent of these additional County limitations on PLAs may have been of farmland and forest land, but it is not fully known. The State has basically two limitations on PLAs in natural resource zones: if one of the properties is currently 80 acres or above, you can't go below 80 acres; and, you are not able to do a PLA that newly qualifies a lot for a dwelling when it would not have otherwise qualified without the PLA. Commissioner Pasko asked if the two properties would have to be adjacent properties, and would they have to have the same zoning. Glen answered that they do have to be adjacent properties by definition, since they are sharing a property line. They don't necessarily have to have the same zoning though, but the zoning boundary lines don't change through a PLA. You could end up with potentially split-zoned properties. The State sets the minimum lot sizes for newly created parcels in the natural resource zones. If we change the rules the way staff is suggesting, then, in the example that Glen provided, you could separate a small portion of a larger property and sell the property's remaining and surrounding farm land to an adjacent farm. Commissioner Peterson said that it sounds to him like the County's PLA rules have had some unintended consequences. The State already has the issue of preserving farm land and forest land covered, so to him this seems fine to relax the County's PLA restrictions in natural resource zones.
5. Offer an approval pathway for offices for government uses in more urban residential zones. Urban residential zones already provide an approval pathway for fire stations, libraries, public schools, public utility facilities, public parks, and offices accessory to these uses. What the zoning code doesn't allow are standalone offices for government uses in all urban residential zones. This is likely an unintended consequence of moving how land use allowances are listed during the ZDO audit

process. Previously, standalone government offices were allowable in more urban residential zones, but in the process of moving and consolidating ZDO sections, this use was, in one sense, left out of the list of allowable uses in most urban residential zones. There are approval pathways for these standalone government offices in all commercial, industrial, rural residential, and some urban residential zones, just not in most urban residential zones. The question is whether we should create an approval pathway to potentially allow those standalone governmental uses, possibly with a conditional use permit. Maybe we require that it be in conjunction with some other related use on the same property. Or maybe there is a building size or floor area limitation. In most other zones, there is a conditional use permit requirement for these. Commissioner Pasko said that the conditional use permit process seems to be the perfect way to consider whether a standalone government office use is appropriate for a particular property in a rural residential zone.

Commissioner Pak thinks that allowing these through the conditional use process should be fine. The rest of the Planning Commission agrees that it makes sense to run these through as a conditional use.

6. Expand FLO opportunities. Glen is planning on bringing more information and answers to previous questions later on, but tonight there isn't a lot more to share.

Commissioner Stevens wanted more details on the discussion of allowing the CPOs more time to appeal a land use decision in the previous meeting minutes. Right now the citizens of the CPO have to come together to vote to appeal a land use decision. Often there just isn't enough time for them to do this. At the last meeting, there was discussion of changing the appeal period to allow a CPO more time to file, or at least allowing them to make an appeal through a CPO executive committee type of situation. There were several options considered, including whether or not to extend the 12-day appeal period, waiving the appeal fee, and a possible change to the bylaws. Commissioner Stevens asked if there were any corrections or additions to the March 8, 2021 minutes. There were none.

Commissioner Wilson moved to approve the March 8, 2021 meeting minutes as published. Commissioner Peterson seconded. *Ayes=8, Nays=0. Motion passes.*

The Commission discussed the degree of formality with which to conduct meetings. Our bylaws state that we follow the most recent edition of Robert's Rules of Order. Commissioner Peterson doesn't think that we need the same degree of formality in a study session as we do in a public hearing. But when there are motions, we need to be more formal. Commissioners have varying degrees of familiarity with Robert's Rules, which makes it challenging for some members. Commissioner Murphy agrees with Commissioner Peterson, but doesn't think that we need to adopt all 626 pages of Robert's Rules. Commissioner Pasko feels that there are times when it is really helpful, but there are also time when it gets in the way of working together as a team to come up with a solution. Commissioner Lopes feels that it is very hard to be formal in a Zoom meeting and that it is a lot easier when you are in person. Commissioner Pak expressed her agreement with others, but said that she does enjoy the Commission's ability to communicate with each other without a huge amount of formality. That being said, public hearings do need to be held to a more formal standard. Commissioner Pasko pointed out that during a public hearing, part of the problem is that the Commission starts to deliberate before we have finished the public input process. Commissioner Schroedl thinks that there are aspects of Robert's Rules that are helpful in keeping a meeting organized and that we should maintain using those tools. When a meeting begins to go off topic or get out of control, the Chair has the authority to apply Robert's Rules and get us back on track. Commissioner Wilson agrees that there are certain areas where we need to be very formal (motions and voting), but we also need to be open to hearing public input and we need to be able to collaborate. Jennifer is going to check with County Counsel and see if they have model bylaws

prepared for other advisory boards that we could look at. Commissioner Pak suggested having staff draft a proposed or recommended motion that the Commission could use at least as a starting point.

Jennifer provided a schedule review.

There being no further business, the meeting was adjourned at 9:42 p.m.

DRAFT

ZDO-280: FY 2021 MINOR AMENDMENTS



Board of County Commissioners Policy Session
May 4, 2021

ZDO-280

Legislative amendments to:

1. Comply with mandates
2. Clarify existing language and correct errors
3. Adopt optional provisions requiring minimal analysis

OPTIONS FOR CONSIDERATION

- 1. Extend pre-application conference validity period from one year to two years**



OPTIONS FOR CONSIDERATION

2. Clarify and expand allowances for metal as an exterior building material

For new...

- Institutional, Commercial, and Industrial development
- Multifamily dwellings
- Developments of >1 two- or three-family dwellings

OPTIONS FOR CONSIDERATION



OPTIONS FOR CONSIDERATION



OPTIONS FOR CONSIDERATION



OPTIONS FOR CONSIDERATION

3. Allow additional signage for drive-thrus, subject to standards



OPTIONS FOR CONSIDERATION

4. Repeal certain County limitations on PLAs in natural resource zones (AG/F, EFU, TBR)



OPTIONS FOR CONSIDERATION

4. Repeal certain County limitations on PLAs in natural resource zones (AG/F, EFU, TBR)



OPTIONS FOR CONSIDERATION

5. Offer an approval pathway for offices for government uses in more urban residential zones

Currently, an approval pathway for
“stand alone” government offices in...

- Rural residential zones
- Urban and rural commercial zones
- Urban and rural industrial zones
- Mt. Hood area

*But not in all urban
residential zones*

OPTIONS FOR CONSIDERATION

6. Expand FILO Opportunities in Portland Metro UGB



THANK YOU

