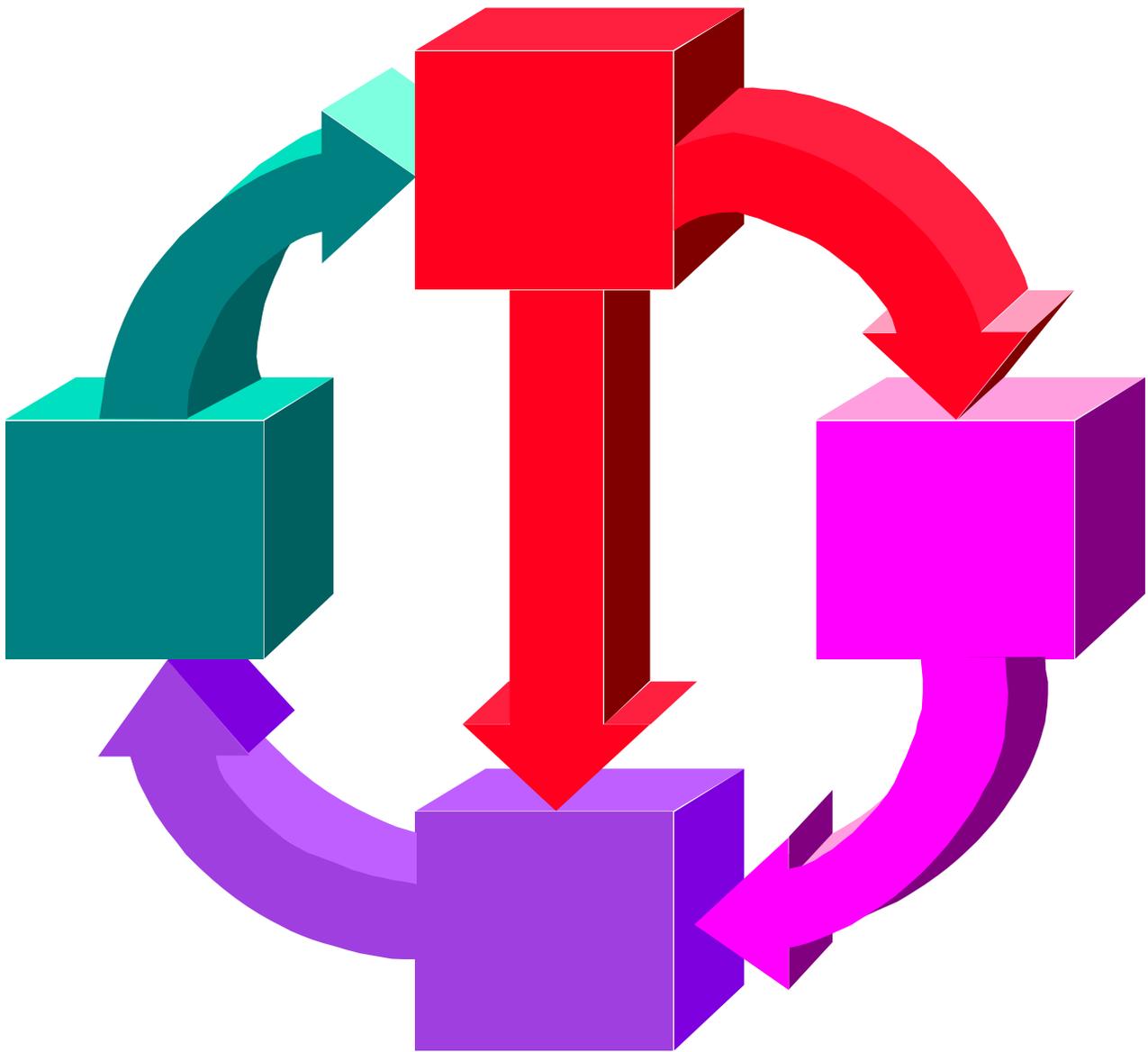


CHAPTER ONE: COMPREHENSIVE PLAN AMENDMENT PROCEDURES ELEMENT



COMPREHENSIVE PLAN AMENDMENT PROCEDURES

1.1 AMENDMENT INITIATION.

Amendments to the Comprehensive Plan may be initiated by City Council, the Planning Commission, the Mayor, the Community Development Director, or the Engineering Director at any time. Landowners may also initiate an amendment to the Land Use Map pertaining only to their property at any time.

1.1.1 City-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council have the right to accept, reject or modify any specific request for amendment in accordance with the City's policies and procedures. The Planning Commission or City Council may enlarge or reduce the geographic area of proposed map amendments, investigate alternative land use designations to those requested, or combine the request with other City-initiated amendments for comprehensive study and determination. If the decision to modify a requested amendment is made after public hearing notice has been provided, the notice shall be reissued and, if necessary, the hearing rescheduled.

1.1.2 Property Owner-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing. The Planning Commission and City Council reserve the right to approve, approve with conditions, or deny any specific request for amendment in accordance with the City's policies and procedures.

1.1.3 Amendment Processing

Proposed amendments shall be processed as expeditiously as possible, subject to the availability of staff and budgetary resources and project priorities set by the Mayor. Amendments shall be processed in compliance with the procedures established by this Plan as well as Oregon Revised Statutes, Oregon Administrative Rules, Metro Code, the City Charter, and City Ordinances. Property owner-initiated amendments should be processed in the order in which they are submitted and accepted as complete, but the City Council may, by resolution, postpone processing proposed amendments to accelerate processing other amendments to which they give a higher priority.

1.2 PERIODIC REVIEW

Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and follow separate notice procedures outlined in the Oregon Revised Statutes and Oregon Administrative Rules governing Periodic Review.

1.3 AMENDMENT PROCEDURAL CATEGORIES

Comprehensive Plan Amendments fall into five general categories: Legislative, Quasi-Judicial, Historic Landmark, District and Tree designation removal, Non-Discretionary, and Statewide Planning Goal 5 Inventory Document Amendments.

Legislative Amendments are amendments to the Comprehensive Plan text or map of a generalized nature initiated by the City that applies to an entire land use map category or a large number of individuals or properties or that establishes or modifies policy or procedure. Legislative amendments include additions or deletions of text or land use map categories.

Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations.

Historic Landmark, District or Tree Designation Removal are amendments, requested from the property owner, to remove said designation pursuant to ORS 197.772. Upon receipt of a letter request to remove said designation, the Community Development Director shall issue a letter removing said designation based on ORS 197.772 and shall cause such letter to be mailed to the property owner and the property owners within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the subject property.

Non-Discretionary Amendments are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of the Washington County-Beaverton Urban Planning Area Agreement (UPAA). The County land use classification(s) remain in effect under provisions of Oregon Revised Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use designation(s) for the annexed territory.

The UPAA requires the City to assign a particular, or most similar, City Comprehensive Plan Land Use designation to the annexed property based on the Washington County designation. Exhibit “B” of the UPAA contains a chart describing a one-to-one relationship between County and City land use designations. The UPAA and the chart referenced as Exhibit “B” is found within Chapter 3 of the Comprehensive Plan in Section 3.15. Where UPAA Exhibit “B” provides a one-to-one relationship and the annexed property is **not** subject to any special policies within the applicable Washington County Community Plan, the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgment. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

Statewide Planning Goal 5 Inventory Resource Document Amendments are amendments to Volume III of the Comprehensive Plan. Amendments may be legislative, such as periodic review, or annual updates to maps, or quasi-judicial. Updates to the Significant Natural Resources Map (Local Wetland Inventory Map) incorporating changes approved by the Department of State Lands are non-discretionary map amendments the public notice, decision-making and appeal of the decision occurs when the Division of State Lands approves the wetland delineation and fill or removal permit (OAR 141-086-005 through OAR 141-090-0230, OAR 141-085-0018, OAR 141-085-0025, OAR 141-085-0028, OAR 141-085-0029, OAR 141-085-0031, OAR 141-085-0066, ORS 227.350 (2), and ORS 196.600 to 196.990). As noted under Non-Discretionary Amendments above, when no discretion is exercised, the decision is not a land use decision under Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

1.4 NOTICE REQUIREMENTS

The claim of a person to have not received notice, who may be entitled to notice as provided in this section, shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.

If the Community Development Director or City Council determine that the proposed amendment substantially changes from the proposal described in the initial notice, then notice is required to be sent again as described in the appropriate subsection with specific notation that the proposal has changed and that a new hearing will be held on the matter.

1.4.1 Legislative Amendments.

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency Department of Land Conservation and Development (DLCD) notice to DLCD, Metro, and Washington County at least forty-five (45) calendar days prior to the initial hearing. When the legislative amendment is required through Periodic Review, DLCD notice is not required, therefore, it is not provided;
2. By mailing the required inter-agency DLCD notice to all Neighborhood Association Committee (NAC) chairs and Community Participation Organizations (CPO) in whose area there is property that in the Director's opinion could be affected by the proposed ordinance if adopted, and the Chair of the Committee for Citizen Involvement, at least forty-five (45) calendar days prior to the initial hearing;
3. Mail notice to owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land
 - a) The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.
 - b) If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing;
4. By publication of a notice with the information specified in subsection 1.4.1 B.1, 2, and 3 in a newspaper of general circulation within the City;
5. By posting a notice with the applicable information specified in subsection 1.4.1 B at Beaverton City Hall and the Beaverton City Library; and
6. By placing a notice with the applicable information specified in subsection 1.4.1 B on the City's website.

Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing Notices required by numbers 3 through 6 of this subsection, shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

For Legislative Periodic Review notices, notice described in 1.4.1.B shall be mailed at least 45 days in advance of the initial hearing to Metro, Washington County, all Neighborhood Association Committee (NAC) chairs in whose area there is property that in the Director's opinion could be affected by the proposed ordinance if adopted, and the Chair of the Committee for Citizen Involvement.

- B. Mailed notice required in subsection 1.4.1.A.3., posted notice required in subsection 1.4.1.A.5., and web notice required in subsection 1.4.1.A.6. shall:
1. State the date, time and location of the hearing, and the hearings body;
 2. Explain the nature and purpose of the hearing;
 3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
 4. List the applicable approval criteria by Comprehensive Plan by section numbers that apply to the application at issue;
 5. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
 6. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times and location where available for inspection;
 7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
 8. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue; and
 9. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.
- C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186 also known as Ballot Measure 56).
- D. Notice of remand hearings, whether they be the entire legislative amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission, shall be given following subsections 1.4.1.A. and 1.4.1.B. with the following additional information:
1. The deadline for submitting written testimony and the place it is to be submitted;
 2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
 3. The scope of the testimony; and
 4. Whether the testimony is de novo or limited to the record and whether it must be submitted in writing or whether oral testimony will be allowed.

The notice required in this subsection D. shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.2 Quasi-Judicial Amendments

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency DLCD notice to DLCD, Metro, and Washington County at least forty-five (45) calendar days prior to the initial hearing;
2. By mailing the required inter-agency DLCD notice to the chair(s) of any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization whose boundaries include the proerpty for which the change is contemplated, and the Chair of the Committee for Citizen Involvmnt at least forty-five (45) calendar days prior to the initial hearing;
3. By publication of a notice with the information specified in 1.4.2.B.1., 2., 3. and 4. in a newspaper of general circulation within the City;
4. By posting notice with the information specified in 1.4.2.B. at Beaverton City Hall and the Beaverton City Library;
5. By mailing notice with the information specified in 1.4.2.B. to property owners included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and
6. By placing notice with the information specified in 1.4.2.B. on the City's web site.

Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing notices required by numbers 3 through 6 of this subsection shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Notice required in subsection 1.4.2.A.4. and 5. shall:

1. State the date, time, and location of the hearing, and the hearings body;
2. Explain the nature of the application and the use or uses, which could be authorized;
3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
4. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;
5. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
6. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost include the days, times and location where available for inspection;
7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
8. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City

- Council and the Land Use Board of Appeals based on that issue;
9. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing; and
 10. Set forth the street address or other easily understood geographical reference to the subject property and include a map, if applicable.
- C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).
- D. Notice of remand hearings, whether for the entire quasi-judicial amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission shall be given following subsection 1.4.2.A. and 1.4.2.B. with the following additions:
1. Any deadline for submitting written testimony and the place it is to be submitted;
 2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
 3. The scope of the testimony; and
 4. Whether the testimony is limited to the record or de novo and whether it must be submitted in writing or whether oral testimony will be allowed.

The notice required in this subsection D. shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.3 Non-Discretionary Map Amendments

A Notice for Non-Discretionary Map Amendments shall be provided as follows:

1. By publication of a notice with the information specified in 1.4.3.B.1., 2. and 3. in a newspaper of general circulation within the City;
2. By mailing notice with the information specified in 1.4.3.B. to the Chair of the Committee for Citizen Involvement (CCI), Neighborhood Association Committee (NAC), Community Participation Organization (CPO) and owners of record of the subject property on the most recent property tax assessment roll; and
3. By placing notice with the information specified in 1.4.3.B. on the City's web site.

All notices required by 1. through 3. of this subsection A. shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda.

B. Notice required by subsection 1.4.3.A. shall:

1. State the time, date, place, and purpose of the City Council agenda item;
2. Explain the nature of the application;
3. Include the case file number, title or both of the proposed ordinance to be considered;
4. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;
5. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;

6. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the meeting and will be provided at reasonable cost and include the days, times and location where available for inspection;
7. Include the name and phone number of the City staff person assigned to the application from who additional information may be obtained; and
8. Set forth the street address or other easily understood geographical reference to the subject property, including a map.

C. Notice of Decision for Non-Discretionary Map Amendments

Within five working days after the City Council decision on a Non-Discretionary Map Amendment, notice of the decision shall be mailed to the owner of record, DLCDC, the Beaverton Neighborhood Office and the Chairperson of the Committee for Citizen Involvement (CCI). The notice of decision shall include the following:

1. A statement that the decision is final but may be appealed in a court of competent jurisdiction, and
2. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

1.4.4 Statewide Planning Goal 5 Inventory Resource Document (Volume III) Amendments

- A. If the proposal is legislative in nature, as in an update to one of the Statewide Planning Goal 5 Inventory Resource Documents or an addition of a new category of Statewide Planning Goal 5 Inventory Resource Documents, then notice shall follow the legislative notice procedure identified under subsection 1.4.1.
- B. If the proposal is quasi-judicial in nature, as in a change on one property or a limited group of properties, the notice shall follow the quasi-judicial notice procedure under subsection 1.4.2.
- C. If the proposal is to update the Local Wetland Inventory map of the Significant Natural Resource maps based on approvals of wetland delineations or fill or removal permits issued by the Oregon Department of State Lands, the amendment shall be deemed non-discretionary and shall be updated administratively by City Council ordinance adoption, following the Non-Discretionary Map Amendment procedure under 1.4.3.

1.5 CRITERIA FOR AMENDING THE COMPREHENSIVE PLAN

The adoption by the City Council of any amendment to the Plan shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may incorporate by reference facts, findings, reasons, and conclusions proposed by the City staff or others into their decision.

1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments

- A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules;
- B. The proposed amendment is consistent and compatible with the applicable Titles of the

Metro Urban Growth Management Functional Plan and the Regional Transportation Plan;

- C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and
- D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.

1.5.2 Criteria for Non-Discretionary Map Amendments

A. Annexation-Related

Discretion occurs when the Washington County-Beaverton Urban Planning Area Agreement (UPAA) is adopted or amended by the County and the City. The UPAA provides specific City-County Land Use Designation Equivalents. Specifically, the UPAA states in Section II (D) “Upon annexation, the city agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations. Such conversion shall be made according to the tables shown on Exhibit “B” to this agreement.” Consequently, when the conversion from County to City designation is shown on Exhibit B, the City has no discretion.

B. Statewide Planning Goal 5

The Department of State Lands (DSL) and the US Army Corps of Engineers (COE) exercise discretion when these agencies approve wetland delineations and fill/removal permits (OAR 141-085, ORS 227.350, and ORS 196.600 to 196.990). Because the decision is made by another agency, acknowledging the locations of the delineated wetlands and fill/removal activities on the City’s Local Wetland Inventory map involves no discretion.

1.5.3 Criteria for Statewide Planning Goal 5 Inventory Resource Document (Volume III) Comprehensive Plan Amendments

- A. Local Wetland Inventory Amendments require following the criteria for adoption of a local wetland inventory found within Oregon Revised Statutes and Oregon Administrative Rules (as of November 2004, ORS 196 and OAR 141-086 and OAR 660-023).

B Criteria for Addition of Historic Landmarks and Districts

To qualify as a historic landmark or district, the proposal must meet criterion 1 and at least one factor listed as criteria 2 through 5:

1. Conforms with the purposes of the Beaverton Comprehensive Plan; and
2. The proposed landmark or district is associated with natural history, historic people, or with important events in national, state, or local history; or
3. The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or

4. The proposed landmark is a notable work of a master builder, designer, or architect; or
5. The proposed landmark or district would serve one or more of the following purposes:
 - a) To preserve, enhance, and perpetuate landmarks and districts representing or reflecting elements of the City's cultural, social, economic, political, and architectural history;
 - b) To safeguard the City's historic, aesthetic, and cultural heritage as embodied and reflected in said landmarks and districts;
 - c) To complement any National Register properties or Historic Districts;
 - d) To stabilize and improve property values in such districts;
 - e) To foster civic pride in the beauty and accomplishments of the past;
 - f) To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
 - g) To strengthen the economy of the City; and
 - h) To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City's current and future citizens.

C. Criteria for Adding Historic Trees

The adoption by City Council and Planning Commission of any amendment to add a historic tree to the Historic Tree Inventory shall be based on the following criteria:

1. Conforms with applicable goals and policies of the Beaverton Comprehensive Plan;
2. The proposed historic tree designation is requested by the property owner as determined by the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
3. The proposed historic tree is associated with historic properties, historic people, or with important events in national, state, or local history, or general growth and development of the city.

1.6 HEARINGS PROCEDURES

Before the City Council may adopt any amendment to the Comprehensive Plan, the procedures within this section shall be followed. In the case of Non-Discretionary amendments, no hearing will be held. Consideration of the proposal shall be placed on the City Council Agenda for adoption by ordinance.

- 1.6.1. After appropriate notice is given, as provided in section 1.4. the Planning Commission or City Council shall hold a public hearing on the amendment, except for Non-Discretionary amendments.
 - A. At the beginning of the hearing an announcement shall be made to those in attendance that:
 1. States the applicable approval criteria by Comprehensive Plan section number.

2. States testimony, arguments and evidence must be directed toward the applicable criteria.
 3. States failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the Planning Commission or City Council and the parties an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue.
 4. States failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue may preclude an action for damages in circuit court.
 5. If a quasi-judicial application, states the Planning Commission and City Council must be impartial and that members of the Planning Commission and City Council shall not have any bias or personal or business interest in the outcome of the application.
 - a) Prior to the receipt of any testimony, members of the Planning Commission or City Council must announce any ex parte contacts. The Planning Commission or City Council shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest or ex parte contacts.
 - b) If any member of the Planning Commission or City Council has visited the site (if applicable), they should describe generally what was observed.
 6. Summarizes the procedure of the hearing.
 7. States that the hearing shall be recorded on audio only or audio and video tape.
 8. States any time limits for testimony set by the Planning Commission or City Council at the beginning of the hearing.
- B. After the aforementioned announcements, the Chair or Mayor shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.
 - C. After the presentation of the staff report, the Chair or Mayor shall call for the applicant's testimony, if the City is not the applicant.
 - D. After the applicant's testimony, the Chair or Mayor shall call for other evidence or testimony in the following sequence unless the Planning Commission or City Council consents to amend the sequence of testimony:
 1. First, evidence or testimony in support of the application.
 2. Second, evidence or testimony in opposition to the application.
 3. Third, evidence or testimony that is neither in support nor in opposition to the application.
 - E. If the City is not the applicant, the Chair or Mayor shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair or Mayor shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.
 - F. The Chair or Mayor shall offer staff an opportunity to make final comments and answer questions.
 - G. Provisions for holding a record open or continuing a hearing set forth in Oregon Revised Statutes (ORS 197.763 (6)) shall apply to this Chapter of the Comprehensive Plan, in accordance with the statute.
- 1.6.2. Following the conclusion of the hearing, the Planning Commission shall take one of the following actions:

- A. Continue the hearing to a date, time and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.
- B. Deny the application, approve the application, or approve the application with conditions.
 - 1. If the Planning Commission proposes to deny, approve, or approve with conditions, the Planning Commission shall announce a brief summary of the basis for the decision and that an order shall be issued as described in 1.7.; provided, the proceedings may be continued for the purpose of considering such order without taking new testimony or evidence.
 - 2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763(6) shall apply under this Ordinance in a manner consistent with state law.
 - 3. If the Planning Commission proposes to approve, or approve with conditions, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.
 - 4. In conjunction with their adoption of an ordinance approving or approving with conditions a Comprehensive Plan Amendment, the City Council shall adopt written findings which demonstrate that the approval complies with applicable approval criteria.

1.7. FINAL ADOPTION AND APPEALS

1.7.1 Final Order

- A. The written decision in the form of a final order shall be prepared regarding the application. The final order shall include:
 - 1. A listing of the applicable approval criteria by Comprehensive Plan section number.
 - 2. A statement or summary of the facts upon which the Planning Commission or City Council relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The Planning Commission or City Council may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the final order to satisfy this requirement.
 - 3. A statement of conclusions based on the facts and findings.
 - 4. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.
- B. Within five (5) working days after the Final Decision (City Council Ordinance or Final Order adoption), mail the required DLCD Notice of Adoption to DLCD, pursuant to ORS 197.610 and OAR Chapter 660- Division 18.
- C. Within five (5) working days from the date that the Planning Commission or City Council adopts a final order, the Community Development Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the Neighborhood Association Committee or County Participation Organization in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The final order shall be accompanied by a written notice which shall include the following information:
 - 1. In the case of a Planning Commission decision, a statement that the Planning

- Commission decision can be appealed to the City Council following the procedures listed in 1.7.2. The appeal date and the statement that the appeal must be filed within ten (10) calendar days after the date of the signed notice is dated and mailed shall be placed on the notice, with the appeal closing date shown in boldface type. The statement shall generally describe the requirements for filing an appeal and include the name, address and phone number of the Community Development Director.
2. In the case of a City Council decision, a statement that the decision is final, but may be appealed to the Land Use Board of Appeals as provided in Oregon Revised Statutes (ORS 197.805 through 197.860) or to the Land Conservation and Development Commission as provided in Oregon Revised Statutes (ORS 197.633), in the case of Periodic Review Amendments.
 3. A statement indicating the Amendment application number, date, and brief summary of the decision. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the proposal.
 4. A statement of the name and address of the applicant.
 5. If applicable, an easily understood geographic reference to the subject property and a map.

1.7.2 Notice of Intent to Appeal

- A. The Planning Commission decision may be appealed to the City Council only by the applicant, a person whose name appears on the application, or any person who appeared before the Planning Commission either orally or in writing. An appeal shall be made by filing a Notice of Intent to Appeal with the Community Development Director and within ten (10) calendar days after the signed written order was dated and mailed.
- B. A notice of Intent to Appeal shall be in writing and shall contain:
 1. A reference to the application number and date of the Planning Commission order;
 2. A statement that demonstrates the appellant is the applicant or their representative, a person whose name appears on the application, or a person who appeared before the Planning Commission either orally or in writing;
 3. The name, address, and signature of the appellant or the appellant's representative;
 4. An appeal fee, as established by Council resolution; if more than one person files an appeal on a specific decision, the appeals shall be consolidated and the appeal fee shall be divided equally among the multiple appellants; and
 5. A discussion of the specific issues raised for Council's consideration and specific reasons why the appellant contends that the Planning Commission's findings and/or recommendation is incorrect or not in conformance with applicable criteria.
- C. The Community Development Director shall reject the appeal if it
 1. is not filed within the ten (10) day appeal period set forth in subsection A. of this section,
 2. is not filed in the form required by subsection B. of this section, or
 3. does not include the filing fee required by subsection B. of this section.

If the Community Development Director rejects the appeal, the Community Development Director will so notify the appellant by letter. This letter shall include a brief explanation

of the reason why the Community Development Director rejects the appeal. A decision of the Community Development Director to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the City Council. The appellant shall be allowed to correct a failure to comply with subsection B of this section if the correction can be made and is made within the 10 day appeal period provided in subsection A of this section.

- D. If a Notice of Intent to Appeal is not filed, or is rejected, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.

If the application is denied, the City Council will adopt a final order which sets forth its decision together with any reasons therefor. The Council's final order or the ordinance is the final decision of the City on the application. Notice of the decision shall be given as provided in 1.7.1.

- E. Notwithstanding the provisions of this section, City Council on its own motion, may order a public hearing before the City Council at any time prior to adopting a Council final order or ordinance.

1.7.3 Notice of Appeal Hearing

- A. Written notice of the appeal hearing before the City Council will be sent

1. by regular mail,
2. no later than twenty (20) days prior to the date of the hearing
3. to the appellant, the property owner, the applicant, if different from the appellant, persons whose names appear on the application, and all persons who previously testified either orally or in writing before the Planning Commission.

- B. Notice of the hearing shall:

1. State the date, time and location of the hearing;
2. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;
3. Reference the CPA file number or numbers and the appeal number;
4. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue
5. State that a copy of the Planning Commission's written order, the application, all documents and evidence contained in the record, and the applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the hearing and can be provided at reasonable cost including the days, times and location where available for inspection;
6. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
8. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing; and
9. Set forth the street address or other easily understood geographical reference to the subject property, if applicable.

1.7.4 Preparation of the Record; Staff Report; Transcript

- A. Following receipt of a Notice of Intent to Appeal filed in compliance with 1.7.2., the

Community Development Department Director shall prepare a record for Council review containing:

1. All staff reports and memoranda prepared regarding the application that were presented to the Planning Commission;
 2. Minutes of the Planning Commission proceedings at which the application was considered;
 3. All written testimony and all exhibits, maps documents or other written materials presented to and or rejected by the Planning Commission during the proceedings on the application; and
 4. the Planning Commission's Final written order.
 5. The appellant may request, and the City Council may allow, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission public hearing. If such a request is made and granted, a transcript of the Planning Commission proceeding is required. The appellant shall remit a fee to cover the cost of the transcript of the Planning Commission hearing within five (5) calendar days after the Community Development Director estimates the cost of the transcript. Within ten (10) calendar days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a de novo hearing, the transcript fee may be refunded. If the transcription fee estimate exceeds the transcription cost, the balance shall be refunded to the appellant.
- B. The Community Development Department Director shall prepare a staff report on the appeal explaining the basis for the Planning Commission's decision as relates to the reason for appeal set forth in the Notice of Intent to Appeal, and such other matters relating to the appeal as the Director deems appropriate.

1.7.5 Scope of Review

- A. The City Council appeal hearing shall be de novo, which means any new evidence and argument can be introduced in writing, orally, or both. The City Council may allow, at the appellant's request, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission hearing.
- B. The Council may take official notice of and may consider in determining the matter any material which may be judicially noticed pursuant to the Oregon Rules of Evidence, ORS 40.060 through 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City.
- C. Preliminary Decision.
At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the Planning Commission's order in whole or in part, or may remand the decision back to the Planning Commission for additional consideration. (Procedures for noticing a remand hearing are found in sections 1.4.1.D. and 1.4.2.D.) The preliminary oral decision is not a final decision. At any time prior to adoption of the final order or Ordinance pursuant to subsection D of this section, the Council may modify its decision based upon the record or may reopen the hearing.

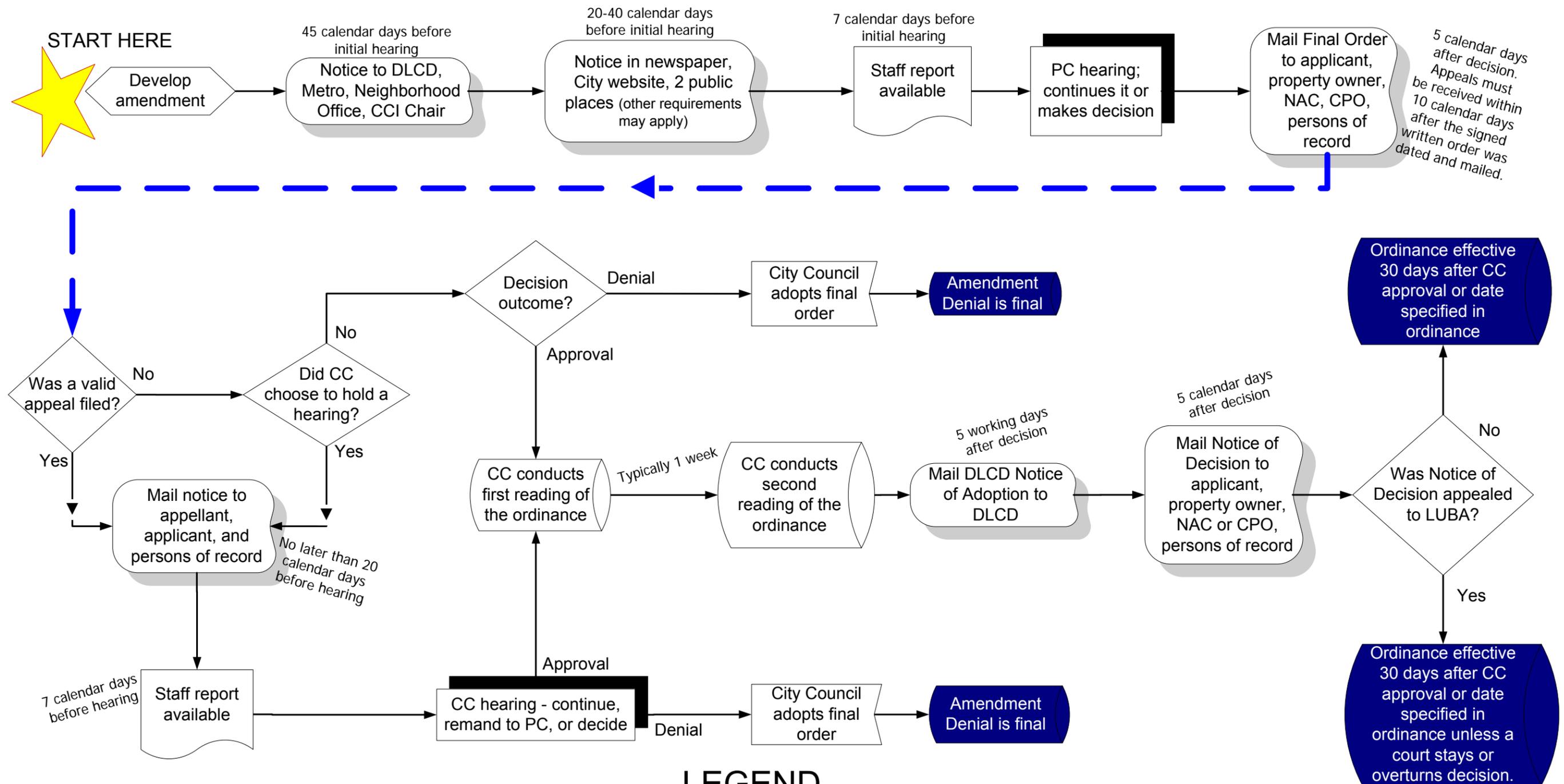
D. Final Order or Ordinance

In the case of a denial, the City Council shall direct staff to prepare a final order or in the case of approval, the Council shall cause the preparation of an Ordinance. The Ordinance or final order shall consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied on in rendering the decision, and explaining the justification for the decision based upon the criteria and facts set forth. The final order, or Ordinance, is the final decision on the application and the date of the order, or Ordinance, for purposes of appeal is the date on which it is signed by the Mayor.

Procedures for preparation of the Final Order, Ordinance and distribution of the Notice of Decision are found in section 1.7.

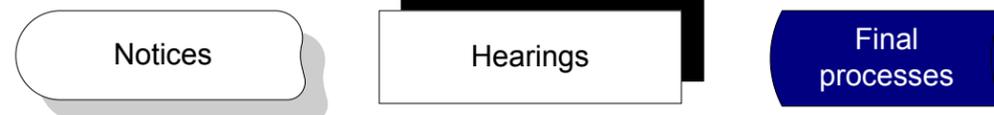
The following diagrams, Diagram I-1 through I-4, are intended for illustrative purposes only and are not adopted as procedural requirements within this ordinance. Thus, periodic updates to Diagrams I-1 through I-4 will not require a Comprehensive Plan Amendment.

Diagram I-1 Legislative Process



LEGEND

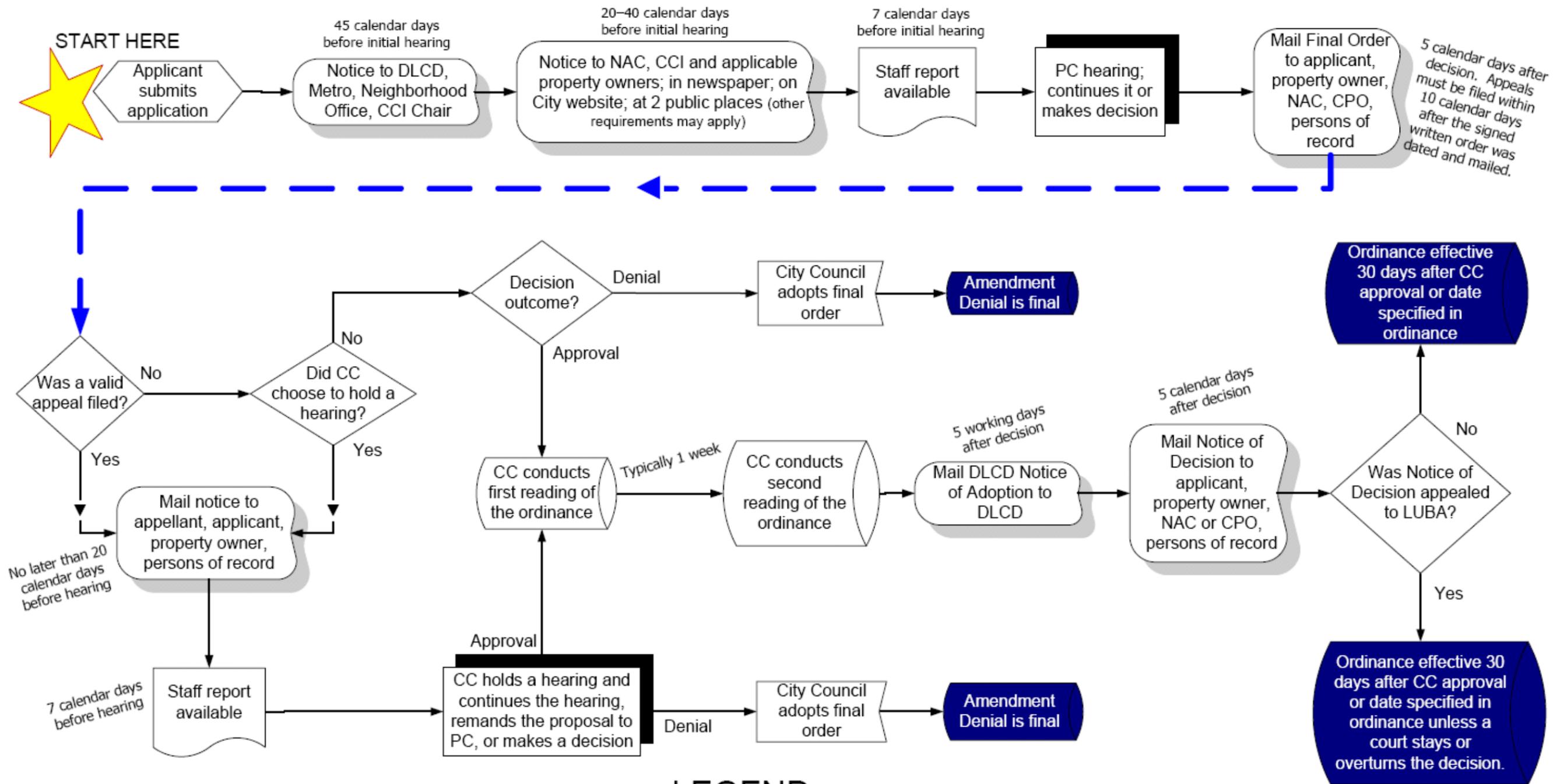
DLCD: DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
 CCI: COMMITTEE FOR CITIZEN INVOLVEMENT
 PC: PLANNING COMMISSION
 NAC: NEIGHBORHOOD ASSOCIATION COMMITTEE
 CPO: COMMUNITY PARTICIPATION ORGANIZATION
 CC: CITY COUNCIL



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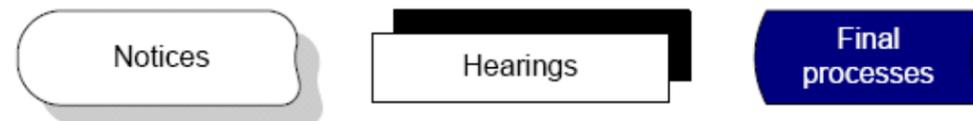
Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

**Diagram I-2
Quasi-Judicial Process**



DLCD: DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
 CCI: COMMITTEE FOR CITIZEN INVOLVEMENT
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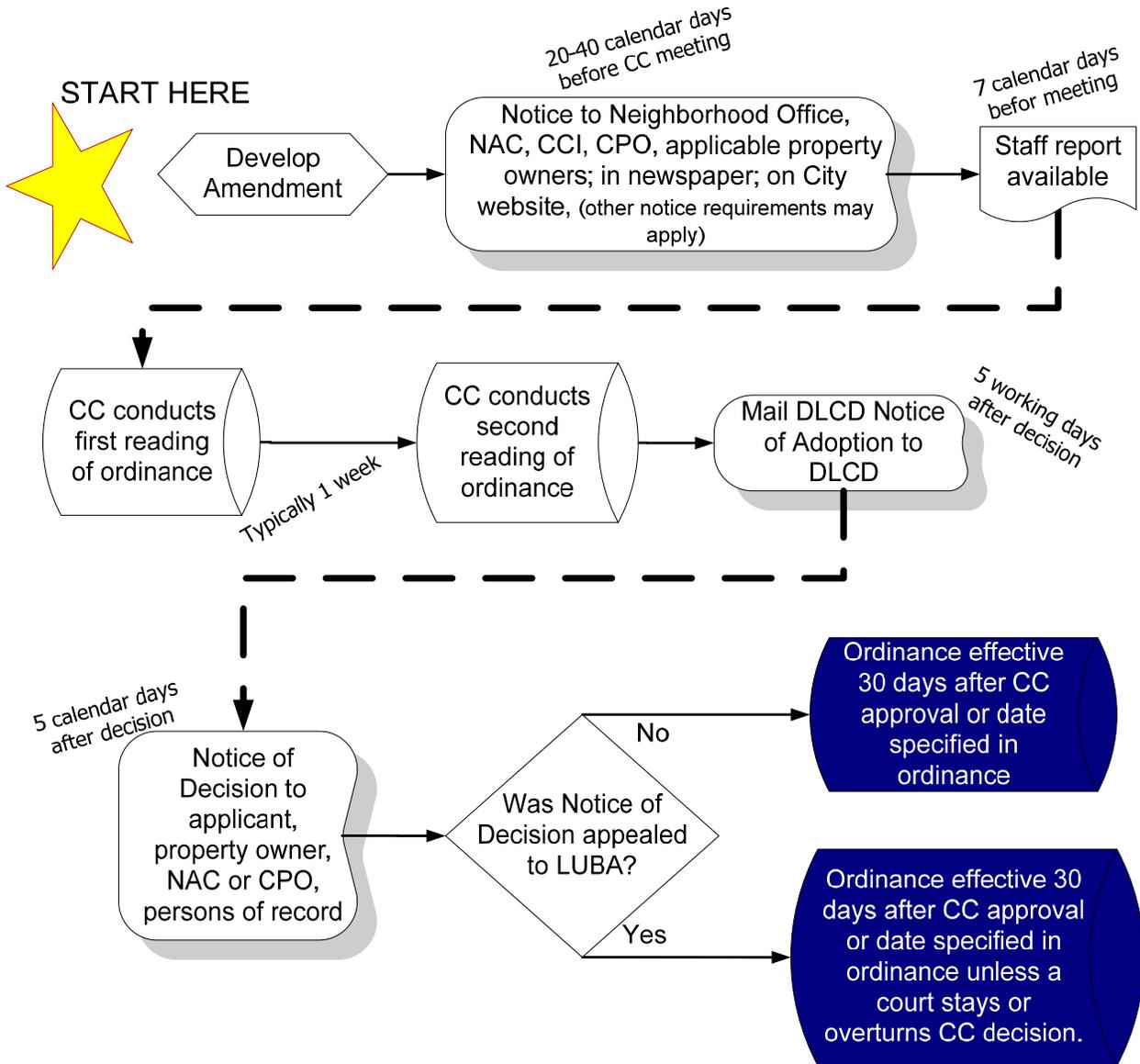
LEGEND



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Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Diagram I-3 Non-Discretionary Process



LEGEND

DLCD: DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
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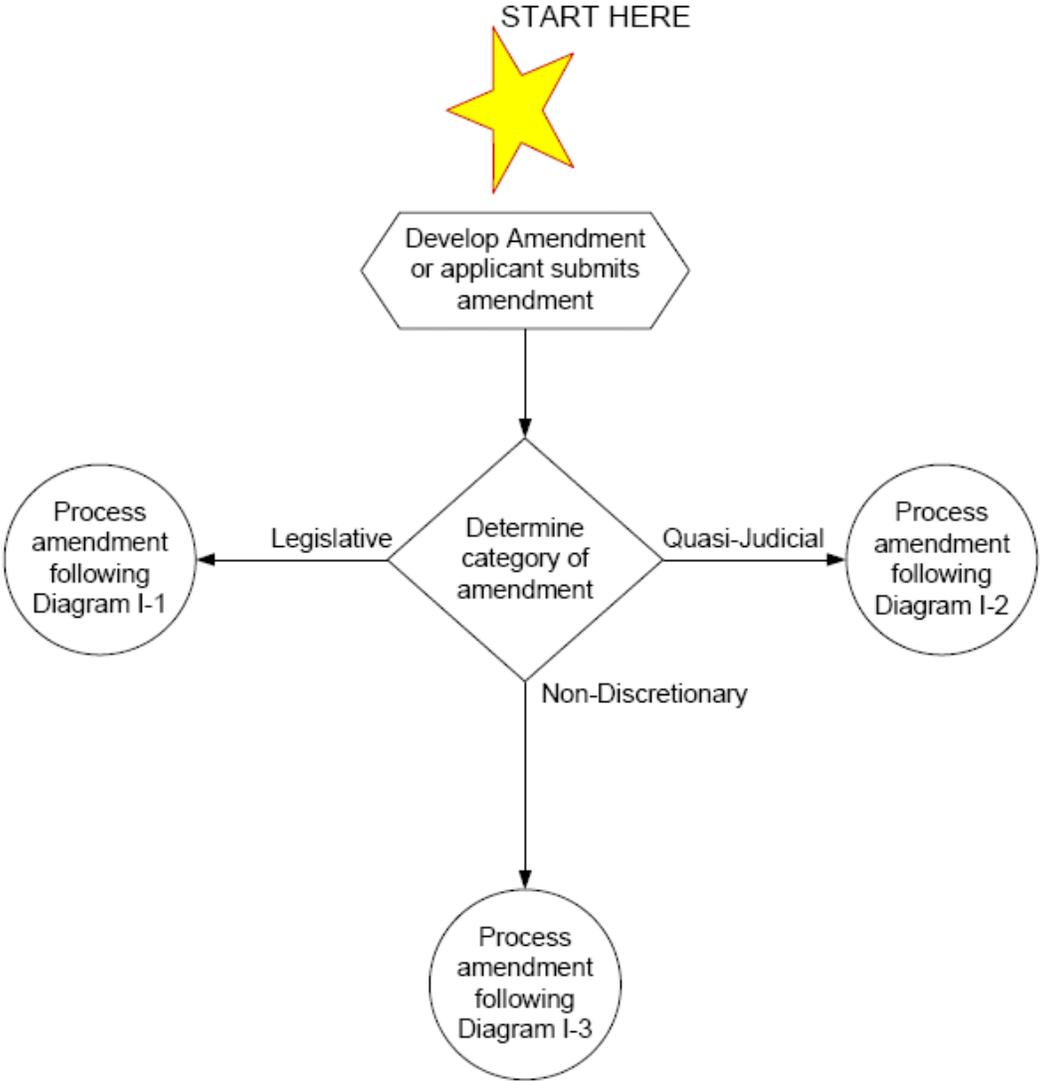
3/15/06 Sup SR

Notices

Final processes

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Statewide Planning Goal 5 Inventory Resource Document Process



3/15/06 Sup SR

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

1.8 APPLICATION FEES

In order to defray expenses incurred in connection with the processing of applications, the City has established a reasonable fee to be paid to the City upon the filing of an application for a Plan amendment. Fees for privately initiated Plan amendments requiring extraordinary staff time or expertise beyond the scope of the average process may be subject to an additional project management fee as established by Council Resolution 3285.