



CITY of THE DALLES

313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481 ext. 1125
FAX: (541) 298-5490
Community Development Dept.

AGENDA
CITY OF THE DALLES PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
313 COURT SREET
THE DALLES, OREGON 97058
CONDUCTED IN A HANDICAP ACCESSIBLE MEETING ROOM

THURSDAY, DECEMBER 17, 2009

6:30 P.M.

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes
 - a) September 17, 2009
 - b) October 1, 2009
 - c) October 15, 2009
- V. Public Comment (Items not on the Agenda)
- VI. Public Hearing
 - a) Legislative Public Hearing on proposed LUDO changes
- VII. Resolution
- VIII. Commissioner Comments/Questions
- IX. Staff Comments
- X. Next scheduled meeting date: January 7, 2009
- XI. Adjournment

CITY OF THE DALLES PLANNING COMMISSION MINUTES

Thursday, December 17, 2009

City Hall Council Chambers

313 Court Streets

The Dalles, OR 97058

Conducted in a handicap accessible room

CALL TO ORDER:

Chair Lavier called the meeting to order at 6:35 p.m.

BOARD

MEMBERS PRESENT:

Bruce Lavier
Mark Poppoff
Benjamin Hoey
Ted Bryant

BOARD

MEMBERS ABSENT:

Ron Ahlberg
Dean Wilcox
Chris Zukin

STAFF PRESENT:

City Attorney Gene Parker
Community Development Department Director Dan Durow
Senior Planner Richard Gassman
Administrative Secretary Brenda Green

APPROVAL OF AGENDA:

Senior Planner Gassman shared that the resolution had not been prepared so item number seven would need to be tabled until the next meeting.

It was moved by Bryant and seconded by Hoey to approve the agenda as modified. The motion carried unanimously; Ahlberg, Wilcox and Zukin absent.

APPROVAL OF MINUTES:

Commissioner Bryant pointed out that there was one spelling error on page six of the September 17, 2009 minutes.

It was moved by Bryant and seconded by Poppoff to approve the minutes of September 17, 2009 as modified. The motion carried with Lavier, Poppoff and Bryant voting in favor, Hoey abstained; Ahlberg, Wilcox and Zukin absent.

It was moved by Poppoff and seconded by Lavier to approve the minutes of October 1, 2009 as submitted. The motion did not carry due to both Bryant and Hoey abstaining. Approval of the minutes was tabled until the next meeting.

It was moved by Hoey and seconded by Poppoff to approve the minutes of October 15, 2009 as submitted. The motion carried with Lavier, Poppoff and Hoey voting in favor, Bryant abstained; Ahlberg, Wilcox and Zukin absent.

PUBLIC COMMENT:

Randy Cole, 816 E 20th Street, introduced himself as Chairman of the Traffic Safety Committee. He stated that he was there to beg the help of the Planning Commission in regards to off street parking. Mr. Cole gave several examples of developments that do not have enough off street parking and requested that the Commission look carefully at applications rather than just accepting what staff recommends.

Commissioner Bryant explained that the City does require a certain number of parking spaces per dwelling unit. There was a general discussion about the examples Mr. Cole gave. Senior Planner Gassman stated that he would look into the specific locations mentioned; pointing out that sometimes development happens without going through the proper channels.

John Nelson, 524 W 3rd Place, stated that the Comprehensive Plan was not very directive and rather aspirational. He then pointed out the amendment that was done in 2007 but not adopted. Senior Planner Gassman clarified that he was referring to the portion regarding the Urban Growth Boundary expansion completed by Winterbrook Planning. Nelson affirmed that he was looking at that portion, and asked if it was possible to get it accepted. Gassman explained the work that needs to be completed before it can be approved by the State and the Gorge Commission. He pointed out the expense of the project and shared that grants are being applied for. Mr. Nelson shared that his question came from a concern to protect Chenoweth Creek and suggested that amendments such as the one being discussed would help the creek. He felt that getting the amendment approved would help with future applications.

LEGISLATIVE PUBLIC HEARING on proposed LUDO changes:

Senior Planner Gassman explained that a legislative public hearing could be conducted in a more open format, and suggested that the Commission allow members of the public to comment as the proposed changes are discussed rather than waiting until the end. Chair Lavier felt that allowing comment throughout the discussion would be the most efficient; the Commission expressed their agreement by mutual consent.

Senior Planner Gassman went over the steps of the process that had been completed so far and explained that the goal for the hearing was to conclude with a recommendation to City Council who will give the final approval for the changes. Gassman then went over the forty-six proposed LUDO amendments.

Amendment #1 – Commissioner Bryant asked for examples. Director Durow gave an example of a parking lot being used for a two day community festival would not need to be specially paved.

Amendment #2-4 – No discussion

Amendment #5 – After Senior Planner Gassman went over the proposed rules around submitting written comments, Commissioner Bryant asked if one page meant one sided or two sided. There was a general discussion about one versus two sided, as well as minimum font sizes. The consensus of the

Commission was that one page meant one sided.

Chair Lavier brought up the concern of having enough time to review large amounts of written comments especially when they're submitted right before or during the hearing. City Attorney Parker stated that in that situation the Commission has the ability to continue the hearing to a later date in order to properly review the material. Director Durow suggested accepting all of the verbal public testimony, then closing the hearing and taking time to read the written material. Parker agreed, adding the need to be cognizant of allowing the public the chance to completely present their case/comments.

Amendment #6 – City Attorney Parker pointed out that the De Novo definition was based on current case law and that if the definition ever changes, the LUDO will need to be modified as well.

Amendment #7-28 – no discussion

Amendment #29- Commissioner Bryant asked for clarification of a “wind device”. There was a general discussion about what could be considered a wind device. Commissioner Hoey pointed out that the Wasco County ordinances use the term “Wind Energy Conversion System”. The Commission and staff agreed to change all LUDO references of “wind device” to the more descriptive term of “Wind Energy Conversion System”.

Amendment #30 – no discussion

Amendment #31 – Senior Planner Gassman pointed out that he would change the wording “wind device” to “Wind Energy Conversion System” in this amendment as well.

Amendment #32-41 – no discussion

Amendment #42 – After Senior Planner Gassman explained the amendment; City Attorney Parker shared his concern about the issue in regards to due process. He stated that he will be doing more research about the legal side of notifying the sign owner before a sign can be removed. Gassman suggested approving the amendment as is, with the knowledge that Parker may be recommending a change in the language at a future time.

Chair Lavier suggested that signs should be required to have a phone number so that the owner or person responsible could be contacted.

Amendment #43-46 – no discussion

Senior Planner Gassman summed up the LUDO amendment discussion by verifying that changes are going to be made to Amendment numbers 5, 29, and 31 and that City Attorney Parker will be looking into possible wording changes for number 42. Senior Planner Gassman brought up the discussion on font sizes and asked if the Commission would like to make any specific requirements. After a few general comments the Commission decided not to specify a minimum font size.

Senior Planner Gassman stated that he would bring back the modified amendments as well as a resolution to the next Planning Commission meeting.

John Nelson, 524 W 3rd Place stated that he was appearing before the Commission on behalf of the Citizens for Responsible Development of The Dalles, and that they were requesting that an Economic Impact Analysis ordinance be added to the LUDO. Mr. Nelson submitted a letter from Luise Langheinrich on behalf of the group, and information regarding a similar ordinance from the state of Maine.

Mr. Nelson also expressed the group's frustration during controversial hearings such as Walmart and the adult book store, of needing to fit into the framework of the quasi-judicial or legislative hearing process. He asked if a review process step could be added that would be more informal, so that when a controversial or large scale application is received, it could be introduced to the community in a way that they were allowed to voice their questions or concerns.

Director Durow responded that some communities in Oregon require an applicant to meet with a neighborhood group before an application is even accepted by the city. Durow explained that the decision makers would not be able to participate in those meetings because it would be in direct conflict with the judicial process. He also shared that the idea had been brought up before.

Chair Lavier explained to Mr. Nelson that adding something to, or changing the LUDO is a complete process and that for this round of LUDO amendments the Commission was currently in the final stage so the request would need to be considered in the next round of amendments. Lavier also expressed his feeling that the Commission does allow citizens the chance to speak and to ask questions.

Director Durow added more information about the neighborhood meetings, sharing some of the results those communities had experienced.

Mr. Nelson asked if the current meeting was the appropriate time to ask for a similar process to be implemented in The Dalles. Director Durow replied yes. The Commission and staff had a general discussion about how a process like that might be implemented, what results could potentially be expected, and if it would be a mandatory process. Durow summarized that generally what happens is that a company hears what the communities' concerns are and then has the opportunity to address any changes before submitting the application. Durow added that in general communities have found that there are less objections and appeals when the public is fully informed before an application is submitted.

The Commission agreed to add both of Mr. Nelson's requests to the discussion list for the next round of potential LUDO changes. Chair Lavier suggested gathering information from communities that have implemented the neighborhood meeting idea before the next round of LUDO changes.

Randy Cole, 816 E 20th, voiced his concern about four mobile homes whose main entrances were not facing the street. This ordinance was the subject of LUDO Amendment #11 that was mentioned earlier. Chair Lavier explained that several were installed before the ordinance was written. Director Durow added that some of them were the reason the ordinance was written. Senior Planner Gassman assured Mr. Cole that the City Council has made it clear that they want houses to be oriented to the street if at all possible.

Commissioner Bryant brought back the subject of community meetings and asked if the hill removal and retaining wall being constructed on Nineteenth Street would have been an issue that would have

been required to have such a meeting. Senior Planner Gassman shared that from his understanding, the meetings are more for a business, or larger developments in terms of something that would generate a lot of traffic or activity.

Mr. Cole asked if a community meeting would be held for a subdivision application. Director Durow and Senior Planner Gassman both felt that generally it would not be required for that, but also pointed out that the policy could be designed however the community wanted it to be designed.

Director Durow clarified that even though a community meeting is held and the community does not like what is happening does not mean that the application will not be approved. He stressed that the process is not a vote, but rather a time to express concerns and perhaps arrive at some sort of an understanding. If the application is an allowed use and meets criteria, the application will most likely be approved.

Commissioner Bryant moved to recommend the LUDO amendments to City Council with changes as discussed and for staff to bring back a resolution including said changes to the next meeting. The motion was seconded by Commissioner Poppoff and carried unanimously; Ahlberg, Wilcox and Zukin absent.

COMMISSIONER/STAFF COMMENTS

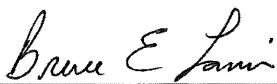
Commissioner Poppoff inquired about a requirement for garage faces to be set back behind house faces, explaining that he had seen several around town being built with the garage out further than the house. Senior Planner Gassman replied that the garage is not required to be set behind the house; it's only required to be set twenty feet back from the property line.

Commissioner Bryant brought up Mr. Cole's concern about not enough parking spaces for several specific projects and properties. There was a general discussion between the Commissioners, Mr. Cole and Senior Planner Gassman about where the properties were and what the specific concerns were. The discussion ended with Gassman promising to look into the specifics of the properties that were mentioned to determine if there were parking requirements set for each of them.

NEXT MEETING: The next scheduled meeting is January 7, 2010.

ADJOURNMENT: The Planning Commission meeting was adjourned at 8:34 p.m.

Submitted by
Brenda Green, Administrative Secretary



Bruce Lavier, Planning Commission Chair

Date: December 17, 2009

To: The Dalles Planning Commission

From: Luise Langheinrich, Citizens for Responsible Development of The Dalles
P.O. Box 1343 The Dalles



We respectfully submit a request to add an Economic Impact Analysis ordinance to the LUDO for The Dalles.

As you are looking over amendments to the existing LUDO we suggest adding language that provides you and the City Council the tools to assess incoming businesses, of a certain size, to clearly determine the impact to our community.

I'm sure you will agree that having clear language makes evaluating land use applications so much easier than what we have all gone through the last year.

Putting an economic impact analysis into the ordinance is not a new concept for governments. Attached is the actual law that the State of Maine enacted in 2007. It clearly defines the requirements and processes. More and more states and cities are looking at this idea as a positive step for their community.

We hope this serves as a starting point for more in-depth dialog.

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Enact the Informed Growth Act

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA c. 187, sub-c. 3-A is enacted to read:

SUBCHAPTER 3-A

informed growth act

§ 4365. Short title

This subchapter may be known and cited as "the Informed Growth Act."

§ 4366. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Comprehensive economic impact area. "Comprehensive economic impact area"

means the geographic area affected by a proposed large-scale retail development. This area includes the municipality and abutting municipalities.

2. Comprehensive economic impact study. "Comprehensive economic impact study"

means a municipal study that estimates the effects of a large-scale retail development on the local economy, downtown and community pursuant to section 4367, subsection 4.

3. Downtown. "Downtown" means the central business district of a community that serves

as the center for socioeconomic interaction in the community and is characterized by a cohesive core of commercial and mixed-use buildings, often interspersed with civic, religious and residential buildings and public spaces, typically arranged along a main street and intersecting side streets, walkable and served by public infrastructure.

4. Gross floor area. "Gross floor area" means the aggregate of the areas of each floor of a

building or structure, including accessory structures, measured between the exterior faces of the exterior walls or limits of the building or structure at the level of each floor.

5. Land use permit. "Land use permit" means a municipal permit or approval required by

a municipal land ordinance, site plan ordinance, subdivision ordinance, zoning ordinance or building

permit ordinance or by the state subdivision law pursuant to subchapter 4.

6. Large-scale retail development. "Large-scale retail development" means any retail

business establishment having a gross floor area of 75,000 square feet or more in one or more buildings

at the same location, and any expansion or renovation of an existing building or buildings that results in

PUBLIC Law, Chapter 347, 123rd Maine State Legislature

An Act To Enact the Informed Growth Act

LR 2241, item 1, SIGNED on 2007-06-20 - First Regular Session - 123rd Legislature, page 2.

a retail business establishment's having a gross floor area of 75,000 square feet or more in one or more

buildings except when the expansion of an existing retail business establishment is less than 20,000 square

feet. Other retail business establishments on the same site as the large-scale retail business establishment

are not included in this definition unless they share a common check stand, management, controlling ownership or storage areas.

7. Municipal reviewing authority. "Municipal reviewing authority" means the municipal

planning board, agency or office or, if none, the municipal officers.

8. Office. "Office" means the Executive Department, State Planning Office.

9. Retail business establishment. "Retail business establishment" means a business engaged

in the sale of goods to the ultimate consumer for direct use or consumption.

10. Undue adverse impact. "Undue adverse impact" means that, within the comprehensive

economic impact area, the estimated overall negative effects on the factors listed for consideration in

section 4367, subsection 4 outweigh the estimated overall positive effects on those factors and that the

estimated negative effects of at least 2 of the factors listed in section 4367, subsection 4, paragraph A

outweigh the positive effects on those factors.

§ 4367. Preparation of comprehensive economic impact study

As part of its review of a land use permit application for a large-scale retail development, a municipal

reviewing authority shall require the preparation of a comprehensive economic impact study.

1. Qualified preparer. A comprehensive economic impact study must be prepared by a

person, other than the applicant for a large-scale retail development, listed by the office as qualified by

education, training and experience to prepare such a study. The office shall provide the list of qualified

preparers to a municipal reviewing authority and land use permit applicant upon request. The office shall adopt routine technical rules under Title 5, chapter 375, subchapter 2-A to carry out the purposes of this subsection.

2. Selection of preparer. The selection of the preparer must be mutually agreed upon by the municipal reviewing authority and the applicant. If no mutual agreement is reached within 15 days, the municipal reviewing authority shall select the preparer. The preparer must be qualified in accordance with subsection 1.

3. Payment. The applicant for the permit shall pay a fee of \$40,000 to the office to be deposited into a dedicated revenue account. The development application is not complete for processing until the office confirms that the fee has been paid.

The office shall disburse to the municipality from the dedicated account an amount equal to the municipality's projected costs of the comprehensive economic impact study contract, notice of the public hearing and related municipal staff support. The municipality's contract for the study must be defined and priced to ensure that the \$40,000 fee will be sufficient to cover both the costs of the study and the costs

PUBLIC Law, Chapter 347, 123rd Maine State Legislature
An Act To Enact the Informed Growth Act

LR 2241, item 1, SIGNED on 2007-06-20 - First Regular Session - 123rd Legislature, page 3.

listed in this subsection. The office may charge against the fee an amount sufficient to cover its costs to record, administer and disburse the fee, but which may not exceed \$1,000. Any unexpended funds from the \$40,000 fee must be returned to the applicant.

4. Comprehensive economic impact study. The comprehensive economic impact study must be completed within 4 months of the filing of the application and must be made available to the municipal reviewing authority, the applicant and the public. It must estimate the effects of the large-scale retail development as set out in this subsection.

A. The comprehensive economic impact study, using existing studies and data and through the collection and analysis of new data, must identify the economic effects of the large-scale retail development on existing retail operations; supply and demand for retail space; number and location

of existing retail establishments where there is overlap of goods and services offered; employment, including projected net job creation and loss; retail wages and benefits; captured share of existing retail sales; sales revenue retained and reinvested in the comprehensive economic impact area; municipal revenues generated; municipal capital, service and maintenance costs caused by the development's construction and operation, including costs of roads and police, fire, rescue and sewer services; the amount of public subsidies, including tax increment financing; and public water utility, sewage disposal and solid waste disposal capacity.

B. The comprehensive economic impact study must identify, to the extent that there are available for reference, existing studies and data, the general environmental effects on those factors enumerated in section 4404, regardless of whether the project is a subdivision, and in Title 38, sections 480-D and 484, regardless of the acreage of the project site.

§ 4368. Public hearing

1. Public participation required. The municipal reviewing authority shall provide the public with an adequate opportunity to be heard prior to the approval of a permit for a large-scale retail development.

2. Notice. Notice of the public hearing on the land use permit application must state that the comprehensive economic impact study will be presented at the hearing and that the municipal reviewing authority will take testimony on the comprehensive impact of the proposed large-scale retail development, and the notice must include the name of any potential retailer, a map of the development location and a map of the comprehensive economic impact area. The municipality shall also provide notice by regular mail to municipal officers of abutting municipalities and to all property owners within 1,000 feet of the proposed development.

3. Public disclosure of the applicant. If the applicant for a large-scale retail development is not the potential retailer, the applicant shall disclose in its application and at the public hearing the name of the potential retailer, including its commonly used retail name.

§ 4369. Land use permit approval

PUBLIC Law, Chapter 347, 123rd Maine State Legislature

The municipal reviewing authority shall evaluate the impacts of the proposed large-scale retail

development based on the comprehensive economic impact study; other materials submitted to

the municipal reviewing authority by any person, including the applicant, state agencies, nonprofit

organizations and members of the public; and testimony received during the public hearing under section

4368 to issue a finding of undue adverse impact or no undue adverse impact. The

municipal reviewing

authority may issue a land use permit for a large-scale retail development only if it determines that there

is likely to be no undue adverse impact.

Nothing in this Act may preclude a municipality from adopting an ordinance to authorize additional

studies and criteria regarding the effects of a proposed large-scale retail development.

The requirements

of this Act are in addition to all other required federal, state and local land use permit processes that

pertain to a proposed large-scale retail development.

§ 4370. Appeal

The provisions of this subchapter granting persons, municipalities, the State and other entities the

opportunity to provide input on a municipal land use permit or approval do not, and may not be interpreted

to, authorize persons or entities who would not, absent the provisions of this subchapter, have an interest

in or otherwise have standing to appeal a municipal action on the permit or approval.

§ 4371. Exemption

The provisions of this subchapter do not apply to a municipality that has adopted economic and

community impact review criteria that apply to large-scale retail development land use permit applications

and that require a study of the comprehensive economic and community impacts of the proposed

large-scale retail development for consideration, among other evidence, in applying the review criteria

to the application.

Sec. 2. Construction. Nothing in this Act may be construed to limit the ability of a municipality

that, after the effective date of this Act, adopts economic and community impact review criteria that apply

to large-scale retail development land use permit applications to be exempt from the provisions of the

Maine Revised Statutes, Title 30-A, chapter 187, subchapter 3-A in accordance with Title 30-A, section 4371.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

EXECUTIVE DEPARTMENT

Planning Office 0082

Initiative: Provides a base allocation of \$500 to establish an Other Special Revenue Funds account to reimburse municipalities for activities related to certain permitting requirements mandated by the State.

OTHER SPECIAL REVENUE FUNDS 2007-08 2008-09

All Other \$500 \$500

PUBLIC Law, Chapter 347, 123rd Maine State Legislature

An Act To Enact the Informed Growth Act

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**City of The Dalles
Planning Commission Staff Report**

**Amendments to the
Land Use and Development Ordinance**

Prepared by: Dick Gassman, Senior Planner

For: City of The Dalles Planning Commission

Procedure Type: Legislative Hearing

Meeting Date: December 17, 2009

Request: Amendments to the Land Use and Development Ordinance

Properties: All properties within the City of The Dalles land use jurisdiction

Applicant: City of The Dalles
Community Development Department
313 Court Street
The Dalles, OR 97058

BACKGROUND INFORMATION

The Land Use and Development Ordinance (LUDO) contains over 450 pages of language on procedural and substantive requirements for land division, property development, and zoning. The last major rewrite of the LUDO was in 1998. There were significant amendments that were approved in 2005 and additional amendments in 2007 and 2008. The list of amendments attached to this staff report are part of a group of suggested changes received since the last group of amendments.

This group of amendments was presented to a work session of the Planning Commission on October 15, 2009. Comments from that session have been reviewed and incorporated in the amendments.

This application is a legislative action under the provisions of Section 3.110.020 and 3.020.060(A)(2). The role of the Planning Commission is to review the proposed

amendments, amend as needed, and forward a recommendation to the City Council. The final decision on the proposed amendments will be made by the City Council.

NOTIFICATION

Notice of this public hearing was published in The Dalles Chronicle on December 3, 2009.

COMMENTS

As of the date of the preparation of this staff report, no comments were received.

REVIEW

A. LAND USE AND DEVELOPMENT ORDINANCE 98-1222

1. PROCEDURE

a. Section 3.010.040 Applications:

FINDING A-1: This application is initiated by the Director pursuant to the provisions of Section 3.010.040 F.

b. Section 3.020.060 Legislative Actions:

Subsection A. Decision types. 2. Ordinance Amendments:

FINDING A-2: This application is for a group of Ordinance Amendments per Section 3.110.

Subsection B. Public Hearings. The Commission shall hold at least one legislative public hearing to review applications for legislative actions and, by duly adopted resolution, make a recommendation to the Council to approve, approve with conditions, or deny the request.

FINDING A-3: The public hearing has been set for December 17, 2009.

d. Section 3.020.060 Legislative Actions:

Subsection C. Notice of Hearing. At least 10 days before the legislative hearings, notice of the hearing shall be published in a newspaper of general circulation.

FINDING A-3: A notice of hearing containing the information required was published in The Dalles Chronicle on December 3, 2009.

e. Notice of Hearing as required by ORS 227.186.

ORS 227.186 requires that all property owners whose property is rezoned must be provided notice at least 20 days but no more than 40 days prior to the date of the first hearing. For purposes of this provision, rezone includes any change that limits or prohibits uses previously allowed in a zone.

FINDING A-4: Staff has determined that none of the proposed amendments comes within the definition of rezone as contained in the statute. Notices to individual property owners were not required.

f. Section 3.020.070(A)(3) Staff Report.

A staff report shall be presented which identifies the criteria and standards applying to the application and summarizes the basic findings of fact. The staff report may also include a recommendation for approval, approval with conditions, or denial.

FINDING A-5: The staff report has identified the criteria and standards as they relate to this application and has summarized the basic findings of fact. The staff report does include a recommendation for approval.

2. REVIEW

a. Section 3.110.030 Review Criteria

Proposed text amendments shall be consistent with the Comprehensive Plan, and State Laws and Administrative Rules.

FINDING A-6: The City of The Dalles has broad discretion to adopt zoning textual changes. Each of the proposed amendments is consistent with the Comprehensive Plan, State Laws, and Administrative Rules.

B. COMPREHENSIVE PLAN

1. Goal #1. Citizen Involvement. To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Policy 3. The land-use planning process and policy framework shall include opportunity for citizen input as a part of the basis for all decisions and actions related to the use of land.

FINDING B-1: This proposal is consistent with goals and policies of the Comprehensive Plan. A notice of public hearing has been published and the public has an opportunity to provide testimony on the proposed changes to the Commission. The Commission can make alterations in the proposed amendments based on testimony at this hearing. There will be another public hearing before the City Council and that body will also have the opportunity to consider testimony from citizens and make changes.

2. Goal #2. Land Use Planning. To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Policy 6. Implement this Plan through appropriate ordinances and action. Implementing measures shall be developed to allow administrative review and approval authority.

FINDING B-2: These amendments update the existing zoning ordinance, following the directive of the Comprehensive Plan.

DISCUSSION

At the October 15, 2009 work session, the Commission discussed the proposed amendments. At that time the Commission indicated, among other comments, that no wind energy devices should be allowed in residential zones. The proposed amendments have been changed to incorporate the suggested changes.

In addition to the changes discussed at the October 15 session, the proposed amendments have been supplemented with new items. The most significant one occurs in item number 40 which adds language to allow the Council to set new street standards in residential zones, a modification to LUDO Section 10.060 J.

Here are some of the more significant proposed changes.

1. New language regarding how comments from the public on quasi-judicial hearings are processed. See Section 5 of the draft ordinance.
2. New language allowing for exemption under certain circumstances from the building orientation requirements. See Section 11 of the draft ordinance.
3. New language providing for alternative parking arrangements in the Central Business Commercial zone. See Section 19 of the draft ordinance.
4. New language allowing the City to require a survey in certain circumstances. See Section 28.
5. New language regulating wind energy devices. See Section 31.
6. New language allowing for variations in street design standards. See Section 40.
7. New language allowing for summary removal of signs placed in the right of way without approval. See Section 42.

I have prepared a draft ordinance so the Commissioners can read the actual proposed language. I have also shown some of the more complex amendments in context. The bold print indicates new language, the strikethrough indicates text to be removed. All of the proposed amendments are subject to revision or elimination

STAFF RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Council the approval of the amendments as shown on the attached draft ordinance, with any additional changes from the Commission.

1. Amend section 2.030 by adding a new definition: **“Community Event - periodic or annual special events involving community wide interest, usually sponsored by a nonprofit entity, such as but not limited to events like the Cherry Festival, Rodeo, Neon Nights, Jamming July, sanctioned bike races, Historic The Dalles Days, parades, and circuses. Activities directly associated with Community Events are considered part of the event and not as a separate use of the property and as such are exempt from the provisions of the LUDO during the days of the event.”**
2. Amend section 3.010.040 B by adding a new sentence, after the first sentence, as follows: **“The City Manager may waive application fees for City projects on City owned property or in the public right of way without resolution or other approval of the City Council.”**
3. Amend section 3.020.040 C. 2. g. by changing the words ~~“relied upon”~~ in the second line to **“submitted”**.
4. Amend section 3.020.050 D. 4. f. by changing the words ~~“relied upon”~~ in the second line to **“submitted”**.
5. Amend section 3.020.070 A. 4 by adding a new subparagraph f) as follows: **“Signed written comments may be submitted prior to the hearing by mail or personal delivery. Faxes and emails will only be accepted if sent to the location specified by the Community Development Department. All comments must include the name and address of the person making the comment. Comments will not be accepted if either the name or the address is missing. Comments for a quasi-judicial hearing which are longer than one page shall be accepted only by mail or in person and only if 12 copies are presented for a Planning Commission hearing and 10 copies for a hearing before the City Council. Comments received at least five working days prior to the hearing shall be distributed to the hearing body prior to the hearing. Comments received by 5 p.m. on the day of the hearing shall be presented to the hearing body at the time of the hearing. Written and verbal comments may also be presented in person at the hearing.”**
6. Amend section 3.020.080 A by adding a new sentence as follows: **“4. Amend section 3.020.080 A by adding a new sentence as follows: “A De Novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.”**
7. Amend section 3.030.040 by adding a new paragraph G as follows: **“Deferring Approval. For all land use actions, when another public entity has primary subject matter jurisdiction, the City may defer development approval for those subjects to the entity with the jurisdiction.”**

8. Amend section 3.030.050 by adding the words **“including a private street”** after the words “public improvements” in line 4.
9. Amend section 3.050.010 by adding the following words **“except as allowed in Section 5.100.040,”** before the words in the fifth sentence “does not by itself cause a change . . . “
10. Amend section 3.050.110 C. to read: **“To approve a Major Modification, the Commission shall consider the application the same as a new conditional use permit request.”**
11. Amend section 3.080.020 D by adding provisions in a new subparagraph 7 to allow a house not to face the street under certain circumstances. Suggested language: **“1 and 2 family dwellings may qualify for a quasi-judicial adjustment exempting them from meeting the requirements of Section 5.010.050 Building Orientation. Factors to be considered include the following: lots exceeding the minimum size; difference in elevation between building site and street; slope of lot; setback from street; difficult access from the street, and other relevant factors. If approved, the Planning Commission may require additional landscaping, among other conditions, to reduce the effect on the view from the street”**
12. Amend section 5.010.020 A 2 b. by deleting the footnote.
13. Amend section 5.010.070 D. 1. by deleting the words ~~30-foot height~~ and replacing them with the word **“allowed.”**
14. Amend section 5.010.070 by adding a new paragraph F. as follows: **“Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”**
15. Amend section 5.020.080 by adding a new paragraph F. as follows: **“Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot**

separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”

16. Amend section 5.030.070 by adding a new paragraph F. as follows: “Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”

17. Amend section 5.040.020 A by deleting 4 a: ~~Lodges, Fraternal and Civic Assembly~~, and renumbering 4 b to 4 a.

18. Amend section 5.040.070 by adding a new paragraph F. as follows: “Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Clerk a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee established by City Council resolution. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”

19. Amend section 5.050.080 B to read as follows: “Parking”.

“1. Commercial Communication Equipment uses and other uses which the Director determines have no employees on site and are not open to the public, may be exempted from off-street parking requirements.

2. Existing lots that cannot meet dimensional standards for parking spaces can restrict the entire lot for employee only valet type parking, which do not have to meet the dimensional requirements. Employee parking only restricted lots must provide signage stating the restrictions and prohibiting parking for the general public. These lots must meet the landscaping standards in Section 7.030.040 B or obtain approval for alternate

landscaping plans as authorized in Section 7.030.040 D.

3. With the approval of the Director, up to 50% of the required parking spaces can be reserved for employee parking. These spaces must have signage specifying this restriction. Parking reserved for employees does not have to meet dimensional requirements and may be valet type parking so long as the parking does not obstruct fire lanes or emergency access or interfere with the use or development of adjoining properties. Employee parking may use an alley for maneuvering. Employee parking spaces do not count towards the 7 space threshold that requires landscaping as contained in Section 7.030.040 B. Employee parking areas are not exempt from landscaping requirements but may qualify for the alternative landscaping provisions found in Section 7.030.040 D.”

20. Amend section 5.090.020 A by deleting paragraph 2: ~~“Community Facilities Sites, subject to the provisions of Section 5.100: *Community Facilities Overlay District.*”~~ and renumbering current paragraphs 3 to 22 to new numbers 2 to 21.

21. Amend section 5.090.030 to add new paragraph I as follows: **“Community Facilities Sites, subject to the provisions of Section 5.100: *Community Facilities Overlay District.*”**

22. Amend section 6.010.020 A by deleting the words ~~“Approved trees”~~ at the beginning of the second sentence and replacing them with the following: **“Trees on the recommended tree list”**.

23. Amend section 6.010.050 E. Height, to read as follows: **“The height of hedges, fences, walls, and berms shall be measured as provided for in Section 6.070.050 B, except where used to comply with screening requirements for parking, loading, storage, and similar areas.”**

24. Amend section 6.010.060 A by deleting the words ~~“list of appropriate street trees”~~ and replacing them with the following: **“recommended tree list”**.

25. Amend section 6.020.020 A by adding the following after the first sentence: **“Home businesses are not allowed in residential zones without a Home Business Permit.”**

26. Amend section 6.020.040 G by adding the following after the words “Any activity that”:
“generates excessive traffic or monopolizes available on-street parking,”

27. Amend section 6.030.030 by adding new paragraph L as follows: **“Accessory dwellings are allowed in duplexes only with a conditional use permit.”**

28. Add a new section 6.070.110: **“When a building is proposed to be placed close to a required setback, or close to a property line if no setback is required, the City may require the applicant to obtain a survey to locate the property line. In determining whether a survey should be required, factors to be considered include how close the building is proposed to be to the required line, evidence of prior surveys, other indications of the location of the property line, disputes from neighbors, and other relevant factors.”**

29. Amend section 6.090 A by adding new paragraph 5 as follows: **“Wind devices are**

prohibited in the CBC zone, in historic districts, and on historic structures.”

30. Amend 6.150.030 by adding the following language at the end. “See Section 10.030 A for damage caused by an act of God.”

31. Amend Chapter 6 by adding new language as follows: “Section 6.170. Renewable Energy Systems.

A. General. Unless otherwise specified, all applications for renewable energy systems shall be processed under the provisions of Section 3.050 Conditional Use Permit.

B. Wind Turbines.

1. **Residential and NC Zones.** Wind turbine devices are prohibited in residential zones and the neighborhood center overlay district.

2. **Non-Residential Zones.**

a. Wind devices are prohibited in the CBC – Central Business Commercial zone, in historic districts, and on historic structures.

b. For height limitations of wind devices refer to Section 6.090 A.”

32. Amend section 7.030.040 A 6 by deleting the words “list of appropriate street trees” and replacing them with the following: “**recommended tree list**”.

33. Amend section 7.030.040 C 2 by deleting the words “the list of acceptable parking lot trees” and replacing them with the following: “**the recommended tree list**”.

34. Amend section 7.030.050 (1) by renumbering it to 7.030.050 A.

35. Amend section 7.030.050 B by adding the word “**accessible**” in front of the word “parking” in the first line.

36. Amend section 8.020.010 B by deleting the word “shall” and replacing it with the words: “**may, at the request of the applicant**”.

37. Amend section 9.040.040 B by deleting “Comprehensive Plan, this and other City Ordinance” from lines 2 and 3 in the review criteria and replace it with “**this Ordinance**”.

38. Amend section 9.040.060 H by adding the word “**Public**” before Improvements in the title.

39. Amend section 9.040.060 H by adding the following language after the first sentence: “**For purposes of this Chapter, required improvements mean those public improvements and private streets required to be installed as part of the approval of the development**”.

40. Amend section 10.060 J 5 to read as follows: “**Except for streets designated in the Transportation System Plan as local and located in residential zones, right-of-way and improvement widths and standards shall be as specified in the chart below, or as modified in subsection 6. Streets designated in the Transportation System Plan as local and located in residential zones shall meet development standards as established by City Council**

resolution. A copy of the latest resolution can be obtained from the Community Development Department.”

41. Delete chart for Residential Street Standards on page 10-12.

42. Amend section 13.070.040 by adding renumbering paragraph “C” to “D” and adding a new paragraph C as follows: **“Removal of Sign from Public Right of Way. Any sign placed in the public right of way without approval of the jurisdiction administering that portion of the right of way, may be summarily confiscated by the jurisdiction without notice or any other procedure”.**

43. Amend section 15.070 C by deleting the number “15” and replacing it with the number “10”.

44. Amend section 15.070 C by adding new language at the end of the paragraph as follows: **“Immediate enforcement is allowed when the person responsible for the violation has committed a violation of the same code provision within the prior two years.”**

45. Amend section 15.090 A by deleting the following: ~~(Sign Code violations are addressed in General Ordinance No. 92-1153).~~

46. Amend section 15.090 B by deleting the following: ~~(Sign Code violations are addressed in General Ordinance No. 92-1153).~~

1. Amend section 2.030 by adding a new definition: **“Community Event - periodic or annual special events involving community wide interest, usually sponsored by a nonprofit entity, such as but not limited to events like the Cherry Festival, Rodeo, Neon Nights, Jamming July, sanctioned bike races, Historic The Dalles Days, parades, and circuses. Activities directly associated with Community Events are considered part of the event and not as a separate use of the property and as such are exempt from the provisions of the LUDO during the days of the event.”**
2. Amend section 3.010.040 B. Completeness. An application shall be considered complete when it contains the information required by this Ordinance, addresses the appropriate criteria for review and approval of the request, and is accompanied by the required fee, unless waived by the City Council per Section 1.120: Fees of this Ordinance. **“The City Manager may waive application fees for City projects on City owned property or in the public right of way without resolution or other approval of the City Council.”** Complete applications shall be signed and dated by the Director.
3. Amend section 3.020.040 C. 2. g). State that a copy of the application, all documents and evidence ~~relied upon~~ **submitted** by the applicant, and all applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.
4. Amend section 3.020.050 D. 4. f). State that a copy of the application, all documents and evidence ~~relied upon~~ **submitted** by the applicant, and all applicable criteria are available for inspection at no cost and will be provided at a reasonable cost.
5. Amend section 3.020.070 A. 4 Testimony and Evidence.
 - a) All testimony and evidence must be based on the criteria contained in the Ordinance or The Comprehensive Plan which the person believes applies to the final decision.
 - b) The failure to raise an issue precludes appeal to the LUBA on that issue.
 - c) Oral and written testimony shall be taken first from the applicant, then from proponents of the action, followed by testimony from opponents, and finally from other interested parties. Proponents will then have an opportunity for rebuttal.
 - d) Members of the hearings body may ask questions of staff, proponents, opponents, and other interested parties at any time.
 - e) Each person’s testimony may be limited to five minutes or less.
 - f) **“Signed written comments may be submitted prior to the hearing by mail or personal delivery. Faxes and emails will only be accepted if sent to the location specified by the Community Development Department. All comments must include the name and address of the person making the comment. Comments for a quasi-judicial hearing longer than one page shall only be accepted if 12 copies are presented for a Planning Commission hearing and 10 copies for a hearing before the City Council. Comments received at least five working days prior to the hearing shall be distributed to the hearing body prior to the hearing. Comments received by 5 p.m. on the day of the hearing shall be presented to the hearing body at the time of**

the hearing. Written and verbal comments may also be presented in person at the hearing.”

6. Amend section 3.020.080 A De Novo. Appeals shall be a de novo evidentiary hearing. **“A de novo hearing allows for the introduction of additional evidence on issues raised at a lower level and included in the notice of appeal, and for arguments or testimony based on those issues. It does not allow for new issues to be raised, nor does it allow for evidence, arguments or testimony to be presented on issues not raised in the appeal notice.”**

7. Amend section 3.030.040 by adding a new paragraph G. **“Deferring Approval. For all land use actions, when another public entity has primary subject matter jurisdiction, the City may defer development approval for those subjects to the entity with the jurisdiction.”**

8. Amend section 3.030.050 Performance Guarantee

Where the applicant wishes to delay making required public improvements for a specified time period agreed to by the approving authority, the applicant shall file an agreement to insure full and faithful performance on making those required public improvement, **including a private street**, per the provisions of Section 9.040.060(I): Performance Guarantee of this Ordinance.

9. Amend section 3.050.010 Purpose

Certain uses are allowed in certain zones only conditionally. As a conditional use they are subject to specific regulations because they may have significant adverse effects on the environment, overburden public services, change the desired character of an area, or create nuisances. A review of these proposed uses is necessary due to the potential individual or cumulative impacts they may have on the surrounding area or neighborhood. The conditional use process provides an opportunity to allow conditional uses when they serve a public good or meet a need, and to ensure that negative impacts from the use are mitigated. A conditional use permit, **“except as allowed in Section 5.100.040,”** does not by itself cause a change in any zoning or development standards; changes to development standards for a conditional use must go through the appropriate processes, such as a variance or adjustment, as outlined elsewhere in this document.

10. Amend section 3.050.110 C. to read: **“To approve a Major Modification, the Commission shall consider the application the same as a new conditional use permit request.”** ~~make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied~~

- ~~1. The proposal satisfies the threshold for a Major Modification.~~
- ~~2. All City application fees have been submitted.~~
- ~~3. The proposal complies with the Comprehensive Plan.~~
- ~~4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.~~
- ~~5. The location, size, and functional characteristics of the proposal are such that it can be made reasonably compatible with and have a minimal impact of livability and appropriate development of properties in the surrounding area of the subject site.~~

11. Amend section 3.080.020 D by adding new subparagraph 7: **“1 and 2 family dwellings may qualify for a quasi-judicial adjustment exempting them from meeting the requirements of Section 5.010.050 Building Orientation. Factors to be considered include the following: lots exceeding the minimum size; difference in elevation between building site and street; slope of lot; setback from street; difficult access from the street, and other relevant factors. If approved, the Planning Commission may require additional landscaping, among other conditions, to reduce effect on view from street”**
12. Amend section 5.010.020 A 2 b. by deleting footnote 1.
13. Amend section 5.010.070 D. 1. to read as follows: Downhill Slope from Street. On lots that slope downhill from the street with an average slope of 20% or greater, the height limit is the higher of 23 feet above the average grade of the street or the 30-foot height allowed limit. In addition, the alternative height and setback standards of subsection (3) below may be applied.
14. Amend section 5.010.070 by adding a new paragraph F. **“Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Recorder a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee set by the City. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”**
15. Amend section 5.020.080 by adding a new paragraph F. **“Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Recorder a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee set by the City. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”**
16. Amend section 5.030.070 by adding a new paragraph F. **“Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with**

an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Recorder a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee set by the City. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.”

17. Amend section 5.040.020 A by deleting 4 a: Lodges, Fraternal and Civic Assembly.

18. Amend section 5.040.070 by adding a new paragraph F. “**Except where buildings abut or share a common wall, when the owner of a lot or parcel proposes to locate a building with an interior yard of less than the required setback from the adjacent property line, the owner must secure and record in the office of Wasco County Recorder a maintenance access easement from the neighboring property owner adjacent to that side of the building. The easement shall provide access on the entire length of the proposed building and 5 feet beyond both ends. The easement requires a minimum of 10 foot separation between two houses on separate lots, a minimum of 8 foot separation between a house and a detached accessory building on separate lots, or a minimum of 6 foot separation between two detached accessory buildings on separate lots. The easement shall be on a form approved by the City, and be subject to payment of a fee set by the City. Applicant is responsible for recording and fees associated with recording. Applicant shall supply the City with a copy of the recorded easement.**”

19. Amend section 5.050.080 B to read as follows: “Parking”. The following permitted and conditional uses may be exempted from the off-street parking requirements of the Ordinance:

“1. Commercial Communication Equipment uses and other uses which the Director determines have no employees on site and are not open to the public, may be exempted from off-street parking requirements.

2. Existing lots that cannot meet dimensional standards for parking spaces can restrict the entire lot for employee only valet type parking, which do not have to meet the dimensional requirements. Employee parking only restricted lots must provide signage stating the restrictions and prohibiting parking for the general public. These lots must meet the landscaping standards in Section 7.030.040 B or obtain approval for alternate landscaping plans as authorized in Section 7.030.040 D.

3. With the approval of the Director, up to 50% of the required parking spaces can be reserved for employee parking. These spaces must have signage specifying this restriction. Parking reserved for employees does not have to meet dimensional requirements and may be valet type parking so long as the parking does not obstruct fire lanes or emergency access or interfere with the use or development of adjoining properties. Employee parking may use an alley for maneuvering. Employee parking spaces do not count towards the 7 space threshold that requires landscaping as contained in Section

7.030.040 B. Employee parking areas are not exempt from landscaping requirements but may qualify for the alternative landscaping provisions found in Section 7.030.040 D.”

20. Amend section 5.090.020 A by deleting paragraph 2: “~~Community Facilities Sites, subject to the provisions of Section 5.100: *Community Facilities Overlay District.*”~~”

21. Amend section 5.090.030 to add new paragraph I as follows: “**Community Facilities Sites, subject to the provisions of Section 5.100: *Community Facilities Overlay District.*”**”

22. Amend section 6.010.020 Definition.

A. For the purposes of this Section and this Ordinance, unless otherwise specified, “landscaping” shall mean a minimum of 40% of the required landscape area be planted with live plant material. ~~Approved trees~~ “**Trees on the recommended tree list**” which are 2.5 inch caliper 5 feet above the ground at time of planting shall each be considered to cover 250 square feet.

23. Amend section 6.010.050 E. Height, to read as follows: The height of hedges, fences, walls, and berms shall be measured ~~from the lowest adjoin finished grade~~ “**as provided for in Section 6.070.050 B**”, except where used to comply with screening requirements for parking, loading, storage, and similar areas.

24. Amend section 6.010.060 A General. Street trees shall count toward the required landscape requirement. Street trees shall be planted and maintained in accordance with the following standards for all public street frontages, and along private street and accessways more than 150 feet long. Street trees shall be required in all zoning districts where there is a designated planting strip in the public right-of-way. Selection of species may be made from the ~~list of appropriate street trees~~ “**recommended tree list**”.

25. Amend section 6.020.020 A. Applicability. The provisions of this Section shall only apply to home businesses in residential zone districts. “**Home businesses are not allowed in residential zones without a Home Business Permit.**” Home businesses in other zone districts shall be subject to the regulations of the subject district.

26. Amend section 6.020.040 G. Off-Site Impacts. Any activity that “**generates excessive traffic or monopolizes available on-street parking**”, produces radio or television interference, noise, glare, dust or particulate matter, vibration, smoke or odor beyond the home business site, or beyond allowable levels as determined by local, state, and federal standards shall not be allowed.

27. Amend section 6.030.030 by adding new paragraph L as follows: “**Accessory dwellings are allowed in duplexes only with a conditional use permit.**”

28. Add a new section 6.070.110: “**When a building is proposed to be placed close to a required setback, or close to a property line if no setback is required, the City may require the applicant to obtain a survey to locate the property line. In determining whether a survey should be required, factors to be considered include how close the building is**

proposed to be to the required line, evidence of prior surveys, other indications of the location of the property line, disputes from neighbors, and other relevant factors.”

29. Amend section 6.090 A by adding new paragraph 5 as follows: **“Wind devices are prohibited in the CBC zone, in historic districts, and on historic structures.”**

30. Amend 6.150.030 A Size of Change. Any change which results in an increase of more than 20%, which is also at least 500 square feet, of the structure’s footprint, shall require the appropriate application review procedure as specified in the Ordinance. Additions of 1,000 square feet or more shall require the appropriate application review regardless of the percentage increase. **“See section 10.030 A for damage caused by an act of God.”**

31. Amend Chapter 6 by adding new **“Section 6.170. Renewable Energy Systems**

A. General. Unless otherwise specified, all applications for renewable energy systems shall be processed under the provisions of Section 3.050 Conditional Use Permit.

B. Wind Turbines.

1. Residential and NC Zones. Wind turbine devices are prohibited in residential zones and the neighborhood center overlay district.

2. Non-Residential Zones.

a. Wind devices are prohibited in the CBC – Central Business Commercial zone, in historic districts, and on historic structures.

b. For height limitations of wind devices refer to Section 6.090 A.”

32. Amend section 7.030.040 A 6. Tree species shall be chosen from the list of appropriate ~~street trees~~ **“recommended tree list”** provided by the Director; however trees must be deciduous and capable of reaching 30 feet in height and spread at maturity.

33. Amend section 7.030.040 C 2. All trees shall be selected from a list of ~~“acceptable parking lot trees~~ **“the recommended tree list”** provided by the Director.

34. Amend section 7.030.050 1. by renumbering it to **7.030.050 A.**

35. Amend section 7.030.050 B. Van Accessible Parking. 1 in 8 **“accessible”** parking spaces, but no less than 1 space, must provide a van-accessible parking space.

36. Amend section 8.020.010 B Consolidation. Where the development is also subject to a Site Plan Review, Conditional Use Permit, Subdivision, Partition, Planned Development or other planning action, the Physical Constraints Permit shall **“may, at the request of the applicant”**, be processed simultaneously with the planning action at no additional charge. Consolidated applications may submit one plan showing all information required by the Ordinance.

37. Amend section 9.040.040 B Review Criteria. Subdivision applications shall be reviewed to assure consistency with the state statutes, ~~the Comprehensive Plan, this and other City Ordinances,~~ **“this Ordinance”**, and the applicable provisions of Chapter . . .

38. Amend section 9.040.060 H Installation of Required “Public” Improvements.

39. Amend section 9.040.060 H Installation of Required “Public” Improvements.

Before the signature of the City Engineer is obtained, the applicant shall install required improvements, agree to install required improvements, or have gained approval to form an improvement district for installation of required public street, sanitary sewer, storm drainage, water, pedestrian way and bikeway improvements, electrical power, natural gas, cable television, telephone service, and other improvements required with the subdivision application approval. **“For purposes of this Chapter, required improvements mean those public improvements and private streets required to be installed as part of the approval of the development”.**

40. Amend section 10.060 J 5 **“Except for streets designated in the Transportation System Plan as local and located in residential zones,”** right-of-way and improvement widths and standards shall be as specified in the chart below, or as modified in subsection 6. **“Streets designated in the Transportation System Plan as local and located in residential zones shall meet development standards as established by City Council resolution. A copy of the latest resolution can be obtained from the Community Development Department.”**

41. Delete entire chart for Residential Street Standards on page 10-12.

42. Amend section 13.070.040 by adding renumbering paragraph “C” to “D” and adding a new paragraph C as follows: **“Removal of Sign from Public Right of Way. Any sign placed in the public right of way without approval of the jurisdiction administering that portion of the right of way, may be summarily confiscated by the jurisdiction without notice or any other procedure”.**

43. Amend section 15.070 C. Whether immediate enforcement will be sought or if ~~15~~ **“10”** days will be allowed to correct or remove the violation. Immediate enforcement will be sought in a situation involving a health hazard or other nuisance that unmistakably exists and from which there is imminent danger to human life or property.

44. Amend section 15.070 C. Whether immediate enforcement will be sought or if ~~15~~ **“10”** days will be allowed to correct or remove the violation. Immediate enforcement will be sought in a situation involving a health hazard or other nuisance that unmistakably exists and from which there is imminent danger to human life or property. **“Immediate enforcement is allowed when the person responsible for the violation has committed a violation of the same code provision within the prior two years.”**

45. Amend section 15.090 A by deleting the following: (~~Sign Code violations are addressed in General Ordinance No. 92-1153~~).

46. Amend section 15.090 B by deleting the following: (~~Sign Code violations are addressed in General Ordinance No. 92-1153~~).