



CITY of THE DALLES

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Memorandum

To: Planning Commission
From: Dick Gassman, Senior Planner
Date: September 16, 2010
Re: LUDO Amendments

This is the latest in the (mostly) annual review of the Land Use and Development Code (LUDO).

I have put in numerical order by LUDO section the suggested list of changes. Most of this list has been generated by Community Development staff. Our policy is to bring forth to the Planning Commission those staff suggestions that we are recommending, or still considering, as well as any suggestions from persons outside the City staff, whether we support them or not.

The session on September 16th is a work session to familiarize the Commissioners with the background of the ideas and for staff to get general comments from the Commissioners. We will refine the proposals after the work session and schedule a public hearing.

Here is the list of proposed changes. The main idea is presented in the first paragraph, then the staff comments below that. For some items we have included code language for the LUDO which starts with the words "proposed language".

1. Per John N at 12-17-09 PC on LUDO amendments, suggested that we require a developer to hold a neighborhood outreach meeting prior to quasi-judicial public hearing.

Comments: Staff does not support this suggestion as a requirement. We do support it as recommendation for development in residential zones that require a quasi-judicial hearing.

2. Per Louise L – add Economic Impact Analysis for large scale development. See State of Maine model.

Comments: Take to Planning Commission, but do not recommend we add this.

3. 1.120. Julie K suggested we need to address the provisions in the LUDO concerning the waiver of application fees by the City Council. Section 3.010.040(B) provides that an application is considered complete when accompanied by the required fee, unless the fee is waived by the Council pursuant to Section 1.120. If you refer back to Section 1.120, there does not appear to be any language that addresses the waiver of application fee by the Council. It would seem if we are going to keep the fee waiver language in the LUDO, we should come up with some language that indicates what criteria the Council will apply in deciding whether to waive a fee.

Comments: 3.010.040 Applications, says that an application must contain the required fee, “unless waived by the City Council per Section 1.120: Fees of this Ordinance”. 1.120 says “Current fees shall remain in effect. Any new fees required by this Ordinance and any fee changes shall be adopted by resolution of the City Council.” We could add something that gives some guidance, but the reasons for waiving, or reducing fees are so varied that any attempt on our part to provide criteria will likely not cover all things. We could provide general language by adding another sentence to 1.120.

Proposed language: **The City Council, upon written request, may waive all or part of any filing fee required by this ordinance.**

The transportation SDC ordinance says: “The City Council shall have the right to grant a credit not to exceed 50% of the applicable transportation SDC charge for any development project submitted by a nonprofit corporation or any agency or subdivision of the federal, state, or local government.”

Conclusion: Unclear if we should add any criteria, or if so, what. Take this to Planning Commission for discussion.

4. 3.020.030. Add proposed change of use as a ministerial action. See 6.150.020 for authority.

Comments: Add “Proposed Change of Use” and “LUDO review of building permit application” to Ministerial actions, as #10 and #11. Redo 6.150.020 to add traffic as a review criteria. Make it clear that a proposed change of use form is required.

Proposed language: 6.150.020 Changes In Use

Unless this Ordinance provides for an exemption for any specific requirement, the following shall apply to all proposed changes in use of structures, land, or other development:

A. Use Determination. **The owner or developer shall complete and submit a Proposed Change of Use Application.** The approving authority shall determine intensity, similarity, or difference of a proposed use based on the following criteria:

1. Use type.
2. Size and/or type of products or services.
3. Parking and loading needs.
4. Off-site impacts and nuisance conditions.
5. **Traffic generation.**

5. **3.020.030 B 1.** Rewrite. What about those proposed changes of use we don't permit. Allow for appeal.

Comments: If the appellant can show the language is unclear so that a subjective analysis was necessary, they can appeal. If not ambiguous or unclear, no appeal rights at the City level.

6. **3.020.030 D and 3.020.040 I.** Review how appeals of ministerial actions are handled, since there is no reference to appeals. Sign permits are listed in ministerial section, but can be appealed per 13.070.060 A and D. How to reconcile final decision versus allowing for appeal of interpretation.

Proposed language: **3.020.030 E. Interpretation. If a ministerial decision involves an interpretation where the code is ambiguous or unclear, see section 1.090 of this code for appeals.**

7. **3.050.040 B.** Remove reference to comp plan.

Comments: Delete "Comprehensive Plan" from 3.050.040 B.

8. **5.030.020 A 2 a and b.** Should we upgrade MHP standards allowing only 1976 MHs rather than 1962? Under definitions, Mobile Homes go back to 1962. They are allowed in the RMH district. Manufactured homes can go back to 1976 and they are allowed in all the zones. Do we want to continue to allow 1962 MH? Will State law allow us? Should we also consider changing the RMH to RM – Medium Density Residential?

Comments: If allowed by State, eliminate mobile homes from single lots. Still allow in MHP. Change name of zone to RM-Medium Density Residential.

9. **5.050.030 A 19.** We allow residential units above commercial in certain commercial zones. What about residential in basement units?

Comments: Amend 5.050.030 A 19 a, 5.060.020 A 20, and 5.080.020 A 6, to allow residential units below street level as well as above commercial uses.

10. **5.080.** Marina housing. Not in code. Should we add something to restrict residential living?

Comments: The Marina is in the Commercial Recreational zone. That zone allows residential dwellings above permitted commercial uses. It makes no mention of the housing at the Marina. Take to Planning Commission for discussion.

11. **5.090.020 A.** Change uses in industrial zone to allow auto body shops.

Comments: Add to I zone based on recent Council comments.

Proposed language: 5.080.020 A. 1. **Auto body shops, auto painting, and machine shops.**

12. **7.030.120.** Lighting from Brenda and Planning Commission. Should we add a provision that

restricts lighting in R zones, or maybe in any zone from shining across property lines? Currently we have a provision in 7.030.120 that only pertains to surface parking lots. Make this applicable to all lighting?

Comments: See County provisions for hooded and shielded lights. Is this really a problem? Discuss it at Planning Commission, but recommend against it. Check other communities for residential lighting. No cities reviewed had any provisions for general residential lighting.

13. 7.060. Review requirements for number of parking spaces for “elderly housing”. Should we increase requirements, based on comments about Mill Creek Point, and Flagstone.

Comments: In 7.060 under Community Services category, change “elderly housing” to “senior housing”. If developer identifies a portion as independent living units these would require one parking space per unit. In other words “independent living units” would be treated similar to apartments for parking requirements, rather than put them in category based on number of beds.

14. 7.060. Consider changing required minimums for apartments if the apartments have more than 2 bedrooms. Suggest one space for every 2 bedrooms, based on the whole complex? Casa Loma.

Comments: In 7.060 under Residential, amend parking requirements for apartments. Require one space for a unit up to two bedrooms, then require one additional space for each two bedrooms over two.

15. 9.020.030 F. Do we want access easement area not to count toward minimum lot area?

Comments: Delete from code.

Proposed Language: Amend second sentence of 9.020.030 F to read: “~~The access easement,~~ **Land required for future right of way or proposed for a** future public street, ~~or private access drive or access way~~ shall not count toward the minimum lot area”.

16. 9.030.040 C. Add language that approval of a minor partition can be extended on an annual basis up to 5 years.

Comments. Upon written request, allow for extensions of preliminary approval for up to 5 years, if the relevant provisions of the LUDO have not changed. If extended, any fees or charges, including the pay into the fund option, will be assessed at the rate in existence upon the date of renewal.

17. 9.030.050 C.1. For land divisions we now don’t allow the “agree to install” provision since we did away with residential waivers of remonstrance.

Comments: Delete words “agreed to install” in line one, at least for residential development, as it is too vague and probably not accurate anymore. If the improvements cannot be put in, then the applicant is required to pay into the fund and liability for improvements is over.

18. 10.060 I. From Jay W. Require private streets to have signs that indicate on the sign that the street is private.

Comments: Discussed whether to have signs a different color, or actual wording of private street on the sign. Proposal: Put "Private Street" on top of the name of the street if street is private. Take the proposal to Planning Commission with other ideas such as different color.

19. **Chapter 13.** Codify temporary sign policy? Alter it? Current policy is to allow temporary signs for 30 days, with a permit, but no fee. No limit on number of signs, size of signs, or how often these can be used.

Comments: Do not require permit for each change of a product flush sign if the sign frame has obtained a permit. Limit number of temporary signs to one per street frontage (what about the flags, balloons, and stick in the ground signs?). Charge a \$10 fee for temporary signs. Look at restricting size – Denise will review temp signs for Skipper's, generally considered the biggest typical temp signs. Ignore flags, etc for now.

20. 13.030.010. Should we add ATM signs to the Exempt sign list?

Comments: Allow one four square foot ATM sign per machine. Require a permit. This provision does not apply to a standalone building for ATM, which would have its own sign allowance.

21. 13.030.010 E. Directional signs – blue – Dry Hollow Vineyards. We do exempt directional signs erected by public authority? It seems the City has the ability to okay a wide variety of directional type signs without making any changes to the sign code. We do this now for schools, churches, museums.

Comments: Look at Hood River County ordinance for Tourist Oriented Destination (TOD) signage. LUDO Section 13.030.010 E, under Exempt Signs, exempts "directional sign erected by public authority".

22. 13.030.010 E. Exempt construction signs during construction?

Proposed language: Add new provision in exempt signs under section 13.030.010 E and renumber: **Construction Signs of 32 square feet for nonresidential construction, and 16 square feet for residential construction, during construction from the time a building permit is issued to completion.**

23. 13.030.010 L. Allow logo or name on a portion of an on-site directional sign. 13.030.010 L exempts non-illuminated direction signs. We get a lot of requests for these and most want a name or a logo on it. So far we have said no, but there are still some with logos on them.

Comments: Allow one quarter (2 square feet) of the maximum of 8 square feet to be a logo or company name.

24. 13.030.010 S. Sign code – eliminate size restrictions on political signs.

Comments: Gene has been reviewing legal issues on campaign signs. Suggestion was to eliminate size restrictions, but Gene suggested that elimination of size restrictions probably is not necessary. We can keep 16 square feet as the size limitation, restrict them to private property, make them comply with vision clearance provisions, and keep the existing duration allowances. These provisions would allow an unlimited number of campaign signs and would not restrict the use of existing legal signage such as billboards.

Proposed language: 13.030.010 S: **Political campaign signs shall be erected only on private property, and be limited to 16 square feet in size. Signs shall comply with the vision clearance provisions in Section 6.100. Signs may be erected during the campaign for a period of 60 days prior to the election in which candidates or issues are to be voted upon. Signs shall be removed not later than the fifth day following the election.**

25. **13.050.030.** Discuss sign height in Highway District. 40 feet maximum allowed, from grade which is interpreted as height from base of sign. Several signs are over height. Do we want to change the height to a certain level above freeway grade, or keep where it is? See LUDO Section 13.050.030 A. and 13.040.080.A

Comments: We are working on a review of the potential results a change like this would have.

26. **13.050.100** Menu Board. Maximum in code is 32 square feet per sign, but a business can have two. Should we allow a total of 64 square feet, with one or two? Max height of 8 feet?

Comments: Okay to change to maximum of two signs and maximum of 64 square feet, to be divided any way they want.

Proposed language: Amend 13.050.100 to read: **“Signs in addition to principal and secondary signs for a restaurant with a drive through window are allowed; no more than two (2) menu boards not to exceed ~~32~~ a total of 64 square feet each, with a maximum height of 8 feet”.**

27. **13.050.160 C.** Change Ordinance to allow fees for sign boards as opposed to sidewalk sign boards.

Comments: Take sign boards out of the temporary section and put in a new section with sidewalk signboards.

Charge same fee for sign boards as for sidewalk sign boards. Look at 13.050.160 C, Placement for distinguishing the two types. Allow sidewalk signboards only in CBC district.

28. **14.010.030 C.** Add a provision to the annexation chapter, probably 14.010.030 C for notice to property owners of properties proposed to be annexed. We do this now, but there is no LUDO requirement.

Proposed language: **14.010.030 C. Notice of Hearing. At least 10 days before a scheduled annexation hearing, notice of the hearing shall be mailed to the owner as shown on the most recent property tax assessment roll.**