From: Jeffrey Delapena
To: Heidi Pozzo
Cc: Oliver Orjiako; Jose Alvarez
Subject: RE: Comp Plan Index: Ordinance 2010-08-06
Date: Monday, September 21, 2026 8:09:00 AM

Hello Heidi,

Thank you for providing these comments and attachments. Confirming these have all been received and will be added to the Comprehensive Plan Index of Record.

Best,

Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558

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-----Original Message-----
From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Sunday, September 20, 2026 1:00 PM
To: Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>
Cc: Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>
Subject: Comp Plan Index: Ordinance 2010-08-06

EXTERNAL: This email originated from outside of Clark County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Jeff,

I have uploaded Ordinance 2010-08-06 to the link you provided me to include in the Comp Plan Index of Record.

Thank you,

Heidi

ORDINANCE NO. 2010-08-06

WHEREAS, the Clark County Board of County Commissioners has initiated the "Retooling Our Code" program to update the Clark County Unified Development Code;

WHEREAS, the required sixty day notification of intent to adopt Batch #1 of the Retooling Our Code was received by the State Department of Commerce on May 17, 2010;

WHEREAS, a SEPA determination of non-significance was published on May 17, 2010, and comments were received from the Development Engineering Advisory Board and the Building Industry Association of Clark County;

WHEREAS, legal notice of the Clark County Planning Commission public hearing was published on June 7, 2010;

WHEREAS, the Planning Commission took public testimony on June 22, 2010, and developed their recommendation to the Board of County Commissioners;

WHEREAS, a legal notice of the Board of County Commissioner's public hearing was published on July 12, 2010;

WHEREAS, the Board of County Commissioners took public testimony on July 27, 2010, on the planning commission recommendation;

WHEREAS, the Board of County Commissioners finds that adoption of this ordinance will further the public health, safety, and welfare; now, therefore,

BE IT HEREBY ORDERED, RESOLVED AND DECREED BY THE BOARD OF COUNTY COMMISSIONERS, CLARK COUNTY, STATE OF WASHINGTON AS FOLLOWS:

Section 1. Amendatory. Sec. 1 of Ord. 2003-11-01 as most recently amended by Ordinance 2009-06-01, and codified as 40.100.070, are each amended to read as follows:

40.100.070 DEFINITIONS [1]

Adult Family Home	"Adult Family Home" means a single-family dwelling or duplex licensed as such by the State of Washington, housing a maximum of six residents where staff assumes the responsibility

[1] Note to Reviser: Additional terms to be placed in alphabetical order.

	for the safety and well-being of the residents. Care is provided by staff and may include provision of meals, laundry, and assistance with activities of daily living, and may include nursing care. Staff may or may not reside in the same dwelling.

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Assisted living facility	"Assisted living facility" means a residential use, licensed by the State of Washington as a boarding home, where staff assumes responsibility for the safety and well-being of the adult residents. Housing, meals, laundry, supervision and varying levels of assistance with daily activities are provided by staff and may include nursing care. An assisted living facility contains seven (7) or more assisted living units.

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((Convalescent, nursing or rest home	"Convalescent, nursing or rest home" means any building or premises in and on which two (2) or more sick, injured, or infirm persons are housed, for a period in excess of twenty-four (24) consecutive hours, and furnished with meals and nursing care for hire.))

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Nursing home or rest convalescent home	"Nursing home" or "((rest)) convalescent home" ((means any building where six (6) or more persons are housed or lodged, and furnished with meals and nursing care for hire.)) means a facility licensed by the State of Washington providing 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board, and laundry for persons requiring regular medical attention by reason of chronic illness or infirmity, but excluding surgical or emergency medical services. This definition excludes hospitals and sanitariums.

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Residential care facility	"Residential care facility" means an establishment operated with twenty-four (24) hour supervision for the purpose of serving eleven (11) or more persons of any age who, by reason of their circumstances or conditions, require care; for example, work release programs, alcoholic treatment programs, drug rehabilitation centers, mental health programs, etc. This definition does not include assisted living facilities, prisons or conventional correctional institutions involving twenty-four (24) hour locked incarceration with little or no freedom of movement. "Care" is defined as room and board and the provision of a planned treatment program; "planned treatment" means a previously determined program of counseling, therapy or other rehabilitative

	social service.
~~((Retirement housing facility~~	~~"Retirement housing facility" means a facility established for the purpose of providing housing for six (6) or more retirement-age citizens in a supportive living environment, which may include provision of food, household maintenance, recreation activities and health care facilities, including an infirmary, with a maximum of ten (10) beds as licensed by the state of Washington.))~~
Retirement community	"Retirement community" means independent living housing exclusively for adults (typically 55 and over). A retirement community may take the form of a residential subdivision, cottage development, an apartment building or complex, a mobile home park, or a planned unit development. The retirement community is approved through the applicable process for whichever form it takes.

Section 2. Amendatory. Ordinance 2003-12-15, as most recently amended by Ordinance 2007-06-05, and CCC 40.210.020(B) are each amended to read as follows:

40.210.020 RURAL DISTRICTS (R-20, R-10, R-5)

* * *

B. Uses.

* * *

Table 40.210.020-1. Uses

	R-20	R-10	R-5	Special Standards
1. Residential.				
a. Single-family dwellings and accessory buildings	P	P	P	40.260.010
b. Family day care centers	P	P	P	40.260.160
c. Adult family homes	P	P	P	40.260.190
~~((c))~~ d. Home business – Type I	P	P	P	40.260.100
((~~d~~)) e. Home business – Type II	R/A	R/A	R/A	40.260.100
~~((e))~~f. Bed and breakfast	R/A	R/A	R/A	40.260.050

establishments (up to 2 guest bedrooms)				
~~((f))~~g. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	C	40.260.050
~~((g))~~h. Country inns of historic significance	C	C	C	
~~((h))~~i. Garage sales	P	P	P	40.260.090
~~((i))~~j. Residential care homes	C	C	C	40.260.180
~~((J))~~k. Temporary dwellings	P	P	P	40.260.210

Section 3. Amendatory. Ordinance 2004-06-11, as most recently amended by Ordinance 2009-06-01 and codified as CCC 40.220.010(B), are each amended to read as follows:

40.220.010 SINGLE-FAMILY RESIDENTIAL DISTRICTS (R1-20, R1-10, R1-7.5, R1-6 and R1-5)

* * *

B. Uses.

* * *

Table 40.220.010-1. Uses

	R1-20	R1-10	R1-7.5	R1-6	R1-5	Special Standards
1. Residential.						
a. Single-family detached dwellings	P	P	P	P	P	
b. Accessory uses and structures normal to a residential environment	P	P	P	P	P	40.260.010
c. Accessory dwelling units	R/A	R/A	R/A	R/A	R/A	40.260.020
d. Duplex dwellings	X	X	X	P[1]	P[1]	
e. Family day care centers	P	P	P	P	P	40.260.160
f. Adult family homes	P	P	P	P	P	40.260.190
~~((f))~~ g. Home business – Type I	P	P	P	P	P	40.260.100

~~((g))~~h. Home business – Type II	R/A	R/A	R/A	R/A	R/A	40.260.100
~~((h))~~i. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A	R/A	R/A	R/A	R/A	40.260.050
~~((i))~~j. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	C	C	C	40.260.050
~~((J))~~k. Garage sales	P	P	P	P	P	40.260.090
~~((k))~~l. Mobile home parks	X	X	X	X	C	40.260.140
~~((l))~~m. Mobile homes on individual lots	R/A	R/A	R/A	R/A	R/A	40.260.130
~~((m))~~n. Residential P.U.D.	R/A	R/A	R/A	R/A	R/A	40.520.080
~~((n))~~o. Single-family attached dwelling units (townhouses)	R/A[2]	R/A[2]	R/A[2]	R/A[2]	R/A[2]	40.260.230
~~((o))~~p. Zero lot-line developments	X	X	R/A	R/A	R/A	40.260.260
~~((p))~~q. Residential care homes and facilities	C	C	C	C	C	40.260.180
~~((q))~~r. Temporary dwellings	P	P	P	P	P	40.260.210

Section 4. Amendatory. Ordinance 2004-06-11, as most recently amended by Ordinance 2007-11-13 and codified as CCC 40.220.020(B), are each amended to read as follows:

40.220.020 RESIDENTIAL AND OFFICE RESIDENTIAL DISTRICTS (R, OR)

* * *

B. Uses.

* * *

Table 40.220.020-1. Uses											
	R-12	R-18	R-22	R-30	R-43	OR-15	OR-18	OR-22	OR-30	OR-43	Special Standards
1. Residential.											

a. Accessory uses and structures normal to a residential environment	P	P	P	P	P	P	P	P	P	P	40.260.010
b. Accessory dwelling units	R/A[1]	R/A[1]	R/A[1]	R/A[1]	R/A[1]	R/A[1]	R/A[1]	R/A[1]	R/A[1]	R/A[1]	40.260.020
c. Boarding houses	R/A	R/A	P	P	P	P	P	P	P	P	
d. Duplex dwellings	P	P	P	P	P	P	P	P	P	P	
e. Multifamily dwellings	P	P	P	P	P	P	P	P	P	P	40.260.150
f. Existing residential use	P	P	P	P	P	P	P	P	P	P	
g. Family day care centers	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	P[2]	40.260.160
h. Adult family homes	P	P	P	P	P	P	P	P	P	P	40.260.190
~~((h))~~ i. Home business – Type I	P	P	P	P	P	P	P	P	P	P	40.260.100
~~((i))~~j. Home business – Type II	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.100
~~((j))~~k. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.050
~~((k))~~l. Bed and breakfast establishments (3 or more guest bedrooms)	C	C	C	C	C	C	C	C	C	C	40.260.050
~~((l))~~m. Garage sales	P	P	P	P	P	P	P	P	P	P	40.260.090

~~((m))~~n. Mobile home parks	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.140
~~((n))~~o. Mobile homes on individual lots	R/A	R/A	X	X	X	R/A	R/A	X	X	X	40.260.130
~~((o))~~p. Residential P.U.D.	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.520.020 40.520.080
~~((p. Retirement housing facilities~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~C~~	~~40.260.190~~
q. Assisted living facilities	P	P	P	P	P	P	P	P	P	P	40.260.190
~~q))~~r. Single-family attached dwelling units (townhouses)	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.260.230
~~((r))~~s. Single-family detached dwellings	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	R/A	40.520.020
~~((s))~~t. Residential care homes and facilities	C	C	C	C	C	C	C	C	C	C	40.260.180

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4. Services, Medical and Health.											
a. Congregate care facilities	C	C	C	C	C	C	C	C	C	C	
~~((b. Convalescent, nursing or rest homes~~	~~C~~	~~C~~	~~R/A~~	~~R/A~~	~~R/A~~	~~R/A~~	~~R/A~~	~~R/A~~	~~R/A~~	~~R/A))~~	
b. Nursing or convalescent homes	C	C	C	C	C	C	C	C	C	C	40.260.190
c. Hospitals	X	X	X	X	X	X	X	X	C	C	

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Section 5. Amendatory. Ordinance 2004-06-11, as most recently amended by Ordinance 2009-01-05 and codified as CCC 40.230.010, are each amended to read as follows:

40.230.010 COMMERCIAL DISTRICTS (CR-1, CR-2, C-2, C-3, CL, GC)

* * *

C. Uses.

* * *

Table 40.230.010-1. Uses

	CR-1	CR-2	C-2	C-3	CL	GC	Special Standards
1. Residential Uses. Residential uses are only permitted in commercial zones when integrated with the predominant use of the site as commercial and occupying less than fifty percent (50%) of the floor area of the project. The residential uses must be constructed following or in conjunction with the commercial aspects of the proposal. For the purposes of subsections (1)(a) and (1)(b) of this table, "commercial uses" are those uses listed in items (2), (3), (4), (7), (8), (9), (11), (12), (14), (15) and (17) of this table.							
a. Medium density (Integrated multifamily/commercial or mixed use structure not to exceed 22 residential units per acre.)	X	X	P	P	P	P	40.260.150
b. High density (Integrated multifamily/commercial or mixed use structure not to exceed 43 residential units per acre.)	X	X	C	P	P	P	40.260.150
c. Existing residences without any increase in density	P	P	P	P	P	P	
d. Home business – Type I	P	P	P	X	X	X	40.260.100
e. Home business – Type II	R/A	R/A	R/A	X	X	X	40.260.100
f. Bed and breakfast establishments (up to 2 guest bedrooms)	R/A[1]	R/A[1]	R/A	R/A	R/A	R/A	40.260.050
g. Bed and breakfast establishments (3 or more guest bedrooms)	C[1]	C[1]	C	C	C	C	40.260.050

h. Temporary dwellings	P	P	P	X	X	X	40.260.210
i. One (1) single-family residence in conjunction with a use permitted outright or by conditional use	P	P	P	X	X	X	
j. Assisted living facilities	P	P	P	P	P	P	40.260.190

11. Services – Medical and Health.							
a. Hospitals	X	X	X	X	X	C	
b. Outpatient clinics	X	C[1]	C	P	P	P	
c. Medical laboratories	X	X	X	C	P	P	
d. ((~~Sanitaria, c)~~) Convalescent and ((~~rest~~)) nursing homes	X	X	X	((~~X~~)) C	((~~X~~)) C	C	40.260.190
e. Orthopedic equipment and supplies, rental, sales and services	X	X	X	P	P	P	

Section 6. Amendatory. Sec. 1 of Ord. 2003-11--01 as most recently amended by Ordinance 2006-04-18 and codified as CCC 40.230.020, are each amended to read as follows:

40.230.020 MIXED USE DISTRICT (MX)

* * *

D. Uses.

* * *

Table 40.230.020-1. Uses[1]		
	MX	**Special Standards**
1. Residential Uses.		
a. Existing residences without any increase in density	P	
b. Single-family dwelling, attached and detached	P[2]	
c. Accessory dwelling unit	P[3]	

d. Duplex dwelling	P	
e. Townhouse dwelling	P	
f. Multifamily dwelling	P	
g. Home businesses	R/A	40.260.100
h. Bed and breakfast establishments	P	40.260.050
i. ((~~Retirement housing~~)) Assisted living facility	P	40.260.190
j. Cottage housing developments	P[4]	

11. Services – Medical and Health.		
a. Outpatient clinics	P	
b. Medical laboratories	C	
c. Convalescent and ((~~rest~~)) nursing homes	C	40.260.190
d. Orthopedic equipment and supplies, rental, sales and services	P	
e. Animal hospitals and veterinary clinics		
(1) Outside animal activities	X	
(2) Inside animal activities only	P	
(3) Animal day care	C	
f. Ambulance services	P	
g. Residential care homes	C	
h. Residential care facilities	C	

Section 7. Amendatory. Section 1 of Ord. 2003-11-01 and codified as CCC 40.260.190 are each amended to read:

40.260.190 RETIREMENT HOUSING

((~~A. Retirement housing facilities, where permitted as a conditional use, shall be subject to the following:~~

~~1. Upon approval, the review authority shall:~~

~~a. Limit service to a specific number and age group of individuals. Any increase in the specific number or any change in the age group of individuals shall require a new permit.~~

~~b. Include such other conditions or terms as may be deemed appropriate and in the public interest to prevent interference with the use and enjoyment of public or private neighborhood property.~~

~~B. Bonus densities of up to fifty percent (50%) of the zone district in which the proposed use is to be developed may be awarded by the approval authority. The review authority shall find that the building locations, height or orientation proposed for the bonus density will not interfere with the privacy of public or private property in the vicinity of the project.))~~

A. Purpose.

The purpose of this section is:

1. To provide opportunities for development of a variety of housing and residential types, in appropriate locations, to serve retirement age citizens, the fastest growing segment of the county's population.

2. To help ensure that retirement age residents have the opportunity to remain socially integrated, maintain mobility, have access to outdoor recreation, and to provide other features that will allow these citizens to continue to interact with the general population.

3. To protect abutting and surrounding properties and neighborhoods by providing design and development standards that will mitigate potential off-site impacts of retirement housing developments.

B. Applicability

The provisions of this section apply to adult family homes, assisted living facilities, and nursing homes, as defined in Section 40.100.070. These provisions to not apply to independent living "retirement communities", except to the extent that a retirement community includes adult family homes, assisted living facilities, or nursing homes, required by the State of Washington to be licensed. Furthermore, these provisions are not intended to prevent an assisted living facility from including independent living units.

C. Adult family homes shall be allowed in Single-family Residential, Rural Residential, Multi-family Residential, and Office Residential zones in new or existing single-family or duplex dwellings, subject to building permit approval and inspection, and subject to the following:

1. Commercial signs on the site related to the adult family home business are prohibited; and,

2. Off street parking shall be provided on the site at a minimum of one (1) parking space per three (3) residents (including resident caretakers).

D. Assisted living facilities shall be allowed in the Multi-family Residential, Office Residential, Commercial, and Mixed Use zones, subject to site plan approval in accordance with Section 40.520.040, and subject to the following:

1. Off street parking spaces shall be provided on site in accordance with Section 40.340.010.

2. Maximum building height shall be that of the underlying zone, except that the maximum height may be exceeded if the minimum setback of the higher portion of the building is increased at a one-to-one (1:1) ratio (excess height in feet : extra setback in feet).

3. Assisted living facilities may exceed the maximum density standard of the underlying zone by up to fifty percent (50%) of the standard; provided that, in cases where the zoning density standard is exceeded, the property owner shall record a covenant in a form to be approved by the Clark County Prosecuting Attorney, that exclusively limits the use of the structure(s) to an assisted living facility.

4. Assisted living facilities shall provide transportation services for residents unless a public transit stop is located within three hundred (300) feet from the facility's primary entrance.

5. Service commercial uses, such as barber shops, beauty salons, spas, pharmacies, and commissaries, sized to serve the assisted living facility, shall be allowed as part of the development; provided, as follows:

    a. The total floor area devoted to all service commercial uses shall not exceed ten percent (10%) of the gross floor area of the assisted living development.
    b. The business customers shall be limited to the residents of the assisted living facility, except for incidental purchases by visitors of the facility. The business(es) shall not be open to the general public.
    c. No commercial signs visible from off-site shall be allowed.
    d. An assisted living facility within a mixed use development in the Mixed Use zone, or in a Planned Unit Development shall not be subject to the limitations in Sections 40.260.190(D)(7)(a) through (c), but shall be subject to the applicable regulations of the Mixed Use zone or a Planned Unit Development.

E. Nursing homes, where allowed as a conditional use, shall be subject to the following:

1. Off street parking spaces shall be provided on site in accordance with Section 40.340.010.

2. Maximum building height shall be that of the underlying zone, provided that the maximum height may be exceeded if the minimum setback of the higher portion of the building is increased at a one-to-one (1:1) ratio (excess height in feet : extra setback in feet).

Section 8. Amendatory. Ordinance 2004-06-11, as most recently amended by Ordinance 2007-11-13 and codified as CCC 40.340.010(B), are each amended to ready as follows:

40.340.010 PARKING AND LOADING STANDARDS

* * *

B. Calculation of Parking Requirements.

* * *

Table 40.340.010-4. Minimum Required Parking Spaces By Use	
Use	Minimum Number of Parking Spaces
A. Residential.	
1. 1-, 2- and 3-unit family dwellings	2 spaces/dwelling unit. Single-family and duplex parking may be tandem. One car behind the other.
2. Townhomes	1 space/dwelling unit
3. Multifamily dwelling containing 4 or more dwelling units	1 1/2 space/dwelling units
4. Hotel or boarding house	1 1/2 space/guest accommodation
5. Residential care facility	1 space/7 residents served under age of 12 1 space/5 residents served ages 12 – 17 1 space/4 residents served ages 18 years or older
6. ((~~Retirement housing~~))Assisted living facilities	1 space/each 3 units
B. Commercial Residential.	
1. Hotel	1 space/bedroom
2. Motel	1 space/bedroom
3. Clubs/lodges	Spaces to meet the combined requirements of the uses being

	conducted, such as hotel, restaurant, auditorium
C. Institutions.	
1. Welfare or correctional institutions	1 space/3 beds for patients or inmates
2. Convalescent ((~~hospital~~)) home, nursing home, or sanitarium, ((~~rest home, home for the aged~~))	1 space/3 beds for patients or residents
3. Hospital	2 spaces/bed

Section 9. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2005-04-12 and codified as CCC 40.260.020, are each amended to read as follows:

40.260.020 ACCESSORY DWELLING UNITS

A. Purpose.

An accessory dwelling unit (ADU) is an additional smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. These units are intended to provide for a greater range of choices of housing types in single-family and multifamily residential districts. ((~~Accessory dwelling units are intended to~~)) while protecting the character of the residential neighborhood.

((~~1. Provide for a range of choices of housing in the county;~~

~~2. Provide additional dwelling units, thereby increasing densities with minimal cost and disruption to existing neighborhoods;~~

~~3. Allow individuals and smaller households to retain large houses as residences; and~~

~~4. Enhance options for families by providing opportunities for older or younger relatives to live in proximity while maintaining a degree of privacy.~~))

B. Applicability.

((~~Accessory dwelling units on residential lots. A house with an accessory dwelling unit is different from a duplex because the intensity of use is less due to the limitations of size and number of bedrooms, and it has the appearance of a single-family structure. An accessory dwelling unit that meets the requirements of this subsection may be allowed in the R1-20, R1-~~

~~10, R1-7.5, R1-6, R1-5 zones or on any multifamily-zoned (Residential (R) or Office Residential (OR)) lot developed with an existing single-family dwelling, except as noted herein.))~~

1. Accessory dwelling units may be allowed in the R1-20, R1-10, R1-7.5, R1-6, R1-5 zones or on any multifamily-zoned (Residential (R) or Office Residential (OR)) lot developed with an existing single-family dwelling, subject to the requirements of this section.

2. A lot of record lawfully occupied by two (2) or more single-family residences per Section 40.200.050 does not qualify for an ADU, unless the lot is short platted under Chapter 40.540 of this code. If a short plat is approved, an ADU for each dwelling unit is permitted only if all dimensional standards of the underlying zone and all other provisions of this section are met.

3. An ADU shall not be located in a dwelling or on a lot where a Type II home business is operating.

C. Development Standards.

1. No more than one (1) ((~~accessory dwelling unit~~)) ADU per legal lot is permitted and it must be accessory to a single-family residence. ((~~A lot of record lawfully occupied by two (2) or more single-family residences per Section 40.200.050 shall not be permitted to have an accessory dwelling unit, unless the lot is short platted under Chapter 40.540 of this code. If a short plat is approved, an accessory dwelling unit for each dwelling unit is permitted only if all dimensional standards of the underlying zone and all other provisions of this section are met.~~))

2. No accessory dwelling unit shall be permitted on a lot of less than five thousand (5,000) square feet. An ADU shall not contain more than one (1) bedroom.

3. ADU's require building permits to ensure compliance with applicable fire, health, and safety codes. ((~~The applicant must apply for a building permit for an accessory dwelling unit. An accessory dwelling unit shall comply with applicable building, fire, and health and safety codes. An accessory dwelling unit cannot be occupied until a certificate of occupancy is issued by the building department.~~))

4. An ((~~accessory dwelling unit~~)) ADU may be created through:

   a. Internal conversion within an existing dwelling;

b. The addition of new square footage to the existing house or to a garage ((~~and any addition thereto is located at least forty (40) feet back from the front property line~~;))

c. Conversion of an existing garage ((~~if the garage is set back at least forty (40) feet from the front property line~~;))

d. Inclusion in the development plans for, or as part of, the construction of a new single-family detached dwelling unit; or

e. A separate detached dwelling unit on the same lot as the primary dwelling unit when the accessory unit is located at least ten (10) feet behind the most distant back or side wall or other structural element of the primary dwelling unit structure.

f. Mobile homes are not considered an ((~~accessory dwelling unit~~)) ADU for the purposes of this subsection.

5. An ((~~accessory dwelling unit~~)) ADU shall conform to ((~~existing zoning requirements for the primary residence~~)) the standards of the zone, including, but not limited to lot coverage((~~, front, side~~)) and ((~~rear~~)) setbacks.

6. Building height is limited to twenty-five (25) feet for a detached ((~~accessory dwelling unit~~)) ADU. Additions to existing dwellings shall meet the height requirements of the zone. ((~~Building height requirements of the underlying zone do apply to the accessory dwelling unit for internal conversion or structural addition to the existing primary dwelling.~~))

((~~7. The addition of an accessory dwelling unit shall not make any lot, structure or use nonconforming within the development site. All setbacks for the zone shall be met except as allowed in Section 40.200.070 or Section 40.550.020.~~

~~8. For purposes of this section, an accessory structure (such as a garage or other outbuilding, but not a detached accessory dwelling unit) which contains an accessory dwelling unit may not cover more than ten percent (10%) of the total site area.~~))

~~9.~~ 7. Allowable size. The total gross floor area of an ((~~accessory dwelling unit~~)) ADU shall not exceed eight hundred (800) square feet or forty percent (40%) of the area of the primary dwelling's living area, whichever is less, with the following exceptions for large lots with large primary dwellings:

a. On lots zoned R1-10 that are at least ten thousand (10,000) square feet, the maximum square footage of an ADU is one thousand (1,000) square feet, or forty percent (40%) of the area of the primary dwelling's living area, whichever is less; and,

b. On lots zoned R1-20 that are at least twenty thousand (20,000) square feet, the maximum square footage of an ADU is fifteen hundred (1,500) square feet, or forty percent (40%) of the area of the primary dwelling's living area, whichever is less.

The living area of the primary unit excludes unhabitable floor area and garage or other outbuilding square footage whether attached or detached. If the primary dwelling is less than seven hundred and fifty (750) square feet, the ADU may be up to three hundred (300) square feet even though this exceeds 40% of the primary dwelling unit's living area. The absolute minimum area of an ADU is determined by the building code.

~~((10. An accessory dwelling unit shall not contain more than one (1) bedroom.~~

~~11.))~~ 8. Parking. One parking space shall be provided for the ADU. Parking may be provided by the following methods:

a. on site;
b. on-street parking, provided that the parking space is legally available and along the ADU lot's street frontage. Posted-time or .day-restricted parking spaces do not qualify as legally available for the purposes of this section; or,
c. if no parking space is available on-site or on-street, a joint agreement for off-site parking may be used subject to Section 40.340.010(A)(5).

~~((No minimum on-site parking spaces are required for an accessory dwelling unit in areas with on-street parking available. On-street parking is defined as parking spaces legally available for parking of vehicles. Posted time- or day-restricted parking spaces are not considered as available for purposes of this section.~~

~~12. One (1) parking space for the accessory dwelling unit is the minimum required if on-street parking is not available. If no parking space is available on-site, or on-street, a joint agreement for off-site parking may be presented in accordance with Section 40.340.010(A)(5).~~

~~13. The exterior appearance of an addition or detached accessory dwelling unit shall be architecturally compatible with the primary residence. Compatibility includes coordination of architectural style, exterior building materials and colors, roof form and pitch, window style and placement, other architectural features and landscaping. See Section 40.260.020.(D).~~

~~14. For an accessory dwelling unit created by internal conversion or by an addition to an existing primary dwelling, only one (1) entrance may be located on the front of the house, unless the house contained additional front doors before the conversion. Secondary entrances should be located on the side or rear of the primary residence to the extent possible.~~

~~15. An accessory dwelling unit shall not be located in a dwelling or on a lot where a Type II home business is operating.~~

~~16.~~ 9. An ~~accessory dwelling unit~~ ADU shall connect to public sewer and water unless a sewer waiver is obtained under Section 40.370.010.

~~17. A home or lot which has an accessory dwelling unit which was established prior to adoption of this ordinance may be approved for a building permit subject to the provisions of Chapter 40.530.~~

~~18.~~ 10. ~~Accessory dwelling units))~~ ADU's shall be subject to impact fees at the same rate as those imposed for multifamily dwelling units.

~~((19.))~~ 11. Owner Occupancy. Prior to issuance of a building permit establishing an ((~~accessory dwelling unit~~)) ADU, the applicant shall record as a deed restriction in the County Auditor's office a certification by the owner under oath in a form prescribed by the responsible official that one (1) of the dwelling units is and will continue to be occupied by the owner of the property as the owner's principal and permanent residence for as long as the other unit is being rented or otherwise occupied. The owner shall maintain residency for at least six (6) months out of the year, and at no time receive rent for, or otherwise allow to be occupied, the owner-occupied unit if absent for the remainder of the year. Falsely certifying owner occupancy shall be considered a violation of the zoning ordinance and is subject to the enforcement actions described in Title 32.

D. Design Standards.

1. The exterior appearance of an addition or detached ADU shall be architecturally compatible with the primary residence. Compatibility includes coordination of architectural style, exterior building materials and colors, roof form and pitch, window style and placement, other architectural features and landscaping. The responsible official may approve variations as necessary to accommodate proposed energy efficient building features into the ADU.

2. New entrances for an ADU created by internal conversion or by an addition to an existing primary dwelling shall be located on the side or rear of the primary residence unless it can be demonstrated that no feasible alternative exists.

((1.)) 3. Exterior Finish Materials. Plain concrete, concrete block, corrugated metal or plywood are prohibited if they are not the predominant exterior finish material on the primary dwelling, unless these materials duplicate or reflect the predominant finish.

((2)). 4. Roof Slopes. For buildings over fifteen (15) feet in height, the slope of the accessory dwelling unit roof must be the same as that of the predominant slope of the primary dwelling structure.

((3.)) 5. Historic Structures. If an ((~~accessory dwelling unit~~)) ADU is on the same lot as or within a historic structure which has been designated on the national, state or local historic register, the following design guidelines are applicable:

a. Exterior materials should be of the same type, size and placement as those of the primary dwelling structure.
b. Trim on edges of elements of accessory structures and additions should be the same as those of the primary structure in type, size and placement.
c. Windows in any elevation which faces a street should match those in the primary structure in proportion, i.e., same height, width and orientation (horizontal or vertical).
d. Pediments and Dormers. Each accessory dwelling unit over twenty (20) feet in height should have either a roof pediment or dormer if one (1) or the other of these architectural features are present on the primary dwelling.

6. Accessibility. To encourage the development of ADA-accessible housing units, the responsible official may allow reasonable deviation from the requirements of this section for features that facilitate accessibility.

E. Process

Accessory dwelling units require Type I site plan review under Section 40.510.010. Building permits may be submitted at the same time as the site plan review.

Section.10. Amendatory. Exhibit "A" of Ordinance 2003-11-01, as most recently amended in Ordinance 2000-06-01 and codified as CCC 40.100.070, are each amended to read as follows:

40.100.070 DEFINITIONS[2]

Dwelling unit, accessory (ADU)	"Accessory dwelling unit" is an additional, smaller, subordinate dwelling unit on a lot with, or in, an existing or new house. ADU's are limited to no more than one bedroom. A house with an ADU is different from a duplex because the intensity of use is less due to the limitations of size and number of bedrooms, and it has the appearance of a single-family structure.

Section 11. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended in Ordinance 2009-06-15 and codified as CCC 40.500.010, are each amended to read as follows:

40.500.010 SUMMARY OF PROCEDURES AND PROCESSES

* * *

Table 40.500.010-1. Summary of Development Approvals by Review Type

	Type I	Type II	Type III	Type IV	Code Reference
Permits and Reviews					
Accessory Dwelling Units	X				40.260.020
Legal Lot Determination	X				40.520.010
Review and Approval (R/A)	X	X			40.520.020
Conditional Use Permit (CUP)			X		40.520.030
Site Plan Review	X	X	X		40.520.040

Section 12. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended in Ordinance 2009-06-01 and codified as CCC 40.260.260, are each amended to read as follows:

40.260.260 ZERO LOT LINE DEVELOPMENTS

~~((These developments are allowed in R1-5 and R1-6 districts. The responsible official shall find that the following conditions exist before any building permit is issued for zero lot line developments:~~

[2] Note to Reviser: Please include this definition in alphabetical order.

~~A. All zero lot line developments are subject to site plan approval.~~

~~B. The side setback on the lot abutting a zero setback lot line shall be at least ten (10) feet.~~

~~C. Notations on the plat and/or covenants running with the land, approved by the Prosecuting Attorney, shall guarantee that required side setbacks of not less than ten (10) feet shall be kept perpetually free of obstructions.~~

~~D. Easements for such purposes as maintenance, or for building projection encroachments beyond a zero setback line, shall be shown on the plat.))~~

A. Purpose

Zero lot line provisions are intended to provide flexibility for the placement of structures in new residential land divisions in order to increase usable yard area. Zero lot line developments are different from townhouse developments in that structures are not attached at property lines.

B. Applicablilty

These provisions can be used as an alternative to standard side or rear setback requirements in the R1-5, R1-6, R1-7.5, R-12, OR-12, R18, OR-18, R-22 and OR-22 zoning districts when the requirements of this section are applied in conjunction with a land division application.

C. Requirements

1. Preliminary plats using zero lot line provisions may not be approved without approval of a submitted site plan. Both the site plan and preliminary plat shall be consistent with the standards of this section and all other applicable requirements.

2. Conditions may be imposed to ensure that development on the resultant lots is consistent with the approved site plan.

3. Building permits for structures may only be approved when consistent with the approved site plan and land division.

4. Developments meeting all requirements of this section are exempt from separate site plan review under Section 40.520.040.

5. Zero setbacks may be applied to a side or rear property line, provided that the setback on the lot abutting a zero setback lot line shall be at least ten (10) feet in the applicable single family residential districts, and eight (8) feet in the applicable Residential or Office Residential district.

6. Structures less than three (3) feet to a property line must meet fire resistive provisions of the residential building code.

7. A note shall be placed on the final plat, and covenants running with the land shall be approved by the Prosecuting Attorney and recorded with the county auditor to guarantee that the required setbacks are kept perpetually free of structures.

8. Easements for such purposes as maintenance, or for building projection encroachments beyond a zero setback line, shall be shown on the plat.

D. Figure 40. 260.206

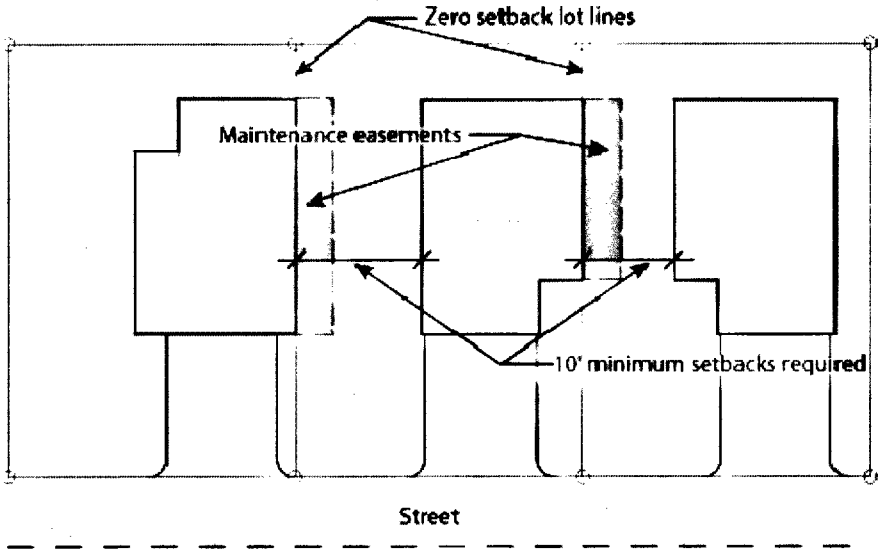


Figure 40.260.260-1 Zero Lot Line Development

Section 13. New. A new section, 40.510.025, is added to the Clark County Code to read as follows:

40.510.025 TYPE II-A PROCESS – ADMINISTRATIVE DECISIONS

A. Purpose.

The purpose of this section is to provide an alternative process for reviews of conditional uses, planned unit developments, and master plans which combine features of the Type II and Type III processes.

B. Applicability.

1. Under this section, applications for conditional use permits, planned unit developments, and master plans shall be reviewed using a Type II-A

process, and in conjunction with Sections 40.520.030(C), 40.520.070(D) and (E), and 40.520.080(F).

C. Approval Process

1. Pre-application review under Section 40.510.030(A) is required for all conditional uses, planned unit developments and master plans.

2. Neighborhood Meeting.

a. The applicant must hold a neighborhood meeting within ninety (90) days of submitting a Type II-A application for a conditional use, planned unit development, or master planned development. This meeting is to exchange information on the development design, and review issues and alternatives prior to the application. The meeting must be held at a location within reasonable distance of the proposed development site on a weekday evening. A pre-application conference does not substitute for a neighborhood meeting.

b. The applicant must send out notices at least fifteen (15) days prior to the meeting to the following:

(1) The Chair of the Neighborhood Associations Council of Clark County (NACCC);

(2) The County-recognized official representative of the Neighborhood Association, if one exists, that includes the proposed site;

(3) The County staff representative responsible for neighborhood relations; and

(4) All landowners within a radius of five hundred (500) feet of the proposed site

(5) The mailing list used for notification shall be based on the most recent property tax assessment rolls within 30 days of mailing, of the Clark County Assessor. At the request of the applicant, and upon payment of an applicable fee, the county will provide the required mailing list.

c. The notice must identify the date, time and place of the meeting and provide a description of the proposed development.

d. The applicant must post the meeting notification in the neighborhood news section of the local press, and post a sign with the neighborhood notification in a conspicuous location near the edge of the property containing the proposed development.

e. A copy of the notice, mailing list , proposed development plan, minutes and sign-in sheet from the meeting must be submitted with the application.

3. Exceptions:

a. A public hearing is required if:

(1) The applicant requests the application be processed as a Type III Review,

(2) The responsible official refers the proposal to the hearing examiner; or,

(3) A hearing is requested by anyone within twenty-one (21) days from which the public comment period began.

4. Public hearing requested:

If a public hearing is requested:

a. Public hearing notices and procedures as required under 40.510.030 shall be required, and

b. The hearing examiner shall review the application and approve, approve with conditions, or deny the application.

Section 14. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2009-06-15 and codified as CCC 40.500.010, are each amended to read as follows:

40.500.010 SUMMARY OF PROCEDURES AND PROCESSES

* * *

Table 40.500.010-1 Summary of Development Approvals by Review Type

Rermits & Reviews	Type I	Type II	Type II-A	Type III	Type IV	Code Reference
Conditional Use (CUP)			X	~~X~~		40.520.030
Planned Unit Developmemnt (PUD)			X	~~X~~		40.520.080
Master Plan			X	X		40.520.070

Section 15. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2006-04-18 and codified as CCC 40.520.070, are each amended to read as follows:

40.520.070 MASTER PLANNED DEVELOPMENT

* * *

C. Approval Process ~~Master Plan Review Process~~.

1. ((~~Review Process.~~ Applications for a))Master plans shall be reviewed using ((~~according to~~)) a Type II-A~~I~~ process as described in Section 40.510.025((~~30~~)), unless submitted with a subdivision, when it shall be reviewed using a Type III process.

((~~2. Pre-Application Submittal Requirements for a Master Plan Permit.~~

~~a. A pre-application conference is required for all conditional use permit applications. See Section 40.510.030(A) regarding pre-application review.~~

~~b. An applicant for a pre-application review of a conditional use permit shall comply with the submittal requirements in Section 40.510.050.~~

~~3. Application submittal requirements for a Master Plan Permit. An application for a review of a master plan permit shall comply with the submittal requirements in Section 40.510.050.))~~

2.((~~4. Other Reviews.~~))The master planning review is intended to provide a means of consolidating various reviews into a single master plan application and review, such that development subsequent to an approved master plan can be processed through site plan review. The master plan ordinance is not intended to integrate proposed large-scale zone or comprehensive plan changes to commercial designations, or to facilitate development to that effect.

3((~~5~~)). Master plan review and subsequent site plan review shall serve to integrate the following review processes:

a. Conditional use review;
b. Mixed use review;
c. Zone changes, consistent with the procedural ordinance, necessary to meet the applicability requirement of this section;
d. Responsible official review;
e. Variance.

4((~~6~~)). Proposed comprehensive plan map changes increasing areas of commercial designations shall be processed separately under Section 40.560.010.

57. Upon approval by the reviewing authority and timely implementation as described in Section 40.520.070(H), the master plan shall remain in force unless amended through Section 40.520.060, Post-Decision Procedures. All development in the master plan area shall thereafter comply with the master plan requirements and standards included or referenced therein. Provisions of this subsection may be implemented through this section, incorporating Sections 501 – 506 of Chapter 347, Laws of 1995.

* * *

Section 16. Amendatory. Section 1 of Ordinance 2003-11-01 and codified as CCC 40.520.030 are each amended to read as follows:

40.520.030 CONDITIONAL USE PERMITS

A. Purpose.

The purpose of this chapter is to provide a review process for uses with ((certain districts, conditional uses may be permitted, subject to the granting of a conditional use permit. Because of their)) unusual characteristics, or uses that are located in areas with special characteristics. ((of the area in which they are to be located,)) Such uses can be approved with appropriate conditions of approval to ensure that the uses are ((uses require special consideration so that they may be)) properly located and restricted in size and/or intensity to comply with that objectives of Section 40.520.030. ((with respect to the objectives of this title and their effect on surrounding properties.))

B. ((Hearing Examiner)) Responsible Official Authority.

The ((hearing examiner)) responsible official shall have the authority to approve, approve with conditions, ((disapprove,)) deny, or revoke conditional use permits subject to the ~~Type III~~ Type II-A process in Section 40.510.020 ((~~-030~~. ~~Changes in use, expansion or contraction of site area, or alteration of structures or uses classified as conditional and existing prior to the effective date of the ordinance codified in this title, shall conform to all regulations pertaining to conditional uses.~~))

C. Pre-Application Submittal Requirements for a Conditional Use Permit.

1. A pre-application conference is required for all conditional use permit applications subject to the requirements in Section 40.510.030 (A)
2. An applicant for a pre-application review of a conditional use permit shall comply with the submittal requirements in Section 40.510.050.

D. Neighforhood Meeting.

The applicant shall hold a neighborhood meeting no more than ninety (90) days prior to the submission of a Type IIA application as required in section 40.510.020(I).

E. Concurrent Application ((~~Requirement~~))

Conditional use applications may ((~~shall~~)) be submitted concurrently with the associated site plan review application, where applicable.

F. Application Submittal Requirements for a Conditional Use Permit.

An application for a review of a Type II-A conditional use permit shall comply with the submittal requirements in Section 40.510.050.

~~((E. Action by the Hearing Examiner.))~~

G. The Action by the Responsible Official.

1. ~~In permitting a conditional use t~~ The responsible official ~~hearing examiner~~ may impose, in addition to regulations and standards

expressly specified in this title, other conditions found necessary to protect the ((~~best~~)) interests of the surrounding properties ~~y~~ or neighborhood, or the county as a whole. These conditions may include but are not limited to requirements:

a. Increasing the required lot size or setback dimensions;
b. Increasing street widths;
c. Controlling the location and number of vehicular access points to the property;
d. Increasing the number of off-street parking or loading spaces required;
e. Limiting the number of signs;
f. Limiting the lot coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property;
g limiting building area and intensity of the use;
h. Limiting or prohibiting openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area; ((~~and~~))
i. Establishing hours of opertation;
j. Establishing maintenance standards; and,
k. Establishing standards under which any future enlargement or alteration of the use shall be reviewed by the county and new conditions imposed.

2. ((~~In order to grant any conditional use, t~~)) The responsible official ((~~hearing examiner~~)) must find that the establishment, maintenance or operation of the use applied for will not ((~~, under the circumstances of the particular case,~~)) be significantly detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of ((~~such~~)) the proposed use or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county.

H. Revocation.

The responsible official, may revoke any conditional use permit for noncompliance with conditions set forth in the granting of said permit through a Type II-A ((~~III~~)) process ((~~pursuant to~~)) in Section 40.510.030. The ((~~foregoing~~)) revocation shall not be the exclusive remedy, and it shall be unlawful and punishable under Title 32 for any person to violate any condition imposed by a conditional use permit.

I. ((~~Minor~~)) Expansions.

1. Except as provided in Sections 40.520.030(G)(2) and 40.530.050(C), an existing permitted or lawfully nonconforming conditional use may be

expanded or modified following site plan approval pursuant to Section 40.520.040 if the expansion or modification ((~~will result in less than a twenty-five percent (25%) cumulative enlargement or relocation of the structure, floor area, or parking area~~)), complies with other applicable regulations, and is not expressly prohibited by either:

a. An applicable prior land use decision if the original use is lawfully nonconforming because it was commenced prior to a conditional use permit being required; or,

b. The conditional use permit issued for such use.

c. A lawful, but nonconforming conditional use must first obtain a conditional use permit and the necessary site plan review approval subject to the standards in Sections 40.520.030 (G) (2) and 40.530.050 (C) prior to expanding or modifying that use on the site.

2. School Modulars or Portables. Installation of modular or portable buildings on public school sites are ~~not~~ subject to a Type 1 site plan review. If the installation of modular or portable buildings on public school sites triggers SEPA review, then it shall be subject to a Type II site plan review. ((~~the twenty five percent (25%) cumulative enlargement limit.~~))

3. A conditional use permit in the urban low density residential districts and office residential districts shall not require a new conditional use permit application to expand the same use on the same property, provided that potential adverse impacts resulting from the proposed expansion can be mitigated with the existing county ordinances.

4. An expansion involving the absorption of an abutting parcel(s) of land not considered in the original conditional use permit review shall be subject to a Type II-A application, if the proposed use was never proposed or discussed in the original application.

5. An expansion involving the absorption of an abutting parcel(s) of land that was not considered in the original conditional use permit review shall be a Type II application, if the proposed use was approved or if the expansion involves an existing approved use in a prior conditional use permit review.

Section 17. Amendatory. Section 1 of Ordinance No. 2003-11-01, as most recently amended by Ordinance 2007-06-05 and codified as CCC 40.320.010, are each amended to read as follows:

40.320.010 LANDSCAPING AND SCREENING ON PRIVATE PROPERTY

* * *

C. Landscaping and Screening Approval Standards – General.

* * *

4. As a condition of approval of a conditional use or the expansion or alteration of an existing conditional use or planned unit development, the county may require an applicant to provide landscaping and screening that differs from the standards in Table 40.320.010-1 and Section 40.320.010(C)(2) where necessary to comply with the other applicable approval standards for the use or development.

Section 18. Amendatory. Section 1 of Ordinance No. 2003-11-01, as most recently amended by Ordinance 2009-01-01 and codified as CCC 40.520.040, are each amended to read as follows:

40.520.040 Site Plan Review

A. Purpose.

The purpose of this section is to provide a plan review process that is proportional to the potential impacts of a proposed development. With the exception of minor development proposals, site plan review is intended to provide public notice to encourage public participation, and help ensure a transparent review and approval process.

B. Applicability ((~~and Review Process~~.))

1. Site plan review is required for ~~all~~ new development and modifications to existing ((~~permitted~~)) development, unless expressly exempted by this chapter ~~title~~.

2. A site plan is subject to a Type II review process as provided in Section 40.510.020 if the proposal meets ((~~it is subject to~~)) one (1) or more of the following:
   a. Conditional use;
   b. Planned unit development;
   c. New development in all urban holding, ((~~contingent zone,~~)) urban residential, office residential, business park, office campus, mixed use, university, commercial, industrial, surface mining and airport zones~~.~~, ((~~unless expressly exempted by this title~~));
   d. Change of use from residential to comercial or industrial use;
   e.~~d.~~ A modification to existing permitted development or a permitted modification to an existing nonconforming use, as allowed under Section 40.350.010, if it will cause any of the following:
      (1) An increase in density or lot coverage by more than ten percent (10%) for residential development if the change is made along the development site perimeter; or twenty percent (20%) or more for the development;
      (2) A ((~~significant~~)) change in the type of dwelling units proposed in a residential development (e.g., a change from detached to attached

structures or a change from single-family to multifamily) if the change is made along the development site perimeter;

(3) An increase of more than ten percent (10%) in required on-site parking ((~~required by this chapter~~)) or an increase of more than forty (40) on-site parking spaces, unless the required parking spaces exists on site and meets the design standards for parking and landscaping ~~standards~~;

(4) An increase in the height of a structure(s) by more than ten percent (10%) if structure is located within twenty (20) feet of the property lines and meets the maximum height limits of the zone;

(5) A change in the location of accessways to frontage roads where off-site traffic would be affected;

(6) A change in the location of parking where the parking is closer to land zoned or used for residential or mixed residential/other purposes;

(7) A change in location or increase in size of a stormwater facility if the change is made along the development site perimeter;

(((~~8~~))6) An increase in vehicular traffic generated to and from the site of more than twenty (20) average daily trips, based on the latest edition of the Institute of ((~~International~~)) Transportation Engineer's (ITE) Trip Generation Manual or substantial evidence by a professional engineer licensed in the State of Washington with expertise in traffic engineering;

(((~~8~~))7) An increase in ((~~the~~)) floor area of a structure used for non-residential purposes by more than ten percent (10%) and at least five thousand (5,000) square feet;

(~~9~~8) A SEPA determination is required by Chapter 40.570;

(((~~10~~))9) A reduction in the area used for recreational facilities, screening, buffering, landscaping and/or open space by more than ten percent (10%)~~:~~. provided the minimum standards and conditions of approval under the original decision are met; or ((~~and~~)),

(1((~~1~~))10) A modification, other than one listed in this section, if subject to Type II review based on the post-decision procedures in Section 40.520.060 or based on other sections of this title.

f.((~~e.~~)) Aboveground storage tanks over two thousand (2,000) gallons and underground tanks larger than ten thousand (10,000) gallons in size. SEPA review is required for underground tanks over ten thousand (10,000) gallons. CARA provisions in Sections 40.410.010(B) and 40.410.020(A) may also apply.

3. A site plan is subject to a Type I review process as provided in Section 40.510.010 if:

a. It is not subject to Type II review under Section 40.520.040(B) (((~~A~~)(2)));

b. It is a vacant commercial pad located within a larger development which has received previous site plan approval, if:
(1) The commercial pad is served by stormwater facilities already approved within the overall development site; and,
(2) Changes to the approved overall development site plan are not proposed (e.g., changes to site access, parking, required landscaping, etc.),

c.((~~b.~~)) It is not exempt under Section 40.520.040(A)(4); or

d.((~~c.~~)) It is ~~expressly~~ listed below:
(1) Portable, walk-up vendors such as espresso and coffee carts, flower stands and food carts, which meet the following criteria:
(a) The use shall be portable (not permanently connected to public or private sewer or water facilities and equipped with mechanisms to readily remove structure);
(b) The structure shall not exceed three hundred (300) square feet; and,
(c) The use shall not incorporate a drive-through.
(2) Neighborhood parks((; or))~~.~~
(3) Aboveground tanks over one hundred twenty-five (125) gallons up to and including two thousand (2,000) gallons. CARA provisions in Sections 40.410.010(B) and 40.410.020(A) may also apply.

4. The following land uses and development are exempt from site plan review, provided ((~~the~~)) applicable standards of this title are met:
a. A single-family detached dwelling and modifications to it;
b. A duplex or triplex and modifications to it on a lot created and approved for such use;
c. Development exempt from review under Chapter 14.05;
d. Modifications to the interior of existing structures that do not change the use or the amount of a use;
e. Changes in use that do not require a need for an increased number of parking spaces over those required for the existing use, based on Table 40.340.010-4. The proposed change in use must be a permitted use in the zoning district and may not violate the existing site plan approval. The existence of on-site parking greater than the minimum number of spaces required for a new use ((~~does not~~)) exempts a development from site plan review; provided all parking spaces meet the design standards for parking and landscaping. ((~~Existing additional parking spaces can be used to meet any new parking requirements for the new use.~~ Additional Transportation Impact Fees (TIC) fees may apply))
f. Land divisions;
g. School modulars or portables; provided, that the applicant takes on lead agency status for SEPA; and,
h. Other development the responsible official finds should be exempt, because it does not result in an increase in land use activity or

intensity or in an adverse impact perceptible to a person of average sensibilities from off-site, and because the county can assure the development complies with applicable standards without site plan review.

C((B)). Binding Site Plans.

1. The purpose of binding site...

D((C)). Approval Process ((~~Pre-Application Submittal Requirements~~)).

1. A site plan subject to a Type I review is not subject to pre-application review unless requested by the applicant.

2. A site plan subject to a Type II review is subject to pre-application review pursuant to Section 40.510.020, unless waived. ((~~See Section 40.510.020(A) regarding pre-application review.~~))

3. An application for a pre-application review of a site plan shall comply with the submittal requirements in Section 40.510.050(((~~A~~))) regarding pre-application review.

4. ((~~D. Application Submittal Requirements for Site Plan Review.~~)) An application for a review of a site plan shall comply with the submittal requirements in Section 40.510.050.

((~~D. Application Submittal Requirements for Site Plan Review.~~
~~An application for a review of a site plan shall comply with the submittal requirements in Section 40.510.050~~.))

E. Approval Criteria.

((~~1. Generally.~~))

1((~~a~~.)) If the responsible official finds that a site plan application does or can comply with the applicable approval and development standards, the responsible official shall approve the site plan, or approve the site plan subject to conditions of approval that ensure the proposed development will comply with the applicable standards.

2((~~b~~)). If the responsible official finds that a site plan application does not comply with one (1) or more of the applicable approval or development standards, and that such compliance cannot be achieved by imposing a condition or conditions of approval, the responsible official shall deny the site plan application.

3((~~c~~.)) If a site plan is subject to a standard(s) over which the responsible official does not have sole jurisdiction, then the responsible official shall not make a final decision regarding the site plan until the related decision(s) regarding the applicable standard(s) has been received.

4((d.)) The responsible official may modify or waive any of the site plan review standards for specific development within the commercial districts if the responsible official finds that a specific design guideline(s) within Section 40.230.010(E) cannot be implemented in the proposed development without granting the modification.

5. A change of use on a lawfully developed site with nonconforming landscaping and screening shall be brought into compliance with standards in Section 40.320.010, subject to the following:
   a. An alternate landscaping or screening plan may be approved if:
      (1) Compliance with requirements in Section 40.320.010 is not reasonably possible due to location of existing structures, topography, life safety concerns, etc. or
      (2) Requirements for on-site parking, including access drive aisles, will not meet standards in Section 40.340.010, or
      (3) The required landscaping improvements exceed 10% of the value of construction costs of all building and site improvements, except landscaping, for the change in use; however, the minimum requirements under 40.520.040(E)(5)(b) below shall be met.
      (((3) Reasonable improvements are being proposed in relation to the scale and construction costs of any building improvements for the change of use.))

   b. At a minimum, outdoor storage areas shall be screened from adjoining properties or public rights-of-way by a 6-foot fence or wall meeting the F2 standard.

6((2)). Site Plan Approval Criteria. In addition to other applicable provisions of this code, a site plan application shall comply with the following standards or modifications or variations to those standards permitted by law:

* * *

Section 19. Amendatory. Section 1 of 2003-11-01, as most recently amended by Ordinance 2004-06-11 and codified as CCC 40.520.060, are each amended to read as follows:

40.520.060 POST-DECISION ~~PROCEDURES~~ REVIEW

((A. Generally.
1. Except for final plats and final site plans, post-decision procedures may change decisions without necessarily subjecting the change to the same procedure as the original decision. Such changes may be warranted by ambiguities or conflicts in a decision and by new or more detailed information, permits or laws.

2. At any time prior to final site plan or final plat approval, a party to a decision made under this chapter or their successor in interest may file with the responsible official an application for post-decision review of a Type I, II or III decision, describing the nature of the proposed change to the decision and the basis for that change, including the applicable facts and law, together with the fee prescribed for that application by the board.

3. An application for post-decision review is not subject to pre-application review. It is subject to counter complete and fully complete determination; provided, the responsible official shall not require an application for post-decision review to contain information that is not relevant and necessary to address the requested change or the facts and law on which it is based.

4. As part of a determination of completeness of an application for post-decision review of a Type II or III decision, the responsible official shall classify the application as a Type I, II or III process and advise the applicant in writing of that classification. The recommended classifications of certain common changes are included as Appendix D, "Guidelines for Post-Decision Changes." The classifications in the table are recommended, but the classification of each post-decision review shall be based on the circumstances of that decision and the guidelines in Section 40.520.060(B). The decision classifying the application shall be subject to appeal as part of the decision on the merits of the post-decision review.

5. Post-decision review cannot substantially change the nature of development proposed pursuant to a given decision. As part of a determination of completeness of an application for post-decision review of a Type II or III decision, the responsible official may issue a decision that the proposed change in a decision should not be subject to post-decision review; it should be subject to a new application on the merits of the request. That decision may be appealed to the hearing examiner.

6. An application for post-decision review does not extend the deadline for filing an appeal of the decision being reviewed and does not stay appeal proceedings.

7. Post-decision review can be conducted only regarding a decision that approves or conditionally approves an application. An application that is denied is not eligible for post-decision review.

(Amended: Ord. 2004-06-11)

B. Classification of Post-Decision Review.

1. An application for post-decision review of a Type I decision shall be subject to a Type I review process.

2. An application for post-decision review of a Type II decision shall be subject to a Type I review process if the responsible official finds the requested change in the decision:
   a. Does not increase the potential adverse impact of the development authorized by the decision; and
   b. Is consistent with the applicable law or variations permitted by law, including a permit to which the development is subject; and
   c. Does not involve an issue of broad public interest, based on the record of the decision; and
   d. Does not require further SEPA review.

3. An application for post-decision review of a Type II decision shall be subject to a Type II review process if it is not subject to Type I review.

4. An application for post-decision review of a Type III decision shall be subject to a Type I review process if the responsible official finds the requested change in the decision:
   a. Reduces the potential adverse impact of the development authorized by the decision; and
   b. Is consistent with the applicable law or variations permitted by law, including a permit to which the development is subject; and
   c. Does not involve an issue of public interest, based on the record of the decision.

5. An application for post-decision review of a Type III decision shall be subject to a Type II review process if the responsible official finds the requested change in the decision:
   a. Does not increase the potential adverse impact of the development authorized by the decision or SEPA determination; and
   b. Is needed to address a minor change in the facts or the law, including a permit to which the development is subject; and
   c. Does not involve an issue of broad public interest, based on the record of the decision.

6. An application for post-decision review of a Type III decision shall be subject to a Type III review process if it is not subject to Type I or II review.

7. When a post-decision request for a change involves a condition of approval that was imposed in the original decision to address a specific potential impact of the proposed development, then that condition of approval can be changed only using the same type process as the original decision.

C. Modification of a decision other than by a timely appeal or post-decision review shall be by new application; provided, a new application cannot be filed within one (1) calendar year after the date of a decision denying a

~~substantially similar application, unless such earlier decision provided otherwise.))~~[3]

A. Purpose.

The purpose of this section is to allow minor changes to preliminarily approved development applications in a timely and cost effective manner. Such changes may be warranted by ambiguities or conflicts in a decision and by new or more detailed information, permits, or laws. It allows for public notice and input relative to the degree and scope of the proposed changes. The Reposnible Official may approve some deminimis changes without a post decidsion review using the final plat/final site plan review process.

B. Applicability.

An applicant who has obtained preliminary approval of a development application, including land division, site plan review, conditional use permit, or planned unit development, may file a post decision review application requesting a minor change to aspects of the development proposal or conditions of approval. The post-decision review application may be filed at any time during the period of validity of the preliminary decision; provided:

1. A post-decision review application shall not be accepted for a land division after a final plat has been recorded.
2. A post-decision review application for a site plan review shall not be accepted for a development after issuance of a certificate of occupancy.
   a. For phased site plan review projects, no application for post decision review shall be accepted for a phase after issuance of an occupancy permit for that phase.
3. Post-decision review shall not substantially change the nature of development approved under a given decision.
4. An application that is denied is not eligible for post-decision review.

C. Modification of a development other than by a timely appeal or post decision review shall be through review of a new application; provided, a new application cannot be filed within one (1) calendar year after the date of a decision denying a substantially similar application, unless such earlier decision provides otherwise.

The responsible official may determine that proposed changes exceed the scope of the post-decision review process and that a new development application is warranted. Such determination may be appealed to a Hearings Examiner in accordance with CCC 40.510.010(E).

D. Vesting

Vesting for a proposed development is based on the original development application, in accordance with Section 40.510.010(D), 40.510.020(G), or 40.510.030(G); provided that any changes that increase impacts beyond the

[3] Note to Code Reviser- Appendix D—"Guidelines for Post-Decision Changes" is deleted.

original development application will be subject to the applicable ordinances in effect on the day that a fully complete post-decision review application is filed.

E. Classification

The responsible official shall classify the application as subject to a Type I, Type II, Type II-A, or Type III process. This classification decision may be appealed to the Hearings Examiner in accordance with CCC 40.510.010(E).

1. An application for post-decision review of a Type I decision shall be subject to a Type I review process.

2. An application for post-decision review of a Type II decision or a Type II-A decision not subjected to public hearing shall be subject to a Type I review process, if the responsible official finds that the requested change in the decision:

~~a. Does not increase the potential adverse impact of the development authorized by the decision; and~~

~~b~~ a.. Is consistent with the applicable law or variations permitted by law, including a permit to which the development is subject; and

~~c. is consistent with applicable law or variations permitted by law, including a permit to which the development is subject;~~

b. involves changes to the interior of the development that will not result in impacts, to include visual impacts, beyond the perimeter of the development site;

c. does not result in additional lots;

d. does not change the location of accessways to frontage roads where off-site traffic would be affected;

e. does not locate parking closer to land zoned or used for residential purposes unless more than one-hundred (100) feet remains separating the parking area and the residential properties;

f. does not increase the height or gross floor area of a structure by more than ten percent (10%);

g. does not ~~modify a road standard by more than ten percent (10%);~~ require the approval of an administrative or design road modification that has offsite impacts;

h. does not involve an issue of broad public interest, based on the record of the decision. . An issue of public interest is one about which testimony was submitted to the record either at the public hearing or in writing;

i. proposes to phase a project that was not phased in the original review, or proposes changes to a phasing plan; and

~~((d.))~~ j. Does not require further SEPA review.

3. An application for post-decision review of a Type II decision or a Type II-A decision not subjected to public hearing shall be subject to a Type II

review process if it does not qualify for Type I review under Section 40.520.060(D)(2) above.

4. An application for post-decision review of a Type II-A decision that was subjected to public hearing or a Type III decision shall be subject to a Type I review process if the responsible official finds that the requested change in the decision:
   a. reduces the potential adverse impact of the development authorized by the decision;
   b. is consistent with applicable law or variations permitted by law, including a permit to which the development is subject; and,
   c. does not involve an issue of broad public interest, based on the record of the decision.

5. An application for post-decision review of a Type II-A decision that was subjected to public hearing or a Type III decision shall be subject to a Type II-A review process omitting a neighborhood meeting if the responsible official finds that the requested change in the decision:
   a. does not increase the potential adverse impact of the development authorized by the decision or SEPA determination;
   b. does not add more than two (2) lots for a subdivision that proposed up to twenty (20) lots; three (3) lots for a subdivision that proposed up to forty (40) lots; or five (5) lots for a subdivision that proposed more than forty (40) lots;
   c. does not require the approval of an administrative or design road modification that has offsite impacts:
   d. does not reduce any transportation safety or transportation concurrency related obligations of the applicant.
   e. does not result in a change in the routing of offsite traffic.
   f((e.)). does not delete dedications for public utilities/facilities on the site;
   g((f)). does not reduce proposed setbacks by more than ten percent (10%);
   h((g)). does not increase the height of a structure by more than ten percent (10%);
   i((h)). does not increase the gross floor area of a structure more than ten percent (10%); or
   j((i)). does not eliminate or change fences from sight obscuring to non obscuring; and,
   k ((j)). does not involve an issue of broad public interest, based on the record of the decision. An issue of public interest is one about which testimony was submitted to the record either at the public hearing or in writing.

6. An application for post-decision review of a Type II-A decision that was subjected to public hearing or a Type III decision shall be subject to a

Type III review process if it does not qualify for a Type I, Type II, or Type II-A process under this section.

7. When a post-decision review application requests a change involving a condition of approval that was imposed in the original decision to address a specific potential impact of the proposed development, that condition of approval can be changed only using the same type process as the original decision.

F. Submittal Requirements.

Application for post-decision review shall include the following:

1. a narrative describing the nature of the proposed change to the development and the basis for that change, including the applicable facts and law;

2. a copy of the approved development plan;

3. a copy of the original Development Review Decision and any approved modifications;

4. a copy of the proposed development plan;

5. application fee;

6. reduced copies eleven (11) inches by seventeen (17) inches in size) shall be included for any application materials larger than eleven (11) inches by seventeen (17) inches in size; and,

7. any other relevant information the applicant thinks may be helpful.

Section 20. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2006-11-07 and codified as CCC 40.520.080, are each amended to read as follows:

40.520.080 PLANNED UNIT DEVELOPMENT

A. Purpose

The intent of ((~~the~~)) planned unit developments (PUD) ((~~approval~~)) is to allow flexibility in design and creative site planning, and in some cases density, while providing for the orderly development of the county ~~in conformance with~~that meets the comprehensive ((~~land use~~)) plan. ((~~A further purpose of p~~))Planned unit developments ((~~approval is to~~)) should allow for a mix of housing types, lot sizes, and ~~mixed~~ uses ((~~when in conformance with the comprehensive plan~~.))

The legislature through the Growth Management Act (RCW 36.70A.090 and RCW 36.70A.020(4)) and the County in its Comprehensive Plan (chapter 2.7.1) encourages a creative approach to affordable and diversified housing. The Board finds and concludes that Planned Unit Developments are an important development alternative to meet the needs of home buyers by providing a variety of lot sizes and housing styles. Furthermore, the PUD code reduces the restrictive impact of critical area ordinances. Therefore, the Board concludes that a PUD implements GMA and the Comprehensive Plan and that applicants need not demonstrate a change of circumstances.

B. Applicability

1 Planned unit developments are permitted pursuant to the provisions of this section within the following districts: R1-5, R1-6, R1-7.5, R1-10, R1-20, R-12, R-18, R-22, R-30, R-43, OR-15, OR-18, OR-22, OR-30, OR-43, CR-1, CR-2, C-2, C-3, CL, GC and MX districts.

~~((C. Authority~~

~~1. The responsible official shall have the authority to approve, approve with conditions, deny or revoke residential planned unit developments, subject to the provisions of this section.~~

~~2. Residential planned unit developments which warrant declaration of environmental significance shall be considered by the hearing examiner in public hearing.~~

~~3. Changes in use, expansion or contraction of site area, or alteration of structures or uses classified as planned residential developments, and existing but not approved prior to May 19, 1993, shall conform to all regulations pertaining to planned unit developments.))~~

2~~C~~.Uses Permitted

Any use consistent with the zone districts designated for the parcel(s) within the proposed planned unit development boundary may be permitted in planned unit developments. The location of the uses in planned unit developments may vary from underlying zoning; provided, that the total allowed uses (e.g., number of residential uses or area assigned to commercial use) was limited by the maximum allowed on each respectively zoned parcel. Applications for PUD's shall be reviewed using a Type II-A process unless submitted with a subdivision, then it shall be reviewed using a Type III process. ~~Approval shall be by either of the following:~~

~~((1. The hearing examiner for those development plans which include mixed uses such as commercial-residential or industrial-commercial. The hearing examiner shall approve, approve with conditions, or disapprove the request in a public hearing; or~~

~~2. The responsible official for those development plans which are single-purpose in land use type and would not result in an increase greater than twenty percent (20%) in the net density normally allowed within the district.~~

E. Standards and Requirements.

1. General Requirements.

a. Size of the Planned Unit Development Site.

(1) Except as set forth in Section 40.520.080(E)(1)(a)(2), a tract of land to be developed as a planned unit development shall have a minimum lot area of six (6) acres.

(2) A planned unit development may have a lot size of less than six (6) acres if the responsible official or hearing examiner makes specific findings of fact to support the conclusion that a planned unit development is in the public interest because one (1) or more of the following conditions exist:

(a) An unusual physical or topographic feature of importance to the area as a whole (such as wetlands) exists on the site or in the neighborhood, which can be conserved and still leave the applicant equivalent use of the land by the use of a planned unit development;

(b) The property or its neighborhood has an historical character of importance to the community that will be protected by use of a planned unit development;

(c) The property is adjoining a property which has been developed or redeveloped under a planned unit development, and a planned unit development will contribute to the maintenance of the amenities and values of the neighboring planned unit development;

(d) Unique or innovative design concepts developed to further specific policies of the comprehensive plan.

b. Building Height. With review and approval of the responsible official or hearing examiner, the height of a proposed building shall comply with the height limitations of the underlying district in which it is proposed to be located, except that a greater height may be allowed in the amount of ten (10) feet of height for each additional fifteen (15) feet of setback from any property line.

c. Common Open Space. No open area may be accepted as common open space within a planned unit development, unless it meets the following requirements:

(1) The location, shape, size and character of the common open space is suitable for the planned unit development;

(2) The common open space is for amenity or recreational purposes; provided, that the uses authorized are appropriate to the scale and character of the planned unit development, considering its size, density, expected population, topography, and the number and type of dwellings provided;

(3) Common open space will be suitably improved for its intended use, except that common open space containing natural features worthy of preservation, such as wetlands, may be left unimproved. The buildings, structures, and improvements to be

~~permitted in the common open space are those appropriate to the uses which are authorized for the common open space;~~

~~(a) Landscaping shall be installed and financial assurance measures provided pursuant to Section 40.320.010(G);~~

~~(b) If a planned unit development is phased, the requirements of Section 40.520.080(E)(1)(c)(3)(a) shall be satisfied prior to provisional acceptance of improvements in conformance with conditions of approval for each phase of the development;~~

~~(4) Land shown in the final development plan as common open space, the landscaping and/or planting contained therein, shall be permanently maintained by and conveyed to one (1) of the following:~~

~~(a) An association of owners shall be formed and continued for the purpose of maintaining the common open space. The association shall be created as an association of owners under the laws of the state and shall adopt and propose articles of incorporation or association and bylaws, and adopt and improve a declaration of covenants and restrictions on the common open space that is acceptable to the Prosecuting Attorney, in providing for the continuing care of the space. No common open space may be put to a use not specified in the final development plan unless the final development plan is first amended to permit the use. No change of use may be considered as a waiver of any covenants limiting the use of common open space areas, and all rights to enhance these covenants against any use permitted are expressly reserved; or~~

~~(b) A public agency which agrees to maintain the common open space and any buildings, structures, or other improvements which have been placed on it.))~~

C. Design Flexibility

1. Design Flexibility - Zoning standards that may be varied without the need of a variance include, but are not limited to lot standards, setbacks, landscaping, and parking. Design flexibility for transportation, stormwater, critical area, and other non-land use related standards may be reviewed separately through other review processes such as a road modification or stormwater variance.
2. Site Size - A PUD shall be located on a minimum site size of six (6) acres unless the responsible official finds that the site of the proposed use is adequate in size and shape to accommodate the proposed use and all setbacks, parking, loading, landscape/screening, and other features as required by this title.
3. Building Height - Maximum building height shall be that of the underlying zone; provided that, the maximum height may be exceeded if the

minimum setback of the higher portion of the building is increased at a one-to-one (1:1) ratio (excess height in feet: extra setback in feet).

4. ((~~Common~~))Open Space - All PUD's shall provide a minimum of twelve percent (12%) open space based on the net site area for active or passive recreational purposes:
   a. Active recreational areas include features such as jogging trails, child play equipment, open fields for pick-up games, game courts swimming poosl, club houses, picnic areas and pavillions.
   b. Passive recreational areas include features such as natural protected areas and open space with features like access trails, benches, imterpretive signs and view cooridors.
   c. Stormwater facilities may be counted as open space only if they are not fenced, and include features such as natual areas, water gardens and habitat, and are incorporated into the overall open space design.
   d. The ((~~common~~)) open space shall be consistant with the character of the PUD, considering its size, density, expected population, topography, and the number and type of dwellings. ((~~Up to twenty five percent (25%) of stormwater facilities may be counted toward open space if the responsible official finds it is usable passive or active open space. Stormwater facilities can only count as open space if they are incorporated into the overall site design without fences.~~))

5. All ((~~common~~))open space shall be conveyed to and permanently maintained by a home owners association unless a public agency agrees to maintain the open space and any structures or improvements located on it. Prior to final plat/site plan approval, the association of owners will be created under the laws of the state and shall adopt and propose articles of incorporation or association and bylaws, and covenants, conditions and restrictions limiting the uses of the ((~~common~~))open space shall be adopted and approved by the Prosecuting Attorney.
6. All PUD's shall provide street trees on public and private roads as well as street lighting, except street lighting will not be required on functional classifications of Arterial, Collector, and Senic Route roadways. One (1) street tree shall be provided on an average of 24 linear feet, species choosen from the Clark County Standard Details Manual or specified by a certified landscape architect. Street trees on private roads shall be conveyed and permanently maintained by the home owners association.

((~~F. Approval Criteria.~~

~~In approving the preliminary development plans, conditionally or otherwise, the hearing examiner or the responsible official shall first make a finding that all of the following conditions exist:~~

~~1. That the site of the proposed use is adequate in size and shape to accommodate the proposed use and all setbacks, spaces, walls and fences, parking, loading, landscaping, and other features as required by this title, to ensure that the proposed use is compatible with the neighborhood land uses;~~

~~2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed uses. Adequate public utilities are available to serve the proposal;~~

~~3. That the proposed use will have no significant adverse effect on abutting property or the permitted use thereof;~~

~~4. That the establishment, maintenance, and/or conduct of the use for which the development plan review is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or welfare of persons residing or working in the neighborhood of such use and will not, under the circumstances of the particular case, be detrimental to the public welfare, injurious to property or improvements in the neighborhood; nor shall the use be inconsistent with the character of the neighborhood or contrary to its orderly development; and~~

~~5. That the proposal includes unique or innovative design concepts developed to further specific policies of the comprehensive plan.))~~

D. Approval Criteria

Prior to preliminary approval of the proposed PUD, the hearing examiner or the responsible official must find that the following three conditions exist:

1. Alternate designs proposed will provide a plan equal or superior to the standard being varied.
2. Through lot size, setbacks, building orientation, and screening, the proposed PUD shall provide a gradual transition adjacent to lower density neighborhoods or non-residential uses.
3. The applicant proposes design features that may include, but are not limited to designs centered on protected natural areas, front porches/recessed garages, pedestrian friendly orientation, benches/gazebos, water features, recreational areas, storwater systems designed as features, and affordable housing.

E. Residential Density Bonus

A density bonus may be granted for those PUD's that provide design concepts that will enhance the livibility of the proposed development and surrounding area. Each of the following design concepts may result in a three percent (3%) density increase, with a maximum density increase of ten percent (10%):

1. Variety of housing types and densities
2. A mix of uses
3. Design that reduces automobile trips and encourages alternative modes of transportation.

4. Alley vehicle access only for at least 50% of the units
5. PUD's that contain more than fifteen percent 15% open space based on the net site area.
6. Low Impact Developments (LID)

F Open Space for LID's

LID's that provide lot sizes equal to or greater than that required by the zoning district shall be exempt from the open space requirements in section C4.

~~((G. Procedures.~~

~~The provisions of this section shall be applied:~~

~~1. By the responsible official upon the finding of the responsible official that said approval will allow the highest and best quality development to be achieved in accordance with the provisions of the comprehensive plan;~~

~~2. By the hearing examiner when the application is forwarded to the examiner by the responsible official, or pursuant to Section 40.520.080(D).~~

~~3. In granting any planned unit development plan, the hearing examiner may require adequate guarantees of compliance with the final development plan. Such guarantee may be a performance bond or other form of security in an amount sufficient to assure compliance, and may provide that such security be reduced as stages of construction are completed. Alternatively, or in addition to the security, conditions may be imposed requiring other adequate assurances that the structures and improvements will be completed, subject to review and approval as to form by the Prosecuting Attorney; or that the county may, in the event of the applicant's failure to comply, take the steps necessary to assure compliance, including performing the construction or maintenance itself, and levy a lien for all costs thereof against the property.~~

~~H. Pre-Application Submittal Requirements for a Planned Unit Development.~~

~~1. A pre-application conference is required for all planned unit development applications. See Chapter 40.510 regarding pre-application review generally.~~

~~2. An applicant for a pre-application review of a planned unit development shall comply with the submittal requirements in Section 40.510.050.~~

~~I. Application Submittal Requirements for a Planned Unit Development. An application for a review of a planned unit development shall comply with the submittal requirements in Section 40.510.050.))~~

Section 21. Amendatory. Section 1 of Ordinance 2003-11-01 and codified as CCC 40.530.010 are each amended to read as follows:

40.530.010 ((~~PURPOSE~~)) NONCONFORMING LOTS, STRUCTURES AND USES

A. Purpose.

((~~The purpose of this chapter is to establish provisions for the allowance and potential alteration of uses, lots or structures which do not conform to currently applicable standards or regulations, but which were in conformance with standards in place at the time of their inception, and have been rendered nonconforming due to a change in the applicable standards and regulations. Nonconformities typically occur in three (3) general categories, or combinations thereof:~~

- ~~Nonconforming lots, typically having substandard size or dimensions;~~
- ~~Nonconforming structures, typically having substandard setbacks or excessive height; and~~
- ~~Nonconforming uses, in which the activity is inconsistent with the allowances or procedures of the underlying zoning district.~~))

Lots, uses, and structures exist which were lawful when established but whose establishment would be restricted or prohibited under current zoning regulations. The intent of this chapter is to allow continuation of such nonconforming uses and structures. It is also the intent of this chapter to, under certain circumstances and controls, allow modifications to nonconforming uses and structures consistent with the objectives of maintaining the economic viability of such uses and structures while protecting the rights of surrounding property owners to use and enjoy their properties.

B. Applicability.

All nonconforming lots, uses and structures shall be subject to provisions of this chapter.

1. If a lot, use or structure deemed legal nonconforming under past zoning regulations is brought into compliance with current standards, it shall be considered conforming.
2. The provisions in this chapter do not supersede or relieve a property owner from compliance with building, fire, health or other life safety requirements of the code.

C. Nonconforming Status.

1. Any lot, use, or structure which, in whole or part, is not in conformance with current zoning requirements shall be considered as follows:
   a. Legal Nonconforming. Lots, uses and structures legally created or established under prior zoning and/or platting regulations. These lots, uses and structures may be maintained or altered subject to provisions of this chapter.
   b. Illegal Nonconforming. Lots, uses and structures which were not in conformance with applicable zoning and/or platting regulations

at the time of creation or establishment. Illegal nonconforming lots, uses and structures shall be discontinued, terminated or brought into compliance with current standards.

2. It shall be the burden of a property owner or proponent to demonstrate the legal nonconformity of a lot, use, and structure.

D. Legal Nonconforming Lots.

A legal lot of record, as defined in Section 40.100.070 and created as a building site, which does not conform to minimum lot area, width or depth requirements of the zoning district in which it is currently situated may be developed, subject to the following:

1. A permitted use or structure shall meet all existing development standards of the zoning district within which it is located including, but not limited to required yards/setbacks, lot coverage, density, parking, landscaping, storm drainage, signage, and road standards.
2. For the purpose of establishing setbacks from property lines, any residential lot of record in the Rural (R-5, R-10 and R-20), Resource (FR-80, FR-40, AG-20 and AG-WL), Urban Reserve (UR-10 and UR-20) and Urban Holding (UH-10, UH-20 and UH-40) districts which has a smaller lot area, width and/or depth than that required by the zone in which it is located may use that residential zoning classification which most closely corresponds to the area or dimensions of the lot of record.
3. A legal nonconforming lot shall not be further diminished in size or dimension unless approved through a lot reconfiguration under Section 40.210.010(D) or Section 40.230.070(C)(2).
4. A legal nonconforming lot may be increased in size to bring it into closer conformance with area requirements of the zone in which it is located.
5. A legal nonconforming lot which is increased in area or dimension such that it is brought into compliance with any or all of the lot requirements for the zoning district in which it is located shall thereafter remain in compliance.
6. A conforming legal lot of record that is reduced through governmental action or adverse possession below the required minimum size of the zoning district in which it is located shall be deemed a legal nonconforming lot ,subject to review through a Type I process.

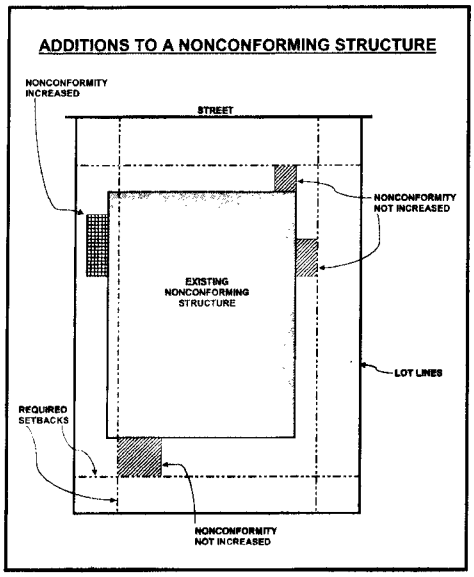
E. Legal Nonconforming Buildings or Structures.

A legally established building or structure may continue to be used or occupied by a use permitted in the zoning district in which it is currently located even though it does not comply with present development standards (e.g., setbacks, lot coverage, density, height, etc.) of said zone. The legal nonconforming building or structure may be maintained as follows:

1. Maintenance and Repair. Ordinary repairs to correct deterioration or wear may be made to legal nonconforming structures. Minor maintenance and repair includes such things as painting, roof repair and replacement, plumbing, wiring, mechanical equipment replacement, and weatherization.

2. Expansion or Structural Alteration. A legal nonconforming building or structure may be expanded, enlarged, or structurally altered provided the modification meets applicable development standards for the zoning district in which it located. In no case shall said modification increase the building or structure's nonconformity. Expansion of nonresidential and multi-family buildings or structures may require site plan approval.

Figure 40.530.010-1



3. Restoration of Damaged Building or Structure. A legal nonconforming building or structure that is damaged by fire, flood, explosion, wind, earthquake, war, riot, calamity or other catastrophic event may be restored or repaired as follows:

   a. Partial Destruction. If the extent of damage does not exceed sixty percent (60%) of either the square footage or assessed value of such building or structure as established by the most current County Assessor's tax roll, the building or structure may be reconstructed to the footprint existing immediately prior to the time of partial destruction provided:

      (1) A building permit for said restoration shall be applied for within one (1) year of the date of damage or disaster.

      (2) Restoration/reconstruction shall be completed within two (2) years of the date of partial destruction.

(3) Upon receiving a written request, the responsible official may, through a Type I review process, extend the above time limitations due to special circumstances beyond the control of the owner of said building or structure.

b. Substantial Destruction. If the extent of damage exceeds sixty percent (60%) of either the square footage or assessed value of such building or structure as established by the most current County Assessor's tax roll, the building or structure shall not be repaired or reconstructed unless it conforms to development requirements of the zoning district in which it is located.

4. Relocation. A legal nonconforming building or structure shall not be relocated on the same lot unless said move results in bringing the building or structure into compliance with requirements of the zoning district in which it is situated.

5. Signs. Legal nonconforming signs are subject to provisions in Section 40.310.010(H).

F. Legal Nonconforming Uses.

Any lawfully established nonconforming use or development may be continued at the same gross floor area or land coverage occupied on the effective date of this Title, or any amendment thereto, that made the use no longer permissible. Use of these buildings and land are subject to the following:

1. Establishment of Legal Nonconforming Status.

a. Any person may request a determination through a Type I process regarding legal status of a nonconforming use.

b. Evidence submitted by the applicant shall demonstrate that the use was lawfully created or established in accordance with the zoning regulations in existence at that time, and that said use has been maintained continuously since the time zoning regulations governing the land changed. Acceptable documentation may consist of, but is not limited to, such items as:

(1) Dated business receipts showing types of service or goods provided;

(2) Statements or records from utilities, such as power, water or gas, which indicate the date and type of use;

(3) Business licenses;

(4) Property rental invoices or receipts;

(5) Income tax records;

(6) Dated listings in telephone, business or Polk directories;

(7) Records of the County Assessor;

(8) Building, land use or development permits;

(9) Dated photographs, newspaper clippings, and other relevant documentation; or

(10) Notarized affidavits from neighbors or persons who have observed the nonconforming use over the required period of

time may assist in substantiating its presence but shall not be the primary document upon which a determination is based.

2. Change of ownership, tenancy, or management. The legal nonconforming status of a use runs with the land, and is not dependent upon ownership, tenancy, or management provided the nature, character, intensity or occupancy classification of the use does not change.

3. Maintenance and Repair. Ordinary repairs and incidental alterations to correct deterioration or wear may be made to buildings containing a legal nonconforming use provided the cost of such repairs in any twelve (12) month period does not exceed twenty-five percent (25%) of the assessed valuation of such building or structure as established by the most current County Assessor's tax roll. Minor maintenance and repair includes such things as painting, roof repair and replacement, plumbing, wiring, mechanical equipment replacement, and weatherization. Incidental alterations may include construction of nonbearing walls or partitions.

4. Expansion or Alteration of Uses Established with Planned Unit Development or Site Plan Approval. Applications for expansion or alteration of existing nonconforming uses which have been established pursuant to a valid planned unit development or site plan approval from the county may be considered, subject to the following:
   a. All applicable conditions of the planned unit development or site plan approval shall be fully complied with; and
   b. The responsible official may apply specific standards of the zoning district in which the planned unit development or site plan was approved, rather than standards of the underlying zoning district, as deemed necessary to ensure compliance with this chapter.

5. Other Expansions or Alterations. Other than as allowed under Subsection 40.530.010(F)(4), a legal nonconforming use shall not be enlarged, expanded, or extended to include a portion of a structure or site it did not previously occupy on the date said use became nonconforming. For the purposes of this section, the term "enlarged, expanded, or extended" shall include, but not be limited to:
   a. Increased hours;
   b. Increased services or programs;
   c. Increased number of residential dwellings;
   d. Interior renovations or structural additions that increase the occupant load of the structure dedicated to the nonconforming use;
   e. Any new structures accessory to the nonconforming use;
   f. Expansion or replacement of the structure (or portions thereof) dedicated to the nonconforming use; or
   g. Anything beyond regular maintenance and minor repairs;

6. Change of Use. The legal nonconforming use of a building, structure, or land may be changed through a Type II review, subject to the following:

a. Permitted Use in the Zone. The proposed use is identified as a permitted use in the zoning district within which said building or land is situated. Any conversion shall require site plan approval under provisions of Section 40.520.040 to ensure compliance with applicable development standards. Once converted to a permitted use, the nonconforming use may not be re-established.

b. Different Nonconforming Use. A legal nonconforming use may be changed to another nonconforming use, subject to a Type II review, only if all of the following conditions are met:

(1) The proposed new use can clearly be demonstrated to involve equal or lesser adverse impacts to the surrounding area considering such factors as traffic, required on-site parking, hours of operation, noise, glare, dust, odor, and vibration.

(2) The proposed use will not introduce hazards or interfere with development potential of nearby properties in accordance with current zoning regulations.

(3) The change in use will not result in an increase in the amount or area devoted to outdoor storage of goods or materials.

(4) The proposed new use will not increase the amount of space occupied by a nonconforming use.

(5) The proposed change in use will involve minimal structural alteration.

(6) The proposed change in use shall be brought into compliance with all applicable standards of the underlying zoning district, or those of the zoning district within which the new use is normally allowed, to the greatest extent possible given size or configuration of the site and location of existing improvements.

(7) Mere financial hardship does not alone constitute grounds for finding that compliance with site improvement requirements is not reasonably practicable.

7. Restoration of Damaged Building or Structure. A building or structure containing a legal nonconforming use that is damaged by fire, flood, explosion, wind, earthquake, war, riot, calamity or other catastrophic event may be restored or repaired as follows:

a. Partial Destruction. If the extent of damage does not exceed sixty percent (60%) of either the square footage or assessed value of such building or structure as established by the most current County Assessor's tax roll, the building or structure may be reconstructed to the footprint existing immediately prior to the time of partial destruction.

(1) A building permit application for said restoration shall be filed for within one (1) year of the date of damage or disaster.

(2) Restoration/reconstruction shall be completed within two (2) years from the date of partial destruction.

(3) Upon receiving a written request, the responsible official may through a Type I review process extend the above time limitations for special circumstances beyond the control of the owner of said building or structure.

b. Substantial Destruction. If the extent of damage exceeds sixty percent (60%) of either the square footage or assessed value of such building or structure as established by the most current County Assessor's tax roll; the building or structure shall not be repaired, reconstructed or reoccupied for any use unless such use conforms to development requirements of the zoning district in which the building or structure is located.

8. Discontinuation of Legal Nonconforming Use. If a legal nonconforming use of land is discontinued or terminated, it shall not be re-established. Any subsequent use of the building or land shall conform to requirements of the zoning district in which it is located.

a. A use is considered discontinued if customary operation of said use has ceased for a period of twelve (12) months or more.

b. The responsible official may, through a Type I process, grant an extension to the timeframe identified above provided the property owner submits documentation demonstrating there was no intent to abandon the use. Documentation may include, but is not limited to the following:

(1) Requests for approvals necessary to reestablish the use or structure submitted to appropriate county, state and federal agencies within twelve months after the use was discontinued;

(2) The property or structure has been involved in litigation;

(3) Disputes in insurance settlements in the case of fire or casualty;

(4) Delay in transferring title due to probate proceedings; or

(5) Attempts to lease the site are on-going due to:

(a) The length of time involved for marketing the premises; or

(b) The structure is a specialized type of building requiring a specialized type of use due to equipment, processes or configuration.

c. A statement from the property owner merely stating that there is no intent to abandon is not sufficient documentation without a showing of additional actions taken by the property owner to re-establish the use or structure.

G. Nonconforming Landscaping and Screening.
On a lawfully developed property which is nonconforming as to landscaping or screening, a change of use which requires site plan review under Section 40.520.040 shall be brought into compliance with landscape and screening standards in Section 40.520.040E.5..

Section 21. Repealer.

1. Ordinance 2003-11-01 and codified as CCC 40.530.020 are each repealed.

2. That portion of Section 1 of Ordinance 2003-11-01 and codified as CCC 40.530.030 are each repealed.

3. That portion of Section 1 of Ordinance 2003-11-01 and codified as CCC 40.530.040 are each repealed.

4. That portion of Ordinance 2003-11-01 and codified as CCC 40.530.050 are each repealed.

5. That portion of Ordinance 2003-11-01 and codified as CCC 40.530.060 are each repealed.

Section 21. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-11-13 and codified as CCC 40.200.050, are each amended to read as follows:

40.200.050 EXCEPTIONS TO LOT SIZE STANDARDS

* * *

B. Existing Lots of Record.

((1. ~~If, as of June 11, 1980, a lot of record, or the aggregate of abutting lots or land parcels held in single ownership has an area of dimension less than required for the zoning district in which the property is located, the lot or aggregate holdings may be occupied by any permitted use in the district subject to compliance with all other requirements of the district; provided, however, that the use of a lot in a residential district which has an area deficiency shall be limited to a single-family dwelling.~~))

1. If, as of June 11, 1980, a lot of record was lawfully occupied by two (2) or more single-family residences, such lot may be granted short plat approval under Chapter 40.540 of this code in order to permit the segregated sale of such residences, even though some or all of the resulting new lots will have dimensions less than required for the zoning district in which the property is located; provided, however, that the degree of density nonconformity shall not be increased. All lots shall

have a minimum of twenty (20) feet of access to a public or private street.

Section 22. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2009-03-02 and codified as CCC 40.200.070, are each amended to read as follows:

40.200.070 EXCEPTIONS TO SETBACK REQUIREMENTS

* * *

~~((C. Building setback lines which do not meet the requirements of this title but which were legally established prior to June 11, 1980, shall be considered the building line for alterations, remodels, and accessory structures on the lot or parcel, providing that no structure or portion of such addition may further project beyond the established building line.~~

~~D. For the purpose of establishing setbacks from the property lines, any residential lot of record as defined in Section 40.100.070 in the Rural (R-5, R-10 and R-20), Resource (FR-80, FR-40, AG-20 and AG-WL), Urban Reserve (UR-10 and UR-20) and Urban Holding (UH-10, UH-20, UH-40) districts, which has a smaller width, lot depth and/or lot area than that required by this title, may use that residential zoning classification which most closely corresponds to the dimension or dimensions of the lot of record, for the purpose of establishing setbacks from the property lines.~~))

Section 23. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Section 2 of Ordinance 2004-06-10 and codified as CCC 40.210.010, are each amended to read as follows:

40.210.010 FOREST, AGRICULTURE AND AGRICULTURAL-WILDLIFE DISTRICTS (FR-80, FR-40, AG-20, AG-WL)

* * *

Table 40.210.010-3. Setbacks, Lot Coverage and Building Height

Zoning District	Minimum Setbacks[1]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			
FR-80	50[2]	25	50[3]	50[3]	N/A	35[4]
FR-40	50[2]	25	50[3]	50[3]	N/A	35[4]
AG-20	50[2]	25	50[3]	50[3]	N/A	35[4]
AG-WL	None	None	None	None	N/A	None

Zoning District	Minimum Setbacks[4]					Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)	Between buildings on site		
		Street (feet)	Interior (feet)				

[4]*Nonconforming lots subject to the provisions of Section ((~~40.200.070(D)~~)) 40.530.010(D)(2).*

Section 24. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-06-0 5 and codified as CCC 40.210.040, are each amended to read as follows:

40.210.40 URBAN RESERVE DISTRICTS (UR-40, UR-20, UR-10)

* * *

Table 40.210.040-3. Setbacks, Lot Coverage and Building Height

Zoning District	Minimum Setbacks[4]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			
UR-20	50	20, 50[1]	20, 50[1]	20, 50[2]	N/A	35, 50[3]
UR-10	50	20, 50[1]	20, 50[1]	20, 50[2]	N/A	35, 50[3]
UR-40	50	20, 50[1]	20, 50[1]	20, 50[2]	N/A	35, 50[3]

[4]*Nonconforming lots subject to the provisions of Section ((~~40.200.070(D)~~)) 40.530.010(D)(2).*

Section 25. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-09-13 and codified as CCC 40.230.070, are each amended to read as follows:

40.230.070 URBAN HOLDING DISTRICTS (UH-10, UH-20, UH-40)

* * *

Table 40.230.070-3. Setbacks, Lot Coverage and Building Height

Zoning District	Minimum Setbacks[4]				Maximum Lot Coverage	Maximum Building Height (feet)
	Front (feet)	Side		Rear (feet)		
		Street (feet)	Interior (feet)			

[4]*Nonconforming lots subject to the provisions of Section ~~40.200.070(D)~~ 40.530.010(D)(2).*

40.510.020 TYPE II - PROCESS – ADMINISTRATIVE DECISIONS

[4] ((~~See Table 40.260.250-1))~~. Nonconforming lots subject to the provisions of Section 40.530.010(D)(2).

Section 26. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-11-13 and codified as CCC 40.510.020, are each amended to read as follows:

40.510.020 TYPE II - PROCESS – ADMINISTRATIVE DECISIONS

A. Pre-Application Review.

* * *

2. Pre-application review is required for applications, with the following exceptions:
(5) Section ((~~40.530.050~~)) 40.530.010(F)(6), change in nonconforming use;

* * *

Section 27. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-11-09 and codified as CCC 40.350.020, are each amended to read as follows:

40.350.020 TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEM

* * *

G. Level of Service Standards.
1. Level of service or LOS standards shall be as follows:

* * *

d. All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. The signalization of unsignalized intersections shall be at the discretion of the Public Works director and shall not ((~~be~~)) obligate((~~d upon~~)) the county to meet this LOS standard.

However, proposed developments shall not be required to mitigate their impacts in order to obtain a Concurrency approval unless:

(1) the proposed development adds at least 5 peak hour trips to a failing intersection approach;

(2) the projected volume to capacity ratio for the worst lane movement on the that approach with the highest delay, exceeds 0.9 during the peak traffic hour; and,

(3) that same movement is worsened by the proposed development.

Section 28. New. Section 40.200.090 is added to the Clark County Code to read as follows:

40.200.090 SUSTAINABLE COMMUNITIES PILOT PROGRAM

A. Purpose.

The purpose of this section is to establish a pilot program for sustainable development projects. The goal of the program is to encourage the development of buildings and communities that incorporate benchmarks of the Living Building Challenge by allowing departures from code requirements that might otherwise discourage or prevent such buildings from being built.

B. Applicability.

1. Eligible projects. Within urban areas, residential, commercial and mixed use projects with a legal lot of record are eligible to apply. Within rural areas, only residential projects with a legal lot of record are eligible.
2. Enrollment period. The enrollment period for projects undertaken pursuant to this section is limited to five years (5) from the effective date of this ordinance or when six (6) projects have successfully qualified, whichever comes first.

C. Definitions.

For purposes of this section, the following definitions shall apply:

Living Building Challenge	The Living Building Challenge is a performance-based rating system development by the International Living Building Institute to recognize developments that achieve an advanced level of sustainability. Version 2.0 of the Living Building Challenge has twenty (20) required imperatives related to site, water, energy, health, materials, equity and beauty. Projects are certified as "Living Buildings" if they prove to meet all of the program requirements after twelve (12) months of continued operations and full occupancy.

D. Development Standards.

1. Minimum standards. Projects built pursuant to this section meet a minimum of 12 imperatives of the Living Building Challenge including the following:

   a. Imperative 05 Water modified as total building water usage, subtracting harvested rainwater, is twenty-five percent (25%) or less of the average water usage for a comparable building not in the Pilot Program, based on Clark Public Utility estimates or other baseline approved by the responsible official that would provide a comparable estimate; and

   b. Imperative 06 Ecological Water Flow

   c. Imperative 07 Energy mdoified as total building energy usage, subtracting energy generated on site, is twenty-five percent (25%) or less of the average energy usage for a comparable building not in the Pilot Program, based on the Energy Information Administration's 2003 Commercial Buildings Energy Use Survey, Energy Information Administration's 2005 Residential Energy Consumption Survey, or other baseline approved by the responsible official that would provide a comparable estimate;

   d. Imperative 20 Inspriration + Education

2. Components of the project that are included in order to comply with the minimum standards of this program shall remain for five (5) years from project completion.

E. Approval Process.

1. In order to qualify for the Sustainable Communities Pilot Program, the applicant shall submit a building permit that is consistent with all conditions of the land use permit process. The applicant shall also submit a plan demonstrating how their project meets the requirements of this section, including an overall design concept, proposed energy balance, proposed water balance, and descriptions of innovative systems. In addition, an applicant shall include a description of how the project serves as a model for testing code improvements to stimulate and encourage Living Buildings in the county.

2. Departures from the requirements of this title for Pilot Program projects may be allowed if the applicant demonstrates that the departure would result in a development that better meets the goals of the Living Building Challenge or the sustainability benchmarks in Section 40.200.090(D)(1). In making recommendations for departures, the responsible official shall consider the extent to which the anticipated environmental performance of the building would be substantially compromised without the departures.

Specifically, departures from the following code sections may be applicable:

24.17.010(2)	Onsite Septic Systems
40.210.020 (D)	Rural Cluster Development
40.220.020-3	Minimum Setbacks
40.340.010-4	Minimum Required Parking
40.340.010(4)(a)	Location of Parking Facilities
40.350.030(4)(b)(2)	Driveways
40.350.030(B)(12)(b)	Turnaround Design
40.370.010(C)	Connection to Public Sewer
40.370.010(C)(1)– 3)	Sewer Waiver Requirements
40.370.020(C)(2)	Connection to Public Water
40.370.020(C)(2)(a) – (2)(c)	Conditions Required for Not Connecting to Water
40.385.020	Standards – Stormwater Control

3. An eligible project shall qualify for the Pilot Program upon determination by the responsible official that a complete application has been submitted that meets the requirements in Section 40.200.090(E).

4. No later than two (2) years after issuance of a final Certificate of Occupancy for the project, or such later date as may be allowed by the responsible official for good cause, the owner shall meet with the responsible official to demonstrate how the project has met the standards in Section 40.200.090(D)(1).

5. Additional requirements may be established by the reponsible official to qualify for incentives.

Section 29. New. A new section is added to the Clark County Code to read as follows:

14.05.100 SUSTAINABLE COMMUNITIES PILOT PROGRAM

Qualified projects under the Sustainable Communities Pilot Program outlined in Seciton 40.200.090.may propose alternative approaches that meet the safety requirements of the building code.

Section 30. New. A new section is added to the Clark County Code to read as follows:

15.12.060 SUSTAINABLE COMMUNITIES PILOT PROGRAM

Qualified projects under the Sustainable Communities Pilot Program outlined in Seciton 40.200.090.may propose alternative approaches that meet the safety requirements of the fire code.

Section 31. New. A new section is added to the Clark County Code to read as follows:

24.17.310 SUSTAINABLE COMMUNITIES PILOT PROGRAM

Qualified projects under the Sustainable Communities Pilot Program outlined in Seciton 40.200.090.may propose alternative approaches that meet the safety requirements of the onsite sewage system rules and standards.

Section 32. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-06-05 and codified as CCC 40.220.010, are each amended to read as follows:

40.220.010 SINGLE-FAMILY RESIDENTIAL DISTRICTS (R1-20, R1-10, R1-7.5, R1-6 and R1-5)

* * *

Table 40.220.010-2. Lot Requirements

Zoning District	Residential Density for PUDs (d.u./acre)[1]	Minimum Lot Area (sq. ft.)	Maximum Average Lot Area (sq. ft.)	Average[2] Minimum Lot Width (feet)	Average[2] Minimum Lot Depth (feet)
R1-20	2.2 – 1.4	20,000	30,000	100	~~((130))~~ 100
R1-10	4.4 – 2.9	10,000	15,000	80	90
R1-7.5	5.8 – 4.1	7,500	10,500	~~60~~ 50	90
R1-6	7.3 – 5.1	Average 6,000; 5,000 per duplex unit	8,500	50	90
R1-5	8.7 – 6.2	Average 5,000; 4,000 per duplex unit	7,000	45	~~((75))~~ 65

[1] *The maximum and minimum density is for the purpose of calculating densities for planned unit developments. Densities shall be calculated based on the gross area of the site minus any public rights-of-way, private road easements, or street tracts.*

[2] *Average for each individual lot.*

(Amended: Ord. 2007-06-05; Ord. 2009-03-02; Ord. 2009-06-01)

Table 40.220.010-3. Setbacks, Lot Coverage and Building Height

Zoning District	Minimum Setbacks				Maximum Lot Coverage	Maximum Building Height (feet)
	Front[3,6] (feet)	Side[4,5]		Rear[4,5] (feet)		
		Street (feet)	Interior (feet)			
R1-20	~~((20))~~ 10[8]	10	~~((5))~~ 10[9]	~~((5))~~ 20	50%[1]	35[7]
R1-10	~~((20))~~ 10[8]	10	~~((5))~~ 7[9]	~~((5))~~ 15	50%[1]	35[7]
R1-7.5	~~((20))~~ 10[8]	10	5	~~((5))~~ 10	50%[1]	35[7]
R1-6	~~((20))~~ 10[8]	10	5	~~((5))~~ 10	50%[2]	35[7]
R1-5	~~((20))~~ 10[8]	10	5	~~((5))~~ 10	50%[2]	35[7]

[1] *Carports and solar energy systems are excluded from this provision; provided, that the total lot coverage limitation is not exceeded by more than ten percent (10%) as a result of these exceptions.*

[2] *Solar energy systems are excluded from this provision; provided, that the total lot coverage limitation is not exceeded by more than ten percent (10%) as a result of this exception.*

[3] *Front setbacks shall be measured from the edge of any street right-of-way, street tract, street easement, or driveway easement that provides access to the lot, including any separate pedestrian easement that may exist between a street and the front setback line.*

[4] *Setbacks to driveway and pedestrian easements that do not provide access to a subject lot shall be a minimum of five (5) feet.*

[5] *Setbacks from alleys to all structures including entrances to garages shall be a minimum of five (5) feet.*

[6] *For those lots that receive vehicle access only by an alley, the front setback may be reduced to ten (10) feet.*

[7] *Accessory buildings shall meet the height requirements of Section 40.260.010(D).*

[8] *Front setbacks for garages in these zones shall be a minimum of 18 ft.*

[9] *The minimum setbacks for interior side yards on pie shaped lots shall be 5 feet.*

* * *

Section 33. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2009-01-01 and codified as CCC 40.100.070, are each amended to read as follows:

40.100.070 DEFINITIONS

Bed and breakfast establishment	"Bed and breakfast establishment" means a residence where an individual or family resides and rents up to six (6) bedrooms to guests and provides breakfast to those guests.

Section 34. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2004-06-10 and codified as CCC 40.260.050, are each amended to read as follows:

40.260.050 BED AND BREAKFAST ESTABLISHMENTS

~~B. Definition.~~

~~A bed and breakfast establishment shall mean a residence where an individual or family resides and rents up to six (6) bedrooms to guests and provides breakfast to those guests.~~

B. ((~~C.~~)) Use-Related Requirements.

* * *

C. ((~~D.~~)) Site-Related Standards.

* * *

D. ~~Application Required.~~ Approval Process.

Bed and breakfast establishments may be permitted in all zoning districts~~,~~ except ML and MH. Applications for ~~a~~ bed and breakfasts shall be reviwed as follows:

1. For renting of up to two (2) bedrooms, a ~~shall be processed as~~ Type I ~~I~~ process will be used~~;~~. ((~~For a Type I II review,~~)) The applicant shall submit a site plan application including a site plan showing the location of off-street guest parking and a narrative addressing how the proposal meets the criteria in this section.
2. For renting of ((~~applications for renting~~)) three (3) to six (6) bedrooms, a ((~~shall be processed as a~~)) Type II-A ((~~III~~)) process will be used pursuant to Section 40.510.025. ((~~conditional use review. For a Type IIA III review,~~)) The applicant shall submit conditional use and site plan review applications with a statement indicating the potential traffic and land use impacts of the proposal on adjacent streets and properties. Requests must conform to all relevant county and state codes including fire, building, road and health standards.

* * *

Section 34. Amendatory. Section 1 of Ordinance No. 2003-11-01, as most recently amended by Ordinance No. 2009-12-01 and codified as CCC 40.320.010, are each amended to read as follows:

40.320.010 LANDSCAPING AND SCREENING ON PRIVATE PROPERTY

* * *

Table 40.320.010-1 Landscaping Standards

Zoning of land abutting development site		Zoning of Proposed Development											
		Single-family[3,4]		Multifamily[4]		Office Residential[4], Employment and University		Commercial and Mixed Use		Industrial and Airport			
		R1, R, RC, UH and UR zones		R-12 through R-43		OR, OC, BP and U zones		All C zones, MX		ML, A		MH	
		Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street	Separated from site by a street	Not separated by a street
Single-family	All R1, R-5, R-10, R-20, UH-10[5], and RC zones	None	None	L2 10-ft	L3 5-ft	L2 10-ft	L4 in 10-ft L5 in 15-ft	L2 10-ft	L4 in 10-ft L5 in 15-ft	L3 10-ft	L4 in 40-ft L5 in 50-ft	L3 10-ft	n 40-ft L5 in 50-ft
Multifamily	R-12 – R-43	None	L3 5-ft	L1 5-ft	L1 5-ft	L1 5-ft	L2 5-ft	L2[1] 10-ft	L4 in 10-ft L5 in 15-ft	L3 10-ft	L4 in 40-ft L5 in 50-ft	L3 10-ft	L4 in 40-ft L5 in 50-ft
Office Residential, Employment and University	OR, OC, BP and U zones	L1 5-ft	L3 10-ft	L1 10-ft	L2 5-ft	L2 5-ft	L3 5-ft	L2[1] 10-ft	L3 5-ft	L2 10-ft	L4 in 10-ft L5 in 15-ft	L3 10-ft	L4 in 10-ft L5 in 15-ft
Commercial and Mixed Use	All C zones, MX, UR-10	L1 5-ft	L3 10-ft	L2 5-ft	L3 10-ft	L2 5-ft	L3 10-ft	L2[1] 10-ft	L1[2] 0 – 5-ft	L2 10-ft	L3 5-ft	L2 10-ft	L3 10-ft
Industrial and Airport	ML, A, UR-20, UR-40, UH-20, UH-40[5]	L1 5-ft	L3 20-ft	L2 5-ft	L3 20-ft	L2 5-ft	L3 10-ft	L2 10-ft	L2 5-ft	L2 10-ft	L1 5-ft	L2 10-ft	L3 10-ft
	MH	L1 5-ft	L3 50-ft	L2 5-ft	L3 50-ft	L2 5-ft	L3 15-ft	L2 10-ft	L3 10-ft	L2 10-ft	L3 10-ft	L2 10-ft	L1 5-ft
Resource	FR-80, FR-40, AG-20, AG-WL	~~((L1 5-ft))~~	~~((L3 50-ft))~~	L2 5-ft	L3 50-ft	L2 5-ft	L3 10-ft	L2 10-ft	L2 5-ft	L2 10-ft	L1 5-ft	L2 10-ft	L3 10-ft

Section 35. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2009-06-01 and codified as CCC 40.220.010, are each amended to read as follows:

40.220.010 SINGLE-FAMILY RESIDENTIAL DISTRICTS (R1-20, R1-10, R1-7.5, R1-6 AND R1-5)

* * *

Table 40.220.010-3. Setbacks, Lot Coverage and Building Height

Zoning District	Minimum Setbacks				Maximum Lot Coverage	Maximum Building Height (feet)
	Front[3,6] (feet)	Side[4,5,8]		Rear[4,5,8] (feet)		
		Street (feet)	Interior (feet)			
R1-20	20	10	5	5	50%[1]	35[7]
R1-10	20	10	5	5	50%[1]	35[7]
R1-7.5	20	10	5	5	50%[1]	35[7]
R1-6	20	10	5	5	50%[2]	35[7]
R1-5	20	10	5	5	50%[2]	35[7]

[1] Carports and solar energy systems are excluded from this provision; provided, that the total lot coverage limitation is not exceeded by more than ten percent (10%) as a result of these exceptions.

[2] Solar energy systems are excluded from this provision; provided, that the total lot coverage limitation is not exceeded by more than ten percent (10%) as a result of this exception.

[3] Front setbacks shall be measured from the edge of any street right-of-way, street tract, street easement, or driveway easement that provides access to the lot, including any separate pedestrian easement that may exist between a street and the front setback line.

[4] Setbacks to driveway and pedestrian easements that do not provide access to a subject lot shall be a minimum of five (5) feet.

[5] Setbacks from alleys to all structures including entrances to garages shall be a minimum of five (5) feet.

[6] For those lots that receive vehicle access only by an alley, the front setback may be reduced to ten (10) feet.

[7] *Accessory buildings shall meet the height requirements of Section 40.260.010(D).*

[8] Side and rear setbacks from abutting property zoned for natural resource or surface mining uses shall be a minimum of fifty (50) feet for all structures.

Section 36. Amendatory. Section 1 of Ordinance 2003-11-01, as most recently amended by Ordinance 2007-06-05 and codified as CCC 40.260.220, are each amended to read as follows:

40.260.220 TEMPORARY USES AND STRUCTURES

* * *

E. Permits.

1. The responsible official may approve permits for temporary uses and structures, with conditions to mitigate negative impacts. Uses may be allowed for a period of not more than eighteen (18) months ~~one (1) year~~, or less as may be specified by the responsible official.

ADOPTED on this 10th day of August, 2010.

Attest:

Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
FOR CLARK COUNTY, WASHINGTON

Steve Stuart, Chair

APPROVED AS TO FORM ONLY:
Art Curtis, Prosecuting Attorney

By:
Christopher Horne
Sr. Deputy Prosecuting Attorney

Tom Mielke, Commissioner

Marc Boldt, Commissioner