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Thurston County Superior Court #11-2-01733-5
IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

SSHI LLC, a Delaware limited liability corporation, dba DR Horton,

Petitioner/Appellant,

vs.

THE CITY OF OLYMPIA,
a Washington municipal corporation,

Respondent,

OLYMPIA SAFE STREETS CAMPAIGN, a Washington Nonprofit Corporation,

Intervenor.

APPELLANT'S OPENING BRIEF

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ORIGINAL

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NATURE OF THE CASE

COMES NOW Plaintiff/Petitioner SSHI LLC, a Delaware limited liability corporation, dba DR Horton, ("DR Horton") and its attorneys of record; and submits this Opening Brief in its Land Use Petition.

Despite six years of detailed review, a favorable Design Review Board decision, favorable staff report, and consistently strong support from the City staff and attorney, the Olympia City Council denied DR Horton's Neighborhood Village Master Plan. The City's denial was unlawfully based on an unwritten and unprecedented requirement that DR Horton obtain a commitment of public bus service from an independent transit authority, Intercity Transit. The City has no standards supporting denial, nor did the City give DR Horton guidance on what would be good enough to satisfy the City's demand. To the contrary, the City acknowledged its denial of the Master Plan makes it impossible for DR Horton to ever obtain Master Plan approval to develop the site under the City's Neighborhood Village zoning.

ASSIGNMENTS OF ERROR

1. The City Council erred in adopting all the Hearing Examiner findings to the extent those Examiner findings are assigned error herein. Ordinance 6762, Findings 19-21.

2. The City Council erred finding that the record was inadequate to determine whether the Trillium Master Plan meets City requirements for pedestrian and bicycle connections. Ordinance 6762, Finding 22.

3. The City Council erred finding that the record was inadequate to determine whether the Trillium Master Plan is consistent with Comprehensive Plan Policy 33.5. Ordinance 6762, Finding 23.

4. The Hearing Examiner erred in finding that the Trillium applicant was not willing to sell a school site to the Olympia School District. Remand Recommendation, April 26, 2011, Finding 22.

5. The Hearing Examiner erred in finding that no additional fixed-route service will be added until Log Cabin Road is extended east to Wiggins Road without recognizing the additional caveats stated by Intercity Transit's representatives and its adopted Plan. Original Recommendation, October 28, 2010, Finding 51; Reconsideration Recommendation, December 6, 2010, Conclusions 14, 15.

To the extent the Court requires assignments of error to conclusions of law, the following assignments are made:

6. The City Council erred in adopting all the Hearing Examiner conclusions to the extent those Examiner conclusions are assigned error herein. Ordinance 6762, Conclusions 2, 3,4.

7. The City Council erred in not adopting Hearing Examiner conclusions 40, 88 and 90 and paragraph f on page 39 of the Hearing Examiner's April 26, 2011 decision. Ordinance 6762, Conclusion 5.

8. The City Council erred in ruling that a more traditional residential development would occur at the site and therefore the denial of the Master Plan would not deny DR Horton reasonable economic use of the property. Ordinance 6762, Conclusion 5.

9. The Hearing Examiner erred in concluding that the City Code requirement for a 'sheltered transit stop' allowed for interpretation and that the phrase 'sheltered transit stop' should be interpreted to require assurance of transit service. Original Recommendation, October 28, 2010, Conclusions 21-25; 28-29. Reconsideration Recommendation, December 6, 2010, Conclusion 16, 17, 28; Remand Recommendation, April 26, 2011, Conclusions 8-13, 43-49.

10. The Hearing Examiner erred in concluding it was not vague to require assurance of fixed-route transit service without any other elaboration, definition or standards. Remand Recommendation, April 26, 2011, Conclusion 43.

11. The Hearing Examiner erred in concluding that City Code assumes that 'mass transit' will be present at some time of neighborhood center buildout. Original Recommendation, October 28, 2010, Conclusion 26.

12. The Hearing Examiner erred in concluding that City policies are not satisfied through transit services such as vanpool and dial-a-lift service, but instead only by fixed-route bus service. Reconsideration Recommendation, December 6, 2010, Conclusion 25.

13. The Hearing Examiner erred in concluding that the Master Plan should be treated as a rezone for purposes of evaluating consistency with the Comprehensive Plan, and in concluding that transit stops without transit, and presumably this Master Plan, are not consistent with Comprehensive Plan policies. Original Recommendation, October 28, 2010, Conclusion 27; Reconsideration Recommendation, December 6, 2010, Conclusion 19-23; Remand Recommendation, April 26, 2011, Conclusions 6-7, 11, 13, 43.

14. The Hearing Examiner erred in concluding the Master Plan is inconsistent with the City Code and Comprehensive Plan with respect to transit service. Original Recommendation, October 28, 2010, Decision A; Reconsideration Recommendation, December 6, 2010, Conclusions 18, 29, Decision E.

15. The Hearing Examiner erred evaluating DR Horton's statutory and constitutional rights and in concluding that the City did not violate DR Horton's rights to be free from an unconstitutional taking and to substantive due process by denying the Master Plan. Remand Recommendation, April 26, 2011, Conclusions 14-25, 26-41; Remand Recommendation, April 26, 2011, Conclusion 50, Decision A.

16. The Hearing Examiner erred in concluding that Comprehensive Plan Policy 33.5 should be directly applied to the Master Plan and that an evidentiary record should be developed related to that Policy. Remand Recommendation, April 26, 2011, Conclusion, 51-60.

Assignments of error regarding the Superior Court's findings of fact and conclusions of law appear are not appropriate under a Land Use Petition because "this court simply disregards such findings and conclusions as surplusage." *Wellington River Hollow, LLC v. King County*, 113 Wn. App. 574, 580 ftnt. 3, 54 P.3d 213, *review denied*, 149 Wn.2d 1014 (2003).

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Was it unlawful for the City Council to deny the Master Plan based on an undefined requirement, not contained in City Code, that DR Horton obtain a commitment from Intercity Transit for fixed-route bus service? Assignment Nos 5, 6, 8-15

2. Did the City Council err by reserving until a future date its decision on whether DR Horton must to accommodate a school site in its master Plan based on Comprehensive Plan Policy 33.5? Assignment Nos. 3, 4, 16.

3. Did the City Council err by reserving until a future date its decision on whether the Trillium Master Plan contains adequate pedestrian and bicycle connectivity? Assignment Nos. 2, 7.

STATEMENT OF THE CASE

Site Description and Master Plan Application History. This case involves an approximately 80-acre site located in the southern portion of the City of Olympia; site address of 3355 Morse Merryman Road SE (the "Property" or the "Trillium Property").[1][2] Years ago, the City designated the Property as "Neighborhood Village" under its Comprehensive Plan, limiting the Property's zoning to Neighborhood Village ("NV").[3]

The Neighborhood Village zone is used only for large properties that can accommodate all aspects of a master planned village. OMC 18.05.050 (B). Because of the various components required under the NV zone, such

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[1] All references to the certified Administrative Record are made to the original City bates stamped page number and cited herein in using the abbreviation "AR". Where applicable, reference is also provided to the documents' assigned Hearing Examiner Exhibit ("Ex.") number.

[2] Bates stamped Administrative Record ("AR") page 000001; AR 000125 (color copy attached).

[3] Olympia Comprehensive Plan, pages 73-74, Figure 1-5; Olympia Municipal Code ("OMC") 18.05.050.

as ensuring a mix of housing types, commercial element, and consolidated open space, the NV zone requires approval of a Master Plan as a prerequisite to any land development. OMC 18.05.050 (A). An applicant must balance a number of different elements in designing the Neighborhood Village based on the site's physical features, such as topography, significant trees and critical areas: mixes of housing density and styles (single family, townhome etc.), commercial areas, different types of open space, utility services,. OMC 18.05.040-.100. The Master Plan process is intended "to permit greater flexibility and, consequently, more creative and imaginative design." OMC 18.57.020 (A).

The Trillium Master Plan proposes a 500-unit Neighborhood Village made up of five housing types and commercial areas, strategically positioned across the Property.[4] This project size barely exceeds the minimum allowed density of 7 to 13 units per acre.[5] The Village design demands a complex balancing of a variety of competing requirements that are intended to result in a dense yet useable residential urban village in light of the property's physical and topographic constraints. *See generally* chapters 18.05 and 18.05A OMC. The design was further constrained by

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[4] Exhibit ("Ex.") 36; Ex. 191, AR page 004491 (master plan layout). DR Horton refers to this particular copy of the Master Plan throughout the brief as it is the best copy and the most comprehensive single-page layout.
[5] AR 003420 (power point project summary); OMC 18.05.080.

the City's demand that DR Horton set aside a substantial portion of the site for the City to acquire sometime in the future for a water reservoir.[6] Removal of this area from the useable site meant that DR Horton had to undertake extra effort to balance the various Neighborhood Village elements required to meet the adopted NV regulations and obtain Master Plan approval.

Pursuant to City Code standards, the Master Plan contains a centrally located open space and recreation area, with park benches and other amenities, and a retail/commercial space.[7] The Village's center is within a ¼-mile radius of over ninety-percent of its homes and is integrated into the community by walking trails and sidewalks. Density is clustered around the Village center with varying sizes of multifamily and townhomes cascading outward to larger lot detached single-family homes. The Village will include sidewalks, street trees and roadside landscaping designed to City standards with pedestrian and bicycle connections both internally and to the surrounding community.[8] A sheltered transit stop will be built at a location designated by Intercity Transit.[9]

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[6] Area labeled Tract EE on the site plans. Ex. 36; Ex. 701, page 55, lines 16-25.
[7] AR pages 003412-3418; see also Ex. 701, pages 43-56 (Chris Ferko, project manager, description of proposal using power point in Ex. 35).
[8] *Id.*; OMC 18.05.050 (B).
[9] Ex. 1, AR page 000007-8; Ex. 701, page 60, lines 2-20; OMC 18.05.050 (C)(1), (4).

The Trillium Master Plan application was submitted in 2005.[10] After almost three years of City review, the City's Design Review Board (the "DRB") held a public hearing On May 22, 2008, followed by an extended discussion of whether and how the proposal complied with the various design elements in chapters 18.05 and 18.05A OMC, the Neighborhood Village Master Plan design criteria. The DRB then **unanimously** recommended approval of the Trillium Master Plan.[11]

Despite this favorable review, the City delayed for another two years before submitting the project to the Hearing Examiner, even though DR Horton requested many times that City staff complete its review. In total, the City reviewed the Master Plan application for more than five years before scheduling the Master Plan open record hearing before the City's Hearing Examiner. In part, this delay was due to City staffing assignments; at least four different planners were sequentially assigned to the project. [12] Each time a planner was replaced, the new planner needed

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[10] Ex. 502, Hearing Examiner Original Recommendation, page 15, Finding 2. The City's Index to the Administrative Record incorrectly identifies Exhibit A as the Master Plan Application, however the document contained therein was the later-submitted Preliminary Plat Application. The City did not include a copy of the Master Plan application in its Administrative Record.

[11] Ex. 700, page 130, lines 19-25 ff (motion for approval); page 134, lines 2-6 (approval).

[12]The City's delays were so extensive that the City started and completed review and ultimately approved a master plan for the adjacent and very similar 71-acre site, known as Bentridge, all during just staff's review of the Trillium Master Plan.Ex. 28, 29, 200.

additional time to review the same material and felt compelled to hold a new opinion on how best to balance the various Master Plan elements.

Staff Recommendation of Approval for Trillium Master Plan and Hearing Examiner Open Record Review. On June 14, 2010, City staff formally recommended that the City approve Trillium Master Plan.[13] Staff found the Plan meets all neighborhood village criteria, including providing a sheltered transit stop pursuant to OMC 18.57.050.[14]

During June and July 2010, the City's Hearing Examiner held a 4-day consolidated hearing on the Master Plan, preliminary plat and DR Horton's SEPA appeal.[15] The Hearing Examiner gave the public ample opportunity to comment; the voluminous record reflects the amount of evidence submitted by the public, the City and DR Horton.

On October 28, 2010, the Hearing Examiner concluded that the Trillium Master Plan complied with all City Code requirements either directly or through conditions of approval, except for a surprising conclusion that DR Horton should have to obtain a commitment from

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[13] Ex. 1.The City finally issued a SEPA mitigated determination of nonsignificance ("MDNS") in the spring of 2010. Ex. 1 (C). DR Horton timely filed an administrative appeal of the MDNS, appealing three Mitigation Measures, each of which would have required DR Horton to construct and/or fund construction of offsite roadway improvements without legal or evidentiary justification. Ex. 1 (O). The Superior Court dismissed this aspect of the Land Use Petition as unripe until a preliminary plat is approved. DR Horton and the City concurred with such ruling.

[14] Ex. 1, AR pages 000003-8.

[15] Ex. 701-704.

Intercity Transit, an independent transit authority, to provide some undisclosed level of fixed-route public bus service at some undetermined time during buildout.[16] He did not provide any mechanism by which the DR Horton or even the City could demand any commitment from Intercity Transit; nor did he provide an example of how this had been accomplished on any other project.

The Examiner recognized that the plain language of City Code Master Plan elements did not contain his new requirement. Instead, he crafted it out of general City Code purposes for the Neighborhood Village, City Code requirements that he felt were not sufficient on their face, and Comprehensive Plan Policies.[17] The Examiner stated his concern would be satisfied "if the evidence showed that transit service would be provided at an appropriate stage in the build-out of the development."[18] However, he did not identify that 'appropriate stage', what extent of fixed-route service would be sufficient, or why fixed-route bus service from Intercity Transit was the only thing he would acknowledge as transit service, as opposed to other transit services, such as Dial-a-lift and vanpool, that

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[16] Ex. 502, *Original Recommendation*, page 29, Conclusion 19; page 32, Conclusion 29. The Hearing Examiner recommendations are found in multiple locations in the Administrative Record. So the Court can refer to any copy in reviewing this brief, DR Horton relies on the original page numbers of each recommendation. DR Horton references the copies in Exhibit 502, the complete set of recommendations submitted to Council in June, 2011.

[17] *See e.g.* Ex. 502, *Original Recommendation*, page 30, Conclusion 25.

[18] Ex. 502, *Original Recommendation*, page 31, Conclusion 28.

would be readily available.[19] The Examiner recognized that his recommendation would put DR Horton in an impossible position as there is no condition that the City could legally impose on DR Horton in this respect because Intercity Transit is an independent agency.[20]

Additionally, the Examiner recommended that the Council look at two other considerations. First, he voiced concern related to street spacing, block sizes and connectivity which he felt could be addressed through design edits.[21] Second, the Examiner recommended the City Council consider whether the Olympia School District's policies on bussing and portables are consistent with the Comprehensive Plan.[22]

Both DR Horton and the City staff and City Attorney's office requested reconsideration of the Hearing Examiner's recommendation on the above issues: transit service, pedestrian/bicycle connections and School District policies.[23] Based on these motions, the Examiner issued a new Recommendation on Reconsideration on December 6, 2010. He retained his recommendations regarding transit and School District policies, concluded that the Master Plan complies with City standards and

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[19] *See e.g.* Ex. 502, *Original Recommendation*, page 23, Finding 54; Exhibit 150.
[20] Ex. 502, *Original Recommendation*, page 32, Conclusion 29; page 43, Decision A.
[21] Ex. 502, *Original Recommendation*, page 44, Decision C.
[22] Ex. 502, *Original Recommendation*, page 43, Decision B.
[23] Ex. 150-151.

policies regarding street spacing and block sizes, but now identified new concerns over bicycle/pedestrian connectivity.[24]

These recommendations were then forwarded to the City Council for final decision. Despite months of review, multiple days of hearings and discussion on virtually every aspect of the Master Plan, the City Council found that the Hearing Examiner's reconsideration process failed to allow for sufficient public input.[25] The Council required the Hearing Examiner to reopen the public hearing for additional evidence and testimony on the three reconsideration issues: transit, School District bussing and portable policies, and street spacing/block sizes/connectivity.

At the same time, the City removed the most recently assigned staff planner, Brett Bures, from further activity on the Master Plan, stating "staff offers no further analysis regarding the matter...."[26] In an unprecedented step, the City had no planner available for questions or to address staff's recommendation of Master Plan approval and its motion for reconsideration.[27]

The Hearing Examiner held two more open record hearings on March 28 and 29, 2011, accepting another substantial volume of written evidence

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[24] Ex. 502, *Reconsideration Recommendation*, pages 27-28; Decisions E, F, G H, I, K.
[25] Ex. 502, Resolution M-1763.
[26] See Ex. 197A, 005150 (Planning Manager submitted staff report); Ex. 708, page 41, lines 11-16.
[27] Ex. 711, *6-21-11 Transcript*, page 14, lines 7-17.

and testimony on all three topics.[28] DR Horton also voluntarily incorporated many of Olympia Safe Street Campaign's requested pedestrian and bicycle connections into the master plan design.[29] The City Attorney provided further legal support of the Trillium Master Plan.[30]

On April 26, 2011, the Hearing Examiner issued his third recommendation based on the additional information that had been submitted by the parties and the public.[31] The Examiner retained his recommendation that the Master Plan be denied based on lack of fixed-route bus service from Intercity Transit.[32] However, the Examiner implicitly conceded the resulting illogical and likely illegal nature of such a denial since DR Horton would be left with no economic use of the Trillium Property.[33] The Examiner concluded the Master Plan met the all the City's standards and policies related to street spacing, block size and connectivity.[34] Finally, the Examiner rescinded his recommendation that the Council consider School District policies on bussing and portables.[35]

However, the Examiner questioned for the first time whether the City should require DR Horton to "sell a school site to the School District"

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[28] Ex. 708-709.
[29] Ex. 191, AR page 004491.
[30] *See e.g.* Ex. 709, 300-337.
[31] Ex. 502, *Remand Recommendation.*
[32] Ex. 502, *Remand Recommendation*, page 38, Decision A.
[33] Ex. 502, *Remand Recommendation*, page 27, Conclusion 40.
[34] Ex. 502, *Remand Recommendation*, pages 38-39, Decisions C-F.
[35] Ex. 502, *Remand Recommendation*, page 38, Decision B.

under Comprehensive Plan Policy PF 33.5.[36] The School District never made such a request under the Master Plan despite having multiple opportunities for comment and even sending representatives to testify regarding the Plan and benefits the District would receive. The Examiner recognized this was an issue of first impression, despite this being his third recommendation, which he did not raise until after he closed the record.[37] The Examiner did not identify any authority for him to exceed the scope of remand defined by Council. As a result, DR Horton never had an opportunity to provide evidence or meaningful argument on this issue.

City Council Review and Decision. The City Council finally undertook substantive review of the Master Plan on June 21, 2011, more than six years after the application was submitted. Council elected to hold yet another hearing allowing members of the public and DR Horton to provide argument related to the Master Plan. Council did not ask for evidence related to Policy 33.5 or fundamentally recognize that the School District had not requested a school site as part of the Master Plan.

By the time of Council review, the record was voluminous, containing extensive reports, analysis, design, and public comment. In total, nine hearing dates with dozens of hours of testimony were held by the DRB,

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[36] *Id.*
[37] Ex. 502, *Remand Recommendation*, page 31, Conclusion 61.

the Examiner and Council. Additionally, throughout the Master Plan process, DR Horton held neighborhood and individual meetings over nearly six years, both as required by the City and voluntarily.

Despite the massive amount of information in the record and favorable review by the DRB, City staff and even the Examiner (but for the transit issue), Council voted five to two to deny the master plan.[38] The basis for Council's denial appears to have been based on the Examiner's requirement that Intercity Transit provide fixed-route bus service through the development, without providing any parameters for what such requirement entails. The Council newly also questioned whether the Neighborhood Village zoning of this Property was desirable, despite the Council having imposed that zoning zone the Property years before and never previously expressing any desire to change that zoning.[39]

Mayor Mah warned the Council that implying a fixed-route bus service requirement sets an impossible standard.[40] Councilmember Rogers stated that the City's own Code sets up and impossible standard.[41] Councilmember Rogers even apologized to DR Horton for the City having

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[38] Ex. 711, page 156, lines 14-23.
[39] *See e.g.* Ex. 711, page 136, lines 6-21; page 137, lines 16-19; page 138, lines 4-7; page 152, lines 18-22.
[40] Ex. 711, page 154, lines 16-22.
[41] Ex. 711, page 136, lines 7-9.

made DR Horton go through so much work.[42] Councilmember Roe stated a belief that it did not make sense to put in high density housing on the Property despite the fact that the Master Plan must meet the City's required Neighborhood Village minimum density.[43]

Council, again voting five to two, adopted Ordinance 6762 on July 19, 2011.[44] The Council did not set forth any of its own substantive findings or conclusions to explain its denial.

The Council indicated serious lack of confidence in their decision and implicitly recognized that the decision could well be remanded to them.[45] The Council effectively 'punted' certain decisions by concluding that the record was 'inadequate' to determine (a) whether the Master Plan meets the requirements for bicycle and pedestrian connections (without explaining Councils' disagreement with the Examiner's favorable recommendation), and (b) whether DR Horton should have been required to sell part of the Property for a school site under Comprehensive Plan Policy 33.5 (without requesting argument or evidence on the issue).[46]

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[42] Ex. 711, page 137, lines 8-9.
[43] Ex. 711, page 137, lines 16-19.
[44] Ex. 506.
[45] Ex. 711, page 140, lines 24-25; page 141, lines 1-2; page 141, lines 18-22; page 144, lines 20-24.
[46] Ordinance 6762/Ex. 506, Findings 22 and 23. Confusingly, the Council adopted Hearing Examiner findings contrary to its own findings. Ordinance 6762/Ex. 506, Findings 19-21. The Council adopted all Hearing Examiner conclusions with the exception of certain Hearing Examiner conclusions regarding Policy 33.5 and

ARGUMENT

A. Standards of Review.

This court may grant relief under the Land Use Petition Act ("LUPA"), chapter 36.70C RCW, based on the following standards:

> (a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;
> (b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;
> (c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;
> (d) The land use decision is a clearly erroneous application of the law to the facts;
> (e) The land use decision is outside the authority or jurisdiction of the body or officer making the decision; or
> (f) The land use decision violates the constitutional rights of the party seeking relief.

RCW 36.70C.130 (1).

This Court stands in the same position as the Superior Court in reviewing the Land Use Decision reviewing the administrative record and any other evidence accepted by the Court. *Wenatchee Sportsmen Association v. Chelan County*, 141 Wn.2d 169, 176, 4 P.3d 123 (2000); RCW 36.70C.120.

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connectivity. Ordinance 6762/Ex. 506, Conclusion 4 (rejecting Conclusions 61, 88 and 90 of *Remand Recommendation*).

Standards (a), (b), (e), and (f) of RCW 36.70C.130 (1) present questions of law, which this Court reviews *de novo*. *Abbey Road Group, LLC v. City of Bonney Lake*, 167 Wn.2d 242, 250, 218 P.3d 180 (2009).

Under Standard (c), a factual finding must be supported by substantial evidence in the record. *Abbey Road*, 167 Wn.2d 242, 250. "Substantial evidence" is a sufficient quantity of evidence to persuade a fair minded person of the truth or correctness of a determination of fact. *Id.* While the Court views the evidence and reasonable inferences therefrom in the light most favorable to the party who prevailed in the highest forum that exercised fact finding authority, the Court must reject a city's decision that is not based on substantial evidence. *See e.g. Benchmark Land Company v. City of Battle Ground*, 146 Wn.2d 685, 694, 49 P.3d 860 (2002); *Biermann v. City of Spokane*, 90 Wash. App. 816, 960 P.2d 434, *review denied* 137 Wn.2d 1004 (1998).

Under Standard (d), a decision is "clearly erroneous" if the Court is left with the definite and firm conviction that a mistake has been committed. *Wenatchee Sportsmen*, 141 Wn.2d 169, 176. The decision may be clearly erroneous even if some evidence supports the local government's decision. *Id.*; *Norway Hill Preservation and Protection Ass'n v. King County*, 87 Wn.2d 267, 274, 552 P.2d 674 (1976).

B. Rules of Municipal Code Interpretation.

i. City Codes must be expressly adopted using clear standards.

The construction of Olympia Municipal Code is a question of law which this Court reviews *de novo*. *Faben Point Neighbors v. City of Mercer Island*, 102 Wn. App. 775, 11 P.3d 322 (2000). Any requirement the City seeks to impose when reviewing an application must be expressly adopted in City Code or other written regulations and contain clear standards which are neither vague nor overly subjective. *Anderson v. City of Issaquah*, 70 Wn. App. 64, 851 P.2d 744 (1993); *Burien Bark v. King County*, 106 Wn.2d 868, 725 P.2d 994 (1986).

> The regulation of land use must proceed under an express written code and not be based on ad hoc unwritten rules so vague that a person of common intelligence must guess at the law's meaning and application.

City of Seattle v. Crispin, 149 Wn.2d 896, 905, 71 P.3d 208 (2003), (citing to *Burien Bark*, 106 Wn.2d 868, 872).

ii. The court applies the plain language of an unambiguous City Code without construction or deference to the City's proposed interpretation.

Unambiguous statutes and municipal codes must be applied based on their plain language and are not subject to further interpretation or construction unless they are clearly ambiguous. *Faben Point*, 102 Wn. App. 775, 778 9 (city codes, i.e. municipal ordinances, are the equivalent of statutes); *West Hill v. City of Olympia*, 115 Wn. App. 444, 63 P.3d 60

(2003). A City has no authority to independently construe legislative intent or to "venture beyond the plain words" of unambiguous statutes or City Codes. *Faben Point*, 102 Wn. App. 775, 779.

In *West Hill*, this Court found that a City of Olympia's project denial was improper when the City's decision deviated from the plain language of its Code, supposedly based on principles of statutory construction and interpretation. The Court explained that it would not consider the City's construction or interpretation of an unambiguous statute:

> The City's argument attempts to interject principles of statutory construction ... in to the analysis of RCW 58.17.040 (2). Although the goal of statutory instruction is to decipher legislative intent, the various construction methods are unnecessary when the statute is clear. In that case, legislative intent is derived from the statute's words alone.

West Hill, 115 Wn. App. 444, 449 (citations omitted).

As a result, the Court found the City Hearing Examiner's denial of West Hill's application was clearly erroneous. *Id.*, 450.

In a unanimous ruling, the Washington State Supreme Court affirmed this Court's approach in *West Hill*. *Sleasman v. City of Lacey*, 159 Wn.2d 639, 151 P.3d 990 (2007). In *Sleasman*, the underlying Court of Appeals had found the ordinance at issue was clear and unambiguous, but none-the-less deferred to the City of Lacey's interpretation. *Sleasman*, 159 Wn.2d 639, 646. The Supreme Court explained that this deference was

improper: "Ordinances with plain meanings are not subject to construction. Only ambiguous ordinances may be construed." *Id.* at 646.

Further, even if an ordinance is ambiguous, the Court cannot automatically defer to the city's interpretation:

> However, even if the ordinance were ambiguous, Lacey's interpretation would not be entitled to deference. Lacey's claimed definition was not part of a pattern of past enforcement, but a by-product of current litigation. Often when an agency or executive body is charged with an ordinance's administration and enforcement, it will interpret ambiguous language within that ordinance. But the agency must show it adopted its interpretation as a "matter of agency policy." *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 815, 828 P.2d 549 (1992). While the construction does not have to be memorialized as a formal rule, it cannot merely "bootstrap a legal argument into the place of agency interpretation," but **must prove an established practice of enforcement**.

Id (emphasis added).

The city bears the burden "to show its interpretation was a matter of **preexisting policy**." *Id.* at 647 (emphasis added).

Most recently, the Washington State Supreme Court looked at specific rezone criteria and how those were applied, but did not change the above-stated long-standing rules related to reviewing statutes and city codes. *Phoenix v. City of Woodinville*, 171 Wn.2d 820, 256 P.3d 1150 (2011).[47] The *Phoenix* Court reviewed whether the City had substantial

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[47] The *Phoenix* case involved a site-specific rezone, which is reviewed using totally different criteria than the City of Olympia has adopted to review a Master Plan such as that in the instant case.

evidence to conclude that the proposed rezone did not meet the 'demonstrated need' criterion. *Phoenix*, 171 Wn.2d 820, 831-835. The Court did not examine whether the words 'demonstrated need' needed construction as the City readily stated that applying such a standard requires an objective review. *Id.* at 831. The *Phoenix* Court did not address or change the long-standing rules of statutory and city code construction the Supreme Court discussed in *Sleasman* and its precursors.

C. Master Plan Approval Process.

The City's Master Plan standards and review process are set forth in Olympia Municipal Code chapters 18.05 (Villages and Centers), 18.05A (Urban Village, Neighborhood Village, Neighborhood Center and Community Oriented Shopping Center Design Criteria) and 18.57 (Master Planned Development – MPD).

When a Master Plan is approved, the City amends the official zoning map with a note that the property has an approved Master Plan and adopts an ordinance reflecting the approved Master Plan. OMC 18.57.040 (C). However, Master Plan approval is not a rezone or Planned Unit Development: the property's zoning never changes nor is any additional density bonus given. Instead, the Master Plan is mandatory development approval required to develop the property under the existing zoning. OMC 18.57.040. If lots are to be sold for individual ownership (which

may not always be the case), a subdivision will also be required. OMC 18.57.040 (E). Otherwise, the Master Plan is the governing approval for "apportionment of land for buildings, stipulated use and circulation patterns." OMC 18.57.080 (F).

City Code does not classify a Master Plan as a rezone or subject a Master to Plan to rezone criteria; Master Plans are reviewed under OMC 18.57 (Master Planned Developments) and rezones fall under a separate chapter of Olympia Municipal Code, 18.58 (Rezones). To the contrary, a rezone to a zone other than Neighborhood Village would be allowed only if "the site is not viable for the designated uses due to site conditions, infrastructure or street capacity or – in the case of multiple ownerships – land assembly problems." OMC 18.05.050 (A)(2).

The specific review criteria for a Master Plan are set forth throughout Chapters 18.05 and 18.05A. The Master Plan involves a very broad range of considerations and requires balancing of multiple project elements. All Master Plan requirements are contained in City Code; there is no City Code requirement that the Master Plan also be analyzed for consistency with the City's Comprehensive Plan. Since the City has already deemed the site's Neighborhood Village zoning to be consistent with and implement the Comprehensive Plan, requiring the applicant to prove

compliance with the Comprehensive Plan as a condition of Master Plan approval would not make sense.

D. It Was Unlawful for the City to Deny the Master Plan Based on an Unwritten and Undefined Desire for Intercity Transit Fixed-Route, Public Bus Service to the Area.

The City Council denied the Master Plan based on its new creation of requirement, not contained into City Code, that Intercity Transit commit to fixed-route bus service to serve the Property. The City did not provide any standards for what would be sufficient to meet such an unwritten and undefined requirement. There is no such requirement written in City Code and no past precedent that DR Horton might have looked to for instruction. The City's new requirement was so unprecedented and unfounded that **both** City staff and the City Attorney's office actively opposed the Examiner's recommendation in this respect and filed a Motion for Reconsideration opposing the recommendation of denial.[48]

The City Council's denial on this basis was the result of an erroneous interpretation of the law, exceeded the City Council's jurisdiction and violated DR Horton's constitutional rights. Since the Hearing Examiner readily recognized that DR Horton complied with the plain language of City Code requirements for the Master Plan in this respect, DR Horton

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[48] Ex. 151. AR 003928-30 and 003934.

requests this Court to remand the project with instructions to remove this unsupported requirement and approve the Master Plan.

i. City Code unambiguously limits transit-related requirements for a Neighborhood Village Master Plan to physical roadway design and the construction of a sheltered transit stop.

The City, under its zoning powers, has adopted approval requirements, design standards, and other necessary criteria (such as concurrency, discussed below) for land development, including the Master Plan process. However, the City does not provide or regulate public transit service. Intercity Transit is the primary independent public transit entity that provides public transit services within the City.[49] Intercity Transit provides a range of public transit services, fixed-route busses being a significant, but only one of a variety of transit services. Ex. 191, AR 004525. Other public and private transit services also exist. Neither the City nor a private party can demand transit service from Intercity Transit. Instead, the City may enter into an interlocal agreement with Intercity Transit to coordinate services.[50] OMC 15.20.110.

City Code requires that a Neighborhood Village Master Plan provide a "sheltered transit stop," located and designed in accordance with City specifications and approved by Intercity Transit. OMC 18.05.050 (C)(1),

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[49] Ex. 150, AR pages 003925-3926; *see also* AR page 004515 ff (Intercity Transit Strategic Plan).
[50] The City also has an assigned seat on IT's board. AR 004516.

(4). Additionally, the Village center must be located in relationship to major, collector streets to be accessible for mass transit. OMC 18.05.050 (C)(4). The Village roads must accommodate transit services so that Intercity Transit can provide various transit services and add fixed-route bus service as it might see fit based on its resources and Strategic Plan.

The Neighborhood Village purpose, design and higher residential density encourages future public transit, among other goals. OMC 18.05.020 (see e.g. purpose (5) to provide "sufficient housing density" enabling cost-effective extension of utilities, streets, transit etc.). As the Neighborhood Village purposes reflect, the residential and commercial density comes first and encourages the provision of transit from such agencies as Intercity Transit if and when sufficient ridership exists to allow InterCity Transit or some other agency to plan and develop bus service to a neighborhood. *Id.* City Code then sets forth a set of design requirements that promote the City's desired outcomes for a Neighborhood Village. OMC 18.05.020.

These City Code provisions are consistent with Intercity Transit's stated desire to encourage high density, mixed use developments, with amenities such as sheltered bus stops, which support public transit.[51]

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[51] Ex. 191, AR 004551.

However, Intercity Transit's ability to provide any particular fixed-bus service must necessarily change depending on demands and resources. New bus routes added, bus schedules changed, and bus routes are cancelled based on Intercity Transit's evaluation of its own budgets, service projections and other factors. While Intercity Transit is a totally independent entity from the City, the City has a seat on its board and can enter into interlocal agreements for service.[52]

As a result, there is no requirement in City Code that the Master Plan ensure any type of commitment from Intercity Transit, or any other public or private entity, for transit service, fixed-route bus service or other. Consequently, City Code contains no standards addressing the type of service, frequency, length of operations or other relevant considerations. City Code properly reflects that the City can determine and regulate what a developer must build as infrastructure (physical amenities such as a sheltered transit stop, roadway designs, streetlights, sidewalks), but Intercity Transit and other transit service providers, as independent agencies, retain the right to determine the types of service, routes and schedules. In this way Intercity Transit retains its authority to periodically

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[52] Ex. 150, AR pages 003925-3926 (email attached hereto in color, as originally submitted, reflecting each author's comments).

review and change, or even cancel, public bus route and other types of transit services, depending on needs and resources.

ii. The requirement for a sheltered transit stop has independent utility.

City Code's plain language that a Master Plan provide a sheltered transit stop does not require any construction or interpretation. A sheltered transit stop is a meaningful physical amenity, providing not just a stop for fixed-route public bus service, but also sheltered stop for other types of transit such as formal and informal vanpools, carpools, private transit providers (such as Microsoft Connector), school busses, and other private services.[53] As both the City attorney's office and City staff explained, the Code requirement for a sheltered transit stop has independent utility: it is difficult to appropriately retrofit a development once built with a transit stop. If not required as a condition of Master Plan approval the City would not have a "regulatory hook" (the City's words) on the developer and, if not constructed, the lack of a stop may be a negative factor to Intercity Transit when determining transit routes and options in the future.[54]

Consistently throughout City Code, the plain language of the phrase 'sheltered transit stop' holds its own meaning as a physical amenity.

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[53] Ex. 151, AR 003934.
[54] *Id.*

OMC 18.05.050 (C)(1) (requires a village green or park and a sheltered transit stop, both physical amenities); OMC 18.05.050 (C)(4) (sheltered transit stop shall be "located and designed" in accordance with City specifications and approved by Intercity Transit); OMC 18.05A.070 (B)(4)(c)(iv) ('transit stop' again used as a physical feature in the design of pedestrian areas along commercial buildings). Elsewhere, the City used other phrases such as "transit route" to denote exactly that, a transit route. *See e.g.*, OMC 18.05A.050(B)(1)(f) (site design to be able to accommodate transit routes bordering the site and within a core area of the Master Plan; no requirement that the applicant obtain a commitment of actual transit service or routes); OMC 18.130.020 (commercial design guidelines for high density corridors (not applicable to the Master Plan) which require an applicant to meet with the local public transit provider if a 'transit route' does not currently exist; the City did not adopt any such 'guideline' in the Master Plan requirements). As the City attorney advised: "If the Council wanted actual bus service, it would have used words like 'Focus growth where there is a commitment from Intercity Transit to provide bus service within a reasonable time.'"[55] The city did not do so.

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[55] Ex. 151. AR 003929.

iii. The City does not have public transit concurrency standards that might support its denial.

A requirement to ensure some level of transit service, public or private, would be a concurrency regulation. Concurrency is the concept that a certain level of adopted and measurable service for a facility or service, for example public road systems or fire protection, should be available concurrent with the development or reasonably thereafter. *Whatcom County Fire District 21 v. Whatcom County*, 171 Wn.2d 421, 256 P.3d 295 (2011).

The City has an adopted roadway, i.e. transportation, concurrency standard. Chapter 15.20 OMC. The Trillium Neighborhood Village complies with all those adopted transportation concurrency requirements.[56]

The City has not adopted any transit concurrency requirement or standards.[57] *Compare, Whatcom County Fire*, 171 Wn.2d at 779. As well, Intercity Transit does not have any concurrency policies or

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[56] Ex. 1, AR 000020.

[57] If such a concurrency type of regulation were to be adopted, the City would have to address what type of service, to what extent, and at what point such service would need to be assured for a given neighborhood. Such a concurrency requirement would have to be fully vetted by City staff and the public through a legislative review process. Intercity Transit would as well have to weigh in on such a requirement, as it would clearly have a substantial impact on Intercity Transit's autonomy and service route decisions. No matter what, a concurrency regulation related to public transit would be very difficult to craft since Intercity Transit is an independent planning authority not directly beholden to only this City's priorities or interests.

requirements apart from a general intent to provide services to new major developments.[58] Without an adopted transit concurrency standard, the City has no authority or standards to impose transit service concurrency requirements on the Trillium Master Plan.

iv. The Trillium Master Plan meets the Master Plan requirements and criteria set forth in City Code.

Consistent with City Code, DR Horton designed its Neighborhood Village to include a sheltered transit stop and roads built to accommodate any type of public transit service, including but not limited to fixed-route bus service.[59] City staff, supported by the City attorney, recommended approval of this Master Plan and explained that the there was no basis to apply anything but the plain words 'sheltered transit stop' to the project.[60]

Intercity Transit had no opposition to the project. Its Strategic Plan supports this type of density, and Intercity confirmed it would coordinate on locating the sheltered transit stop and that transit services of Dial-a-Lift and vanpool will be available.[61] School busses would also serve Trillium. However, Intercity Transit, as an independent entity, would not give the Hearing Examiner a commitment of fixed-route bus service.

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[58] *Reconsideration Recommendation*, page 5, Finding 5.
[59] Ex. 1, AR pages 000008, 000021 (Staff Report); 03922, Ex. 150, AR page 03922; Ex 151; Ex. 502, *Original Recommendation*, page 17, Finding 21; OMC 18.05.050 (C) (1), (4), (6).
[60] *See e.g.* Ex. 151.
[61] Ex. 97; Ex. 150, AR pages 003925-3926; Ex 151, AR pages 003934-3935.

From the outset, the Hearing Examiner readily found that DR Horton's Master Plan included a sheltered transit stop under the plain language of City Code.[62] There has never been any factual or evidentiary dispute that the Master Plan meets the plain language of City Code requirements. Instead, the Hearing Examiner argued that the City should require something more: a sheltered transit stop was simply not sufficient for this Property despite the City Code plain language, instead, fixed-route bus service from Intercity Transit also had to be committed.[63] The Examiner later recognized that Intercity Transit would provide other transit services, for example Dial-a-lift and vanpools.[64] However, the Examiner maintained his overly-restricted focus on fixed-route buses as a project requirement without explaining his disregard for types of transit that would be available.

The Examiner admitted that Intercity Transit (a) has the sole authority to determine whether and when it might provide fixed-route bus service to any area, (b) does not commit to service until after a development is built and occupied, and (c) Intercity Transit responds to demand and could well

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[62] *See e.g. Original Recommendation*, page 17, Finding 21 ("The Master Plan proposes a sheltered transit stop at a location to be determined by Intercity Transit.").
[63] *See e.g. Original Recommendation*, page 30, Conclusion 25 (without fixed-route bus service, the transit stop would be a sheltered seating area, failing to recognize the other transit services that would serve Trillium and use the stop).
[64] *Reconsideration Recommendation*, page 5, Finding 3.

adjust fixed route-bus service at any time to go through Trillium if the need were present.[65] The Examiner did not discuss what the value of a commitment from Intercity Transit would be considering that it could change or cancel such service at any time in the future.

City Code does not define the term transit. However, the City's broader transit planning policies, which the City used as guidance in adopting the specific Master Plan regulations and criteria in City Code, identify services from Intercity Transit as including: fixed route, paratransit, ridesharing, van programs, carpool and vanpool, Dial-a-Lift services, and connections with other local transit providers. *Comprehensive Plan Policy T 1.21.*[66] The Master Plan general design, roads and sheltered transit stop will all accommodate any of these types of transit. The Hearing Examiner gave absolutely no explanation for how he determined that fixed-route bus service from Intercity Transit was the only type of transit service he would accept. The Examiner rejected out of hand the other types of transit services that Intercity Transit, DR Horton and City staff identified as available to serve the property upon buildout.

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[65] *Reconsideration Recommendation*, page 5, Findings 6, 7; *Remand Recommendation*, page 10, Finding 8.

[66] Apart from the services that the City believes constitute 'transit', the City also independently committed to "consult with Intercity Transit to makes sure that street standards, land uses, and building placement support the existing or planned services and facilities along identified routes." *Id.* The City also committed to work with Intercity Transit to work together to provide bike racks or lockers at appropriate locations such as 'transit stops'. *Comprehensive Plan Policy T 1.19.*

The Council accepted the Examiner's recommendations, and denied the Master Plan on this basis without any additional substantive findings or conclusions despite (a) the City Code plain language and DR Horton's undisputed compliance therewith, (b) the staff analyses on point advocating that there is no requirement that a Master Plan ensure transit service of any kind, let alone fixed-route bus service, and the City attorney's concurrence, and (c) the fact that the City Council had never applied this interpretation of the Code to any other master plan within the City.

Nothing in City Code gave DR Horton fair warning that, after 6 years of review, either the Hearing Examiner or City Council would require DR Horton to obtain a commitment from Intercity Transit for transit service. Neither the Hearing Examiner in his various recommendations, nor the City Council in its abbreviated decision, explained what DR Horton would have to make Intercity Transit commit to, or why Intercity Transit's commitment to other public transit services, Dial-a-Lift and van/carpool services, was insufficient in the absence of any standards to govern the City's requirement. Neither the Examiner nor City Council explained how City could demand that DR Horton obtain any commitment from a totally independent agency or how such commitment would be enforced. In fact, the City Council recognized the Hearing Examiner's conclusion that there

was no way that DR Horton could ever satisfy this requirement on the Trillium Property.[67]

v. The City has no past history of 'interpreting' its code to require a fixed-route public bus service commitment from Intercity Transit as a condition for Master Plan approval.

The City has never required evidence of a commitment for fixed-route bus services from Intercity Transit as a condition of approval for any other Master Plan. In all other Neighborhood Village Master Plans, the City has consistently applied the City Code plain language exactly in the way that DR Horton designed, and City staff reviewed the Trillium Master Plan. In those other Master Plans, the Hearing Examiner and City Council did not even raise the question of whether there would be any transit service of any kind or what sort of commitment it might demand from Intercity Transit.

The City reviewed and approved the Bentridge Master Plan for property located immediately adjacent to the Trillium Property during the time City staff was reviewing Trillium (DR Horton has no explanation for why Trillium was delayed while Bentridge was reviewed and approved). In Bentridge, the City ensured that the developer would provide a sheltered transit stop but did not discuss whether Intercity Transit would serve that stop at any time, even though much of Bentridge and its Village

[67] Ex. 711, page 154, lines 3-22.

center, like Trillium, are over a quarter-mile from existing bus routes.[68] DR Horton was well followed the adjacent Bentridge Neighborhood Village process closely and reasonably expected to have the City Code applied in the same way to Trillium. The City should have applied its Code uniformly and fairly to both projects.[69]

In the City's most recent Master Plan approval, neither the Examiner nor City Council discussed public transit service, let alone imposed a prerequisite of committed fix-route bus or other public transit service or enforcement mechanisms. OMC 18.05.170 and Ordinance 6773 with attached Village at Mill Pond/Briarton revised and original recommendations (attached). Instead, the City limited its review to whether the developer (the same developer as Bentridge) proposed physical 'sheltered transit stops'.[70]

A court can take judicial notice of Ordinances (CR 9 (i)) as well as legislative facts that enable the Court to determine the law. *In re Marriage of Campbell*, 37 Wn. App. 840, 845, 683 P.2d 604 (1984). DR Horton moves to supplement the record if necessary for this judicial notice. Judicial notice is particularly appropriate here because the City did

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[68] Ex. 28, AR page 003270-3271, Findings 35 and 38 (approved in OMC 18.05.160 and Ex. 200 (Ordinance 6700)).
[69] Ex. 28, AR page 003271, Finding 39.
[70] Village at Mill Pond/Briarton original recommendation, Finding 10 (page 3); Conclusion 8 (pages 10-11).

not approve the Village at Mill Pond until after it denied Trillium. Therefore, the City's approval of the Village at Mill Pond Master Plan without a requirement for bus service commitment from Intercity Transit is evidence that was in full control of the City and not created until after the Trillium record was closed. The City cannot claim harm as it was the decisionmaker in both projects and in complete control of timing the decision for each project.[71]

vi. The Comprehensive Plan does not contain any project-specific development requirements or additional mandates.

Despite there being no criterion in City Code that a Master Plan be directly compared to the Comprehensive Plan for consistency, the Hearing Examiner examined a variety of Comprehensive Plan policies.[72] The City's decision should have been based on the Master Plan standards and requirements in City Code alone, since the Master Plan puts the Neighborhood Village zoning requirements into effect. The City's reliance on Comprehensive Plan Policies, not on adopted City Code standards, i.e. development regulations, was an error of law, reliance on

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[71] To the extent the Court agrees the City is limited to the plain language of City Code, the question of judicial notice of Ordinance 6773 and the underlying recommendations are unnecessary.

[72] The Hearing Examiner identified RCW 35A.63.170 as his authority to compare the Master Plan to the Comprehensive Plan for consistency. However, RCW 35A.63.170 is the authorizing statute for a Hearing Examiner system; the statute does not impose any standards for Hearing Examiner review of different types of permits or approvals: those are set forth in City Code on based on the type of application being reviewed.

unlawful procedures, and exceeded the City's jurisdiction. The city attorney consistently advised the Examiner and Council:

> The Examiner should be reluctant to rule that a project violates non-regulatory provisions of the Comprehensive Plan without reference to a specific development regulation. The Growth Management Act requires that the City adopt development regulations to implement its Comprehensive Plan ... Therefore, the Examiner should only look to the development regulations. See RCW 36.70B.030 (project review based on development regulations.[73]

Even if there were a criterion requiring the Master Plan to be reviewed under the Comprehensive Plan, the Comprehensive Plan does not contain any requirement or standards for a public transit service in a Neighborhood Village (or any other type of development in the City). *See Whatcom County Fire*, 171 Wn.2d at 430 (explains what a Comprehensive Plan must include if the City wants such standards). Hypothetically, if the Plan did have a transit service requirement, such an inconsistency between a Comprehensive Plan and City Code would have to be resolved in favor of the City Code. *Citizens of Mount Vernon v. City of Mount Vernon*, 133 Wash.2d 861, 873, 947 P.2d 1208 (1997). Interestingly, the Examiner and City Council disregarded the most relevant portion of the Comprehensive Plan that contemplates that a Master Plan's amenities must include a physical, sheltered transit stop. *Comprehensive Plan*, Figure 1-1, page 34.

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[73] Ex. 151, AR 003930.

Further, the Examiner did not actually evaluate whether the Master Plan was consistent with specific Comprehensive Plan policies. The Examiner cited a few policies and general language from the Comprehensive Plan and then concluded, without analysis, that transit stops without Intercity Transit fixed-route bus service would not be consistent with those policies.[74]

In fact, the Trillium Master Plan is consistent with each of the Comprehensive Plan Policies the Examiner identified. For example, Trillium's shelter transit stop and roads are designed to accommodate public busses to make 'mass transit more viable' consistent with Policy LU 3.3. The Master Plan is consistent with Policy LU 9.5 by placing commercial development within a specified distance of the sheltered transit stop. The Master Plan would make housing, shopping, jobs and transit in close proximity to each other , consistent with comments on page 18 of the Plan's Land Use Element, Goal T1 and Policy T1.25.

vii. The City's denial was unlawfully vague and impossible to meet.

A City Code requirement or criterion is unlawful, void for vagueness and violates due process when it forbids or requires conduct "in terms so vague that persons of common intelligence must guess at its meaning and differ as to its application." *Burien Bark*, 106 Wn.2d 868, 871; *Anderson*,

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[74] Ex. 502, *Original Recommendation*, page 31, Conclusion 27.

70 Wn. App. 64, 751 (*citations omitted*). Procedural due process requires fair warning by means of **written** regulations containing **ascertainable** standards of what is required in order to obtain project approval. *Burien Bark*, 106 Wn.2d 868, 872.

As City staff and the city attorney recognized, a City's action is equally unlawful under *Burien Bark* if the City imposes a totally unwritten and previously undisclosed standard and denies a project on that basis. The City cannot base a land use decision on local concerns that are not written into the existing regulatory scheme; the City must first write such regulations and adopt them as standards and policies. *Norco Construction Inc. v. King County*, 97 Wn.2d 680, 689, 690, 649 P.2d 103 (1982). Otherwise, if the Council can dictate its own subjective agenda in reviewing each project irrespective of adopted standards; no developer could intelligently conform an application to those unwritten requirements and expectations. *Norco*, 97 Wn.2d 680, 688-689.

The impossibility, and unlawfulness, of the City's fixed-route bus service requirement is revealed by straightforward inquiries such as:

- What type and level of service commitment would DR Horton need to obtain from Intercity Transit and why not from any other provider?
- Why is certain public transit provided by Intercity Transit , such as dial-a-lift and assisted carpooling, insufficient?
- At what point in the process would Intercity Transit need to start serving and for how many years?

- What is the commitment mechanism: email, letter or contract?
- How would that commitment be enforced if and when Intercity Transit reduces, eliminates or changes public transit service to the area in the future?
- What is the legal basis for the City or DR Horton to force a transit commitment from Intercity Transit? I.e., what if Intercity Transit just refuses to comment on whether it will serve a certain area?
- What if Intercity Transit starts fixed-route service along the Property perimeter but does not use the sheltered transit stop?

As the City Mayor recognized before voting against motion to deny:

> But now it would appear that the Neighborhood Village Master Planning activities are now limited to one specific standard having to do with transit service and the availability of transit guaranteed by a body that is out of the ability or control of either the City or the applicant, or, quite honestly, any resident that may live there in the future.
>
> We have already seen Intercity Transit have to deal with budget reductions and reductions in service. So even if the applicant were able to guarantee service in the future, there's no guarantee that that service would continue at a rate equal to or better than what they've already identified.
>
> So it seems to me that the – by way of the Hearings Examiner identifying this one specific item around standard of service, we now hang up the entire zoning process and the ability to zone this in the future, or to more appropriately state, the ability to Master Plan a Neighborhood Village in this village is now hung up on one specific item forever.[75]

Even the Hearing Examiner recognized the impossible position such a denial creates: no conditions could address a denial on this basis.[76] The requirement makes it impossible to ever develop the Trillium Property

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[75] Ex. 711, page 154, lines 3-22.
[76] Ex. 502, *Original Recommendation*, page 32, Conclusion 29.

despite the adopted Neighborhood Village zoning and the Master Plan land development approval process for any development of the Property **under the very zoning the City itself imposed**.

The system adopted under City Code, requiring DR Horton to construct a sheltered stop and design roads to support and facilitate Intercity Transit bus service, but leaving the terms of service to Intercity Transit, is logical, reasonable and capable of being accomplished. The City does its part to encourage public transit by requiring these amenities, as well as by encouraging development at densities which will hopefully provide sufficient ridership to support bus service.

Finally, to the extent the City is addressing a pre-existing deficiency of bus routes in the area through this Master Plan, such would be a misuse of the City's powers. *Benchmark*, 146 Wash.2d 685, 695.

viii. The City's denial violated DR Horton's right to be free from an unconstitutional taking and right to substantive due process.

Courts review decisions which purport to approve project, but which impose conditions which effectively prevent development in the same manner that courts review outright denial of permits. *See e.g. Luxembourg v. Snohomish County*, 76 Wn. App. 502, 887 P.2d 446 (1995). Here, the City could very well have reached the same outcome by approving the Master Plan with a condition that DR Horton ensure fixed-route transit

public bus service.[77] A taking may be established even if there is no exaction where there is unsupportable and oppressive land use regulation that effectively deprives an owner the use of its property. *First English Ev. Lutheran Church v. County of Los Angeles,* 107 S.Ct. 2378, 482 U.S. 30496 L.Ed.2d 250 (1987); *Orion Corp. v. State* (*Orion II*), 109 Wn.2d 621, 645, 747 P.2d 1062 (1987); *Presbytery of Seattle v. King County*, 114 Wn.2d 320, 329, 787 P.2d 907, *cert. denied* 498 U.S. 911 (1990). Ironically, the cases in which courts have found an unconstitutional regulatory taking all involve governmental decisions based on **adopted** regulations which effectively prevented the development of property. In the present case, the City cannot even cite an adopted regulation as the basis for its denial of the Master Plan which effectively prevents DR Horton from developing its property.

The City's denial infringes upon a fundamental attribute of ownership and removes all economically viable use of the property, and is unduly oppressive. *Presbytery*, at 329-330, 335-336; *Sintra v. City of Seattle (Sintra II)*, 131 Wn.2d 640, 935 P.2d 555 (1997); *Lucas v. South Carolina Coastal Comm'n*, 505 U.S. 1003, 1016, 120 L.Ed2 798, 112 S.Ct 2886 (1992). A significant regulatory impact on property can constituted an

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[77] Once again, begging questions such as: at what point during build out does the service have to start? What extent of service does the City want? How long must the commitment last?

unconstitutional taking in and of itself. *Orion II*, 109 Wn.2d 621, 650. The City's denial based on fixed-route bus service from Intercity Transit means DR Horton cannot develop or use its property at all: any development under the Neighborhood Village zone must be approved by a Master Plan.[78] The City has taken from DR Horton all profitable use of its property unless the City chooses to rezone the Property. Absent future City action, the property has no utility or marketability. Even if the City were to rezone the Property in the future, DR Horton has been and continues to be totally unable to use its land under the current Neighborhood Village zone indefinitely.[79] *Sintra II*, 131 Wash.2d 640, 656-657 (liability for temporary and permanent takings).

Further, the City's denial did not substantially advance a legitimate state interest. *Luxembourg*, 76 Wn. App. 502, 505; *Presbytery*, 114 Wn.2d 320, 333. The City does not have a legitimate interest in denying a Master Plan on the basis of unwritten, unquantified and unprecedented demand for a commitment of transit service from an independent agency.

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[78] Ex. 711, *6-21-2011 Transcript*, page 154, lines 3-22; Ex. 502, *Original Recommendation*, page 43, Decision A; *Remand Recommendation*, page 38, Decision A.

[79] While the City asserts that DR Horton can apply for a rezone, there is absolutely no commitment from the City to grant a rezone let alone in any particular timeframe. Further, such a rezone cannot alleviate the impact the City has already had and will cause DR Horton to incur significant additional costs and significant further delay in developing the property.

The City's denial on the lack of fixed-route bus service does not address a problem arising from the proposed development. *Luxembourg*, at 505. Requiring DR Horton to ensure some unknown level of public transit does not remedy a problem created by the proposed Master Plan. *Id.* at 506. The City's requirement that DR Horton ensure fixed-route bus service as a condition of Master Plan approval forces DR Horton to bear an economic burden which rightfully should be borne by the public as a whole. To the contrary, approval of the Master Plan would provide amenities that increase the likelihood of future fixed-route bus service.[80]

The City's denial also violates DR Horton's substantive due process rights. Substantive due process involves a three part test:

> (1) whether the regulation is aimed at achieving a legitimate public purpose; (2) whether it uses means that are reasonably necessary to achieve that purpose; and (3) whether it is unduly oppressive on the land owner. In other words, 1) there must be a public problem or 'evil,' 2) the regulation must tend to solve this problem, and 3) the regulation must not be 'unduly oppressive' upon the person regulated.

Presbytery, at 330.

It is a longstanding rule that a property owner is entitled to utilize its land as it sees fit. *Norco*, 97 Wn.2d 680, 684-685. The City's the use of police power cannot be unreasonable and "must be reasonable and rationally related to a legitimate purpose of government such as avoiding

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[80] Ex. 191, AR page 004551.

harm or protecting health, safety and general, not local or parochially conceived, welfare." *Norco*, at 685. The City's denial was not based on any legitimate public purpose or needed to resolve a public problem or evil. The City's interest in promoting land development that supports public transit is already advanced by the Neighborhood Village zoning standards, which the Trillium Master Plan meets. If the City wants bus service to this area, it should see to enter into an interlocal agreement with Intercity Transit.

Finally, the City's denial is unduly oppressive by making it impossible for DR Horton to develop under the zoning that the City itself assigned to the Trillium Property years ago.

E. The Comprehensive Plan and City Code Do Not Support the City's Attempt to Reserve a Future Decision on to Require a Site Should on the Trillium Property as a Condition of the Neighborhood Village.

The City Council erroneously reserved for a future time a question of whether the Master Plan complied specifically with Comprehensive Plan Policy PF 33.5, and concluded the record would be inadequate to review that policy. This reservation was an erroneous interpretation of law and improper application of the law to the facts.[81]

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[81] Ordinance 6762/Ex. 506, Finding 23.

Policy PF 33.5 only generally states that "new residential developments should take into account the impact they may have on school capacity. If a development is large enough to generate the need, one or more school sites should be dedicated." This Policy does not contain any directives or standards. Instead, the City implemented it though City Code standards for preliminary plats (not Master Plans).

> When a preliminary plat wholly or partially contains a school site proposed in the comprehensive plan or other officially adopted plans, or when the school district finds a reasonably foreseeable need for such a site, the applicant may be required to dedicate a portion of the plat or reserve it for future purchase by the school district. The city shall require evidence of need from the school district as a prerequisite to requiring dedication or reservation.

OMC 17.16.090.[82]

As discussed above, there is no Master Plan review criterion that requires an analysis of consistency with Comprehensive Plan Policies. The City properly rejected the Examiner's suggestion that DR Horton should dedicate a portion of the Trillium site for a school before approving the master plan.[83] Further, this particular Policy has already been adopted as a regulatory review requirement into City Code. There is no authority or rationale for the City to separately apply Policy 33.5 as a de facto

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[82] While the preliminary plat decision has not yet been issued in this matter, the Olympia School District never indicated any need for a school site on the Trillium Property, let alone demonstrating any evidentiary support for such.
[83] Ordinance 6762/Ex. 506, Conclusion 4, rejecting *Remand Recommendation*, Conclusion 61.

governing development regulation for the Master Plan. The City misuses the Comprehensive Plan when it applies policies as if they were development regulations. There is simply no basis for the City to rely on Policy PF 33.5 to require more evidence with respect school capacity. There is ample evidence in the record that there is capacity for all student anticipated to be generated by Trillium. The school district participated in the various public hearings and never expressed a desire for a school site on this Property. DR Horton requests that the Court remand the Master Plan on this basis with instructions that the City cannot base its Master Plan review on Comprehensive Plan Policy 33.5.[84]

F. The Trillium Master Plan Provides Appropriate Pedestrian and Bicycle Connectivity Despite the City's Lack of Ascertainable Standards.

Over five years of review went into the Master Plan before it reached the Hearing Examiner. During that review and before the Examiner and Council, Olympia Safe Streets Campaign ("OSSC") provided extensive testimony and comment related to the topics of block perimeters, intersection spacing, stub roads, and connectivity (pedestrian and

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[84] Even if the Court rules the City can pursue this issue further, the City at least recognized that the factual record regarding discussion of dedication area for a school on either the Bentridge or Trillium properties is incomplete. The Examiner did not raise this issue until his final Remand Recommendation comments issued after the record was closed. The Examiner's consideration of this issue exceeded the scope of the remand and was procedurally flawed as DR Horton was never given any opportunity to make a record on the question.

bicycle).[85] DR Horton addressed all of OSSC's concerns with equally comprehensive argument and provided detailed expert analysis of both the governing regulations (and lack thereof) as well as how the Master Plan accommodates connectivity.[86] DR Horton incorporated as many additional pedestrian connections as possible based on OSSC's requests during the remand process.[87] City staff also provided argument and analysis regarding how the Trillium Master Plan met the relevant Comprehensive Plan Policies, zoning purposes and EDDS.[88] The Hearing Examiner reviewed the Master Plan's block perimeters, intersection spacing, stub roads, and connectivity in all three recommendations, providing ample and repeated opportunity for comment and evidence.

Neither City Code nor the City's Engineering Design and Development Standards ("EDDS") require a particular number of pedestrian and bicycle connections or and do not regulate how those should be designed, or constructed. Instead, the City regulations take into account connectivity in light of actual site topography and all other Master Plan elements; no single component can be looked at in a vacuum. The

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[85] Ex. 38, 45, 157, 158, 190, 198.
[86] Ex. 150, AR pages 003906-003909; AR pages 003918-003920 (Ferko analysis and matrix); Ex. 191, page 004491; Ex. 708-709, testimony of Ferko, generally.
[87] Ex. 191, AR page 004491; Ex. 708, page 24 ff.
[88] *See e.g.* Ex. 151, AR pages 003930, 003934-003935; Ex. 708, testimony of Dower; Ex. 709, argument of Myers.

applicant must design the project to meet mandatory components such as minimum residential density, percentages of residential versus commercial, tree retention, open space, stormwater management, and critical area protection. OMC 18.05.050-.100. However, the Code leaves the quantity and location of pedestrian/bicycle connections to the applicant and City planner(s) reviewing the project.

DR Horton included as many pedestrian/bicycle connections as possible while balancing all Neighborhood Village Master Plan components.[89] The Examiner concluded that the Master Plan provided sufficient connectivity.[90]

Even so, the Council also found that the record was "inadequate to make a determination that the Trillium MPA meets the requirements for bicycle and pedestrian connections...."[91] The Council was clearly unwilling to reach a substantive decision and to recognize that the City has no meaningful, measurable standards governing connectivity. The Council did not explain why it found the large volume of evidence in the record submitted by all interested parties on the topic over five years and

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[89] Ex. 191, AR page 004491.
[90] *Remand Recommendation*, page 37, Conclusion 90.
[91] Ex. 506/Ordinance 6762, Finding 22, Conclusion 4 (rejecting *Remand Recommendation* Conclusions 88, 90).

through multiple open record hearings to be inadequate.[92] The Council's finding in this respect cannot possibly have been based on substantial evidence.

CONCLUSION

Based on the foregoing, DR Horton respectfully requests this Court to reverse the City's land use decision, Ordinance 6762, and order the City to approve the Trillium Master Plan based on the existing administrative record.

DATED this 6th day of August, 2012.

JOHNS MONROE MITSUNAGA
KOLOUŠKOVÁ, PLLC

By _____
Duana Koloušková, WSBA #27532
Attorneys for Petitioner/Appellant
SSHI LLC, a Delaware limited
liability corporation, dba DR Horton

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[92] The Council found that the very same evidence was sufficient with respect to the design of blocks and intersections. To this extent, the absence of written findings or explanation it impossible to understand the Council's decision. *Johnson v. City of Mt. Vernon*, 37 Wash. App. 214, 220-221, 679 P.2d 405 (1984).

FILED
COURT OF APPEALS
DIVISION II
2012 AUG -6 PM 3:44
STATE OF WASHINGTON
BY _____
DEPUTY

No. 43300-1-II

Thurston County Superior Court #11-2-01733-5
IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

SSHI LLC, dba DR Horton, a Delaware limited liability corporation,

Petitioner/Appellant,

vs.

THE CITY OF OLYMPIA,
a Washington municipal corporation,

Respondent.

AFFIDAVIT OF SERVICE

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ORIGINAL

STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

The undersigned, being first duly worn on oath, deposes and says:

I am a citizen of the United States of America; over the age of 18 years, am a legal assistant with the firm of Johns Monroe Mitsunaga Kolouškovа PLLC, not a party to the above-entitled action and competent to be a witness therein.

On this date, I caused to be served in the manner stated below, true and correct copies of: APPELLANT'S OPENING BRIEF; and 4) this AFFIDAVIT OF SERVICE, upon all counsel and parties of record at their addresses listed below.

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Per counsel's request

Dated this 6th day of August, 2012.

EVANNA L. CHARLOT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

SIGNED AND SWORN to (or affirmed) before me on August 6, 2012 by Evanna L. Charlot.

DUANA T. KOLOUSKOVA
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES 1-19-13

Duana T. Kolouškovа
Notary Public Residing at Seattle, WA.
My Appointment Expires: _____

422-8 Affidavit of Service 08-06-12.doc

FINDINGS OF FACT IN ASSIGNMENTS OF ERROR

Assignments of Error 1-3:

City Council Findings 19-21, 22, and 23 are contained in the attached copy of Ordinance 6762.

Assignment of Error 4:

Remand Recommendation, April 26, 2011, Finding 22:

> 22. The School District approached the applicants for Bentridge and Trillium to attempt to negotiate purchase ofa school site. The Bentridge developer offered to dedicate a six to seven acre site, but the location was hilly and the developer was not willing to negotiate its asking price. The Trillium applicant was not willing to sell the Olympia School District a school site. Id. and test. of Priddy.

Assignment of Error 5:

Original Recommendation, October 28, 2010, Finding 51:

> 51. Mr. Bloom also stated at Ex. 97 that Intercity Transit has no plans for service in the direct vicinity of the Trillium project. Mr. Bloom stated that Intercity Transit
>
> > "would not anticipate any additional fixed-route service in that area until such time that the extension of Log Cabin Road, for example, between Boulevard Road and Wiggins Road SE becomes a reality. If an east-west link to the Herman Rd SE/37th Street in Lacey were established, and more and denser residential development realized, we would anticipate this corridor becoming a vital transit link. It would be one of the few options that fixed routed service would have in serving this area of Olympia. And at that point we would anticipate needing bus stops in both east and west bound directions."
>
> Until transit service becomes available, Mr. Bloom stated, the transit stop in Trillium "would simply be conceptual." Ex. 97.

Reconsideration Recommendation, December 6, 2010, Conclusions 14, 15:

> 14. Instead, the October 28 decision did what a quasi-judicial decision is required to do: determine whether this specific proposal under these specific circumstances meets applicable standards. The central Findings on transit in the decision are not disputed. They are, in summary, that
>
> > the nearest transit stops on existing bus routes are .50 and .38 miles away from the closest boundary of the Trillium site, leaving the great majority of Trillium residences substantially more than 1/4 mile from any existing transit stop;
> >
> > no additional fixed-route service in the Trillium area is anticipated until Log Cabin Road is extended east to Wiggins Road;

the current 30-foot wide public right-of-way between the Trillium site and Wiggins Road is insufficient for the extension of Log Cabin Road; and

because the extension of Log Cabin Road to Wiggins will be "development driven", it will likely not be built until needed to accommodate the impacts of future development of properties located along its future route between Trillium and Wiggins Road.

See Findings 48 through 54 and Conclusions 21 through 24 in the October 28 decision.

15. Thus, the evidence shows that transit service will not be extended to Trillium until additional development occurs between it and Wiggins Road from which the additional needed right-of-way for Log Cabin Road may be exacted. The evidence did not indicate when this additional development might occur. The evidence shows, therefore, that transit service is likely to reach Trillium only at some indefinite and undetermined point in the future. The question is whether those specific circumstances meet applicable standards.

Ordinance No. 6762

AN ORDINANCE of the City Council of the City of Olympia, Washington adopting Council Findings of Fact, Conclusions of Law and Decision Concerning the Trillium Master Plan File No. 04-2672.

WHEREAS, on February 1, 2011, the Olympia City Council began formal review of the Trillium Master Plan (MPA) by considering procedural issues that had been raised by parties of interest; and

WHEREAS, on June 21, 2011, the Olympia City Council continued its review of the Trillium Master Plan by considering all remaining issues that had been raised by parties of interest: and

WHEREAS, for the reasons set forth in the Findings of Fact and Conclusions of Law and Decision below, the Council has determined that the Trillium MPA should be denied.

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Adoption of Council Findings of Fact, Conclusions of Law, and Decision. The following Council Findings of Fact and Conclusions of Law and Decision in Trillium Master Plan File No. 04-2672 are hereby adopted:

FINDINGS

1. This matter came before the Council on a Recommendation by the Olympia Hearing Examiner ("Examiner") on the Trillium Master Plan application (MPA).

2. The Hearing Examiner held a consolidated hearing to consider the Trillium MPA, an application for a preliminary subdivision and a SEPA appeal.

3. The record for the consolidated hearing includes exhibits and testimony on matters beyond the scope of Council's review of the Trillium MPA.

4. The Examiner initially issued his "Findings, Conclusions and Recommendation RE: Trillium Master Plan Application" on October 28, 2010, recommending denial of the Trillium MPA.

5. The applicant, D.R. Horton, and the City's Department of Community Planning and Development (Department), filed motions for reconsideration on November 15, 2010 concerning certain aspects of the Examiner's October 28, 2010 recommendation. The reconsideration motions relied, in part, on what was essentially new written testimony that had not been admitted into the hearing record.

6. The Examiner provided other interested parties, generally opposed to the Trillium proposal, five working days to respond to the motions, but did not re-open the hearing.

7. After considering the motions and responses, and supporting materials, the Hearing Examiner issued "Findings, Conclusions and Recommendation RE: Motions for Reconsideration and Clarification" on December 6, 2010, again recommending denial

of the Trillium MPA. In his decision on the reconsideration motions, the Examiner concluded that he had the authority to reconsider, and that in doing so he could utilize the new written testimony submitted through the reconsideration process.

8. The Hearing Examiner determined that the newly submitted evidence is relevant and "will allow a more nuanced and thorough decision" on issues such as block size, cross-block connections and pedestrian and bicycle connections to the perimeter. December 6, 2010, "Findings, Conclusions and Recommendation RE: Motions for Reconsideration and Clarification" at page 10.

9. Per Code, the matter then came before the Council for review of the record and the Examiner's recommendation and a decision on the Master Plan Application.

10. The Applicant agreed to extend the time for Council review of this matter to February 1, 2011.

11. On January 4, 2011, the City Council, after hearing from interested parties, determined that, in light of the objections to the Examiner's reconsideration process, Council review should be in two phases, with the first phase focusing on resolving threshold procedural issues

12. On February 1, 2011, the Council, having reviewed the written materials and relevant portions of the Record, heard arguments by seven interested parties who had submitted written briefing.

13. At the conclusion of the February 1, 2011 meeting, Council decided to remand the Trillium MPA to the Hearing Examiner with instructions that the Hearing Examiner reopen the record and allow the submission of additional evidence and presentations on the limited issues that were raised in the motions for reconsideration.

14. On February 7, 2011, the Council adopted by resolution its "Findings and Conclusions and Decision", remanding the Trillium MPA to the Hearing Examiner. In its decision, Council determined that, although the Hearing Examiner has authority to entertain a motion for reconsideration on a recommendation to Council concerning a Master Plan Application, the Hearing Examiner exceeded his limited authority by accepting substantial new information through the reconsideration process after the public hearing record had been closed and without reopening the hearing.

15. On March 28 and 29, 2011, the Hearing Examiner held a hearing on the issues remanded by the Council.

16. On April 26, 2011, the Hearing Examiner issued his "Findings, Conclusions and Decision" on Remand, recommending denial of the Trillium MPA.

17. For the second phase, the Council established a schedule for briefing by participants for all remaining issues. Written materials were subsequently submitted by several participants, including the Applicant, the Department, Thurston County, the Olympia Safe Streets Campaign, and seven individuals.

18. On June 21, 2011, the Council, having reviewed the written materials and relevant portions of the Record, heard oral presentations by the Department, the Applicant, the Olympia Safe Streets Campaign and nine individuals.

19. Council adopts all findings in the Hearing Examiner's Decision dated October 28, 2010, except any findings that were rescinded by the Hearing Examiner in his December 6, 2010 or April 26, 2011 decisions.

20. Council adopts all findings in the Hearing Examiner's Decision dated December 6, 2010, except any findings that were rescinded by the Hearing Examiner in his April 26, 2011 decisions.

21. Council adopts all findings in the Hearing Examiner's Decision dated April 26, 2011.

22. The present record is inadequate to make a determination that the Trillium MPA meets the requirements for bicycle and pedestrian connections set forth in the City Code, including the Engineering Design and Development Standards, and the Comprehensive Plan. However, in light of the Council's decision, a remand is unnecessary.

23. The present record is inadequate to make a determination that the Trillium MPA is consistent with Comprehensive Plan Policy PF 33.5. However, in light of the Council's decision, a remand is unnecessary.

24. Any finding of fact more properly deemed a conclusion of law shall be considered as such.

Based on its consideration of the foregoing, the Olympia City Council hereby enters the following:

CONCLUSIONS OF LAW

1. The Hearing Examiner conducted a consolidated proceeding to consider the Trillium MPA, an application for a preliminary subdivision and a SEPA appeal. The record created by the Hearing Examiner for the consolidated proceeding includes exhibits and testimony concerning issues that are beyond the scope of Council's review of the Trillium MPA. The Hearing Examiner states in his original recommendation that the issues before Council in this matter are limited to the issues of: "(a) compliance with Chapters 18.57 and 18.05 OMC, (b) school concurrency, (c) bicycle and pedestrian connections, stub streets and block sizes, and (d) consistency with the Comprehensive Plan." Conclusion of Law 9 (nine), October 28, 2010, Hearing Examiner's "Findings, Conclusions and Recommendation RE: Trillium Master Plan Application" at page 27. The Hearing Examiner further states that areas such as "traffic impact, stormwater, downstream effects, critical areas, groundwater, compliance with RCW 58.17.110 and others as appropriate, will be considered through the preliminary subdivision." *Id.* Council's review of the Trillium MPA, therefore, was limited to issues pertaining to the Master Plan Application that is before Council and did not include review of the issues pertaining to consideration of the preliminary subdivision application that is before the Hearing Examiner.

2. Council adopts all Conclusions in the Hearing Examiner's Decision dated October 28, 2010, except any Conclusions that were rescinded by the Hearing Examiner in his December 6, 2010 or April 26, 2011 decisions.

3. Council adopts all Conclusions in the Hearing Examiner's Decision dated December 6, 2010, except any Conclusions that were rescinded by the Hearing Examiner in his April 26, 2011 decision.

4. Council adopts all Conclusions in the Hearing Examiner's Decision dated April 26, 2011, except Conclusions 40, 61, 88, and 90 and except paragraph F on page 39 of the Hearing Examiner's Decision.

5. As indicated in the written materials and as acknowledged in oral argument by the applicant's representative, Subsection 18.05.050(A)(2) of the Olympia Municipal Code provides for the rezoning of land that is zoned for a neighborhood village to a residential district, "upon demonstration that the site is not viable for the designated uses due to site conditions, infrastructure or street capacity or – in the case of multiple ownerships – land assembly problems." The applicant's representative specifically argued at the hearing that if the Trillium MPA is not approved, a more traditional residential development would occur at the site which would result in the public not receiving the amenities required in a neighborhood village. Accordingly, the denial of the master plan application, as recommended by the Hearing Examiner, does not deny the applicant reasonable economic use of the property.

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, the Olympia City Council hereby enters the following:

DECISION

1. Trillium Master Plan Application File No. 04-2672 is Denied.

Section 2. Severability. The provisions of this ordinance are declared separate and severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this ordinance or application of the provision to other persons or circumstances, shall be unaffected.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. <u>Effective Date</u>. This ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED: July 19, 2011

APPROVED: July 19, 2011

PUBLISHED: July 22, 2011

OLYMPIA MUNICIPAL CODE

OMC
CH. 15.20

TRANSPORTATION CONCURRENCY

Chapter 15.20
TRANSPORTATION CONCURRENCY

15.20.000 Chapter Contents

Sections:

15.20.010 Title, authority and purpose.
15.20.020 Definitions.
15.20.030 Level of service standards.
15.20.040 Concurrency districts.
15.20.050 Concurrency test.
15.20.060 Exemptions from the concurrency test.
15.20.070 Findings of concurrency.
15.20.080 Fees.
15.20.090 Concurrency system.
15.20.100 Monitoring the transportation system.
15.20.110 Intergovernmental coordination.
15.20.120 Appeals.

15.20.010 Title, authority and purpose

A. This chapter shall be known as the "Transportation Concurrency Ordinance."

B. This chapter is enacted pursuant to the City of Olympia's powers as a Code City, Article XI, Section 10 of the Washington State Constitution, Chapter 35A RCW, the Growth Management Act, Chapter 36.70A generally, and RCW 36.70A.070 specifically.

C. It is the purpose of this chapter:

1. To ensure adequate levels of service on transportation facilities for existing land uses as well as new development;

2. To provide transportation facilities that achieve and m maintain the City's level of service standards as established in the Comprehensive Plan; and

3. To ensure that the City's level of service standards are achieved concurrently with development as required by the GMA.

(Ord. 5540 §1, 1995).

15.20.020 Definitions

Except as defined below, the words and terms used in this chapter shall have the meaning set forth in the

OMC Section 18.02.180.

A. Adequate - the transportation facilities meet or exceed the City's adopted standard of service set forth in the City's Comprehensive Plan.

B. Capacity - the maximum number of vehicles that can be accommodated during a specified travel period at a specified level of service. Capacity will be calculated according to the methodology used in the most current Highway Capacity Manual. An alternative methodology may be used only if it is preapproved by the Director of Public Works or his/her designee.

(Ord. 6607 §1, 2008; Ord. 5540 §2, 1995).

15.20.030 Level of service standards

The following level of service standards, established in the Olympia Comprehensive Plan, are hereby adopted for the purposes of this Chapter. If a conflict arises between a level of service standard identified in this Chapter and a standard identified in the Comprehensive Plan, the level of service established in the Comprehensive Plan shall control.

A. Level of Service "F" for the intersections of:

1. Jefferson and 14th;
2. Plum Street and Union;
3. Water and 5th;
4. Capitol and 14th;
5. Sleater-Kinney and Martin Way;
6. Lilly and Martin Way; and
7. Black Lake Boulevard and Cooper Point Road.

B. Level of service "E" for the Downtown City Center and along High Density Residential Corridors as identified in the Comprehensive Plan; and

C. Level of service "D" in the remainder of the City and its Urban Growth Area.

(Ord. 6607 §1, 2008; Ord. 5540 §3, 1995).

15.20.040 Concurrency districts

There are hereby established four concurrency districts within the City and its Urban Growth Area. The districts will be used to monitor and to allocate available transportation capacity. The districts are depicted in Map One, Attachment A, which is adopted as part of this Title.

(Ord. 6607 §1, 2008; Ord. 5540 §4, 1995).

15.20.050 Concurrency test

A. Unless exempt under Section 15.20.060(A), the test for concurrency will be conducted as part of the building permit application.

B. The City may conduct an alternative concurrency test for the applications identified in Section 15.20.060(B) by paying the fee set forth in Section 15.20.080.

C. The test for concurrency will be conducted in the order in which the completed building permit application is received.

D. The concurrency test will be performed only for the specific property uses(s), residential density(ies) and intensity(ies) of the use(s) described on the building permit application. The applicant shall describe the proposed development in a manner adequate for the City to determine the peak-hour traffic which is likely to be generated by the proposed development. The applicant shall also provide the City a legal description of the property. Revisions to the proposed development that may create additional impacts on transportation facilities will be required to undergo an additional concurrency test.

E. In conducting the concurrency test, the City will use the trip generation tables set forth in the Transportation Impact Fee Rate Study (the "Rate Study"), adopted by reference in OMC Title 15. If the trip generation rates for a proposed development are not identified in the Rate Study, then the City shall use the trip generation rates set forth in the latest edition of the Institute of Transportation Engineers, Information Report - Trip Generation. The presumption is that the rates used by the City are accurate unless proven otherwise.

F. If the applicant pays the fees identified in Section 15.20.080, the applicant may submit a calculation of alternative trip generation rates for the proposed development. The City shall review the alternate calculations and indicate in writing whether such calculations are acceptable in lieu of the standard trip generation rates.

G. The City may adjust the trip generation forecast of the proposed development in order to account for any transportation strategies proposed by the applicant that are acceptable to the City.

H. The City shall not make a finding of concurrency as part of the issuance of a building permit if the proposed development will result in the transportation facilities declining below the adopted level of service standards. If the level of service of the transportation facilities meets or exceeds the adopted level of service standards, the concurrency test is passed and the City shall make a finding of concurrency.

(Ord. 6607 §1, 2008; Ord. 5540 §5, 1995).

15.20.060 Exemptions from the concurrency test

A. Exemption from the concurrency test is not an exemption from the remaining requirements of OMC Title 15. The following applications for a building permit shall be exempt from the concurrency test:

1. Any proposed development that creates no additional impacts on any transportation facility;

2. Any project that is a component of another proposed development and that was included in a prior application for a finding of concurrency;

3. Any renewal of a previously issued but unexpired permit;

4. Any application for a residential building permit if the dwelling unit is a part of a subdivision or short plat that submitted an application after 1990 and that has undergone the analysis mandated by the State Subdivision Act, RCW 58.17.060 or .110 and

5. Any application that is exempt from OMC Title 14.

B. A building permit application must be accompanied by a Traffic Impact Analysis (TIA) provided by the applicant in accordance with the City of Olympia Traffic Impact Analysis Guidelines for New Development dated November 3, 2006 (TIA Guidelines), or as hereafter amended by resolution of the City Council. Applications that do not meet the minimum requirements to conduct a TIA under Section B 'When Required' of the TIA Guidelines are exempt.

(Ord. 6607 §1, 2008; Ord. 5540 §6, 1995).

15.20.070 Findings of concurrency

A. The City shall make a finding of concurrency for each building permit application that passes the concurrency test.

B. The finding of concurrency shall be valid for the same time period as the underlying building permit, including any permit extensions.

C. A finding of concurrency shall expire if the underlying building permit expires or is revoked by the City.

D. A finding of concurrency accompanying a building permit for a particular parcel of property may be used by the heirs, executors, successors, or assigns of the applicant.

E. All building permits that require one or more transportation facilities to be provided by the applicant shall be and are hereby conditioned upon an appropriate financial commitment by the applicant which is binding upon subsequent owners, heirs, executors, successors, or assigns, and upon the completion of such

transportation facilities in a timely manner, prior to the issuance of the certificate of occupancy or prior to occupancy, unless stated otherwise in writing by the City.

(Ord. 6607 §1, 2008; Ord. 5540 §7, 1995).

15.20.080 Fees

If the applicant requests an alternative calculation for the concurrency test, or if the City determines that an alternative calculation is required due to the size, scale, or other unusual characteristics of the proposed development, a fee for the alternative calculation shall be paid by the applicant prior to the initiation of review. The fee for conducting the review of the alternative calculation shall be Two Hundred Dollars ($200.00), unless otherwise established by the Director of Public Works.

(Ord. 5540 §8, 1995).

15.20.090 Concurrency system

A. The City will provide, or arrange for others to provide, adequate transportation facilities by constructing needed transportation facilities and implementing transportation strategies within the six year horizon that:

1. Eliminate the level of service deficiencies for existing uses;

2. Achieve the level of service standards for anticipated future development and redevelopment resulting from previously issued building permits; and

3. Maintain existing facilities and repair or replace obsolete or worn out facilities.

The improvements to transportation facilities will be consistent with the Olympia Comprehensive Plan.

B. The City will appropriate sufficient funds during the appropriate fiscal year to meet the financial commitment for all the transportation facilities required to meet the level of service standards, except that the City may omit from its budget any capital improvements for which a binding agreement has been executed with another party.

(Ord. 5540 §9, 1995).

15.20.100 Monitoring the transportation system

The City will, on an annual basis, review and update its capital facilities plan and transportation element and shall identify those facilities necessary to achieve transportation concurrency. At a minimum, this review will include updates, as needed, to the City's traffic model, a comparison of actual and forecast traffic volumes, and an examination of conformance with the adopted level of service standards. In addition to annual reviews, emergency review of the concurrency management system will be conducted whenever traffic analysis reveals that 50 percent of the projected six-year

capacity of any transportation facility or concurrency district has been assigned in any one year.

(Ord. 5540 §10, 1995).

15.20.110 Intergovernmental coordination

The City may enter into agreements with other local governments, Intercity Transit, and the State of Washington to coordinate the imposition of the level of service standards, the collection of impact fees, and the implementation of transportation strategies.

A. The City may apply level of service standards, fees, and other mitigation measures to developments in the City that impact other local governments and the State of Washington. Development permits issued by the City may include conditions and mitigation measures that will be imposed on behalf of and implemented by other local governments and the State of Washington.

B. The City may receive impact fees or other mitigation payments based on or as a result of development proposed in other jurisdictions that impact the City. The City may agree to accept such payments or may coordinate with other jurisdictions to implement the appropriate mitigation measures.

(Ord. 5540 §11, 1995).

15.20.120 Appeals

A. Any applicant may timely file an appeal of the approval or the denial of a finding of concurrency to the Olympia Hearing Examiner pursuant to OMC 18.75. The applicable appeal fee must be paid pursuant to OMC 4.40.010.

B. The appeal on the finding of nonconcurrency will not be conducted if the applicant refuses to pay the transportation impact fees required by OMC Title 15.

(Ord. 6607 §1, 2008; Ord. 5540 §12, 1995).

This page of the Olympia Municipal Code is current through Ordinance 6774, passed October 4, 2011.
Disclaimer: The City Clerk's Office has the official version of the Olympia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Olympia's Codification Process (http://olympiawa.gov/city-government/codes-plans-and-standards/municipal-code.aspx)

City Website: http://olympiawa.gov/ (http://olympiawa.gov/)
City Clerk: (360) 753-8325
Code Publishing Company (http://www.codepublishing.com/)
eLibrary (http://www.codepublishing.com/elibrary.html)

OMC
CH. 17.16.090

REVIEW CRITERIA

17.16.090 Review criteria

A. Council and Examiner Inquiry into Public Use and Interest. The council, hearing examiner and Planning Department shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The council or hearing examiner shall determine if appropriate provisions are made for, but not limited to, the public health, safety and general welfare, for open spaces, drainageways, streets, alleys, other public ways, water supplies, sanitary wastes, parks playgrounds, sites for schools and school grounds, fire protection and other public facilities, and shall consider all other relevant facts, including the physical characteristics of the site and determine whether the public interest will be served by the subdivision and dedication. If the council or hearing examiner find that the proposed plat makes appropriate provisions for the above, then it shall be approved. If the council or hearing examiner find that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the council or hearing examiner shall disapprove the proposed plat.

B. Dedication. Dedication of land or payment of fees to any public body may be required as a condition of subdivision approval. Evidence of such dedication and/or payment shall accompany final plat approval.

C. Release from Damages from Other Property Owners. The council or hearing examiner shall not, as a condition of plat approval, require an applicant to obtain a release from damages from other property owners.

D. Flood hazard areas. The council or hearing examiner shall consider the physical characteristics of a proposed subdivision site, and may disapprove a proposed plat because of flood, inundation or swamp conditions. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat. No plat shall be approved covering any land situated in a flood control zone as provided in RCW Chapter 86.16, without the prior written approval of the State Department of Ecology.

E. Health Department. As a condition of preliminary plat approval, the health department may require lot sizes larger than the minimum permitted by the zoning code in those instances where topography, soils, water table or other conditions make larger lot sizes necessary in order to prevent possible health hazards due to water contamination or sewage disposal system malfunction.

F. School District. When a preliminary plat wholly or partially contains a school site proposed in the comprehensive plan or other officially adopted plans, or when the school district finds a reasonably foreseeable need for such a site, the applicant may be required to dedicate a portion of the plat or reserve it for future purchase by the school district. The city shall require evidence of need from the school district as a

prerequisite to requiring dedication or reservation. The council or hearing examiner may recommend a time limit on the effective period of any reservation.

G. Fire District. When the affected fire district finds a reasonably foreseeable need for a site wholly or partially contained within the preliminary plat, the applicant may be required to dedicate a portion of the plat or reserve it for future purchase by the fire district. The city shall require evidence of need from the fire district as a prerequisite to requiring dedication or reservation. The council or hearing examiner may recommend a time limit on the effective period of any reservation.

H. Parks. When a preliminary plat contains a portion of a trail or open space network which is indicated in the park plan element of the comprehensive plan or other officially adopted plan, an area encompassing such trail or open space network may be required to be set aside for its intended purpose by the granting of a trail or open space easement to the city, dedication or reservation for future purchase by the public. The council or hearing examiner may determine a reasonable time or specify the event, limiting the effective period of the reservation.

I. Shoreline Management. Whenever a preliminary plat is wholly or partially located within an area subject to the jurisdiction of the Shoreline Management Act of 1971, RCW Chapter 90.58, the applicant shall comply with the Shoreline Master Program for the Thurston Region, Title 14 of this code and RCW Chapter 90.58.

(Ord. 4529 §4(9), 1984).

OMC
CH. 18.05

VILLAGES AND CENTERS

Chapter 18.05
VILLAGES AND CENTERS

18.05.000 Chapter Contents

Sections:

18.05.020 Purposes.
18.05.040 Permitted, conditional, required, and prohibited uses.
18.05.050 General standards.
18.05.060 Use standards.
18.05.080 Development standards.
18.05.100 Additional regulations.
18.05.120 Briggs Village.
18.05.140 Woodbury Crossing Village.
18.05.160 Bentridge Village.
18.05.170 Village at Mill Pond.

(Ord. 6773 §5, 2011; Ord. 6700 §4, 2010; Ord. 6655 §3, 2009; Ord. 6299 §4, 2003).

18.05.020 Purposes

A. Urban Village (UV) and Neighborhood Village (NV) Districts. The purposes of the Urban Village and Neighborhood Village Districts are as follows:

1. To enable development of integrated, mixed use communities, containing a variety of housing types arranged around a village center, which provide a pleasant living, shopping, and working environment; a sense of community; and a balance of compatible retail, office, residential, recreational, and public uses. [NOTE: Urban villages and neighborhood villages are very similar, except for the size and service area of their commercial component. Urban villages contain a larger and more diverse commercial component intended to serve multiple neighborhoods while the commercial uses in neighborhood villages are scaled to serve the immediate neighborhood.

2. To enable a land use pattern which will reduce dependence on auto use, especially drive-alone vehicle use during morning and evening commute hours.

3. To enable the design of new development in a manner which will ensure the safe and efficient movement of goods and people.

4. To require direct, convenient pedestrian, bicycle, and vehicular access between residences in the development and the village center, in order to facilitate pedestrian and bicycle travel and reduce the number and length of automobile trips.

5. To require sufficient housing density to enable cost-effective extension of utilities, services, and streets; frequent transit service; and to help sustain neighborhood businesses.

6. To enable many of the community's residents to live within one-fourth (¼) mile of a grocery store and transit stop.

7. To ensure that the villages are arranged, scaled, and designed to be compatible with surrounding land uses and provide sensitive transitions between significantly different land uses (e.g., commercial and residential uses).

8. To ensure that buildings and other development components are arranged, designed, and oriented to facilitate pedestrian access.

9. To allow innovative site and building designs while providing for harmony and continuity throughout the development (e.g., coordinated architectural styles, street trees, lighting, signage, and benches).

10. To ensure adequate light, air, and privacy and readily accessible open space for each dwelling, in order to maintain public health, safety and welfare.

11. To provide for appropriately located community open spaces for informal social activity, recreation, and aesthetic enhancement of the development.

B. Neighborhood Center (NC) District. The purposes of the Neighborhood Center District are as follows:

1. To enable development of neighborhood centers (e.g., containing neighborhood oriented businesses and a small park) in established neighborhoods in order to create neighborhood focal points and activity centers, accommodate routine shopping needs, and provide a sense of neighborhood identity.

2. To enable a land use pattern which will reduce dependence on auto use, especially drive-alone vehicle use during morning and evening commute hours.

3. To enable many of the community's residents to live within one-fourth (¼) mile of a grocery store and transit stop.

4. To enable the design of new development in a manner which will ensure the safe and efficient movement of goods and people.

5. To provide for convenient pedestrian and vehicular access between the center and the surrounding neighborhood.

6. To ensure that neighborhood centers are compatible with adjoining uses and do not undermine the economic viability of existing or designated neighborhood centers, village centers, or other neighborhood businesses.

7. To ensure that buildings and other site features are arranged, designed, and oriented to facilitate pedestrian access and access for transit.

C. Community Oriented Shopping Center (COSC) District. [NOTE: Community oriented shopping centers are similar to urban villages in that they have a substantial commercial component which serves multiple neighborhoods. However, they are located on smaller sites which do not allow full-scale village development.] The purposes of the Community Oriented Shopping Center District are as follows:

1. To enable development of mixed commercial and residential projects on sites along arterial streets which are conveniently located to serve the surrounding neighborhood (e.g., within a one and one-half (11/2) mile radius) with frequently needed consumer goods and services.

2. To enable a land use pattern which will reduce dependence on auto use, especially drive-alone vehicle use during morning and evening commute hours.

3. To provide for development of integrated, mixed use communities rather than strip commercial development that is isolated from the surrounding neighborhood.

4. To enable many of the community's residents to live within one-fourth (¼) mile of a grocery store and transit stop.

5. To enable the design of new development in a manner which will ensure the safe and efficient movement of goods and people.

6. To link the commercial center with residential areas in and around the project, thereby enabling people to walk or bicycle to work, shopping, and recreation areas.

7. To ensure that buildings and other site features are arranged, designed, and oriented to facilitate pedestrian access.

8. To ensure that the development is arranged, scaled, and designed to be compatible with surrounding land uses and to provide sensitive transitions between significantly different land uses (e.g., commercial and residential uses).

9. To ensure adequate light, air, and privacy and readily accessible open space for each dwelling, in order to maintain public health, safety and welfare.

(Ord. 6517 §13, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995; Ord. 5539 §3, 1995).

18.05.040 TABLES: Permitted, Conditional and Required Uses

TABLE 5.01

PERMITTED, CONDITIONAL AND REQUIRED U

DISTRICT	Neighborhood Center	Neighborhood Village	Urban Village
District-Wide Regulations			
1. RESIDENTIAL USES			
Accessory Dwelling Units	P	P	P
Apartments	C	R	R
Boarding Homes	C	P	P
Congregate Care Facilities		P	P
Cottage Housing		P	P
Duplexes		P	P
Group Homes with 6 or Fewer Clients		P	P
Group Homes with 7 or More Clients		C	C
Manufactured Homes	P	P	P
Nursing/Convalescent Homes		P	P
Residences Above Commercial Uses	P	P	P
Single-Family Residences	P	R	R
Single Room Occupancy Units			
Townhouses	P	P	P
2. OFFICES			
Banks	P	P	P
Offices - Business	P	P	P
Offices - Government	P	P	P
Offices - Medical	P	P	P
Veterinary Offices and Clinics	C	C	C
3. RETAIL SALES			
Apparel and Accessory Stores	P	P	P
Building Materials, Garden Supplies, and Farm Supplies	P	P	P
Food Stores	R	R	P

Furniture, Home Furnishings, and Appliances			
General Merchandise Stores	P	P	P
Grocery Stores	P	P	R
Office Supplies and Equipment			
Pharmacies and Medical Supply Stores	P	P	P
Restaurants, Without Drive-In or Drive-Through Service	P	P	P
Specialty Stores	P	P	P
4. SERVICES			
Health Fitness Centers and Dance Studios	P	P	P
Hotels/Motels			
Laundry and Laundry Pick-up Agency	P	P	P
Personal Services	P	P	P
Printing, Commercial			P
Radio/TV Studios			
Recycling Facility - Type I	P	P	P
Servicing of Personal Apparel and Equipment	P	P	P
5. ACCESSORY USES			
Accessory Structures	P	P	P
Electric Vehicle Infrastructure	P	P	P
Garage/Yard/Rummage or Other Outdoor Sales	P	P	P
Satellite Earth Stations	P	P	P
Residences Rented for Social Event, 7 times or more per year	C	C	C
6. RECREATIONAL USES			
Auditoriums and Places of Assembly			
Art Galleries			
Commercial Recreation			
Community Gardens	P	P	P
Community Parks & Playgrounds	P/C	P/C	P/C
Health Fitness Centers and Dance Studios			
Libraries			

Museums			
Neighborhood Parks/Village Green/Plaza	R	R	R
Open Space - Public	P	P	P
Theaters (no Drive-Ins)			
Trails - Public	P	P	P
7. TEMPORARY USES			
Emergency Housing	P	P	P
Mobile Vendors			P
Model Homes	P	P	P
Parking Lot Sales			P
8. OTHER USES			
Agricultural Uses, Existing	P	P	P
Animals/Pets	P	P	P
Child Day Care Centers	P	P	R
Community Clubhouses	P	P	P
Conference Centers			
Crisis Intervention	C	C	C
Fraternal Organizations			
Home Occupations (including adult day care, bed and breakfast houses, elder care homes, and family child care homes)	P	P	P
Hospice Care	C	C	C
Non-Profit Physical Education Facilities	C	C	C
Places of Worship	C	C	C
Public Facilities	C	C	C
Radio, Television, and other Communication Towers & Antennas	C	C	C
Schools	C	C	C
Sheltered Transit Stops	R	R	R
Utility Facilities	P/C	P/C	P/C
Wireless Communications Facilities	P/C	P/C	P/C

LEGEND

P = Permitted C = Conditional R = Required

(Ord. 6759 §4, 2011; Ord. 6592 §4, 2008; Ord. 6581 §3, 2008; Ord. 6517 §14, 2007).

18.05.040 Permitted, conditional, required and prohibited uses

A. PERMITTED, CONDITIONAL AND REQUIRED USES.

Table 5.01 identifies the land uses and activities which are permitted outright (P), subject to a conditional use permit (C), or required (R) in the Urban Village, Neighborhood Village, Neighborhood Center, and Community Oriented Shopping Center districts. The applicable requirements for these uses and activities are identified by a number referencing the list of regulations under Section 18.05.050 General Standards, Section 18.05.060 Use Standards, or other sections of the Unified Development Code. Numbers listed under the heading Applicable Regulations apply to the corresponding land use in all of the districts. Regulations that pertain only to a specific use in a specific district are identified by a number in the space corresponding to that use and district.

B. PROHIBITED AND UNSPECIFIED USES.

Land uses which are not listed in Table 5.01 as permitted, conditional, or required uses are prohibited, unless they are authorized by the Director consistent with Section 18.02.080, Interpretations. In no event, however, shall the following uses be permitted:

1. Automobile-oriented uses which primarily cater to customers in their vehicles or rarely provide consumer goods or services to pedestrians. This includes drive-in and drive-through businesses

(except drive-through banks as provided in Section 18.05.060(A) herein), motor vehicle sales, and car washes.

2. Adult oriented businesses (see Section 18.02.180, Definitions).

3. Mobile homes. Mobile homes are prohibited except for emergency housing and contractor's offices consistent with Section 18.04.060(EE). (See Section 18.02.180, Definitions.)

4. Habitation of recreational vehicles/trailer houses. (See Section 18.02.180, Definitions.)

5. Sale of firearms.

6. Pawnshops.

7. Uses which customarily create noise, vibration, smoke, dust, glare, or toxic or noxious emissions exceeding those typically generated by allowed uses.

8. Parking provided accessory to a use located outside the City of Olympia.

9. Secure community transition facilities.

(Ord. 6517 §14, 2007; Ord. 6395 §26, 2006; Ord. 6210 §4, 2002; Ord. 5971 §20, 1999; Ord. 5830 §58, 1998; Ord. 5661 §4, 1996; Ord. 5595 §17, 1996; Ord. 5517 §1, 1995)

18.05.050 General standards

A. Project Approval or Redesignation.

1. Approval. Developments in the Neighborhood Center, Neighborhood Village, Urban Village, and Community Oriented Shopping Center districts shall be reviewed according to the requirements of Chapter 18.57, Master Planned Developments.

2. Rezoning. Land in a NC, NV, UV, COSC, or district may be rezoned to a residential district (see Chapter 18.58, Rezones and Text Amendments) upon demonstration that the site is not viable for the designated uses due to site conditions, infrastructure or street capacity or--in the case of multiple ownerships --land assembly problems.

3. Interim Uses. The following requirements shall apply prior to approval of a Master Planned Development pursuant to Chapter 18.57, Master Planned Developments:

a. Subdivision shall not be allowed prior to Master Plan approval.

b. One single-family home is allowed per existing lot of record prior to approval of a Master Plan.

c. Construction of utilities, roads, and other public infrastructure which is in conjunction with neighboring or abutting projects is allowed prior to Master Plan approval.

4. Pre-existing uses.

a. Any use which was legally constructed prior to August 21, 1995, but which is not a permitted or conditional use under this Chapter, is allowed to continue under the zoning requirements in effect for that use prior to August 21, 1995, (e.g., as a permitted use, conditional use, limited use, special use, non-conforming use, or any other such zoning status, as may be applicable).

b. Any such zoning requirements applicable to said use (e.g., conditions attached to a conditional use permit), which were in effect on August 21, 1995, shall remain in effect for said use until such time as it is discontinued.

B. Project Size.

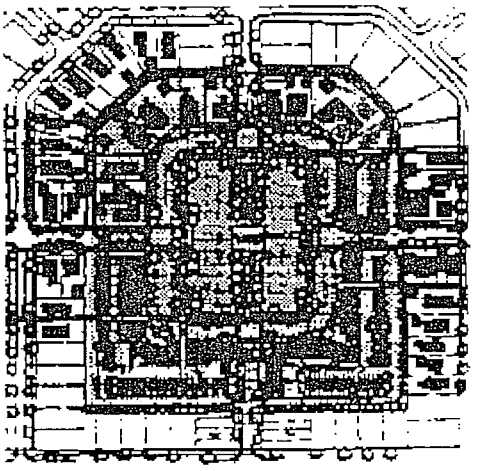
1. Villages. Urban villages and neighborhood villages shall be no less than 40 acres and no more than 200 acres in size, provided that at least 90 percent of all residences shall be within one-fourth of a mile of the perimeter of the village center. The perimeter of the village center means the boundary of the center identified on an approved Master Plan, consistent with Section 18.05.050(D)(2), Commercial Building--Location.

2. Neighborhood Centers. Neighborhood center developments shall be no less than two acres and no more than ten acres in size.

3. Community Oriented Shopping Centers. Community oriented shopping center developments shall be no less than seventeen (17) acres and no more than 40 acres in size.

C. Village Center.

1. Required Center. Each village and each neighborhood center shall contain a village center with a village green or park (see Section 18.05.080(N), Private and Common Open Space), a sheltered transit stop and, as market conditions permit, businesses, services, and civic uses listed in Table 5.01. (See also Section 18.05.050(D)(2) Commercial Building--Location, and Chapter 18.05A, Design Guidelines for Villages and Centers.)



Village Center

FIGURE 5-1

2. Mixed Use. At least ten percent of the gross floor area of village centers in villages and community oriented shopping centers shall be occupied by residential units contained in mixed residential/commercial buildings. Exceptions to this requirement shall be granted if the applicant demonstrates that compliance is not economically feasible (based upon an independent market study accepted by the City).

3. Buildings Fronting on a Village or Center Green. At least sixty (60) percent of the total ground floor street frontage of the non-residential buildings fronting on a village or center green, park, or plaza shall be occupied by retail uses or professional or personal services. (Also see Section 18.05.080(M)(1) Height--Buildings Fronting on Village/Center Greens.)

4. Transit Stop. The sheltered transit stop required in 18.05.050(C)(1), Required Center, shall be located and designed in accordance with specifications provided by the City and approved by Intercity Transit.

5. Village Green or Plaza. The required village green or plaza shall be constructed before more than fifty (50) percent of the commercial space is under construction.

6. Location.

a. Separation.

i. Neighborhood village centers and neighborhood centers shall be separated from one another and from urban villages and community oriented shopping centers by at least one half mile.

ii. Urban village centers and community oriented shopping centers shall be separated from one another by at least one mile.

iii. The Hearing Examiner may allow closer spacing if the applicant demonstrates that the trade areas for the centers are distinct (e.g., segregated by physical barriers) or contain sufficient population (based on existing or planned density) to enable the affected centers to be economically viable.

b. Relationship to major streets.

i. Centers in established neighborhoods and neighborhood villages shall be located along collector streets to make them readily accessible for mass transit and motorists and to enable them to be a neighborhood focal point.

ii. Urban villages and community oriented shopping centers shall be located on sites abutting an arterial street. Such sites must have potential for accommodating moderate density residential development (e.g., 7 to 13 or 14 units per acre for COSC or UV districts respectively) and commercial uses scaled to serve households within a one and one-half (11/2) mile radius with frequently needed consumer goods and services.

D. Commercial Building Size, Location, and Type.

1. Size. The total gross floor area of all commercial uses (i.e., those uses specified in Table 5.01 under the general categories "Offices," "Retail Sales," and "Services") in urban villages, neighborhood villages, neighborhood centers, community oriented shopping centers shall not exceed the maximum amounts specified in Table 5.02.

TABLE 5.02

AMOUNT OF COMMERCIAL SPACE

DISTRICT	Neighborhood Center	Neighborhood Village	Urban Village	Community Oriented Shopping Center	Urban Center
Minimum or Maximum Total Amount of Commercial Floor Space	30,000 sq. ft.	30,000 sq. ft.	225,000 sq. ft., OR 175,000 sq. ft. if the village does not contain a grocery store of at least 35,000 sq. ft.	100,000 sq. ft.	No Maximum
Minimum or Maximum Retail Floor Space	5,000 sq. ft. OR up to 20,000 sq. ft., at a rate of 25 sq. ft. per existing or authorized residential dwelling or residential lot within 1/4 mile	5,000 sq. ft. OR up to 20,000 sq. ft., at a rate of 25 sq. ft. per authorized residential dwelling or residential lot in the development	75 sq. ft. per authorized residential dwelling or residential lot in the development, exclusive of a grocery store.	At least 50% of total floor space shall be for retail uses, but not more than 70% of total floor space.	At least 30% of the total floor space shall be for retail uses, but not more than 70% of the total floor space.
Minimum or Maximum Combined Office & Services Floor Space	5,000 sq. ft. OR up to 20,000 sq. ft., at a rate of 25 sq. ft. per existing or authorized residential dwelling or residential lot within 1/4 mile	5,000 sq. ft. OR up to 20,000 sq. ft., at a rate of 25 sq. ft. per existing or authorized residential dwelling or residential lot within 1/4 mile	200 sq. ft. per authorized residential dwelling or residential lot in the development.	At least 30% of the total floor space shall be for office or service uses, but not more than 50% of the total floor space.	At least 30% of the total floor space shall be for office or service uses, but not more than 70% of the total floor space.

2. Location.

a. Commercial uses in urban villages, neighborhood villages, neighborhood centers, and community oriented shopping centers shall meet the following location requirements. Commercial uses in urban centers shall be exempt from these requirements. (Staff note: these requirements have to do with placing all commercial uses within a block or so of the village green in villages and neighborhood centers. In an urban center, this would be impractical.)

b. Commercial uses shall be contiguous with or across a street from the village or center green/park.

c. Commercial uses shall not extend more than one block or 350 feet, whichever is less, from the perimeter of the village green or park in neighborhood villages and neighborhood centers.

d. Commercial uses shall not extend more than three blocks or 1,100 feet, whichever is less, from the perimeter of the village green or park in urban villages and community oriented shopping centers.

e. In an urban village or community oriented shopping center, the Hearing Examiner may allow buildings comprising up to 20 percent of the authorized commercial floor area to extend up to four blocks or 1,500 feet from the perimeter of the village green under the following conditions:

i. The site's configuration or physical constraints (e.g., critical areas or steep topography) necessitate the location of commercial uses beyond the three block limit; or

ii. The proposed location of commercial uses would improve the project design, for example, by enhancing the aesthetic quality of the development (e.g., allowing buildings to screen parking lots from public rights-of-way), by increasing pedestrian accessibility, by allowing shared use of parking lots, or by allowing better integration of uses.

E. Mix and Location of Residential Uses.

1. Mix of Dwelling Types--General. Developments in the Urban Village, Neighborhood Village, and Community Oriented Shopping Center districts must attain a mix of residential uses consistent with Tables 5.03A and 5.03B. Table 5.03A addresses the relationship between single-family and multifamily dwellings in general. Table 5.03B addresses the requirement for a variety of multifamily housing types, based on overall size of the project.

a. For purposes of meeting the required mix as shown in Table 5.03A, Single Family and Similar Dwelling Types shall include:

i. Single-family detached residences, including designated manufactured homes

ii. Group homes with six (6) or fewer clients

iii. Single family residences above commercial uses (e.g., a single residence above a convenience store)

iv. Townhouses

v. Cottage housing

b. For purposes of meeting the required mix as shown in Table 5.03A, Multifamily and Similar Dwelling Types shall include:

i. Apartments with five (5) or more units per structure

ii. Boarding homes

iii. Duplexes, triplexes, and fourplexes

iv. Group homes with seven (7) or more clients

v. Multifamily residences above commercial uses (e.g., multiple apartments above retail or office uses)

c. Other residences.

i. For purposes of meeting the required mix as shown in Table 5.03A, the following uses are classified as "other" (i.e., neither "single-family and similar", nor "multifamily and similar"):

(a) Accessory dwelling units

(b) Nursing/convalescent homes and congregate care facilities

(c) Multifamily units in an urban village on the blocks contiguous to the town square.

ii. Such "other" uses are not counted in determining the required proportions of single-family and multifamily dwellings in Table 5.03A. However, such uses shall be counted in the calculation of total dwellings for purposes of Sections 18.05.080(B) Maximum Housing Densities and 18.05.080(C) Minimum Housing Densities, in the manner provided in those sections.

TABLE 5.03A

MIX OF HOUSING TYPES

MIX OF HOUSING TYPES	Neighborhood Village	Urban Village	Community Oriented Shopping Center
Single Family and Similar Dwelling Types			
Minimum percentage of total housing units	60%	50%	50%
Maximum percentage of total housing units	75%	75%	75%
Multifamily and Similar Dwelling Types			
Minimum percentage of total housing units	25%	25%	25%
Maximum percentage of total housing units	40%	50%	50%

2. Mix of Dwelling Types--Requirement for Variety.

a. Urban villages, neighborhood villages, and community oriented shopping centers shall achieve a variety of dwelling unit types as specified in Table 5.03B.

b. For purposes of meeting the requirements of Table 5.03B, dwellings shall include the following four types:

i. Single-family detached dwellings (including manufactured housing);

ii. Townhouses;

iii. Duplexes; and

iv. Triplexes, fourplexes, and apartment structures with five (5) or more units per structure.

TABLE 5.03B

REQUIRED VARIETY OF DWELLING UNIT TYPES IN NV, UV, AND COSC

Number of Dwellings in Project	Minimum Number of Dwelling Types	Minimum Percent of Any Dwelling Type used in the Project (See also Table 5.03A)
1-70	2	25%
71-299	3	10%

300+	4	5%

c. Once the requirements of Table 5.03B have been met, other housing types--whether or not specified in Section 18.05.050(E)(2)(b) above--may be developed in any proportions within the requirements of Table 5.03A.

Example: Assume a neighborhood village with 400 dwelling units. According to Table 5.03A, at least 240 units (60% of the 400 total), and not more than 300 units (75%) must be single-family and similar dwelling types. At least 100 units (25%), and not more than 160 units (40%) must be multifamily and similar dwelling types.

According to Table 5.03B, the project must include four of the specified dwelling types. The developer chooses to build 240 single-family detached dwellings, meeting the requirement of 60% set in Table 5.03A. The developer also chooses to build 40 townhouse units (10% of the 400 total), 20 duplex units (5%--i.e., the minimum), and 80 units (20%) in triplexes, fourplexes, and apartment structures with five or more units. For the final five percent, the developer chooses to build 20 units of cottage housing, an optional housing type not required in Section 18.05.050(E)(2)(b) above.

3. Intensity of Development. The density of residential uses shall be highest around the village/community center and lowest adjacent to existing neighborhoods.

F. Development Phasing.

1. Intent. It is the intent of this Section on development phasing to achieve a mix of land uses throughout the buildout of villages and centers; to allow sufficient flexibility to enable development of viable commercial centers; and to ensure that the residential development of villages and centers is as vigorously pursued as the commercial development. For purposes of meeting the requirements of this Section on development phasing, the following terms shall be interpreted as follows:

a. "Completion of development" shall mean:

i. final plat approval in the case of lots for individual single family, townhouse, or duplex dwellings (i.e., one main building per lot), and

ii. passage of final inspection for all other residential and commercial development.

b. Percentages of authorized development refer to:

i. percentage of authorized dwelling units for residential development, and

ii. percentage of authorized gross floor area for commercial development.

2. Commercial and residential. In villages and community oriented shopping centers, residential development shall be phased to precede commercial development as follows:

a. At least five percent of the total authorized residential development must be completed before the first commercial development may take place; whereupon approval may be granted for construction of commercial buildings comprising up to ten percent of the authorized commercial floor area.

b. Upon completion of 15 percent of the total authorized residential development, approval may be granted for construction of buildings comprising up to 40 percent of the authorized commercial floor space.

c. When 30 percent of the total authorized residential development has been completed, approval may be granted for construction of the remaining authorized commercial floor space.

3. Multifamily and single family phasing. In villages and community oriented shopping centers, multifamily development shall be phased relative to detached single family development as follows:

a. At least 15 percent of the total authorized detached single family development must be completed before the first multifamily development may take place; whereupon approval may be granted for construction of up to 40 percent of the authorized multifamily units.

b. Thereafter, approval may be granted for construction of an additional one percent of the authorized multifamily units for every additional one percent of the authorized single family development completed.

Examples:

16 percent of the single family development; 41 percent of the multifamily development

25 percent of the single family development; 50 percent of the multifamily development

50 percent of the single family development; 75 percent of the multifamily development

4. Child Day Care Center. If a child day care center is a required use, a site shall be provided once 75% of the residences have been constructed.

(Ord. 6581 §4, 2008; Ord. 6517 §15, 2007; Ord. 5971 §16, 1999; Ord. 5830 §54, 1998; Ord. 5714 §9, 10, 1997; Ord. 5661 §4, 1996; Ord. 5569 §3, 8, 10, 15, 1995; Ord. 5517 §1, 1995).

18.05.060 Use standards

A. Banks.

1. Banks with drive-through facilities shall be limited to one drive-through lane.

2. Driveway access for the drive-through lane shall not be allowed on streets abutting a village green or park in a village center.

B. Child Day Care Centers. A site for a child day care center is required in urban villages.

C. Grocery Stores. Urban Village (UV) and Community Oriented Shopping Center (COSC) District requirements: The maximum size for a grocery store shall be 50,000 square feet of gross floor area.

(Ord. 5517 §1, 1995).

18.05.080 TABLES: Commercial Development Standards

TABLE 5.04

COMMERCIAL DEVELOPMENT STANDARDS (including mixed commerci

DISTRICT	Neighborhood Center	Neighborhood Village	Urban Village	Ori
MINIMUM LOT SIZE	5,000 sq. ft.	5,000 sq. ft.	None.	Non
FRONT YARD SETBACK	10′ maximum	10′ maximum	10′ maximum	10′
MINIMUM REAR YARD SETBACK	None, EXCEPT: 1. 15′ minimum + 5′ for each building floor	None, EXCEPT: 1. 15′ minimum + 5′ for each building floor	None, EXCEPT: 1. 20′ minimum + 5′ for each building floor	Non 1. 2 for

(Note: One use shall not be considered next to another use or district if a street or road intervenes.)	above 2 stories next to an R-4, R 4-8, or R 6-12 district, or a single family dwelling, duplex, manufactured home, or townhouse. 2. 10′ minimum + 5′ for each building floor above 2 stories next to other residential district or a multifamily.	above 2 stories next to an R-4, R 4-8, or R 6-12 district, or a single family dwelling, duplex, manufactured home, or townhouse. 2. 10′ minimum + 5′ for each building floor above 2 stories next to other residential district or a multifamily.	above 2 stories next to an R-4, R 4-8, or R 6-12 district, or a single family dwelling, duplex or townhouse. 2. 15′ minimum + 5′ for each building floor above 2 stories next to other residential district or a multifamily.	abo to a 6-1 sing dup 2. 1 for abo to o dist mul
MINIMUM SIDE YARD SETBACK (Note: One use shall not be considered next to another use or district if a street or road intervenes.)	None, EXCEPT: 1. 10′ maximum on flanking street; 2. 15′ minimum + 5′ for each building above 2 stories next to R-4, R 4-8, or R 6-12 district, or a single family, duplex, manufactured home, or townhouse. 3. 10′ minimum + 5′ for each building floor above 2 stories next to other residential district or a multifamily.	None, EXCEPT: 1. 10′ maximum on flanking street; 2. 15′ minimum + 5′ for each building floor above 2 stories next to R-4, R 4-8, or R 6-12 district, or a single family, duplex, manufactured home, or townhouse. 3. 10′ minimum + 5′ for each building floor above 2 stories next to other residential district or a multifamily.	None, EXCEPT: 1. 10′ maximum on flanking streets; 2. 20′ minimum + 5′ for each building floor above 2 stories next to R-4, R 4-8, or R 6-12 district, or a single family, duplex, manufactured home, or townhouse. 3. 15′ minimum + 5′ for each building floor above 2 stories next to other residential district or a multifamily.	Non 1. 1 flan 2. 2 for abo to R 12 fam mar or t 3. 1 for abo to o dist mul
MAXIMUM BUILDING HEIGHT	30 feet for commercial structures; or 45 feet for residential or mixed-use structures.	30 feet for commercial structures; or 45 feet for residential or mixed-use structures; EXCEPT: 35 feet within 100 ft. of R-4, R 4-8, or R 6-12 district.	45 feet; EXCEPT: 35 feet within 100 ft. of R-4, R 4-8, or R 6-12 district.	3 st feet EXC with R 4- dist
MAXIMUM ABOVE-GRADE STORIES	2 stories 3 stories	2 stories 3 stories EXCEPT: 2 stories within 100 ft. of R-4,	3 stories EXCEPT: 2 stories within 100 ft. of R-4, R-4-8, or R 6-12 district.	3 st EXC with R-4- dist

		R-4-8, or R 6-12 district.		
MAXIMUM BUSINESS OCCUPANCY SIZE (GROSS FLOOR AREA)	5,000 sq. ft.	5,000 sq. ft.	15,000 sq. ft., EXCEPT: one grocery store may be up to 50,000 sq. ft.	15,(EXC ma)
MAXIMUM BUILDING COVERAGE	70%	70%	70%; or 85% if at least 50% of the required parking is under the building or in a structure.	70% 85% of tl parl buil stru
MAXIMUM IMPERVIOUS SURFACE COVERAGE	85%	85%	85%	85%
ADDITIONAL DISTRICT-WIDE DEVELOPMENT STANDARDS			For retail uses over 25,000 sq ft in gross floor area, see also 18.06.100 (G)	For 25,(floo 18.(

(Ord. 6517 §16, 2007).

18.05.080 Development standards

A. General. Table 5.04 identifies the basic standards for commercial development (i.e., offices, retail sales, and services uses identified in Table 5.01) in the NC, NV, UV, COSC and districts. Table 5.05 identifies the basic development standards for residential uses in these districts. The reference numbers listed in these tables refer to the list of additional development standards below.

B. Maximum Housing Densities.

1. Calculation of Maximum Density. The maximum densities and average maximum densities specified in Table 5.05 are based on the entire site, with the following limitations:

a. The area within streams, wetlands, landslide hazard areas, "important habitat areas," and "important riparian areas" shall not be counted.

b. The area of the required minimum open space for the village or center (see Table 5.05) shall not be counted.

c. The following requirements shall apply to all villages and centers:

i. The density of a village center (as delineated in a master plan approved pursuant to Chapter 18.57, Master Planned Developments) and the density of the remainder of the project shall be calculated separately from one another.

ii. The village center and the remainder of the project shall each comply with the maximum average density requirements in Table 5.05.

2. Maximum Densities. The maximum housing densities shown in the top row of Table 5.05 refer to the maximum density of individual project components. The housing density for the overall project, however (i.e., all of the property subject to an approved Master Plan), shall not exceed the maximum average density for the district specified in the second row of Table 5.05. For example, a neighborhood village may contain an apartment complex with 24 dwelling units per acre provided that the average density for the entire development does not exceed 13 units per acre.

3. Convalescent Homes. Convalescent homes and nursing homes containing dwelling units which rely on shared cooking/dining facilities shall count as one dwelling unit for purposes of the maximum density calculation. Independent dwelling units (i.e., containing a bed, bathroom and a kitchen with a sink, stove, and refrigerator) in such facilities, however, shall be counted as individual housing units in the density calculation. The site containing a nursing/convalescent home depending on shared kitchen facilities shall be deducted from the land available for residential development when calculating the maximum density for the village or center. (The excess density shall not be transferred to other portions of the site.)

4. Accessory Dwelling Units. Accessory dwelling units built subsequent to the initial sale of the primary residence on a lot are not subject to the maximum density limits specified in Table 5.05. In addition, accessory units built on a maximum of 20 percent of a development's lots are not subject to the maximum density requirements, provided they are built prior to the time the primary unit on the lot is initially sold or receives occupancy approval (if built by the owner).

5. Density Bonuses. The maximum housing densities identified in Table 5.05 may be increased as follows:

a. Bonus for restoring degraded sites.

i. At the request of the applicant, the Hearing Examiner may grant a density bonus of up to 20 percent for sites on which damaged or degraded wetlands or stream corridors (e.g., streams and stream banks within the outer limits of the buffer required by OMC 18.32.435) will be restored and maintained according to specifications approved by the City.

ii. Sites proposed for this density bonus shall be posted with a notice describing the proposal and opportunities to comment. Property owners within 300 feet of the site shall be given notice of the proposal and 15 days to comment. Such notice may be done concurrently with any other notice required by this Code.

iii. Prior to taking action on a request for a density bonus, the Hearing Examiner shall consider:

(a) the applicable Comprehensive Plan policies,

(b) the public's comments,

(c) the expected public benefit that would be derived from such restoration,

(d) the net effect of the restoration and the increased density on the site,

(e) the relative cost of the restoration and the value of the increased density, and

(f) the potential impact of increased density on surrounding land uses, traffic, infrastructure, schools, and parks.

iv. The City may require the developer to provide an estimate of the cost of the proposed restoration and other information as necessary to make a decision on the request.

b. Bonus for low income housing.

i. A density bonus shall be granted for low income housing (see Section 18.02.180, Definitions) at the rate of one additional housing unit allowed for each unit of low income housing provided, up to a maximum of a 20 percent density bonus.

ii. The applicant shall submit to the Department a document approved by the City Attorney stating that the low income housing which is the basis for the density bonus shall remain as part of the development for at least 20 years. This time period shall begin on the date that final inspection of all of the low income housing has been performed. This document shall be recorded, at the applicant's expense, at the Thurston County Auditor's Office as part of the chain of title of the affected parcels.

C. Minimum Housing Densities.

1. Calculation of Minimum Density. The minimum average densities specified in Table 5.05 are based on the entire site, with the following limitations: [Note: Table 5.05 in Section 18.05]

a. The entire site shall be included in the minimum density calculation except streams, wetlands, landslide hazard areas, floodplains, "important habitat areas," and "important riparian areas" and their associated buffers; tracts accommodating stormwater facilities required in compliance with the Drainage Design Manual; existing, opened street rights-of-way; and land to be sold or dedicated to the public, other than street rights-of-way (e.g., school sites and parks, but not street rights-of-way to be dedicated as part of the proposed development).

b. All dwelling units in convalescent homes/nursing homes and accessory units count toward the minimum density required for the site by Table 5.05, in the same manner as provided above in Section 18.05.080(B)(3) Maximum Housing Densities -- Convalescent Homes and 18.05.080(B)(4) Maximum Housing Densities -- Accessory Dwelling Units.

c. The following requirements shall apply to all villages and centers:

i. The minimum residential density of a village center and that of the remainder of a village or center shall be calculated separately from one another.

ii. There shall be no minimum density requirement for a village center other than the requirement for mixed use buildings specified in Section 18.05.050(C)(2) Village/Community Center--Mixed Use above. The procedures for calculating the required number of units are as provided in Sections 18.05.080(3)(1)(a), (2), and (3) above.

iii. The remainder of a village shall comply with the minimum density requirements in Table 5.05.

2. Average Density. A housing project may contain a variety of housing densities provided that the average density for the entire development (i.e., all of the property subject to a single Master Planned Development approval) is neither less than the minimum density nor more than the maximum density established for the district in Table 5.05. No part of the development, however, may exceed the maximum density established in row one of Table 5.05 (see Section 18.05.080(B)(2) Maximum Densities).

3. Density Allowance for Site Constraints. At the request of the applicant, the Director or Hearing Examiner may reduce the minimum density required in Table 5.05, to the extent s/he deems warranted, in order to accommodate site constraints which make development at the required minimum density impractical or inconsistent with the purposes of this Article (e.g., poor soil drainage, the

presence of springs, steep topography (e.g., over 20 percent), rock outcrops, or wellhead protection areas). As a condition of granting a density reduction, the applicant must demonstrate that the minimum density cannot be achieved by clustering the housing on the buildable portions of the site (see Section 18.05.080(F) Clustered Housing).

4. Density Allowance for Natural Features/Habitat Protection. At the request of the applicant, the Director may reduce the minimum densities to the extent necessary to accommodate trees to be retained consistent with Chapter 16.60, Tree Protection and Replacement. (Also see Section 18.05.080(F)(1), Mandatory Clustering.) At the request of the applicant, the Director may also authorize a reduction in the minimum density requirements in order to enable retention of Significant Wildlife Habitat identified on Map 2-4 in the Comprehensive Plan.

D. Minimum Lot Size.

1. Nonresidential Uses. The minimum lot size for non-residential uses (e.g., churches and schools) may be larger than the minimum lot size identified in Tables 5.04 and 5.05. Refer to Table 4.01 Permitted and Conditional Uses in Residential Districts, and Section 18.04.060 Residential Districts Use Standards for regulations pertaining to non-residential uses in residential areas. Also see Section 18.04.060(K) Group Homes for the lot size requirements for group homes.

2. Clustered Lots. Lot sizes may be reduced by up to 20 percent consistent with Section 18.05.080(F), Clustered Housing.

E. Transitional Lots.

1. Lot Size. The square footage and width of those residential lots in developments located in the NC, NV, UV, COSC, and districts, which immediately abut an R-4, R 4-8 or R 6-12 district, shall be no less than 85 percent of the minimum lot size and width required in the adjoining lower density district.

2. Setbacks. The minimum rear yard building setback for lots in the NC, NV, UV, and COSC and districts which share a rear property line with a parcel in an R-4, R 4-8, or R 6-12 district shall be the same as the setback required for the adjoining lower density district.

F. Clustered Housing.

1. Mandatory Clustering.

a. Criteria for clustering. The Hearing Examiner may require that the housing units allowed for a site be clustered on a portion of the site to:

i. Protect groundwater used as a public water source (e.g., wellhead protection areas); or

ii. Enable retention of trees (based upon a recommendation by the City's Urban Forester, consistent with Chapter 16.60, Tree Protection and Replacement, Olympia Municipal Code); or

iii. Preserve Significant Wildlife Habitat identified on Map 2-4 of the Comprehensive Plan; or

iv. Accommodate urban trails identified on Map 7-1 of the Comprehensive Plan; or

v. Preserve scenic vistas pursuant to Sections 18.20.070 View Preservation and 18.50.100 Scenic Vistas; or

vi. Enable creation of buffers between incompatible uses (see Chapter 18.36, Landscaping and Screening).

b. Degree of clustering.

i. The approval authority may allow up to a 20 percent reduction in lot dimensions, sizes and setback requirements, consistent with the Uniform Building Code, to facilitate the clustering of the permitted number of dwelling units on the site.

ii. The required clustering shall not result in fewer lots than would otherwise be permitted on the site (at the minimum density specified in Table 5.05), without the written authorization of the applicant.

2. Optional Clustering.

a. Applicants for housing projects may request up to 20 percent reduction in lot sizes, dimensions, and building setback requirements in order to cluster housing and retain land for the following purposes:

i. To meet the criteria listed in Section 18.05.080(F)(1) Mandatory Clustering above; or

ii. To avoid development on slopes steeper than 20 percent; or

iii. To preserve natural site features such as rock outcrops or topographical features; or

iv. To otherwise enable land to be made available for public or private open space.

b. The approval authority may grant such requests if s/he determines that the development would not have a significant adverse impact on surrounding land uses.

G. Lot Width.

1. Measurement. The minimum lot width required by Table 5.05 shall be measured between the side lot lines at the point of intersection with the minimum front setback line established in Table 5.05.

2. Varied Lot Widths. The width of residential lots in the NC, NV, UV and COSC districts shall be varied to avoid monotonous development patterns.

a. No more than three (3) consecutive lots, uninterrupted by a street, shall be of the same width. This requirement does not apply to townhouses.

b. Lot widths shall be varied by a minimum of six (6) foot increments.

c. The minimum lot widths specified in Table 5.05 may be reduced by six (6) feet for individual lots to provide variety, provided that the average lot width for the project is no less than the minimum lot width required by Table 5.05.

3. Minimum Street Frontage.

a. Each residential lot, other than for townhouse and cottage housing, shall have a minimum of thirty (30) feet of frontage on a public street.

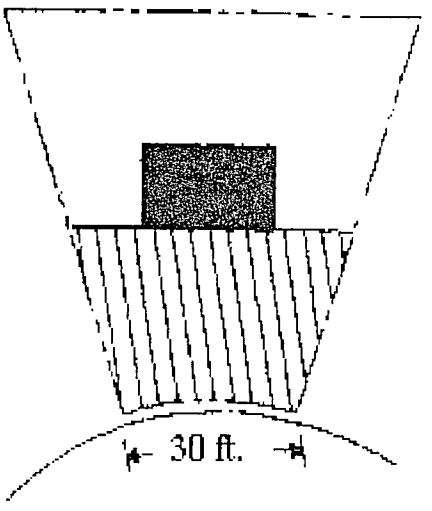


FIGURE 5-2

b. EXCEPTION: the City may allow the street frontage to be reduced (creating a flag lot) to the minimum extent necessary to enable access to property where public street access is not feasible (e.g., due to physical site conditions or preexisting development) or to protect environmentally Critical Areas (see Chapter 14.10, Olympia Municipal Code).

c. Subdivisions, short subdivisions, binding site plans, and lot line adjustments creating flag lots (with street frontages of less than thirty (30) feet) are subject to the following conditions:

i. The project shall be designed to minimize the creation of flag lots; and

ii. Adjoining flag lots shall share a common driveway wherever possible; and

iii. All driveways accessing flag lots shall be designed to allow fire truck access to within one hundred fifty (150) feet of the residence(s) on the lot(s), unless alternate forms of fire protection approved by the Fire Department are provided (e.g., sprinkler systems); and

iv. The area of a flag lot which is less than thirty (30) feet in width shall not be considered part of the minimum lot area required in Table 5.05.

H. Front Yard Setbacks.

1. In the NV, NC, UV, and COSC districts, front yard setbacks for residential uses may be reduced to a minimum of ten (10) feet under the following conditions:

a. When the garage or parking lot access is from the rear of the lot; or

b. When the garage is located at least ten (10) feet behind the front facade of the primary structure on the lot; or

c. When the driveway will be aligned to provide at least a twenty (20) foot long parking space between the sidewalk edge (closest to lot) and the garage.

2. Such setback reductions shall not be allowed where they would result in a setback of fifty (50) percent or less than the setback of an existing dwelling on an abutting lot fronting on the same street. (See Design Guidelines, 18.05A.280, Garage Design.)

I. Maximum Front Yard Setbacks.

1. Proportion of Structure to be Built Within Setback.

a. At least thirty (30) percent of the front facade of the primary residential structure on the lot must be on or within the maximum front setback line specified in Table 5.05.

b. At least seventy (70) percent of the front facade of buildings fronting on a village or center green, park or plaza must be on or within the maximum front setback line specified in Tables 5.04 and 5.05.

2. Exceptions to the Maximum Front Yard Setback Standard. The following are exempt from the maximum front yard setbacks specified in Tables 5.04 and 5.05.

a. Parcels with physical site constraints. The approval authority may allow larger setbacks than required by Tables 5.04 and 5.05 to accommodate steep or difficult topography, views, rock out-crops, environmentally Critical Areas, or trees designated for preservation.

b. Sensitive and high impact uses. The approval authority may allow greater front yard setbacks for nonresidential uses such as schools, nursing homes, public facilities, or utilities which may be sensitive to traffic noise or emissions, or warrant greater separation from adjoining property due to their potential impacts on adjoining land uses.

c. Flag lots, (See Section 18.02.180, Definitions, Lots).

d. Wedge-shape lots. (See Section 18.02.180, Definitions, Lots).

e. Dwellings which front on an arterial street or arterial boulevard.

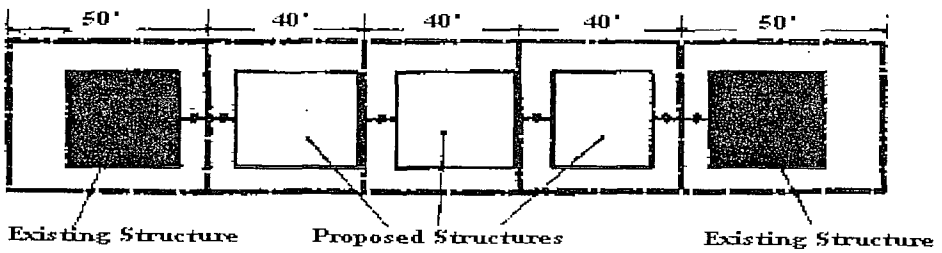
J. Side Yard Setbacks.

1. Reduced Side Yard Setbacks. A side yard building setback shall not be required for one (1) side of a residential lot provided that it meets the following conditions:

a. If the distance between the proposed dwelling and property line is less than three (3) feet, the applicant shall provide evidence of at least a three (3) foot wide maintenance easement recorded with the deed of the applicable adjoining lot. Such easements shall provide access for the owner of the applicable lot (with a side yard setback of less than three (3) feet) to maintain the exterior of the wall and roof within three (3) feet of the side property line.

b. Side yard setbacks shall not be less than five (5) feet along a property line adjoining a lot which is not approved for reduced setbacks (e.g., a conventional lot with two (2) five (5) foot wide side yard setbacks) or less than ten (10) feet along property lines which abut a public rights-of-way.

2. Setbacks from Trails and Bike Paths. The minimum side yard setback adjoining a public bike path or walkway shall be ten (10) feet.



Zero Lot Line Housing
FIGURE 5-3

K. Measurement of Setbacks. Setback width shall be measured from the outermost edge of the building foundation to the closest point of the applicable lot line.

L. Encroachment into Setbacks.

1. Required setback areas shall be kept free of any building or structure higher than thirty (30) inches.

2. EXCEPTIONS: The buildings and projections listed below shall be allowed in the portion of the setback not contained in a utility, access, or other easement:

a. Accessory structures, including accessory dwelling units, may be located in a required rear yard and/or in the rear thirty (30) feet of a required interior side yard; however, if a garage entrance faces the rear or side property line, it shall be setback at least ten (10) feet from that property line.

b. Cornices, window sills, bay windows, flues and chimneys, planters, and roof eaves may project two (2) feet into the required yard area.

c. Marquees and awnings for commercial uses.

d. Fences in compliance with the fence height requirements specified in Section 18.40.060(D) Fences.

e. Swimming pools, hot tubs and satellite dish antennas may be placed in the rear or interior side yard setback area.

f. Up to fifty (50) percent of a rear yards width may be occupied by a dwelling (primary residence or ADU) provided that the structure (foundation) is located at least ten (10) feet from the rear property line. For purposes of this section the rear yards width shall be measured in a straight line between the side property lines at the point of intersection with the rear property line.

g. Signs in compliance with Chapter 18.42.

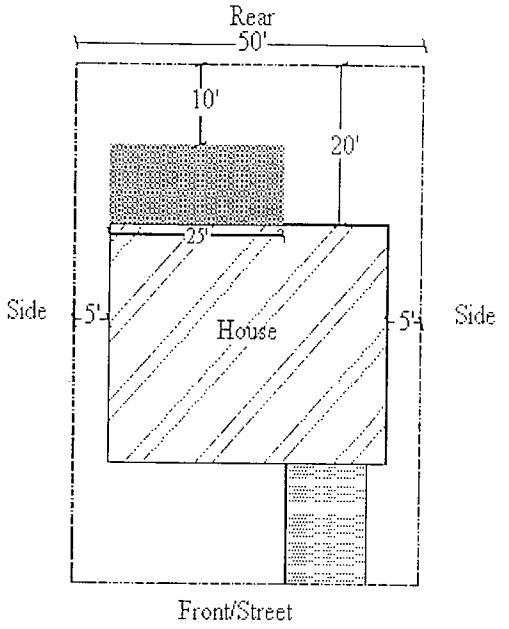


FIGURE 5-4

M. Height.

1. Buildings Fronting on Village/Center Greens or Plazas. Buildings in villages and community oriented shopping centers which front onto the required park, green or plaza (see 18.05.080(N)(2) Private and Common Open Space--Villages, and Community Oriented Shopping Centers) shall be at least two (2) stories in height. This requirement does not apply to food or grocery stores.

2. Commercial/Residential Transitions. Commercial buildings abutting lots designated for single family residential use shall not exceed two (2) stories or thirty-five (35) feet in height, whichever is less.

3. Roof Projections. The following structures may exceed the height limits specified for the district in Table 5.05 by eighteen (18) feet, provided that such structures do not contain floor space:

a. roof structures housing elevators, stairways, tanks, ventilating fans and similar equipment required to operate and maintain the building;

b. fire or parapet walls;

c. skylights;

d. clock towers;

e. flagpoles;

f. chimneys;

g. smoke stacks;

h. wireless masts;

i. T.V. antennas;

j. steeples; and

k. similar structures.

4. Tall Buildings. In the NC, NV, UV, and COCS districts, buildings over thirty-five (35) feet in height must comply with the following requirements:

a. The proposed building shall not be located within one hundred (100) feet of the boundary of the village or center. Public rights-of-way adjoining the village or center property boundary shall count toward this separation requirement. Exceptions to this provision shall be granted where topography, stands of trees (designated for retention and approved by the City's Urban Forester), or other site features block the visibility of the section of the building above thirty-five (35) feet in height from existing or potential residential areas (zoned and available for residential use) adjoining the site; and

b. Existing evergreen trees, which the City's Urban Forester determines do not pose undue risks for proposed site improvements or public safety and are appropriate for their location at their mature size, are retained where possible to help screen the building from the view of residents of dwellings abutting the property.

5. Places of Worship. The height of churches and other places of worship may exceed the height limits specified in Table 5.05 provided that the side yard width equals at least fifty (50) percent of the proposed height of the place of worship (including spires and towers).

6. Free-Standing Ornamental Structures. Free-standing ornamental structures such as clock towers, sculptures, monuments or other similar features approved as part of a master plan (see Chapter 18.57, Master Planned Developments) shall not exceed 60 feet in height. These structures shall be located in the village center (see Section 18.05.050(C), Village/Community Center) and shall not contain signage.

7. Radio and Television Transmitting and Receiving Towers. The height of radio and television transmitting and receiving towers may exceed the maximum building height allowed in the district, subject to approval of the Hearing Examiner consistent with Section 18.04.060(Z).

8. Water Towers. Water towers may exceed the height limits specified in Table 5.05.

9. Perimeter Buildings. Except as otherwise provided in Section 18.05.080(M), Height, buildings located within one hundred (100) feet of the boundary of the village or center shall not exceed two (2) stories or thirty five (35) feet, whichever is less.

10. A building height waiver may be granted at project entries and along arterial or major collector streets within a Master Planned Community (NV, UV, and COSC) where slopes exist that would cause less than desirable height of building to width of street ratio (a ratio less than 1:4 building height to street width) not to exceed the permitted building height as measured from the fronting street edge.

N. Private and Common Open Space.

1. Development of Open Space.

a. Open space required by Table 5.05 shall be devoted to undisturbed native vegetation, landscaping, and/or outdoor recreational facilities. Driveways, loading areas, maneuvering space and parking lots shall not be considered part of this required space.

b. Required open space shall not be covered with impervious surfaces, except for walkways, tennis and basketball courts, swimming pools, or similar recreational uses which require an impervious surface.

c. The Director or Hearing Examiner may increase the impervious surface coverage limits specified in Table 5.05 by up to five (5) percent to accommodate the walkways and recreational uses listed above (see also Chapter 18.36, Landscaping and Screening).

2. Villages and Community Oriented Shopping Centers.

a. Neighborhood villages, urban villages, and community oriented shopping centers shall contain at least five (5) percent open space available for public use or common use. Ownership of open space areas and type of access will be determined during the Master Planned Development review (see Chapter 18.57, OMC). As much as fifty (50) percent of this open space may be comprised of environmentally Critical Areas and associated buffers (see Chapter 14.10, OMC).

b. Neighborhood villages, neighborhood centers, urban villages, and community oriented shopping centers must contain a neighborhood park or "green" between one (1) and four (4) acres in size located in the village or community center. This park, green, or plaza shall have an average slope no greater than five (5) percent; adequate drainage to allow active use in summer; and a width and length of no less than one hundred and fifty (150) feet.

3. Cottage Housing Developments.

a. A minimum of two hundred (200) square feet of private, contiguous, usable, open space shall be provided adjacent to each dwelling unit. No dimension of this open space area shall be less than ten (10) feet.

b. A minimum of fifteen hundred (1500) square feet or two hundred (200) square feet per unit, whichever is more, shall be provided in common open space (e.g., available for the use of all residents of the cottage housing development). This open space shall be contained in a contiguous area with no dimension less than thirty (30) feet. Such open space shall be sufficiently level (e.g., less than five (5) percent slope) and well drained to enable active use in summer.

4. Multifamily Housing.

a. In neighborhood villages, urban villages, and community oriented shopping centers, parcels or sites accommodating multifamily housing (e.g., triplexes, fourplexes, and larger apartment buildings) shall contain at least thirty (30) percent open space. However, such multifamily housing within one hundred (100) feet of a neighborhood park, green, or public or common open space, which is at least ten thousand (10,000) square feet in size, shall only be required to retain fifteen (15) percent of the site in open space. Impervious surface coverage requirements shall be adjusted accordingly.

b. At least fifty (50) percent of the open space required in 18.05.080(N)(4)(a) above shall be available for the common use of all residents of the multifamily housing.

c. Common open space shall be contiguous with the housing site (e.g., not separated from the dwellings by streets or barriers that impede pedestrian access) and shall be sufficiently level (e.g., five (5) percent average slope) and well drained to allow active use in summer. No dimension shall be less than fifteen (15) feet.

(Ord. 6517 §17, 2007; Ord. 6426 §12, 2006; Ord. 6356 §4, 2005; Ord. 6140 §41, 2001; Ord. 5971 §15, 1999; Ord. 5830 §10, 1998; Ord. 5664 §5, 13, 1997; Ord. 5661 §4, 1996; Ord. 5595 §11, 1995; Ord. 5569 §13, 1995; Ord. 5517 §1, 1995).

18.05.080 TABLES: Residential Development Standards

TABLE 5.05

RESIDENTIAL DEVELOPMENT STANDARDS

DISTRICT	Neighborhood Center	Neighborhood Village	Urban Village	Community Oriented	ADDITIONAL REGULATIONS

				Shopping Center	
MAXIMUM HOUSING DENSITY (in units per acre)	12, or the lowest abutting zoning density district, whichever is greater.	24	24	24	18.05.080(B)
MAXIMUM AVERAGE HOUSING DENSITY (in units per acre)	12, or the lowest abutting zoning density district, whichever is greater.	13	14	13	18.05.080(B)
MINIMUM AVERAGE HOUSING DENSITY (in units per acre)	7	7	7	7	18.05.080(C)
MINIMUM LOT SIZE	3,500 sq. ft. = zero lots Zero Lot = A lot with only one side yard. 1,600 sq. ft., minimum 2,400 sq. ft. average = townhouses 7,200 sq. ft. = multifamily 5,000 sq. ft. = other	1,600 sq. ft. = cottages 3,000 sq. ft. = zero lots 1,600 sq. ft., minimum 2,400 sq. ft. average = townhouses 6,000 sq. ft. = duplex 7,200 sq. ft. = multifamily 4,500 sq. ft. = other	1,600 sq. ft. = cottages 3,000 sq. ft. = zero lots 1,600 sq. ft., minimum 2,400 sq. ft. average = townhouses 6,000 sq. ft. = duplex 7,200 sq. ft. = multifamily 4,000 sq. ft. = other	1,600 sq. ft. = cottages 3,000 sq. ft. = zero lots 1,600 sq. ft., minimum 2,400 sq. ft. average = townhouses 6,000 sq. ft. = duplex 7,200 sq. ft. = multifamily 4,000 sq. ft. = other	18.05.080(D) 18.05.080(E) 18.05.080(F) 18.64 (Townhouses)
MINIMUM LOT WIDTH	50′ EXCEPT: 30′ = cottages 40′ = zero lots 16′ = townhouses 80′ = duplex	50′ EXCEPT: 30′ = cottages 40′ = zero lots 16′ = townhouses 70′ = duplexes 80′ = multifamily	50′ EXCEPT: 30′ = cottages 40′ = zero lots 16′ = townhouses 70′ = duplexes 80′ = multifamily	50′ EXCEPT: 30′ = cottages 40′ = zero lots 16′ = townhouses 70′ = duplexes 80′ = multifamily	18.05.080(G)

MINIMUM FRONT YARD SETBACKS	20′ EXCEPT: 10′ with side or rear parking or on flag lots.	20′ EXCEPT: 10′ with side or rear parking or on flag lots.	20′ EXCEPT: 10′ with side or rear parking or on flag lots.	20′ EXCEPT: 10′ with side or rear parking or on flag lots.	18.05.080(H) 18.40.060(C), Clear Sight Triangle
MAXIMUM FRONT YARD SETBACK	25′	25′	25′	25′	18.05.080(I) 18.05.080(K)
MINIMUM REAR YARD SETBACKS	20′	20′ EXCEPT: 15′ for multifamily; 10′ for cottages, wedge-shaped lots, and zero lots. Zero Lot = A lot with only one side yard.	15′ EXCEPT: 10′ for cottages, wedge-shaped lots, and zero lots; 20′ with alley access.	20′ EXCEPT: 15′ for multifamily; 10′ for cottages, wedge-shaped lots, and zero lots.	18.05.080(K) 18.05.080(L) 18.05.080(E)(2
MINIMUM SIDE YARD SETBACKS	5′ EXCEPT: 10′ along flanking streets.	5′ EXCEPT: 10′ along flanking streets; 6′ on one side of zero lots; 3′ for cottages.	5′ EXCEPT: 10′ along flanking streets 6′ on one side of zero lots; 3′ for cottages.	5′ EXCEPT: 10′ along flanking streets; 6′ on one side of zero lots; 3′ for cottages.	18.05.080(J) 18.05.080(K) 18.05.080(L) 18.40.060(C), Clear Sight Triangle
MAXIMUM BUILDING HEIGHT	35′ EXCEPT: 16′ for accessory buildings.	35′ EXCEPT: 25′ for cottages; 16′ for accessory buildings.	35′ EXCEPT: 25′ for cottages; 16′ for accessory buildings.	35′ EXCEPT: 25′ for cottages; 16′ for accessory buildings.	18.05.080(M)
MAXIMUM ABOVE GRADE STORIES	2 Stories	3 Stories	3 Stories	3 Stories	
MAXIMUM BUILDING COVERAGE	50%	50%	50%	50%	
MAXIMUM IMPERVIOUS SURFACE COVERAGE	70%	70%	70%	70%	18.64 (Townhouses)
MINIMUM OPEN SPACE	1 acre	5% plus 450 sq. ft./unit for	5% plus 450 sq. ft./unit for	5% plus 450 sq. ft./unit for	18.05.080(N)

cottage developments; 30% for multifamily.	cottage developments; 30% for multifamily.	cottage developments; 30% for multifamily.

(Ord. 6517 §17, 2007).

18.05.100 Additional regulations

Refer to the following Chapters for additional related regulations:

Chapter 18.04	Residential Districts
Chapter 18.05A	Design Guidelines for Villages and Centers
Chapter 18.06	Commercial Districts
Chapter 18.36	Landscaping and Screening
Chapter 18.38	Parking and Loading
Chapter 18.48	Conditional Uses
Chapter 18.50	Design Review
Chapter 18.57	Master Planned Developments
Chapter 18.64	Townhouses

(Ord. 5517 §1, 1995).

18.05.120 Briggs Village

Effective December 16, 2003, the Olympia City Council approved and adopted the Briggs Village Master Plan, the details and regulations of which are found in Ordinance No. 6299, on file with the City Clerk. The City Clerk is hereby authorized and directed to insert the effective date and number of this Ordinance in this section.

(Ord. 6299 §4, 2003).

18.05.140 Woodbury Crossing Village

On September 15, 2009, the Olympia City Council approved and adopted the Woorbury Crossing Master Plan, the details and regulations of which are found in Ordinance No. 6655, on file with the City Clerk.

(Ord. 6655 §3, 2009).

18.05.160 Bentridge Village

On April 13, 2010, the Olympia City Council approved and adopted the Bentridge Village Master Plan, the details and regulations of which are found in Ordinance No. 6700, on file with the City Clerk.

(Ord. 6700 §4, 2010).

18.05.170 Village at Mill Pond

On July 26, 2011, the Olympia City Council approved and adopted the Village at Mill Pond Master Plan, the details and regulations of which are found in Ordinance No. 6773, on file with the City Clerk.

(Ord. 6773 §5, 2011).

This page of the Olympia Municipal Code is current through Ordinance 6774, passed October 4, 2011.
Disclaimer: The City Clerk's Office has the official version of the Olympia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Olympia's Codification Process (http://olympiawa.gov/city-government/codes-plans-and-standards/municipal-code.aspx)

City Website: http://olympiawa.gov/ (http://olympiawa.gov/)
City Clerk: (360) 753-8325
Code Publishing Company (http://www.codepublishing.com/)
eLibrary (http://www.codepublishing.com/elibrary.html)

OMC
CH. 18.05A

SITE DESIGN

Chapter 18.05A
URBAN VILLAGE, NEIGHBORHOOD VILLAGE, NEIGHBORHOOD CENTER AND COMMUNITY ORIENTED SHOPPING CENTER DESIGN CRITERIA

18.05A.000 Chapter Contents

Sections:

18.05A.010 How to use design criteria.

SITE DESIGN AND ORIENTATION

18.05A.020 Site design - Streets, trails and open space.
18.05A.030 Site design - Location and use of centers and common open spaces.
18.05A.040 Site design - Gateways and focal points.
18.05A.050 Site design - Pedestrian/sidewalk orientation.
18.05A.060 Site design - Fences and walls adjacent to pedestrian scale streets.

COMMERCIAL AND MIXED USE BUILDING DESIGN, LANDSCAPING, AND SIGNS

18.05A.070 Building design - Commercial and mixed use.
18.05A.080 Building design - Creation of human scale.
18.05A.090 Building design - Building wall finishes for stand alone and corner site buildings.
18.05A.095 Building design - Drive-through banks.
18.05A.100 Landscape design for villages, commercial and mixed use areas.
18.05A.110 Landscape design - Screening.
18.05A.120 Landscape design - Existing trees.
18.05A.130 Signs - Attached to the building.
18.05A.140 Signs - Freestanding.

MULTIFAMILY PROJECTS (INCLUDING TOWNHOUSES OF 5 UNITS OR MORE)

18.05A.150 Site design - Orientation.
18.05A.160 Site design - Parking location and design.
18.05A.170 Site design - Mailboxes, site lighting, and bus stops.
18.05A.180 Site design - Screening.
18.05A.190 Building design - Neighborhood scale.
18.05A.200 Building design - Privacy.
18.05A.210 Building design - Facade, footprint, and roof articulation.
18.05A.220 Building design - Entries.
18.05A.225 Building design - Windows.
18.05A.230 Building design - Materials and colors.
18.05A.240 Signs.

DUPLEX, TRIPLEX, FOURPLEX, TOWNHOUSE PROJECTS (4 UNITS OR LESS), COTTAGE HOUSING AND SINGLE FAMILY HOUSING, INCLUDING DESIGNATED MANUFACTURED HOUSING (6 UNITS PER ACRE OR MORE)

18.05A.250 Duplex, triplex, etc. - Applicability.
18.05A.260 Building design - Roof form and architectural detail.
18.05A.270 Building design - Entries.
18.05A.280 Building design - Garage design.
18.05A.290 Building design - Materials and colors.

ACCESSORY DWELLING UNITS (ADU)

18.05A.300 Site and building design - Privacy.
18.05A.310 Building design - Entry features.
18.05A.320 Building design - Materials and colors.

COTTAGE HOUSING

18.05A.330 Site design - Cottage housing.

(Ord. 6581 §5, 2008)

18.05A.010 How to use design criteria

The Requirement Sections in the following Design Criteria for the City of Olympia are the requirements each project shall meet. These design criteria are intended to supplement the development standards of each zoning district. Where the provisions of this chapter conflict with the provisions of the zoning district, the provisions of the zoning district shall apply. The Guidelines which follow each Requirement Statement are suggested ways to achieve the design intent. Each guideline is meant to indicate the preferred conditions, but other equal or better design solutions will be considered acceptable by the Board and/or staff, so long as these solutions meet the intent of these sections. Where a requirement and/or guideline is followed by the abbreviations found in the Legend on each page - these requirements and/or guidelines are applicable to that particular zone found in Chapter 18.05. Nothing in these Design Criteria shall be construed to create a duty on the part of the City or its officers, agents and employees with respect to the health, safety or welfare of the users of the structures and surroundings mentioned herein.

(Ord. 5967 §9, 1999; Ord. 5830 §49, 1998; Ord. 5517 §1, 1995).

18.05A.020 Site design –Streets, trails and open space

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Arrange the streets and trails on the site so that the central internal open space and other community facilities can be accessed from all areas of the development without using an arterial street. The street layout shall be a modified grid street pattern adapted to the topography, unique natural features, and environmental constraints of the site. The street layout shall provide direct convenient access to the village center, community focus areas, and internal open space areas, and shall showcase gateways and vistas. When making connections with adjacent neighborhoods use traffic calming techniques where necessary. Public access shall be provided to water bodies that fall within the jurisdiction of the Shoreline Management Act. (Examples of such access may be an arboretum or swimming, if possible). Public access types include: UV, NV, COSC.

1. Type I: Provides direct physical connection to the water's edge including floats, docks, and boat launches. Access itself is located either up to the shoreline or floating over-the-water.

2. Type II: Provides immediate proximity to the water's edge, but does not provide the physical ability to touch the water.

3. Type III: Provides unobstructed and proximate (very near) view of waterward side of the project.

4. Type IV: Provides visual access to the waterfront (but not the waterside of the project) and shoreline interpretation.

Ownership and type of access will be determined during the Master Planned Development Process.

B. GUIDELINE:

1. Street layout should have a minimum of two (2) interconnections with the existing public street system rated as an arterial or collector. (UV, NV, COSC)

2. The modified grid street pattern should define blocks that are two hundred fifty (250) to three hundred fifty (350) feet long. (UV, NV, COSC)

3. When a block face is longer than three hundred fifty (350) feet, an alley should be provided with through access to another street or alley. (UV, NV, COSC)

4. Street layout that includes access from alleys to development is preferred. (UV, NV, COSC)

5. Blocks should be designed to have a maximum length of six hundred (600) feet from street to street and should either continue through the intersection or terminate in a "T" intersection directly opposite the center of a building, an internal open space area, or a view into a peripheral open space area. (See Figure 5A-2)(UV, NV, COSC)

6. A majority of the streets should be curved or terminated so that no street vista is longer than one thousand two hundred (1,200) feet. (UV, NV)

7. Provide a connected system of recreation areas, trails, and natural open spaces that are linked to the village center and to natural features by streets or foot paths. (UV, NV, COSC)

8. Provide street linkages, including pedestrian and bike facilities to adjacent developments and neighborhoods where possible. (UV, NV, COSC)

9. Encourage pedestrian accessibility from adjacent residential neighborhoods by the use of through-block connections or other accessibility methods. (UV, NV, COSC, NC)

10. Where there are wildlife habitat areas on a village or center site, connect them to adjacent habitat areas to facilitate wildlife movement. (UV, NV, COSC, NC)

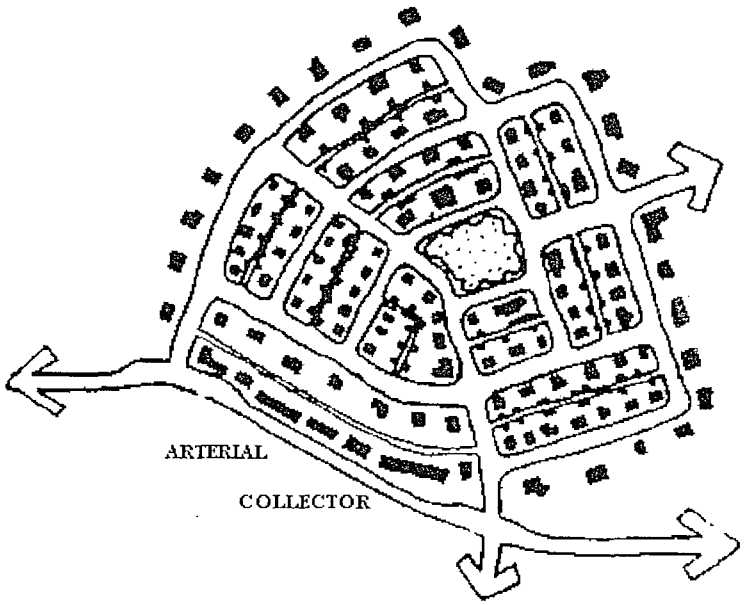
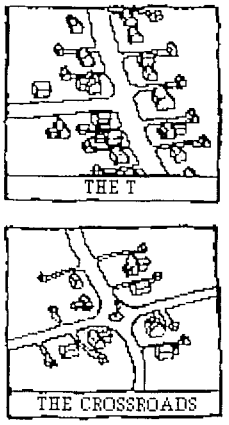
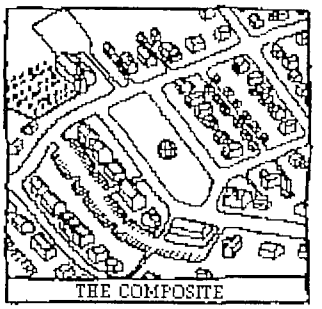


Diagram of a modified grid street pattern built around a village center. Note the three (3) connections to the surrounding street system. Each village or community oriented shopping center must have at least two (2) peripheral attachments.

FIGURE 5A-1





Diagrams of modified rectilinear street and intersection configurations which can be composed in a variety of ways.

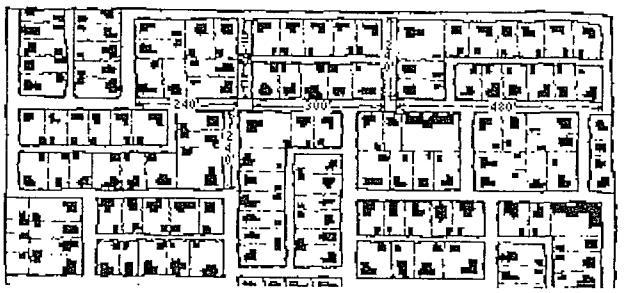


Diagram of an internal street pattern defining geometrically shaped blocks.

FIGURE 5A-2

(Ord. 6517 §18, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.030 Site design –Location and use of centers and common open spaces

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Common open space shall be used for social, recreational, and/or natural environment preservation purposes. It shall include at least one internal open space (such as a village center park) which will serve as a center and around which commercial mixed use and some higher density housing may be located. (UV, NV, COSC, NC)

B. GUIDELINE:

1. An internal open space should be designed as a center park, town square, or urban park, should be an active gathering place in both day and evening, and should include places for strolling, sitting, social interaction, and recreation.(UV, NV, COSC, NC)

2. The core area or center of the site should contain a greater intensity of development than outlying areas. Smaller lots and higher density dwellings should be located closer to the center park and commercial area. (UV, NV, COSC)

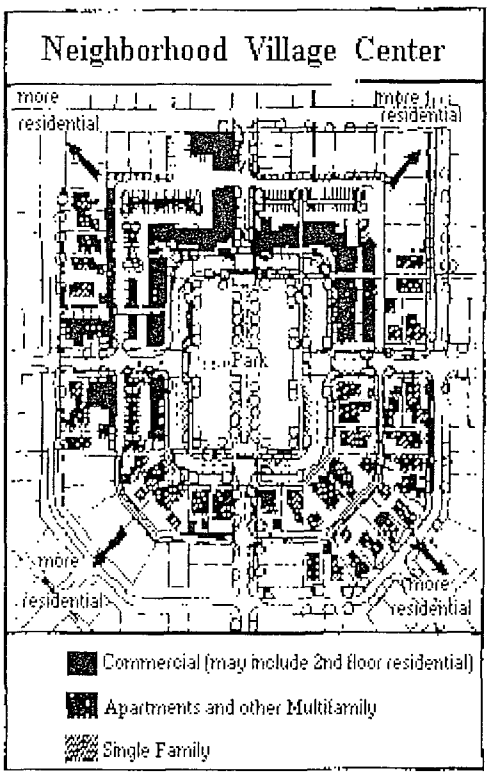
3. All commercial development in villages and centers should be within approximately six hundred (600) feet of an existing or planned transit stop. (UV, NV, COSC, NC)

4. Surround the urban village center park with a concentration of high density development which may include commercial, residential, public and semi-public uses, community clubs, and community facilities. (UV)

5. A village center park should have a distinct geometric shape, and be bounded by streets with curb side parking on a minimum of fifty (50) percent of its perimeter. (NV, COSC, NC)

6. The center park should be landscaped using elements such as formal gardens, walkways, monuments, statues, gazebos, fountains, park benches, children's play equipment, small playfields and pedestrian-scale lamp posts. (NV, COSC, NC)

7. Internal open spaces should be landscaped with trees and shrubs that do not visually obstruct scenic vistas. (NV, COSC, NC)



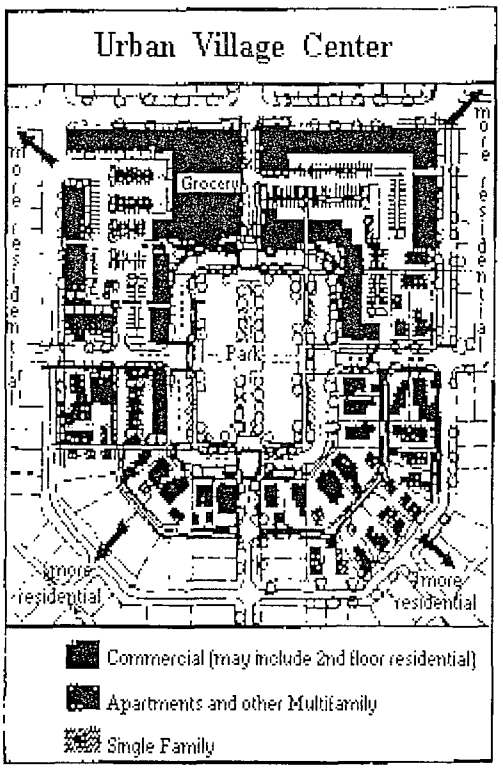
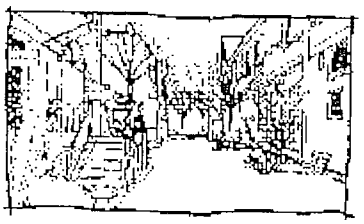


FIGURE 5A-3

Views in Village and Center Areas

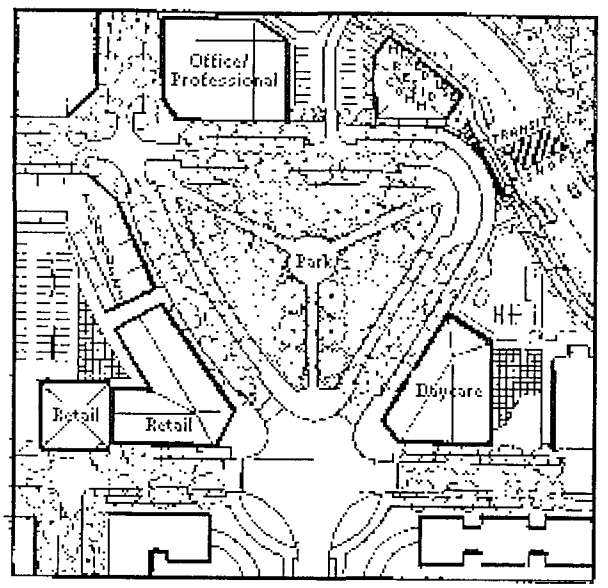
View from center of a park in a neighborhood village, urban village or community shopping center. Both commercial uses and a mix of housing types face onto the street that borders the park. Only small scale, service commercial uses would be located in a neighborhood village center.



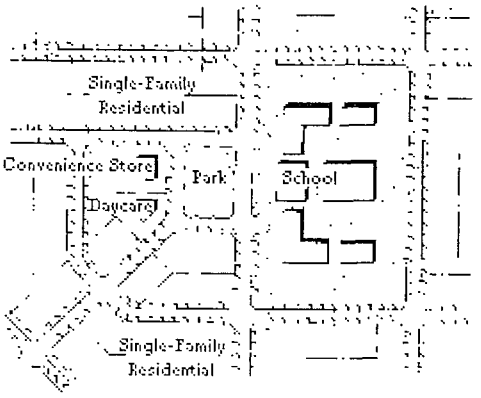
View of pedestrian walkway to village center and park.

View of day care and other commercial and residential at a village, neighborhood center or community oriented shopping center.

FIGURE 5A-4



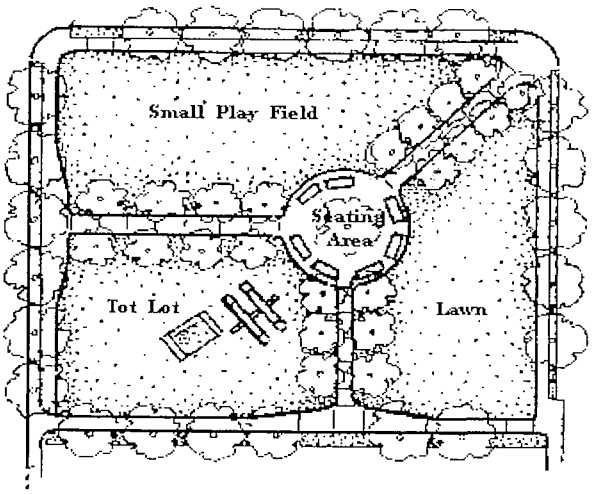
A village center park can take many forms but should serve as an active gathering place surrounded by medium and high density housing.



A neighborhood center, not part of a village, may be located in some existing neighborhoods to provide some small scale convenience service to adjacent neighborhoods.

Small scale neighborhood centers outside of villages should use the same Pedestrian/Sidewalk Orientation, Building Design, Landscape Design and Sign Guidelines as Urban and Neighborhood Villages.

FIGURE 5A-5



A neighborhood center park, village center park or a community oriented shopping center park can serve a variety of functions. Its size and shape should accommodate the anticipated use.

FIGURE 5A-6

(Ord. 6517 §19, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.040 Site design –Gateways and focal points

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Distinct or prominent buildings shall be located at gateways within a village, or community oriented shopping center, at focal points, such as corner sites, or at points of visual termination. (UV, NV, COSC)

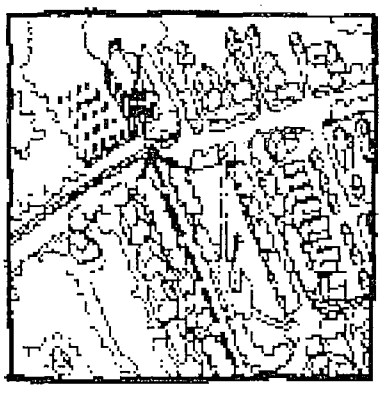
B. GUIDELINE:

1. Prominent, monumental buildings or structures should mark gateways, focal points, or points of visual termination. This can be accomplished by using:

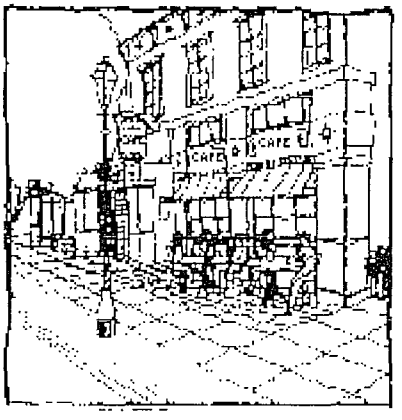
a. distinct massing (such as the use of recessed entries, contrasting materials and architectural features that identify a bottom, middle and top of a building),

b. additional height or the appearance of enhanced height (such as with the use of roof pitches and shapes, or cornice detail),

c. distinct architectural embellishments or ornamentation that break up and create variety on flat facades.



Focal points should terminate views down streets.



Gateway buildings should mark transition areas.

FIGURE 5A-7

(Ord. 6517 §20, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.050 Site design –Pedestrian/sidewalk orientation

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Create an interesting street that is visually attractive, and easy to use for pedestrians who will live, work or shop in the area. Buildings internal to a village or center shall generally face and be located on pedestrian streets. This will allow entries, display windows, and building facades to create a continuous row of store fronts and residences. Parking shall be clustered and/or located on the side or behind buildings and be designed in a way that gives pedestrians access to building entrances that are as direct as possible. (UV, NV, COSC, NC)

Exceptions to building and parking orientation may be made for a grocery store in an urban village, or a community oriented shopping center. (UV, COSC)

The orientation and facade of a building adjacent to an arterial or major collector shall be designed to enhance the adjacent neighborhood. Buildings and parking lots located adjacent to an arterial or major collector on the edge of a village or center shall be designed and oriented to (1) maximize the presence and prominence of the building on village corners and at gateways and (2) minimize the presence and prominence of parking lots. Where a building entry faces a parking lot, pedestrian linkages to the internal street network must be as pleasant, visible, well lit, and direct as possible. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Orientation

a. Store fronts should face the core area, center park, and/or sidewalk of the streets on the site. (UV, NV, COSC, NC)

b. Buildings fronting on a village or center park, green or plaza should be at least two (2) stories high. (UV, NV, COSC, NC)

c. Corner lots at major street entry points or village center areas should be occupied by buildings or structures designed to emphasize their prominent location. (UV, NV, COSC)

d. Locate service and delivery away from the main streets where possible. (UV, NV, COSC, NC)

e. Avoid and/or minimize curb cuts on streets. Use alleys or side streets for vehicle access where possible. (UV, NV, COSC)

f. Require the site design to accommodate transit on transit routes:

i. bordering the site, and

ii. within a core area that may have transit service. (See Figure 5A-5.) (UV, NV, COSC, NC)

2. Enhanced Pedestrian Access

a. Direct pedestrian access should be provided from sidewalks and parking lots to building entrances, to bus stops, and to adjacent buildings. Where practical and consistent with the other provisions of the district, parking isles should be aligned perpendicular to the building and pedestrian access should be separate from vehicular travel lanes. (See Figure 5A-9.)(UV, NV, COSC, NC)

b. Where a parking lot separates a building entrance from a sidewalk in the rights-of-way, a pedestrian walkway at least six (6) feet in width should be provided connecting the street, the sidewalk and the building entrance. Such crossings should be clearly marked. (See Figure 5A-9.)(UV, NV, COSC, NC)

c. Define walkways with vertical plants, such as trees or shrubs and with lighting. (UV, NV, COSC, NC)

d. Place signs where they clearly direct customers to the building entrances and the parking areas. (UV, NV, COSC, NC)

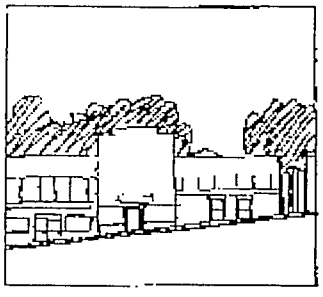
e. Motor vehicle wheel stops or extended curbs should be installed or sidewalk widths should be increased as necessary to ensure that pedestrian walkways within the site have a passable width of at least four (4) feet and sidewalks in rights-of-way are not encroached upon. Street lights, utility poles, benches, trees, trash receptacles and similar streetscape fixtures should, to the greatest extent practical, be situated such that sidewalks in the rights-of-way have a passable width of at least five (5) feet. (UV, NV, COSC, NC)

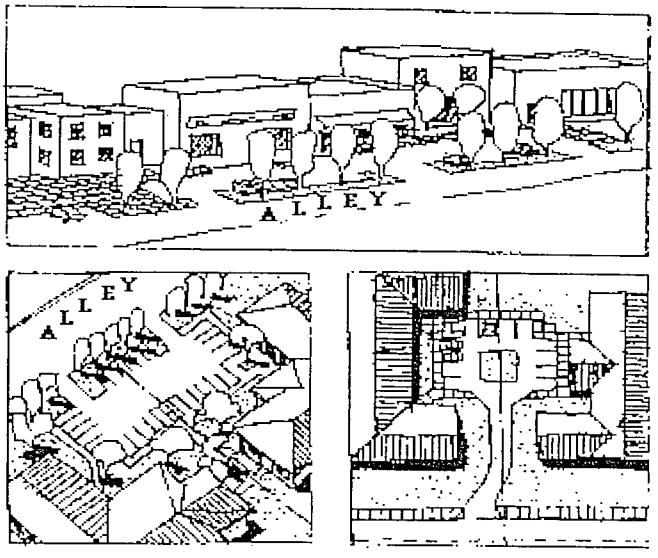
f. A walkway or shared bike/pedestrian network should be provided throughout the site that interconnects all dwelling units with other units, nonresidential uses, and common open space. Bike and pedestrian ways should be on the street and alley network but additional connections may be provided. (UV, NV, COSC)

9. Consolidation

a. Use common wall side by side development with continuity of facades (as allowed by Table 5.04 sideyard setbacks). (UV, NV, COSC, NC)

b. Consolidate required parking for several businesses on one (1) parking lot, wherever possible. (UV, NV, COSC, NC)

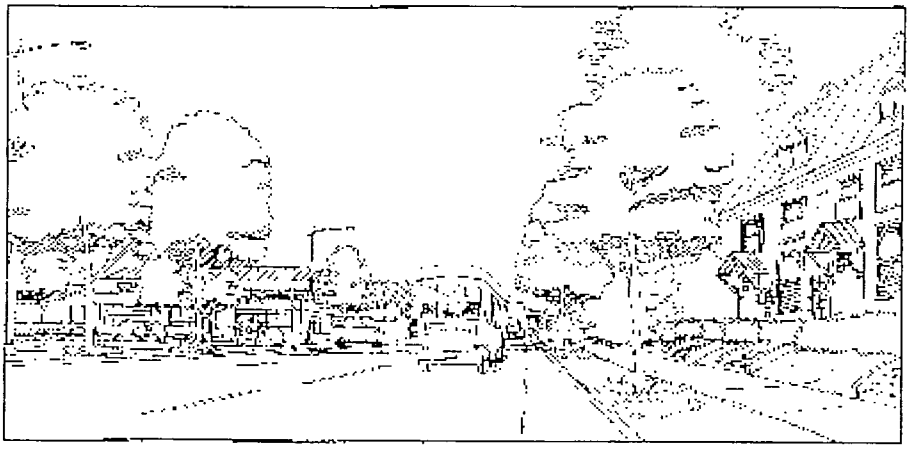




Conform floor elevations to sidewalk grades wherever possible to allow easy access to businesses from the street.

Consolidate parking for several businesses wherever possible.

FIGURE 5A-15



Entries to residential units with small setbacks are raised two to four (2-4) feet above the sidewalk grade to provide privacy for residents.

FIGURE 5A-16

(Ord. 6517 §20, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995)

18.05A.060 Site design –Fences and walls adjacent to pedestrian scale streets

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Design the site to minimize the need for fences and walls which inhibit or discourage pedestrian use of sidewalks or paths, isolate neighborhoods, or separate neighborhoods from main roads. Allow exceptions where necessary to reduce noise, provide buffers or create private yards. (UV, NV, COSC, NC, UC)

B. GUIDELINE:

1. Front and side yards which abut a street should be visually open to the street. (UV, NV, COSC, NC, UC)

2. Where a fence, wall or landscaped area separates a sidewalk from a building or one development from another, pedestrian breaks and/or crossings should be placed at regular intervals. (UV, NV, COSC, NC, UC)

3. Where fences or walls are necessary to reduce noise, provide buffers, or create private yards, consider the guidelines below to maintain a pedestrian scale along the street: (UV, NV, COSC, NC, UC)

a. Provide art (mosaic, mural decorative masonry pattern, sculpture, relief, etc.) over a substantial portion of the blank wall surface. (UV, NV, COSC, NC, UC)

b. Employ small setbacks, indentations, stepped fence heights, or other means of breaking up the wall or fence surface and height. (UV, NV, COSC, NC, UC)

c. Employ different texture, colors, or materials (including landscape materials) to break up the wall's surface. (UV, NV, COSC, NC, UC)

d. Provide special lighting, a canopy, awning, horizontal trellis or other pedestrian oriented feature that breaks up the size of the blank wall's surface and adds visual interest. (UV, NV, COSC, NC, UC)

e. If fencing is required, repeat the use of facade building materials on fence columns and/or stringers. (UV, NV, COSC, NC, UC)

Alternative to solid, or blank-looking fence.

FIGURE 5A-17

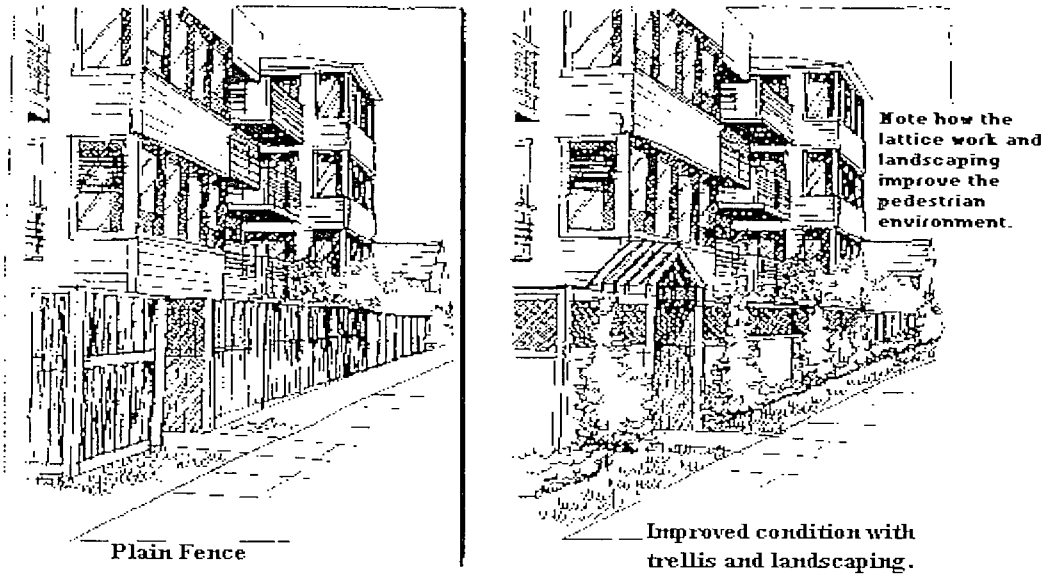


FIGURE 5A-18

(Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.070 Building design –Commercial and mixed use

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Maintain interest at the street level in buildings which abut the street by orienting active uses (such as retail storefront window displays or restaurants) to the street and center park where possible. (UV, NV, COSC, NC)

Commercial and mixed use buildings shall appear to create a pedestrian shopping street with a clearly defined street edge and clearly defined entries. The rear of these buildings shall be designed so that they are approachable from rear yard parking where necessary and are not obtrusive to adjacent neighbors. (UV, NV, COSC, NC)

Buildings shall avoid long, monotonous uninterrupted walls or roof planes. Buildings shall use articulation and/or modulation on all walls that are visible to pedestrians. (UV, NV, COSC, NC)

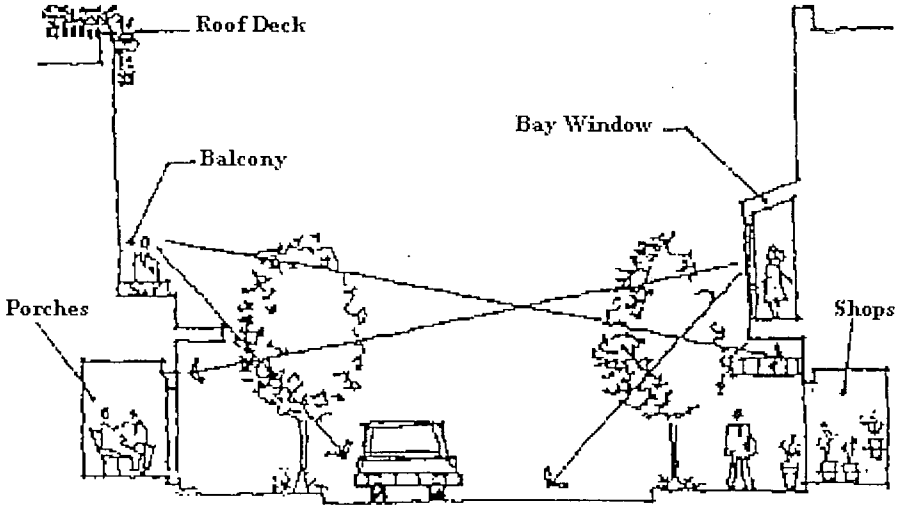
Buildings occupying corners shall be designed as more dramatic structures to emphasize their prominent locations. (UV, NV, COSC)

B. GUIDELINE:

1. Building materials and colors may include any of the following:

a. Masonry, wood, stucco, concrete, stone, and tile, each broken into small modules. (UV, NV, COSC, NC)

b. Accent or trim colors are encouraged. (UV, NV, COSC, NC)



These elements help to create an active street that is human scale and attractive to pedestrians.

FIGURE 5A-19

2. Building elements should employ:

a. Vertical and horizontal relief in the facade that identifies a bottom, middle and top of the building. (UV, NV, COSC, NC)

b. A clearly defined pedestrian entry facing the street. (UV, NV, COSC, NC)

c. Window systems grouped together to form larger areas of glass separated by moldings or jambs. (UV, NV, COSC, NC)

d. Awnings, canopies, marquees, building overhangs, or similar form of pedestrian weather protection at least four and one half (41/2) feet wide provided along at least eighty (80) percent of the frontage of buildings which abut a pedestrian street. (UV, NV, COSC, NC)

3. Building Proportions - Size, Height and Bulk

a. Use design techniques that minimize the apparent size of the building such as:

i. Building stepbacks on upper levels, (UV, NV, COSC, NC)

ii. Curved or articulated surfaces, (UV, NV, COSC, NC)

iii. Recessed entries, (UV, NV, COSC, NC)

iv. Roof lines, pitches and shapes, (UV, NV, COSC, NC)

v. Cornices, (UV, NV, COSC, NC)

vi. Bldg. ornamentation, (UV, NV, COSC, NC)

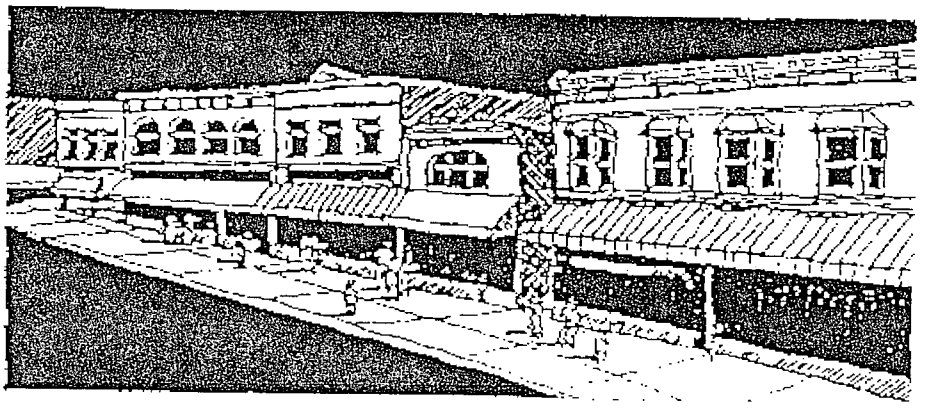
vii. Overhangs & soffits, (UV, NV, COSC, NC)

viii. Dormers, balconies and porches that clearly define street facing entries to residential properties, (UV, NV, COSC, NC)

ix. Building fenestration and detailing (store front or multi-paned windows for residential units), and (UV, NV, COSC, NC)

x. Awnings and marquees. (UV, NV, COSC, NC)

b. Buildings on corner lots may be designed with additional height and architectural embellishments such as corner towers to emphasize their location. (See Figure 5A-21.)(UV, NV, COSC)



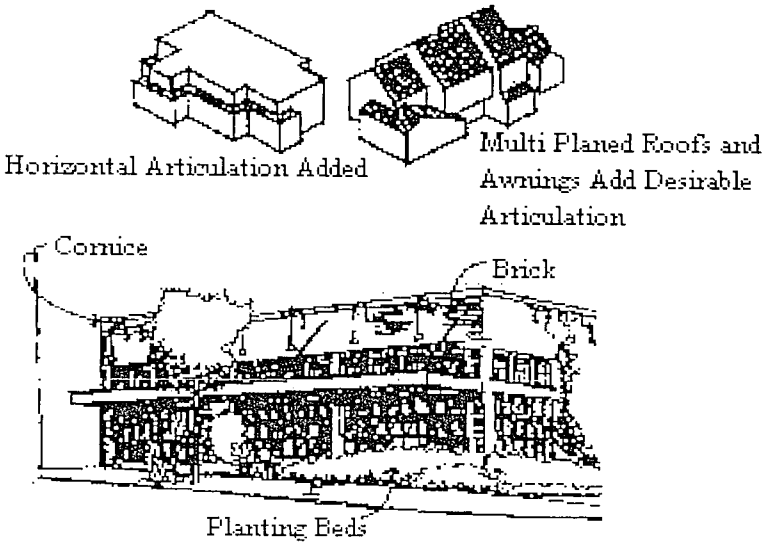
Align the bottom edge of awnings, canopies or marquees when appropriate on a group of buildings so that the unity of the store front line is maintained with adjacent buildings.

FIGURE 5A-20

Corner buildings should be designed as more dramatic structures to emphasize their prominent location.

Traditional style building with a clearly defined bottom, middle and top.

FIGURE 5A-21



Modern style building with a bottom, middle, and a top cornice detail. Use of a variety of materials helps to add interest to the building facade.

FIGURE 5A-22

4. Exterior Wall Treatments

a. Provide frequent views and access into interior activities of office and commercial buildings from the street. For example, use a high proportion of clear glass at the street level or have displays or services directly available from the street where appropriate. (UV, NV, COSC, NC)

b. In mixed use buildings, the difference between ground floor commercial uses and entrances for upper level commercial or apartment uses should be reflected by differences in facade treatment. Differentiation can be achieved through distinct but compatible exterior materials, signs, awnings and exterior lighting. (UV, NV, COSC, NC)

c. One or more of the following wall treatments should be required for building faces fronting on a sidewalk. In total, such wall treatments should cover or comprise at least sixty (60) percent of the building face between two (2) and eight (8) feet in elevation above the sidewalk. Except as provided for in (d), wall segments without such treatments should not exceed thirty (30) feet in length: (UV, NV, COSC, NC)

i. Clear or lightly tinted windows which are transparent when viewed from the sidewalk; (UV, NV, COSC, NC)

ii. Ornamental and structural architectural details, a mosaic, decorative masonry or tile, surface texture, relief art work, sculpture or murals; (UV, NV, COSC, NC)

iii. Climbing plants, vines, trees, or other vegetation; or (UV, NV, COSC, NC)

iv. A pedestrian area located along the southern, eastern, or western exposure of a building face at a transit stop, intersection corner, or other location identified in an adopted streetscape plan may substitute for the wall treatments listed above. (UV, NV, COSC, NC)

Ground floor commercial uses should be differentiated by the facade treatment.

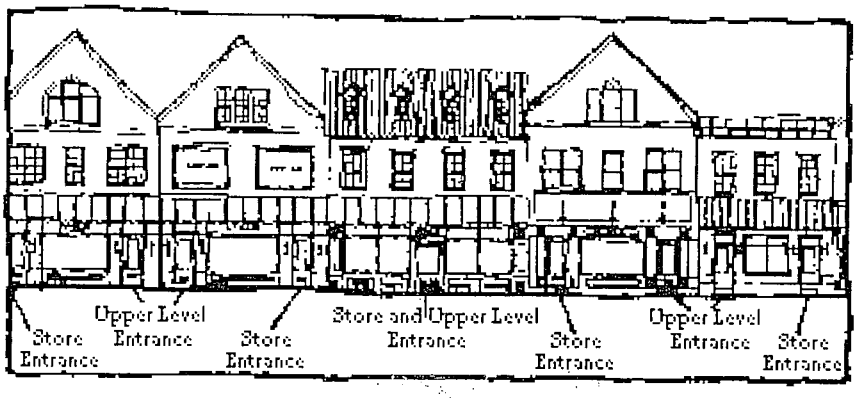


FIGURE 5A-23

(Ord. 6517 §21, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.080 Building design –Creation of human scale

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Use design elements that result in buildings with a perceived size that maintains a human scale street that is comfortable for pedestrians and attractive to them. See Figure 5A-43 and Figure 5A-44. These techniques are also useful when commercial buildings abut residential development. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Use rooflines to maintain apparent scale and reinforce or create architectural character on a street. (UV, NV, COSC, NC)

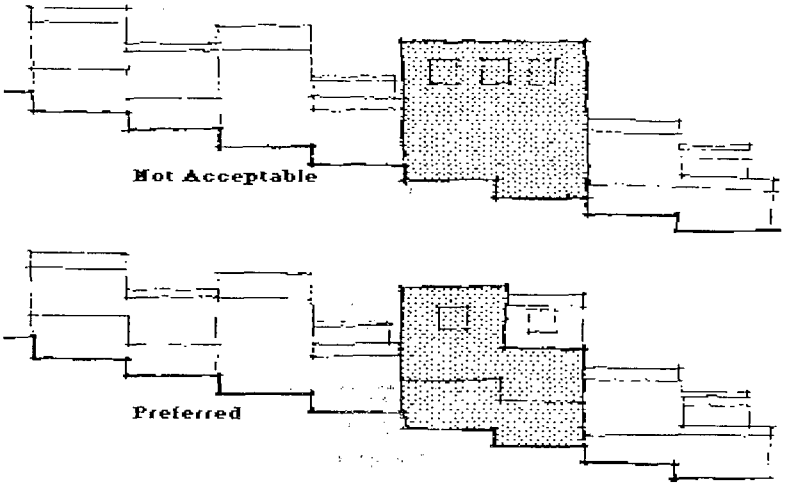
2. Use architectural features such as cornices or other details that lower the apparent height. (UV, NV, COSC, NC)

3. Use modulation (stepping back and stepping forward) and articulation on building facades to reduce the bulk of buildings. (Figure 5A-24)(UV, NV, COSC, NC) Articulation methods include:

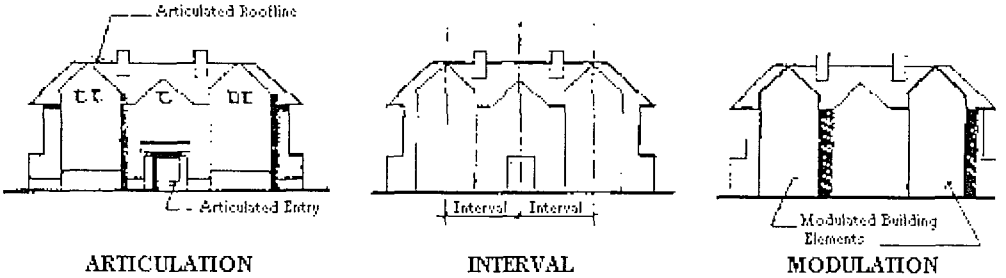
a. Broken rooflines

b. Building elements such as balconies, chimneys, porches or other entry details, and landscaping.

4. Place display windows and retail shops at the street level around the exterior of larger buildings. (UV, NV, COSC)



This building is articulated into intervals. Articulation methods include modulation, broken rooflines, buildings elements (chimneys, entries, etc.) and landscaping.



ARTICULATION INTERVAL MODULATION

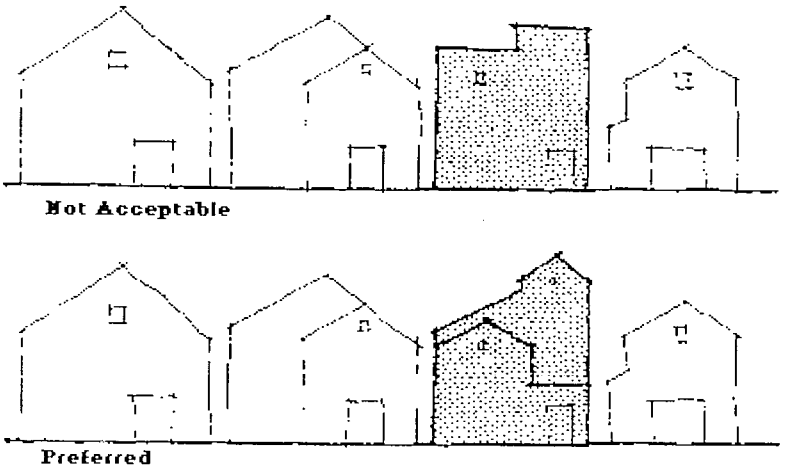
Definitions: Articulation is the giving of emphasis to architectural elements (like windows, balconies, entries, etc.) that create a complementary pattern or rhythm, dividing large buildings into smaller identifiable pieces.

An interval is the measure of articulation - the distance before architectural elements repeat.

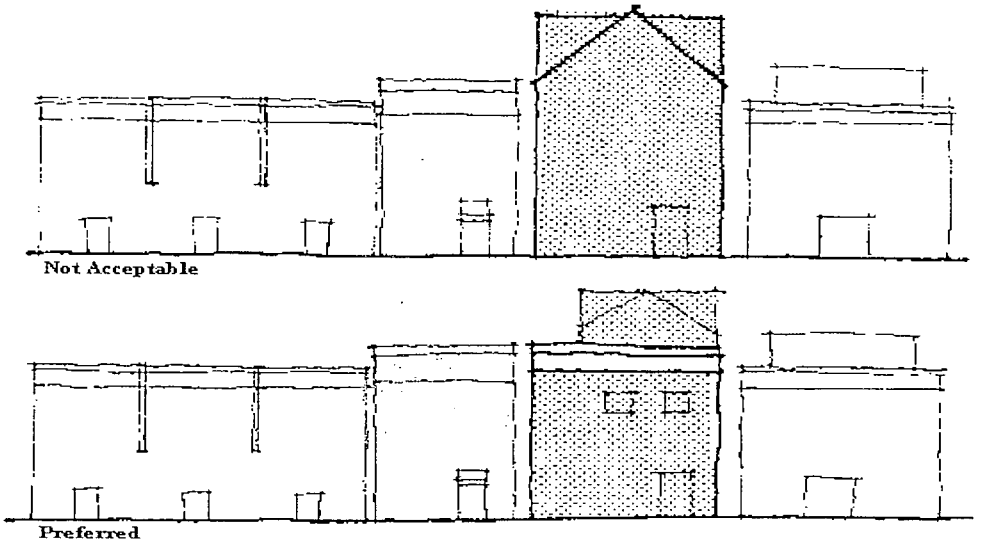
Modulation is a measured and proportioned inflexion or setback in a building's face.

Together articulation, modulation and their interval create a sense of scale important to residential buildings.

FIGURE 5A-24

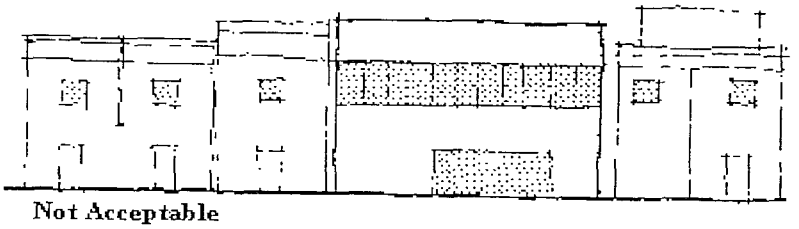


Rooflines can reinforce the architectural character of a street.

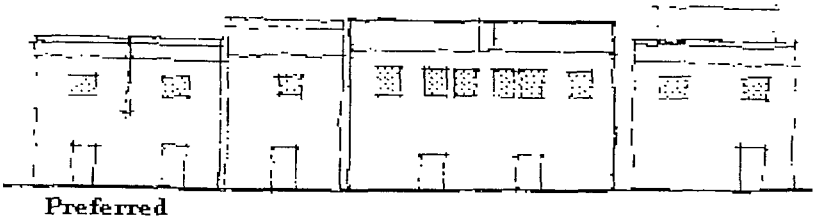


Architectural features like cornices can relate to adjacent buildings, lowering the apparent, conflicting height of a building.

FIGURE 5A-25



Not Acceptable



Preferred

Sometimes an area has a number of buildings that feature a distinctive architectural concept or style. In these cases, using that organizational concept can achieve compatibility at a deeper level.

FIGURE 5A-26

(Ord. 6517 §22, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.090 Building design –Building wall finishes for stand alone and corner site buildings

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Ensure buildings have consistent visual identity from all sides visible to the general public. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Continue exterior materials, architectural detailing, and color scheme around all sides of the building visible to the general public. (UV, NV, COSC, NC)

a. Avoid having building fronts or backs which do not look related to the remainder of the building where more than one wall plane can be viewed at the same time. (UV, NV, COSC, NC)

FIGURE 5A-27

(Ord. 6517 §23, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.095 Building design –Drive-through banks

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Locate the main entry to a bank on a pedestrian-oriented street. Orient drive-through facilities at banks in a way that makes minimal disruption on the street edge. See also Section 18.05.060(A) Use Standards, Banks (i.e., limit of one lane, and prohibition of access onto streets abutting a village green). (UV, NV, COSC, NC)

B. GUIDELINE:

1. Design the drive-through window so that it is clearly subordinate to the main building. (UV, NV, COSC, NC)

2. Where the drive-through is a separate structure, use architectural details that conform to those used on the main building. (UV, NV, COSC, NC)

3. Minimize curb cuts and the disruption of a sidewalk by:

a. Making the width of the lane approaching the window as narrow as possible, and

b. Using landscaping and planters to provide a street edge adjacent to the sidewalk. (UV, NV, COSC, NC)

(Ord. 6517 §24, 2007; Ord. 5714 §11, 1997; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.100 Landscape design for villages, commercial and mixed use areas

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Treat plantings and other landscape elements as enhancements to the more dominant built environment. Street trees shall be planted along each side of all streets. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Employ any of the following planting techniques for landscape design:

a. Small planting areas with flowering shrubs. (UV, NV, COSC, NC)

b. Trimmed hedges, window boxes, hanging flower baskets. (UV, NV, COSC, NC)

c. Use of shrubs or vines trained to grow upright on wires or trellises (espaliers) next to blank walls with narrow planting areas. (UV, NV, COSC, NC)

d. Isolated trees installed in pavement cutouts. (UV, NV, COSC, NC)

e. Street trees should be massed at critical points such as at focal points along a curve in a roadway. (UV, NV, COSC, NC)

f. Low maintenance, low chemical dependent drought-tolerant plant materials should be used. (UV, NV, COSC, NC)

g. Repeat similar tree and shrub types to coordinate old and new phases of development and provide visual continuity. (UV, NV, COSC, NC)

h. Limit varieties of plant types, use shrubs in multiples of similar types, and avoid a haphazard mixture of textures, colors and plant types. (UV, NV, COSC, NC)

i. Include a well landscaped surface stormwater treatment area in the landscape design where surface stormwater treatment is provided. (UV, NV, COSC, NC)

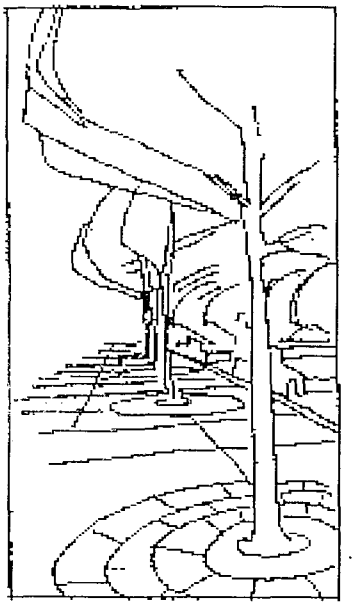
j. Retain natural greenbelt vegetation that contributes to greenbelt preservation. (UV, NV, COSC, NC)

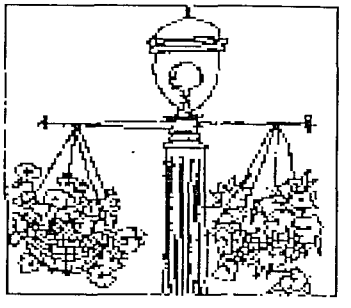
k. The owner should provide regular maintenance to ensure that plant materials are kept healthy and that dead or dying plant materials are replaced (see Landscaping and Screening Chapter of the Olympia Unified Development Code 18.36). (UV, NV, COSC, NC)

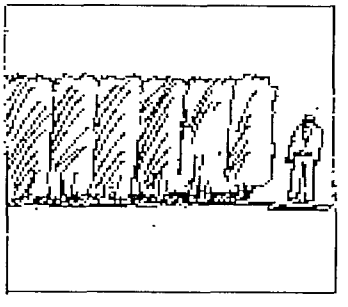
l. Landscape open areas created by building modulation. (UV, NV, COSC, NC)

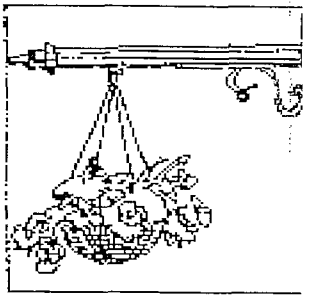
m. Incorporate upper story planter boxes or roof plants into facades that can be seen by pedestrians. (UV, NV, COSC, NC)

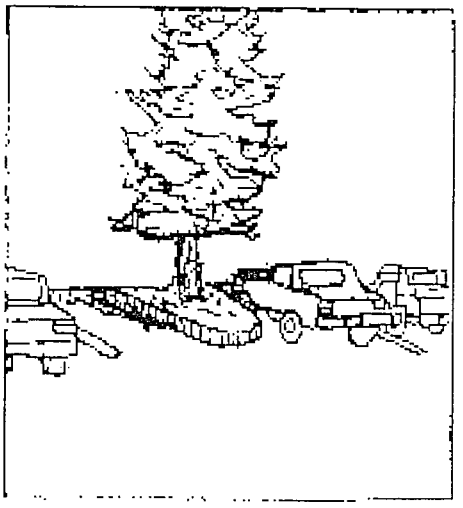
n. Emphasize entries with special planting in conjunction with decorative paving and/or lighting. (UV, NV, COSC, NC)





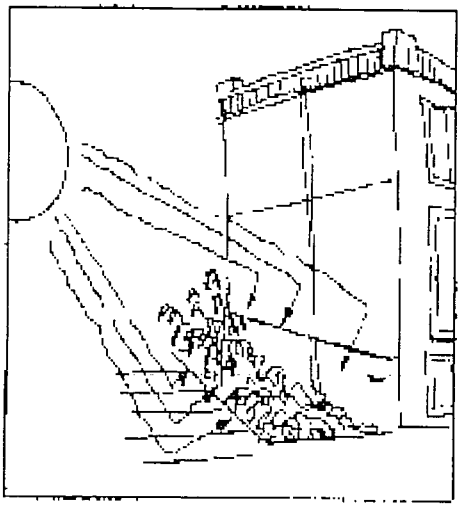






Acceptable

Trees should not interfere with visibility for vehicles and pedestrians.



Not Acceptable

Plant choices should be suited to the site conditions.

FIGURE 5A-28

(Ord. 6517 §25, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.110 Landscape design –Screening

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Use landscaping to help define, break up and screen parking areas. Landscaping shall provide a separation between incompatible land uses or activities (such as a parking lot next to the bedrooms of a residential structure). Landscaping shall provide a physical or visual barrier for service areas, mechanical equipment, loading docks or similar areas. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Canopy trees (able to spread and shade) should be added to parking areas - there should be no more than six (6) parking spaces in a row without a landscape peninsula within the parking area having a two (2) inch caliper tree, shrubs, and ground covers. (UV, NV, COSC, NC)

2. Wheel stops, curbs, or walkways should be used to protect landscaping from being run over by vehicles in the parking lot. (UV, NV, COSC, NC)

3. Screening can be provided by hedges, densely planted shrubs, evergreen trees, or combinations of these. (UV, NV, COSC, NC)

4. Screen parking from the street with low walls or fencing that maintain building facades, but also maintain vehicular sight lines at the corners and security for customers. (UV, NV, COSC, NC)

5. If fencing is required, repeat the use of facade building materials on fence columns and/or stringers. (UV, NV, COSC, NC)

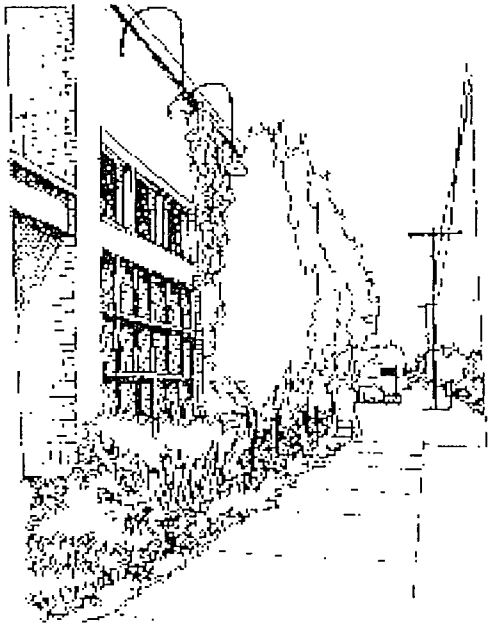
6. Berms, walls and fences are encouraged in combination with trees, shrubs and vines to screen parking lots. (UV, NV, COSC, NC)

7. Raised planter boxes of concrete, stone, wood, brick or other compatible materials can provide useful separation and screening. (UV, NV, COSC, NC)

8. Locate appropriate landscape materials near building walls or service areas where screening is needed. Large planters may be used as alternative solutions. (UV, NV, COSC, NC)

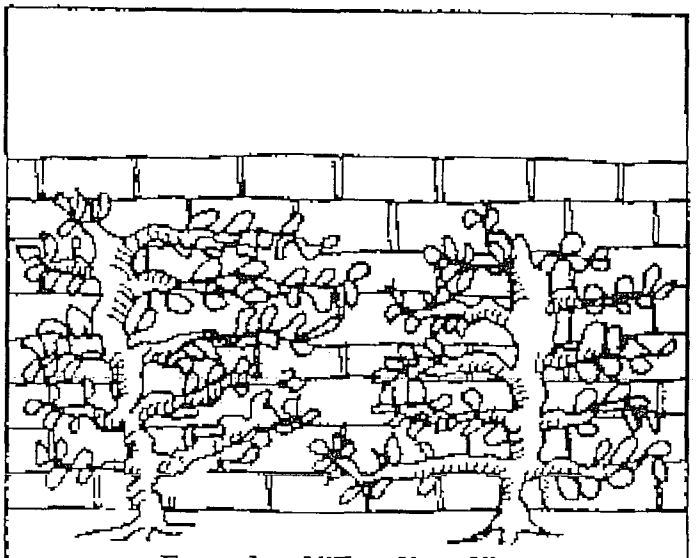
9. Planters may be placed at the end of bays, on the interior or between rows of parking stalls, providing linear strips for plantings. Use of compact parking spaces as allowed provides some flexibility in design. (UV, NV, COSC, NC)

10. Unrelieved blank walls with narrow planting areas can be softened with espaliered shrubs or vines. (UV, NV, COSC, NC)



Vines, hardy shrubs and columnar trees used to landscape a narrow planting bed.

FIGURE 5A-29



Example of "Espaliered"

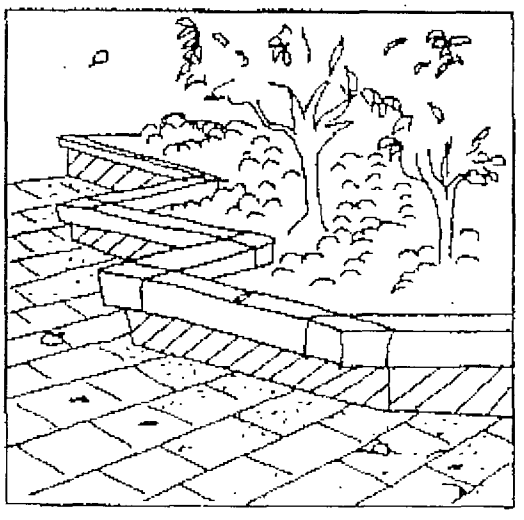


FIGURE 5A-30

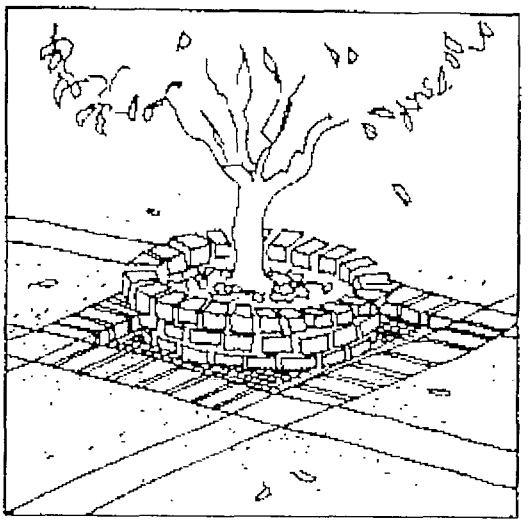


FIGURE 5A-31

(Ord. 6517 §26, 2007; Ord. 5661§4, 1996; Ord. 5517 §1, 1995).

18.05A.120 Landscape design –Existing trees

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Healthy existing trees, that are appropriate to the site at their mature size, shall be incorporated into the landscaping whenever possible where they are unique because of size, species, historical association or other factors and are appropriate to the site at their mature size. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Retain healthy mature trees where possible. (See also the Olympia Tree Protection and Replacement Chapter OMC 16.60). (UV, NV, COSC, NC)

2. Design the site to preserve unique specimens. (UV, NV, COSC, NC)

3. Minimize site alteration, soil disturbance, and compaction within the drip line of existing trees. (UV, NV, COSC, NC)

4. Provide a tree well or other form of protection where the surrounding grade must be raised. (UV, NV, COSC, NC)

5. Fence around drip line during construction. (UV, NV, COSC, NC)

6. Incorporate the tree plan into the landscape plan. (UV, NV, COSC, NC)

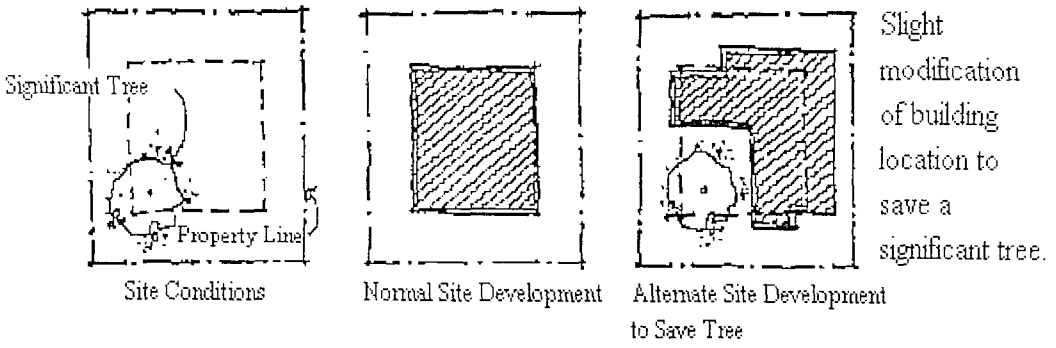


FIGURE 5A-32

(Ord. 6517 §27, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.130 Signs –Attached to the building

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Provide adequate signs for businesses while maintaining the building's architectural integrity, by locating signs so that building details shall not be covered or obscured. (UV, NV, COSC, NC). Signs will conform to the Olympia Zoning Ordinance Sign Code (OMC Chapter 18.42, Signs).

B. GUIDELINE:

1. Use sign panel shapes that accentuate the building's architectural forms. (UV, NV, COSC, NC)

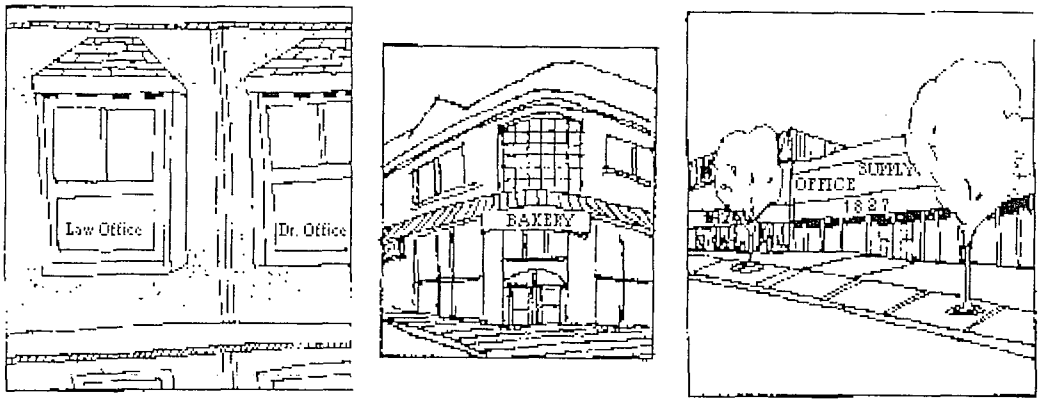
2. Use window signs where wall signs would detract from architectural elements of the building facade. Symbols for the business such as a pair of eyeglasses can be used to add detail that can be viewed from the sidewalk. (UV, NV, COSC, NC)

3. Keep signs subordinate to the building design. (UV, NV, COSC, NC)

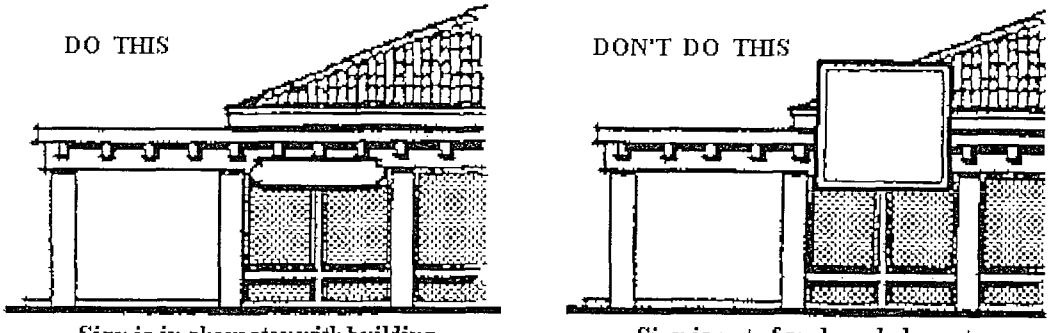
4. Coordinate colors with the colors of the building. (UV, NV, COSC, NC)

5. When several businesses share the same building, use directory signs where possible and use similar sizes and types of signs. (UV, NV, COSC, NC)

6. Addresses must be clearly visible from the street edge, in accordance with OMC Section 12.48.120C. (UV, NV, COSC, NC)



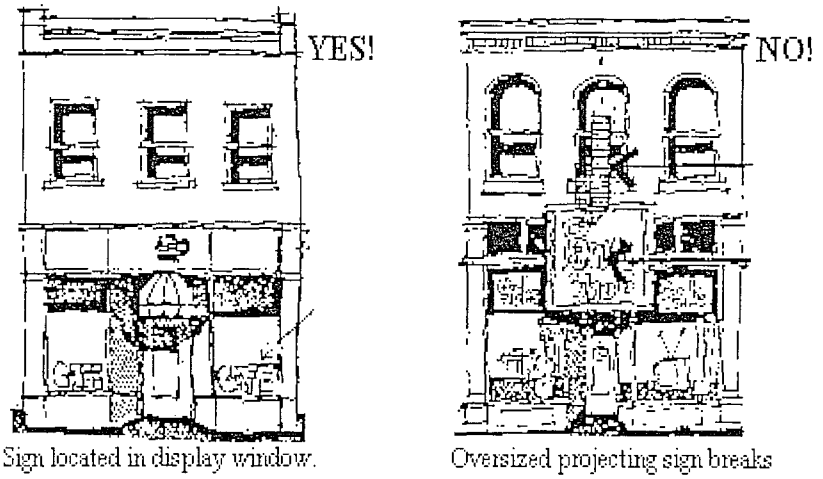
Examples of preferred ways to attach signs to building.



Sign is in character with building articulation.

Sign is out of scale and character with building.

FIGURE 5A-33



Sign located in display window.

Oversized projecting sign breaks up pattern of upper window.

Flush mounted sign is too big -- obscures architectural features.

FIGURE 5A-34

(Ord. 6517 §28, 2007; Ord. 6093 §23, 2001; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.140 Signs –Freestanding

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Provide adequate signage for businesses when building mounted signs cannot be used because they will obscure the architectural details of the building. (UV, NV, COSC, NC). Signs will conform to the Olympia Zoning Ordinance Sign Code (OMC Chapter 18.42, Signs).

B. GUIDELINE:

1. A key design feature should be a compact building pattern with buildings located close to and behind the sidewalks and street trees separating the sidewalk from moving vehicles. In an effort to reduce the number of view obstructions in villages or centers, signs should be attached to the building. However, where buildings are set back from the sidewalk and/or property line, freestanding signs would be an appropriate second choice using the following guidelines:

a. Freestanding signs should be limited in size and height. The maximum height should be four (4) feet above grade. (UV, NV, COSC, NC)

b. For visual clarity, the lettering style and colors should be limited to two (2) lettering styles and three colors. (UV, NV, COSC, NC)

c. Incorporate signs in planters or as screening walls. (UV, NV, COSC, NC)

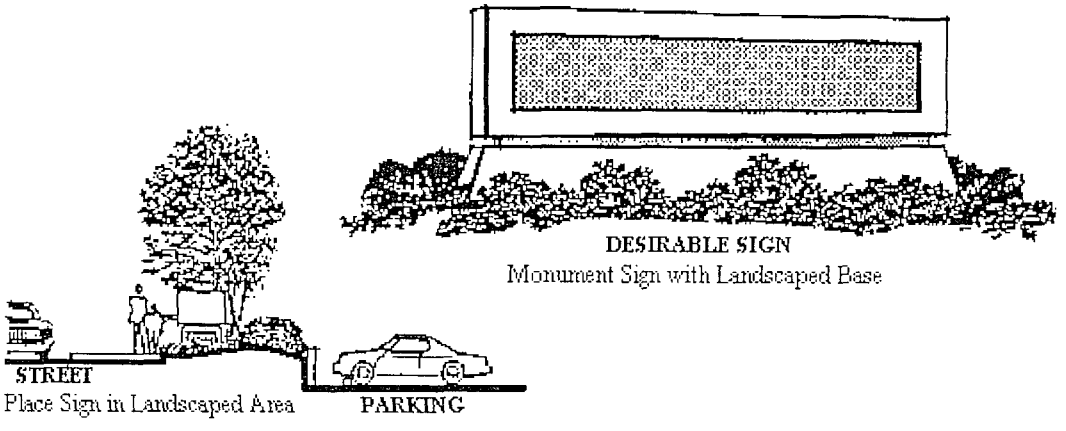


FIGURE 5A-35

(Ord. 6517 §29, 2007; Ord. 6093 §24, 2001; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.150 Site design –Orientation

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Design multifamily projects to be oriented to the center park, green, or plaza or to other streets in the village or center. (See Figure 5A-36.) (UV, NV, COSC, NC)

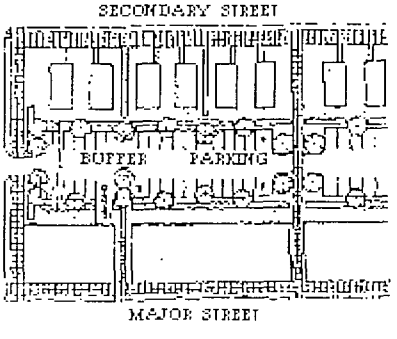
B. GUIDELINE:

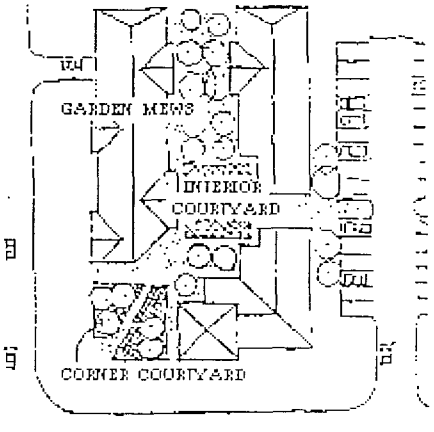
1. Use a modified street grid system with most buildings fronting on a street. (UV, NV, COSC)

a. Parking areas should be located behind or under buildings and accessed from alley-type driveways. If driveway access from streets is necessary, minimum width driveways meeting the Fire Access Standards should be used. (UV, NV, COSC)

b. Each building should have direct pedestrian access from the street fronting the building and from the back where the parking is located. (UV, NV, COSC, NC)

2. Another alternative may be to orient the buildings into U-shaped courtyards where the front door/main entry into the building is from a front courtyard. Access to the courtyard from the rear parking area should be through a well lighted breezeway or stairway. This alternative will work where projects abut an arterial or major collector street where the quality of living could be enhanced with buildings facing into the courtyard. The buildings would still be located between the street and the parking lot. (UV, NV, COSC, NC)





Examples of preferred site planning which creates usable open space, adding value and identity to the complex, by siting parking behind or to the side of the buildings.

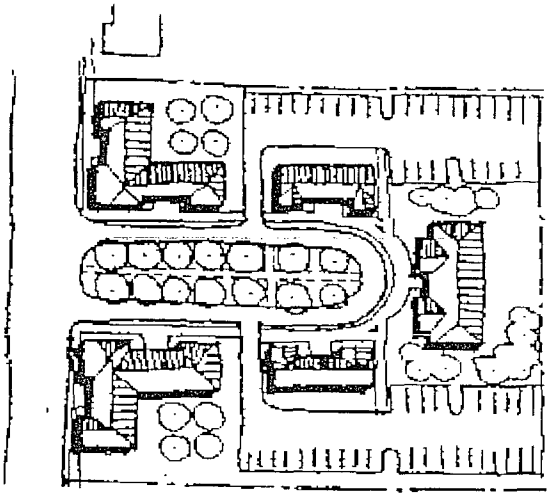


FIGURE 5A-36

(Ord. 6517 §30, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.160 Site design –Parking location and design

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Minimize the impact of driveways and parking lots on pedestrians and neighboring properties by designing and locating parking lots, carports, and garages in a way that creates few interruptions on the street, sidewalk or building facade. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Locate surface parking at rear or side of lot; (UV, NV, COSC, NC)

2. Break large parking lots into small ones; (UV, NV, COSC, NC)

3. Minimize the number and width of driveways and curb cuts; (UV, NV, COSC, NC)

4. Share driveways with adjacent property owners; (UV, NV, COSC, NC)

5. Locate parking in areas that are less visible from the street; (UV, NV, COSC, NC)

6. Locate driveways so they are visually less dominant; and (UV, NV, COSC, NC)

7. Berm and landscape parking lots when they are visible from the street. (UV, NV, COSC, NC)

8. Screen parking lots abutting single family residences with landscaping and/or fencing. (UV, NV, COSC, NC)

9. Limit parking lots on street frontages to thirty (30) percent of the street frontage. (UV, NV, COSC, NC)

(Ord. 6517 §31, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.170 Site design –Mailboxes, site lighting and bus stops

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Provide adequate lighting and pedestrian access to mailboxes, and bus stops. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Mail Boxes. If common mailbox services are used, they should be located near the project entry or near any recreational facilities. The architectural character should be similar in form, materials, and colors to the surrounding buildings. Mail boxes should be well lighted and pedestrian accessible. Mailboxes and their locations must be approved by the U.S. Postal Service. (UV, NV, COSC, NC)

2. Site Lighting

a. Site lighting should be provided throughout and should be pedestrian scale low level lighting located at the walkways. (UV, NV, COSC, NC)

b. Security lighting should be provided in the parking areas, play areas and at bus stops. (UV, NV, COSC, NC)

c. Lighting should not shine into the dwelling units on the site. (UV, NV, COSC, NC)

d. Lighting should be directed away from neighboring development. (UV, NV, COSC, NC)

(Ord. 6517 §32, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

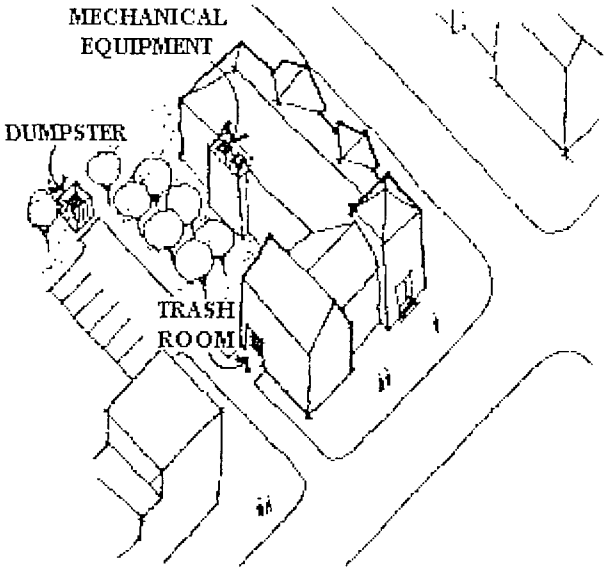
18.05A.180 Site Design –Screening

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Provide adequate screening for support facility needs associated with multifamily developments. (UV, NV, COSC, NC)

B. GUIDELINE: Support areas should be located adjacent to parking areas and should be fully screened with a minimum six (6) foot high fence. The screening material should match the main buildings and the perimeters be planted with shrubs and ornamental trees. (See Landscaping and Screening Chapter of the Olympia Zoning Code 18.36.) (UV, NV, COSC, NC)



Service elements located away from the street edge and not generally visible from the sidewalk.

FIGURE 5A-37

(Ord. 6517 §33, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.190 Building design –Neighborhood scale

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Architectural scale of those portions of a multifamily building facing a neighborhood with a different scale shall use design techniques that minimize the difference in scale. (UV, NV, COSC, NC)

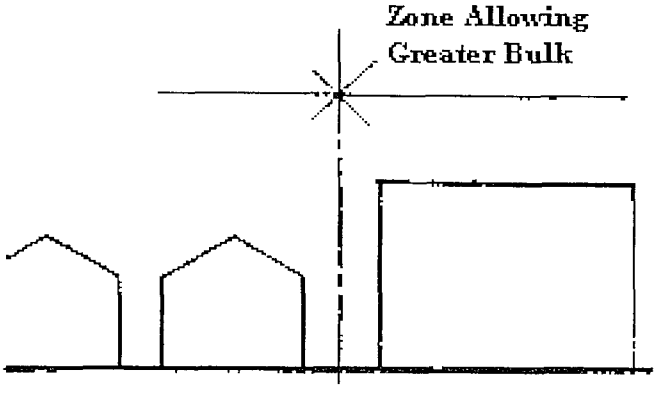
B. GUIDELINE:

1. Use house size building elements when locating a multifamily project adjacent to a single family neighborhood by employing any of the following techniques:

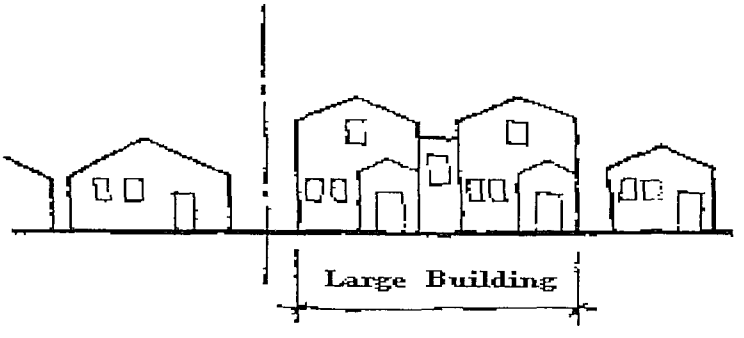
a. Place one (1) and two (2) story units adjacent to existing one story houses, and two (2) and three (3) story units adjacent to existing two (2) story houses. (UV, NV, COSC, NC)

b. Use wall plane articulation/modulation to break a multifamily building into house size building elements, especially where there is a building height transition. (UV, NV, COSC, NC)

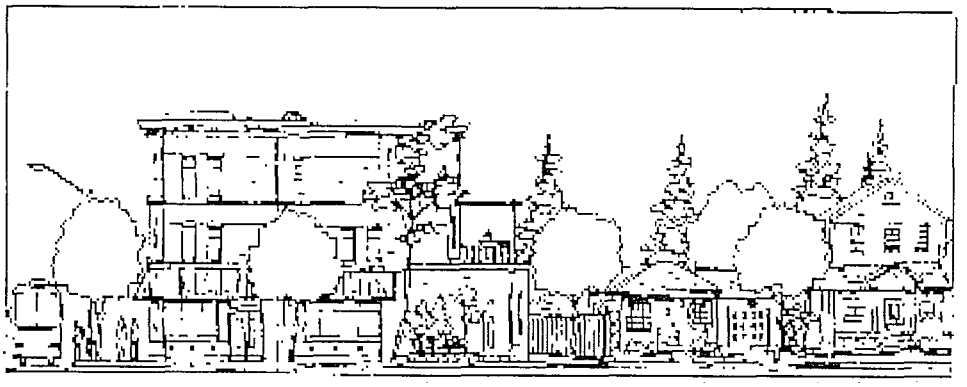
c. Design the exterior of multifamily buildings to appear as a single building, such as a large single family detached dwelling. (UV, NV, COSC, NC)



At zone transitions, special care should be taken to reflect the articulation intervals of adjacent development.



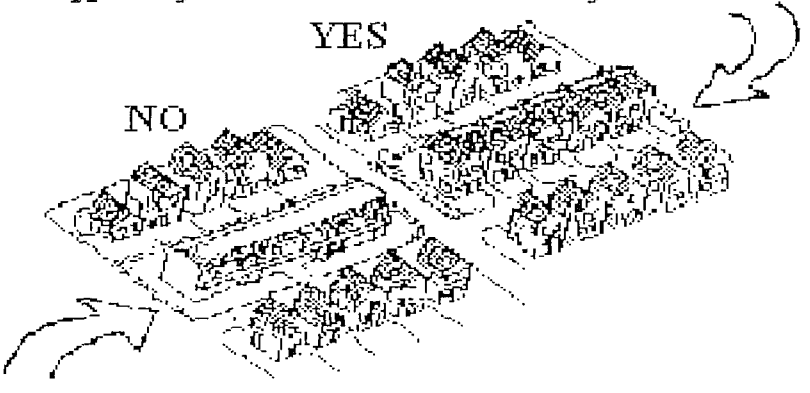
Good use of articulation could result in a form like this.



This higher density multifamily building "steps back" to conform to the abutting lower density property. This use of modulation helps the multifamily building fit into the neighborhood. In Olympia, the multifamily building would be restricted to three (3) stories, since it is within one hundred (100) feet of a residential zone.

FIGURE 5A-38

Preferred: This is a multifamily building which has been built on an identical site, but whose design has taken clues from the neighborhood. This building covers roughly the same lot area and provides for the same number of units while appearing as if it "fits" in its surroundings.



To be avoided: This multifmaily building has been built on a site surrounded by single family development. The building bears no resemblance to the existing surrounding buildings and looks out of place.

FIGURE 5A-39

(Ord. 6517 §34, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.200 Building design –Privacy

LEGEND

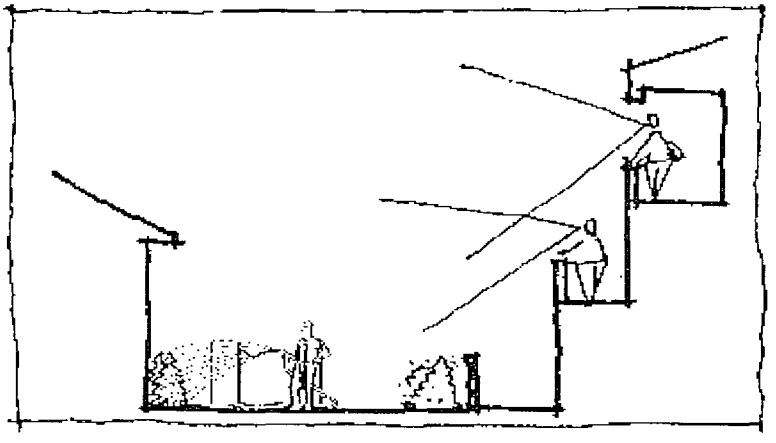
UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Orient buildings to provide for privacy, to the extent practical, both within the multifamily project and for the neighborhood. (UV, NV, COSC, NC)

B. GUIDELINE:

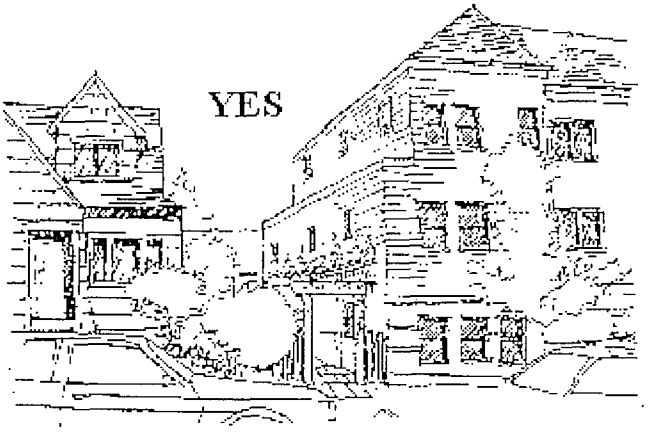
1. Locate windows so that residents from one unit cannot look directly into another unit. (UV, NV, COSC, NC)

2. Locate parking lots so that they do not impose on the ground floor units' privacy. If this is not feasible, locate buildings so that adequate landscaping can be planted to provide privacy. (UV, NV, COSC, NC)



Reducing windows and decks overlooking neighboring residential property or increasing side setbacks can increase privacy.

FIGURE 5A-40



This apartment located in the entry court adjacent to the neighboring residence and arranged interior spaces so the views into the neighboring properties were minimized.

FIGURE 5A-41

(Ord. 6517 §35, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.210 Building design –Facade, footprint and roof articulation

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Avoid the barracks-like quality of flat walls and roofs by separations, changes in plane and height, and the inclusion of elements such as balconies, porches, arcades, dormers, and cross gables. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Buildings should be divided and given human scale by using articulation and/or modulation at least every thirty (30) feet. (See Figure 5A-24 and 5A-43.) Ways to do this include:

a. Facade modulation - stepping back or extending forward a portion of the facade at least six (6) feet (measured perpendicular to the front facade), for each interval. (UV, NV, COSC, NC)

b. Articulating each interval with architectural elements like porches, balconies, bay windows and/or covered entries. (UV, NV, COSC, NC)

c. Articulating the roof line by stepping the roof and by emphasizing dormers, chimneys, gables. (UV, NV, COSC, NC)

d. Providing a ground or wall mounted light fixture, a trellis, a tree, or other site feature within each interval. (UV, NV, COSC, NC)

2. Reduce the apparent size of multifamily buildings by using:

a. Roof design that employs

i. gable, gambrel or hipped roof,

ii. broken or articulated roof line,

iii. prominent cornice or fascia that emphasizes the top of the building, or

iv. other roof element that emphasizes a building's concept and helps it to fit in with neighboring structures with prominent roofs. (UV, NV, COSC, NC)

b. Using architectural details that are well proportioned to achieve human scale such as:

i. entry details like covered porches and recesses;

ii. occupiable spaces like bay windows and balconies;

iii. window details like vertically proportioned window openings which are recessed into the face of the building and broken up with smaller panes of glass;

iv. roof details like brackets, chimneys, roof overhangs of at least 16" (measured horizontally), or roof cornice elements at least 12" in width (measured vertically);

v. windows which are trimmed to create relief in the facade by being detailed to appear to recede into the building face. (UV, NV, COSC, NC)

3. Where parking structures or covered parking faces the street at least 60 percent of the parking facade facing the street between two (2) and eight (8) feet above the sidewalk shall incorporate at least one of the treatments listed: (UV, NV, COSC)

a. transparent windows (with clear or lightly tinted glass) where pedestrian -oriented businesses are located along the facade of the parking structure,

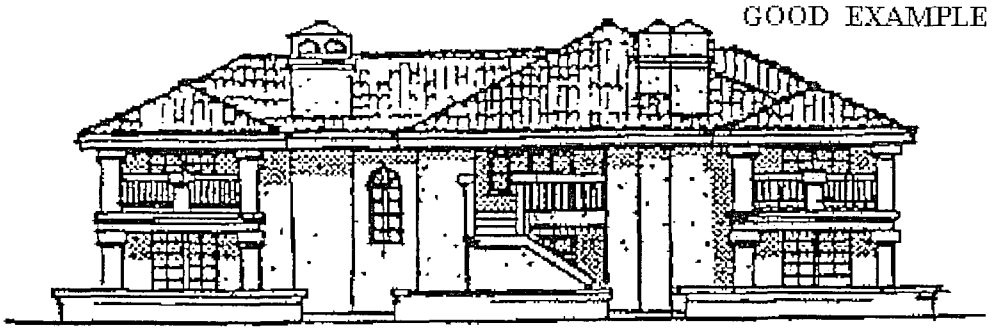
b. display windows,

c. decorative metal grille work or similar detailing which provides texture and covers the parking structure opening,

d. art or architectural treatment such as sculpture, mosaic, glass block, opaque art glass, relief art work, or similar features, or

e. vertical trellis or other landscaping or pedestrian plaza area.

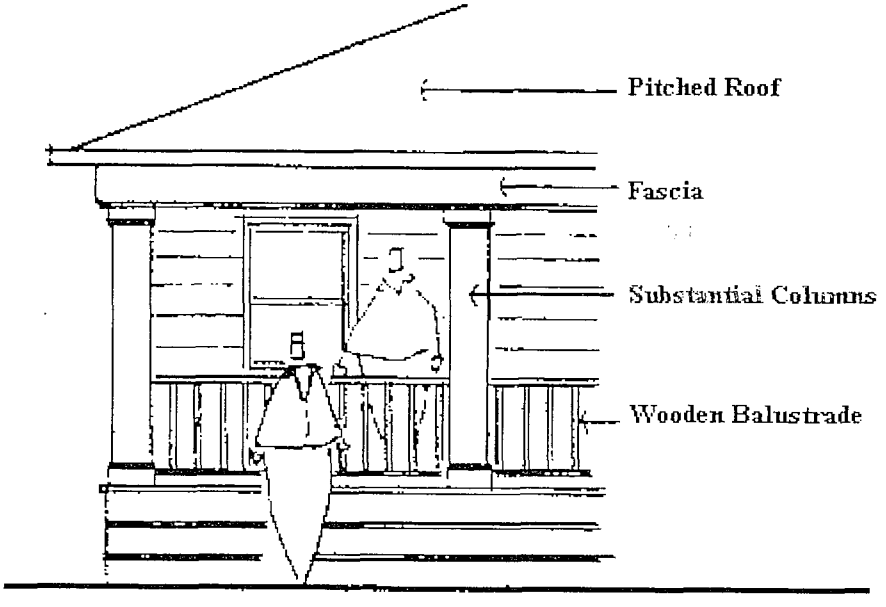
4. Vehicle entries to garages should be recessed at least six (6) feet from the primary facade plane in order to minimize their prominence. (UV, NV, COSC, NC)



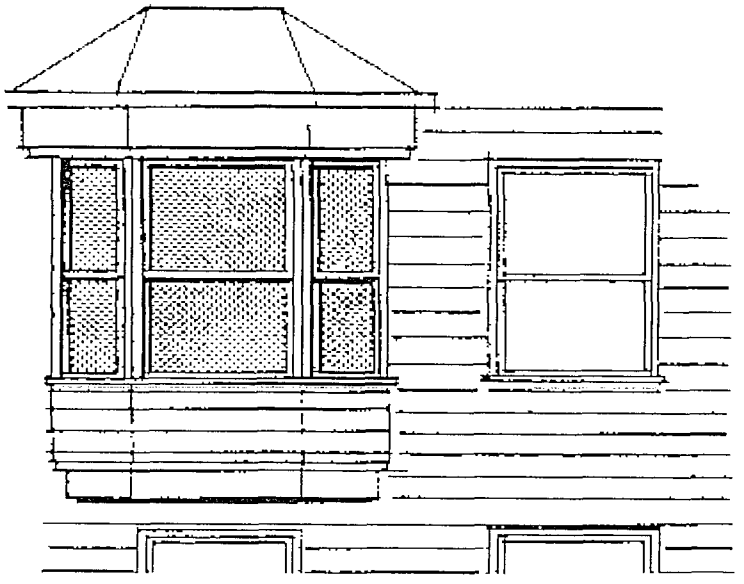
Three attached units appear as one large custom home.

Articulated facade gives appearance of a collection of smaller structures.

FIGURE 5A-42

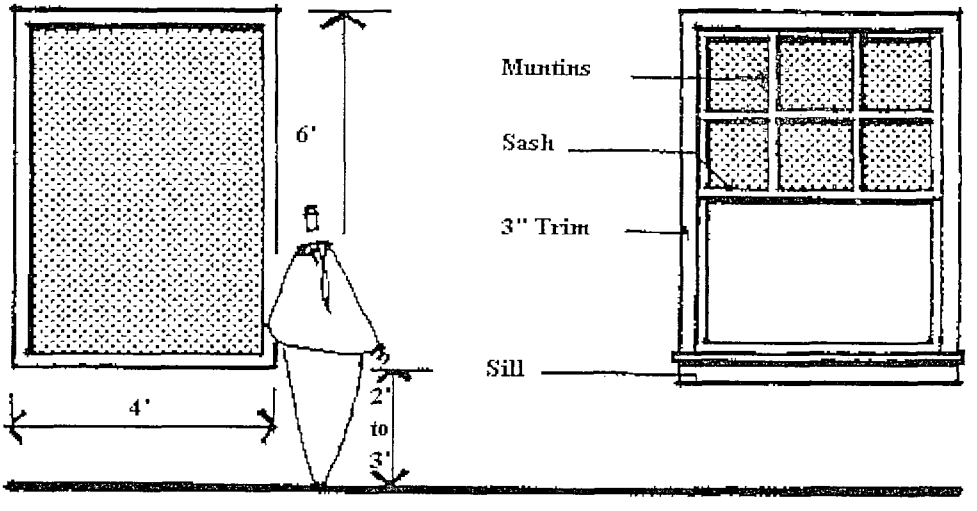


Covered entries, like porches help achieve human scale. Human scale is derived from a building's architectural details and elements whose size people are familiar with.

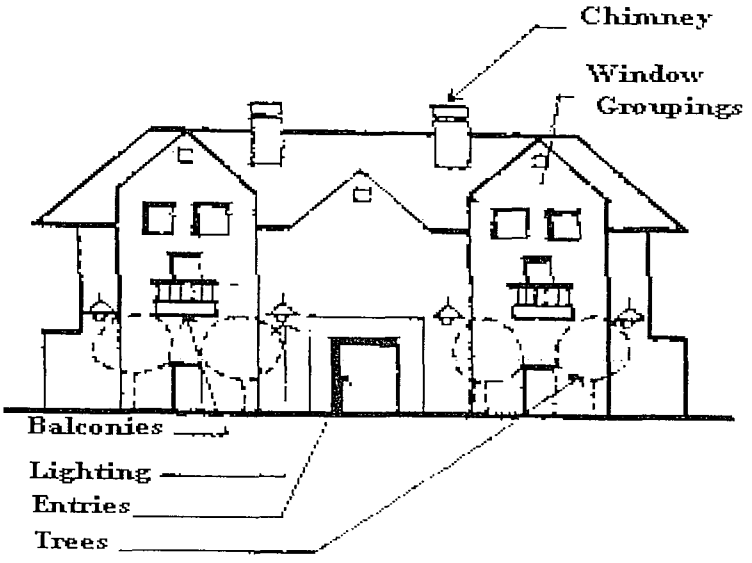


Vertically proportioned divided windows help achieve human scale. Bay windows which protrude from the building wall and windows detailed to appear to recede into the building face help to reduce the apparent size of buildings and break up blank walls.

FIGURE 5A-43

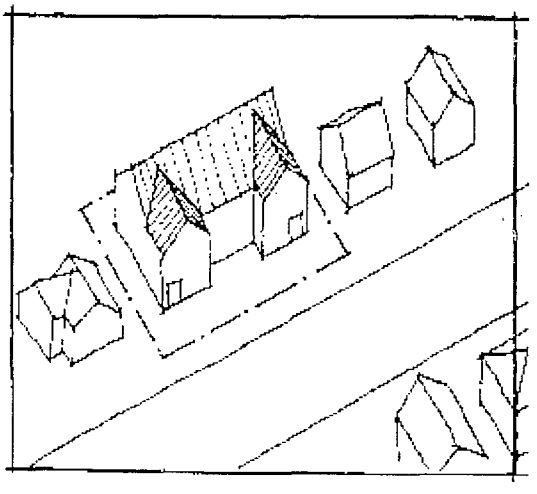


Window details are important to give a sense of human scale.

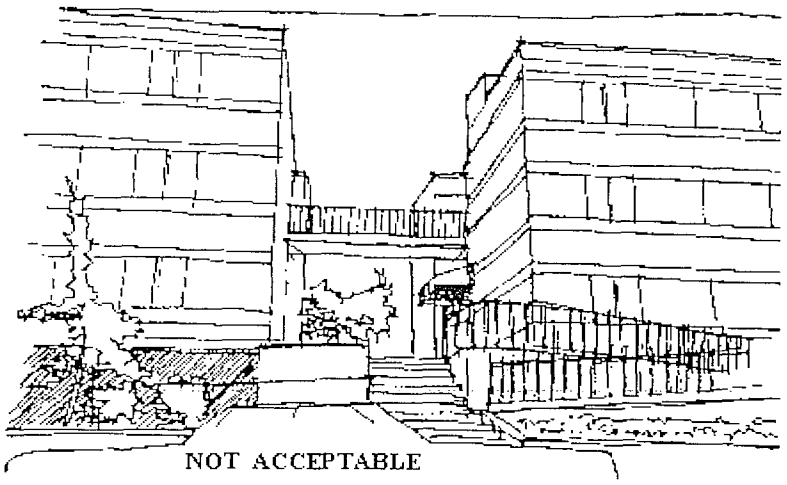


Building details which can reinforce the articulation interval.

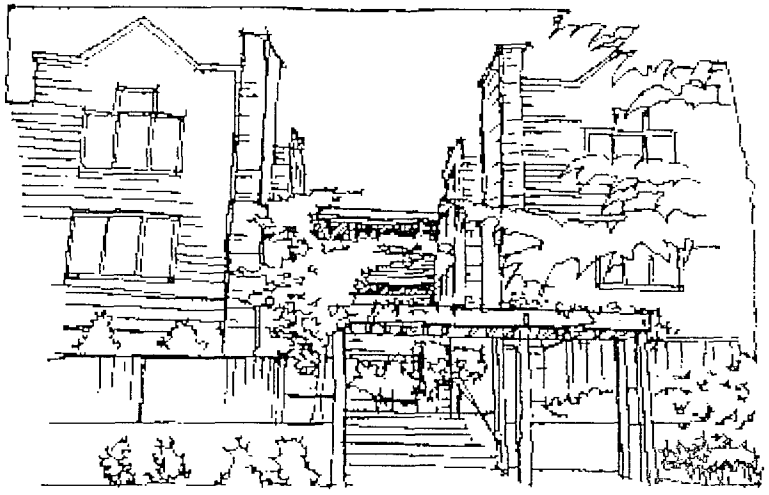
FIGURE 5A-44



Modulation of the principal building facade adds interest to a long building.



NOT ACCEPTABLE



PREFERRED

These two (2) projects point out the importance of architectural elements. They are essentially the same building except that the project below employs varied rooflines, window details, facade articulation, a trellis, chimneys, entry details and other features to add interest and a greater sense of quality.

FIGURE 5A-45

(Ord. 6517 §36, 2007; Ord. 5967 §10, 1999; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.220 Building design –Entries

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

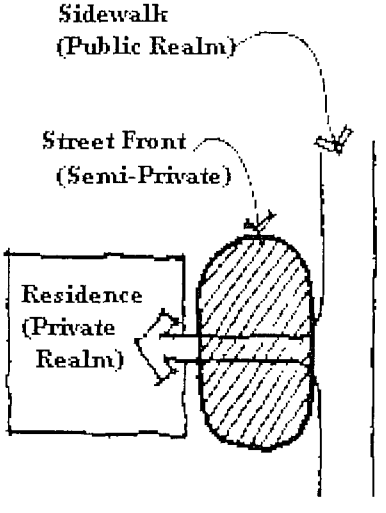
A. REQUIREMENT: Provide clearly defined building or courtyard entries which face the street, are well lighted, easily accessible, and satisfy the Washington State Barrier Free Regulations. (UV, NW, COSC, NC)

B. GUIDELINE: The entrances should be plainly visible from the fronting street and walkway. The use of distinctive architectural elements and materials to denote prominent entrances will be encouraged. The entries should include a transition space from the sidewalks such as steps, a terrace, or a landscaped area. (UV, NV, COSC, NC)

Dark, hidden corridors or stairways and long entry balconies are discouraged. (UV, NV, COSC, NC)

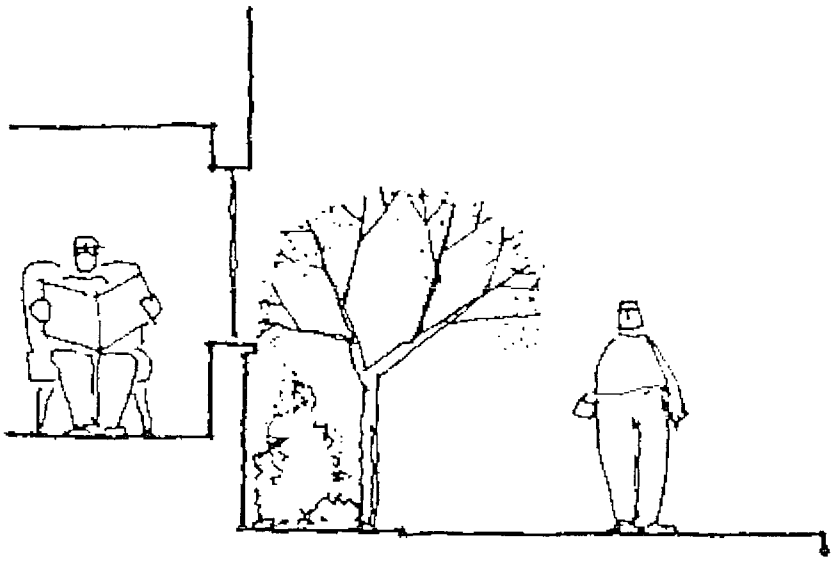
Avoid the use of exterior stairways when porches and front doors can be used as a primary building entry. If exterior stairways are used, they should be simple, clean, bold projections of stairways to fit with the architectural massing and form of the multifamily structure. Thin-looking, open metal, prefabricated stairs are discouraged. (UV, NV, COSC, NC)

The entries along this street are accented by portals, grand staircases and balconies.

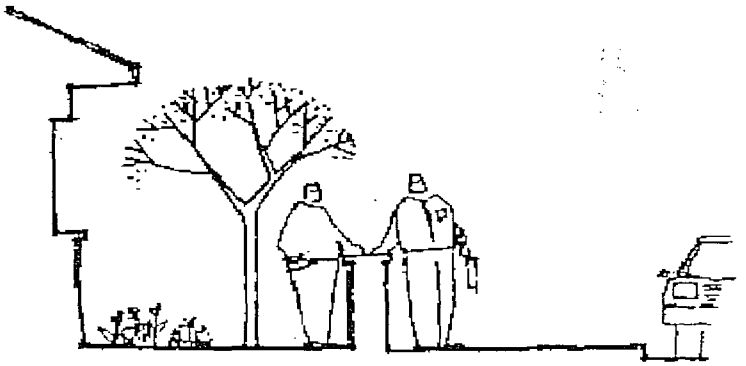


The design of the street front determines the amount of resident's privacy and security.

FIGURE 5A-46

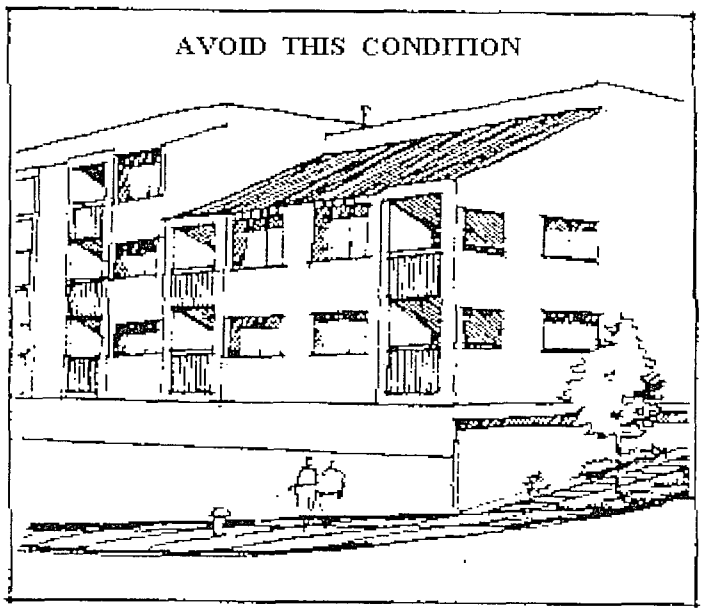


Where the setback from the sidewalk is small, raising the floor level up above the sidewalk and/or providing a planting bed can provide a transition.

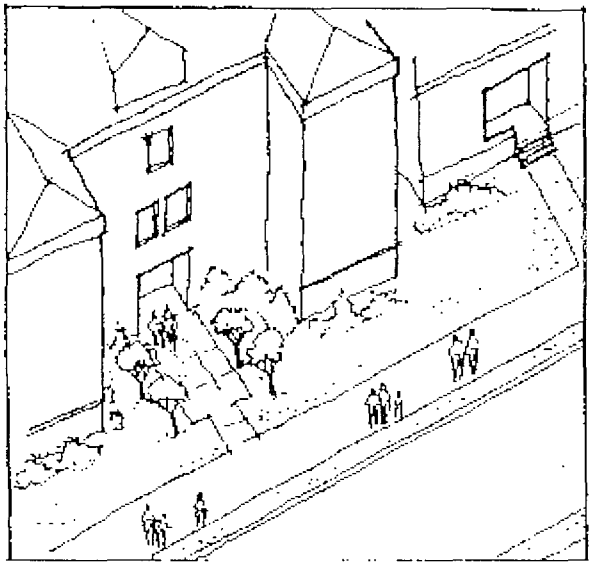


Low walls, fences and iron gates can enclose private open space while still allowing social interaction.

FIGURE 5A-47



Lack of clear entries on the street can create an unfriendly streetscape.



Clear entries to the sidewalk encourage pedestrian circulation.

FIGURE 5A-48

(Ord. 6517 §37, 2007; Ord. 5967 §11, 1999; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.225 Building design - Windows

A. REQUIREMENT: Provide relief, detail, and variation on the facade by employing well-proportioned openings (as defined in Guideline #1 below) that are designed to

create shade and shadow detail. Use high-quality window products that contribute to the richness and detail of the facade.

B. GUIDELINE: Provide horizontal and vertical variation in windows. Bay and projecting windows are encouraged.

1. Use vertically proportioned windows. Vertically proportioned windows will generally have a height one and one-half times their width.

2. Use multiple paned windows.

3. Build windows either recessed or protruding (such as bay windows).

4. Use significant trim (drip cap, sill, trim).

5. Provide ground floor windows that have a greater vertical height than upper story windows.

(Ord. 5967 §12, 1999).

18.05A.230 Building design –Materials and colors

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Use exterior building materials that have texture or pattern, which are of human scale, or lend themselves to a high level of quality and detailing. Use subdued colors, especially on large walls or buildings. (UV, NV, COSC, NC)

B. GUIDELINE:

1. The selection and use of exterior materials and colors are key ingredients in determining how a building will look. Some materials, by their nature, can give a sense of permanence or can provide texture or human scale that helps new buildings fit better in their surroundings. (UV, NV, COSC, NC). Provide exterior materials which are durable, easily maintainable and that are attractive even when viewed up close.

2. Preferred materials in Olympia include:

a. Clear/painted horizontal or lap siding

b. Shingles

c. Brick

d. Stone

e. Stucco

f. Stucco-like exterior insulation finish systems, used in small modules

g. Ceramic or terra cotta tile

3. Bright or intense colors should be reserved for accent or trim. Colors should be chosen to visually reduce the size of buildings that are larger than others in the neighborhood. Changes in wall colors should differentiate the ground floor from the upper floors.

4. Changes in materials on larger buildings should be coordinated with articulation and modulation within the building's architecture. Changes in the building materials should also be used to differentiate the ground floor from upper floors of the building and should vary from building to building in multi-building projects. (UV, NV, COSC, NC)

(Ord. 6517 §38, 2007; Ord. 5967 §13, 1999; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.240 Signs

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Minimize the amount of signage needed to identify the multifamily development. (UV, NV, COSC, NC). Signs will conform to the Olympia Zoning Ordinance Sign Code (OMC Chapter 18.42, Signs).

B. GUIDELINE:

1. Multifamily projects should have a sign at each entry from the street to identify the project. The sign should also include the street address. (UV, NV, COSC, NC)

2. Internal directional signs showing the building locations and building numbers are encouraged. (UV, NV, COSC, NC)

3. Each building will have clearly displayed street numbers, building numbers, and building name, if applicable (in accordance with OMC 12.48.120(c) &(d)).

Choose materials for the signs which are used in the architectural details of the buildings. (UV, NV, COSC, NC)

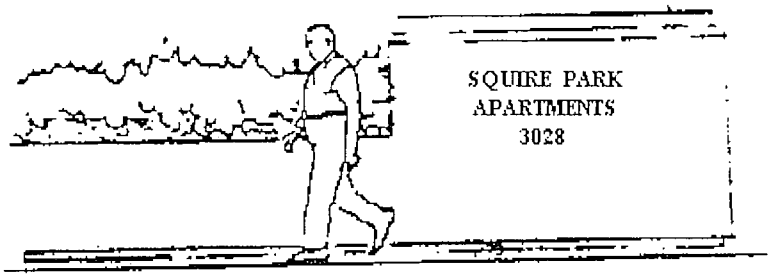


Figure 5A-49

(Ord. 6517 §39, 2007; Ord. 6093 §25, 2001; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.250 Duplex, triplex, etc.-Applicability

Design Guidelines for Duplexes, Triplexes, Etc. apply to duplexes, triplexes, fourplexes, high density single family, including designated manufactured housing (6 units/acre or higher), townhouse projects of 4 units or less and cottage housing.

(Ord. 6581 §6, 2008; Ord. 5517 §1, 1995).

18.05A.260 Building design –Roof form and architectural detail

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Design residences to reinforce the architectural character of the village or center. In neighborhood centers or in a community oriented shopping center, create architectural character that respects adjoining properties. UV, NV, COSC, NC)

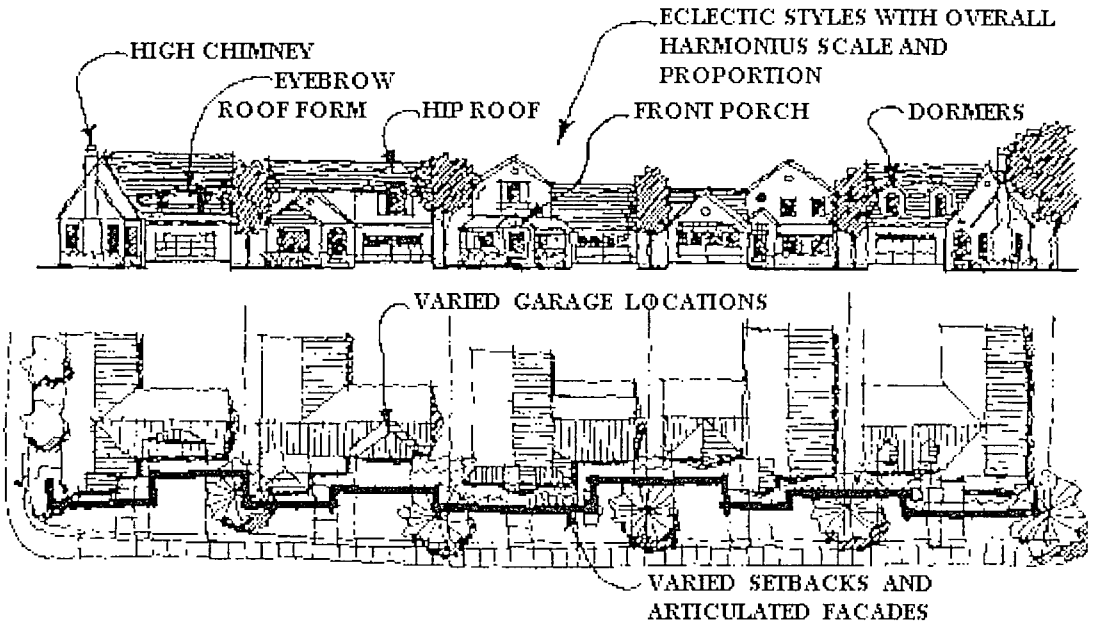
B. GUIDELINE:

1. Create architectural character in the village or centers through the use of:

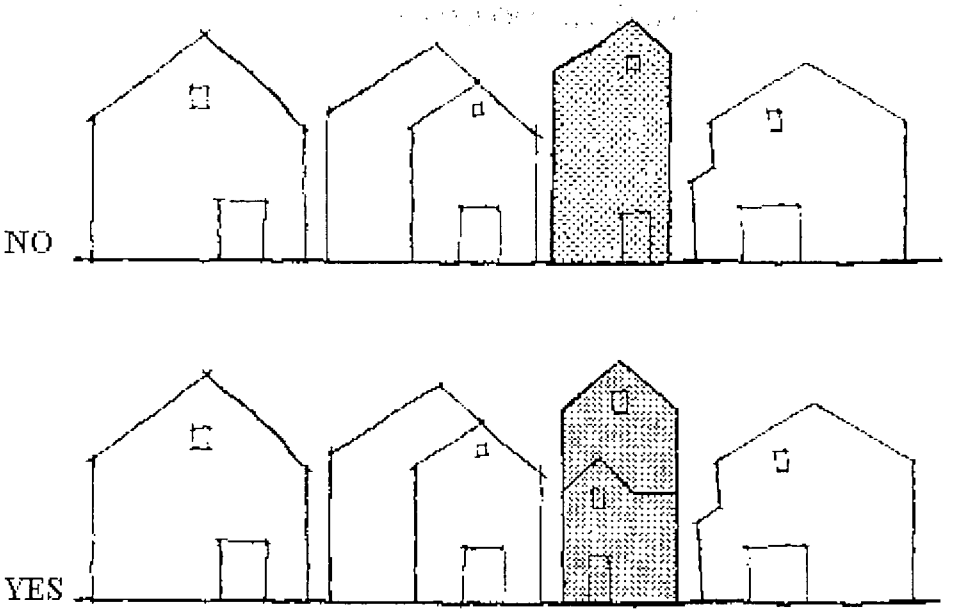
a. Roof design. Pitched or articulated roof line, or other roof elements such as eyebrow roof forms or dormers that emphasize building form and help it to fit in with neighboring structures with prominent roofs. (UV, NV, COSC, NC)

b. Architectural details that are well proportioned to achieve good human scale such as: (a) entry details like porches and recesses, (b) occupiable spaces like bay windows and balconies, (c) window details like vertically proportioned window openings which are recessed into the face of the building and broken up with smaller panes of glass, (d) roof details like brackets, chimneys, roof overhangs of at least sixteen (16) inches (measured

horizontally), (e) windows which create relief in the facade by being detailed to appear to recede into the building face. (UV, NV, COSC)



Achieving variety on a residential street when units are built at the same time requires the use of some variety in setback, articulated facades, and the use of varied roof design and other architectural details. Achieving diversity of character should not rely solely on subtle changes in color, material or detailing.



On narrow lots, use of stepbacks and varied roof forms can help a tall skinny building fit in with its neighbors.

FIGURE 5A-50

(Ord. 6517 §40, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.270 Building design –Entries

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

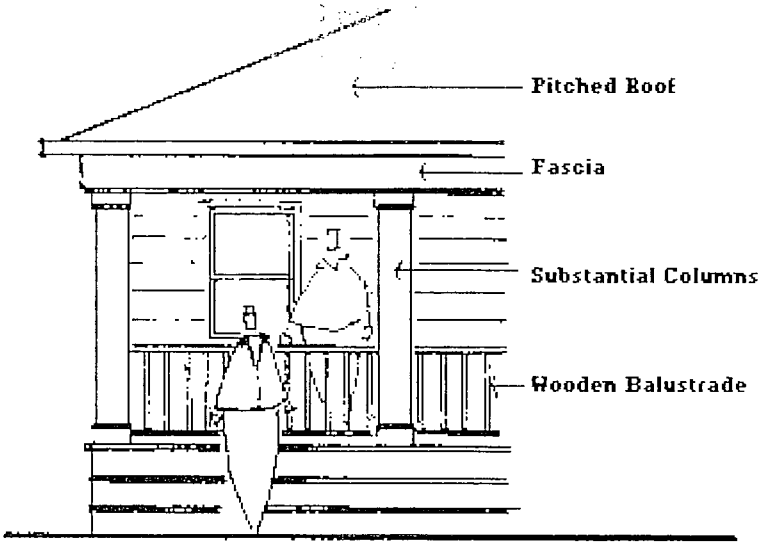
A. REQUIREMENT: Provide clearly defined building entries or entry courtyards which face the street, are well lighted, and easily accessible. (UV, NV, COSC, NC)

B. GUIDELINE:

1. The entries should include a transition space from the sidewalks such as steps, a covered porch, a terrace, or a landscaped area. (UV, NV, COSC, NC)

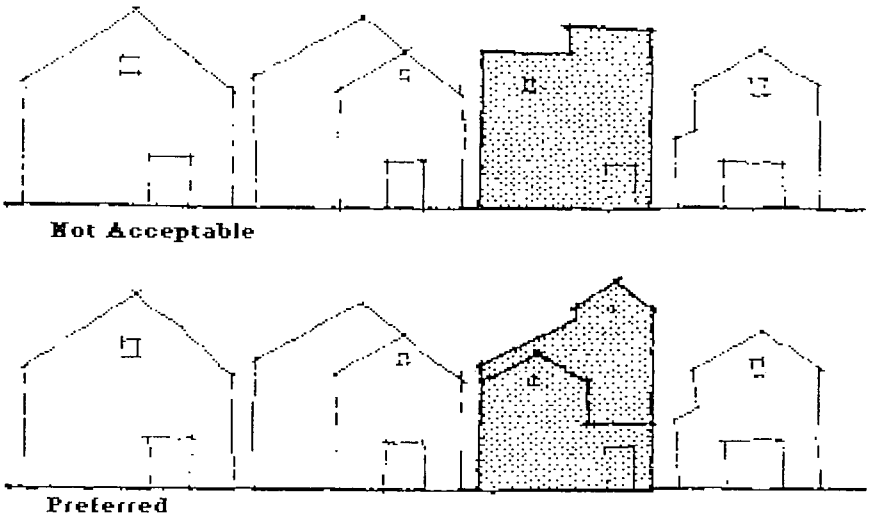
2. Entries should include at a minimum eave overhangs extending at least 16 inches (measured horizontally) and covered porches. (UV, NV, COSC, NC)

3. Avoid the use of exterior stairways when porches and front doors can be used as a primary building entry. If exterior stairways are used, they should be simple, clean, bold projections of stairways to fit with the architectural massing and form of the multifamily structure. Thin-looking, open metal, prefabricated stairs and railings are discouraged. (UV, NV, COSC, NC)



Covered entries, like porches need to be of substantial materials.

FIGURE 5A-51



Rooflines can reinforce the architectural character of a street.

FIGURE 5A-52

(Ord. 6517 §41, 2007; Ord. 5967 §14, 1999; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.280 Building design –Garage design

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Design garages and carports in a way that does not dominate the dwelling's front facade. If an alley exists, the garage or carport shall be located off the alley. Otherwise, garages and carports shall be located behind the residence with or without a partial view from the street, or stepped back from the facade of the building, or located below sidewalk grade. (UV, NV, COSC, NC)

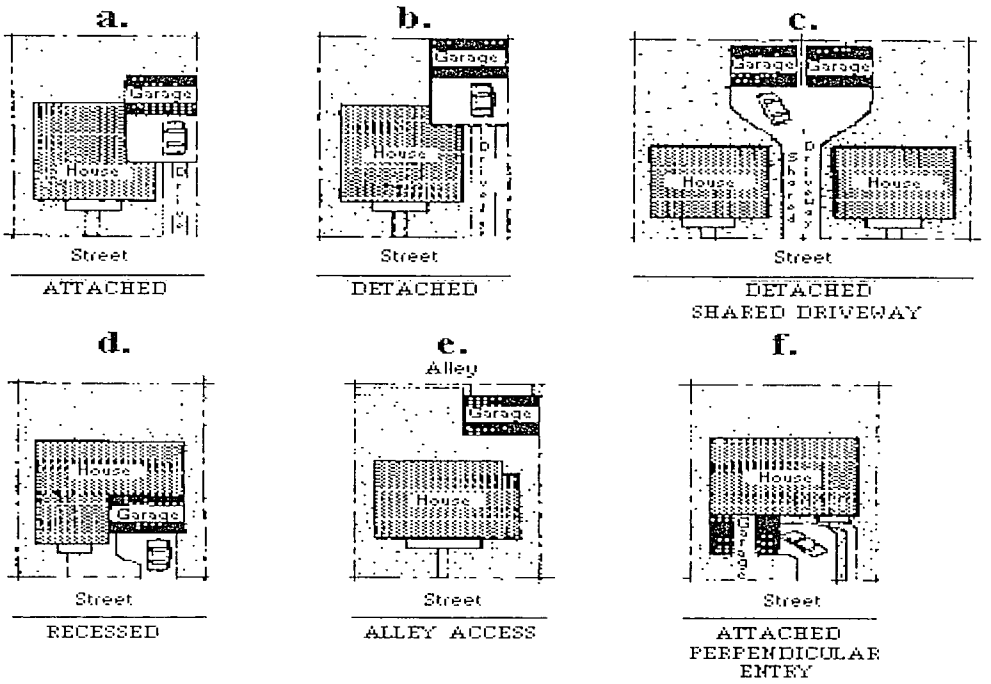
B. GUIDELINE:

1. The entrance to a residence should be plainly visible from the fronting street and the walkway and should not be dominated by a garage or carport. (UV, NV, COSC, NC)

2. Driveways should be as narrow as possible and shared where possible to minimize disruption of the sidewalk and planting strip by curb cuts. The use of wheel tracks or a grass/concrete porous pavement system is encouraged. (UV, NV, COSC, NC)

3. Garage sidewalls that face the street (e.g., as a result of garages being aligned at an angle or perpendicular with the house - see illustration f. below) should appear to contain habitable space. This can be accomplished by

incorporating windows and other design elements into the garage wall that are in character with the remainder of the dwelling. (UV, NV, COSC, NC)



A Variety of Garage Placements

FIGURE 5A-53

(Ord. 6517 §42, 2007; Ord. 5967 §15, 1999; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.290 Building design –Materials and colors

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: To use building materials on exteriors which are durable, easy to maintain, are of human scale and that are attractive even when viewed up close. These include materials that have texture, pattern, or lend themselves to a high level of quality and detailing. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Preferred materials typical to Olympia that could be used in a village, neighborhood center or community oriented shopping center include: (UV, NV, COSC, NC)

a. Clear/painted/stained horizontal lap siding

b. Shingles

c. Brick

d. Stone

e. Stucco

f. Stucco-like exterior insulation finish systems, used in small modules

g. Ceramic or terra cotta tile

2. Preferred roofing materials include: composition or wood shake shingles, standing seam non-glare metal, or tile. (UV, NV, COSC, NC)

3. In multi-building projects materials and colors should be varied from structure to structure to provide variety and interest to the streetscape. Bright or intense colors should be reserved for accent or trim. Colors should be chosen to visually reduce the size of buildings that are larger than others in the neighborhood. (UV, NV, COSC, NC)

(Ord. 6517 §43, 2007; Ord. 5967 §16, 1999; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

18.05A.300 Site and building design –Privacy

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: To the extent practical, maintain privacy of adjoining residences, and the primary residence. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Use a combination of landscape screening, fencing and window and door placement so that ADU residents cannot look directly into the windows, porches and decks of adjoining residences. (UV, NV, COSC, NC)

(Ord. 5517 §1, 1995).

18.05A.310 Building design –Entry features

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Provide a clearly defined building entry, which is well lighted, easily accessible and integral to the building structure. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Entries should be plainly visible from the fronting street sidewalk. (UV, NV, COSC, NC)

2. If the entry cannot be seen from the fronting street sidewalk, a well defined walkway (e.g., constructed of contrasting materials or lined with a pattern of shrubbery) should be used to "lead" the visitor to the entry of the ADU. (UV, NV, COSC, NC)

3. Where an ADU is added within an existing primary residence, entry may be off an existing foyer. (UV, NV, COSC, NC)

4. Where there is a separate entry, an identifying feature, such as a portico, porch, stoop and/or eave overhang or a similar entry structure shall be constructed that is designed to be integral to the structure. (UV, NV, COSC, NC)

5. Walkways, entry porches, or stairways which are dark or hidden are to be avoided. (UV, NV, COSC, NC)

6. Where an exterior stairway to the main entrance to the ADU is needed or a porch, portico, or eave overhang constructed, it should be constructed of wood, or the most common material used in the construction of the primary residence. Thin looking, open metal, prefabricated stairs are discouraged. (UV, NV, COSC, NC)

(Ord. 5517 §1, 1995).

18.05A.320 Building design –Materials and colors

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Ensure that ADUs conform to the design theme of the village or center, and contribute to the livability of the neighborhood. (UV, NV, COSC, NC)

B. GUIDELINE:

1. Use a roof form and roof pitch, and window and door form and arrangement that looks like the primary residence. (UV, NV, COSC, NC)

2. Use the same exterior materials (roof, siding, and trim) and a color that matches the primary residence. (UV, NV, COSC, NC)

3. In general, the roof ridge of the primary residence should be higher than the ADU. An obvious exception is when the ADU is built onto the second story of an existing unit. (UV, NV, COSC, NC)

(Ord. 5517 §1, 1995).

18.05A.330 Site design –Cottage housing

LEGEND

UV = Urban Village	COSC = Community Oriented Shopping Center
NV = Neighborhood Village	NC = Neighborhood Center

A. REQUIREMENT: Design cottage housing to use shared off street parking, orienting the cottages to the street edge and to the shared interior courtyard. (UV, NV, COSC)

B. GUIDELINE:

1. Entryways should be oriented to the public street, with secondary entries oriented to the shared courtyard. (UV, NV, COSC)

2. Parking should be shared and accessed off an alley or secondary street wherever possible. (UV, NV, COSC)

3. The width of the driveway curb cut entry to the parking areas should be minimized to prevent as much pedestrian/sidewalk disruption as possible. (UV, NV, COSC)

4. Provide pedestrian connections from the interior courtyard to the shared parking area and to the street and sidewalk. (UV, NV, COSC)

Cottage Housing

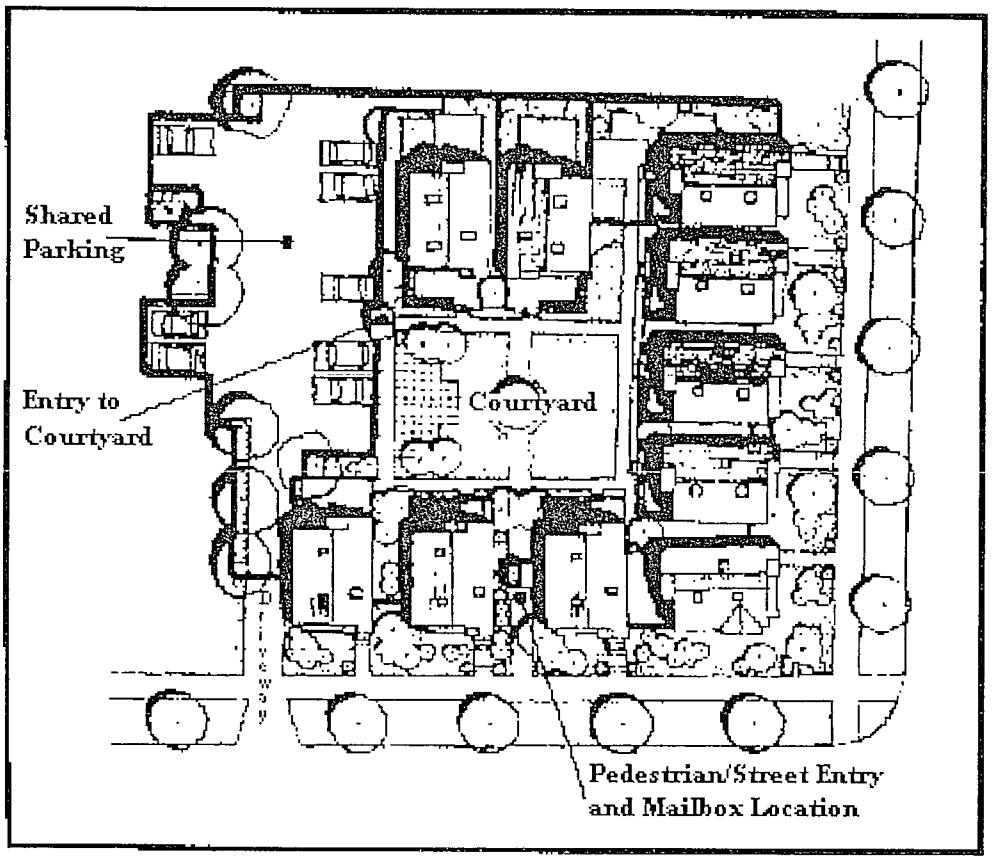


FIGURE 5A-54

(Ord. 6517 §44, 2007; Ord. 5661 §4, 1996; Ord. 5517 §1, 1995).

This page of the Olympia Municipal Code is current through Ordinance 6774, passed October 4, 2011.
Disclaimer: The City Clerk's Office has the official version of the Olympia Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

Olympia's Codification Process (http://olympiawa.gov/city-government/codes-plans-and-standards/municipal-code.aspx)

City Website: http://olympiawa.gov/ (http://olympiawa.gov/)
City Clerk: (360) 753-8325
Code Publishing Company (http://www.codepublishing.com/)
eLibrary (http://www.codepublishing.com/elibrary.html)

OMC
CH. 18.57

MASTER PLANNED DEVELOPMENT

Chapter 18.57
MASTER PLANNED DEVELOPMENT - MPD

18.57.000 Chapter Contents

Sections:

18.57.020 Purpose.
18.57.040 Approval process overview.
18.57.050 General procedures for application review.
18.57.060 Pre-submission conference.
18.57.070 Applications.
18.57.080 Master plan approval process.
18.57.100 Project approval process.
18.57.120 Plat approval process.

18.57.020 Purpose

The purposes of the Master Planned Development (MPD) regulations are as follows:

A. To permit greater flexibility and, consequently, more creative and imaginative design as required for the development within the Urban Village (UV), Neighborhood Village (NV), Neighborhood Center (NC) District, and Community Oriented Shopping Center (COSC) Districts than generally is possible under conventional zoning regulations.

B. To promote urban infill, and more economical and efficient use of the land, while providing a development which is compatible with the surrounding neighborhood; a variety of housing choices; and, a high level of urban amenities.

C. To encourage the provision of more usable and suitably located recreation facilities and other private and common facilities than would otherwise be provided under conventional land development procedures.

(Ord. 5539 §4, 1995).

18.57.040 Approval process overview

In the following zoning districts, a Master Plan shall be processed as an amendment to the Official Zoning Map as follows:

A. Districts. Development within the COSC, NC, NV and UV districts is permitted only after Master Plan approval, project approval, and construction permits are issued pursuant to this Chapter, Chapter 18.05, and Chapter 18.05A (Villages and Centers).

B. Pre-Submission Conference. Applicants shall meet with the Site Plan Review Committee (SPRC) for an initial discussion of the proposed MPD prior to submittal of an application. The applicant shall present preliminary studies and conceptual sketches

which contain in a rough and approximate manner the information required on the MPD application. The purpose of the preliminary site plan review is to eliminate as many potential problems as possible in order for the MPD to be processed without delay. (See Section 18.57.060 Pre-Submission Conference.)

C. Master Plan Review Process. An approved Master Plan is an amendment to the official zoning map. Applications for Master Plan approval shall be submitted concurrently to the Design Review Board and Hearing Examiner for review and recommendation to the City Council. (See Section 18.57.080, Master Plan Approval Process.)

D. Project Application Review Process. At any time during review or after Master Plan approval, the applicant may submit a Project Application for a portion or all of the site to the Department for review by the Design Review Board, Hearing Examiner, and/or SPRC. (See Section 18.57.100, Development Application Approval Process.)

E. Plat Approval. When any parcel of land subject to a Master Plan is intended for individual ownership or sale, the platting and procedural requirements of the Olympia Subdivision Ordinance and applicable State laws, as amended, pertaining to the subdivision and conveyance of land and the preparation of maps shall be followed. See Olympia Municipal Code Title 17, Subdivisions, and Section 18.57.120, Plat Approval Process. Applications for project approval may be submitted simultaneously, and processed concurrently, with applications for Master Plan approval or any other Development Application.

F. Engineering, Detailed Design Review, and Building Permits. The Building Official shall not approve a Building Permit unless it complies with the use limitations, standards, and design concepts and guidelines contained in the applicable Master Plan. Any conditions of Master Plan, Land Use, Preliminary or Final Plat, or Binding Site Plan approval will constitute a limitation on the use and design of the site. Engineering and Building Permits may be issued for any improvements or structures only if consistent with an approved Master Plan and project approval.

(Ord. 5830 §34, 1998; Ord. 5539 §4, 1995).

18.57.050 General procedures of application review

Except as specifically provided in this Chapter, applications for project approval within Master Plans, including but not limited to land use approval, plats, and building and engineering permits, shall be reviewed and decided, and otherwise processed, in accordance with the procedures applicable to comparable projects in all other districts as set forth in this Development Code.

(Ord. 5830 §40, 1998)

18.57.060 Pre-submission conference

Prior to submitting a Master Plan the applicant shall meet with the Site Plan Review Committee (SPRC) for an initial discussion of the proposal, as follows:

A. The applicant or representative shall present to the SPRC preliminary studies or conceptual sketches which contain in a rough and approximate manner the information required on the Master Plan application. The purpose of the pre-submission conference is to enable the applicant to obtain the advice of the SPRC as to the intent, standards and provisions of this chapter.

B. The SPRC will make available pertinent information as may be on file relating to the proposal. It is the purpose of this conference to eliminate as many potential problems as possible in order for the Master Plan to be processed without delay. The conference should take place prior to detailed work by the applicant's architect, engineer or surveyor.

C. At the pre-submission conference, the SPRC will furnish, to the prospective applicant, comments on how the proposed development conforms to City policies and regulations, and the Committee's requirements for development approval. The level of detail of SPRC's comments will be directly proportional to the level of detail provided by the prospective applicant.

(Ord. 5830 §35 1998; Ord. 5539 §4, 1995).

18.57.070 Applications

A. Application. An application for a Master Plan may be filed only by a property owner or someone acting on behalf of the owner. The applicant shall complete a Master Plan application and environmental checklist, together with preliminary development plans and other required supplementary reports. The applicant shall submit a minimum of seventeen (17) copies of maps and supplementary reports to the Department. Within twenty-eight (28) days of the date of receipt of the application, the Department shall inform the applicant of any deficiencies found in the application. The Department shall return the application to the applicant if it is deemed incomplete or inaccurate. Re-submittal with the necessary information making the application complete must be submitted within six months of original filing. If not, the file shall be considered void and 50% of the filing fees will be refunded.

B. Accuracy. Accuracy for all data and information submitted on or with a Master Plan and Project Applications shall be the responsibility of the applicant.

C. Environmental Review. Applications for a proposed Master Plan shall include, at a minimum, an Environmental Checklist submitted to the Department. Pursuant to the City's adopted regulations concerning compliance with the State Environmental Policy Act, Chapter 43.21C RCW and OMC Title 14 Environmental Protection, the City shall determine whether an Environmental Impact Statement will be required.

D. Master Plan Application. An application for Master Plan approval shall be on forms provided by the Department. Submittal requirements shall be approved by the City Council.

(Ord. 5830 §39 1998; Ord. 5539 §4, 1995).

18.57.080 Master plan approval process

A Master Plan application shall be submitted to the Department for review. The Design Review Board and Hearing Examiner shall forward their recommendations to the City Council as follows:

A. SEPA. Master Plan applications submitted to the Department shall comply with the City's adopted regulations concerning compliance with the State Environmental Policy Act, Chapter 43.21C RCW and OMC Title 14 Environmental Protection.

B. Design Review Board. A complete application including proposed draft design vocabulary and design guidelines (OMC Chapter 18.05A, Village and Center Design Guidelines), shall be submitted and reviewed by the Design Review Board for review and recommendation to the City Council. The Design Review Board shall not recommend approval of a Master Plan unless they determine that the proposed Master Plan complies with each of the applicable design guidelines contained in OMC Chapter 18.05A, Village and Centers Design Guidelines. The Design Review Board shall also review the applicant's proposed design vocabulary and provide a recommendation to the City Council. The Design Review Board may schedule additional meetings to consider the proposed Master Plan, or recommend denial or approval with or without conditions of approval. Public notice of meetings shall be provided pursuant to OMC Chapter 18.78, Public Notification.

C. Hearing Examiner. A complete Master Plan application, including the proposed draft ordinance, OMC Chapter 18.05 and schematic maps, shall be reviewed by the Hearing Examiner for recommendation to the City Council. Prior to the recommendation on a Master Plan application, the Hearing Examiner shall hold a public hearing thereon, and notices thereof shall be given as provided in OMC Chapter 18.78, Public Notification. The Hearing Examiner shall not recommend approval of a Master Plan unless the Examiner determines that the plan complies with the requirements of OMC Chapter 18.05, Villages and Centers. The Hearing Examiner may:

1. Recommend terms and conditions of approval; or

2. Require the provision, and further public review, of additional information and analyses; or

3. Recommend denial.

D. City Council.

1. The Board's and the Examiner's recommendations, together, with any conditions, shall be considered by the Council at a regular public meeting within thirty (30) calendar days after the Examiner's recommendation becomes final unless the applicant agrees to a later meeting date.

2. Such consideration shall be based upon the record which was established by the Design Review Board and the Examiner.

3. If the Council finds that the Board's or Examiner's recommendation is in conflict with the City's adopted plans, policies and ordinances; or insufficient evidence was presented as to the impact on surrounding area the Council may:

a. Deny the MPD application;

b. Remand the matter back to the Design Review Board or Hearing Examiner for another hearing;

c. Continue to a future date to allow for additional staff analysis desired by the Council;

d. Modify the Design Review Board's and Examiner's recommendation based on the applicable criteria and adopt their own findings and conclusions, and deny or approve the Master Plan; or

e. Schedule its own open-record public hearing.

4. If the Council determines there are no conflicts and sufficient evidence was presented as to the impact on the surrounding area, it shall adopt the Board's and Examiner's recommendation as their own and approve the Master Plan by ordinance. If approved, the Master Plan, or subsequent revision thereto, shall be an amendment to the Official Zoning Map.

5. Once the development plan receives Master Plan approval, all persons and parties, their successors, heirs or assigns, who own, have or will have by virtue of purchase, inheritance or assignment, any interest in the real property subject to the proposed Master Plan, shall be bound by the conditions attending the approval of the development and the provisions of the Ordinance.

6. The action of the Council, approving, modifying, or rejecting a recommendation of the Design Review Board and Examiner, shall be final and conclusive, unless within twenty-one (21) calendar days from the date of the Council action an aggrieved party or person appeals to the Superior Court of Washington for Thurston County, for the purpose of review of the action taken.

E. Phasing. If the Master Plan is to be developed in phases, the project as a whole shall be portrayed on the Master Plan, and each phase may individually receive project review and approval according to the procedures established herein.

F. Amendments. An approved Master Plan, or subsequent revision thereto, shall be binding as to the general intent and apportionment of land for buildings, stipulated use and circulation pattern. Amendments which change the character, basic design, density, open space or any other requirements and conditions contained in the Master Plan shall not be permitted without prior review and recommendation by the Hearing Examiner, and approval by the City Council, of such amendment. Amendments shall be an amendment to the Official Zoning Map and shall be clearly depicted as a revision to the ordinance text and site plans.

G. Expiration or Extension. There shall be no time limitation or extensions required of a Master Plan approval. However, if in the opinion of the City Council, the Master Plan does not continue to serve the public use and interest or comply with the comprehensive plan or other applicable laws or plans, the City Council may initiate an amendment or rezone at any time.

(Ord. 5830 §36 1998; Ord. 5539 §4, 1995).

18.57.100 Project approval process

A project shall be submitted to the Department for review and approval by the Hearing Examiner or Site Plan Review Committee prior to any development. A project may include one or more phases of the area within an approved Master Plan.

A. Conceptual Design Review. A complete Conceptual Design Review supplement, on forms provided by the City, shall be submitted to the Design Review Board for review and recommendation. The Design Review Board shall not recommend approval of a Conceptual Design Review supplement unless the Board determines that said proposal complies with the applicable design concepts and guidelines contained in the approved Master Plan. The Design Review Board may:

1. Schedule additional meetings to consider the Conceptual Design; or

2. Recommend approval with or without conditions of approval; or

3. Recommend denial of the proposal.

Prior to a recommendation, the Design Review Board shall conduct a public meeting thereon, and notices thereof shall be given as provided in OMC Chapter 18.78, Public Notification. The recommendation of the Design Review Board shall be given substantial weight by the decision-maker.

B. SEPA. Development and Subdivision applications submitted to the Department shall comply with the City's adopted regulations concerning compliance with the State Environmental Policy Act, Chapter 43.21C RCW and OMC Title 14 Environmental Protection.

C. Hearing Examiner. An application for a subdivision plat or binding site plan shall be submitted to the Hearing Examiner for review and decision. The Hearing Examiner

shall hold a public hearing thereon, and notices thereof shall be given as provided in OMC Chapter 18.78, Public Notification. The Hearing Examiner shall not approve an application unless the Examiner determines that said plan complies with the standards contained in the applicable Master Plan approval and OMC Title 17, Subdivision. The Hearing Examiner may:

1. Approve the development with or without terms and conditions of approval; or

2. Require the provision, and further public review, of additional information and analysis; or

3. Deny the proposal.

Such decisions by the Hearing Examiner are final unless appealed to the City Council.

D. Site Plan Review Committee (SPRC). For development for which no public hearing is otherwise required, a complete Land Use Review or other project application, on forms provided by the City, shall be submitted to the City for review and decision. The SPRC shall not approve an application unless the Committee determines that said proposal complies with the Master Plan, any SEPA conditions of approval, and City engineering development standards. The SPRC may:

1. Schedule additional meetings to consider the project application; or

2. Approve with or without conditions of approval; or

3. Deny the proposal.

Prior to the approval of an application, notices thereof shall be given as provided in OMC Chapter 18.78, Public Notification. Decisions by the SPRC are final unless appealed to the Hearing Examiner.

E. Engineering and Building Permits. The approved Master Plan and any project approval shall constitute a limitation on the use and design of the site. Engineering and Building permits may be issued for any improvements or structures consistent with project approval prior to the approval of the Final Plat, provided that:

1. The construction will be consistent with the approved Master Plan and project approval.

2. The building permit application must identify the location and dimensions of the proposed building(s) in relation to all lot lines for the site and must provide proposed building elevations. Minor alterations may be made provided the alteration is approved by the Site Plan Review Committee. Minor alterations are those which may affect the precise dimensions or siting of buildings (i.e., setback, lot coverage, height), but which do not affect the basic character or arrangement and number of buildings approved in the Master Plan or project approval, nor the

density of the development or the amount and quality of open space and landscaping. Such dimensional adjustments shall not vary more than ten percent. The applicant shall submit five copies of a revised or adjusted project approval of the applicable portion(s) to the City for the completion of its files.

3. No vertical construction may take place until the necessary fire flow and emergency vehicle access have been provided to the building(s).

4. All required infrastructure, including but not limited to utilities and streets, have been completed or arrangements or contracts have been entered into to guarantee that such required infrastructure will be completed for the phase of the project involved. Such guarantees shall be considered for minor finish-out items only. All basic infrastructure, such as roads, services and utilities, must be complete and operable.

5. Partial or complete construction of structures shall not relieve the applicant from, nor impair City enforcement of, conditions of Master Plan approval or the project approval.

6. Units/property may not be leased or sold until Final Plat or Binding Site Plan approval has been recorded (see OMC Title 17, Subdivision).

7. Building permits and other permits required for the construction or development of property under the provisions of this Chapter shall be issued only when the work to be performed meets the requirements of the program phasing elements of the Master Plan and applicable project approvals.

F. Detailed Design Review. As applicable, a building permit application shall be accompanied by complete Detailed Design Review application, on forms provided by the City, and be submitted to the Department for review and decision. If subject to its review, the Design Review Board may:

1. Schedule additional meetings to consider the Detailed Design Review Application; or

2. Recommend approval with or without conditions of approval; or

3. Recommend denial of the proposal.

Prior to a recommendation on an application, the Design Review Board shall conduct a public meeting thereon, and notices thereof shall be given as provided in OMC Chapter 18.78, Public Notification. The Building Official shall not approve a Detailed Design Review Application unless the Building Official determines that said proposal complies with each of the design concepts and guidelines contained in the applicable Design Guidelines contained in the Master Plan approval. Decisions by the Building Official are final unless appealed to the Hearing Examiner.

G. Appeals. Appeals, if any, shall be considered together, pursuant to OMC 18.75, Appeals.

H. Phasing. If a proposed project is to be constructed in phases, the project as a whole shall be portrayed on the Application, and each phase must receive review and approval according to the procedures established herein. Those portions of the MPD which have received a project approval shall be subject to the provisions of OMC Section 18.57.100(I), Expiration and Extensions.

I. Amendments. Amendments to the project conflicting with any of the requirements or conditions contained in the project approval shall not be permitted without prior written approval of such adjustment by the Site Plan Review Committee or Hearing Examiner. If the proposed amendment also conflicts with requirements or conditions of the Master Plan, the amendment shall be processed as an amendment to the Master Plan as provided in OMC Section 18.57.080(F), Amendments. If approved, amendments shall be clearly depicted as a revision to the ordinance text and site plans.

J. Expiration or Extension. Knowledge of expiration date is the responsibility of the applicant. The City shall not be held accountable for notification of expirations.

1. Subdivisions. Pursuant to OMC Title 17.20, Subdivision Term and Effect of Preliminary Plat Approval, an approved preliminary plat shall be binding for a period not to exceed five (5) years.

2. Land Use Approval. The Land Use approval shall be valid for one year and may be extended for a period not to exceed two years pursuant to OMC Section 18.72.140(E), Administration - Expiration of Approvals.

3. Detailed Design Review Approval. The Detailed Design Review Approval shall be valid so long as the associated building permit is valid.

(Ord. 5830 §37 1998; Ord. 5539 §4, 1995).

18.57.120 Plat approval

A. Preliminary Plat. When any parcel of land in any Master Planned Development is intended for individual ownership, lease or sale, the platting and procedural requirements of OMC Chapter 17.16, Subdivision Preliminary Plat, and applicable State laws pertaining to the subdivision and conveyance of land and the preparation of maps shall be followed as amended. Applications for preliminary or short plat approval may be submitted simultaneously, and processed concurrently, with applications for Master Plan or any associated project approval.

B. Binding Site Plan. For any portion of the Master Plan, the Hearing Examiner may approve a binding site plan for any commercial sites. The Examiner may attach terms and conditions to the approval of the site plan if necessary to insure compliance with

the Master Plan. Review of any preliminary or short plat, or Binding Site Plan shall be as provided OMC Chapter 17.16, Subdivision -Preliminary Plat.

C. Final Plat Approval. An application for Final Plat approval shall be submitted to the Department. The platting and procedural requirements of the OMC Chapter 17.24, Subdivision - Final Plat and applicable State laws, as amended, pertaining to the subdivision and conveyance of land and the preparation of maps shall be followed.

(Ord. 5830 §38 1998; Ord. 5539 §4, 1995).

COMPREHENSIVE PLAN
CHAPTER ONE:
LAND USE AND URBAN DESIGN

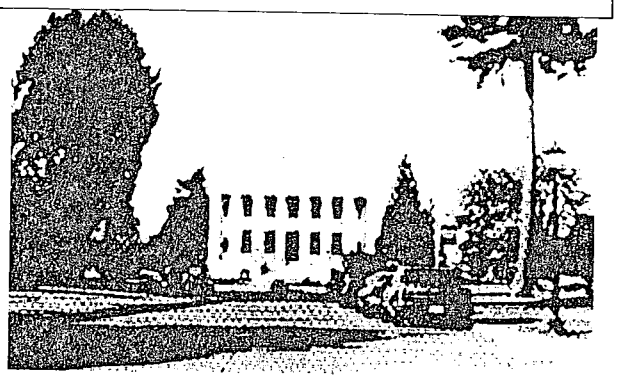
CHAPTER ONE: LAND USE AND URBAN DESIGN

NOTE: An asterisk (*) denotes text material adopted by Thurston County as the joint plan with Olympia for the unincorporated part of the Olympia Growth Area. The joint plan also includes the unincorporated part of Map 1-3 – Future Land Use.

INTRODUCTION

Olympia began as a waterfront community with a bustling downtown and harbor situated along the calm waters of Budd Inlet. Compact single-family neighborhoods and woodlands surrounded the central core. This development pattern began to change significantly after World War II as the increased mobility provided by automobiles spurred suburban development. In the last 25 years, most new commercial development has occurred outside of downtown along arterial streets, around the Capital Mall, and in the Lilly Road area. New neighborhoods are typically characterized by low densities and few street connections, and some large apartment complexes seem to be isolated from the rest of the city. This fragmented development pattern has created a road system that is often challenging for pedestrians, bicyclists, and transit riders.

As growth continues to occur at a rapid rate, we are losing some of the unique identity and qualities that attracted people to Olympia in the first place. In 1991, the City worked with community members to develop the City of Olympia's Urban Design Vision and Strategy. The purpose of this study was to help provide direction for development of the Comprehensive Plan and guide future development in a manner which reflects the desires and preferences of community residents. The study identified the types of development that citizens think are appropriate for Olympia, and the types of development they deem inappropriate for the community. Images from the urban design vision are included in this chapter to help identify what residents value and want to see more of.



The people participating in the study value the waterfront, downtown, the Capitol Campus, the older established neighborhoods, and views to the Olympic Mountains and the Black Hills. They particularly like the portions of downtown where buildings form a continuous edge along the street, where it is interesting to walk, and where awnings protect people from the rain. They also value streets that provide an attractive, safe, and inviting place for pedestrians, as well as provide for efficient traffic flow.

The Future Form of the City

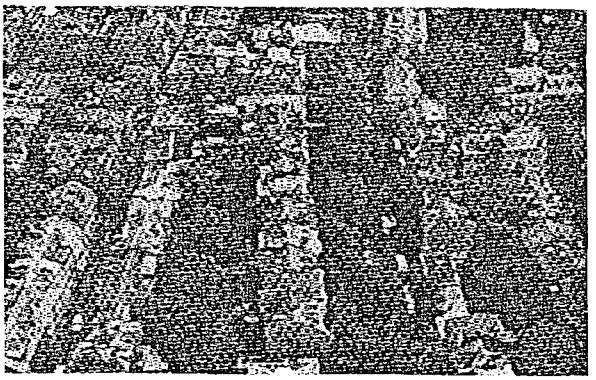
How the city grows is the key to whether or not it remains attractive and livable. Many of the types of development that appeal to community residents are at higher densities than are commonly found in Olympia.

What seems to make the higher density acceptable is the design and quality of the buildings, pedestrian amenities and landscaping. Consequently, higher densities in Olympia will be accompanied by attractive streets and buildings arranged for the convenience of pedestrians. It will take more than well designed buildings and attractively landscaped streets, however, to create the community we desire. The mix and relationship of land uses, the design of our streets, the location and character of commercial areas, parks, and open spaces are all crucial to the overall quality of life in our community

In the future, development will be done in a way which reinforces the community's identity and urban design preferences. Future development will reinforce the historic form of the community, strengthening the role of downtown, the State Capitol Campus, and the waterfront as focal points of the city. At the same time, some major changes will occur which will improve the livability of the community and make it easier for people to get around.

In the future, the neighborhoods and commercial areas will be woven together into a cohesive urban fabric. Housing will be available within and near shopping and employment areas (such as downtown and in the vicinity of the mall) to shorten the time needed to get to work and run errands. And small scale neighborhood-oriented businesses will be established in residential neighborhoods for the convenience of area residents. The commercial "strip" development along some of the major streets will be gradually transformed into attractive, higher density, mixed residential and commercial corridors linked by frequent transit service. Well-connected streets with on-street parking, sidewalks, and street trees on both sides will make travel distances around the city as short as possible, and encourage walking, bicycling, and use of transit. Conveniently-located parks and open space will provide places to recreate as well as protect important natural features and wildlife habitat.

COMMUNITY PREFERENCE FOR NEIGHBORHOODS



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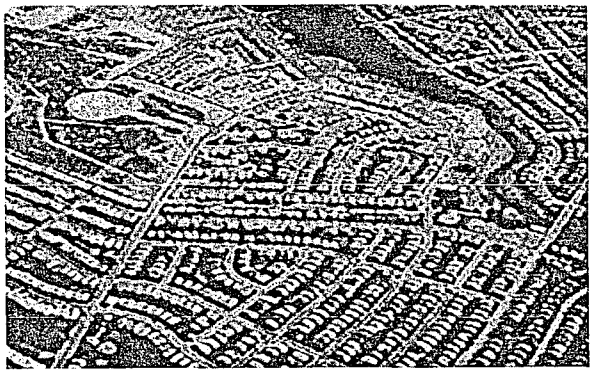
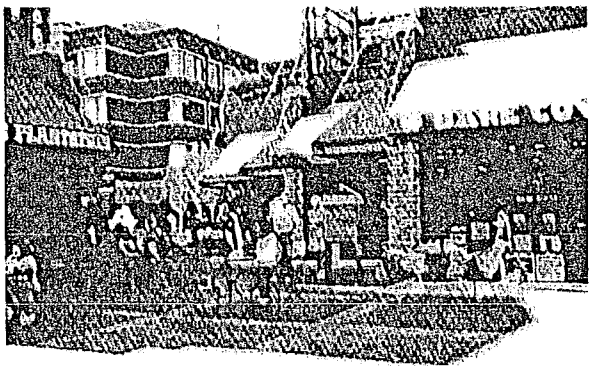


NOT THIS

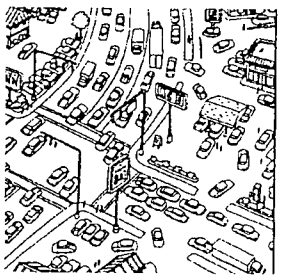
Downtown

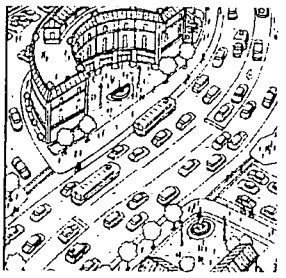
As the State Capital, Olympia is the social, cultural, and economic center of the area. Future office, retail and residential development will bolster downtown's role as the city center and home of state government, commerce, and industry. Downtown will become an increasingly attractive place to work, live, and play.



The Corridors

Over time, the major arterial street corridors will gradually change from areas dominated by strip commercial development and other low intensity uses into mixed use, high density areas where people enjoy walking, shopping, working, and living. Redevelopment along these corridors will be focused in areas with the greatest potential for intensive mixed use development so that public and private investment will have maximum benefit.





The corridors will provide an appealing housing alternative for people who want to live in an attractive, bustling urban environment close to work and shopping.

Regional Shopping and Service Centers

The major commercial and medical service areas around the Capital Mall and Lilly Road, respectively, will evolve into well-rounded urban neighborhoods with a mix of jobs, housing, and services.

Parks and Open Space

The city will contain a system of parks, greenways, urban trails, wildlife habitat, and open space that encompasses creeks, ravines, bluffs, and wetlands as well as fully-equipped recreation areas.

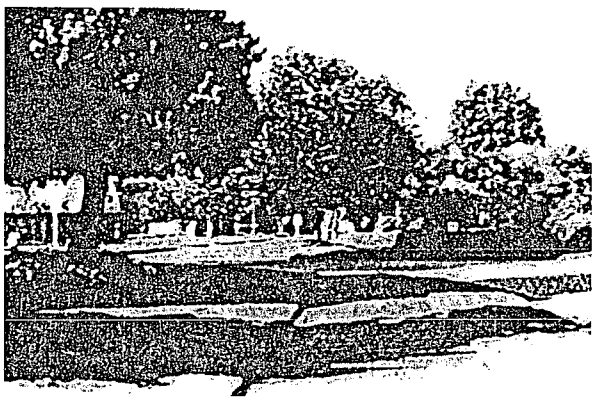
The Neighborhoods

A variety of housing types located along pedestrian-oriented streets will provide quality living opportunities for our diverse population. The majority of housing will remain single family, but higher density housing will be made available near major streets and commercial areas to take advantage of mass transit, available services, and employment opportunities. Some people fear that higher densities will bring increased crime and other social problems. Our success in dispersing housing types and densities throughout the city may help avoid crime and other social problems that can be caused by concentrations of people of similar means and lifestyle in isolated locations.

Neighborhood and urban villages containing a compatible mixture of single and multifamily housing will be developed around the perimeter of the city. (See Map 1-3.) Neighborhood centers, which will typically provide neighborhood oriented retail and service businesses, a transit stop and neighborhood park, will be the focal point of these new "villages." Neighborhood centers will also be established, where possible, in existing neighborhoods. Where the development pattern and terrain permit, trails will connect these neighborhood centers to parks, schools, and downtown to provide both recreational opportunities and commuter routes.

Street Design

The street layout largely determines the form of the city. And the number of travel lanes, the presence of bike lanes, transit pull-outs, pedestrian amenities (e.g., benches and shelters), street trees, sidewalks, and the proximity of buildings to the sidewalk determine how comfortable the area is for pedestrians, transit riders and motorists.



In the future, the city's streets will provide an appealing environment for pedestrians. New streets will be narrow, with sidewalks and street trees on both sides. Major building entrances will face streets, rather than parking lots, to encourage pedestrian use. Frequent intersections and "slow street" designs will keep auto speeds low in residential areas.

BACKGROUND

This Land Use Chapter was shaped by state requirements, policy mandates, population and economic trends, the land's physical constraints and opportunities, and the needs and desires of community residents. The following requirements, plans, and policies provided the foundation for this plan. The concepts contained in these documents were tested and refined through an extensive citizen involvement program and subsequently incorporated in the provisions of this chapter.

Growth Management Act

The State Growth Management Act provides specific direction for the content of the land use plan. The Act calls for the plan to establish land use designations and densities sufficient to accommodate our projected 20 year population growth and other land use needs (see the Growth Management Chapter); to protect groundwater used as a public water source; and to accommodate and mitigate the potential adverse effects of stormwater discharges from proposed development. It also requires the City to establish a process for identifying and siting "essential public facilities."

County-Wide Planning Policies

The County-Wide Planning Policies, building upon the foundation of the Act's requirements, call for the land use plan to concentrate growth in the urban area "in ways that ensure livability, preservation of environmental quality and open space, varied and affordable housing, high quality urban services at least cost, and orderly transition of land from County to City."

The policies direct the City to concentrate development in the City and unincorporated growth area by:

- Encouraging infilling in areas already characterized by urban growth with public services and facilities capacity to serve additional urban development (see LU 1.3);
- Phasing urban development and facilities outward from core areas (see the Growth Management Chapter);
- Establishing mechanisms to ensure that average residential densities are sufficient to enable the County as a whole to accommodate its 20 year population projection (see LU 1.3);
- Requiring development to be configured, where urban services and utilities are not yet available, so urban growth areas may eventually infill and become urban (see LU5); and by
- Employing innovative development techniques.

The County-Wide Policies also call for coordinated interjurisdictional planning for land use, parks, open space corridors, transportation, and infrastructure within unincorporated growth areas; and identification and timely acquisition of sites needed for schools, parks, fire and police stations, major stormwater facilities, greenbelts, and open space. (See LU 7.1.)

The policies also require the jurisdictions in the county to establish a cooperative process for identifying and siting "essential public facilities" which could have impacts beyond jurisdictional boundaries. (See LU 7.2.)

Regional Transportation Plan, Urban Design Strategy, and Sustainability Policies

In addition to these basic requirements, the Thurston Regional Transportation Plan, the Olympia Urban Design Vision and Strategy, and the City's sustainability policies provided direction for the development of this plan.

The Thurston Regional Transportation Plan calls for land use patterns, densities, and site planning requirements which facilitate provision of an efficient transportation system that enables less reliance on automobiles for getting to work and performing routine errands. The High Density Corridor concept contained in this plan (see Chapter Six, Transportation) is a cornerstone of the Thurston Regional Transportation Plan. The neighborhood and urban villages, and the concentration of higher density development along arterials and major collector streets also serve to implement the concepts in the regional plan.

As noted earlier, the City's Urban Design Vision and Strategy also provides guidance for making the city more attractive and livable. The concepts contained in the Urban Design Vision and Strategy are the foundation of many of the policies in this chapter.

The land use patterns and design requirements called for by this plan are also in accord with the City's sustainability policies. The sustainability policies call for us to consider the long range implications of our land use decisions and to provide for a pattern of development that can be sustained and enjoyed by future generations. By enabling less reliance on automobiles; providing for compact development that consumes less land and can be cost effectively served by streets, utilities, and services; and by establishing development densities and site design requirements that protect the viability of environmentally sensitive areas and reflect the capacity of natural storm drainage ways, we provide for a more sustainable and appealing future for coming generations to inherit.

GOALS AND POLICIES

The purpose of the following goals and policies is to provide direction for establishing land use patterns, densities, and design standards which:

- Reflect the community's urban design vision and attain higher quality development;
- Maintain or improve the character and livability of established neighborhoods;
- Provide for a variety of transportation alternatives to enable less reliance on automobiles;
- Provide people with opportunities to live close to work;
- Create desirable, livable neighborhoods that provide a variety of housing opportunities, accommodate different lifestyles and income levels, and provide a sense of community;
- Provide for a compact growth pattern to efficiently use the remaining buildable land and enable cost effective provision of utilities and services;
- Promote energy efficiency;
- Reflect the land's physical capability to support development;
- Preserve or enhance environmental quality, environmentally critical areas, and significant fish and wildlife habitat;
- Provide for adequate, well-located parks, open spaces, and other community facilities; and

- Protect views and features of the regional landscape which are unique to Olympia, such as Budd Inlet, the Capitol Dome, the Black Hills, Mount Rainier, and the Olympic Mountains.

GOAL LU1*. To accommodate the city's expected population growth in a sustainable manner that maintains or improves the community's character, environmental quality, and quality of life.

POLICIES:

LU 1.1* Focus growth in areas with the capacity to absorb development (i.e., areas with vacant or underutilized land and available utility, street, park and school capacity, or where such facilities can be cost effectively provided); in areas where development will facilitate efficient, effective mass transit service; where adverse environmental impacts can be avoided or adequately mitigated; and where development will enhance the area's appearance or vitality.

LU 1.2* Avoid high density development where the existing development pattern or terrain are not conducive to walking, bicycling, and frequent transit service; or where new development would have a significant adverse impact upon the habitat within designated sensitive drainage basins. (Ordinance #6140, 08/28/01)

LU 1.3* Increase the overall housing densities in Olympia, and ultimately in the unincorporated growth area, in order to efficiently use the remaining buildable land while considering environmental constraints; to enable efficient, cost-effective provision of city facilities, services and to enable provision of affordable housing: (Ordinance #6140, 08/28/01)

a. Establish incentives (e.g., density bonuses) and requirements (e.g., minimum housing densities) in the zoning ordinance to ensure that residential development is sufficiently dense to accommodate the city's anticipated population growth. (Ord. #6140, 08/28/01)

b. Establish minimum and maximum housing densities for residential districts. Establish minimum densities for the High Density Corridors (see LU17), neighborhood villages and urban villages (see LU9) which provide sufficient residential density to facilitate frequent transit service and to sustain area businesses.

c. Allow minimum densities to be reduced to the extent necessary to accommodate site constraints (e.g., difficult topography, stormwater drainage problems, aquatic habitat protection or wellhead protection areas) that impede development at higher densities. (See Land Use Designations.) (Ordinance #6140, 08/28/01)

d. Encourage compact development through density bonuses and by allowing small minimum lot sizes and innovative lot configurations. (See LU 4.2.)

e. Encourage well-designed "infill" development and redevelopment in established

areas which maintains or improves neighborhood character.

LU 1.4* Regulations implementing this plan will respect property owners' legal rights. Such regulations should provide for compensation for the property owner or waivers from requirements if implementation of the regulation would otherwise constitute a legally defined "taking."

LU 1.5 Periodically compare the housing densities being achieved to established density targets and updated population forecasts. Adjust zoning requirements and incentives as warranted. (Ordinance #6140, 08/28/01)

GOAL LU2*. To create a cohesive, beautiful, and efficient city.

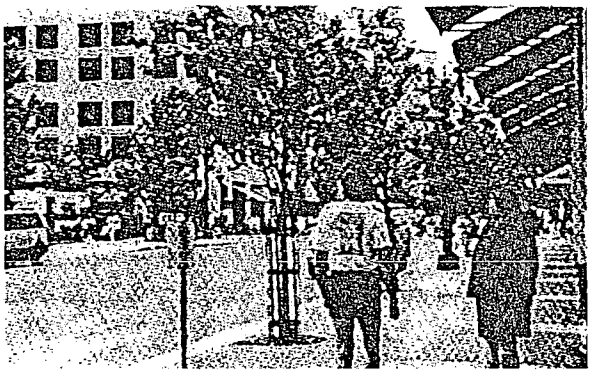
POLICIES:

LU 2.1 Establish building and site design standards that will result in commercial, public, and residential structures that complement or enhance their surroundings, appeal to and accommodate pedestrians, and help facilitate transit use. (See LU8.) Consider issuing design awards for the year's most outstanding commercial and residential projects and structures.

LU 2.2 Protect, to the greatest extent practical, scenic views of the Capitol Dome, Budd Inlet, Mount Rainier, the Black Hills, Capitol Lake, and the Olympic Mountains from designated viewing points and corridors. (Ord. #6389, 01/24/06)

LU 2.3* Support placing power and telecommunication lines underground, at the rear of properties or in alleys, particularly along major arterial streets. (See the Utilities Chapter.)

LU 2.4 Work with the neighborhoods and the business community to develop and conduct a city-wide beautification program. This program could include activities such as tree planting, clean-up projects, and installation of landscaping along major arterials and in commercial districts.



LU 2.5 The City, in coordination with the County, should prepare and implement a coordinated tree planting program for the city and unincorporated growth area. Require trees to be planted along all new streets and plant trees where possible along existing streets, particularly in commercial and high density areas. Specify the species of trees to be planted to ensure that they are appropriate to the urban setting, considering hardiness, traffic safety, and conflicts with overhead wires, sidewalks, and underground utilities. (See the Urban Forestry Chapter.)

LU 2.6 Encourage preservation of healthy, attractive native vegetation (e.g., evergreen trees, salal, and ferns), where appropriate, during land development. Where this is not possible, encourage the use of appropriate native plant materials in

the site's landscaping. (See the Urban Forestry Chapter.)

LU 2.7 Establish gateways to Olympia with significant, special landscaping. Establish design standards for the landscaping and buildings along Olympia's entrance and exit corridors that reinforce the streets' role as the gateways to the Capital.

LU 2.8 Require storm drainage ponds and swales to be designed, located, and landscaped so they complement the site design and landscaping. (See LU 14.11.)

LU 2.9 Provide street trees and sidewalks on both sides of all streets, except where environmental goals such as aquatic habitat protection may require an alternative design. Also provide planting strips, shallow grass-lined swales, shelters, benches, and pedestrian-scale street lights where appropriate. (Ordinance #6140, 08/28/01)

LU 2.10 Retain view corridors of Budd Inlet and Capital Lake by:

a. Avoiding vacation of platted street rights-of-way which abut the water. This would include that portion adjacent to the water and the next block upland; and

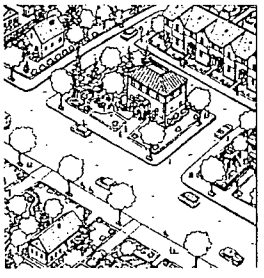
b. Siting waterfront buildings on public lands in a way that avoids blocking view corridors on adjacent streets pointed toward the water. (Ord. #5757, 12/16/97)

NOTE: See also policies POS 2.4, POS 4.1, POS 4.2, and POS 4.3 in Chapter Seven, Parks and Open Space.

GOAL LU3*. To establish land use patterns, densities, and site designs that enable less reliance on automobiles.

POLICIES:

LU 3.1 Establish High Density Corridors with sufficient residential and employment density to support frequent transit service, encourage pedestrian traffic between businesses, provide a larger customer base for corridor transit services and businesses, and diminish the reliance upon automobiles for local trips. (See LU17 and the Transportation Chapter.) (Ordinance #6073, 12/12/00).



LU 3.2 Encourage more intensive residential and commercial development downtown to enable frequent transit service. Strive to achieve an average housing density of at least 15 units per acre for new downtown housing projects and an employment density of at least 25 employees per acre. Develop an aggressive marketing strategy and incentives, such as building height bonuses, to achieve this level of development.

LU 3.3* Provide a compatible mix of housing and commercial uses in all commercial districts, neighborhood villages, and urban villages to enable people to walk to work and shopping, enable less reliance on automobiles, reduce commuting times and distances, make mass transit more viable, and provide

greater convenience for area residents.

LU 3.4* Concentrate new major shopping, entertainment, and office uses in established commercial areas, such as downtown, the Medical Services District along Lilly Road, around the Capital Mall and the High Density Corridors, to enable frequent transit service to these areas and to encourage more intensive use of land with available infrastructure capacity. Encourage development in these areas by providing public improvements (e.g., pedestrian amenities and street trees) and by limiting the creation of new commercial zoning districts.

LU 3.5 Encourage the development of designated neighborhood centers so as many of the city's residents as possible are within approximately □ mile of a grocery or convenience store and a transit stop. (See Map 1-3.) Such centers should be separated by at least □ mile from existing or planned neighborhood commercial areas.

LU 3.6 Provide for and support construction of park and ride lots and associated complementary uses (e.g., grocery stores, day care centers, video rental shops, dry cleaners, and auto repair shops) in or near shopping areas to enable one-stop shopping for commuters. Furnish park and ride lots with bicycle lockers or covered racks in secure, lighted areas. Work with Intercity Transit to identify appropriate locations for park and ride lots.

LU 3.7 Establish design standards which ensure that commercial and public building sites provide convenient, direct access for pedestrians and bicyclists.

LU 3.8 Establish design standards which ensure that commercial and public building sites provide convenient, direct access for pedestrians and bicyclists.

GOAL LU4*. To attain a wide range of housing types and densities commensurate with the community's needs and preferences.

POLICIES:

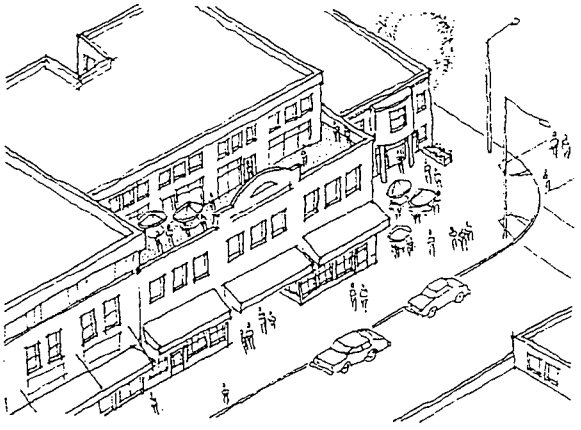
LU 4.1* Establish zoning districts that allow a wide variety of compatible housing types and densities to satisfy existing and projected housing needs. (See the Housing Chapter.)

LU 4.2* Allow single family housing on small lots (e.g., 4,000 to 5,000 square foot conventional lots and 2,500 to 5,000 square foot zero lot line lots). Prohibit zero lot line development immediately abutting a conventional lot to ensure that adequate separation between structures is maintained.

LU 4.3* Disperse low and moderate income housing and special needs housing throughout the city and unincorporated growth area, rather than in isolated developments. Facilitate the development of low income housing by allowing small lots and multifamily structures throughout the area. Require effective, but not unduly costly, building design and landscaping standards that will help such multifamily housing blend into or improve the neighborhood. (See LU8.)

LU 4.4* Encourage the development of residences above businesses in

commercial districts. Provide incentives (e.g., allow increased building heights and increased impervious surface coverage, consistent with the Drainage Design and Erosion Control Manual) for buildings that contain residences above commercial uses.



LU 4.5* Allow accessory housing units (including garage conversions, apartments within primary residences, and freestanding dwellings) in all residential districts. Establish siting, design, and parking requirements for accessory units to ensure that the neighborhood character is maintained or enhanced and parking problems are not created. (See LU 8.2.)

LU 4.6 Allow a variety of housing forms, such as townhouses, courtyard buildings, small cottages, duplexes, tri-plexes, and four-, six-, and eight-plexes in the higher density residential and commercial districts. (See Land Use Designations.)

GOAL LU5*. To provide for development in the unincorporated growth area in a way that facilitates eventual urban density development.

POLICIES:

LU 5.1* Establish transitional zoning for the unincorporated growth area to ensure that development without public sewer and water service is at a density and in a configuration that enables cost- effective urban development when these utilities become available. Establish the same zones in both the county and city (preannexation zoning) to provide predictability for property owners and the public, and to facilitate utility and transportation planning.

a. Subdivisions.

(1) Establish zoning for the unincorporated urban growth area that requires housing without sewer service to be clustered on a portion of the site so that when the undeveloped tract is developed, the overall site will achieve the minimum density specified for the zoning district. (See Land Use Designations.)

(2) Reserve Tracts. Require clustered subdivisions without sewer service to include a tract to be held in reserve for future subdivision. When public sewer and water are available, a subdivision

pose significant environmental hazards.

a. Encourage adequate child care services in all residential neighborhoods and commercial areas by minimizing regulatory requirements and fees for such uses and, in commercial areas, by providing density bonuses for projects including child care facilities.

b. Allow elder care homes (adult family homes) in all residential and commercial districts as permitted uses, provided that no more than five unrelated people, in addition to the caregiver(s) and their family, reside in the home (consistent with RCW 70.128). Nursing care and home health care may be provided in such homes, but not convalescent care (as defined in the zoning ordinance).

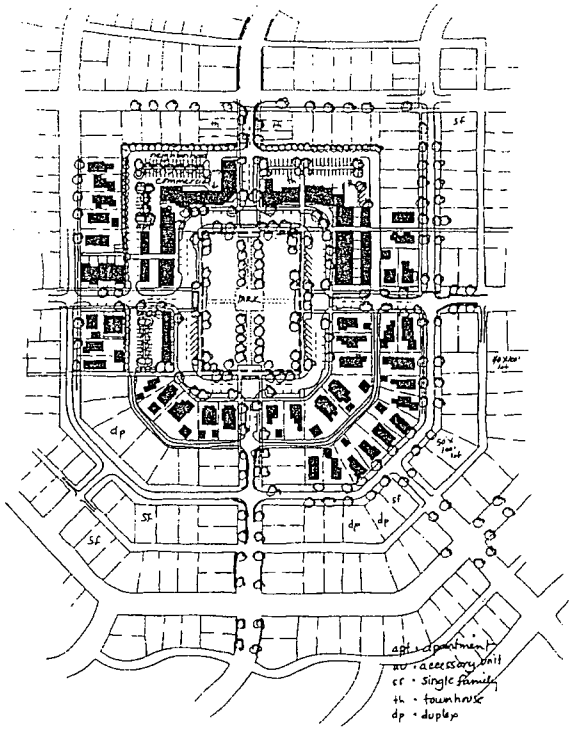
c. Require that home-based businesses in residential areas be of a size and type which give minimal outward appearance of being a business, and which do not create significant traffic, parking, noise, or pollution problems.

LU 8.12 Allow hospice care (physical and emotional care for terminally ill patients) as a conditional use in all multifamily and commercial zones.

GOAL LU9*. To establish neighborhood centers as the focal point of neighborhoods.

<u>POLICIES</u>:

LU 9.1* Establish a neighborhood center, containing a civic green or park, a transit stop, convenience businesses and services, a day care center, and perhaps a church or school in each urban village and neighborhood village. (See Map 1-3.) Allow neighborhood centers to be developed in established neighborhoods where they are compatible with existing land uses, consistent with the policies in this chapter. (See the Transportation Chapter, Street Design Policies - Residential Streets.)



a. Allow the size and composition of neighborhood centers, including recreation areas, to vary by neighborhood, depending upon location, access,

neighborhood character, local desires, and market opportunities. Limit commercial uses in neighborhood villages to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional services, dry cleaners, day care facilities, small banks, video shops, cafes, and small bakeries. Prohibit auto-oriented uses which are not primarily oriented to the neighborhood, including "drive-through" businesses which serve customers in their vehicles.

b. Limit the amount and scale of commercial development in neighborhood centers so it is in balance with other uses in the village and maintains a pedestrian-oriented, village atmosphere.

(1) Allow a maximum of 5,000 to 30,000 square feet of commercial space in neighborhood villages and a maximum of 225,000 square feet of commercial space in urban villages. The maximum amount of commercial allowed, and the percentage devoted to office and retail uses should be proportional to the number of housing units in the village and should reflect the size and planned density of the project's service area. (See Figure 1-2.)

(2) Limit the size of individual commercial business occupancies in neighborhood villages to 3,000 to 5,000 square feet. Limit the size of business occupancies in urban villages to 5,000 to 15,000 square feet, with the exception that one business occupancy may be 50,000 square feet. Also allow exceptions for schools, churches, and other community facilities.

(3) The core area or center of a village should contain a greater intensity of development than outlying areas. Buildings fronting on the square or green should be at least two or three stories in height.

LU 9.2* Separate neighborhood centers containing commercial uses by at least □ mile (street distance) or as necessary to provide economic viability. Centers should only be located at closer intervals when the neighborhoods have sufficient population (based on actual or planned density) to make both centers economically viable or where the centers serve distinct trade areas. Neighborhood centers in urban villages should be separated by at least one mile.

LU 9.3* Locate neighborhood centers for established neighborhoods and for neighborhood villages along collector streets to give them visibility, a central location, and enable them to serve as the

neighborhood focal point. Locate neighborhood centers for urban villages near arterials.

LU 9.4* To the greatest extent possible, arrange the streets and trails in neighborhood villages and urban villages so the center can be accessed from all areas of the development without using an arterial. Design the street system and arrange shopping areas, schools, and other community facilities to facilitate pedestrian access between residential areas and these key village components.

LU 9.5 Require all commercial development in neighborhood centers to be within approximately 600 feet of an existing or planned transit stop.

LU 9.6 Establish design standards for neighborhood centers which allow innovative design and variety while ensuring compatibility with adjoining development. Incorporate the following provisions in these standards:

a. Locate and orient neighborhood centers to avoid glare, noise, aesthetic, and traffic impacts for nearby residents. Direct or shield site lighting away from residences.

b. Ensure that the scale, design, and exterior materials of commercial structures in neighborhood centers are compatible with surrounding residential structures and maintain or enhance the neighborhood character.

c. Require that signage be of a size and in a location (e.g., wall mounted) which does not detract from the character of the area.

d. Locate commercial and service buildings in neighborhood centers at the sidewalk edge, with direct access from the street frontage.

e. Orient the primary entrance to commercial uses to the street and the secondary entrance to the parking lot, unless another arrangement would provide better access from the neighborhood or avoid pedestrian/automobile conflicts.

f. Orient the buildings along the perimeter of the park or civic green toward the park.

g. Require the back side of neighborhood centers to be designed so they are inviting to pedestrians and provide direct access from the neighborhood.

LU 9.7 a. Establish a neighborhood center zoning district to enable development of neighborhood centers outside of the urban villages and neighborhood villages in accordance with this plan. Require the phasing of neighborhood center development to be specified at the time of project approval to ensure that neighborhood services and amenities will be provided in early project phases.

b. Establish a neighborhood center in the MR 7-13 zone (south of Chambers Lake) to

be located where a new north/south street will intersect from the north with 37th on the westernmost parcel of the zone. (Ordinance #5757, 12/16/97)

GOAL LU10*. To establish neighborhood villages, urban villages [and urban centers] with a coordinated, balanced mix of land uses and a pedestrian orientation. [Language in brackets not adopted by Thurston County.] (Ordinance 5661, dated 12/26/96)

POLICIES:

LU 10.1* Provide for the development of neighborhood villages that include a neighborhood center and a coordinated, compatible mix of single and multifamily housing at a specified minimum density. (See Figures 1-1, 1-2 and 1-5.)

LU 10.2* Provide for the development of urban villages on sites with good access to arterials and potential for accommodating relatively high-density residential development and commercial uses scaled to serve the broader neighborhood with needed goods and services. (See Map 1-3.)

LU 10.3 Establish requirements for villages that provide a pleasant living, shopping, and working environment; pedestrian accessibility; a sense of community; adequate, well-located open spaces; an attractive, well-connected street system; and a balance of retail, office, multifamily, single family, and public uses.

LU 10.4 Ensure that the location and timing of construction of the various village components provides a sensitive transition with existing development adjoining the site. (See LU 8.3.) Locate, orient, and design uses likely to attract a substantial number of people from outside of the village (e.g., supermarkets) so that they do not significantly detract from the village's pedestrian-oriented character.

LU 10.5 Require villages to be between approximately 40 and 200 acres in size to enable an appropriate mix of land uses, provided that 90 percent of all residences in the village will be within □ mile of the neighborhood center and a transit stop.

LU 10.6* Require that villages contain a neighborhood center offering predominantly neighborhood-oriented shopping and services; a variety of housing types and densities; and, to the extent the site permits, a network of open spaces and recreation areas. Base the exact mix and density of land uses on the community context, site conditions, infrastructure and street capacity, market conditions, the frequency of transit service, and the character and density of development in adjacent neighborhoods, consistent with the minimum and maximum densities allowed for the district. (See Figure 1-5.)

a. Require villages to achieve the land use mix specified in Figure 1-2, consistent with LU 9.1.

b. Establish standards which provide for a variety and balance of housing types.

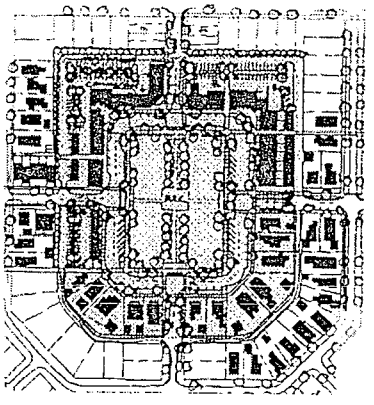
c. Encourage mixed use housing in villages by

FIGURE 1-1

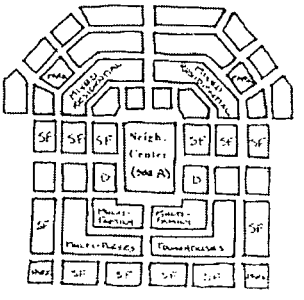
Typical Land Use Components	Neighborhood Center**	Neighborhood Village	Urban Village
Business/Commercial Uses:			
• Neighborhood-oriented commercial, office, business, services	YES	In N. Center	In N. Center
•	Possibly	Possibly	Possibly
• Supermarket	NO	NO	YES
• Regional scale retail centers or commercial uses	NO	NO	NO
Residential Uses:			
• Residences over commercial, office, business, or service uses	YES	In N. Center	In N. Center
• Single family	Possibly	YES	YES
• Duplex	Possibly	YES	YES
• Town house and condominiums	YES	YES	YES
• Multifamily	YES	YES	YES
Amenities:			
• Small park	YES	YES	YES
• Open space	NO	YES	YES
• Trails	Possibly	YES	YES
• Street trees	YES	YES	YES
• Bike racks	YES	In N. Center	In N. Center
• Transit stop	YES	In N. Center	In N. Center
• Community garden		YES	YES
Schematic Illustrations:	See A Below	See B Below	See C Below

** The neighborhood center is the **core** area of both neighborhood villages and urban villages. It comprises that area of commercial/business, civic, and residential land uses directly adjacent to the centralized park and extending, at most, a block away from the park.

A Neighborhood/Urban Center



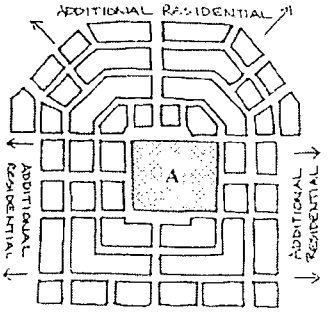
B. Neighborhood Village



SF is Single Family Detached

D is Duplexes

C. Urban Village



A = Neighborhood Center with Possible Supermarket

COMPREHENSIVE PLAN
CHAPTER SIX:
TRANSPORTATION

CHAPTER SIX: TRANSPORTATION

NOTE: An asterisk (*) denotes text material adopted by Thurston County as the joint plan with Olympia for the unincorporated part of the Olympia Growth Area. The joint plan also includes the unincorporated part of Map 6-2--Bikeways and Map 6-3--Transportation 2015.

INTRODUCTION

Olympia's future transportation network must include: streets that are pleasant to walk along; an easy-to-use transit system; excellent, safe, and efficient bike routes; effective incentives for carpools and vanpools; and a network of roads that moves people and goods efficiently throughout the City.

In order to become a sustainable city, the goals and policies in this plan describe a new direction for Olympia. The new direction offers incentives and disincentives that will result in less auto dependence, provide better transportation services, and encourage the use of alternatives to driving alone to work. Success will find us in 20 years ready to take advantage of other transportation options that will contribute to a continued excellent quality of life. Failure to reduce auto dependence will find us in 20 years with a degraded quality of life and much more difficult and costly transportation, land use and environmental problems to solve.

The goal is to achieve a balanced system that meets the needs of all people, young and old. The system must also meet the needs of business, industry and employers. During discussions that led to a new Regional Transportation Plan, Olympia concurred with other regional policy makers and citizens that the regional goal should be to reduce our drive-alone commuter rate from the current 85 percent to 60 percent within 20 years. This Comprehensive Plan includes the transportation and land use goals and strategies from the adopted Regional Transportation Plan that will result in Olympia doing its part to achieve reduced auto dependence.

During the regional transportation planning process and the Comprehensive Plan process, citizens expressed their fears: sprawl, degraded air and water quality, rapidly increasing traffic, dependence on cars, lack of transportation alternatives, lack of housing choices and uninviting neighborhoods and city centers. Participants in the process accepted that land use and transportation decisions were linked to one another. The State Growth Management Act also requires that land use and transportation plans contribute to the vision and goals expressed in each jurisdiction's plan. These local plans must also contribute to achieving the Regional Transportation Plan goals.

The vision of the Regional Transportation Plan is to focus the development of jobs, housing, shopping and recreation opportunities in our city centers and on the main travel routes between them. This will allow a large number of people to get around by using an efficient transit system, pleasant streets, bike routes, and sidewalks. The goal is to shift from transportation strategies that focus on moving vehicles, to strategies that will result in balancing the needs of cars and trucks, transit riders, bike riders, and walkers.

An Efficient Transportation Network That Helps Us Meet Today's Needs And Preserve Quality Of Life Must:

1. **Integrate Land Use and Transportation**

   Land use and transportation goals and policies that work together lead to decisions and actions that result in a safe, efficient, and easily used transportation system. Where high density housing, job and service activity is wanted, high quality streets must be built to attract the kind of development and redevelopment that is wanted. City efforts and public and private dollars need to make sure that tree-lined streets and sidewalks inviting to pedestrians contribute to a high quality of life in these areas. In addition, development must be encouraged to contribute to the creation of a place where people want to walk, ride bikes, and use transit. City centers and the corridors between them need to be developed into places where people want to live, work, and shop so that they can evolve into major destinations. The network of roads will need to continue to carry the increasing number of vehicles that will use it. But our ability to minimize the growth of traffic congestion will not be possible if we don't make a commitment to concentrate housing, jobs, and activities in a way that will allow less auto dependence.

2. **Fully Use The Transportation System We Have**

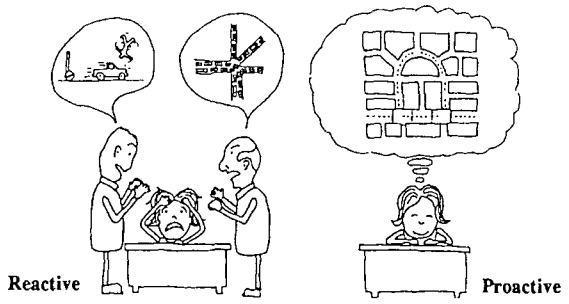
   Since building and especially maintaining roads is one of the most costly responsibilities of the City, it is important to fully use the transportation system that we have in place. In some areas, City-owned and -maintained unconnected streets don't contribute to increased route options and shorter trips for pedestrians, bike and transit riders, or autos. In other areas, City owned right-of-way is being used for private purposes when it could be used for the sidewalks and street trees that would increase the livability of some areas. An underused transit system is also costly and a lost opportunity for moving people efficiently. Minimal use of transit is partly caused by cheap and easy parking provided by most employers, widely dispersed destinations that make routes inefficient, and a limited pool of riders due to low population density along transit routes.

3. **Make Connections**

   A road system with many two lane roads works more efficiently than one that depends on a few four- and six-lane roads. The system with more roads, but with fewer lanes, provides more options for getting around for all travelers. The ability for pedestrians to cross lanes or for vehicles to make left hand turns is also less complicated and takes less time on roads with fewer lanes. More road connections allow fewer miles to be traveled saving fuel and reducing pollution. It is in the best interest of all citizens to add to the road system as needed to maintain straightforward connections for all travelers, and make sure that our decisions about where we locate homes and jobs doesn't result in more low density sprawl.

4. **Focus On Moving People, Instead Of Only Moving Vehicles**

   Bike riders need to be encouraged with good bike routes, bike racks at destinations, and showers and lockers at work sites. In order to more fully use the transit system, more people need to live within three or four blocks of transit stops throughout the urban area. To encourage people to walk, streets, homes and businesses need to be built in a way that makes the streets inviting. To encourage carpools and vanpools, good ride match programs and other incentives such as priority parking are needed. And to really succeed in reducing drive-alone commuting that puts the most pressure on our roads in the morning and evening, parking management is needed, making parking more costly and less plentiful for workers who choose to drive alone.



Too often, transportation planning begins in reaction to a problem. The Growth Management Act and this Comprehensive Plan establishes a proactive approach to community mobility issues.

5. **Transportation Demand Management** (Ord. #6195, 07/03/02)

   Transportation Demand Management (TDM) is used to reduce the rate of growth of traffic volumes by encouraging commuters to use alternatives to driving alone. TDM is primarily focused on employee travel to and from work because these trips are made at the same time by large numbers of people and are, therefore, easier to replace with alternative modes of travel. TDM is important in maintaining the entire transportation system. An effective TDM program makes the best use of the existing transportation system, thereby offsetting the need for costly system expansion. TDM measures also contribute to a more sustainable transportation system, resulting in less resource consumption and less pollution.

   TDM measures are especially important in the downtown, where roadway and parking capacity is constrained by land and cost. The downtown can accommodate a significant amount of additional growth, but services and facilities for walking, biking, ridesharing, and transit are necessary to accommodate the mobility and access needs associated with that growth.

6. **Downtown Parking Management** (Ord. #6195, 07/03/02)

   Downtown parking is managed to support the needs of businesses and to influence TDM program success. Parking management allows more people to access the same parking stall, increasing customer access to businesses. The first priority user for downtown parking is customers, because customer access is critical to downtown vitality. Parking charges and limited parking availability influence an employee's decision to drive to work and encourage employees to ride the bus, walk, bike, or carpool. Downtown parking also warrants careful management because parking is costly to develop and affects the urban form and character of the downtown. The City will strive to make the best use of existing parking before more parking is built. The Downtown Olympia Parking Management Strategy Update Study, approved by the Olympia City Council in 1997, and the Olympia Downtown Parking and Transportation Demand Management Plan, accepted by the Council in 2001, provide principles for parking management in the downtown.

BACKGROUND

The Transportation Chapter takes its direction from the mandates of state, regional and local plans, policies, and guidelines. These include:

The State Growth Management Act

It requires at a minimum:

1. Land use assumptions used to estimate travel. The assumptions in this Plan are consistent with those used in the Regional Transportation Plan. They accommodate the expected employment growth for the Olympia Growth Area, consistent with the Thurston Regional Transportation Plan. They also accommodate the population growth planning target for Olympia approved by Thurston County pursuant to the County-Wide Planning Policies.

2. An inventory of air, water, and land transportation facility and service needs. The

attached maps show current and proposed transportation facilities and services.

3. Level of service standards for arterials and transit routes. Policy T 1.22 of the Olympia Comprehensive Plan describes transit level of service and Goal T2 describes level of service for arterials, transit routes and other streets in the City.

4. Traffic forecasts for at least 10 years. Twenty-year traffic forecasts have been completed and are shown in Appendix 6B. These forecasts are based on the adopted land use element. The list of transportation system improvements reflects the results of these forecasts.

5. A transportation financing plan. This will become part of the final Comprehensive Plan.

6. A description of intergovernmental coordination efforts. Intergovernmental coordination policies are included in proposed Goal VI. Land use and transportation goals, policies and CFP projects are based on the Regional Transportation Plan. If adjacent jurisdiction plans are in compliance with the Regional Transportation Plan, Olympia's Plan will not impact adjacent jurisdictions adversely.

7. Demand management strategies to reduce reliance on single occupancy vehicles. These strategies can be found under proposed Goal 1. The City also adopted an Employee Commute Trip Reduction Program in August 1993.

Regional Transportation Plan

The goals and policies in this Transportation Chapter of the Olympia Comprehensive Plan will work to support the Regional Transportation Plan goal of reducing drive-alone commuting from the current 85 percent to 60 percent in 20 years. This Plan and the Regional Transportation Plan acknowledge that reaching the 60 percent goal will still mean an estimated 58 percent growth in traffic from today's level. Level of service (the amount of delay expected on streets), regional coordination, and the land use/transportation connection described in the Regional Transportation Plan are reflected in this Olympia Comprehensive Plan.

County-Wide Planning Policies

The Transportation Chapter of the Olympia Comprehensive Plan reflects the County-Wide Planning Policies (Section VIII) with its emphasis on building an efficient multi-modal transportation system, based on regional priorities. The policies build on the adopted Regional Transportation Plan. In addition, intergovernmental coordination policies lay out the commitment to coordinate regional and local plans through Thurston Regional Planning Council.

City of Olympia Sustainability Philosophy

The City commitment to sustainability (providing for the needs of today without jeopardizing the needs of future generations), includes a concern for the ongoing economic, environmental, social, and political health of the community. The goals and policies contribute to sustainability in the following ways:

1. **Economic**:

   - By reducing the growth of traffic as much as can be realistically expected;
   - By maintaining mobility for people and the flow of goods and services, without sacrificing or degrading City aesthetic qualities; and
   - By giving people a realistic option of using and owning fewer cars.

2. **Social**:

   - By encouraging the revitalization of older neighborhoods and downtown; and

   - By assuring good mobility in newly developed areas.

3. **Political** by committing to:

   - Long-term public good that will come from decreased auto dependence;

   - The long-term support for accommodating growth in the urban area;

   - Supplying alternative transportation services; and

   - Putting incentives and disincentives in place.

4. **Environmental**:

   - By preserving air and water quality by reducing the growth in vehicle miles traveled.

Urban Design Strategy

The City's Urban Design Strategy workshops found that people object to poor design in buildings, neighborhoods and streets rather than to density itself. The City commitment to encourage density in the urban area will help meet its transportation goals. Higher density will allow more people to use the services and transportation network that will be in place. Higher density also makes Olympia's commitment to maintaining and enhancing quality of life in neighborhoods even more important. One of the most effective ways to do this is through street standards that meet the needs of all modes of travel. The street standards included in this Transportation Chapter are essential to meeting the transportation and density goals of this Plan and the Regional Transportation Plan.

TRANSPORTATION GOALS AND POLICIES

GOAL T1*. Reduce dependence on auto use, especially drive-alone vehicle use during morning and evening commute hours.

EDUCATION POLICIES:

T 1.1* Promote alternatives to driving alone by informing citizens of the public and private monetary and environmental costs of continued dependence on autos. Communicate the benefits of choosing alternative transportation. Track and record progress made toward reducing auto dependence, and celebrate significant milestones.

T 1.2 Use the City Commute Trip Reduction program to inform people about alternatives to driving alone. Work with Intercity Transit, State government, school districts, and colleges to coordinate and publicize transportation efforts.

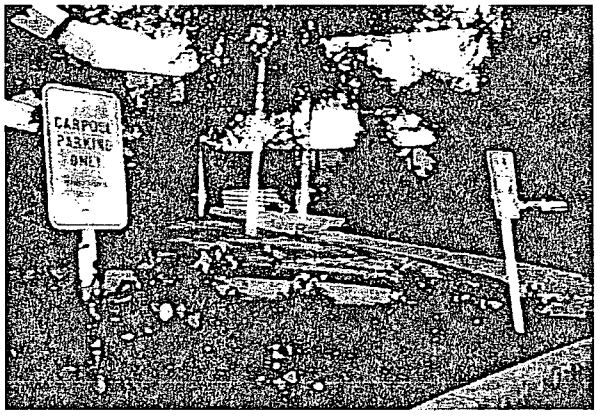
[Note: Reducing dependence on autos will require significant human behavior changes. These changes mirror successful efforts over the last 20 years that have made people aware of the benefits of exercise, good nutrition and stopping smoking.]

Transportation Demand Management (TDM) Policies

T 1.3* Reduce the growth of traffic congestion in order to meet State, City, and Thurston Regional Transportation Plan goals. TDM strategies that reduce drive-alone commuting include but are not limited to:

a. Parking Management that reduces the amount of cheap and plentiful parking for employees. (Ord. #6195, 07/03/02)

[Note: Making parking less convenient and more costly for employees is the most effective tool for encouraging people to use alternative transportation. Research shows that most employees will continue to drive if they can be assured of an easy and cheap place to park. Parking management is most successful when good alternatives to driving alone are provided for those who choose not to drive.]



b. Ride match services and preferential parking for carpools and vanpools. Carpools and vanpools may be the most workable alternative for the large percentage of commuters who live in existing low density areas.

c. Employer-subsidized bus passes and other financial incentives.

d. "Flex time" programs, telecommuting, and four-day work weeks.

e. Covered bike racks, lockers, and showers at employment sites.

f. Promotional and educational programs to encourage the use of alternatives to driving alone.

g. Safe and convenient walking facilities such as sidewalks, crossing improvements, and streetscape enhancements. (Ord. #6195, 07/03/02)

h. Safe and convenient bicycle facilities such as on-street bike lanes, off-street paths, and bike route signing. (Ord. #6195, 07/03/02)

i. Encouraging commercial deliveries and shipping of freight during off-peak hours especially in Core Areas and along High Density Residential Corridors.

T 1.4 Prepare a Transportation Demand Management Ordinance as part of the City and County concurrency management

systems. (See discussion of concurrency under Policy T 2.1.) Incorporate Transportation Demand

Management actions as impact mitigation for development. This would include support for street improvements for pedestrians (sidewalks, street trees and street lights), bicyclists (bike paths and routes, bike racks, bike lockers and showers and lockers at work sites), and transit riders (shelters, covered walkways).

T 1.5 Work with employers and the general public to implement a Downtown TDM Program using the strategies identified in policy T 1.3. The goal for the downtown TDM program is to decrease drive alone commute trips from 75% in 2001 to 59% in 2010. (Ord. #6195, 07/03/02)

T 1.6 Meet the demand for access to the downtown by providing parking spaces as well as services and facilities for walking, biking, and ridesharing. In developing increased access to the downtown, fund necessary TDM services and facilities concurrently with parking supply expansion. (Ord. #6195, 07/03/02)

Parking Management Policies

T 1.7 Establish parking standards to meet actual demand, rather than to provide "ample" parking. Standards will acknowledge the need to achieve a balance, providing enough parking to meet the needs of shoppers and business, but not to continue to provide low- cost and readily-available parking for employees.

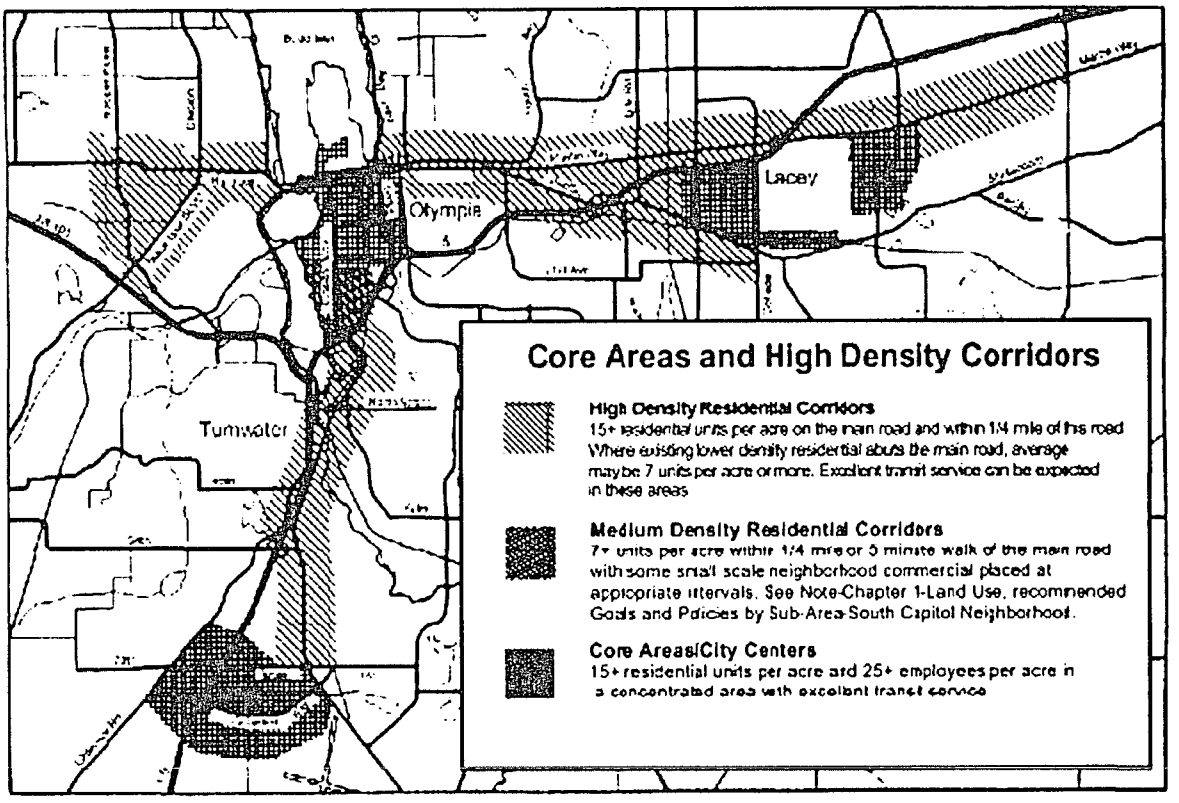
[Note: The State Commute Trip Reduction goals and the Regional Transportation Plan goals that aim to reduce the number of drive-alone commuters will not be met without taking steps to achieve this balance.]

T 1.8 Allow nearby properties with different peak times in parking demand to share parking space as a means of reducing unnecessary supply.

T 1.9 Encourage existing development to reduce excess parking as an element of their commute trip reduction program. These reductions should be consistent with the parking standards. New development standards will be developed that reflect the goals and policies in this Plan. (Ord. #6195, 07/03/02)

T 1.10 Require reserved parking spaces for carpools and vanpools, and bicycle racks at office and industrial sites to accommodate and encourage HOV commuting.

These spaces should be nearest and most convenient to building entrances and should be posted as reserved for HOV's (High Occupancy Vehicles such as car/van pools) arriving between 5:30 a.m. and 9:30 a.m. HOV spaces may be available for other uses after that time.


Olympia
Lacey
Tumwater
Core Areas and High Density Corridors
High Density Residential Corridors
15+ residential units per acre on the main road and within 1/4 mile of this road. Where existing lower density residential abuts the main road, average may be 7 units per acre or more. Excellent transit service can be expected in these areas
Medium Density Residential Corridors
7+ units per acre within 1/4 mile or 5 minute walk of the main road with some small scale neighborhood commercial placed at appropriate intervals. See Note-Chapter 1-Land Use, recommended Goals and Policies by Sub-Area-South Capitol Neighborhood.
Core Areas/City Centers
15+ residential units per acre and 25+ employees per acre in a concentrated area with excellent transit service

T 1.11* Work with adjacent jurisdictions to establish regionally consistent and coordinated parking strategies since they are key to achieving the commute trip reduction goals of the region. This will also ensure that parking standards do not act as a deterrent to the location of development.

T 1.12 In the downtown and along High Density Corridors, manage parking to get the minimum needed to meet demand. To accomplish this: (Ord. #6195, 07/03/02)

a. Set minimum parking standards for areas adjacent to existing neighborhoods to avoid spill-over parking.

b. Confine the size of surface parking to small lots and place parking at the rear of buildings in order to create a street edge that is visually pleasing and safe for pedestrians.

c. Set no maximum amount of parking in parking structures so that the City or other entities could share costs of a parking structure in the future.

d. Allow parking requirements to be met off-site to allow flexibility in parking location.

T 1.13 Manage downtown parking to support business needs, while encouraging employees to use alternatives to driving alone. (Ord. #6195, 07/03/02)

a. In the core of the downtown, manage parking to support customer access with short-term meters and time limits. Outside of the core, use long-term parking meters to accommodate a wider variety of users.

b. Manage parking to achieve the appropriate balance of customer, employee, and residential use, based on the adjacent land uses. Where retail and restaurant uses exist, customers should be the first priority for on-street parking.

c. Where retail and commercial uses do not warrant short-term parking, long-term employee parking should be accommodated. Charge a rate for all long-term employee parking that will influence commute trip reduction.

d. Accommodate downtown residents by providing programs whereby residents can access on-street parking in their neighborhood.

e. Make the best use of the existing parking supply by promoting shared-use agreements, and encouraging the voluntary signage of lots with the time stalls are available for the public.

f. Develop a means to allow the City to collect funds

from new development for the construction and management of future parking supply in lieu of complying with parking requirements.

g. Regularly review parking conditions downtown, and adjust time limits to accommodate changes in demand for customer parking.

h. New parking supply should be constructed when occupancy of public parking has reached 85 percent in a particular area of the downtown, and time limits can no longer be adjusted to accommodate parking demand. Planning for new supply needs to occur prior to the 85 percent threshold.

i. A parking structure may be pursued to meet other downtown goals before being warranted by a supply and demand analysis. If so, carefully consider the current demand on the existing parking supply and the current market rate for parking to understand the feasibility of the new supply and the potential impacts to TDM goals.

Bicycle and Pedestrian Policies

T 1.14 The City shall support bicyclists and pedestrians by providing safe, convenient, and inviting routes and walkwaysbetween activity centers and in areas where the use of alternatives to driving alone for commuters is encouraged. In these areas, facilities and services needed to support the use of alternatives shall be identified and a funding strategy put into place. Bike and pedestrian facilities shall be included in the multi-modal level of service policy. (See T 2.1.)

T 1.15 In downtown and along High Density Corridors, priority shall be given to building pedestrian-friendly streets.

[Note: This pedestrian orientation will create an urban environment where people will want to get out of their cars and onto the sidewalks and bike routes. This, along with appropriate zoning and other City efforts, will encourage development and redevelopment.]

T 1.16 Bike routes and pedestrian improvements on streets that serve high density areas shall be given high priority for improvements that will encourage the use of alternatives to commuters

driving alone. Other criteria to determine the sidewalk network priority improvements include school walking routes, transit routes, missing links, and high pedestrian use areas. (Ordinance #5757, 12/16/97.)

T 1.17 Bike routes for commuters shall be incorporated into street standards and urban trail plans.

T 1.18* On-street bicycle/pedestrian facilities should be coordinated between jurisdictions, and facilities such as bike-sensitive signal trippers should be incorporated where needed into street standards, at least on designated bike routes.

T 1.19* Work with Intercity Transit and businesses to provide bike racks or lockers at appropriate locations in commercial districts, such as transit stops and building entrances. Provide separate bike lanes on major streets, where feasible and safe to do so.

T 1.20* Bike routes such as those identified in the Urban Trails Plan, should link activity areas where possible to encourage bicycle use. Bicycle and pedestrian facilities should be considered in all overlay and reconstruction projects for arterials and collectors.

Transit Policy

T 1.21 The City will consult with Intercity Transit to make sure that street standards, land uses, and building placement support the existing or planned services and facilities along identified routes. (Ord. #6389, 01/24/06)

[Note: This will give citizens travel options for both work and eventually non-work-related trips. Street and site plan standards will be implemented through the City development review process and tied into the regionally coordinated multi-modal level of service policy.]

Services identified in the Regional Transportation Plan (See Transit Service Map 6-1): Intercity Transit Services include:

a. fixed route, paratransit, ridesharing, and Village van program providing assistance with welfare reform and work training efforts in the region.

b. assistance to local employers and local jurisdictions regarding Commute Trip Reduction efforts

c. local land use and transportation coordination with jurisdictions

d. carpool and vanpool formation coordination and training, including safety and technical assistance for the groups

e. wheelchair accessible buses and Dial-A-Lift van service to ADA qualified citizens

f. regional transportation connections with other local providers including Mason Transit, Grays

Harbor Transit, Pierce Transit, regional express bus service to King County and connections with Greyhound buses in Olympia, Amtrak passenger rail in Lacey, Sounder commuter service in Pierce County. (Ord. 6389, 01/24/06)

T 1.22 The City will work with Intercity Transit in the design of shelters and placement of transit supportive facilities. This will include the facilities that are needed at both ends of the transit trip when the transit rider becomes a pedestrian or a bike rider. These include but are not limited to transit shelters, bike racks or lockers, good pedestrian paths to and from transit stops and covered walkways wherever possible. The City will work with Intercity Transit to develop transit shelter design standards that are compatible with neighborhood character.

T 1.23 Establish distinctive crosswalks (e.g., surfaced with scored or colored concrete or brick pavers) in conjunction with new development at major street crossings in neighborhood centers, at transit stops, parks, and school sites (from LU 8.3c).

T 1.24 Consider signal preemption devices for transit where needed to improve the reliability of transit service.

Transit Level of Service (LOS)

T 1.25* Provide an appropriate level of reliable, effective public transportation options commensurate with the region's evolving needs. (Ord. 6389, 01/24/06)

[Note: The Growth Management Act requires that level of service standards be met concurrent with growth. Since the City is not a provider of transit, it must work with Intercity Transit to implement the transit LOS standards identified in the Regional Transportation Plan. Additional transit service will be provided as density and therefore need evolve. In Core Areas and High Density Residential Corridors where roadway level of service allows more congestion in order to balance the needs of pedestrians and cars, the goal is to maintain efficient transit schedules by using the least costly method possible. This might include converting parking lanes or general traffic lanes into HOV lanes or transit only lanes during commute hours, building intersection queue- jumper lanes, and allowing signal priority devices for transit.]

T 1.26 Identify support services and facilities that can be included in the options for mitigation of vehicle trips caused by development, especially in

COMPREHENSIVE PLAN

POLICY PF 33.5
GOALS AND POLICIES

importance of their play fields, ball fields, and gymnasiums.) Their libraries and auditoriums often serve as neighborhood meeting places. The health and vitality of a neighborhood school is invariably a clear indicator of the health and vitality of the neighborhood itself.

The City has a modest role to play in school planning. Public schools are operated by local school districts and governed by state and federal laws and regulations. State funds provide the bulk of school finances. Some funds come from the Federal government. School districts raise the rest from local property taxes. State laws set standards for service levels and facility development, such as site size and enrollment. They also specify funding methods. These laws thus perform much of the role of a functional plan for schools. School districts themselves do the remaining tasks of planning.

Nevertheless, there are important things the City can do. Through good planning, we can see to it that the environments around existing and future school sites are conducive to their needs. We can take into account the safety needs of school children, and also the need for school buildings to be appropriately accessible to their service areas. We can see to it that when large developments are proposed, school sites are dedicated as needed. We can certainly continue to work closely with school officials to serve our citizens together.

In addition, the Growth Management Act requires cities and school districts to cooperate in capital facility planning. Future school sites are among the types of "lands needed for public purposes", which must be identified somewhere in a city's comprehensive plan. If a school district is to collect impact fees for new schools, they must be reflected in the city's Capital Facility Plan (CFP). In fact, the CFP in this Plan does include the facility needs of the Olympia School District (see Volume Three, the Capital Facilities Plan).

Olympia is served by Olympia School District No. 111, a district with two high schools, four middle schools, and twelve elementary schools. A small part of the eastern most part of the city is also served by North Thurston School District No. 3.

GOALS AND POLICIES

GOAL PF 33.* To enhance the strength and vitality of our neighborhood schools.

POLICIES:

PF 33.1* Land use decisions should take into account the needs of schools, such as pedestrian safety and a quiet environment conducive to learning.

PF 33.2 Elementary schools should be centrally located in their service areas on a site allowing children to walk safely to school, and on or convenient to a neighborhood collector street to minimize the impact of school bus traffic.

PF 33.3 Middle schools should be centrally located in their service areas, and on or convenient to a neighborhood collector or major collector to minimize the impact of school bus traffic.

PF 33.4 High schools should be easily accessible to vehicular as well as pedestrian traffic because of the traffic generated by student drivers, school personnel, and interscholastic events. They should be located on arterials or major collectors. A central location within each service area also is desirable but less important than for elementary or middle schools.

PF 33.5* New residential developments should take into account the impact they may have on school capacity. If a development is large enough to generate the need, one or more school sites should be dedicated.

PF 33.6 City and school officials should build further on their cooperative relationship. Consideration should be given to joint planning, which could include prioritization of sites for future school construction, and preservation of historic sites.

PF 33.7 School officials should be encouraged to retain existing neighborhood school locations, because of the importance of the school in maintaining a strong, healthy neighborhood.

PF 33.8 City and school facilities should be shared for neighborhood parks, recreation, and open space uses.

PF 33.9 Work with the Superintendent of Public Instruction, the Olympia School District, and the Legislature to develop new school site standards that are appropriate for urban settings.

PF 33.10 The City and the Olympia School District should jointly develop a plan for sharing and programming school sites for common activities.

SECTION II: PRIVATELY-OWNED UTILITY FACILITIES

The 1990 Washington State Growth Management Act requires that all comprehensive land use plans include a utilities chapter. According to the Act, the utilities chapter shall, at minimum, consist of "the general location, proposed location, and capacity of all existing and proposed utilities, including but not limited to, electrical lines, telecommunication lines and natural gas lines."

The County-Wide Planning Policies adopted by the County and cities in 1992 include the following policy related to private utilities:

> "Thurston County and cities and towns will...provide capacity to accommodate planned growth by ensuring that each jurisdiction will have adequate capacity in...private utilities...to serve growth that is planned for in adopted local comprehensive plans."

Most of these private utilities are regulated at the state level by the Washington Utilities and Transportation Commission (WUTC). The WUTC ensures that safe and reliable service is provided to customers at reasonable rates. The commission regulates the rates and charges, services, facilities, and practices of most of Washington's investor-owned, gas, electric and telecommunication utilities.

Virtually all land uses require one or more of the private utilities discussed in this chapter. Growth in residential, commercial, or industrial development requires increased utility services which in turn means more or expanded utility facilities. Local land use decisions effect density, driving new utility needs. In other words, private utilities follow growth. Expansion of the utility systems is a function of the demand for reliable service that people, their land uses, and activities place on the systems.

BACKGROUND ON PRIVATE UTILITYPROVIDERS

In Olympia, private utilities are provided by the following companies:

Electricity

ORDINANCE NO. 6773

Ordinance No. 6773

AN ORDINANCE related to zoning, specifically to village master plans and in particular the proposed Village at Mill Pond Master Plan, File No. 10-0126; adopting Council Findings of Fact and Conclusions of Law approving and adopting the proposed Village at Mill Pond Master Plan and Design Criteria; authorizing and directing amendment of the City's zoning map by changing a designated area from NV, Neighborhood Village, to The Village at Mill Pond; and adding a new Section 18.05.170 to the Olympia Municipal Code.

WHEREAS, on September 6, 2011, the Olympia City Council held a hearing to review the Design Review Board and the Hearing Examiner's recommendations concerning the Village at Mill Pond Master Plan Development; and

WHEREAS, having reviewed the written materials and relevant portions of the Record, and heard oral presentations from staff and interested parties; and

WHEREAS, for the reasons set forth in the Findings of Fact and Conclusions of Law and Decision below, the Council has determined that the Village at Mill Pond Master Plan should be approved.

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Adoption of Council Findings of Fact and Conclusions of Law. The following Council Findings of Fact and Conclusions of Law in the Village at Mill Pond Master Plan file No. 10-0126 are hereby adopted:

FINDINGS

1. The Olympia Comprehensive Plan allows Neighborhood Villages.

2. The Olympia Municipal Code Chapter 18.57 sets out the process for review of master planned developments in Neighborhood Villages.

3. On August 18, 2004, GJR Investments, Inc. submitted a Master Planned Development Application (the MPD) to the Olympia Community Planning & Development Department (CP&D) for a Neighborhood Village located within the city limits of Olympia, to be known as Briarton Village.

4. CP&D staff proceeded with review of the proposed master plan and preliminary plat concurrently.

5. A concept design review of the Briarton MPD was held by the Olympia Design Review Board (DRB) on March 23, 2006, and the DRB issued its recommendation on March 24, 2006.

6. A SEPA Mitigated Determination of Nonsignificance (MDNS) on the proposed Briarton Village was issued on July 17, 2007 as to the impact of the development on the surrounding area.

7. An amended MDNS was issued on December 24, 2007.

8. On February 5, 2008, a public hearing was conducted by the Olympia Hearing Examiner who subsequently issued a decision on February 15, 2008, recommending that the City Council approve the MPD with conditions.

9. The Olympia City Council on March 11, 2008, in regular session, considered a staff report and recommendations of the Olympia Hearing Examiner and Design Review Board and voted unanimously to approve the Briarton Village Master Plan and directed staff to draft an ordinance amending the zoning map and adopting the conditions of approval.

10. On November 10, 2010, a General Land Use Application and supporting documents for both the Master Plan and the Preliminary Plat were submitted seeking a modification of the approved MPD under the name of The Village at Mill Pond.

11. A concept design review of the modified MPD has held by the DRB on December 9, 2010, and the DRB issued its recommendation on December 12, 2010.

12. A SEPA Addendum on the modified MPD was issued on May 19, 2011.

13. On May 31, 2011, a public hearing was conducted by the Olympia Hearing Examiner who subsequently issued a decision on June 16, 2011 recommending that the City Council approve the MPD subject to conditions.

14. The Olympia City Council on September 6, 2011, in regular session, having reviewed the written materials and relevant portions of the Record, heard oral presentations from staff and interested parties.

15. This Ordinance is adopted pursuant to Chapter 18.57 of the Olympia Municipal Code and Article 11, Section 11, of the Washington Constitution and any other legal authority.

16. This Ordinance is supported by the staff report, attachments, and documents on file with the Office of the Examiner and Department of Community Planning and Development.

17. The Council adopts the findings in the Hearing Examiner Recommendation Decision of February 15, 2008, and the Master Plan modification decision of the Hearing Examiner of June 16, 2011, referenced above. Findings in the June 16, 2011, decision supersede any inconsistent provisions of the February 15, 2008 decision.

18. Any finding of fact more properly deemed a conclusion of law shall be considered as such.

Based on its consideration of the foregoing, the Olympia City Council enters the following:

CONCLUSIONS OF LAW

1. Pursuant to Olympia Municipal Code 18.75.080(D)(4), the Olympia City Council determines there are no conflicts with the City's adopted plans, policies and ordinances.

2. Sufficient evidence was presented as to the impact on the surrounding area.

3. The Council adopts the Hearing Examiner Recommendation Decision of February 15, 2008, and the Master Plan modification decision of the Hearing Examiner of June 16, 2011, referenced above as its own, including the conclusions in those decisions. The June 16, 2011, decision supersedes any inconsistent provisions of the February 15, 2008.

4. All conditions recommended by the Hearing Examiner are adopted as conditions of approval of this Master Plan. Conditions one through five recommended by the Design Review Board on December 9, 2010, are adopted as conditions of approval of this Master Plan.

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE OLYMPIA CITY COUNCIL HEREBY ENTERS THE FOLLOWING:

DECISION

Section 2. Pursuant to Olympia Municipal Code 18.57.080(D), the Olympia City Council hereby approves and adopts the Village at Mill Pond Master Plan subject to the conditions identified by the Hearing Examiner and the Design Review Board. The Master Plan shall be comprised of the following elements, true copies of which are attached hereto and incorporated by reference as though fully set forth herein:

Exhibit A. The Village at Mill Pond Master Plan, dated July 15, 2011. The specific lot numbers, locations and dimensions shall be governed by the subdivision.

Exhibit B. The Village at Mill Pond Design Criteria, dated July 15, 2011, comprised of the following:

1. Design Guidelines (Pages 1-6)
2. Design Vocabulary (Pages 7-21)
3. Design Criteria (Pages 22-35)

Section 3. To provide additional clarification based on comments received during Council's review of this matter, the required connections to the Chehalis Western Trail listed in condition #23 for Tracts E and F, the required connection to Lilly Road specified in condition #24, the required connection to the Chehalis Western Trail at 22nd Avenue, and the interim build out of the required street stub to Surrey Drive NE set forth in condition #23G will be developed to the

Class 2 standards set forth in the 2009 EDDS for Trails/Shared Use Path as illustrated in drawing 4-2L.

Section 4. The Director of the Olympia Community Planning and Development Department is hereby authorized and directed to modify the Official City of Olympia Zoning Map to change the area of The Village at Mill Pond as set forth in Section 2 of this Ordinance from "NV" (Neighborhood Village) designation to "Village at Mill Pond." See Ordinance No. _____ [this Ordinance]. The City Clerk is hereby authorized and directed to fill in the ordinance number of this Ordinance in this section and in Section 5.

Section 5. Section 18.05.170 of the Olympia Municipal Code is hereby enacted as a NEW SECTION, to read as follows:

CHAPTER 18.05
VILLAGES AND CENTERS

Sections:

18.05.020 Purposes.
18.05.040 Permitted, conditional, required, and prohibited uses.
18.05.050 General standards.
18.05.060 Use standards.
18.05.080 Development standards.
18.05.100 Additional regulations.
18.05.120 Briggs Village.
18.05.140 Woodbury Crossing Village.
18.05.160 Bentridge Village.
18.05.170 Village at Mill Pond

18.05.170 Village at Mill Pond

On July 26, 2011, the Olympia City Council approved and adopted The Village at Mill Pond Master Plan, the details and regulations of which are found in Ordinance No. _____, on file with the City Clerk.

Section 6. Codification. Only Section 5 of this Ordinance shall be codified.

Section 7. Severability. The provisions of this Ordinance are declared separate and severable. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of this Ordinance or application of the provision to other persons or circumstances, shall be unaffected.

Section 8. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 9. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED: September 29, 2011

APPROVED: September 29, 2011

PUBLISHED: October 2, 2011

ATTACHMENT 1

RECEIVED
JUN 13 2011

CITY OF OLYMPIA

OFFICE OF THE HEARING EXAMINER

REPORT, RECOMMENDATION AND DECISION

CASE NO: 10-0126

APPLICANT: 2400 Lilly Road LLC[1]

REPRESENTATIVE PARTY: Ron S. Thomas, AIA, Thomas Architecture Studio

SUMMARY OF REQUEST: A request to modify a previously approved Development Plan and preliminary plat for a 45.6-acre parcel of land formerly known as Briarton Village (MF #03-1204).

LOCATION: The proposed development would be located on a 45.6-acre site bounded by 26th Avenue on the north, the Western Chehalis Western Trail on the east, Surrey Street on the south and Lilly Road on the west.

RECOMMENDATION OF THE EXAMINER: It is recommended that the Master Plan request be approved, subject to conditions which are attached to the Master Plan as set forth in Conclusion 7 herein.

DECISION OF THE EXAMINER: The preliminary plat request is hereby approved, subject to conditions set forth in Conclusion 7, and, further, being contingent upon approval of the Master Plan by the City Council.

PUBLIC HEARING:

After reviewing the City of Olympia Planning & Development Department report and viewing the site, the Examiner conducted a public hearing on the applications on May 31, 2011. During the proceedings, one witness testified that she did not receive notice of the hearing even though she was a party of record. The witness indicated that she herself was not prejudiced by the lack of notice and was able to prepare and present her testimony at hearing but was concerned that other parties of record may not have received notice. In response, City staff advised that they would review their records and determine whether any other parties of record were not notified of the Hearing Examiner's hearing and the hearing record was left open until June 3, 2011 to allow City

[1] Various communications from the City identified the applicant as Lilly Road Development, LLC. However, at hearing, the applicant advised the Hearing Examiner that the correct name should be 2400 Lilly Road LLC, and that name will be utilized throughout the Hearing Examiner's Report, Decision and Recommendation.

staff to review their file in regard to the matter of notice. Also, a schedule for submission of written comments by any parties of record not receiving notice and response to comments by 2400 Lilly Road LLC and the City was established.

By electronic mail communication dated June 3, 2011 from Kraig Chalem to the Hearing Examiner, the City advised that no additional parties were identified that were not notified of the Hearing Examiner's hearing.

FINDINGS, CONCLUSIONS, RECOMMENDATION AND DECISION:

FINDINGS:

1. 2400 Lilly Road, LLC (LR) is proposing to modify a previously approved Master Plan for a 45.6-acre parcel of land bounded by 26th Avenue on the north, the Western Chehalis Trail on the east, Surrey Street on the south, and Lilly Road on the west. Revisions to the Master Plan require modification to the Master Plan approved by the Olympia City Council in 2008 and the preliminary plat approved by the Hearing Examiner also in 2008.

2. LR's development proposal referred to as the "Village at Mill Pond" would consist of 299 residential units, comprised of 121 single-family homes, 88 townhomes, and 90 multi-family dwellings, a 10,080 square foot commercial center, a 7,288 square foot community building, open space/park elements, and an extensive water feature that serves as part of the project's stormwater drainage facilities. LR's development design has received conditional approval from Olympia's Design Review Board. Exhibit 1 at Attachments 0.1-4.

3. While the design approach presented by LR is somewhat different than the Briarton Village development plan approved by the City in 2008, it is different in terms of land use only slightly from the 299 residential units and 8,000 square feet of commercial space of the earlier developmental proposal. One of the more notable changes is that rather than employing a substantial concrete containment structure concept for handling on-site storm water drainage proposed in the Briarton Village plan, the LR plan depicts two surface drainage ponds at different elevations that would be interconnected by a waterfall feature as well as other storm drainage facilities within the development which are intended to provide stormwater infiltration throughout the site. The LR's drainage concept eliminates many of the concerns City engineers had with the containment vault concept of the Briarton Village plan, and is better integrated with the Village development concept set forth in the Village at Mill Pond plan.

4. A wetland located in the northeast corner of the site and it, along with the required buffers, are incorporated into LR's development plan.

5. Uses and development surrounding LR's development site generally consist of several single-family homes to the north across 26th Avenue, with the remainder of the area being undeveloped; an area to the east (an area outside of the Olympia city limits) there is undeveloped except for a substantial public trail known as Western Chehalis Trail; and single-family homes located both to the south and west of the site.

6. Both the City's Comprehensive Plan and implementing zoning regulations designate LR's site as a Neighborhood Village (NV). Among other purposes, NV's are intended to provide for integrated mixed use communities that provide a pleasant living,

shopping, and working environment. *Olympia Municipal Code (OMC)* 18.05.020. LR's proposed Village at Mill Pond Development Plan would satisfy such purposes by providing a mix of housing types, along with commercial and community center uses and ample open space/park areas

7. In accordance with the City's Development Permit requirements, LR submitted a substantial number of studies, plans and other relevant information, including a general land use application and development supplement; wetland buffer analysis, current design review application, various storm drainage plans and studies, landscaping/park plan; preliminary plat drawings; grading plans; sanitary, sewer and storm water drainage plans (on- and off-site); tree retention plans; and lighting plans. Exhibit 1 at Attachments A through L. A review of these plans and studies, along with comments from reviewing agencies, by City staff indicate compliance with requirements for Master Plan developments (*OMC* 18.57) and NV developments (*OMC* 18.05). Testimony by City Planner Kraig Chalem. The City staff analysis has not been substantially disputed in these proceedings.

8. The City has determined that it has adequate capacity to provide water to LR's proposed development for both domestic water and fire suppression purposes; however, water systems meeting City Engineering Design and Development Standards (EEDDS) will have to be developed internal to the development.

9. The City has also determined that it has adequate capacity to handle the expected sanitary sewer flow from the proposed development; however, a new sewer pump station will be required. LR has agreed to construct the new pump station, at its expense, and has shown the location of such station on its Master Plan. After completion of the sewer pump station construction in accordance with City standards, it is intended that the pump station will be turned over to the City for operation as a part of the City's sanitary sewer system. Also, LR would provide sanitary sewer lines within the development in accordance with EEDDS requirements applicable to gravity flow systems.

10. Further, the City has the capacity to handle anticipated solid waste and recyclable materials generated by LR's proposed development; however, solid waste/recyclable facilities within the development would be required to conform with applicable City standards.

11. The Traffic Impact Analysis (TIA) prepared in 2006 for the previous Briarton Village development proposal was utilized by the City to determine expected traffic impacts on area streets and intersections resulting from LR's proposed development. Provided required street site improvements are constructed along the Lilly Road and 26th Avenue frontages of Village at Mill Pond, all streets and intersections will operate in accordance with the City's adopted LOS.[2]

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[2] Level of Service standards, including the intersection of Lilly Road and 26th Avenue, which is anticipated to operate at LOS D in the year 2025 and the three-lane street section would accommodate anticipated traffic volumes, and a signal or roundabout is not warranted. The

12. The interior streets proposed within the Village at Mill Pond, as depicted in LR's Master Plan and preliminary plat, comply with City Master Plan requirements.

13. LR's project site is situated within the boundary of the North Thurston School District (District). A Mitigation Agreement between the District and project proponent has been recorded which provides appropriate provisions for schools and school grounds. Further, the District's schools which would serve students generated by the Village at Mill Pond are located at least one mile from the site and, thus, according to District transportation policies, bus service would be provided to the students at the Village at Mill Pond. The provisions of sidewalks along internal and frontal streets and bus stops as required herein would assure safe walking conditions for students of the proposed development.

14. City staff has recommended numerous conditions concerning tree retention, landscaping, and extension of utilities, fire sprinkler requirements, contents of plat drawings, on- and off-site utility and street improvements, and on- and off-site stormwater discharge. Exhibit 1 at 8 through 16. As appropriate, the City staff has included comments and recommendations from reviewing governmental agencies and recommended development conditions. Additionally, the evidence establishes that LR and Intercity Transit are in the process of refining exact locations of bus access points. See Exhibit 4.

15. LR concurs in the conditions recommended and agrees to comply with the same.

16. LR's Master Plan and preliminary plat submittals, along with the development conditions recommended, establish that appropriate provisions have been made for the public health, safety, and general welfare and for open spaces, drainage facilities, streets and other public ways, transit and school bus stops, sanitary sewers, parks and playgrounds, and for safe walking conditions for school children. The Hearing Examiner finds that the public use and interest would be served by platting of the proposed subdivision.

17. A number of owners of property surrounding LR's project site appeared at hearing in writing or at hearing presenting testimony. Several owners of property lying north of LR's site raised concerns with impacts of stormwater from LR's development creating water quantity and quality problems on their property, noting that when LR's property was logged a number of years ago, the properties received increased flows of groundwater.

City's LOS standard for the Lilly Road/Martin Way and Sleater-Kinney/Martin Way intersections is LOS F, which is a failed LOS; thus, the City is not seeking intersection improvement contributions by LR in addition to the standard traffic impact fees for system improvements for those intersections.

Also, several property owners raised concerns and posed questions regarding traffic impacts on Lilly Road and 26th Avenue.

Some residents living in the Surrey Drive neighborhood south of LR's site objected to a street connection proposed from the Village at Mill Pond development and their small neighborhood, pointing out that the connecting street in their neighborhood is currently a cul-de-sac which is narrow with no sidewalks, and is not able to carry the influx of traffic from the proposed development.

Another neighbor owning property west of Lilly Road posed questions regarding retention of trees on LR's site along the east side of Lilly Road.

18. A representative from Olympia's Safe Street Campaign testified concerning City recommended conditions relating to bike and pedestrian access between the development and Lilly Road and the Chehalis Western Trail. At a post hearing filing, the representative indicated that there had been some confusion in regard to the nomenclature identifying types of access, and after receiving clarification, she now concurs with the City's recommended conditions.

19. A *State Environmental Policy Act (SEPA) Addendum* was issued on May 19, 2011; an Amended *SEPA Mitigated Determination of Nonsignificance (MDS)* was issued on December 24, 2007, and an Original *SEPA MDNS* was issued on July 7, 2007.

20. The report of the Community Planning and Development Department, designated as Exhibit 1, to the extent that it sets forth the issues, general findings of fact, applicable policies and provisions and departmental recommendations of this matter, is incorporated herein by reference as though fully set forth.

21. Public notification for the hearing was mailed to property owners within 300 feet of the site and Recognized Neighborhood Associations, posted on the site, and published in "*The Olympian*" newspaper on or before May 18, 2011, in conformance with *OMC* 18.78.020.

22. Any conclusion hereinafter stated which might be deemed to be a finding herein is hereby adopted as such.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction in regard to Master Plan and preliminary plat applications, which are the subject of these proceedings. *OMC* 18.57, 18.82.120.A, and *OMC* 17.16.

2. Master Plan approvals are characterized by the City as legislative acts which are subject to City Council approval after hearing by the Hearing Examiner and entry of a recommendation to the City Council.

3. Pursuant to *OMC* 18.57.080.C, the Hearing Examiner will not make a recommendation to approve a Master Plan application unless the Hearing Examiner finds, after conducting a public hearing, that the Master Plan proposed complies with the requirements of *OMC* 18.05 (Villages and Centers).

4. Actions in regard to preliminary plat applications are considered quasi-judicial in nature and the Hearing Examiner enters a final decision concerning such applications. Preliminary plats must be found to conform to the requirements of *RCW* 58.17.110 set forth below.

> (1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.
>
> (2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners.

(3) If the preliminary plat includes a dedication of a public park with an area of less than two acres and the donor has designated that the park be named in honor of a deceased individual of good character, the city, town, or county legislative body must adopt the designated name.

RCW 58.17.110.

5. Furthermore, in reviewing land use permits, local governments are constrained by the provisions of RCW 36.70B.030(2) which provides as follows:

***

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

(3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.

* * *

RCW 36.70B.030(2)

6. In these proceedings, LR bears the burden of proof to establish, by a preponderance of the evidence, that its request for Master Plan and preliminary plat approvals satisfy the applicable legal standards for each application.

7. Findings entered herein, based on substantial and unrebutted evidence, support a conclusion that LR's application for Master Plan and preliminary plat approval, satisfy the requirements for approval of such applications provided that the conditions set forth below are imposed and complied with by the applicant:

1. Improvement Plans (City of Olympia) – Before construction begins the applicant shall submit complete detailed construction drawings to the City of Olympia Community Planning and Development Department for review and approval. Construction drawings shall be prepared according to the Engineering Design and Development Standards.

2. Construction and Final Inspection.

3. For the purpose of Tree Protection, prior to issuance of the Engineering Permit, the following conditions shall be met:

   A. Tree protection fencing needs to be shown on the Grading Plan (C5.0-C5.1).

   B. Tree protection fencing needs to encompass the entirety of Tracts S, J, and I to protect the trees from adjacent construction impacts.

   C. Tree protection fencing needs to be shown separate from silt fencing, and indicated as separate on the Grading Plan (C5.0-5.1).

   D. Grade changes shall not occur within tree protection fencing. Sheets C5.0 is still indicating proposed grade changed within the tree protection fencing for Tract C.

   E. The applicant shall survey and stake in the field the following proposed elements:

      1. Proposed back of sidewalk along Lilly Rd.
      2. Each proposed construction entrance off of Lilly Rd.
      3. The proposed bus stop pad for Intercity Transit.
      4. The clearing limits required to install the 12" stormwater pipe through Tract J.
      5. The pedestrian pathway at the south end of Tract I.

   F. For each element, the applicant shall have their forester inspect and provide a report that addresses:

      1. The feasibility of retention of adjacent trees.

2. Locations where special protection measures are required, such as hand-digging, removal or minimization of the planting strip, etc., would provide for tree retention.
3. If necessary, amended tree unit calculations to reflect any additional trees removed.
4. Specifications for removal of trees that does not cause harm to adjacent trees slated for retention.
5. Tree protection measures for trees adjacent to the five elements listed above.

G. Any recommended protection measures shall be specified on Tree Protection Plan (C3.0-3.1).

H. Landscaping Plan comments:

1. Sheets L-1, L-3, and L-5 shall be changed to reflect that native, existing ground and shrub cover is to be retained within tree tracts. No grade changes shall be made, and no fill or turf shall be installed in the Tree Tracts. Landscaping plan may be amended to include additional understory native species to be hand installed with no heavy machinery to enter the tree tracts.

4. Written confirmation from the city of Olympia must be received by the Thurston County Environmental Health Department that public water and sanitary sewer utilities (mains) have been extended to this project prior to recording of the master plan map.

5. Prior to recording of the Master Plan map, the existing off-site well located at 1320 Lilly Road NE must be decommissioned and a report from the driller to this effect; and confirmation from the City that potable water has been provided to the property.

6. A proposal for the method of distribution for the Integrated Pest Management Plan (IPMP) to future property owners, and landscape personnel must be submitted to Thurston County for review and approval.

7 SEPA Transportation Mitigation fees to the City of Lacey will be required prior to Final Plat Approval. (Attachment Q.T., letter sent 10/30/07).

8. One-, two-, and multi-family residential units will require fire sprinklers per Ord. No. 6463.
9. Fire alarm systems will be required to serve multi-family buildings.

10. Knox key boxes will be required for all multi-family buildings.

11. **Plat Map.** The property must be surveyed by a surveyor licensed in the state of Washington. Your surveyor will prepare a map representation of the division of your property. The plat must be drawn on 12 folded, dark-line prints (check plans), which are submitted for final review. The Mylar, a reproducible drawing film, will be required after the final review and before your plat can be recorded. Please note: You will be contacted by this office when it is appropriate to produce the Mylar copy. The final plat must contain the following information:

    A. Title block containing (1) Section, Township, and Range; (2) date of preparation, datum, scale, and north arrow; (3) a correct legal description of the original tract(s) and a reference to Parcel Nos.; (4) basis of bearing, which shall be the Olympia Coordinate System.

    B. Vicinity sketch clearly identifying the location of the property.

    C. Certificates signed by the following people: (1) owner(s) of parcel being subdivided (each and every person having an ownership interest must sign and their signatures must be notarized); (2) Land Surveyor; (3) Olympia City Engineer; (4) Thurston County Assessor; (5) Olympia Planning Director; (6) Thurston County Treasurer certifying that all taxes on the land have been fully paid and discharged; (7) Health Officer; and (8) County Auditor. *(Please note that the owner's certificate on the Mylar should not be signed by you until the map is in its final condition. The Mylar should not be submitted until the final check prints have been reviewed and approved. I will contact you when it is time to sign the Mylar.)*

    D. Boundary lines of the property to be divided.

    E. The development status of contiguous land, including the name of any adjacent plats and rights-of-way.

    F. The layout, dimensions, and square footage of each lot in the subdivision with bearings to deflection angles, radii, arcs, points of curvature, and tangent bearings.

    G. The means, locations, and widths of all existing streets, right-of-way, easements, other public ways, watercourses and major

transmission facilities rights-of-way within and adjacent to the proposed plat.

H. The location and dimensions of all parcels of land intended to be dedicated or reserved for public use or to be reserved in the deeds for common use of the property owners of the subdivision with the purpose, conditions, or limitations of such dedications or reservations clearly indicated; the locations of all existing structures within the subdivision.

I. The location of all existing monuments or other such identifying markers.

J. Lot numbers beginning with the number 1 and numbered consecutively without omission or duplication throughout the plat.

K. Provide a list of desired street names for review and approval prior to final plat application.

L. The locations of the existing structures and setbacks from proposed property lines (pursuant to *OMC* 18.06.080.H.1 – setbacks must be measured from the outermost edge of the building foundation to the closest point on the applicable lot line).

M. Your property taxes must be current at the time of recording of your plat. The Thurston County Treasurer's signature in the certification on the original Mylar will certify that all taxes on the land have been paid and discharged.

N. A current title report or plat certificate (dated within 30 days of recording) must also accompany the Mylar and check prints. These documents will confirm that the title of the property, subject to the proposed subdivision, is in the name of the individual(s) signing the plat, as well as any restrictions on the use of the property. You may wish to read through the plat certificate or title report before your surveyor prepares the final plat. The appearance of an unexpected easement has been known to change the design of a plat. If you encounter any design changes, please contact this office before proceeding.

O. The following conditions must be made on the fact of the final plat map:

1) IMPACT FEELS FOR SCHOOLS, PARKS AND TRANSPORTATION ADOPED BY THE CITY COUNCIL WILL APPLY TO THIS PLAT AT THE TIME OF BUILDING PERMITS.

2) GENERAL FACILITY CHARGES AND RESERVE CAPACITY CHARGES ADOPTED BY THE CITY COUNCIL WILL APPLY TO THIS PLAT AT THE TIME OF BUILDING PERMITS.

3) THE COST OF CONSTRUCTION AND MAINTAINING ALL STREETS NOT HEREIN DEDICATED AS PUBLIC STREETS SHALL BE THE OBLIGATION OF ALL OF THE OWNERS, AND THE OBLIGATION TO MAINTAIN SHALL BE CONCURRENTLY THE OBLIGATION ON ANY CORPORATION IN WHICH TITLE OF THE STREETS MAY BE HELD.

4) ALL LANDSCAPED AREAS IN PUBLIC RIGHTS-OF-WAY SHALL BE MAINTAINED BY THE OWNER AND SUCCESSOR(S) AND MAY BE REDUCED OR ELIMINATED,, IF DEEMED NECESSARY FOR OR DETRIMENTAL TO CITY STREET PURPOSES.

5) THIS PLAT IS APPROVED FOR ZERO LOT LINE DEVELOPMENT AND MUST CONFORM TO ALL PROVISONS OF *OMC* 18.04.080(H)(4) AT TIME OF BUILDING PERMIT APPLICATION.

6) THIS PLAT IS APPROVED FOR TOWNHOUSE DEVELOPMENT AND MUST CONFORM TO ALL PROVISIONS OF *OMC* 18.64 AT TIME OF BUILDING PERMIT APPLICATION.

7) KNOX KEY BOXES, FIRE SPRINKLERS, AND FIRE ALARM SYTEMS ARE REQUIRED FOR ALL MULTI-FAMILY RESIDENTIAL UNITS.

8) FIRE SPRINKLERS ARE REQUIRED FOR ALL ONE AND TWO-FAMILY RESIDENTIAL UNITS PER ORDINANCE NO. 6463.

9) COMMUNITY TRACTS SHALL BE OWNED AND MAINTAINED IN COMMON FOR THE BENEFIT OF ALL LOTOWNERS. ALL LOTS HAVE AN

UNDIVIDED INTEREST IN THE OWNERSHIP AND MAINTENANCE OF COMMUNITY AREAS. THE OWNERSHIP INTEREST IN EACH COMMUNITY TRACT SHALL BE STATED IN THE DEED TO EACH LOT.

10) PURSUANT TO CITY ORDINANCE, THE CITY OF OLYMPIA MAY DENY THE ISSUANCE OF BUILDING OR OCCUPANCY PERMITS FOR ANY STRUCTURE WITHIN THIS PLAT UNTIL REQUIRED LAT IMPROVEMENTS HAVE BEEN APROVED AND INSTALLED.

11) ANY BUSINESS WITHIN MASTER PLANNED DEVELOPMENT INVOLVING THE USE OF HAZARDOUS MATERIALS MUST CONTACT THE HAZARDOUS WASTE PROGRAM OF THURSTON COUNTY.

12. Install 12-inch diameter water mains on Lilly Road north across the Lilly Road property frontage and east across the 26th Avenue frontage of the property.

13. Indicate where existing 12-inch water mains end on Lilly Road and new 12" extension mains begin, complete with pipe types showing extended mains as ductile iron.

14. Install 8-inch and 6-inch diameter water mains through the extremes of the property to create looped closures within the plat and for future development, in accordance with the Standards and current utility comprehensive and master plan.

15. The property at the southwest corner of the subject property, or 1320 Lilly Road NE, will be provided with City of Olympia water service according to the May 2, 2005 agreement with the owners, Gerald and Anita Coonc.

16. The proposed water main improvements as shown on the preliminary plat civil plans are conceptually approved and must make appropriate provisions for domestic and fire suppression needs.

17. All water services and meters serving the plat(s) must be sized to accommodate fire protection needs for the use of fire sprinkler systems at building permit issuance.

18. All wastewater facilities intended to be transferred to the City of Olympia for ownership, operation and maintenance must meet the standards set forth in the CITY OF OLYMPIA ENGINEERING DESIGN AND DEVELOPMENT STANDARDS, which can be found at the following website: http://www.ci.olympia.wa.us/documents/PublicWorks/Technical_services/EDDS09/newformat/Chapter7_Wastewater.pdf. In particular, note Section 7B.020 Design Standards.

19. The Invert Elevations of the manhole at the intersection of Lilly Road and 26th Avenue (shown on drawing C8.0 of the draft plans dated "11/10" as MH 64) must be no higher than 152.0'. In order to accommodate future gravity sewer in the north Lilly Road sewer basin, consistent with the City of Olympia's 2007 Wastewater Management Plan, an 8-inch inlet stub-out to the west must be installed for the manhole, and its inlet invert elevation (IE IN West) must be no higher than 152 feet above mean sea level. Changes to the proposed gravity sewer line along 26th Avenue, as well as the northern-most section along Lilly Road, will need to be revised to meet this requirement. This includes the possible upsizing of the gravity sewer line along 26th Avenue from 8-inch to 10-inch to accommodate future flows as well. The following should be considered for the design of the sewer lift station:

    A. Meet the design standards contained in the Department of Ecology's Criteria for Sewage Works Design.

    B. What are the initial flows anticipated? Assume a design/build-out flow of 725 (gpm) gallons per minutes, for the basin to be served by the lift station, and size the force main accordingly, i.e., maintaining minimum velocity for initial flows and maximum velocity for build out flows.

    C. The lift station must be a duplex wet well/dry well system equal to Smith and Loveless, consistent with most of the current City lift stations, with X-Peller impellers specified for the pumps.

    D. The force main should be a consistent diameter for the entire length (drawing C8.0 shows 8-inch, while drawings C8.1 and C8.2 indicate 4-inch).

    E. The sewer mains as shown are not centered in the middle of the internal streets. If this is desired, a request for a variance from the City's Design Standards must be made.

F. Easements, 20 feet wide minimum, will be needed for those sewer mains not located in publicly dedicated streets – for example through parking lots and private roads.

G. Sewer service lateral locations need to be shown on the drawings for all buildings; each separate building shall be served by an individual building sewer, except that both units of any duplexes shall be served by separate laterals.

H. Design details for the lift station will be required following Land Use Approval with detailed engineering review and approval with the plat, as none were received now other than standard details included in the plans.

I. The lift station location must be provided on a fee simple parcel dedicated to the city of Olympia at the preferred location to serve the basin and will include emergency power – Cummins Diesel Generator, Set Model 35 DGBB, or equivalent.

J. The Coonc property at 1320 Lilly Road will be proved City of Olympia sanitary sewer service according to the May 2, 2005 agreement with the applicant; according to the standards, service to the Coonc property requires the sewer main be extended across the Coonc's Lilly Rod property frontage.

20. Install the proposed street side improvements along the full Lilly Road and 26th Avenue frontages to comply with the City Standards for a (Major Collector street section as per standard plan No. (4-2G, complete with 3 travel lanes and Class II bikeways) to meet the applicable standards at the time of approval of the Briarton Village Master Planned Development. The City anticipates that in the year 2025 the intersection of Lilly Road and 26th Avenue will operate at a LOS D and the three lane street section will accommodate anticipated traffic volumes; a signal or round-about is not warranted.

21. The City has capacity for this development's anticipated project generated traffic volumes, (City LOS standards allow LOS F operation at the intersections of Lilly Road/Martin Way and Sleater-Kinney/Martin Way; reference Traffic Impact Analysis provided by Transportation Engineering Northwest, LLC, dated November 2006.

22. The proposed on-site interior roadway street improvements as conceptually shown on the preliminary plat civil drawings make appropriate provisions for streets, alleys and other public ways

vested to the engineering Design & Development Standards applicable at the approval date of the Briarton Village Master Planned Development.

23. Provisions, such as stub roads, will be made for connection to any adjacent undeveloped, contiguous land area of one acre or more and to any site officially designated for a public facility. However upon further analysis publicly dedicated and constructed, streets stubs are not recommended by staff within proposed Tracts E & F for the following reasons:

    A. As per the City Standards 2.040B.e. "Where larger blocks are necessary due to topography, existing development, or other constraints, intervening public cross-block pedestrian, bicycle, and emergency access will be provided."

    B. Also there have been established precedents by Thurston County, that where adjacent properties to the Western Chehalis Trail system occurs, a limited number of vehicular crossings are to be approved, to protect the public safety of this major pedestrian/bicycle commuter and recreational transportation system.

    C. The City previously reached agreement with Thurston County during the approval of this Master Planned Development for the Western Chehalis Trail vehicular crossing for 22nd Avenue NE in the southeast, as proposed.

    D. Where proposed (Tract E) extends east from 24th Avenue to the east boundary of the development and intersects with the Western Chehalis Trail system, the greater portion of the adjacent and contiguous undeveloped property is either within a wetland or wetland buffers,

    E. Where (Tract F) extends east from 23rd Avenue to the east boundary, it would create an additional vehicular crossing of the Western Chehalis Trail system not previously approved by Thurston County.

    F. Therefore, Tracts E & F are approved for trails and shared-use paths as per standard plan (4-2L) Class II as proposed, complete with appropriate easements for public access on the face of the plat.

G. Unless otherwise required by City code, the proposed stub road connection to the Surrey Drive NE neighborhood shall not be opened to motorized vehicular traffic until the interconnecting road within the Surrey Drive NE neighborhood is improved to sufficient street standards to safely handle the additional traffic expected to be generated from the Village at Mill Pond development.

24. A trail and shared-use path, Class I or Class II will be required along the South boundary of Tract I to provide a bicycle and pedestrian connection from Lilly Road east/west, to/from proposed A Street within the plat complete with an appropriate easement for public access on the face of the plat.

25. The private alley detail proposed within Tracts K, L, M, N & O on the plat need to be labeled as "Private Alleys", not Private Access Lanes as shown on Sheet C2.1.

26. The development may be approved for land use, but the following comments are required to be addressed prior to engineering permitting:

A. Treatment of runoff from Tract P needs to be clarified.

B. Change "A-BLK1 Roofs" to "A-BLK2 Roofs" in the Infiltration Facilities Calculations table in the Basin A stormwater map (Appendix C1).

C. Downstream conveyances are located within the County's jurisdiction and therefore will require the County's approval and permitting.

D. Provide typical details of how access will be provided to all Storm Chambers for inspection and maintenance. Access should be similar to that provided for the detention piping.

E. Per Drainage Manual Volume III, Section 3.2.1 a safe surface overflow route from the detention facilities into the natural downstream conveyance is required in addition to an overflow structure and pipe system. Discuss and depict the overflow routes for all detention and infiltration facilities.

F. A finalized operations and maintenance plan and maintenance agreement shall be provided with final engineering plans. The plan needs to be specific to the development. Eliminate guidelines not specific to the site

(e.g. oil/water separators) from the plan provided in Appendix D of the stormwater site plan. Add guidelines for inspection, cleaning, rehabilitation and replacement of infiltration facilities and permeable pavements. Add guidelines specific to the Aqua-Swirl. Add guidelines for the protection, inspection and maintenance of the pond liner systems. Provide a plan depicting all of the stormwater facilities labeled and a key for which guidelines are applicable to each facility.

G. The stormwater site plan and C-SWPPP should address how the infiltration surfaces (particularly for permeable pavement sections) will be protected from compaction and sedimentation during construction.

H. Provide an infiltration verification report for the infiltration facilities with design infiltration rates greater than 0.5 inches per hour and after they are built in accordance with Volume V Section 7.3.3 SSC-7.

I. The detention piping in C-BLK1b extends below the water table. Provide a simple explanation for how buoyancy will not be an issue.

J. Indicate how check dams will be installed to isolate water within cells in the permeable paved areas constructed on sloping ground (particularly the paving adjacent Tract J).

27. The following comments provided by the Thurston County shall be given high priority and demonstrate compliance with the following considerations.

A. The applicant has added several stormwater features to the project in an attempt to address Thurston County's previously expressed concerns regarding limiting fecal coliform contributions to downstream receiving waters. These include a sand filter and extensive use of infiltration and porous pavements. These structural stormwater controls are a commendable attempt to limit downstream fecal impacts.

B. The off-site discharge of stormwater from this project, while limited by the use of on-site infiltration and treatment facilities, still presents a potential additional contribution of fecal coliform to an already impacted (TMDL/303(d) listed) water body.

C. The proposed source controls, including an HOA with responsibility for education and enforcement of pet waste measures and installation of pet waste stations, should be given the highest priority by the City of Olympia in establishing the enforcement mechanisms to be incorporated into the projects HOA CC&Rs, appropriate maintenance agreements and the project's source control and maintenance plans.

D. Further, as future water quality condition dictates, consideration should also be given to requiring some routine water quality sampling at the discharge from the project site to confirm that anticipated fecal coliform reductions are being met, with adaptive management strategies to be implemented based on results of monitoring. This could be incorporated into the maintenance plan for the project and reported annual as part of maintenance reporting requirements of the City of Olympia.

E. The sizing of stormwater conveyance facilities within the 26th Avenue NE right-of-way should be sized to accommodate anticipated flows from this project as well as anticipated future flows from adjacent development and the roadway right-of-way.

F. The applicant should evaluate the capacity of culverts and ditches downstream from the point of discharge (northwest corner of Sleater Kinney and 26th Avenue) to the receiving stream, including evaluating the capacity of the existing road culvert crossing Sleater Kinney Road as well as existing driveway culverts downstream (2 culverts).

G. The analysis of the downstream roadside ditch should consider peak flow velocities and whether the ditch and outfall to the receiving water is adequately designed and armored to prevent erosion for up to the 100-year, 24-hour storm event.

8. Any finding hereinbefore stated which might be deemed a conclusion herein is hereby adopted as such.

From these Conclusions is made the following:

RECOMMENDATION:

It is recommended that LR's application for Master Plan approval be granted, subject to the conditions set forth in Conclusion 7 herein.

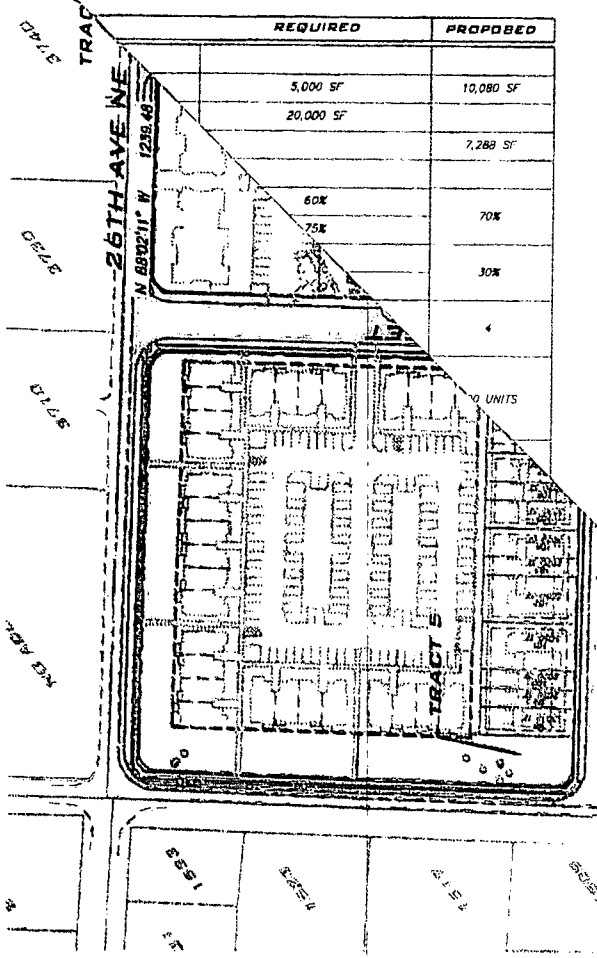
DECISION:

LR's preliminary plat request is hereby approved, subject to conditions set forth in Conclusion 7, and, further, being contingent upon approval of LR's Master Plan by the City Council.

DATED this 10TH day of June 2011.

RODNEY M. KERSLAKE
HEARING EXAMINER PRO TEMPORE
Mailed 6/16/2011 - SC

ATTACHMENT 1



POND DEVELOPMENT REQUIREMENTS

REQUIRED	PROPOSED
5,000 SF	10,080 SF
20,000 SF	
	7,288 SF
60%	70%
75%	
	30%
	4
	0 UNITS

PROJECT INFORMATION

SITE ADDRESS: 2400 LILLY RD. NE
OLYMPIA, WA 98506

PARCEL NUMBER: 11808220100

ZONING: NV

SITE AREA: 45.6 AC

WATER SERVICE: CITY OF OLYMPIA

SEWER SERVICE: CITY OF OLYMPIA

SOILS: KAPOWSIN SILT LOAM
YELM FINE SANDY LOAM
McKENNA GRAVELLY SILT LOAM
EVERETT VERY GRAVELLY SANDY LOAM
INDIANOLA LOAMY SAND
ALDERWOOD GRAVELLY SANDY LOAM

99 SINGLE-FAMILY DETACHED 5,878 SF LOTS

23 SINGLE-FAMILY DETACHED 3,223 SF LOTS

88 TOWNHOME 3,148 SF AVERAGE LOTS

90 MULTI FAMILY APARTMENTS

300 TOTAL UNITS (INCLUDES ONE EX RESIDENCE)

10,080 SF COMMERCIAL

7,288 SF COMMUNITY BUILDING

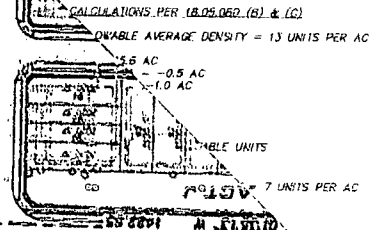
2.63 AC COMMUNITY GREEN

LEGAL DESCRIPTION

PARCEL 'A' OF BOUNDARY LINE ADJUSTMENT NO. BLA-1303 AS RECORDED AUGUST 28, 1993, UNDER AUDITOR'S FILE NO. 9308260152. SITUATED IN THURSTON COUNTY, WASHINGTON.

BOUNDARY NOTE

THIS DRAWING DOES NOT REPRESENT A BOUNDARY SURVEY. THE AREA SHOWN BASED ON RECORD DATA.



R#	DATE	DESCRIPTION	BY

CHRISTIAN M. CRAMER
PROFESSIONAL ENGINEER
02/02/11

PRELIMINARY PLAT

PLAT MAP

PATRICK HARRON & ASSOCIATES, LLC
Civil Engineering & Planning
8270 28th Court NE, Suite 201, Lacey, WA 98516
Phone : 360.459.1102 / Fax: 360.459.1013
Web : mhfeatharron.com

ATTACHMENT 4

CITY OF OLYMPIA

OFFICE OF THE HEARING EXAMINER

REPORT, RECOMMENDATION AND DECISION

CASE NO: Briarton Village Master Plan and Preliminary Plat (03-1204)

APPLICANT: Briarton Development, Inc.
(Previously Boston Harbor Land Company)

REPRESENTATIVE PARTY: KPFF (Formerly SBI Development)

SUMMARY OF REQUESTS:

Requests for Master Plan and preliminary plat approvals for a Master Plan Development known as "Briarton Village."

LOCATION:

The proposed development would be located on a 45.6-acre site bounded by 26th Avenue NE on the north, the Chehalis Western Trail on the east, an existing residential development on the south, and Lilly Road to the west.

RECOMMENDATION OF THE EXAMINER: It is recommended that the Master Plan request be approved, subject to conditions which are attached to the Master Plan as set forth in Conclusion 7 herein.

DECISION OF THE EXAMINER: The preliminary plat request is hereby approved, subject to conditions set forth in Conclusion 10, and, further, being contingent upon approval of the Master Plan by the City Council.

PUBLIC HEARING:

After reviewing the City of Olympia Planning & Development Department report and viewing the site, the Examiner conducted a public hearing on the application on February 5, 2008.

FINDINGS, CONCLUSIONS, RECOMMENDATION AND DECISION:

FINDINGS:

1. Briarton Development, Inc., is requesting Master Plan and preliminary plat approval for a Master Plan Development known as "Briarton Village." The proposed development would be located on a 45.6-acre site bounded by 26th Avenue NE on the north, the Chehalis Western Trail on the east, an existing residential development on the south, and Lilly Road on the west.

2. The proposed Master Plan Development would contain a mix of residential housing, commercial development and village green and open spaces. Of the 293 dwelling units proposed, 129 would be single-family detached homes, 22 college units and 100 multifamily dwellings. A total of 189 lots are proposed. The commercial space would occupy approximately 8,000 square feet and be situated in the northwest portion of the site.

3. The 45.6-acre site is currently undeveloped and slopes downward from the southwest to the northeast with an elevation change of approximately 36 feet across the property. Wetlands are located in the northeast and northwest corners of the property. Wetland III is not a regulated wetland. The regulated wetlands are to be preserved and otherwise protected in compliance with the City's Critical Areas regulations.

4. The proposed Master Plan for the development of the site is in conformance with the City's Comprehensive Plan, including policies encouraging sensitive transition between the proposed development and development on adjoining properties (LU10.4) and the location of uses that might attract persons in substantial numbers who live outside the development so that such uses don't detract from the "village" character of the development. (LU8.3). The proposed Master Plan locates the single-family homes on portions of the site that adjoin single-family neighborhoods and locates the commercial portion of the development adjacent to the 26th Avenue and Lilly Road intersection.

5. The City has applied a Neighborhood Village (NV) zoning classification to the property. The proposed Master Plan and preliminary plat have been prepared consistent with the requirements of the NV zone, including applicable design requirements.[1] Further, the submitted plan is consistent with the purposes of the NV zone *Olympia Municipal Code (OMC)* 18.05.020 and the general standards for such zone. *OMC* 18.05.050.

6. The City has determined that it has adequate capacity to provide water to the proposed development for both domestic water and fire suppression

[1] The City's Design Review Board has entered a conditional recommendation for approval of development design guidelines and design vocabulary.

purposes; however, water systems meeting City Engineering Design and Development Standards (EDDS) will have to be developed internal to the development.

7. The City has also determined that it has adequate capacity to handle the expected sanitary sewer flow from the proposed development; however, a new sewer pump station will be required. The applicant has provided in its Master Plan and preliminary plat a site for the new pump station and has agreed to construct a pump station in accordance with City standards. Also, the applicant would provide sanitary sewer lines within the proposed development consistent with EDDS Chapter 7 applicable to a gravity sewer system.

8. Further, the City has capacity to handle the anticipated solid waste and recyclable materials generated by the proposed development; however, solid waste/recyclable collection facilities within the development would be required to conform to applicable City standards.

9. A traffic impact study has been prepared for the proposed project that evaluates the existing and future traffic conditions in the area of the project site and predicts the impacts of the proposed development on area streets. Exhibit 1 at Attachment M. Traffic from the proposed development is not anticipated to result in any intersection falling below the City's Level of Service (LOS) standards. The City's adopted LOS standards allow for a LOS F at the Lilly Road/Martin Way and Sleater Kinney Road/Martin Way intersections which is a failing LOS. It is estimated that the intersection of Lilly Road and 26th Avenue would operate at an LOS D by 2025, but that with the three-lane section proposed at that intersection, the intersection would accommodate the expected increase in traffic and a signal or roundabout is not warranted at the intersection.

10. The applicant proposes streetside or frontage improvements on Lilly Road and 26th Avenue abutting the development site. The streetside improvements depicted on the Master Plan and preliminary plat drawing are consistent with the City's standards for street side improvements. In addition, the applicant, in accordance with recommendations of Intercity Transit, would provide two or three transit stops – one on Lilly Road, two on internal streets near the proposed commercial portion of the development, and/or on 26th Avenue.

11. The proposed interior street system, as depicted on the street plan and on the preliminary plat, conforms to Master Plan standards, including intersection spacing, block sizing, street connections and stub roadways. However, the City's minimum street frontage requirements (*OMC* 18.05.080.G.3) mandate a minimum lot frontage of 30 feet on a public or private street. The proposed development is proposing 4 "flag" lots (Lots 22, 23, 54 and 55) that do not meet the foregoing frontage requirement. The Master Plan and preliminary plat have to be revised to comply with minimum frontage requirements unless the proposed flag lots comply with the provisions of *OMC* 18.05.080.G.3.c.i-iv.

12. Storm drainage facilities for the proposed development must be designed and constructed in accordance with the current Drainage Design and Erosion Control Manual for Olympia (Manual) and final approval of such plans must be secured from Olympia, Lacey and Thurston County. Due to the natural slope of the site, surface drainage historically has flowed to the north and east toward the Woodland Creek Basin. Slope conditions on the southern two-thirds of the site have been determined to be suitable for treatment and full infiltration of stormwater. Stormwater detention ponds have been shown on the Master Plan and preliminary plat to collect storm drainage from the southerly portion of the development. Due to a high groundwater table in the northern one-third of the site, stormwater must be contained, treated, and discharged to an existing surface water channel (Jorgenson Creek located east of Sleater-Kinney Road). In order to convey stormwater from the north portion of the development to Jorgenson Creek, a storm discharge pipe must be installed in 26th Avenue and extended east to the Creek. A substantial in size stormwater concrete containment structure (covering approximately one acre) and depicted as Pond G is proposed. The structure would contain stormwater to a depth of approximately 9.5 feet

13. The Olympia City Engineer has raised objections to the proposed Pond G containment structure. Exhibit 1 at Attachment X. As the Hearing Examiner understands, the City Engineer's bases for objection are that the large concrete containment structure would not be compatible with and blend into the residential village setting as required by City policies; it is not a typical drainage containment facility used in the City, particularly in regard to being located with the groundwater table; and due to its size, design, and concrete construction, would be expensive to maintain and repair and likely beyond the capacity or capabilities of a homeowners' association, and the City would not wish to assume responsibility for maintenance and repair of the containment structure. *Id.*

14. Testimony by the applicant's representatives, including its consulting engineer who designed the preliminary storm drainage system for the proposed development, establishes that the storm drainage system design, particularly in regard to Pond G, is only conceptual and that even though handling storm drainage in the north one-third of the development is a challenge due to the high groundwater table and its topography in relation to adjacent areas, there are a number of options available to address storm drainage on the site, and substantial engineering work is required in order to arrive at a final drainage system design.

15. Testimony by the City's Storm Drainage Manual Administrator, in response to questions posed by the Hearing Examiner, establishes that, if the preliminary plat was expressly conditioned so that it must comply with the City's Manual and engineering standards set forth in the City's EDDS, considering the discretion of the City Engineer in administering those regulations, adequate provisions for handling stormwater drainage for the development would be made.

16. The proposed development has been reviewed for compliance with the City's Tree Code *(OMC* 16.60). That code requires submission of a tree retention/planting plan developed in accordance with the Tree Code requirements, including providing a minimum of 30 tree units per acre with 75% located within tree tracts. A majority of the site was logged approximately 10 or so years ago, with the exception of a 1.5 to 2-acre area in the northeast portion of the site adjacent to 26th Avenue and the Chehalis Western Trail. This area is currently forested with mature trees. Also, an existing 70-foot wide buffer containing trees is located along the Lilly Road site frontage. This buffer would be eliminated in order to accommodate required frontage improvements to Lilly Road. In accordance with the Tree Code, 1,170 tree units must be preserved/planted on the site with preservation of existing trees given priority over planting new trees. The applicant, in its Master Plan, is proposing the preservation of 918 tree units in the tree tract, with an additional 252 trees planted on site and the tree tract, storm ponds, and other proposed open spaces. Such plans satisfy the requirements of the tree ordinance.

17. The Master Plan and preliminary plat have been reviewed by a number of governmental agencies and utility providers. With the exception of the Olympia City Engineer, who recommends denial of the preliminary plat based on objections to the design of the proposed storm drainage Pond G, none object to the grant of the Master Plan and preliminary plat approvals, provided conditions are imposed as set forth in Exhibit 1 at 13 and 14 and 22 and 23, and standards of development as provided for in *OMC* 18.05 and the EDDS, and that the mitigation measures set forth in the *Mitigated Determination of Nonsignificance (MDNS)* and the mitigation agreement entered into by the applicant and the North Thurston Public Schools are complied with.

18. The applicant concurs in the conditions recommended with the exception of recommended condition 7, Exhibit 1 at 23, contending that the four flag lots depicted on the preliminary plat drawings satisfy the requirements of *OMC* 18.05.080.G.3.c.i-iv for flag lots within subdivisions. The applicant further acknowledges the concerns expressed by the City in regard to Pond G and agrees that, prior to final plat approval, it will submit final stormwater system design plans satisfying the requirements of the Manual and EDDS.

19. Appearing at hearing presenting testimony was an owner and resident of property located to the north across 26th Avenue from the development site and a resident of the residential neighborhood situated south of the proposed development. Their respective testimony included the following:

A. Some stormwater runoff from the site flows in a northerly and northwesterly direction impacting properties to the north;

B. The creek to which stormwater from the development site would be discharged to is a salmon-bearing creek and, therefore, any stormwater runoff from the development must be carefully controlled in terms of both quantity and quality of the runoff;

C. Catastrophic failure of the Pond G structure, requiring replacement of the structure, would result in an exorbitant cost burden to the development's homeowners' association;

D. Aesthetic considerations must be taken into account when locating and constructing stormwater ponds on the site;

E. Lilly Road carries high volumes of traffic and significant congestion results, especially in the area of its intersection with Martin Way, and the traffic from this development would only exacerbate current traffic conditions;

F. Questions were raised whether access to the Chehalis Western Trail would be maintained to the location of the stub end roadway located in the southeast portion of the proposed development;

G. Lack of existing parks in the area; and

H. Adequacy of fire response in the area.

Also, a number of letters, most of which date back to 2004 and 2005, were admitted as a part of Exhibit 1 at Attachments BB-JJ.

20. In responses to the questions and concerns raised, representatives of the applicant and the City indicated the following:

A. It is acknowledged that there is some groundwater flow from the development site to the north and northwest due to a groundwater gradient, but that most of the groundwater flow from the site is to the east and northeast;

B. The proposed development should not affect the groundwater flow as storm drainage from the development would either be infiltrated on site at predevelopment rates, directed to existing wetlands to maintain wetland hydrology, or, in the case of the north portion of the development adjacent to 26th Avenue, stormwater would be contained on site and directed to a nearby creek;

C. Stormwater pipe to the creek would be pretreated and meet water quality standards and would be released at the predevelopment rate;

D. The applicant would be required to make improvements to Lilly Road adjacent to its site, and the City has established an LOS F standard for the Lilly Road/Martin Way intersection, which is the current operating LOS for that intersection;

E. The proposed development was reviewed by the City's fire services and no concerns or objections were raised in regard to fire and other emergency responses to the proposed development;

F. The applicant is required to pay Park Mitigation fees to the City to address development impacts on park facilities, and in addition the development plan proposes, both on-site active and passive open spaces;

G. The stub end roadway in the southeast portion of the site will permit continued access to the Chehalis Western Trail at that location; and

H. The proposed development is located further than one mile from the public schools that children living in the development would attend; thus, under Thurston School District policies, the children from the development would be bused to their respective schools and the applicant is proposing, and the City is requiring, bus stops within and adjacent to the development.

21. In accordance with the *State Environmental Policy Act (SEPA)*, a MDNS was issued on July 17, 2007. Additionally, an Amended SEPA MDNS was issued on December 24, 2007.

22. The report of the Community Planning and Development Department, designated as Exhibit 1, to the extent that it sets forth the issues, general findings of fact, applicable policies and provisions and departmental recommendations of this matter, is incorporated herein by reference as though fully set forth.

23. Public notice for the hearing was mailed to property owners within 300 feet of the site and to recognized neighborhood association(s), was posted on

the site, and published in "*The Olympian*" newspaper on or before January 24, 2008, in conformance with *OMC* 18.78.020.

23. Any conclusion hereinafter stated which might be deemed to be a finding herein is hereby adopted as such.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction in regard to Master Plan and preliminary plat applications, which are the subject of these proceedings.

2. Master Plan approvals are characterized by the City as legislative acts which are subject to City Council approval after hearing by the Hearing Examiner and entry of a recommendation to the City Council.

3. Approval or denial of preliminary plats is a quasi-judicial action and the Hearing Examiner enters a final decision in regard to such applications.

4. The applicant, in both Master Plan and preliminary plat matters, bears the burden of proof to establish, by a preponderance of the evidence, that the requests satisfy the applicable legal standards for each application.

5. In reviewing applications for land use permits, local governments are constrained by the provisions of RCW 36.70B.030(2) which provides the following:

***

(2) During project review, a local government or any subsequent reviewing body shall determine whether the items listed in this subsection are defined in the development regulations applicable to the proposed project or, in the absence of applicable regulations the adopted comprehensive plan. At a minimum, such applicable regulations or plans shall be determinative of the:

(a) Type of land use permitted at the site, including uses that may be allowed under certain circumstances, such as planned unit developments and conditional and special uses, if the criteria for their approval have been satisfied;

(b) Density of residential development in urban growth areas; and

(c) Availability and adequacy of public facilities identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by chapter 36.70A RCW.

> (3) During project review, the local government or any subsequent reviewing body shall not reexamine alternatives to or hear appeals on the items identified in subsection (2) of this section, except for issues of code interpretation. As part of its project review process, a local government shall provide a procedure for obtaining a code interpretation as provided in RCW 36.70B.110.
>
> * * *

RCW 36.70B.030(2)

6. Similarly, in order to receive approval of a Master Plan in the NV zone, an applicant must show that it complies with the requirements of *OMC* 18.05, Villages and Centers. *OMC* 18.57.080.C.

7. Findings entered herein, based upon substantial and unrebutted evidence, support a conclusion that the instant application, if conditions recommended herein, satisfies the requirements for Master Plan approval. The conditions recommended are set forth below:

A. North Thurston Public Schools requires that school mitigation fees be paid to the North Thurston Public Schools consistent with the Mitigation Agreement recorded under Thurston County Auditor's File Number 3932426.

B. City of Lacey requires transportation mitigation fees in the amount of $152,013.70 to be paid lump sum prior to final plat approval and must provide the City of Olympia with verification that these mitigation fees are paid. If the project phases development, then the proportionate share based on the number of lots per phase is required to be paid lump sum prior to that particular phase's final plat approval.

C. The applicant is required to work with Intercity Transit to formulate the appropriate locations and the appropriate number of bus shelters to comply with *OMC* 18.05.040.

D Each phase of the Master Plan will be reviewed on its own merits for compliance with applicable City codes and for compliance with the Master Plan when that phase is submitted.

E. Residential lot sized, widths and setbacks shall be reviewed for compliance with the applicable code at the time of preliminary plat submittal.

F. Proposed building heights shall be reviewed for compliance with the applicable codes at the time of building permit submittal.

G. Provide at least two types of amenities in public places such as near the commercial center, transit stops, the entrance to the Chehalis Western Trail and along the major streets consistent with guidelines 3 and 4 of *OMC* 18.05A.050.

H. Provide consistent building wall finishes on all sides of buildings that can be seen by the public (*OMC* 18.05A.090).

I Provide landscape details at the time of specific land use application; ensure that landscaping provides screening as required; provide a landscape strip of at least five feet in width between the multifamily parking areas and the public rights-of-way (*OMC* 18.05A.110).

J. At the time of site plan review for the multifamily projects, provide enough detail that it can be determined if the building orientation and design provide privacy for the occupants of the multifamily building and for the occupants of adjacent buildings (*OMC* 18.05A.200).

K. Use windows for multifamily projects that will meet all of the criteria of *OMC* 18.05A.225.

L. At detailed design review for specific land use developments, review each proposal for compliance with all requirements of *OMC* 18.05A.

M. Prior to this project going to the City Council for approval, the applicant shall provide City staff with updated Master Plan documents to present to the City Council.

8. In order to receive approval of a preliminary plat, in addition to demonstrating compliance with applicable zoning requirements and other development regulations for on- and off-site improvements, it must be established that the proposed subdivision makes appropriate provisions for the public health, safety, and general welfare for open spaces, drainage ways, streets or roads, alleys,

other public ways, transit stops, potable water supplies, sanitary waste, parks and recreation, playgrounds, schools and school grounds, and must consider other relevant facts, including sidewalks and other planning features to ensure safe walking conditions for students who only walk to and from school; and, finally, when the public interest would be served by the subdivision. *Revised Code of Washington (RCW)* 58.17.110.

9. Preliminary plats, as defined by *RCW* 58.17.020(4) are to be:

> (a) [an] approximate drawing of a proposed subdivision showing a general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this Chapter. The preliminary plat shall be the basis for the approval of the *general layout of a subdivision.* (Emphasis supplied).

There has been no dispute in these proceedings that the preliminary plat submitted by the applicant for Briarton Village satisfies the intended purpose of a preliminary plat as well as complies with applicable zoning requirements and standards of development. The principal issue in dispute is whether a more detailed drainage system plan must be provided by the applicant at this stage (preliminary plat) of subdivision approval. The Hearing Examiner concludes that it is not, provided the preliminary plat approval is expressly conditioned on compliance of the final drainage system plan with the City's Manual and EDDS. As noted in *Topping v. Board of County Commissioners,* 29 Wn.App 781, 783-784, 630 P.2d 1385 (1981), a failure to demonstrate compliance with specific regulations applicable to completed development is not fatal to approval of a preliminary plat unless the deficiencies are manifest which would preclude any possibility of plat approval. *See, also, Friends of the Law v. King Cty,* 123 Wn.2d 578, 869 P.2d 1056 (1994). Here, the applicant readily admits that its storm drainage design is conceptual; there are a number of options available to adequately handle storm drainage generated by the proposed development; and compliance with the adopted City's Manual and EDDS would ensure that any storm drainage facilities approved would provide for the proper handling of storm drainage and proper design and construction of such facility. Under these facts, the Hearing Examiner cannot conclude that the potential problems with the conceptual design of Pond G would be such a manifestive deficiency as to preclude any possibility of plat approval.

10. Accordingly, the preliminary plat submitted should be approved but should be conditioned, among other conditions, to require that the plat's storm drainage system shall be designed and constructed in a manner that satisfies the requirements and standards of the City's Manual and EDDS, as well as aesthetic design standards for such facilities. The conditions applicable to the preliminary plat approval are as follows:

A. **Improvement Plans (City of Olympia)** – Before construction begins, the applicant shall submit complete detailed construction drawings to the City of Olympia Community Planning and Development Department for review and approval. Construction drawings shall be prepared according to the EDDS (Standards 2.030).

B. **Improvement Plans (Thurston County)** – Before construction begins, the applicant shall submit complete detailed construction drawings to the Thurston County Development Services Department, along with a supplemental report responding to all items outlined in the two County memorandums dated October 25, 2007. Construction drawings for the offsite improvements shall be prepared according to the appropriate County Standards.

C. **Private Access Lanes** – An access lane is not a private street and will be owned and maintained by the property owners served by the lane (Standards 2.040.B.2). This responsibility shall be addressed in the plat's covenants, conditions and restrictions (CC&R's).

D **Bonding** – The developer shall file an agreement with the City to assure the full and faithful performance of the operation and maintenance of all public improvements and the site stormwater facilities for a period f two years following final construction approval. This guarantee through the appropriate surety shall be in place and approved by the City before final construction approval. The amount of the bonding will be 25 percent of the cost of the improvements, or as determined by the Development Engineer. In addition, a bond or other allowable securities will be required by the City to guarantee the performance of work within existing public rights-of-way or maintenance of required public infrastructure intended to be offered for dedication as a public improvement. Bonds or other allowable securities to guarantee work in an existing public right-of-way is required to be in place and submitted to the City prior to release of any approvals or permits for such work. The type and amount of security will be pursuant to code, or if not specified, be at a minimum of $4,000 or 125 percent of the value of the work performed, whichever is greater, at the discretion of the City. Types of securities include, but are not limited to, a bond with a surety

qualified to do a bonding business in this state, a cash deposit, an assigned savings account, or a set-aside letter as acceptable by the City Attorney (Standards 2.030.E, 3.090).

E. **Construction and Final Inspection** – All improvements shall be installed before final construction approval (*OMC* 17.32.140.A.5).

F. The applicant is required to work with Intercity Transit to locate the necessary and required sheltered transit stops to comply with *OMC* 18.05.040.

G. Any flag lots proposed within the subdivision shall either be eliminated or shall comply with the requirements of *OMC* 18.05.080.G.3.c.i-iv.

H. The final storm drainage system design shall comply with requirements set forth in the City's Storm Drainage Design Manual and EDDS, and shall also satisfy aesthetic provisions of the City's Comprehensive Plan applicable to storm drainage facilities, such as LU2.8 and LU14.11.

11. Any finding hereinbefore stated which might be deemed a conclusion herein is hereby adopted as such.

From these Conclusions is made the following:

RECOMMENDATION:

It is recommended that the Master Plan request be approved, subject to conditions which are attached to the Master Plan as set forth in Conclusion 7 herein.

DECISION:

The preliminary plat request is hereby approved, subject to conditions set forth in Conclusion 10, and, further, being contingent upon approval of the Master Plan by the City Council.

DATED this 15th day of February 2008.

RODNEY M. KERSLAKE
HEARING EXAMINER PRO TEMPORE

No. 43300-1-II

Thurston County Superior Court #11-2-01733-5
IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II

SSHI LLC, dba DR Horton, a Delaware limited liability corporation,

Petitioner/Appellant,

vs.

THE CITY OF OLYMPIA,
a Washington municipal corporation,

Respondent.

AFFIDAVIT OF SERVICE

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STATE OF WASHINGTON)
)ss.
COUNTY OF KING)

The undersigned, being first duly worn on oath, deposes and says:

I am a citizen of the United States of America; over the age of 18 years, am a legal assistant with the firm of Johns Monroe Mitsunaga Kolouškova PLLC, not a party to the above-entitled action and competent to be a witness therein.

On August 6, 2012, this office filed and served APPELLANT'S OPENING BRIEF, which contained appendices that included dividing tabs to separate and identify each section of the appendices. On this date, the court advised this office that: pursuant to RAP10.4(a)(1), the brief shall not contain any tabs; (which includes appendices) and requested that un-tabbed pages designating each section be prepared and resubmitted to replace the original tabbed inserts. I have prepared these replacement pages to submit to the court, and served same *Via Email and U.S. First Class Mail* upon all counsel of record at their addresses below.

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Dated this 8th day of August, 2012.

EVANNA L. CHARLOT

STATE OF WASHINGTON) ss.
COUNTY OF KING)

SIGNED AND SWORN to (or affirmed) before me on August 6, 2012 by Evanna L. Charlot.

Duana T. Kolouškova
Notary Public Residing at Seattle, WA.
My Appointment Expires: 7-19-13

422-8 Affidavit of Service 08-08-12.doc