



**PLANNING COMMISSION MEETING AGENDA**  
**Tuesday, March 17, 2015, 7:00 PM**  
**City Municipal Center, 616 NE 4th Avenue**

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**I. CALL TO ORDER**

**II. ROLL CALL**

**III. MINUTES**

- A. Approval of the Minutes from the February 18, 2015, Planning Commission Meeting

 [Minutes from the February 18, 2015, Planning Commission Meeting](#)

**IV. MEETING ITEMS**

- A. Public Hearing for Amendments to Camas Municipal Code, Chapter 18.22 Mixed Use Planned Developments

Details: Proposed amendments to Camas Municipal Code (CMC), Chapter 18.22 Mixed Use Planned Developments will clarify that the zone is an overlay zone. Minor amendments associated with Chapter 18.22 are also proposed to CMC Section 18.07.030-Table 1.

Presenter: Sarah Fox, Senior Planner

Recommended Action: Staff recommends that Planning Commission conduct a public hearing, deliberate, and forward a decision to City Council.

 [Staff Report \(File No. MC15-04\)](#)

[Proposed MXPD Overlay Code](#)

[Exhibit 1, Public Comment from Melanie Poe](#)

[Exhibit 2 - Comment from Lugliani Investments](#)

[Exhibit 3 Memorandum from Staff](#)

[Exhibit 4 Mixed Use Sample from Staff](#)

- B. Quasi-Judicial Procedural Training

Details: City legal counsel will provide a refresher on the procedures for conducting quasi-judicial public hearings.

Presenter: David Schultz, Assistant City Attorney

Recommended Action: Informational only.

 [Memorandum from the City Attorney](#)

[Planning Commission Rules Procedure for Quasi Judicial Hearings](#)

**V. MISCELLANEOUS UPDATES**

A. Miscellaneous Updates

**VII. ADJOURNMENT**

NOTE: The City of Camas welcomes and encourages the participation of all of its citizens in the public meeting process. A special effort will be made to ensure that persons with special needs have opportunities to participate. For more information, please call 360.834.6864.



**PLANNING COMMISSION MEETING MINUTES - DRAFT**  
**Wednesday, February 18, 2015, 7:00 PM**  
**City Municipal Center, 616 NE 4th Avenue**

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**Special Meeting**

**I. CALL TO ORDER**

Chair Hull called the meeting to order at 7 p.m.

**II. ROLL CALL**

Present: Commissioner Frank Hood, Commissioner Troy Hull, Commissioner Jaima Johnson, Commissioner Jim Short, Commissioner Lloyd Goodlett, and Commissioner Timothy Hein


Excused: Commissioner Bryan Beel

Commissioner Hein arrived a 7:34 p.m.

Staff Present: Jan Coppola, Sarah Fox, Lauren Hollenbeck, Robert Maul and Alicia Pacheco (student intern)

**III. MINUTES**

- A. Approval of minutes from the January 21, 2015, Special Planning Commission Meeting


 [Minutes from the January 21, 2015, Special Planning Commission Meeting](#)

**It was moved by Commissioner Hood, seconded by Commissioner Short to approve the minutes from the January 21, 2015, Planning Commission Meeting. The motion carried unanimously by roll call vote.**

**IV. MEETING ITEMS**

- A. Camas Vision Statement (This item was moved up on the agenda)  
Details: The Camas Vision Statement, which is the product of hundreds of community members who participated in Camas 2035 outreach activities. The purpose of this outreach was to create a vision that captured what citizens' value most about Camas today, while planning for what Camas will be in twenty years. The vision statement will act as the cornerstone of the periodic update to the comprehensive plan document, which must be finalized by June 2016. City Council plans to adopt the vision by resolution.

Presenter: Sarah Fox, Senior Planner

 [Resolution Adopting the Camas Vision Statement](#)

Ms. Fox and Mr. Maul responded to inquiries from the Commissioners.

B. Miscellaneous Updates (This item was moved up on the agenda)

Mr. Maul briefly updated the Commissioners on various development proposals and introduced Lauren Hollenbeck, Senior Planner. He announced that the City will be hosting an annexation open house on February 25, 2015, at 6:00 p.m., at Prune Hill Elementary School.

C. **Time Limits for Inactive Development Applications**

Details: Public hearing to review amendments to Camas Municipal Code (CMC) Chapter 18.55 Administration and Procedures, to clarify that complete development applications will expire if inactive. At present, CMC Section 18.55.130(D) allows applicants to request that a project be put on hold for an indefinite amount of time without expiring or vesting being forfeited.

Presenter: Sarah Fox, Senior Planner

 [Staff Report](#)

[Exhibit 1 - Emails from MRSC, Bourquin, and MacPherson](#)

[Exhibit 2 - Erickson v. McLerran \(1994\)](#)

[Exhibit 3 - Proposed Amendments to CMC Chapter 18.55](#)

The public hearing opened at 7:36 p.m.

The public testimony portion of the hearing opened and closed at 8:04 p.m., as there were no members of the public who wished to testify.

**It was moved by Commissioner Hein, seconded by Commissioner Goodlett to forward a recommendation to City Council to approve the amendments to Camas Municipal Code (CMC) Chapter 18.55 Administration and Procedures (File No. MC15-01) as outlined in the staff report. The motion carried unanimously by roll call vote.**

V. **MISCELLANEOUS UPDATES**

There were no further updates from staff.

VI. **NEXT MEETING DATE**

The next Planning Commission meeting is scheduled for Tuesday, March 17, 2015, in the City Council Chambers at 7:00 p.m.

VII. **ADJOURNMENT**

Chair Hull adjourned the meeting at 8:15 p.m.

NOTE: The City of Camas welcomes and encourages the participation of all of its citizens in the public meeting process. A special effort will be made to ensure that persons with special needs have opportunities to participate. For more information, please call 360.834.6864.



STAFF REPORT  
CAMAS MUNICIPAL CODE AMENDMENTS FOR CHAPTER 18.22  
MIXED USE PLANNED DEVELOPMENTS

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FILE #MC15-04

MARCH 9, 2015

To: Bryan Beel, Chair  
Planning Commission

Public Hearing: March 17, 2015

From: Sarah Fox, Senior Planner

Compliance with state agencies: Notice of the public hearing before Planning Commission was published in the Camas Post Record on March 10, 2015 (publication no. 530491).

#### SUMMARY

The foremost purpose of amending Chapter 18.22 Mixed Use Planned Developments is to clarify that it is an overlay zone. Minor amendments to correct inconsistencies, and improve uniformity of requirements with those of other permit types, were also proposed. Only minor amendments to this chapter have occurred since its adoption in 2004, and the procedures were outdated.

#### ANALYSIS

Chapter 18.22 was adopted in 2004, entitled "Mixed Use". The title of the chapter was amended in 2009 to read "Mixed Use Planned Developments (MXPDP)", to distinguish it from a newer mixed use zone. The new zone, Chapter 18.24-Mixed Use, was adopted in order to promote redevelopment in the Louis Bloch neighborhood, which is south of NE Third Avenue. This area is the only mixed use (MX) zone on the zoning map, as MXPDP is not designated to any properties.

One of the reasons the original MXPDP chapter was renamed, was to better describe its method of implementation. For example, as it currently reads, CMC§18.22.060 states that an application for a MXPDP must include a master plan and a development agreement. Requiring a development agreement is normally the hallmark of an optional code (e.g. Planned Residential Developments) rather than a mandatory requirement within a zoning district. Overlay zones and optional codes typically require certain performance standards to be met in exchange for development flexibility, which are not required of a typical development in that zone.

Further evidence that the MXPDP code was intended to be an overlay zone, is that it is not listed within a comprehensive plan designation, such as with other zoning districts (refer to chart, "Districts Designated"). A property must be zoned MXPDP to utilize the optional standards. Given that there are no MXPDP zoned parcels, and MXPDP is not assigned to a plan designation, then the property would need approval of a comprehensive plan amendment, a Type IV permit. In short, the flexible intent of the chapter would be lost after an applicant completes the lengthy processing of a comprehensive plan amendment, and then seeks approval of a development agreement and a master plan. Clarifying that the MXPDP zone is an overlay zone would remedy this conflict.

As an overlay zone, the overlay standards would supplement the base zone standards. A zoning overlay application could be processed as a zone change, which is a Type III permit, and consolidated with a development application.

Another flexible aspect of overlay zoning is that the boundaries are also not restricted by the underlying zoning districts' boundaries. An overlay zone could cover more than one zoning district if it were included in the master plan.

In summary, the purpose statement of the MXPD chapter reads, *“The city recognizes that opportunities for employment may be increased through the development of master-planned, mixed use areas.”* There are statements throughout the chapter that emphasize that a mix of uses is required, with no single use dominating the project. The proposed amendments are intended to maintain the flexibility of this chapter, and to better clarify procedures.

**CMC§18.05.020 - Districts designated**

**[Note that color bands in this table represent the distinction between the zones grouped within comprehensive plan designations.]**

Comprehensive Plan Designation	District	Symbol
Single-family Low	Residential 20,000	R-20
Single-family Low	Residential 15,000	R-15
Single-family Medium	Residential 12,000	R-12
Single-family Medium	Residential 10,000	R-10
Single-family Medium	Residential 7,500	R-7.5
Single-family High	Residential 6,000	R-6
Single-family High	Residential 5,000	R-5
Multifamily Low	Multifamily-10	MF-10
Multifamily High	Multifamily-18	MF-18
Multifamily High	Multifamily-24	MF-24
Overlay	Multifamily Cottage	MF-C
Commercial	Neighborhood Commercial	NC
Commercial	Community Commercial	CC
Commercial	Regional Commercial	RC
Commercial	Mixed Use	MX
Commercial	Downtown Commercial	DC
Industrial	Light Industrial	LI
Industrial	Heavy Industrial	HI
Industrial	Business Park	BP
Light Industrial/Business Park	Light Industrial/Business Park	LI/BP
Park	Neighborhood Park	NP
Park	Special Use Park	SU
Open space   Green space	Open space/Green space	OS

**RECOMMENDATION**

**That Planning Commission conduct a public hearing, deliberate, and forward a recommendation of approval to City Council.**

**CMC Chapter 18.07.030-Table 1 Commercial and Industrial Uses**

The following amendments to Camas Municipal Code(CMC), Chapter 18.07.030-Table 1 (below) are to provide clarity to the proposed amendments to the language at **CMC§18.22.040 Allowed Uses**.

Residential Uses in Commercial and Industrial Zones	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Adult family home	C	P	P	X	P	X	X	X	X
Assisted living	C	P	P	X/P <sup>10</sup>	P	X	X	X	X
Bed and breakfast	P	P	P	X	P	X	X	X	X
Designated manufactured home	X	X	X	X	P	X	X	X	X
Duplex or two-family dwelling	X	C/P'	X	X	P	X	X	X	X
Group home	C	P	P	X	P	X	X	X	X
Home occupation	P	P	P	X/P <sup>10</sup>	P	X	X	X	X
Housing for the disabled	P	P	P	X/P <sup>10</sup>	P	X	X	X	X
Apartment, <u>multi-family development</u>	X	C/P'P	X/P <sup>10</sup>	X/P <sup>10</sup>	P	X	X	X	X
Residence accessory to and connected with a business	P	P	P	X/P <sup>10</sup>	P	X	X	X	X
<del>Single-family attached (e.g. rowhouses)</del>	<del>X</del>	<del>C/P'</del>	<del>X</del>	<del>X</del>	<del>P</del>	<del>X</del>	<del>X</del>	<del>X</del>	<del>X</del>
Single-family dwelling	X	X	X	X	P	X	X	X	X

*(In addition to notes 1-9) 10. Allowed as approved in a Mixed Use Planned Development (MXPDP) overlay area.*

**CMC Chapter 18.22 – Mixed Use Planned Developments Overlay(MXPDP)**

**18.22.010 – Purpose**

The city recognizes that opportunities for employment may be increased through the development of master-planned, mixed-use areas. Consistent with this, the city has created the mixed-use planned development overlay zone (MXPDP) to provide for a mix of compatible light industrial, service, office, retail, and residential uses. Standards for development in the mixed-use planned development overlay zone are intended to achieve a pedestrian friendly, active, and interconnected environment with a diversity of uses.

**18.22.020 – Applicability**

The provisions of this chapter shall apply to parcels designated with MXPDP zoning overlay.

**18.22.030 – Definitions**

In addition to those definitions listed in CMC Chapter 18.03, the following definitions shall also apply to this chapter:

“Base zone or underlying zone” means the zoning district of the properties, which the overlay zone is applied. The standards of the overlay zone are in addition to those standards and criteria of the underlying zoning district.

"Development agreement" means a binding agreement between the city and a developer relative to a specific project and piece of property. The agreement may specify and further delineate, and may include, but is not limited to, development standards; vesting; development timelines; uses and use restrictions; integration within or outside of the subject development; construction of transportation, sewer and water facilities; and allocation of capacity for transportation, sewer and water facilities. The agreement shall clearly indicate the mix of uses and shall provide a general phasing schedule, as reviewed and approved by city council, so as to ensure that the commencement of construction of the

commercial, industrial, and/or office uses occur within a reasonable time frame of the construction of the overall project.

~~Amendments to an approved development agreement may only occur with the approval of the city council and the developer or its successor(s).~~

"Master plan" as used in this chapter, ~~is a master plan means~~ a proposal for development that describes and illustrates the proposed project's physical layout; its uses; the conceptual location, size and capacity of the urban service infrastructure necessary to serve it; its provision for open spaces, landscaping, trails or other public or common amenities; its proposed building orientation; its internal transportation and pedestrian circulation plan; and the integration of utility, transportation, and pedestrian aspects of the project with surrounding properties.

"Site plan" means a detailed drawing to scale, accurately depicting all proposed buildings, parking, landscaping, streets, sidewalks, utility easement, stormwater facilities, wetlands or streams and their buffers, and open space areas.

#### 18.22.040 - Allowed uses

- A. The mix of uses may include residential, commercial, retail, office, light industrial, public facilities, open space, wetland banks, parks, and schools, in stand alone or in multi-use buildings.
- B. Residential uses are allowed either:
  1. In buildings with ~~ground floor retail shops or offices below the residential units~~commercial uses;  
or
  2. As ~~single~~multi-family ~~attached~~ units, as provided for in Section 18.22.070(A) of this chapter.
- C. Commercial and retail uses are permitted, but not required, on the ground floor of multi-use buildings throughout this district.
- D. Uses ~~as authorized~~allowed in the underlying zone. under CMC Section 18.07.030 Table 1 for Community Commercial.

#### 18.22.050 - Required mix of uses

The master plan must provide a mix of uses. No single use shall comprise less than twenty-five percent of the development area (i.e., residential, commercial, industrial), and no more than fifty percent of the net acreage of the master plan shall be residential, ~~including units that is not otherwise contained located on the ground floor of~~within a mixed-use building. The remaining master plan may be a mix of employment uses as allowed in Section 18.22.040 of this chapter. The minimum use percentage shall not apply to public facilities, schools, parks, wetland banks, or open space.

#### 18.22.060 - Process

- A. General. The applicant ~~for a development in the MXPB zone~~ shall be required to submit a proposed master plan, as defined in Section 18.22.030 of this chapter, and a proposed development agreement as authorized under RCW Chapter 36.70B.
- B. Contents. The proposed master plan shall include the following information:
  1. Boundaries. A legal description of the total site proposed for development is required.
  2. Uses and Functions. The master plan must include a description of present uses, affiliated uses, and proposed uses. The description must include information about the general ~~amount square footage and type of functions~~offer the use, the hours of operation, and the approximate number of member employees, visitors, and special events. For projects that include residential units, densities, number of units, and building heights must be indicated.
  3. Critical Areas. All critical areas shall be identified on the master plan. ~~(that is available per Clark County GIS mapping and any other known sources, i.e. professional studies performed on the site, prior applications, etc.). Critical areas shall include, but are not limited to, wetlands, floodplains, fish and wildlife habitat areas, geologically hazardous areas, and aquifer recharge areas.~~



4. Transportation. The master plan shall include information on projected transportation impacts for each phase of the development. This includes the expected number of trips (peak and daily), an analysis of the impact of those trips on the adjacent street system, and the proposed mitigation measures to limit any projected negative impacts. Mitigation measures may include improvements to the street system, or specific programs to reduce traffic impacts, such as encouraging the use of public transit, carpool. A transportation impact study may be substituted for these requirements.
5. Circulation. The master plan shall address on-site and integration with off-site circulation of pedestrians, bicycles, and vehicles. All types of circulation on and off the site shall be depicted in their various connections throughout the project, and their linkages to the project and adjacent properties.
6. Phases. The master plan shall identify proposed development phases, probable sequence of future phases, estimated dates, and interim uses of the property awaiting development. In addition, the plan shall identify any proposed temporary uses, or locations of uses during construction periods.
7. Density. The master plan shall calculate the proposed residential density for the development, which shall include the number and types of dwelling units.
8. Conceptual Utility Plans. Utility plans should generally address stormwater treatment and detention areas on the site, existing utilities, proposed utilities, and where connections are being made to existing utilities.

C. Design Review Committee. The proposed master plan shall be reviewed by the Design Review Committee and their recommendations must be forwarded to City Council to be consolidated with any other required approvals.

D. Approval. The master plan and development agreement must be approved by the city council after a public hearing. Once approved, the applicant may submit individual site plans for various portions or phases of the master plan, which will provide engineering and design detail, and which will demonstrate consistency with the originally approved master plan and other applicable engineering standards. Individual Site-site plans shall comply with design review requirements in CMC Chapter 18.19-18 Design Review Site Plan Review, and be processed in accordance with that chapter. of this code. It is the intent of this section that site plans shall not be required to reanalyze the environmental and other impacts of the site plan, which were previously analyzed in the master plan and development agreement processes and approved by Council.

DE. Site Construction. Subsequent to approval of a master plan, the property owner must develop and submit construction plans and specifications in substantial conformance to the MXPD master plan, and obtain engineering approval for installation of improvements.

F. Building Permits Required. Approval of a master plan and development agreement does not constitute approval to obtain building permits or begin construction of the project. Building permits shall may be issued only after a site construction plan has been submitted approved in demonstrating compliance with the master plan, development agreement and other applicable city standards, and has been approved by the city.

#### 18.22.070 - Criteria for master plan approval

The following criteria shall be utilized in reviewing a proposed master plan:

- A. Residential Densities and Employment Targets. Unless otherwise provided for in a transition area to mitigate impacts of increasing density, the minimum average density of eight dwelling units per net acre of residentially developed area is required. The maximum average density shall be twenty-four dwelling units per net acre. For employment generating uses, the master plan shall provide an analysis of how many jobs will be produced, the timing of those jobs, and the phasing of the employment and non-employment portions of the proposal. For estimate purposes, the target employment figures shall generally be consistent to the number of jobs produced that would otherwise occur in ~~commercial and industrial~~ the base zoning districts. ~~The, which is typically minimum number of jobs should be no less than~~ six jobs per developable acre

for the nonresidential portion of the project. The city may authorize a development with less than six jobs per developable acre based upon a finding that appropriate measures have been taken to achieve six jobs per developable acre to the extent practicable. "Appropriate measures" may be demonstrated based upon the following:

1. The six jobs per developable acre cannot be achieved due to special circumstances relating to the size, shape, topography, location, or surroundings of the subject property;
  2. The likely resultant jobs per developed acres ratio would not adversely affect the implementation of the comprehensive plan;
  3. The proposed development would not commit or clearly trend the zoning district away from job creation.
- B. **Setback and Height Requirements.** Building setbacks shall be established as part of the master planning process. Setbacks in all future site plans shall be consistent with those established in the master plan. Landscape and setback standards for areas adjacent to residentially zoned property shall meet or exceed those provided for in Table 18.22.080A. The applicant may propose standards that will control development of the future uses that are in addition to, or substitute for, the requirements of this chapter. These may be such things as height limits, setbacks, landscaping requirements, parking requirements, or signage.
- C. **Off-Street Parking and Loading.** Off-street parking and loading shall be provided in accordance with CMC Chapter 18.11 Parking, ~~Table 18.11-1, Table 18.11-2 and Table 18.11-3 of this Code, unless reduced as allowed in this chapter (see subsection 18.22.100-Incentives).~~
- D. **Utilities.** Utilities and other public services sufficient to serve the needs of the proposed development shall be made available, including open spaces, drainage ways, streets, alleys, other public ways, potable water, transit facilities, sanitary sewers, parks, playgrounds, sidewalks, and other improvements that assure safe walking conditions for students who walk to and from school.
- E. **Environmental Impacts.** The probable adverse environmental impacts of the proposed development, together with any practical means of mitigating adverse impacts, have been considered such that the proposal shall not have a probable significant adverse environmental impact upon the quality of the environment, in accordance with CMC Title 16 Environment and RCW Chapter 43.21C.
- F. **Access.** The proposed development shall provide at least two access points (where a mixed-use planned development does not have access to a primary or secondary arterial) that distribute the traffic impacts to adjacent streets in an acceptable manner.
- G. **Professional Preparation.** All plans and specifications required for the development shall be prepared and designed by engineers and/or architects licensed in the State of Washington.
- H. **Engineering Standards.** The proposed development satisfies the standards and criteria as set forth in this chapter and all engineering design standards that are not proposed for modification.
- I. **Design Review.** The proposed development satisfies the standards and criteria as set forth in ~~the Building Design from the~~ Camas Design Review Manual: Gateways, Commercial, Mixed Use and Multi-Family Uses, ~~unless otherwise proposed for modification.~~

#### **18.22.080 - Landscape requirements and buffering standards**

- A. Minimum landscaping or open space, as a percent of gross site area, shall be a minimum of fifteen percent. All landscaping shall comply with the applicable landscape provisions in CMC Chapter 18.13 Landscaping of this code. The entire street frontage will receive street trees/landscaping that will create a unifying effect throughout the area. Tree groupings shall be located for interest and variety. Plantings shall conform to the approved selection list available from the city, if available.
- B. Landscape buffers shall be in compliance with the below referenced table:

**Table 1 - Landscaping Buffering Standards Zoning of Land Abutting Development Site**

Proposed Mix of Uses on Development Site ( <u>this column</u> )	Single-Family		Multifamily		Commercial		Office/ <del>Campus</del>		Industrial	
	Not Separated by a Street	Separated by a Street	Not Separated by a Street	Separated by a Street	Not Separated by a Street	Separated by a Street	Not Separated by a Street	Separated by a Street	Not Separated by a Street	Separated by a Street
<b>Residential Multi-Family</b>	5' L2	5' L1	10' L1	5' L1	10' L3	5' L2	5' L2	10' L2	10' L2 <del>w/and</del> F2 Fence	10' L3
<b>Commercial</b>	10' L3	5' L2	10' L3	5' L1	5' L1	5' L2	5' L2	5' L2	10' L3	10' L2
<b>Industrial</b>	10' L2 <del>w/and</del> F2 Fence	L2	10' L2 <del>and w/</del> F2 Fence	L2	L3	L2	10' L3	L2	5' L2	5' L1
<b>Office, Public facilities, and other uses not listed above Residential Single-Family</b>	5' L1	5' L1	5' L2	10' L1	10' L3	10' L2	10' L2	10' L2	10' L2 <del>w/and</del> F2 Fence	10' L3

C. Landscaping and Screening Design Standards.

1. L1, General Landscaping.

- a. Intent. The L1 standard is intended to be used where distance is the principal means of separating uses or development, and landscaping enhances the area between them. The L1 standard consists principally of groundcover plants; trees and high and low shrubs also are required.
- b. Required Materials. ~~There are two ways to provide trees and shrubs to comply with an L1 standard.~~ Shrubs and trees may be grouped. Groundcover plants, grass lawn, or approved flowers must fully cover the landscaped area not in shrubs and trees.

2. L2, Low Screen.

- a. The standard is applied where a low level of screening sufficiently reduces the impact of a use or development, or where visibility between areas is more important than a greater visual screen.
- b. Required Materials. The L2 standard requires enough low shrubs to form a continuous screen three feet high and ninety-five percent opaque year-round. In addition, one tree is required per thirty lineal feet of landscaped area, or as appropriate to provide a tree canopy over the landscaped area. Groundcover plants must fully cover the remainder of the landscaped area. A ~~three-foot~~42-inch high masonry wall or fence at an F2 standard may be substituted for shrubs, but the trees and groundcover plants are still required.

3. L3, High Screen.

- a. The L3 standard provides physical and visual separation between uses or development principally using screening. It is used where such separation is warranted by a proposed development, notwithstanding loss of direct views.
- b. Required Materials. The L3 standard requires enough high shrubs to form a screen six feet high and ninety-five percent opaque year-round. In addition, one tree is required per thirty lineal feet of landscaped area, or as appropriate to provide a tree canopy over the landscaped area. Groundcover plants must fully cover the remainder of the landscaped area. A six-foot high wall or fence that complies with an F1 or F2 standard may be substituted for shrubs, but the trees and groundcover plants are still required. When applied along street lot lines, the screen or wall is to be placed along the interior side of the landscaped area.

4. Fences.
  - a. F1, Partially Sight-Obscuring Fence.
    - i. Intent. The F1 fence standard provides partial visual separation. The standard is applied where a proposed use or development has little impact, or where visibility between areas is more important than a total visual screen.
    - ii. Required Materials. A fence or wall that complies with the F1 standard shall be six feet high, and at least fifty percent sight-obscuring. Fences may be made of wood, metal, bricks, masonry, or other permanent materials.
  - b. F2, Fully Sight-Obscuring Fence.
    - i. Intent. The F2 fence standard provides visual separation where complete screening is needed to protect abutting uses, and landscaping alone cannot provide that separation.
    - ii. Required Materials. A fence or wall that complies with the F2 standard shall be six feet high, and one hundred percent sight obscuring. Fences may be made of wood, metal, bricks, masonry or other permanent materials.
5. The applicant may provide landscaping and screening that exceeds the standards in this chapter provided:
  - a. A fence or wall (or a combination of a berm and fence or wall), may not exceed a height of six feet above the finished grade at the base of the fence or wall (or at the base of a berm, if combined with one), unless the approval authority finds additional height is necessary to mitigate potential adverse effects of the proposed use, or other uses in the vicinity; and landscaping and screening shall not create vision clearance hazards as provided in CMC Chapter 18.13 Landscaping of this code.
  - b. The Community Development Director may approve use of existing vegetation to fulfill landscaping and screening requirements of this chapter, if that existing landscaping provides at least an equivalent level of screening as the standard required for the development in question.
  - c. Landscaping ~~required areas~~ required for stormwater management purposes may not be used to satisfy the landscaping area requirements of this chapter, unless integrated as a park-like feature of the overall plan (not a fenced area), even though those areas may be inundated by surface water.
  - d. Required landscaping and screening shall be located on the perimeter of a lot or parcel. Required landscaping and screening shall not be located on a public right-of-way or private street easement.

#### **18.22.090 – Reserved Transition design criteria.**

~~In addition to the design standards in this chapter, all developments and uses shall comply with the following transitional design standards:~~

- ~~A. Vehicular accesses should be designed and located so that traffic is not exclusively directed through a nearby neighborhood area;~~
- ~~B. Loading and refuse collection areas should be located away from bordering protected zones. Loading and refuse collection areas shall not be located within a front yard setback;~~
- ~~C. Landscape buffers on proposed projects should comply with those identified in Section 18.22.080 of this chapter.~~

**18.22.100 - Incentives**

A. Parking Reduction. A reduction to the standard parking requirements of CMC Chapter 18.11-Parking, exclusive of ADA parking requirements, may be granted as follows:

1. When the MXPDP implements the following actions in Table 2-Incentives; or

1-2. A twenty percent reduction when the MXPDP includes underground or structured parking. A combination of both (1) and (2) is allowed.

**Table 2 -Incentives**

Action	TIF-Reduction
Construction of <del>direct a meandering</del> walkway connection to <del>an the nearest</del> arterial	1%
Installation of on-site sheltered bus-stop (with current or planned service), or bus stop within ¼ mile of site with adequate walkways, if approved by C-TRAN	1%
Installation of bike lockers	1%
Connection to existing or future regional bike trail	1%
Direct walk/bikeway connection to destination activity (such as a commercial/retail facility, park, school, etc.) if residential development, or to origin activity (such as a residential area) if commercial/retail facility	1% if existing, 2% if constructed
Installation of parking spaces which will become paid parking (by resident or employee) <sup>Note-1</sup>	3%
Installation of preferential carpool/vanpool parking facilities <sup>1</sup>	1%
Total, if all strategies were implemented	10%

**Note:**

~~Automatic reduction for developing within the mixed-use planned development overlay or mixed use zone.~~

## KATE'S CROSSING - MXPDP REVIEW

Melanie Poe

2/17/2014, revised 02/19/2015

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### Chapter 18.22 - MIXED USE PLANNED DEVELOPMENTS (MXPDP)

#### Sections: 6

##### 18.22.010 - Purpose.

The city recognizes that opportunities for employment may be increased through the development of master-planned, mixed-use areas. Consistent with this, the city has created the mixed-use planned development zone (MXPDP) to provide for a mix of compatible light industrial, service, office, retail, and residential uses. Standards for development in the mixed-use planned development zone are intended to achieve a pedestrian friendly, active, and interconnected environment with a diversity of uses.

(Ord. 2515 § 1 (Exh. A (part)), 2008; Ord. 2443 § 3 (Exh. A (part)), 2006)

(Ord. No. 2547, § IX(Exh. F), 5-18-2009)

##### 18.22.020 - Applicability.

The provisions of this chapter shall apply to parcels designated with MXPDP zoning **overlay**.

(Ord. 2515 § 1 (Exh. A (part)), 2008; Ord. 2443 § 3 (Exh. A (part)), 2006)

(Ord. No. 2547, § IX(Exh. F), 5-18-2009)

##### 18.22.030 - Definitions.

In addition to those definitions listed in CMC Chapter 18.03, the following definitions shall also apply to this chapter:

"Development agreement" means a binding agreement between the city and a developer relative to a specific project and piece of property. The agreement may specify and further delineate, and may include, but is not limited to, development standards; vesting; development timelines; uses and use restrictions; integration within or outside of the subject development; construction of transportation, sewer and water facilities; and allocation of capacity for transportation, sewer and water facilities. The agreement shall clearly indicate the mix of uses and shall provide a general phasing schedule, as reviewed and approved by city council, so as to ensure that the commencement of construction of the commercial, industrial, and/or office uses occur within a reasonable time frame of the construction of the overall project.

Amendments to an approved development agreement may only occur with the approval of the city council and the developer or its successor(s).

"Master plan" as used in this chapter a master plan means a proposal for development that describes and illustrates the proposed project's physical layout; its uses; the conceptual location, size and capacity of the urban service infrastructure necessary to serve it; its provision for open spaces, landscaping, trails or other public or common amenities; its proposed building orientation; its internal transportation and pedestrian circulation plan; and the integration of utility, transportation, and pedestrian aspects of the project with surrounding properties.

"Flexible space" means space within a building that can be used as either residential or commercial space (or a combination of both) by virtue of its design and dimensions.

"Site plan" means a detailed drawing to scale, accurately depicting all proposed buildings, parking, landscaping, streets, sidewalks, utility easement, stormwater facilities, wetlands or streams and their buffers, and open space areas.

(Ord. 2515 § 1 (Exh. A (part)), 2008; Ord. 2443 § 3 (Exh. A (part)), 2006)

(Ord. No. 2547, § IX(Exh. F), 5-18-2009; Ord. No. 2612, § I(Exh. A), 2-7-2011)

#### 18.22.040 - Allowed uses.

- A. The mix of uses may include residential, commercial, retail, office, light industrial, public facilities, open space, wetland banks, parks, and schools, in stand alone or in multi-use buildings.
- B. Residential uses are allowed either:
  - 1. In buildings with ground floor retail shops or offices or flexible space below the residential units; or
  - 2. As single-family attached or multifamily units, as provided for in Section 18.22.070(A) of this chapter.
- C. Commercial and retail uses are permitted, but not required, on the ground floor of multi-use buildings throughout this district.
- D. Uses as authorized under CMC Section 18.07.030 Table 1 for Community Commercial and Regional Commercial.

(Ord. 2515 § 1 (Exh. A (part)), 2008; Ord. 2443 § 3 (Exh. A (part)), 2006)

(Ord. No. 2547, § IX(Exh. F), 5-18-2009; Ord. No. 2612, § I(Exh. A), 2-7-2011)

#### 18.22.050 - Required mix of uses.

The master plan must provide a mix of uses. No single use shall comprise less than twenty-five percent of the development area (i.e., residential, commercial, industrial), and no more than fifty percent of the net acreage of the master plan shall be residential that is not otherwise contained within a mixed-use building. The remaining master plan may be a mix of employment uses as allowed in Section 18.22.040 of this chapter. The minimum use percentage shall not apply to public facilities, schools, parks, wetland banks, or open space. (Ord. 2515 § 1 (Exh. A (part)), 2008; Ord. 2443 § 3 (Exh. A (part)), 2006)

(Ord. No. 2547, § IX(Exh. F), 5-18-2009)

#### 18.22.060 - Process.

- A. General. The applicant for a development in the requesting application of the MXPD overlay zone on a proposed development site shall be required to submit a proposed master plan, as defined in Section 18.22.030 of this chapter, and a proposed development agreement as authorized under RCW Chapter 36.70B.

**Note: No other changes were proposed beyond this section of the chapter.**

March 16, 2015

To: City of Camas Planning Commission

From: Lugliani Investment Co. LLC

**RE: COMMENTS AND PROPOSED REVISIONS TO CAMAS MXPD OVERLAY DRAFT CODE**

### **Introduction**

Mixed use codes generally seek to implement smart development that can achieve the following benefits:

- Economic development and improved tax base;
- Revitalization of downtowns, main streets, and neighborhood centers
- Development of needed housing close to jobs and services; and the creation of jobs close to where people live
- Transportation choices and connectivity;
- Walkable communities and, where applicable, transit-supportive development;
- Decreased commuter road congestion;
- Efficient use of existing urban services and facilities, as an alternative to extending new facilities;
- Energy conservation through reduced reliance on the automobile; and
- Public cost savings (over sprawl development patterns).

(Commercial and Mixed Use Development Code Handbook, Oregon TGM Program, accessed 03-14-2015, <http://www.oregon.gov/LCD/docs/publications/commmixedusecode.pdf> )

Keeping these and other mixed use goals in mind, we would like to provide the following comments on the City's Proposed Amendments to MXPD Codes:

### **Comment #1 – Approve addition of multifamily housing as part of MXPD development**

CMC 18.07.030- Table 1 includes a change to allow multifamily development in Community Commercial and Residential Commercial zones as part of an MXPD planned area. This proposed change positively affects the ability of project developers to implement Mixed Use projects, and should be approved. The following sources support the inclusion of multifamily in mixed use projects:

*“Providing the opportunity for mixed-use development is another way to accommodate housing demand and expand the housing choices available. Planned Unit Developments in commercial areas throughout the city will enhance the vitality of these areas by providing neighborhood retail services, a diversity of housing choices, and a link to existing pedestrian corridors in near-by neighborhoods.”*

(Camas 2004 Comprehensive Plan, City of Camas, pg V-4, accessed 03-14-2004, <http://www.cityofcamas.us/images/DOCS/PLANNING/REPORTS/2004compplan.pdf> )



"...mixing certain types of housing into commercial zones can inject life into business districts. Multi-family housing in commercial zones should be allowed as a way for residents to reduce car travel for all daily activities, as well as a prime location for senior housing. Permitting multi-family buildings in a commercial zone allows developers to respond to several markets simultaneously, and broadens their ability to respond to changing market forces".

(Smart Development Code Handbook, Oregon TGM, accessed 03-14-2015,

<http://www.oregon.gov/LCD/TGM/Documents/SmartDevelopmentCodeHandbook%20OCR.pdf>

**Comment #2: Remove or revise limits on residential density; revise limits on use by percentage of acreage**

The City's proposed changes to the MXP code place limits on residential density, and also on residential use by percentage of acreage. These limits on residential use are not found in other Mixed Use codes (see survey below) and should be removed. Other Mixed Use codes actually encourage achieving the highest densities possible in Mixed Use projects in order to maximize compact form and smart growth. The limits in the MXP code hamper development by reducing the economic viability of projects. Limitations on residential components of Mixed Use projects will occur in other forms directly related to site design, such as parking requirements, setbacks and buffers, and will be reviewed at both the Master Plan and Site Plan levels.

The following table shows the differences in these measurements among a sample of Mixed Use codes, of cities under 60,000 in population:

SAMPLE MX CODE COMPARISON	Residential Density	Mix of Uses
City of Camas, WA (18.22)	Min. 8 units, Max. 24 units per net acre	25% min./ 50% max. (residential)
City of Tumwater, WA (18.20)	Min. 14 un/net ac, no Max.	No mix limits
City of Issaquah, WA (18.07.370)	No min or max	No mix limits
City of Tualatin, OR (Chapter 57)	Min. 25, max 50 units per net acre	No mix limits
Oregon City, OR (17.29)	Minimum FAR	No mix limits
City of La Mesa, CA (24.18.040)	For sites greater than 10,000 s.f.: Max. 40 un/ac. For sites less than 10,000 s.f.: Max. 30 un/ac.	No mix limits
City of Gardena, CA (18.19.060.C)	For sites less than ½ acre: Max. 20 un/ac For sites between ½ and 1 acre: Max. 25 un/ac For sites greater than 1 acre: Max. 30 un/ac	No mix limits

*Draft CMC 18.22.070(A): ...The maximum average density shall be twenty-four dwelling units per net acre. Proposed change: Remove maximum density, or increase to 30 units per net acre.*

*Draft CMC 18.22.050: Required Mix of Uses ...No single use shall comprise less than 25% of the development area (i.e. residential, commercial and industrial) and no more than 50% of the net acreage of the master plan shall be residential, including units located on the ground floor of a mixed-use building... Proposed change: Remove maximum percentage required for mix of uses, and maintain minimum percentage of 25% to ensure adequate mix of uses.*

The brief review of sample Mixed Use zones shows that the limits placed on residential uses in the draft MXPDP Overlay zone run counter to the purpose of both incentivizing higher densities in mixed use projects, and by extension, increasing the variety of housing available to employees in west Camas. Office and manufacturing employment opportunities located within the west Camas employment corridor are rebounding and will continue to increase, yet there are limited opportunities for housing in that same area for young professionals and one- or two-person householders (a rising demographic) who want to live near their workplace and also near retail and other amenities. Providing more variety in housing opportunities directly impacts the ability of businesses to attract and retain employees, thus influencing the economic climate in Camas.

**Comment #3: Remove conflict in allowance of vertical mixed use buildings**

The following sections in the proposed MXPDP draft code are in conflict, and should be resolved in favor of allowing vertically mixed use buildings:

*Draft CMC 18.22.040(C): Commercial and retail uses are permitted, but not required, on the ground floor of multi-use buildings throughout the district. No changes proposed*

*Draft CMC 18.22.050: Required Mix of Uses ...No single use shall comprise less than 25% of the development area (i.e. residential, commercial and industrial) and no more than 50% of the net acreage of the master plan shall be residential, including units located on the ground floor of a mixed-use building... Proposed change: Remove maximum residential percentage (as previously proposed) including conflicting language "including units located on the ground floor of a mixed use building".*

**Comment #4: Include shared (joint) parking agreements In Table 2 Incentives for parking reduction**

Shared parking agreements are borne out of locating a mix of uses in close proximity, and result in reduced parking requirements. Reduced parking requirements are viable in a development that provides alternating use requirements (day time and night time activities) and are supported

by the provision of alternative transportation facilities such as pedestrian and bike connections, as well as proximity to transit and work opportunities.

**Table 2 Proposed change: Add "Shared Parking Agreement" under Action column, and "per CMC 18.11.070" under Reduction column.**

**Comment #5: Add Live/Work as a commercial use**

Live-work units can be important components of mixed use developments. These types of units create incubator spaces for emerging businesses and artists, help activate neighborhood streets, and reduce traffic trips. Such spaces also provide transitions between residential and commercial uses, particularly enhancing the pedestrian environment. Both large and small cities, such as Seattle and Sumner, have provided for live-work housing.

(MRSC of Washington, Mixed Use, accessed 03-15-15, <http://mrsc.org/Home/Explore-Topics/Planning/Development-Types-and-Land-Uses/Mixed-Use.aspx> )

The additional of Live/Work units as a use is also important as the emphasis on business activation is the flip side of the intent of the Home Occupation use. Live/Work units focus on the creation and maintenance of the "work" side of the live/work balance, by establishing minimum criteria for maintenance of business uses, whereas Home Occupation codes seek to limit the exposure and activity of the business.

**Proposed change: Add "Live/Work" definition to CMC 18.03.030:**

A live/work unit is defined as a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.

**Proposed change: Add "Live/Work" as a Commercial use in CMC Chapter 18.07.030-  
Table 1 Commercial and Industrial Uses**

Commercial Uses in Commercial and Industrial Zones	NC	DC	CC	RC	MX	BP	L/BP	LI	HI
Live/Work units	X/P <sup>10</sup>	X/P <sup>10</sup>	X/P <sup>10</sup>	X/P <sup>10</sup>	X/P <sup>10</sup>	X	X	X	X

(in addition to notes 1-9) 10. Allowed as approved in a Mixed Use Planned Development (MXPDP) overlay area.

**Proposed change: Add "Live/Work" as an Allowed Use in CMC 18.22.040 Allowed Uses:**

E. Live-work:

a. Professional, administrative, and business uses;

- b. Repair services (excluding auto related repair services);
- c. Retail sales and service;
- d. Studios (art, photography, copywriter, film/video).

**Proposed change: Create Live/Work Standards section as CMC 18.22.110 Live/Work Standards:**

A. Live/work standards: Live/work units and buildings are subject to the following standards:

1. Work on the premises of a live/work unit shall be limited to persons who live in the live/work unit. Living and working spaces shall not be rented or sold separately. The owner/occupant of a live/work unit shall notify the City of any change in use or occupancy. Any change of use or occupancy shall comply with the uses identified in this Section and will require a new Certificate of Occupancy. The commercial square footage initially approved for live-work areas within a unit shall remain commercial in nature and shall not be converted to residential use with subsequent owners.
2. Off-street loading will be accomplished by the temporary use of planned parking spaces, or in parking spaces limiting a vehicle's permitted parking time (e.g., parking stalls designated with twenty minute parking limits).
3. Live/work units and buildings must comply with any requirements imposed by the building, fire, community development, police, and public works departments intended to protect the public health, safety and welfare.
4. An administrative approval or conditional approval of the commercial/work component of the live/work units shall be granted to the owner of the unit. Approvals of commercial uses may not be transferred between units. A copy of all conditions of the approval of the project shall be provided to all future owners/occupants of the building prior to their execution of a lease or purchase agreement for the live/work unit. Project conditions are required to be recorded with the County Recorder's Office prior to exercise of entitlement.
5. Businesses using commercial vehicles are prohibited.



To: Bryan Beel, Chair  
Planning Commission  
From: Staff  
Date: March 17, 2015

## MEMORANDUM

The City received responses to the proposed revisions to the MXPDP Overlay. This memorandum will address a few of the comments raised and provide clarification as necessary. *Lugliani Investments was aware that the City was proposing to bring forward amendments to this Chapter dating back to January 28, 2015 and was asked for input.*

The proposed changes to Chapter 18.22 MXPDP are at the direction of City Council. City Council adopted the 2014 Comprehensive Plan amendments on December 15, 2014, and one of the decisions included, "Development of a mixed use development standards, which could be applied to commercially designated properties". The proposed amendments are consistent with this directive.

Written comments to date include:

- Exhibit 1 - Proposed amendments to the MXPDP zone, which were submitted by Melanie Poe of Landerholm
- Exhibit 2 - Proposed amendments to the MXPDP zone, which were submitted by Lugliani Investments Co. LLC

### **Exhibit 1- Landerholm**

The proposed amendments included clarification that the MXPDP is an overlay zone. The proposed revisions also included adding the term, "Flexible Space", and a definition, which would allow a building to be developed without any uses specified.

**Staff Response:** *The proposed addition of the term "Flexible Space" would conflict with other sections of the chapter, which require specificity in the master plan. Specifically, the current MXPDP code requires that a master plan include (in brief): a description of proposed uses; number of jobs anticipated; hours of operation of the uses; residential density; parking; and transportation impact analysis. The proposed amendments of Exhibit 1 did not provide any assurances within the definition that "flexible space" would provide jobs, or a particular ratio of jobs. The zoning code includes a use similar to the proposed flexible space, which is "Residence accessory to and connected to a business". This use is allowed outright in four commercial zones.*

### **Exhibit 2 - Lugliani Investments**

The following Staff responses will refer to the organized headers within Exhibit 2, namely Comment #1, Comment #2, Comment #3, Comment #4, Comment #5.

Comment 1 (page 1)

This section supports the proposed changes to the use table at CMC§18.07.030-table 1.

**Staff response:** *There are a variety of residential uses already allowed outright in the following commercial zones: Neighborhood Commercial (NC), Downtown Commercial (DC), Community*



Commercial (CC), and Mixed Use (MX) zones. The proposed Staff amendment will allow residential uses in the Regional Commercial (RC) zone, if part of a MXP, which is currently prohibited. The currently allowed residential uses within commercial zones do not require a minimum or maximum residential density. Also, the allowed residential uses do not stipulate a mix of other commercial uses. Exhibit 4 provides a comparison chart of the allowed residential uses in the city's commercial zones and whether a mix of uses is required.

Comment 2 (page 2)

This section states that the proposed code creates limits to residential density. The letter also states that these limits are not found in other mixed use codes.

**Staff Response:** *The proposed amendments to the MXP code did not change or add any limits to the percentage of residential and commercial uses. The standards that are referred to in the letter were already in the code, and Staff did not proposed to amend them. Exhibit 4 provides a comparison of zoning that allows for both commercial and residential uses in the City.*

*Staff is concerned with uncontrolled residential growth, in areas designated for jobs without offsetting the jobs lands in other areas of the City. Staff believes that the standards set under this existing code section are reasonable and achievable to a mixed use project.*

Comment 3 (page 3)

This section states that there is a conflict in the code if a mixed-use building includes ground floor residential.

**Staff Response:** *Staff does not agree that there is a conflict. The request is to not include the area of residential use in mixed use buildings if the residential use is on the ground floor. Staff disagrees that any area should not be included in the calculation.*

Comment 4 (page 3)

This section states that the code should include provisions for shared parking.

**Staff Response:** *Shared parking is already provided for under CMC §18.11.070(F). Also within the MXP code at CMC §18.22.100(A) it provides a reference to the parking reduction standards of Chapter 18.11 Parking.*

Comment 5 (pages 4 and 5)

This section proposes to add a new use to the zoning code---“Live/Work”.

**Staff Response:** *Staff disagrees. A live/work unit can be accommodated through a mixed use building and does not need to be considered solely as a commercial use. The proposal is clearly to build residential unit rather than commercial, and require a separate permitting process to convert the units to commercial at a later date. There is a development on Prune Hill that includes Live/work units, which was approved through a different code. The City later modified the commercial code that allowed residential uses as a conditional use in 2006. These live/work units were required to include ADA access for potential customers, and a main floor plan that is would be suited to an office-type use, all in an effort to provide a level of assurance to the City that there would be commercial uses within the development. However, none of these building are occupied with any use other than residential at this time.*



To: Bryan Beel, Chair  
 Planning Commission

From: Sarah Fox, Senior Planner

Date: March 17, 2015

**A Sample of Mixed Use Codes in our Region**

Jurisdiction	Residential Density	Required Mix of Uses	Optional (Overlay) or Zone
City of Camas MX Code (18.24)	No Min. or Max.	No mix limits	Zone
City of Camas MXP (18.22)	Min 8 D.U./acre to Max. 24 D.U. /acre	25-50% mix of all uses	Zone (not on map)
• <u>Proposed MXP Overlay (18.22)</u>	<i>No change</i>	<i>No change</i>	<u>Overlay</u>
City of Camas NC, DC and CC Zones	No Min. or Max.	No mix limits	Zones
City of Washougal TC (18.35) <i>Pop. 14,580</i>	Ratio required	Floor area ratios 0.5 non-residential 1.0 residential	Zone
City of Centralia C-3 Core (20.24) <i>Pop. 16,600</i>	Ratio required	Min. 25% Commercial Max. 75% Residential	Zone
Bainbridge Island Town Centers (18.06) <i>Pop. 23,190</i>	Ratio required	Floor area ratios 0.3 to 0.6 commercial 0.3 to 1.0 Mixed use 0.3 to 0.5 Residential	Overlay
City of Vancouver MX (20.430.060) <i>Pop. 164,500</i>	Min. 12 D.U./acre and Ratio required	Min. 50% ground floor area of building must be commercial or office use Overall site no less than 20% mix of uses	Overlay and Zone
Clark County, WA MX (40.230.020)	Mix of housing <b>types</b> required Min. 12 D.U./acre to Max. 43 D.U. /acre	Min. 20% of residential and 20% commercial	Zone
Clark County, WA Rural MX (40.250.080)	Min. 1 D.U.	Max 50% residential gross floor area	Overlay

Note: "D.U." means "dwelling unit"

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ROBERT W. O'DELL  
(1924 - 1998)

**MEMORANDUM**

**TO:** Planning Commission Members  
**FROM:** David Schultz, Assistant City Attorney  
**DATE:** March 10, 2015  
**RE:** PRD/Quasi-Judicial Hearing

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Pursuant to Section 18.23.020, a "planned residential development" (hereinafter PRD) means a development constructed on land of at least ten acres in size, designed and consistent with an approved master plan. A PRD is comprised of two components: single-family and multifamily units. The single-family component shall contain only single-family detached residences on lots equal to or greater than four thousand square feet. The multifamily component may contain either attached or detached single-family residences on lots smaller than four thousand square feet, or it may contain, but may not be limited to, duplexes, rowhouses, apartments, and designated manufactured homes, all developed in accordance with Section 18.23.030(A). A PRD is considered an overlay zone and will require that a zone change be processed and approved in conjunction with a PRD application. The conditions of approval relating to the PRD will be adopted as part of the rezone process. CMC 18.23.100 sets forth the standards for approval of a PRD. CMC 18.23.130 sets forth the procedure in which an application for a PRD shall be processed. A public hearing before the planning commission and review by the city council is required for preliminary master plan approval. Final master plan approval is subject to review and acceptance by the city council at a public meeting. Final approval shall be in accordance with the provisions of this chapter.

The purpose chapter 18.23 of the Camas Municipal Code relating to PRDs is "to promote the public health, safety and general welfare of the citizens of the City of Camas in accordance with state law and the city's comprehensive plan; to facilitate the innovative development of land; and to provide for greater flexibility in the development of residential lots in medium and high density districts. A further purpose of this chapter is to allow for the modification of certain regulations when it can be demonstrated that such modification would result in a development which would not increase the density and intensity of land use (except as provided for in Section 18.23.040); would preserve or create features or facilities of benefit to the community such as, but not limited to, open space or active recreational facilities; would be compatible with surrounding development; and would conform to the goals and policies of the City of Camas' comprehensive plan."

A public hearing for consideration of a PRD will be Quasi-Judicial Matter. As such, I have provided the following as a review of the laws associated with Open Public Meeting Act, Municipal Code of Ethics, and Appearance of Fairness Doctrine.



The purpose of the Open Public Meeting Act states: "[t]he Legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices and all other public agencies of this state and divisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberation be conducted today. The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." RCW 42.30.010.

The Municipal Code of Ethics, Chapter 42.23 RCW, provides municipal officers cannot be beneficially interested, directly or indirectly, in any contract which may be made by, through, or under the supervision of such officer. There is a list of exceptions to this general statement, many of which do not apply to cities.

The Appearance of Fairness Doctrine requires that public officials execute their duties with the appearance, as well as the reality, of fairness and impartiality; that they be free of entangling influences; and that their decisions be above reproach. The appearance of fairness doctrine applies only to quasi-judicial proceedings as opposed to legislative proceedings. Quasi-judicial actions are those of a limited scope which determine the legal rights, duties or privileges of specific parties in a hearing or other contested case proceeding. Quasi-judicial actions include conditional use permits, subdivision approvals, planned unit developments, rezones of specific parcels, and other individualized proceedings. Legislative actions are those that have a generalized impact such as adopting an amendment to the text of the zoning code.

The test for an appearance of fairness violation is not whether the decision was in fact impacted by some outside influence, but rather whether it may appear that it could have been improperly influenced. Examples of improper influence include ex parte communications, hostile, rude or antagonistic comments which rise to the level of being biased or impartial, making statements showing that the decision maker has prejudged the merits of a land use action, conducting an independent investigation and then testifying regarding the facts, having a financial, equitable or social interest.

Ex parte contacts are those communications with either an opponent or proponent of a land use proposal that occur outside of the hearing process. They include face to face contacts, and contact by telephone, e-mail, and regular mail. Whenever an ex parte contact has occurred, the affected member should: (1) Disclose the contact at the public hearing, and (2) advise that members of the audience have the right to challenge the member and ask that the member disqualify himself or herself. A decision maker who is challenged must decide on his or her own whether to step down or not. A disqualified member should leave the hearing room.

The following two cases are offered as examples. In *Hayden v. Port Townsend*, 28 Wn. App. 192 (1981), a savings and loan held an option on land. An application was brought before the city to rezone the land to general commercial use. The chairman of the planning commission was a branch manager for the savings and loan association. At the initial hearing, the branch manager presided and spoke in favor of the rezone. The city council, upon advice of the city attorney, remanded based upon an appearance of fairness violation. At the second hearing, the branch manager disqualified himself as chairman, and did not vote in the proceedings. However, he stayed at the hearing and testified in favor of the proposal. At the appellate court level, the court held that an appearance of fairness violation had occurred, and invalidated the rezone approval. The court's ruling basically stands for the proposition that if there is an appearance of fairness problem, then the affected member may not only not vote, but may not participate in any way in the hearing or the decision-making process.

In *Mission Springs v. Spokane*, 134 Wn. 2d 947 (1998), in November of 1991, the City of Spokane approved a planned unit development application from Mission Springs. In October 1994, Mission Springs submitted an application for a grading permit for the planned unit development. By that time, neighboring property owners had organized and hired an attorney to resist the project. They appeared at the city council meeting to fight the project. The city attorney advised the council that the council had no administrative authority with respect to the issuance of grading permits and that the council acted through ordinances and setting policy. The city attorney further advised the council that any interference with the issuance of a building permit when property owner is entitled to that permit gives rise to a claim under state law and federal law. Notwithstanding the advice of the city attorney, the council directed the city manager not to issue the permit. The city and the individual council members were thereafter sued for violation of RCW 64.40, which creates a cause of action for damages from acts of an agency which are arbitrary, capricious, unlawful, or exceed lawful authority, under 42 USC § 1983, which allows a claim for damages when a person acting under color of state law deprives another of a federal constitutional or state created property right without due process. The court ruled that the plaintiffs could proceed with their claims under both RCW 64.40 and under the federal civil rights act. In its ruling, the court noted that the arbitrary or irrational refusal or interference with processing a land use permit violates substantive due process. The council's actions was irrational in that it interjected itself into the administrative process notwithstanding a clear and unequivocal charter mandate to the contrary, and its irrationality was further dramatized by the overt rejection of advice from the city's own attorney.

The lessons to be learned are: (1) Do not base land use decisions upon community displeasure; (2) MYOB; (3) listen to legal advice; and (4) the cities indemnification obligation (CMC 2.76.050) extends only to acts or failures to act which are within the scope of authority and in the course of such officers' or employees' duties and responsibilities, and which are done in good faith and without malice.



## Planning Commission Rules of Procedure for Quasi-Judicial Hearings

**Chair** - Opens **the hearing** with the following:

1. The case number, applicant name, and address of the property;

May use **Opening Statement** document for the following information.

2. Identify that the applicable approval criteria are addressed in the staff report
3. Explain how to testify (name, address, and relevancy to approval criteria)
4. Ask Planning Commission Members of any conflict of interest or ex-parte contacts
5. Ask for any public challenge to the partiality of any member
6. Summarize the sequenced events to be followed at the hearing as follows:

**The hearing begins in the following order:**

1. Staff presentation
2. Applicant presentation

**Chair – Opens the hearing for public testimony:**

1. Proponents (those testifying in support or neutral)
2. Opponents (those testifying in opposition)
3. Applicant rebuttal
4. City staff rebuttal or clarifications
5. Applicant's closing argument

**Chair – Closes the public testimony portion of hearing.**

**Planning Commission deliberates on the case.** They may question staff or the applicant.

- Commissioner proposes a motion.
- Another Commissioner seconds the motion, and then the Chair states the motion to the assembly.
- Chair calls for deliberation and/or discussion of the motion. (NOTE: Discussion must be confined to the motion before the commission).
- Chair calls for a vote on the motion and restates the motion, if there is no further discussion.

**The Chair closes the hearing, (stating "This hearing is now closed.")** upon a motion being passed by a majority of the Planning Commission.

In the event the Chair uses his or/her discretion to accept additional testimony or evidence after the close of the Public Testimony portion of the hearing, the Chair should reopen the Public Testimony portion of the hearing and may limit testimony to a specific issue and timeframe.