CITY OF COLUMBIA, MISSOURI

CITY MANAGER'S OFFICE

TO: Planning and Zoning Commission
FROM: John Glascock, P.E., Deputy City Manager
DATE: November 23, 2016
RE: Unified Development Code – Annexation and Tree Preservation

A potential loophole exists in the proposed Unified Development Code (UDC) whereby land can be cleared immediately prior to annexation with the intent of skirting tree preservation rules and/or stream buffer requirements.

Proposed Section 29-4.5 (c) (1) (x) a. states "No permit for the purpose of allowing redevelopment or subdivision shall be issued for a period of five years unless the provisions of item (b), below, have been met. **Annexed property that was used as a legal agricultural operation within the 3 years prior to annexation shall be exempt from this permitting restriction."**

Under this proposed rule, a property owner can clear the property of trees (including those in what would be stream buffer), claim the agricultural exemption, and then sell the property to a developer who can then ask to be annexed, effectively skirting tree preservation and stream buffer requirements because the property was "...used as a legal agricultural operation with the 3 years prior to annexation...".

An effective way to close this loophole is to place a temporary abeyance on the annexation and/or development of the property that was cleared for a period of 6 years in order to make clearing for agriculture an inefficient way around the rules. The joint City/County Stormwater Task Force in the mid-2000s suggested implementing this provision as part of the effort to ready the City and its partners (the County and University) for the Municipal Separate Storm Sewer System (MS4) permit now required by the federal government.

Boone County developed just such an abeyance rule (See attached.), but has refrained from implementing it until the City implements a similar rule to maintain consistency on this issue and prevent property owners from circumventing tree preservation and stream buffer requirements established to protect water quality of our creeks and streams.

Tree clearing for agricultural purposes is already exempt under state and federal law and needs no explicit exemption in City rules. A property may claim the exemption and clear the trees, but the City has the authority to decide whether, and when, that property is annexed. It is counterproductive to our efforts to meet our MS4 requirements and harmful to our efforts to protect natural resources to accept property that has been cleared of trees prior to annexation simply to avoid tree preservation and/or stream buffer requirements.

We respectfully suggest that this loophole be closed. A simple solution for our new code would be to have language barring from annexation any property subject to a temporary abeyance by the County on development due to tree clearing.

701 E. BROADWAY • P.O. BOX 6015 • COLUMBIA, MISSOURI 65205-6015
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9.3 TEMPORARY ABEYANCE OF DEVELOPMENT APPROVALS AND PERMITS

(1) **Implementation, removal, and exceptions:** The purpose of this section is to provide the criteria for imposing a six year temporary abeyance of development permits or approvals when land is cleared without a land disturbance permit and/or stream buffers are removed. This regulation will apply to all land including land that is currently being used for agricultural purposes. If an agricultural operator or owner of land used for agricultural purposes wants to avoid the temporary abeyance, then he/she may voluntarily apply for a land disturbance permit. If the clearing is done in compliance with the permit then the temporary abeyance will not be imposed. This section also provides standards for the Board of Adjustment to remove a six-year temporary abeyance, and for the director to authorize the construction of one single-family dwelling unit on a site that is subject to a six-year temporary abeyance.

A. **Actions That Result in a Temporary Abeyance.** The following actions shall result in a six-year temporary abeyance being imposed by the Director or his/her designee:

1. Clearing of any land, including land used for agricultural purposes, without a land disturbance permit issued by Boone County (Note: a land disturbance permit is not necessary to clear land for agricultural use except to avoid imposition of the six year temporary abeyance);
2. Removal of vegetation in violation of or in a manner that is inconsistent with the Boone County Stream Buffer Regulations;
3. Removal of vegetation within a stream buffer in a manner that is in conflict with the standards in Boone County Stream Buffer Regulations, on land used for agricultural purposes;

B. **Consequences of a Temporary Abeyance.**

1. Boone County shall suspend review of any application for development of land which is, or becomes, subject to a six-year temporary abeyance.
2. Boone County shall not accept applications for any development of land which is subject to a six-year temporary abeyance.
3. A temporary abeyance imposed by Boone County shall apply to all portions of the lot, tract or parcel on which the clearing activity occurred that is within 1,000 feet of the cleared or disturbed area.

C. **Effective Date of the Temporary Abeyance.** The property owner shall be provided ten business days to request a Pre-imposition Review.

1. If the property owner does not submit a request for Pre-imposition Review the temporary abeyance shall be imposed on the date the 10-day period expires.

2. If the property owner does submit a request for Pre-imposition review and the County Commission decides to impose the temporary abeyance it shall be effective on a date specified by the County Commission.

D. **Notice of Temporary Abeyance and Pre-imposition Review**

1. The Director shall send a Notice of Intent to impose the temporary abeyance to the owner of record as indicated by the records of the Boone County Assessor by Certified and Regular U.S. Mail. Said notice shall include the following:

   (a) The parcel number(s) on which the clearing activity occurred

   (b) The proposed date of imposition of the temporary abeyance

   (c) The deadline for requesting Pre-imposition Review

2. **Pre-imposition Review.** The property owner shall have 10 days from the date of the Notice of Intent to file a request for pre-imposition review. Such request shall be filed with the Director in a form specified by the Director. The Director shall refer the request to the County Commission who shall hold a public hearing on the matter before issuing a final decision whether to impose the temporary abeyance. The County Commission shall render a written decision including Findings of Fact and Conclusions of Law.

(2) **Request for Removal of Temporary abeyance.** A temporary abeyance may be considered for removal by the Board of Adjustment. All applications for removal shall be filed with the Director and after review thereof the Director shall make a recommendation to the Board to grant or deny the request and state the reasons for his/her recommendation. The application shall be on form(s) provided by the Director and shall be accompanied by supporting documentation and a filing fee.

A. The Board of Adjustment shall review all documentation provided by the applicant and the County, any comments received, and applicable county regulations or policies. The members of the Board may inspect the property prior to rendering a decision.

B. The Board of Adjustment may approve an application for a request to remove a temporary abeyance, approve the application with conditions, require modifications of the proposal to comply with specified requirements of local conditions, or deny the application if it fails to comply with requirements of this section.

C. Removal of a temporary abeyance may be approved by the Board of Adjustment if the following findings can be made regarding the proposal and are supported by the record

1. Any required mitigation plan has been completed or the performance thereof has been adequately bonded.
2. Any bonding required as part of a mitigation requirement has been established to county satisfaction.
3. Payment has been made of all other fees, penalties, liens, or taxes owed to the county which have been assigned to the subject parcel including reimbursement of any county expenses incurred relating to enforcement and/or preparation for the waiver hearing.
4. All permit conditions have been addressed.
5. Any environmental damage or alteration resulting from the activity that caused the six-year temporary abeyance to be imposed has been repaired and/or mitigated
6. Neither the applicant nor any person who acted in privity with the applicant:

    (a) Has circumvented any requirement of the Boone County Stormwater, Land Disturbance or Stream Buffer regulations by taking the actions for which the temporary abeyance was imposed; or

    (b) Has engaged in a pattern or practice of violations of any applicable regulations.

(3) **Request for Single-Family Dwelling Exception.** The Director may administratively grant an exception to the mandatory six-year temporary abeyance to allow the construction of one single-family dwelling unit and associated accessory structures pursuant to the following standards:

A. General Requirements.

1. Permitted Area. The area that is permitted to be developed pursuant to this administrative exception shall not exceed 2.5 acres in size unless site and/or well and wastewater constraints require a larger area, in which case the area developed is not to exceed five acres. Access roads shall not be included in the total area permitted to be developed.

2. Upon approval of a single-family dwelling unit exception, a memorandum of agreement (MOA), on forms provided by the Director, shall be recorded with the Boone County Recorder of Deeds by the landowner that includes a site plan depicting the area of the parcel to be dedicated for the single-family dwelling, yard area, permitted accessory structures, and access road. The MOA shall identify the action to be taken by the landowner to correct any violations of county ordinances or regulations. The land owner shall be responsible for the cost of recording the MOA.

3. The temporary abeyance shall remain in effect for the remainder of the site.

B. **Review Criteria.** One single-family dwelling, permitted accessory structures, lawns and landscaped area, and access road may be constructed together with site development activities necessary to construct the dwelling on land subject to a temporary abeyance provided, that:

1. The construction of the single-family dwelling, lawn and landscaping area, accessory structures, and access road are in compliance with all applicable county regulations;

2. The landowner corrects any violations of relevant stormwater, land disturbance or stream buffer requirements if any have occurred on the permitted area;

C. **Required Written Findings and Determinations.** A single-family dwelling unit exception may be approved by the director on a site that is subject to a six-year temporary abeyance only if all of the following findings can be made regarding the proposal and are supported by the record:

1. The single-family exception to the six-year temporary abeyance will not be detrimental to the public health, safety, and general welfare.

2. The single-family exception to the six-year temporary abeyance will not be injurious to the property or improvements adjacent to and in the vicinity of the proposal.

3. The single-family exception to the six-year temporary abeyance will not result in significant adverse environmental impacts.

4. The granting of the single-family exception to the six-year temporary abeyance is consistent with the review criteria in subsection (3)(b) of this section.

5. The single-family exception to the six-year temporary abeyance is consistent and compatible with the goals, objectives, and policies of the Master Plan, appropriate community plan or subarea plan, and the provisions of this section.

D. Six-year temporary abeyance will be administratively removed by the director or his/her designee when it is determined that the abeyance has been attached to an incorrect parcel.

9.4. VARIANCES

(1) **General:** Where undue hardships or practical difficulties may result from strict compliance with this chapter, the developer may file an application for a variance.

November 16, 2016

Prescription/Proscription equals Predictability – Isn't that what the development community, the staff, and the general public want from the new Unified Development Code?

The UDO is about creating a set of land use rules that will help us create a great community, going forward.

We want this new set of land use regulation rules to define what development we want (will allow) and what development we do not want (won't allow) as part of creating a great community.

The development community has long said that what it really wants from any set of land use rules is predictability. "Just tell us what the rules are, upfront and clearly. That is what we really want."

I believe that is what everybody wants. We want good rules that will help create a great community and clear rules that provide predictability.

What kind of rules will provide high predictability? Clear prescriptions expressed in "shall" language and clear proscriptions expressed in "shall not" language.

In recent hearings, members of the development community seem to have shifted from wanting predictability to wanting flexibility. They cannot have both high predictability and lots of flexibility.

We could have relatively high predictability with some clearly defined flexibility by adopting some rules in the following format:

"Shall" or "shall not" "unless applicant shows ....." I would call these "presumptive rules" because they establish a presumption in favor of a prescription or a proscription that can be overcome if an applicant makes a good enough case (define in "unless the applicant shows ...).

Of course, I would ask the applicant to pay extra fees for the additional staff and Council time to review such an application that seeks to overcome a presumption.

I request the Planning and Zoning Commission working with the staff:

1. To use as much prescriptive and proscriptive rules as possible to assure a high level of predictability for the new rules with some use of presumptive rules as I have defined them where more flexibility may be warranted at the expense of high predictability. And
2. To review the work done to date to see where already adopted rules may be reworded using the format that I suggest.

Thank you for your consideration and all your hard work.

Submitted by John G. Clark, 11-16-2016

Patrick Zenner <patrick.zenner@como.gov>

Fwd: You might find looking at the attached to be useful for our UDO

John G. Clark <jgclark@socket.net> Mon, Nov 28, 2016 at 2:06 PM
Reply-To: jgclark@socket.net
To: Patrick Zenner <patrick.zenner@como.gov>

Mr. Zenner,

Please forward the following message with attachments to the members of the Planning and Zoning Commission for their reference while they finish consideration of the UDO.

All the best,

John G. Clark

—
John G. Clark, JD, CPA
Attorney at Law
Specializing in legal and business consulting to tax-exempt organizations
403 N 9th Street
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All,

Missoula, MT updated its 70-year old zoning and subdivision codes in 2013(?) to create land use rules to create a great community and to increase predictability.

Please click through the Table of Contents of both documents. I think you will recognize many of the important components of both. I think you will find both provisions significantly more pre- and pro- scriptive than our proposed UDO.

For example, look at Article 9, Public and Private Improvements, and Article 3, Subdivision Design Standards of the Subdivision Regulations and at Chapter 20.25, Residential Districts, and Chapter 20.25, Overlay Districts, of the Zoning Regulations.

All the best,

John

—
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2 attachments

2000wmanpar.pdf
4302K

TableContents - CitySubReg.pdf
76K

City Subdivision Regulations Contents

CONDITIONAL USES IN A PLANNED ZONING DISTRICT

Dear Commissioners and Planning Staff,

The following explains why I believed that Conditional uses were not allowed in a Planned (PD) District. Start with Page 83. In the Eligibility section it provides the following description.

> *Page 83*
>
> *Eligibility*
> *Any property in the City, except property located in the M-DT zone district, may be rezoned to a PD zone district.*
> *Permitted ~~and Conditional~~ Uses*
> *1. An application for rezoning to a PD district shall identify which of the uses listed in Table 29-3.1 (Permitted Use Table) will be Permitted ~~or Conditional~~ uses in all or specific portions of the PD district.*
> *2. The application may include some of the general uses listed in Table 29-3.1 and state that some of the specific uses included in the definition will not be included in the PD, or that some of the included uses will be subject to different or additional Use-specific Standards than those listed in Section 29-3.3 (Use-specific Standards). If not modified by the PD application, all of the Use specific standards listed in Section 29-3.3 will apply ~~to the listed Permitted and Conditional uses.~~*
> *3. The application for rezoning to a PD district may not include any use that is not listed in Table 29-3.1 (Permitted Use Table). Uses not listed in Table 29-3.1 are only available through an amendment to that Table approved by Council in a separate action.*

Notice that in each instance where the term "Conditional" is used, it has been deleted. The description then instructs users to refer to Table 29-3.1 which is called the "Permitted Use Table". The problem is, the Permitted use table does not just include Permitted Uses – it also includes Conditional Uses. So, at this point, it seems that Conditional uses MIGHT be permitted in a Planned District since they are in the Permitted Use Table, but they are not listed as Permitted in the table – they are Conditional – and that term was stricken from the text.

Now, go to the next page, Page 84, and look at the side note. In Section 3 under Development and Form Standards there is a specific side note (PRZ 49) that to me clearly states that the term Conditional was removed specifically and then states clearly, "No conditional uses are allowed."

> *Page 84*
> *Side note PRZ 49 - Comment [PRZ49]: Removed for simplification. No conditional uses are allowed. (9/16)*

So, how are we to interpret this? Are NO Conditional uses allowed in the PD district? Or, is this section meant to imply that conditional uses CAN be considered for inclusion in a PD district if they are included in the PERMITTED USE TABLE, even if they are not listed as PERMITTED?

This is the part that led to my confusion.

Thank you for your consideration.

Mark Farnen
103 East Brandon
Columbia, MO 65203

October 14, 2016

TO: The Members of the Planning & Zoning Commission of the City of Columbia, Missouri
Department of Planning & Community Development
Timothy Teddy, Director
Patrick Zenner, Manager, Development Services
City of Columbia, Missouri
PO Box 6015
Columbia, MO 65205-6015

RE: PLANNING & ZONING PUBLIC HEARING ON THE UNIFIED DEVELOPMENT ORDINANCE

Dear Commissioners and City Staff Members,

I have been reviewing the most recent draft of the UDO and have noted many changes and clarifications to the document that was issued on September 27 as compared to the earlier May version. I have also reviewed the companion Administrative Manual that was issued simultaneously as well as the map that corresponds to the M-DT Regulating Plan. It is clear that an enormous amount of time and effort has gone into crafting this current version of the draft zoning proposal, and from personal experience, I know that it was not created without debate and input from many sides. I have nothing but respect for the work that has been accomplished so far.

Now it is time to roll this out to the public and make recommendations about the individual components of this wide-ranging code that will affect the citizens of Columbia for years to come. I am aware of the general plan that has been proposed for review of and comment on the UDO during the scheduled P&Z meeting on October 20. I am convinced that this document and its related materials, including the administrative manual, the map, the issues spreadsheet and input from various citizens and groups cannot be reasonably presented and understood in a single marathon session.

I know that the P&Z Commissioners, after numerous work sessions, have a fairly good understanding of most elements of this document. I know that city staff members, on many levels, have analyzed this document for months and have put together this latest iteration of a new zoning code. But, after having put in substantial time myself in an effort to follow this process and the content of the new UDO, I believe that most people are unaware of the contents of this code as proposed, and are even more unaware of how the various parts of the code will potentially affect them on a practical level.

This most recent draft of the code was made available to the general public on September 27. That means that as of today, citizens have had about two weeks, not a month as was originally envisioned, to read the document, along with the related support materials and try to form an opinion about it in its entirety without the luxury of having anyone who could explain the nuances and implications of the various components as it was being read. I think it is a stretch to expect that anyone could absorb this kind of detail in a meaningful way and be expected to provide constructive input on the entire document unless those individuals were only focused on one small part of the code. But, the code has a lot of moving parts, and frankly, I believe that the devil is in the details, or the lack thereof, on these kinds of proposals and that the next step in this extraordinary process should be one of explanation and articulation rather than the solicitation of opinion.

The Planning & Zoning Commission did not consider this document without sufficient explanation and counsel. P&Z had six sessions lasting 2 hours each and 15 additional work sessions lasting between half an hour and two-and-a-half hours each in an effort to understand this document, and at each step had professional staff available to answer questions about the material being considered. The commission benefitted from this high level of exposure to this complex set of issues. I realize that each of those sessions was public and that any citizen could have attended any or all of them – and I do not expect that this intensive level of review will be replicated for the benefit of citizens at-large. But, I do believe that the next first step in this process should be one that allows people who have read the document – or parts of it – to ask questions before they are expected to present testimony on behalf of or in opposition to any aspect of this new code.

Why not break out this next phase of code adoption into a series of meetings, much like was done throughout the summer when the first updated draft was introduced, and specify some amount of time that will be devoted to the code at each? You could use the same general outline for presentation where the staff provides a detailed overview, the commission asks preliminary questions, citizens get to ask questions, and the commission gets to formulate amendments or revisions without taking a vote on any of the individual proposals. But, set a limit – maybe four hours for meeting number one and see how far you get. Then, in hour five, take up the rest of the business that is on the agenda for subdivisions or platting and go home for the night.

During the interim period of time you could refine and perfect any amendments and even have a commission work session if something really new came up at meeting number one. You could also send a memo to any boards or commissions that still have recommendations to make and let them know that you expect their input now, not later. Then, do it again. Have a second meeting, indicate that you would like for it to last no more than four hours, finish the presentation to the public, allow questions or input, offer amendments, lay them aside for the evening, then complete the rest of the regular business for the night.

Then, hold one final public hearing. Publish the amendments that will be considered in advance and let people give testimony on those items that they find to be of most interest. The staff will have answered questions about the current draft in a public forum. The commission will have had time to digest public input and craft appropriate amendments. And, additional changes to the document will have been made available for consideration prior to a final vote. That's pretty good government. I have always believed that it is the responsibility of government not only to lead, but to educate – and this process would achieve both goals.

I think it is unrealistic to expect that people will be at their best if confronted with the possibility of enduring a meeting that could last from 6 to 8 hours and that would leave them potentially feeling that something was adopted that seemed last minute or surprising. I know that there could be objections to this concept on the basis that P&Z has already taken too long to render a recommendation on this code, but I do not believe that there is an absolute time or date for its adoption. If that were true, we would have passed this UDO by December 31 of last year or held these hearings on August 18 of this year, both of which were identified earlier in the process as drop dead dates for adoption.

As a commission, you are entitled to do the work entrusted to you to the best of your ability and are entitled to take such time as is needed. You do something similar by taking additional time for consideration at every commission meeting where an item is tabled in an effort to make the proposal better. I am convinced that some process such as I have proposed would result in a better overall

product with more public buy-in. And, even with the additional meetings, you could still finish your work by the end of the year and let the council begin its process of evaluation at the beginning of 2017.

I appreciate your consideration of these ideas and reiterate my respect for the work that both the commission and staff have provided so far in this difficult process.

Thank you.

Mark Farnen
103 East Brandon
Columbia, MO 65203

Patrick Zenner <patrick.zenner@como.gov>

UDO letter to add to packet for 10-20-16 P & Z meeting

Paul Hinshaw <phinshaw@socket.net> Fri, Oct 14, 2016 at 11:07 AM
To: timothy.teddy@como.gov, patrick.zenner@como.gov

To: City of Columbia Planning and Zoning Commissioners

Dear Commissioners:

With the time I can afford, I have been trying to understand and become informed with the UDO.

There is much information to this form based zoning that is contradictory and confusing.

If this zoning is passed now with the contradictions, and allowed to be interpreted by inspectors or staff as issues come up, the zoning regulations and the intent as understood or interpreted at this point, could drastically change from the current intent, or be interpreted differently at different times by or for different people or applications.

Bottom line, this ordinance is not ready to be voted on or implemented.

Thank you for your consideration.

Respectfully,

Paul HInshaw

Leeper Comments

29-4.10 Sign Standards

(d) Regulations Based on Use and Area

(1) Residential Use Signs, table 4.10-1 – **Sale/Rent signs for Residences**

- Maximum Area of Sale/Rent signs for Single- or Two-Family and Multiple-Family should be increased from 4 sq ft to **7.5 sq ft**.
- This will allow for a main panel identifying the brokerage and 2 to 3 sign riders providing listing agent name & contact information as well as property information, such as open house dates, website links, price information, information specific to the house.

Rational:

- Columbia's current sign standard allows for a maximum 4 sq ft which is 576 sq inches.
  - RE/MAX: 18" x 30" = 540 sq inches – no allowance for sign riders
  - House of Brokers: 30" x 24" = 720 sq inches less 144 sq inches for triangle top = 576 sq inches with no allowance for sign rider
  - Berkshire Hathaway: 30" x 24" = 720 sq inches – exceeds current std. less 10% for shape = 648 sq inches – exceeds current std.
  - Weichert & Century 21: 18" x 24" = 432 sq inches – would allow for one sign rider
  - Reece & Nichols: 28" x 18" = 504 sq inches – no allowance for sign riders
- Most brokerage sign standards allow for two sign riders – one above and one below the main panel.
- Some sign frames (or hanging posts) allow for two sign riders below the main panel in addition to the one rider above.
- Sign riders are typically 6" tall by the width of the sign.
- Each rider will add another 0.75 to 1.25 sq ft to the overall sign area, depending upon the size of the panel
- The sign riders are used to provide contact information for the listing agent and additional property information useful to home buyers
- Missouri Real Estate Commission (MREC) rules require that an MREC registered brokerage phone number be used in all advertisements. A second phone number specific to the listing agent can be advertised, if the brokerage number is also displayed.
- Most local real estate brokerages (except for RE/MAX Boone Realty) do not register individual agent's phone numbers with MREC. Some brokerages (i.e. House of Brokers Inc.) specify that the main panel only contain the brokerages main phone number.
- Without the use of sign riders, most listings would lack identification of the listing agent

(1) Residential Use Signs, table 4.10-1 —**Sale/Rent Signs for Land**

- Maximum Area of Sale/Rent signs for lots greater than 1 acre should be increased from the current sliding scale to **32 sq ft**—regardless of acreage.
- Maximum Area of Sale/Rent signs for lots less than 1 acre size should be increased from the current std of 12 sq ft to **16 sq ft**. To allow the use of standard commercial signs.
- Standard Commercial signs come in two sizes, 4' x 4' and 4' x 8'
- The current standard of 12 sq ft maximum on small acreage requires a custom 3' x 4' sign.
- Creating a custom sign adds time and cost to the sale of the property.

Leeper Comments

Franchise/ Company	Preferred Panel	Alternate Options	Standard Rider	Luxury Home Panel	Luxury Home Rider	Commercial Small	Commercial Large
RE/MAX	18" x 30"		6" x 30" *	30" x 24" or 30" x 22" scalloped	6" x 24" or 7" x 22" scalloped	Square 4' x 4'	Rectangle 4' x 8'
House of Brokers	30" x 24" custom irr. pentagon-shaped	n/a	6" x 24"	n/a	n/a		
Weichert	18" x 24"	24" x 24" 24" x 36" house-shaped 30" x 24"	6" x 24"				
Century 21	18" x 24"	24" x 24" 26" x 24" roof-top shape 30" x 24" 24" x 36"	6" x 24"	30" x 24"	6" x 24"	4' x 4'	
Reece & Nichols	28" x 18"		6" x 18"				
Berkshire Hathaway	30" x 24" dome-shaped	30" x 24"	6" x 24"				

*RE/MAX Corporate sign standard calls for 4" x 30" riders, but sign companies only offer 6" tall riders – for consistency with other brokerages

Sign standards for RE/MAX provided by corporate style guide. Sign standards for other brokerages determined by survey of 3 leading real estate sign vendors – Lowen Signs, Oakley Signs, and Dee Signs.

Jim Meyer Comments - Chapters-29-1-29-29-3-5-14-16
Summary of Comments on Microsoft Word - Draft Unified Development Code with public-staff comments (5-14-16)

Page: 10

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:25:59 PM
Chapter 29-1.2:
The Columbia Imagined Comprehensive Plan for the City was not a binding document with the force of law at the time that it was created. A small group of activists should not be allowed to impose on the property rights of other citizens.

Page: 13

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:33:54 PM
Chapter 29-1.8(a):
The provisions of this ordinance greatly exceed the minimum requirements for the promotion of health, safety and general welfare. They in fact take shocking liberties with private property rights for no defensible reason.

Page: 15

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:33:34 PM
Chapter 29-1.11(f):
The word "conforming" is probably intended here.

Page: 67

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:34:42 PM

Chapter 29-2.2(a)(1) footnote 269:
It is illegitimate to write the goals of this planning process into ordinance. The planning process was not understood to be binding regulation when the process was undertaken. The participants were not representative of property owners generally. A coterie of politically active citizens should not be able to impose on land owner's property rights in this way.

Page: 71

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:39:29 PM

Chapter 29-2.2(a)(3) Table 29-2-4:
Minimum Lot Area = Multi-Family
The 1500 s.q. foot R-4 standard should be maintained.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:40:28 PM
Chapter 29-2.2(a)(3) Table 29-2-4:
Maximum height of primary residential building
Should not be reduced from 45' allowed in previous R-4.

Page: 75

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:42:38 PM
Chapter 29-2.2(a)(4) item 8
should be minimum of one, so that the owner could provide more than one if so

desired.

Page: 79

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:46:30 PM Chapter 29-2.2(b)(2) Table 29-2-7 maximum height of primary building should be 45 feet. Why less than in M-OF?

Page: 82

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:47:56 PM Chapter 29-2.2(3) Table 29-2-8: Transit district is an unworkable concept. Neither the Board of Adjustment nor any other body can predict public transit ridership, therefore this decision is completely arbitrary. The Transit standards in this table should apply uniformly across the M-C district and the Current column should be deleted.

Page: 85

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:52:13 PM
Chapter 29-2.2(4) Purpose:
These are illegitimate goals as they do not relate to public health, public safety or public welfare.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:49:51 PM
Chapter 29-2.2(4) Purpose:
The area is not primarily pedestrian in character. There is a mixture of automobile and pedestrian traffic.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:53:58 PM
Chapter 29-2.2(b)(4) Additional Regulations:
Section 29-4.2 should be deleted as it does not relate to public health, public safety or public welfare.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:56:25 PM
Chapter 29-2.2(b)(5) Table 29-2-10:
maximum height of primary building - 45 feet is too low, change to 75'.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:58:15 PM
Chapter 29-2.2(b)(5)3.:
Private streets in industrial areas should not require sidewalks.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 4:59:58 PM
Chapter 29-2.2(c)(2) Other Standards #2:
Delete this standard. 2.5 acre minimum lot size already prevents fragmentation.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:01:48 PM
Chapter 29-2.3(a)(4)(i):

The City Council should not be able to restrict the property rights of unwilling land owners on its own initiative. Neighborhood organizations should not be able to restrict the property rights of unwilling landowners on their own initiative.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:02:48 PM
Chapter 29-2.3(a)(4)(i):
This petition process would be the only minimally legitimate process for initiating one of these districts.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:04:13 PM
Chapter 29-2.3(b) SR-O:
This entire SR-O concept should be abandoned. These restrictions bear no relationship to the public health, public safety or public welfare.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:06:08 PM
Chapter 29-2.3(c)(3)(ix):
Properties should not be so nominated by anyone other than the landowner.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:07:14 PM

Chapter 29-2.3(c)(3)(xi):

Landowners should not be prevented from altering or demolishing their own property. This is an abuse of power and should be stricken.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:08:04 PM

Chapter 29-2.3(c)(3)(xiii):

This is illegitimate and no such power on the part of the commission or the director should exist.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:08:33 PM
Chapter 29-2.3(c)(3)(xiv):
Not needed as the underlying power to issue such certificates is fundamentally illegitimate.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:09:43 PM
Chapter 29-2.3(c)(8):
Delete this section as this requirement is not legitimate.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:10:53 PM

Chapter 29-2.3(c)(9):

Delete this section as this requirement is not legitimate.

Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:11:26 PM

Chapter 29-2.3(c)(10):
Delete this section as this requirement is not legitimate.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:12:35 PM
Chapter 29-2.3(c)(12):
Delete this section as it is not needed once the Certificate of Appropriateness requirement is recognized as illegitimate and properly deleted.

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Author: Jim Meyer Subject: Sticky Note Date: 7/25/2016 5:19:58 PM
Chapter 29-3.3(d)(1) through (7):
Delete all of these sections. The city has no business regulating the appearance of private structures. This bears no relationship to protecting public health, public safety or public welfare.

Teeple Comments 10-18-16

Unified Development Code – Public Hearing Draft – September 2016

The two largest issues I see are:

(1) Accessory uses in residential districts. The relation to the area of the structure is arbitrary and does not reflect reality. Gardening is an accessory use, parking, tennis courts, basketball courts, pools, sheds, detached garages, shops, etc. If you are limited to the accessory of your house to your house square footage, your lot should be no more than twice the size of your house.
(2) The landscaping portion is a gross overreach and imposes tons of more restrictive, baseless requirements and borders on tyranny. An egregious example of this is that your stream buffer area cannot count towards tree preservation. Are the trees being preserved or not? There are many other requirements that cannot count towards other requirements which is nonsense. Requiring street trees every 40'. We apparently already have a large issue with street tree maintenance. Does Public Works or homeowners want them there? Cutting down three trees is logging?

On to the details:

29-1.2 – Purpose: The stormwater requirements have been removed from the ordinance and should be removed from the purpose.

29-1.3 – Jursidiction: Should we clarify that we don't have jurisdiction over the county, state, or federal government?

29-1.5(3) – We can't tell the recorder what to file or not.

29-1.11 - Definitions:

Artisan Industry – They can't sell any goods produced off-site? This is too restrictive.

Climax Forest – Remove "but not limited to"

Fall Zone – remove "hypothetical"

Impervious Surface – some gravel surfaces are not impervious, maybe this is covered with "that prevent percolation . . ."

Logging – Restore previous definition that logging is for the commercial removal of trees to sell to a mill, stave factory, etc. What is a qualifying existing tree?

Net Developable Acreage – What is this used for?

Required Building Line – This is very difficult to determine based off the map and details provided. Is it simply the property line?

Teeple Comments 10-18-16

Right-of-way – This definition seems to confuse an easement with right of way.

Tree, Significant – We don't need to regulate these.

Wetlands – There are no wetlands in the City.

Yard – the graphic depicts the yard as if it is based on the structure, not the dimensioned setbacks from the property lines.

29-2.3(Q) – This should be removed as it is addressed per our stormwater ordinance, not particular to one overlay that has no rational nexus to stormwater.

29-3.3(d)(1) I can't figure out what these paragraphs are trying to tell me. Building aesthetics should be left up to an architect.

29-3.3(2) – Entryway design – Do we have a problem with entryways?

29-3.3(3) – Roof Articulation – this is a bad idea to try to regulate this. We need to leave it up to architects and engineers.

29-3.3(4) – All Sided Design – This will result in the materials on the back of the buildings you don't want to see migrating to the front of the buildings, not vice-versa.

29-3.3(5) – Parking Garages and Carports – Why can't you have a parking lot in front of your building? Why are we restricting where garages and carports can go?

29-3.3(6) – This is regulated by Fair Housing and should be removed.

29-3.3(7)(iii) – So we want architectural features, just not where the neighbors can see them?

29-3.3(7)(iv) – This will not work for smaller projects. We don't want the neighbors to see the buildings, cars, tennis courts, etc? What do we want them to be able to see? Isn't that why we have an extensive landscaping and screening section?

29-3.3(10)(y) – Outdoor recreation – What about private golf courses as apartment amenities? We have several currently.

29-3.3(10)(z)(2) – Instead of any residential zoning district limit this to R-1 and R-2.

29-3.3(10)(aa) – Retail, general – Why are we limiting the size of the retail spaces? Leave this up to the market. Look how successful Cherry Hill has been.

29-3.3(10)(ff)(1) – Vehicle Wrecking – remove "sufficient to block all views of stored or stacked vehicles . . ." The requirement for a 10' fence should be sufficient and easy to regulate.

29-3.3(10)(ii) – Accessory uses (R1 & R2) – The accessory use should not be limited other than the use in the required yard areas. What if I want a tennis court, pool, garden, garage, etc? We

have numerous large lots that have these uses already. If I am an avid gardener, why shouldn't I be able to use my property? If I am an avid car collector, why shouldn't I be allowed as large a garage as will fit? This would be a nightmare to try to regulate. We can't have paved patios in the front yard or a basketball court? Is this really a problem for lots large enough to accommodate these amenities?

29-3.3(10)(ii) – Accessory uses (R-MF) – 500 sf is a very small area for any accessory use. We should allow larger areas and allow the sale of age restricted products. Why not allow a bar on site so residents don't have to drive elsewhere?

29-3.3(10)(kk) – Home Occupation – Remove "The use shall not use commercial or business vehicles to deliver finished products from the dwelling unit." This is untenable. The toxic, explosive, flammable, etc is covered by other codes and elsewhere and almost anything made involves these items in one way or another.

29-3.3(10)(mm)(4) – Vehicles with gross weight exceeding (1) ton – is every vehicle. The 12,000 pounds may exclude RV's, should specifically allow them.

29-4.2(c)(2)(i)(A) – Blocks – Our blocks are already too small, we don't need any more alleys.

29-4.2(d)(2)- Facades – This should be left up to licensed architects, not relegated to bureaucrats. I always hear how pretty our downtown is due to the variety of the buildings. This was not achieved by a careful plan of bureaucrats but by spontaneous order.

29-4.2(d)(4)(i) – Neighborhood Transitions – The setback for a building should not be determined based on what the neighbor is using his building for. If the neighbor wants a house, they know the zoning and can set back their building. The rights of the property owner shouldn't be affected by how someone else chooses to use their property.

29-4.29(d)(6)(vii) – Why are we requiring a 25' setback? Where would this occur downtown?

29-4.2(d)(9)(iii) – Again is the required building line not the lot line? What is the required building line?

29-4.2(e)(1)(iii)(B)1)(ii) Is this first floor only? We can't have office buildings?

29-4.2(e)(1)(iii)(B)1)(v) What is the purpose in this? What does it mean?

29-4.2(e)(1)(iii)(B)2) What is the required private or public open area? Why is it required?

29-4.2(e)(1)(iv)(A)3)(iii) – Are we really going to regulate people's blinds?

29-4.2(e)(3)(ii) – Figure 4.2-15 – The requirement for the 3' floor height was removed but the figure still reflects this.

29-4.2(e)(3)(iii)(C) – Garage and parking – If the garage doors and entries are not permitted on the façade, where would they be placed?

29-4.2(e)(3)(iv)(B) – Vertical façade composition – What does this mean?

29-4.3(b) – Avoidance of Sensitive Areas – Do we really have these? If so, shouldn't they have already been identified and mapped (like we have mapped flood plains)?

29-4.4(a)(2)(i)(B) – I think the words "parking within" are missing.

29-4.4(a)(3)(i) – This needs reworded to make it clear. "Behind the building front" is confusing.

29-4.4(f)(1)(v) – Location of parking facilities – The 30% or 500 square feet is not adequate for smaller lots with two or three car garages. Suggest removing the provision entirely.

29-4.5(b)(1)(vi) – Is changing 2.5 spaces significant? We see projects that want to bring parking into ADA compliance. Should not require landscaping the whole parking lot. Suggest removing provision in its entirety and focusing on larger issues.

29-4.5(c)(1) – Why should the landscaping plan be on its own sheet? What is an international certified arborist and why would they have any landscaping accreditation? We should promulgate the rules of the state and limit it to registered design professionals including landscape architects.

29-4.5(c)(1)(i)d. We don't need tree preservation on a common lot. The stream buffer and tree preservation are two separate requirements. Why penalize people when they overlap? The required amount of trees will be preserved. Why limit the number of tree preservation areas? Wouldn't more distributed areas provide a better project rather than all of the woods in one corner be left?

29-4.5(c)(1)(ix) Why does an aerial photograph need to be prepared?

29-4.5(c)(1)(x) Land not in the City is not subject to the rules and regulations of the City nor should the property owner be held to those rules. If the City doesn't want to annex the land, fine, but to say you will annex it but can't use your property is tyrannical.

29-4.5(c)(2)(ii) – Minimum required landscaping – There should be a maximum amount of landscaping, say 1 acre. Buffers and screening would still be required, but then on large sites they would not be required to do large and unnecessary landscaping.

29-4.5(c)(7)(ii) – Plant material spacing – Why can't plants be placed closer than four feet from property line?

29-4.5(c)(8) – Snow Storage Areas – Are these required somewhere?

29-4.5(d)(i) – Street Frontage Landscaping – Change back to 15'

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29-4.5(d)(ii) – Street Trees – remove in its entirety. Nothing but problems. If retained, why would the street trees not count towards other compliance?

29-4.5(d)(iv) – Attached or detached residents – Why would we require homeowners to build a fence if they don't want one? Is the traffic seeing their back yards an issue?

29-4.5(e)(3)(ii) – Screen location and design – We should allow aluminum, steel, metal, plastic, etc.

29-4.5(f)(1) – Parking Area landscaping – Reduce to 5% (1 spot in 20 vs. 1 in 10)

29-4.5(f)(2) – Remove this section. This should be left up to the site engineer.

29-4.5(f)(4) – State that existing paved areas being restriped, resurfaced, or maintained shall not require any additional landscaping.

29-4.5(g)(2) – Credit for preserving significant trees – I am opposed to this entire provision. We should not be trying to regulate large trees, and if one does die, the provisions for replacement are ludicrous. Who could possible keep track of all of this? I don't see that we have an issue with trees in this town.

29-4.5(i) – Clearing of trees – A land disturbance permit should not be required for removing trees. If they intend to bulldoze the area, then a land disturbance permit would be required. This section should be removed in its entirety as it is covered by the land preservation ordinance. Trees are private property and this section constitutes a taking under the US Constitution.

29-4.8(c) and 29-4.8(e) – Building height and screening and parking and loading – In 29-4.8(c) we don't want the building near the lot lines, and in 29-4.8(e) we don't want the drive there either. Isn't this the reason we have screening requirements? I think both provisions should be removed.

29-4.10((a)(2)(ii) – Landscape maintenance – Shouldn't the trees that didn't survive be replaced on a 1:1 basis? Why all this talk about DBH? Keep it simple.

p. 382 Design standards: Change Street Width table to reflect street standards amendment.

p. 382 – (b) – In low density . . . remove this section about estate lanes, no longer applicable.

p. 386 – Street trees – the area of the grates are too large for the sidewalks.

p. 389 –(6) Pedestrian Pathway – I couldn't figure out what this was referring to.

p. 391-394 – I am still not clear where these downtown standards are applicable and whether the Dooryard is in the ROW or taken from private property. The DT Broadway appears to incorrectly state an 85' ROW where there is a 100' ROW. I really don't think these standards will work downtown unless all on-street parking is removed.