

MEMORANDUM

TO: Tim Teddy, Community Development Director, Columbia, Missouri
 FROM: Don Elliott, FAICP, Director
 DATE: November 16, 2015
 RE: Response to Concerns Raised About Integrated Draft of Development Code

As Clarion Associates and Ferrell Madden have worked to assemble the new Columbia Development Code over the past two years, we have attempted to respond to many comments raised by reviewers of the draft Code modules. Footnotes to the Integrated Draft of the Code indicate where many of those changes have been made. However, during our last visit to Columbia earlier this month it became clear that some of the comments provided to the Clarion team may not have received adequate responses, and that some changes to the Draft Code may be reasonable in light of those comments. In addition, additional comments and requests for changes were made during the course of our latest round of public and stakeholder meetings.

This memo responds to those concerns and indicates whether Clarion Associates thinks changes to the Integrated Draft of the Development Code should be made based on those concerns. We also clarify those instances where we disagree with the comment or we believe no changes to the draft Code are necessary.

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1. Eliminate concept of future alleyways in M-DT.	We agree that the few future alleys noted on the Regulating Plan are not an essential element of the M-DT and could be deleted. However, we recommend that Columbia not vacate existing alleys. Properties without alley access will need to conduct loading operations from the street, and street obstructions from truck loading operations was a source of concern in early stakeholder meetings.
2. Allow passenger vehicle rental with outside parking in M-DT.	We agree that use-specific standard (dd) – requiring all vehicle sales and rental to be in enclosed buildings -- can be deleted. However, any outdoor vehicle areas on any site will be required to be on portions of the site not required to be occupied by a building (i.e. not along any portion of the site with a Required Building Line).
3. Enlarge maximum ground floor footprint to at least 40,000 square feet to accommodate half-block developments in M-DT.	We agree that the current 25,000 sq. ft. maximum can be increased, but since a half-block development is approximately 34,000 sq. ft., we recommend that figure be used. Note that parking

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	structures are not subject to this maximum.
4. In the M-DT district, designate areas along Providence and northwest of Fifth and the half-block between Walnut and Broadway as Urban Genera-West frontage type because they are unlikely to be pedestrian areas in the foreseeable future and are more in character with areas west of Providence.	No change recommended. The designation of frontage type areas were the subject of significant discussion among staff and the consultant team, and the current designations reflect future potential to contribute to a walkable, urban downtown Columbia. However, staff is considering moving the Required Building Line (RBL) along Providence a few feet further from that right-of-way to allow additional landscaping, and we agree that change can be made.
5. In the M-DT district, eliminate or reduce the 15% Private Open Area requirement, especially on small lots where it is impractical.	We agree that lots narrower than 25 ft. could be exempt from this requirement.
6. In the M-DT district, loosen parking setback requirements to apply only to the ground story of a parking structure.	No change recommended along 9 th Street and Broadway. Along other streets, the parking setback can be revised to apply to the first floor only.
7. In the M-DT district, eliminate street wall requirements and instead recommend suggestions within the downtown area Voluntary Design Guidelines criteria.	No change recommended. The street wall requirements are at the very heart of form-based zoning, and weakening this requirement would significantly the effectiveness of the M-DT district. Relief from these requirements can be obtained from the ZBA under Section 29-5.4(e).
8. In the M-DT district, allow creative alternatives to windows (such as public art, murals, etc. to meet fenestration requirements.	No change recommended, but relief from this requirements can be obtained from the ZBA under Section 29-5.4(e).
9. In the M-DT district, reduce light transmission requirement from 90% to more workable 70%.	We agree this change can be made.
10. In the M-DT district, remove requirement to provide a functional door at each bay.	The text can be revised to clarify that the requirement is intended to require that each Façade Composition contain at least one functioning entryway, not that each bay within each Composition have a functioning entry. Relief from this requirement can be obtained from the ZBA under Section 29-5.4(e).
11. In the M-DT district, remove requirement to build ground floor residential units at least three feet above grade, which is out of character with downtown and creates ADA compliance issues.	We agree this change can be made.
12. In the M-DT district, remove requirement for roofing above balconies and front porches.	We agree this change can be made for balconies, but suggest it not be made for porches.
13. Allow 10 story structures in all of the M-DT district.	No change recommended. However, the current C-2 interim ordinance process for approving buildings taller than 10 stories in the 10 story maximum height area of the Regulating Plan can be carried over to the Development Code.
14. In the M-DT and M-C districts, in buildings	No change recommended. The M-DT and M-C

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originally designed for industrial use, allow substitution of a new industrial use for an existing industrial use.	districts already allow some types of industrial uses, including Artisan Industry, Bakery, and Heavy Commercial Services (which includes the current C-2 uses of lumber yards, newspaper publishing plants, and commercial laundries) as permitted uses. Although general light and heavy industrial uses are not permitted (i.e. the light and heavy industrial are nonconforming uses), the provisions of Section 29-5.5(a)(1)(D) allow the substitution of one non-conforming use for another if it has fewer negative impacts on the surrounding areas. We do not believe the ability to substitute industrial uses with greater impacts is in the best interest of downtown.
15. In the M-DT district, allow for ground floor industrial uses in addition to residential, commercial, and institutional uses.	We agree that this change can be made, provided the industrial uses are limited to those permitted or conditionally permitted as shown in the Permitted Use Table. As a practical matter, the uses in the Permitted Use Table need to be allowed on some floor, and the ground floor makes the most sense.
16. Along the north side of Elm Street, the Required Building Line (RBL) should not be at the front property line, because the sidewalk is too narrow to accommodate the large volume of students using this street at the north edge of campus.	No change recommended. While the Elm Street right-of-way and sidewalk are substandard in width, that condition will need to be corrected through a wider, redesigned street and sidewalk in the future, and there is adequate right-of-way south of the center line to complete that expansion, but the long-term building alignment should not be changed to accommodate this short-term design challenge. Other streets in downtown also have high volumes of student traffic and Required Building Lines are not being altered in those cases. However, relief from this requirement can be obtained from the ZBA under Section 29-5.4(e).
17. In the Stevens College block bounded by College, Broadway, Waugh, and Locust Streets, the Required Building Line would require new/replacement buildings to be out of alignment with existing campus buildings. The RBL should be changed to allow alignment with, and preserve the open feeling in front of, the existing buildings on each street frontage, or the four block faces surrounding this block should be excluded from the M-DT district.	This block should remain in the M-DT district, but the Regulating Plan should be revised to adjust the RBL for that block to allow alignment of new buildings and building additions with the existing buildings through text edits to the Townhouse/ Small Apartment Frontage section of the M-DT district.
18. The interim M-DT parking requirement of .25 parking space per bedroom for multi-family residential uses should be removed from the	The interim M-DT parking requirements should be continued at present but should not be expanded. While the problem of overflow parking in the

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Code, and the existing exemption of C-2 lands from any parking requirements should apply.	neighborhoods around downtown is real, the solution is to implement a neighborhood parking permit program and to enforce it. The pilot parking permit program should be expanded to protect these areas and enforcement strengthened (probably through towing rather than tickets). When this has taken place, it may be possible to remove the interim minimum parking requirements in M-DT. We strongly urge the City to implement a neighborhood parking permit system to protect the areas around downtown.
19. The interim M-DT parking requirement of .25 parking space per bedroom for multi-family residential uses should be continued and possibly expanded, because residents (students in particular) who occupy these units often park in the surrounding East Campus, Benton-Stevens, and North Central neighborhoods and in parking lots owned by the University of Missouri, Columbia College, or Stephens College.	neighborhoods around downtown is real, the solution is to implement a neighborhood parking permit program and to enforce it. The pilot parking permit program should be expanded to protect these areas and enforcement strengthened (probably through towing rather than tickets). When this has taken place, it may be possible to remove the interim minimum parking requirements in M-DT. We strongly urge the City to implement a neighborhood parking permit system to protect the areas around downtown.
20. The top floors of buildings taller than six stories on the south sides of east-west streets in the M-DT should be required to be stepped back from the Required Building Line to allow more sunlight into the street space during winter	No change recommended. In most areas of the city height limits will achieve this result; in most downtowns there are areas in shadow during winter, and M-DT is no exception. Those living and working in M-DT make that choice knowing about winter shading and choosing the area because, for them, other values outweigh the disadvantage of winter shading.
21. In the R-M district, the current contextual setback system requires that the front setbacks of new construction match the average of all setbacks on that block face. That provision should be retained, rather than the Draft Code provision requiring that the front setback be the average of the two closest occupied residential lots on either side.	No change recommended. Both systems of averaging can produce unintended consequences. The current system can produce a setback requirement that bears no visual relationship to the immediately adjacent lots, while the Draft Code text could require an infill property to match the setbacks on neighboring lots even though all other lots on the block face have a different setback. The Draft Code language is easier to administer and reflects a general trend in this area. However, if Columbia zoning staff think there is no additional administrative burden to the existing block face averaging requirement, and prefer that system, we have no objection to retaining it.
22. There should be a minimum size for new historic districts, in order to prevent the creation of very small districts by two-thirds of the property owners (which could be just two lot owners bordering a lot between them that they do not want to see redeveloped).	Most historic preservation ordinances do not include a minimum size requirement, and many valuable historic districts are relatively small (less than a city block). As a practical matter, "hostile" designations of individual properties generally become apparent during the designation process and many Preservation Commissions are reluctant to designate districts in those circumstances. However, if the City wants to reduce the risk of "hostile" designations of small areas to prevent redevelopment of individual properties, it could include a relatively small minimum size requirement (e.g. 1 acre), or a requirement that designations below that size require a 90% or 100% vote of the included property owners. The

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	current process to designate individual landmark properties is being retained.
23. The minimum age for designating a historic landmark should be increased from 50 to 60 years.	No change recommended. 50 years is still the standard for historic designations at both the federal and state level. Although some local governments have deviated from the requirements (both upward and downward) those deviations are rare. We are not aware of any reason why Columbia needs to adopt a standard that would put its local designations out of alignment with standard practice.
24. The interim C-2 ordinance provision allowing for the approval of buildings over 10 stories in height following a hearing by City Council to determine if certain criteria have been met should be continued.	We agree that this provision should be added back into the Draft Code. The adoption of 6 and 10 story height limits for the M-DT district is important to the success of the form-based zoning standards and the future walkable urbanism of Columbia. If there is no possibility for exceptions for exceptional projects, the City Council will be faced with a need to raise the maximum height level throughout the M-DT to accommodate an exceptional building, which would not promote walkable urbanism as well as the current height limits.
25. If the process for exceptions to the M-DT height limits is carried over, the current interim criteria for approval by the police and fire officials should be deleted from the code. Compliance with the fire code and safety codes will always be required, but those requirements generally do not appear in the Development Code zoning controls.	We agree that these provisions do not need to be carried over. As a practical matter, the opinion of police and fire officials about the safety of the proposed building will always be taken seriously (not only in M-DT but for other buildings), but those requirements rarely appear in zoning controls.
26. The word "Realtor" should not appear in the Code – it is a registered trademark.	We agree. It should be replaced by "real estate agent."
27. Real estate agents should not be required to provide prospective buyers notice that a historic property is a designated historic landmark. Missouri law does not list this as a real estate agent responsibility.	This is a carryover from the current Code. We do not object to this change, but believe the City Counselor's Office should make the decision based on its interpretation of Missouri law.
28. In the M-C district, make the lower parking standards applicable to the M-C "transit" option the basic standards applicable to both the "standard" and "transit" option areas	No change needed. As part of the Development Code rewrite, Clarion Associates has already recommended significantly lower parking standards for many commercial and non-residential uses based on common practices in newer zoning ordinances. The further reductions applicable in the M-D "transit" areas are recommended only because of their proximity to major streets and existing or possible future bus transit lines. They would not be appropriate in

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	areas where future bus transit services are unlikely.
29. Allow non-conforming structures to expand up to 25% of the existing building gross floor area without bringing the entire building into compliance with the Development Code as long as they can complete that expansion without making the nonconformity worse or creating any new nonconformity.	We support this change, and it is included in many new Development Codes.
30. In the M-DT district, clarify whether the two-story minimum height requirement means that the second story must be constructed as an occupiable second floor, or simply that the façade of the building must be at least two stories in height.	The second floor should be required to be an occupiable second floor. While some suburban areas have difficulty obtaining or maintaining tenants for second floor space, downtown Columbia has many buildings with occupied second (and higher) stories and there appears to be a market for that type of space. Relief from this requirement can be obtained from the ZBA under Section 29-5.4(e).
31. In the M-DT district, allow a one-story structure that is damaged to more than 75% of its fair value (excluding foundations) to be rebuilt without meeting the two-story minimum building height requirement.	We agree this change can be made.
32. In the M-DT district, allow a one-story addition to a one-story primary building (i.e. do not require that the addition meet the minimum two-story height requirement.	We agree this change can be made.
33. In the R-M district, apply the Neighborhood Protection requirements to properties already zoned R-1 or R-2 and not to any R-M properties downzoned to R-1 or R-2 after in the future. This will avoid the new Neighborhood Protection Standards from becoming an incentive for further downzonings of R-M district lands to R-1 or R-2.	No change recommended. The Neighborhood Protection standards apply to protect (a) R-1 and R-2 lands, and (b) to all R-M lands that contain a single- or two-family dwelling as a principal use. The owner of an R-M lot with a single- or two-family dwelling is protected anyway, so there is no incentive to rezone to R-1 or R-2 lands. A rezoning of such lands to R-1 or R-2 would not result in any decrease in development value to adjacent R-M lands, since the Neighborhood Protection standards apply either way.
34. In the R-M district, require a supermajority vote of City Council to approve a downzoning of property to R-1 or R-2.	No change recommended. As noted above, we do not believe that the Neighborhood Protection standards create an incentive for new downzonings, or that the R-M district requires an exceptional process to approve downzonings.
35. Create a process for relief of R-M assemblage owners who have financed their acquisitions assuming that full-height multi-family buildings can be built on all of their lots, in order to avoid the loss of height and developable floor area due	No change recommended. As a practical matter, all changes to zoning regulations may result in isolated cases where property has been financed in expectation of a different kind of development, but zoning cannot turn on the specific financial

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to the Neighborhood Protection standards triggering a loan default if the revised property value is below the loan value on the property.	investments made by individual property owners. However, a property owner in this situation can apply for relief under the existing variance provisions.
36. Allow City Council to call up a staff decision under the Development Code for review through a super-majority vote.	No change recommended. Those decisions to be made by staff under the new Development Code are the types of decisions normally made by staff pursuant to criteria and standards in the code. If staff has mis-read or mis-applied the Code standards and criteria, the relief should be an appeal hearing before the ZBA to determine whether a mistake has been made, and not reconsideration by an elected body.