



### Planning Commission Recommendation

TO: Clark County Council  
FROM: Karl Johnson, Chair  
PREPARED BY: Matt Hermen, Planner III  
DATE: November 5, 2019  
SUBJECT: CPZ2019-00029 Development Agreement Procedures (TITLE 40)

### PLANNING COMMISSION RECOMMENDATION

On August 15, 2019 the Planning Commission voted 4 to 0 to recommend to the County Council that it **approve** the proposal to add new Title 40, Section 40.550.030 to create a consistent process and criteria for review of proposed development agreements.

### PROPOSED ACTION

Clark County Community Planning is requesting an amendment to Clark County Unified Development Code Title 40 as follows:

*Add new Section 40.550.030 to create a consistent process and criteria for review of proposed development agreements.*

The proposed amendments are attached in Exhibit 1.

### BACKGROUND

A development agreement (DA) is a voluntary contract between a local jurisdiction and a person who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. Although the agreements are voluntary, once made they are binding on the parties and their successors.

A DA provides assurances to the developer that the development regulations that apply to the project will not change during the term of the agreement. The city or county may require conditions to mitigate project impacts, as well as clarification about project phasing and timing of public improvements. RCW 36.70B.170 describes the type of development standards that are appropriate in a DA.

Clark County typically processes and approves DAs for large complex land development and/or rezones. In most situations, DAs are initiated by the developer, rather than the county. The agreements provide certainty in the development process by setting the ground rules. The certainty in the DA reduces the financial risk to the developer. However, Clark County lacks a formal process for reviewing and approving DAs. The absence of codified procedures introduces uncertainty in the process of establishing DA assurances.

Staff identified the need to create new code for administering proposed development agreements. The purpose of the new code includes:

1. Creating a procedure for application, review, consideration, and conditioning of certain development projects according to the extent to which they advance the Comprehensive Plan's goals and policies.
2. Subject to the provisions of CCC 40.550.030.D.1.c, providing certainty to a developer that a project may proceed to be developed per the development standards, zoning ordinances, regulations, and other code provisions in effect at the time of the approval.
3. Providing assurance that currently allowed uses for a property may be maintained for a specified period of time in exchange for specific consideration which advances the Comprehensive Plan's goals and policies.
4. Providing a consistent process and criteria for review of proposed development agreements.

## **SUMMARY OF PUBLIC INVOLVEMENT PROCESS**

The council approved proceeding with adoption of development agreement procedures at a council work session on May 29, 2019. On June 6, 2019 the Washington State Department of Commerce received the 60-day Notice of Intent to Adopt Amendment as required under RCW 36.70A.106. The 60-day notice period ended on August 5, 2019. On July 18, 2019, the proposed amendments were posted on the Clark County website. On July 23, 2019, a Notice of Determination of Non-Significance and SEPA Environmental Checklist were published in the Columbian newspaper. On July 31, 2019, a legal notice was published in the Columbian newspaper notifying the public of the Planning Commission's public hearing held on August 15, 2019. The proposed amendments were reviewed by the Development Engineering Advisory Board (DEAB) on August 1, 2019. The DEAB will submit a separate recommendation from the Planning Commission to the Clark County Council. The council held a second work session on October 9, 2019, to discuss the proposed amendments and will hold a council hearing on November 5, 2019 to consider an adopting ordinance on the proposed amendments. On October 21, 2019, a legal notice was published in the Columbian newspaper notifying the public of the Clark County Council public hearing scheduled for November 5, 2019.

Public comments are included in the Council binders.

## **APPLICABLE CRITERIA, EVALUATION AND FINDINGS**

The Clark County Unified Development Code, Title 40 (CCC), consolidates all development-related regulations, land use zoning, critical areas, and environmental protection.

CCC is required to be consistent with the 20-year Comprehensive Growth Management Plan. Amendments to CCC respond to a substantial change in policy, better implements applicable comprehensive plan policies, or reflect changes in federal/state law. The proposed amendment is provided in Exhibits 1.

### **Growth Management Act (GMA)**

The GMA goals set the general direction for the county in adopting its framework plan and comprehensive plan policies. The GMA lists thirteen overall goals in RCW 36.70A.020 plus the shoreline goal added in RCW 36.70A.480(1). The goals are not listed in order of priority. The GMA goal that applies to the proposed action is Goal 11.

Goal 11: Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

Finding: The proposed code changes clarify processes, timelines, and submittal requirements for the submittal, review and approval of development agreements in Clark County. The proposed changes ensure consistency and compliance with RCWs and WACs, the Home Rule Charter, and the 2016 Comprehensive Growth Management Plan. The proposed changes better implement the GMA goal.

The process of taking the proposed Title 40 amendments through the Type IV legislative process encouraged citizen participation by: 1) posting the proposed amendments on the county web page early in the process, 2) circulating the proposed amendments to the Department of Commerce, 3) posting legal notice of the SEPA checklist and planning commission public hearing in the paper of record; 4) holding council work sessions, one planning commission work session, and one work session with the Development Engineering and Advisory Board, and 5) holding two public hearings (one with the Planning Commission and one with the council).

## **NEXT STEPS**

The County Council will hold a work session on August 21, 2019, and a public hearing on November 5, 2019, to discuss these proposed changes to Title 40.

## **RECOMMENDATION AND CONCLUSIONS**

Based on the information presented in this report, the Planning Commission forwards a recommendation of **APPROVAL** to Clark County Councilors.