

CLARK COUNTY STAFF REPORT

DEPARTMENT: Public Works, Transportation Division

DATE: November 5, 2019

REQUESTED ACTION: Amend Clark County Code Title 40 to add new section 40.550.030 to create a consistent process and criteria for review of proposed development agreements.

☐ Consent ☒ Hearing ☐ County Manager

INTRODUCTION

This proposal seeks to amend the Clark County Unified Development Code Title 40 to add a new Section 40.550.030 which will create a consistent process and criteria for review and approval of proposed development agreements. Clark County Code 40.510.040.1.b establishes development regulations adoptions and amendments to be approved by legislative decisions (Type IV Process). The decision process includes approval by the council to commence the Type IV process, public notice, a Planning Commission hearing and council hearing. The proposal to amend Title 40 has received council approval to proceed with the Type IV process as part of the 2019 Comprehensive Plan dockets. The Planning Commission held a public hearing on Aug. 15, 2019, which included adequate public notice. The Planning Commission's recommendation is attached to this staff report.

BACKGROUND

A development agreement 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 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.

COUNCIL POLICY IMPLICATIONS

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 include council involvement early in the process prior to negotiations and final approval authority.

ADMINISTRATIVE POLICY IMPLICATIONS

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.

COMMUNITY OUTREACH

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 Aug. 15, 2019. The proposed amendments were reviewed by the Development Engineering Advisory Board on Aug. 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 Oct. 9, 2019, to discuss the proposed amendments and will hold a council hearing on Nov. 5, 2019 to consider an adopting ordinance on the proposed amendments. On Oct. 21, 2019, a legal notice was published in the Columbian newspaper notifying the public of the Clark County Council public hearing scheduled for Nov. 5, 2019.

BUDGET IMPLICATIONS

YES	NO	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Action falls within existing budget capacity.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

BUDGET DETAILS

Local Fund Dollar Amount	\$0
Grant Fund Dollar Amount	\$0
Account	Not Applicable
Company Name	Not Applicable

DISTRIBUTION:

Council staff will post all staff reports to The Web. <https://www.clark.wa.gov/council-meetings>

Attachments: (1) Planning Commission Recommendation; and (2) PowerPoint


Robert D. Klug, PE
Transportation Division Manager


Ahmad Qayoumi, PE
Public Works Director/County Engineer


Lori Pearce, CPA
Administration and Finance Division Manager

Primary Staff: Matt Hermen, Planner III, Ext. 4343

APPROVED: _____
CLARK COUNTY, WASHINGTON
CLARK COUNTY COUNCIL

DATE: _____

SR# _____