

DRAFT LAND USE CODE (LUC) AMENDMENT
LARGE RETAIL ESTABLISHMENTS
(C8-02-02)
November 13, 2002

OUTLINE OF AMENDMENT, WITH COMMENTS ON SECTIONS PARTICULARLY RELEVANT TO
IMPACT ON ADJACENT RESIDENTIAL PROPERTY

[COMPARISON WITH CURRENT 1999 ORDINANCE]

ARTICLE II. ZONES

DIVISION 5. COMMERCIAL ZONES

[CURRENT 1999 ORDINANCE: (Weaker: allowed in RVC and C-1.) LRE allowed as special exception land use in zones: RVC, C-1, C-2, C-3, OCR-1, OCR-2, I-1, I-2. Approval only through Type III Legislative procedure.]

[summary:]

- no LRE in C-1, RVC or more restrictive zones;
- LRE allowed in C-2, C-3, OCR and I zones;
- approval as permitted use or by Special Exception Type IV or Type V Administrative procedures;
 - permitted use and Special Exception Type IV approval procedures with relatively non-restrictive standards, are new and intended to encourage siting of LRE far from residential/historic, e.g., in industrial areas;
 - the Type V Administrative procedure replaces the Type III Legislative of the current ordinance, as the top tier review, with restrictive standards and intended for sites with adjacent residential/historic.
- zone description points to appropriate subsection of performance criteria Sec. 3.5.9.7.

ARTICLE III. DEVELOPMENT REGULATIONS

DIVISION 3. MOTOR VEHICLE AND BICYCLE PARKING REQUIREMENTS

[CURRENT 1999 ORDINANCE: Not included.]

[summary (Sec. 3.3.4, Required ... Parking Spaces):]

- specification of (and changes in) LRE parking requirements.

ARTICLE III. DEVELOPMENT REGULATIONS

DIVISION 5. PERFORMANCE CRITERIA

3.5.9 RETAIL TRADE USE GROUP.

3.5.9.7 Large Retail Establishments.

A. Purpose.

[CURRENT 1999 ORDINANCE: Not included. A clear statement of Purpose is a central element of the compromise of the draft amendment.]

[preamble, stating general purposes of the performance criteria, giving broad guidance for Zoning Examiner (ZE) in judging proposed mitigations.]

- LRE special because of size and magnitude of activity;
- may negatively impact adjacent residential and public infrastructure;
- performance criteria intended to:
 1. *Prevent or minimize negative impacts ... on residential ...*
 - impacts include noise, light pollution, and interference with significant views.
 2. *Prevent or minimize negative impacts ... on public infrastructure ...*
 3. *Enhance the accessibility ... for pedestrians and transit users ...*
 4. *Enhance the aesthetic quality and reduce the visual impact ...*
 5. *Encourage LRE applicants to explore alternative design and operational solutions ...*
 6. *Encourage redevelopment of existing commercial or industrial sites ...*

B. Large Retail Establishment - Permitted Use.

[CURRENT 1999 ORDINANCE: Not included. Encouragement of siting far from residential and historic, through less restrictive standards and timely approval, is an important element of the draft amendment.]

[for sites more than 500' from residential and not adjacent to historic.]

- performance criteria almost exclusively design criteria;
- expedited approval procedure (no ZE hearing and review);
- intent is to encourage LRE development in industrial sites or other sites far from residential;
- lowest level approval procedure;
- kicks up to C below if any performance criterion not met.

C. Large Retail Establishment - Type IV Administrative Special Exception

[CURRENT 1999 ORDINANCE: Not included. Encouragement of siting far from residential and historic, through less restrictive standards and timely approval, is an important element of the draft amendment.]

[for sites more than 500' from residential and not adjacent to historic.]

- same as *B* above, except relax arterial access requirement and add level of review;
- approval procedure kicks up to *D* below if any performance criterion not met.

D. Large Retail Establishments - Type V Administrative Special Exception

[CURRENT 1999 ORDINANCE: Type III Legislative Special Exception procedure only. Comparable to Type V Administrative procedure except after Zoning Examiner decision, Mayor and Council make final disposition. It can be argued that a political decision, because of its less predictable outcome, is generally less desirable than an administrative decision by the Zoning Examiner. In any case, on appeal, the latter decision moves into the political process (can one have one's cake and eat it too?).]

[most restrictive performance criteria and most intensive review procedure, for sites near or adjacent to residential or historic.]

[CURRENT 1999 ORDINANCE: Not included. Relaxation of standards by Zoning Examiner under the following guidelines is a central element of the compromise of the draft amendment, going hand-in-hand with restrictive performance criteria.]

- preamble, giving explicit permission for ZE to adapt criteria to site.
...a specific site may require more or less stringent criteria to achieve the purpose of the performance criteria. The Zoning Examiner may approve modifications to the performance criteria and/or alternative means of substantially achieving the purpose of the performance criteria, based on evidence in the record.

1. Site Design and Relationship to Surrounding Community.

[CURRENT 1999 ORDINANCE: (Weaker.) The original intent was all-site application of criteria. However, the Planning Dept. and the City Attorney interpret the 1999 ordinance as applying only to the LRE for setbacks and various other criteria. All-site application is a central element of the compromise of the draft amendment.]

- explicit statement of all-site application of criteria.
- explicit statement that siting near residential is associated with more restrictive performance criteria.

a. Site Characteristics.

[CURRENT 1999 ORDINANCE: Not applicable.]

- all sites not permitted by Sec. 3.5.9.7.B or .C.

b. Vehicular Access.

[CURRENT 1999 ORDINANCE: (Weaker.) Access from major street (MS&R), or from other street if no impact.]

- primary access shall be from an arterial street.

c. Setbacks.

[CURRENT 1999 ORDINANCE: (Weaker.) No special setbacks for non-LRE buildings as current ordinance is interpreted; 200' setbacks for both regular and super-size LRE. Larger setbacks are an important element of the draft amendment.]

- Table 3.5.9.7-I gives setbacks for new buildings and certain uses, LRE and non-LRE, according to area of footprint:
 - LRE: 300', or 400' if greater than 175000 sqft area
 - non-LRE: 125', or 200' if greater than 25000 sqft area
 - 50-100' smaller setbacks for OCR or I zones.

1. Buildings and Certain Associated Uses.

[CURRENT 1999 ORDINANCE: (Weaker.) 200' setbacks for all LRE buildings; Development Designator (DD) setbacks for non-LRE.]

- setbacks according to Table for:
 - main building, outdoor storage, trash collection, delivery/load (D/L);
- except 50' smaller setback for D/L if shielded.

2. Delivery Truck Parking.

[CURRENT 1999 ORDINANCE: (Weaker.) 300' setback for parking, with no lower limit if shielded.]

- setback 350' unless shielded by building;
- setback not less than 250';
- notices posted specifying parking area;
- overnight parking of delivery trucks for onsite businesses allowed.

3. Temporary Outdoor Sales Areas Located Within Parking Lots.

[CURRENT 1999 ORDINANCE: (Same.)]

- 50' greater setback than main building unless shielded by building;
- setback not less than 250'.

4. Outdoor Sales Display Areas.

[CURRENT 1999 ORDINANCE: (Unclear.)]

- located at front, behind sidewalk, less than 30% of front.

5. Other Buildings and Uses.

[CURRENT 1999 ORDINANCE: (Similar.) Same setback, different list.]

- setback not less than 250' for:
 - Alcoholic Beverage Service, Food Service, Food and Beverage Sales, Automotive Service and Repair, General Merchandise Sales (fuel sales), Entertainment (live), Swap Meets, and similar uses as determined by the Development Services Department (DSD) Director.

d. Buffers and Landscaping.

[CURRENT 1999 ORDINANCE: (Essentially same.)]

1. Site Boundary.

- minimum 20' landscape border with minimum 8' masonry wall adjacent to residential;
- shrubs, groundcover, canopy trees at 20-30' to touch at maturity;
- owner/developer responsible for maintenance;
- no other uses.

2. Outdoor Storage Areas.

- screened by minimum 8' masonry wall;
- portable storage units located in designated outdoor storage areas.

3. Trash Collection Areas.

- screened by minimum 8' masonry wall.

4. Delivery and Loading Spaces.

- screened by minimum 10' masonry sound-attenuating wall;
- located at edge of D/L space.

e. Hours of Operation.

[CURRENT 1999 ORDINANCE: (Weaker.) New in draft amendment: Sec. 3, restriction on hours for intrusive uses.]

1. Trash Collection.

- no trash may be removed between 4:00 p.m. and 9:00 a.m.

2. Delivery and Loading.

- no D/L operations between 10:00 p.m. and 7:00 a.m.

3. Outdoor Retail and Public Assembly Uses.

- no such uses between 10:00 p.m. and 7:00 a.m.

f. Monitoring Operations of the Site.

[CURRENT 1999 ORDINANCE: (Weaker.) No post-approval monitoring in current ordinance.]

1. Ongoing Committee.

[modeled on El Con agreement.]

- DSD director establishes committee:
 - owner/operator, neighbors within 300', reps adjacent neighborhood assoc., Ward office, other affected parties;
- semiannual meetings with more as needed;
- summaries of meetings to DSD director, neighborhood assoc. and committee;
- committee informed of any proposed changes in approved plan;
- records of meetings maintained and made available.

2. *Posting.*

- indoor and outdoor posting of phone numbers of responsible parties and of DSD office for violations report;
- record of violations kept and distributed monthly to committee.

3. *Security Management Plan.*

g. *Pedestrian Flows.*

[CURRENT 1999 ORDINANCE: (Similar.) Language of draft amendment tighter and more specific.]

1. *Pedestrian Circulation.*

2. *Connection to Adjacent Residential Neighborhoods.*

3. *Sidewalk Areas.*

h. *Site Amenities.*

[CURRENT 1999 ORDINANCE: (Similar.)]

i. *Traffic Impacts.*

[CURRENT 1999 ORDINANCE: (Weaker.) New in draft amendment: Sec. 3, restriction on traffic within 125' of residential and no overnight parking by transients.]

1. *Traffic Impact Analysis.*

- submit professional TIA report,;
- mitigate effects on public infrastructure.

2. *Parking Generation Report.*

- may submit professional Parking Generation Report, if parking not according to standards.

3. *On-Site Traffic Circulation.*

- mitigate impact truck and vehicle traffic on adjacent residential.

a. *Delivery Truck Circulation Route.*

- located minimum 125' from adjacent residential;
- minimum 30' width.

b. *Customer Vehicle Circulation.*

- PAALs discourage through traffic within 125' from residential.

c. *Overnight parking.*

- Automobiles, recreational vehicles, and boats that are not owned by employees or businesses on the site shall not be parked

overnight.

j. Outdoor Lighting.

[CURRENT 1999 ORDINANCE: (Weaker.) New in draft amendment: standards for parking lot and wall lights.]

- submit photometric plan and outdoor lighting report:
 - how mitigate impacts on adjacent residential;
 - how mitigate impacts between 10 p.m. and 7:00 a.m.;
- low-pressure sodium lighting only between 10:00 p.m. to 7:00 a.m.;
- parking lot lighting:
 - shielded and directed down;
 - stairstepped from adjacent residential (14' ht within 150'; maximum 30');
- wall-mounted lighting shielded and directed down.

k. Noise Abatement.

[CURRENT 1999 ORDINANCE: (Weaker.) New in draft amendment: explicit decibel and beeper standards, and flag for loudspeakers.]

- submit noise mitigation plan;
- comply with noise regulations in Chapter 11 of the Tucson Code;
- trucks not idling, etc. on-site between 6:00 p.m. and 7:00 a.m.;
- noise levels at adj residential night/day maximum 45/55 dB(A) or 10 db(A) above ambient;
- beepers, impulsive, single-frequency sounds less than equiv. 55 dB(A) day and not allowed night;
- noise-abatement walls placed near sound sources;
- outdoor loudspeakers addressed in noise mitigation plan.

l. Grade Differentials.

[CURRENT 1999 ORDINANCE: (Weaker.) Not included.]

- if differential greater than 3', mitigated by increased buffer, landscaping, or setback.

m. Walls.

[CURRENT 1999 ORDINANCE: (Similar.) Specifications for walls that are spread between several sections of current ordinance are brought into this one section of draft amendment.]

1. Sound Attenuating Walls.

- aesthetic and design criteria, similar to El Con agreement;
- owner of the property responsible for maintenance.

2. Interior-Site and Boundary Screen Walls.

- [as above]

n. Neighborhood Meetings.

[CURRENT 1999 ORDINANCE: (Weaker.) Current ordinance implicitly references Sec. 5.4.5.2. Draft amendment structures the meetings, requires documentation, and encourages consensus. A workable format for pre-application meetings is a central element of the compromise of the draft amendment.]

- comply with Sec. 5.4.5.2;
- developer calls meeting(s):
 - neighbors within 300', neighborhood assoc. within 1 mile, Ward office, other affected parties;
- at least 2 meetings prior to submittal, more as needed;
- developer responsible for distributing meeting summaries to participants;
- meeting summaries submitted with application.

o. Special Criteria and Procedures.

[CURRENT 1999 ORDINANCE: Not included.]

1. Siting.

- siting adjacent to historic subject to special scrutiny.

2. Special Submittal Requirements.

- applicant provides Ward office with:
 - site/development plans with grade differentials; lighting plans; noise mitigation report; traffic report; landscape plan; grading plans with cross sections (when available).

2. Aesthetic Character of Buildings.

[standards apply to LRE only unless noted.]

[CURRENT 1999 ORDINANCE: (Similar.) Language of draft amendment tighter and more specific.]

a. Building Façades.

1. Public Street Frontage.

2. Other than Public Street Frontage.

b. Detail Features.

c. Roofs and Parapets.

d. Materials and Colors.

1. ... [allowed/suggested categories].

2. ... compatible with ... used in adjoining residential neighborhoods.

- e. *Entryways.*
- f. *Screening of Mechanical Equipment.*
[standard applies all-site.]
 - 1. *Roof Mounted.*
 - 2. *Ground Mounted.*
 - 3. *Exception. [elevated roadway adjacent.]*
- g. *Safety By Design.*
[standard applies all-site.]

3. *Development Review Board (DRB).*

[CURRENT 1999 ORDINANCE: The draft amendment restricts the DRB role and lessens the burden on the applicant. The DRB decision is advisory and largely has been ignored.]

[clearly specified and reduced range of oversight by DRB.]

- ... The DRB will base its recommendation on whether or not the project complies with the performance criteria related to aesthetics, elevations, and landscaping on-site, as provided in Sec. 3.5.9.7, where specific requirements are not provided.

E. *Exception.*

- prior approval by M/C supercedes Type V Special Exception Land Use process.

ARTICLE V. ADMINISTRATION

DIVISION 4. PROCEDURES

[summary:]

- clarification of procedures of Sec. 5.4.5.19, Change in Conditions of Approval or Concept Plan;
- reference to above added in procedures for Type IV and V Administrative Procedures, Sec. 5.4.3.4 and 5.4.3.5.