

[fb; jar; tsb] DRAFT ORDINANCE 10/22/02: Last revision Tue Oct 22 03:30:04 MST 2002. Revisions and comments added by [jar], following emails of suggested changes by [tsb] and [tGb], and following suggestions at pre-bbbsc meeting of October 21, 2002, and of phone call with [tsb].

[fb; jar; tsb] DRAFT ORDINANCE 10/18/02: Last revision 10/18/02 at 03:46. Revisions and comments added October 18, 2002 by [jar], in accordance with sense of the discussion of October 10, 2002 [fb; jar; tsb], the discussions of BBSC meetings of October 8 and October 15, 2002, and the staff list of items not done of October 15, 2002.

[fb; jar; tsb] DRAFT ORDINANCE 10/15/02: Submitted to BBSC on October 15, 2002 by [fb; jar; tsb]; based on STAFF DRAFT ORDINANCE of October 8, 2002, with changes proposed by nhood group ("pre-bbbsc"), incorporated by [jar] and vetted on October 10, 2002 by [fb; jar; tsb].

DISPLAY OF CHANGES: Additions, deletions, and comments are set off variously by **Bold** typeface, enclosure within double brackets ([[..]]), and **reduced type size**. A margin bar (|) may indicate the position of changes in the text. For this document, changes are shown for 10/22/02 vs 10/15/02 draft.

**TUCSON CODE, CHAPTER 23, LAND USE CODE**

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**ARTICLE III. DEVELOPMENT REGULATIONS**

\* \* \*

**DIVISION 5. PERFORMANCE CRITERIA**

\* \* \*

**3.5.9 RETAIL TRADE USE GROUP.**

\* \* \*

3.5.9.7 *Large Retail Establishments.* Large Retail Establishments are subject to the following performance criteria, as a permitted use or as either a Type IV or Type V Administrative Special Exception Land Use, as indicated in the applicable zoning district. These performance criteria are established in order to appropriately mitigate impacts on surrounding areas and provide for enhanced building and site design.

[[ COM: The following added paragraphs give the general purpose of this revision of the Big Box ordinance. There is a specific Purpose section under 3.5.9.7.C that is a guide to the restrictive standards for approval under the Type V Administrative procedure. [jar], with the sense of 10/10/02 meeting [fb; jar; tsb]. ADD: ]]

**Where there can be only minimal impact on adjacent residential or historic property, the applicant is given substantial freedom in planning for the Large Retail Establishment and its site, through approval as a permitted use or as a Type IV Administrative Special Exception Land Use and with the performance criteria of LUC Sec. 3.5.9.7.A or LUC Sec. 3.5.9.7.B, respectively.**

**Where there is need to mitigate impact on adjacent residential or historic property, approval for a Large Retail Establishment is as a Type V Administrative Special Exception Land Use and is under the more restrictive performance criteria of LUC Sec. 3.5.9.7.C.**

- a. **In order to allow for the special character of a site, including its relationship to nearby residential uses and public infrastructure, the Zoning Examiner in accordance with the Type V Administrative procedure and with the procedures of LUC Sec. 3.5.9.7.C.3, may approve modification of the standards**

**or substitution of an alternative combination of criteria, where the result meets or exceeds the stated standard. Consultation between the applicant and adjacent neighborhoods is an important component of this process.**

- b. The intent is to give the applicant substantial freedom to develop imaginative and effective solutions to problems of design and planning, while yet satisfying the purpose of the standards.**
- c. Planning for a redevelopment site, where a Large Retail Establishment is to replace an existing building or share a site with existing buildings, is likely to require approval of modified or alternative standards. In this case, consultation between the applicant and adjacent neighborhoods is particularly important.**
- d. The freedom to adapt the standards carries the opportunity for encouragement of aesthetically pleasing design.**

3.5.9.7.A *Large Retail Establishment - Permitted Use.* The following criteria must be met in order for an applicant to develop a Large Retail Establishment as a permitted use. Should any of the criteria not be met, the applicant may apply for a Type IV Administrative Special Exception Land Use.

\* \* \*

3.5.9.7.B *Large Retail Establishment - Type IV Administrative Special Exception Land Use.* The following criteria must be met in order for an applicant to develop a Large Retail Establishment under the Type IV Administrative Special Exception Land Use process. Should any of the criteria not be met, the applicant may apply for a Type V Administrative Special Exception Land Use.

\* \* \*

3.5.9.7.C *Large Retail Establishments - Type V Administrative Special Exception Land Use.* A LRE is permitted as a special exception land use. The decision to approve a LRE as a special exception land use is made by the Zoning Examiner in accordance with the Type V Administrative Procedure, LUC Sec. 5.4.3.5, subject to the following specific performance criteria:

- 1. Purpose.* The LRE performance criteria recognize that a LRE because of its physical size and magnitude of economic activity, may negatively impact existing and future residential land uses and public infrastructure in the vicinity of a LRE. Consequently, the LRE performance criteria are intended to:

- a. Prevent or minimize negative impacts of a LRE on existing residential land uses or residentially-zoned undeveloped land, which by their proximity to the proposed LRE, are likely to be impacted by it. Those impacts **[[ COM: addition of "odors and particulates" [Carmen Vitello], for those who have respiratory problems; substitution of "include" [Chris Tanz], in order to allow inference of wider neighborhood economic impacts of LRE. CHG: are noise, light pollution, ]] include noise, light pollution, odors and particulates,** and interference with solar access and significant views.
- b. Prevent or minimize negative impacts of a LRE on public infrastructure in the vicinity of the proposed LRE, including streets, pedestrian ways, transit, and recreation facilities.
- c. Enhance the accessibility of the proposed LRE for pedestrians and transit users.
- d. Reduce the visual impact of a proposed LRE, in terms of its external scale and appearance in comparison with surrounding land uses as viewed from public streets and existing residential uses or residentially-zoned undeveloped land in the vicinity of the LRE, through architectural design, landscaping and site amenities.

2. *Performance criteria.*

**[[ TO DO: 10/15/02 staff list:  
the criteria should be reordered, so related standards are close in sequence, e.g., "Noise Abatement" near "Buffers ...". ]]**

**[[ TO DO: 10/10/02 [fb; jar; tsb]:  
for criteria lacking it, add statement to make clear the intent of that particular standard. ]]**

A. *Site Design and Relationship to Surrounding Community.* The Performance Criteria of this section shall apply to all structures and uses at the site, except where criteria are explicitly specified as applying only to LRE or only to non-LRE structures and uses.

1. *Site Characteristics.* Approval of a LRE on a site near or adjacent to residential use or residential zoning is associated with more restrictive performance criteria. Siting of a LRE adjacent to historic districts or structures **[[ COM: [jar] selection of wording. CHG: is to be { discouraged OR subject to special scrutiny OR ??? } . ]]** **shall be subject to special scrutiny.**

- a. The site containing the Large Retail Establishment is adjacent to a Historic Preservation Zone (HPZ), a National Register Historic District, or a property or structure individually listed on the National

Register of Historic Places; or

- b. the adjacent property for a depth of less than five hundred (500) feet is zoned commercial (C-1 or less restrictive) and is not developed with residential uses, or is zoned industrial, or is residentially zoned, existing, dedicated right-of-way for roadway, freeway, railroad, or wash; or
  - c. the adjacent property is zoned residential and is vacant or developed with residential uses.
2. *Vehicular Access.* Primary access shall be from an arterial street, as designated in the Major Streets and Routes (MS&R) Plan.
3. *Setbacks.*
- a. *Structures and Certain Associated Uses.* On a site with a Large Retail Establishment, structures and their associated outdoor storage areas, trash collection areas, and delivery and loading spaces shall be setback from residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way, a distance determined from Table XXX.

*Exception.* A delivery or loading space may extend up to fifty (50) feet closer to residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way, provided that a ten (10) foot high masonry **[[ COM: [jar] ADD:: ]]** **sound** wall is located within fifty (50) feet of the structure and shields the truck **[[ COM: 10/10/02 [fb; jar; tsb]. DEL: circulation ]]** path and loading space from the adjacent property.

- b. *Delivery Truck Parking.* In all zones, for parking of delivery trucks, there shall be a setback of three hundred fifty (350) feet from residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way, unless a building shields the truck parking area from the adjacent property; and the setback shall be not less than two hundred fifty (250) feet.

**[[ COM: [tsb] changes in "Delivery Truck Parking" not needed - phone call with [tsb];**

**COM: added details associated with delivery truck parking, following suggestions in 10/15/02 staff list; [jar]. ADD: ]]**

**Notices shall be posted specifying the area or areas reserved for delivery truck parking. Only trucks delivering to on-site businesses shall park on the site. Overnight delivery truck parking is allowed. Idling or running generators between 10**

[[ COM: revised title and headings of Table in order to clarify meaning; [jar]. ]]

<p style="text-align: center;"><b>TABLE XXX</b></p> <p style="text-align: center;"><b>Matrix For Determination Of Setback As A Function Of Footprint Of A Structure.</b></p> <p style="text-align: center;">For structures located on a site with a Large Retail Establishment and with adjacent residential use, existing or planned.</p>		
Footprint of structure	<p style="text-align: center;">[[ COM: change to take care of pathologies: LRE on C, surrounded by I; LRE on I, surrounded by C. CHG: Zone Where Structure Located ]]</p> <p style="text-align: center;"><b>Zone Adjacent to Nearest Residential</b></p>	
	C-2, C-3, or more restrictive	OCR-1, OCR-2, I-1, I-2
less than or equal to 25,000 sq ft	125 ft	75 ft
less than or equal to 100,000 sq ft	200 ft	100 ft
less than or equal to 175000 sq ft	300 ft	200 ft
greater than 175000 sq ft	400 ft	300 ft

**p.m. and 7 a.m. is not allowed (Sec. 11 "Noise Abatement" below).**

[[ COM: 10/21/02 [tsb] revisions: new Section. ADD: ]]

- c. **Portable Storage Units.** Portable storage units shall be parked in open storage areas behind minimum 8' high walls as described in Sec. 4 "Buffers and Landscaping" d. "Outdoor Storage Areas", when not being loaded or unloaded, and shall be setback the same distance as the setback for the main structure. [[ COM: 10/21/02 [tsb] revisions: replace current Sec.c. "Outdoor

Sales.....Temporary Display" by two Sections, to allow proper treatment of displays at front of stores and separation of such from control of seasonal/other uses of parking areas;  
modification of language per phone call with [tsb]; [jar]. CHG: ]]

- d. *Outdoor Sales Areas Located Within Parking Lots.* **In all zones, outdoor seasonal and other outdoor sales areas located within parking lots shall be oriented to face away from and shall be setback fifty (50) feet more than the structure setback from residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way, unless a building is located between the activity and the adjacent property; and the setback shall be not less than two hundred fifty (250) feet.**
- e. *Temporary Outdoor Sales Display Uses Associated With a Structure.* **In all zones, temporary outdoor sales displays associated with a structure, other than outdoor sales areas located within parking lots, shall be located at the front of the structure and behind the required 8' wide sidewalk, and the aggregate length of such sales display areas shall not exceed 30% of the total frontage of structure.**

[[ DONE: 10/15/02 BBSC: the following old Sec. d requires revision:

- (1) remove word "intrusive";
- (2) precisely specify to what special setback applies and the intent;
- (3) consider this section in conjunction with language and intent for hours limits for retail sales, Sec. 5 "Hours ..." below;

COM: 10/21/02 [tsb] revisions: [jar]. CHG: ]]

- f. *Other Structures and Uses.* **Structures with a principal use including bars, restaurants, food and beverage sales, alcoholic beverage sales, automotive service, gasoline sales, live entertainment, swap meets and similar uses as determined by the Planning Director shall be setback not less than two hundred fifty (250) feet from residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way.**
4. *Buffers and Landscaping.*

[[ COM: changed header from "Structures" to "Site Boundary"; [jar] and [tsb].  
CHG: ]]

- a. *Site Boundary.*

1. A landscape border having a minimum width of twenty (20) feet shall be located adjacent to the site property line where it adjoins a residentially zoned or residentially developed property, containing a minimum eight (8) foot high masonry wall located anywhere within the border.
  2. The landscape border shall include shrubs and groundcover and canopy trees at twenty (20) to thirty (30) foot intervals, depending on the separation needed for the tree canopies to touch at maturity. The project shall be responsible for maintenance of the landscape buffer.
  3. No other uses, such as, but not limited to, parking or storage, are permitted within the landscape border area.
- b. Outdoor Storage Areas.* Outdoor storage areas shall be screened with a minimum eight (8) foot high masonry wall so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties. The screen shall be located at the edge of the outdoor storage area. Storage materials shall not be visible above the wall.
  - c. Trash Collection Areas.* Trash collection areas shall be screened with a minimum eight (8) foot high masonry wall so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties. The wall shall be located at the trash collection area, between the area and the adjacent conditions.
  - d. Delivery and Loading Spaces.* Delivery and loading areas shall be screened with a minimum ten (10) foot high masonry **[[ COM: [jar] ADD: ]]** sound wall, measured from the loading dock floor elevation, so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residentially zoned or residentially developed properties. The wall shall be located at the edge of the loading area, between the area and the adjacent conditions.
5. *Hours of Operation.*
    - a. Trash Collection Areas.* No trash may be removed between 4:00 p.m. and 9:00 a.m.
    - b. Delivery and Loading Spaces.* If there is a residential use or residentially zoned property adjacent to the site, such operations shall not be permitted between 10:00 p.m. and 7:00 a.m.

[[ TO DO: 10/10/02 [fb; jar; tsb]; revise Sec. c and d:

- (1) to reflect intent, which is site-by-site addressing of problems associated with all-night or late-night operations adjacent to residential, for both LRE and non-LRE businesses;
- (2) to reflect the reality that all-night/late-night activity is to be expected on a site sufficient to hold a LRE and pads;
- (3) to merge consideration of hours limits with consideration of greater setbacks for "intrusive" uses (a plausible alternative to hours limits) - see Sec. 3 "Setbacks, c-d, above. ]]

- c. *Retail Sales.* If there is a residential use or residentially zoned property adjacent to the site, no retail sales shall be permitted between 10:00 p.m. and 7:00 a.m.
- d. *Outdoor and Intrusive Uses.* If there is a residential use or residentially zoned property adjacent to the site, no outdoor or intrusive uses shall be permitted between 10:00 p.m. and 7:00 a.m.

[[ COM: 10/15/02 BBSC; extensive rewrite;

CHG: 6. Enforcement.

should not monitoring be for entire site? replace "LRE" by "Site" [jar]. ]]

#### 6. **Monitoring Operations of the Site.**

- a. *Ongoing Committee.* Immediately after approval of the application or plan, the Planning Director shall [[ COM: 10/15/02 BBSC. DEL: appoint a member of the City staff or other disinterested party to ]] establish a committee consisting of the owner/operator of the Large Retail Establishment, neighbors (as noticed for expanded area A) and representatives of adjacent neighborhood or homeowners associations, [[ COM: 10/15/02 BBSC. DEL: City staff, ]] and other parties as necessary. The purpose of this committee is to monitor ongoing compliance with the conditions of the approval of the project [[ COM: 10/15/02 BBSC. ADD: ]] **on a semiannual basis; and minutes of the meetings shall be provided by the developer/owner to the DSD Director, the neighborhood association(s), and those in attendance. Additional meetings to resolve conflicts or issues will be scheduled as required.** The committee shall be informed of any proposed changes to the approved plan. [[ COM: 10/15/02 BBSC. DEL: The committee shall meet as needed. ]] Records of the meetings shall be maintained and made available to the parties concerned.
- b. *Posting.* The developer/owner of the property and the owner/operator of the Large Retail Establishment shall conspicuously post the phone numbers of the responsible parties to whom adjacent residents can report violations of Sec. 3.5.9.7. [[

**COM: [jar]. ADD: ]]** The posted notice also shall have the address and phone number of the City office to which violations of approved plans are to be reported. A record of the violation reports shall be kept and distributed monthly to the members of the Ongoing Committee.

**[[ COM: 10/15/02 staff list. ADD: ]]**

**Notices shall be posted specifying locations for delivery truck parking (see Sec 3 "Setbacks", b, above).**

7. *Pedestrian Flows.*

- a. *Pedestrian Circulation.* The project shall include a continuous on-site pedestrian circulation system connecting all public access areas of the project site and the pedestrian circulation system located in adjacent public streets. The system must provide direct pedestrian connections to the main entrances of stores, transit stops on- or off-site, and other buildings on the site and must include concrete sidewalks, except where asphalt is used at an intersection between a sidewalk and a parking area access lane (PAAL). Concrete sidewalks with a minimum width of eight (8) feet shall be provided along the full length of any building where it adjoins a parking lot.
  - b. *Connection to Adjacent Residential Neighborhoods.* The project shall include convenient access to adjacent residential neighborhoods, **[[ COM: [tGb] suggestion; [jar]. ADD:: ]]** **provided access is requested by adjacent residents during the preapplication meetings.**
  - c. *Sidewalk Areas.* Sidewalk areas within the pedestrian circulation system shall be a minimum of eight (8) feet in width and include a constructed concrete sidewalk with an unobstructed width of five (5) feet and an associated three (3) foot wide landscape strip for their entire length, except at intersections with parking area access lanes (PAALs). The landscaping shall include canopy trees or other shading devices to shade at least sixty-five (65) to seventy-five (75) percent of the sidewalks during the major part of the day.
8. *Site Amenities.* Pedestrian circulation ways shall be anchored by a minimum of two (2) design features, such as towers, arcades, porticos, light fixtures, planter walls, seating areas, and other architectural features, including outdoor plazas, patios, courtyards, and window shopping areas, that define pedestrian circulation paths and outdoor spaces.

9. *Traffic Impacts.*

- a. *Traffic Impact Analysis.* The applicant shall have a professional entity perform a Traffic Impact Analysis (TIA) report for the development using the Institute of Transportation Engineers' Trip Generation publication as the standard for trip generation calculation. The scope and criteria for the TIA report shall be approved by the Department of Transportation, prior to submittal of the TIA report. The TIA report shall identify traffic flow impacts on the public streets; recommend mitigation measures to address those conditions that fall below the standards established by the adopted regional Mobility Management Plan; and show how the applicant will provide the recommended improvements. The TIA report is applicable to a specific application. Any change to the specific proposed use of the site and buildings requires resubmittal, review, and approval of a revised TIA report.
- b. *Parking Generation Report.* The applicant may have a professional entity perform a parking generation report using the Institute of Transportation Engineers' Trip Generation publication, proposing the number of motor vehicle parking spaces required for the project, if different from the requirement in the Land Use Code (LUC), Sec. 3.3.4. **[[ TO DO: 10/15/02 staff list: M/C no longer necessarily in approval path - so how approve parking different from LUC standard? ]]** The Mayor and Council may approve a parking requirement that supersedes the number required by Sec. 3.3.0, Motor Vehicle and Bicycle Parking Requirements, as part of their review process. The parking generation report shall be accepted by the Department of Transportation and the Planning Department, prior to the first public hearing. The parking generation report is applicable to a specific application. Any change to the specific proposed use of the site and buildings requires resubmittal, review, and approval of a revised parking generation report.

**[[ DONE: 10/10/02 [fb; jar; tsb]; rewrite this section (c.1-4):  
intent: truck circulation route and PAAL design shall be optimized  
(1) for separation of traffic from adjacent residential;  
(2) for separation of truck traffic from customer traffic.  
COM: 10/21/02 [tsb] revisions: extensive rewrite of Sec 9.c "On-Site Traffic  
Circulation" and 9.d "Overnight Parking";  
modification of language per phone call [tsb]; [jar]. CHG: ]]**

- c. *On-Site Traffic Circulation.* The project shall mitigate the impact of truck and motor vehicle traffic on adjoining residential neighborhoods.

1. *Semi- and Flatbed-Truck Circulation.* **Primary semi- and flatbed-truck circulation shall be located immediately adjacent to the rear of the LRE and shall be screened from adjacent residential uses and vacant residentially zoned or residentially developed property, other than residentially zoned property that is dedicated right-of-way, with a minimum 10' high sound wall as described in Sec. 14.a "Sound Walls". Elsewhere on the site, semi- and flatbed-truck circulation shall be located a minimum of 125' from the adjacent residential properties and screened from view with a minimum 8' high boundary wall, as described in Sec. 14.b "Screen Walls", located in the site boundary buffer. Semi- and flatbed-truck activity areas in and around loading docks or zones shall be mitigated with minimum 10' high sound walls immediately adjacent to the activity area. Truck circulation routes shall be isolated from parking area access lanes under 30' in width.**
  2. *Customer vehicle circulation.* **Parking area access lanes (PAALs) shall be designed to discourage traffic near neighborhood boundaries, and the routes shall be designed to interrupt through traffic flow.**
  3. *Paving.* **Truck circulation routes shall be paved with materials that contribute to sound attenuation.**
  4. *Overnight parking.* **Automobiles, recreational vehicles, mobile homes and boats that are not owned by employees or businesses on the site shall not be parked overnight.**
10. *Outdoor Lighting.* The applicant must submit a photometric plan and outdoor lighting report that provide information on how outdoor lighting is addressed to mitigate negative impacts on residential uses or residentially zoned properties. The report will also address the negative impacts of outdoor lighting between the hours of 10:00 p.m. and 7:00 a.m. on residential properties or zones and how they will be mitigated. Outdoor lighting between 10:00 p.m. and 7:00 a.m. shall be limited to low-pressure sodium lighting.

All parking lot lighting shall be shielded and directed down and away from adjacent residential neighborhoods.

The height of the parking lot lighting shall be the stair-stepped from approximately 14 feet within 150 feet of adjacent residential neighborhoods to a maximum 30 feet for the remainder of the property and shall be consistent with the landscape plan.

All wall-mounted lighting on buildings shall be **[[ COM: [jar]. ADD: ]]** **shielded and** directed down and away from adjacent residential neighborhoods.

11. *Noise Abatement.* The applicant shall provide a noise mitigation plan indicating how the noise initiated by the land use will be mitigated to comply with noise regulations in Chapter 11 of the Tucson Code.

**[[ COM: 10/10/02 [fb; jar; tsb]: restored original language of staff draft; cannot prevent customers from idling vehicles, i.e., when family stays in car while one person shops. CHG: Trucks and other vehicles, including, but not limited to, mobile homes, trailers, recreational vehicles, and vans, shall not be idling or running generators on site between the hours of 6:00 p.m. and 7:00 a.m. ]]**  
**Trucks shall not be idling or running generators on site between the hours of 6:00 p.m. and 7:00 a.m.**

The noise levels measured at residential use property adjacent to the site shall be no greater than 45 dB(A) during the hours of 10 p.m. and 7 a.m. and no greater than 55 dB(A) between the hours of 7 a.m and 10 p.m. or shall be no greater than 10 dB(A) above ambient noise level for those time periods.

The noise levels from devices, including, but not limited to, vehicle warning beepers, that emit impulse sounds or pure tones shall be no greater than a level determined to correspond to the averaged noise level of 55 dB(A) measured at residential use property adjacent to the site during the hours of 7 a.m and 10 p.m., and such devices shall not be operated between the hours of 10 p.m. and 7 a.m.

Screen walls designed for noise abatement shall be placed near the sources of sound to optimally protect adjacent residential use property from the impact of noise initiated by the land use.

**[[ COM: [tsb] per phone call; [jar]. ADD: ]]**  
**The volume of warning devices such as beepers shall be turned low.**

There shall be no outdoor loudspeakers at the site.

[[ DONE: 10/10/02 [fb; jar; tsb]; rewrite:

(1) revisit implications of correction equation;

(2) consider grading plans change after approval as a result of review by City departments;

(3) [not done] consider negative as well as positive grade differentials. ]]

[[ COM: 10/21/02 [tsb] revisions; modification of language per phone call [tsb]; addition of section on screen walls; jar. CHG: ]]

12. *Grade Differentials.* **Grade differentials of 3' or more between a site higher than adjacent residential use or residentially zoned property shall be mitigated with additional landscape buffer width by the amount of 5' horizontal for every 1' vertical in grade differential over and above the minimum required landscape buffer and should include a combination of additional shrubs, ground covers, mature or fast growing trees (24" box minimum), berms and screen walls. Building setbacks also shall be increased by the same amount of 5' horizontal for every 1' vertical in grade differential.**

[[ TO DO: 10/10/02 [fb; jar; tsb]; reconsider. ]]

13. *Nonconforming Uses.* A non-conforming use shall be phased out either in five (5) years or upon a change in the business associated with it.

A non-conforming structure shall lose its non-conforming status in accordance with the provisions of Section 5.4.3.2.

[[ DONE: 10/10/02 [fb; jar; tsb]; rewrite:

consider different uses of walls:

interior-site visual screen; boundary visual screen; noise abatement. ]]

[[ COM: 10/21/02 [tsb] revisions; modification of language per phone call [tsb]; jar. CHG: ]]

14. *Walls.*

a. *Sound Walls.* **Sound walls shall be designed as recommended in the noise mitigation report by an acoustic engineer. Continuous walls over 75' in length shall be varied with jogs, projections and/or curves to break up the linearity of the wall and shall have at least two surface textures. Full-sized concrete masonry units capping the wall shall be placed at right angles to the wall to overhang on the building or use side of the wall. The owner of the property shall be responsible for maintenance of the wall including, but not limited to, graffiti removal, painting and repairs.**

- b. *Interior-Site and Boundary Screen Walls*, **Continuous walls over 75' in length shall be varied with jogs, projections and/or curves to break up the linearity of the wall and shall have at least two surface textures. Changes in wall height from one segment to another shall be stepped to provide visual continuity. Screen walls shall be finished on both sides. The owner of the property shall be responsible for maintenance of the wall including, but not limited to, graffiti removal, painting and repairs.**

[[ DONE: 10/10/02 [fb; jar; tsb]; rewrite:

in some cases, expect less than 4 months from start of planning to submittal of application;

language ponderously formal and too specific. ]]

[[ COM: 10/21/02 [tsb] revisions; modification of language per phone call [tsb]; jar. CHG: ]]

- 15. *Pre-application Meetings*. **Meetings shall be as described in Sec. 5.4.5.2 and shall be additionally compliant with the following procedures: The developer shall invite property owners within 300' of the project site, as determined by the city's planning staff, neighborhood associations and homeowners associations within a mile of the project site and members of the district's city council office at least two (2) times prior to submitting an application. The developer may have additional meetings, which may involve representatives of the property owners, as needed for the purpose of achieving consensus agreement among interested parties. The developer or his/her agents shall be responsible for distributing minutes of the meetings to everyone in attendance, to neighborhood associations and homeowners associations within a mile of the project site and to the district's city council office. The minutes shall be submitted with the application.**

[[ COM: from 10/15/02 staff list; [jar]. ]]

- 16. *Special Criteria and Procedures*.

- a. *Identification of Historic Districts and Historic Structures on the National Register of Historic Places*. **The State Historic Preservation Office (SHPO), a division of Arizona State Parks, is responsible for the identification, evaluation, and protection of Arizona's historic cultural resources. For information the applicant should contact: SHPO, Arizona State Parks, 1300 W. Washington, Phoenix, AZ 85007, (602)542-4009.**

- b. *Special Submittal Requirements.* **The applicant shall ensure that a copy of all material submitted to the Planning Department is also on file at the Council Ward Office, including current grading plans with cross-sections.**
- c. *Measurement of Setbacks.* **[[ TO DO: 10/15/02 staff list: describe method for determination of setback or refer to LUC Sec. 3.2.6. ]]**

B. *Aesthetic Character of Buildings.*

**[[ COM: 10/21/02 [tsb] revisions; total rewrite of Sec. 1. ]]**

- 1. *Building Façades.* **The LRE shall be designed in such a way as to reduce the overall mass of the building. Every effort shall be taken to minimize the height of the parapet walls while providing a visual screen to the roof top mechanical units. The walls of the building shall provide visual interest consistent with the character, identity and scale of the surrounding neighborhood.**
  - a. *Public Street Frontage.* **Building elevations facing a public street shall include any combination of windows or openings, glass block, arcades, awnings or trellises along at least sixty (60) percent of the building length. Expanses of walls over 50' in length shall be broken up with projections and/or recesses with depths of at least 18". Walls shall be designed with a variety of textures and colors, and landscaping shall be provided to further soften the scale of the building.**
  - b. *Other Than Public Street Frontage:* **Expanses of walls over 50' in length shall be broken up with projections and/or recesses with depths of at least 18". Walls shall be designed with a variety of textures and colors, and landscaping shall be provided to further soften the scale of the building.**
- 2. *Detail Features.* **The Large Retail Establishment shall include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the front, side, and rear building walls with color changes, texture changes, wall offsets, reveals, or projecting ribs.**
- 3. *Roofs and Parapets.* **The roof design of the Large Retail Establishment shall include variations in roof or parapet lines to add interest to, and reduce the massive scale of, the large building. Roof features shall complement the architectural and visual character of adjoining neighborhoods. Parapet walls shall be architecturally treated to avoid a plain, monotonous look.**

4. *Materials and Colors.*

- a. Materials and colors **[[ COM: [jar]. ADD: ]]** used for the **Large Retail Establishment** shall be low reflective, subtle, neutral, or earth tone. Colors such as fluorescent or metallic shall not be used. Construction materials, such as concrete, smooth-faced concrete block, and other similar material, shall have textured finishes, such as paint, plaster, reveals, or other masonry veneers. Prefabricated steel panels shall not be used.
  - b. The Large Retail Establishment building shall have exterior building materials and colors that are compatible with materials and colors that are used in adjoining residential neighborhoods.
5. *Entryways.* The building design of the Large Retail Establishment shall include design elements that provide clearly defined, highly visible customer entrances.
6. *Screening of Mechanical Equipment.* Mechanical equipment **[[ COM: [jar]. ADD: ]]** associated with all uses on the site shall be screened to mitigate noise and views from all adjacent street frontages.
- a. *Roof Mounted.* Roof-mounted mechanical equipment shall be designed so as to not be visible at ground level from the primary access points on the adjacent rights-of-way, or from adjacent residential properties, and shall conform architecturally to the design of the building. A wood fence or similar treatment is not acceptable.
  - b. *Ground Mounted.* Ground-mounted mechanical equipment shall be screened with a masonry wall of sufficient height to block the view and noise of the equipment.
  - c. *Exception.* Where an elevated roadway is located adjacent to the development, roof-mounted mechanical equipment must be painted to match the color of the roof.

**[[ COM: 10/21/02 [tsb] revisions; new section; ]]**

7. *Safety By Design.* **The design of the project shall provide for safety of the users of the site, including but not limited to security camera surveillance, visibility from inside the facilities, adequate site lighting and careful selection and placement of landscaping.**

**[[ TO DO: 10/15/02 staff list: did not the BBSC vote to remove this Sec.? However, if it can be arranged to be done quickly and painlessly, does not DRB review offer the applicant a free peer review of the achitectural and site plans? ]]**

- C. Development Review Board (DRB).* All proposed Large Retail Establishments shall be reviewed by the Development Review Board (DRB) for recommendation to the Development Services Department (DSD) director, who will make a recommendation on whether it complies with the performance criteria. The DRB will base its recommendation on whether or not the project complies with the performance criteria related to compatibility, architecture, and site design, as provided in Sec. 3.5.9.7, where specific requirements are not provided. The applicant is responsible for providing all documentation and information necessary to show compliance, such as, but not limited to, site plans, building elevations, landscaping plans,
3. *Modification or Substitution of Alternative Performance Criteria.* The performance criteria in Sec. 2 are based on general assumptions about the physical characteristics of LRE sites and their relationship to residential land uses and residentially-zoned undeveloped land in the vicinity of the LRE. An actual LRE proposal on a specific site may require more or less stringent criteria to achieve the purpose of the performance criteria, or the substitution of alternative criteria which achieve a result equal or superior to that which could be obtained under the stated criteria.

The Zoning Examiner may approve the modification of, or the substitution of alternative criteria for, the performance criteria in Sec. 2, provided the Zoning Examiner finds, based on evidence in the record:

- a. The modification - whether more or less stringent than the stated criteria - substantially achieves the purpose of the criteria as expressed in Sec. 1 above. For example, **[[ TO DO: add examples. ]]** Such modifications may be implemented through the imposition of conditions of approval authorized by LUC Sec. 5.3.9.4.
- b. The substitution of alternative criteria substantially achieves a result equal or superior to that which could be achieved under the stated criteria. For example, **[[ TO DO: add examples. ]]** Such substituted criteria may be implemented through the imposition of conditions of approval authorized by LUC Sec. 5.3.9.4.