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PLANNING COMMISSION

TO: PLANNING COMMISSION

FROM: EVA CUTRO, PLANNING MANAGER *EC*
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MEETING DATE: NOVEMBER 1, 2023

SUBJECT: Z23-10 LDC TEXT AMENDMENT: CITIZEN REVIEW AND INITIATION OF AMENDMENT TO THE TOWN OF GILBERT LAND DEVELOPMENT CODE, CHAPTER I ZONING REGULATIONS, SECTION 2.0 TERMS, RELATED TO THE DEFINITIONS OF ACCESSORY STRUCTURE, DETACHED STRUCTURE, GUEST QUARTERS, INCIDENTAL DWELLING UNIT, PERMANENT STRUCTURE, STRUCTURE, SECONDARY DWELLING, AND SINGLE FAMILY; SECTION 3.1.2 USE REGULATIONS, USE TABLE; SECTION 3.2.4 SINGLE FAMILY RESIDENTIAL DEVELOPMENT STANDARDS, ACCESSORY STRUCTURE AND INCIDENTAL DWELLING UNIT TABLES; SECTION 3.4.3 GENERAL COMMERCIAL LANDSCAPE AREA; SECTION 3.4.4 REGIONAL COMMERCIAL LANDSCAPING %; SECTION 3.7.4 GENERAL INDUSTRIAL FRONT SETBACK; SECTION 5.1.15 MARIJUANA FACILITIES; SECTION 5.2.3 INCIDENTAL DWELLING UNIT; AND, SECTION 6.7.2 INITIATION OF AMENDMENTS. THE EFFECT OF THE AMENDMENT WILL BE TO CLARIFY THE CODE, ADDRESS SPECIFIC APPLICANT CONCERNS, REVIEW THE USE PERMIT REQUIREMENTS, AND ADDRESS SCRIVENER’S ERRORS.

STRATEGIC INITIATIVE: Prosperous Community

The proposed text amendments will improve certain development standards and clarify how they are defined. The built environment is directly affected

by the efficiency and effectiveness of the Land Development Code implementation.

RECOMMENDED MOTION

- A. Initiate a text amendment to Chapter I Zoning Regulations, Section 2.0 Terms; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 3.4.3 General Commercial; Section 3.4.4 Regional Commercial; Section 3.7.4 General Industrial; Section 5.1.15 Marijuana Facilities; Section 5.2.3 Incidental Dwelling Unit; and, Section 6.7.2 Initiation of Amendments.
- B. Conduct a Citizen Review meeting to discuss the proposed Land Development Code text amendment related to: the definitions of Accessory Structure, Detached Structure, Guest Quarters, Incidental Dwelling Unit, Permanent Structure, Structure, Secondary Dwelling, and Single Family; hours of operation for marijuana facilities; initiation of amendments; and, address scrivener's errors to landscape areas and setbacks. The effect of the amendment will be to clarify the Code, address specific applicant concerns, review the Use Permit requirements, and clarify inconsistencies.

BACKGROUND

On a continual basis, staff seeks ways to improve the content and usefulness of the Land Development Code (LDC). This is often in response to customer needs and citizen expectations for a high quality built environment.

In July of 2021, the Town completed a "refresh" of the LDC. The refresh modernized the LDC and introduced minor changes throughout the Code. After using the refreshed Code for two years, staff has discovered a few discrepancies, scrivener's errors, and minor cleanup items that we would like to revisit at this time.

At this point, Staff has not finalized specific language associated with this potential amendment, but has identified the following sections for revision:

DISCUSSION

Incidental Dwelling Units

Recently, Secondary Dwelling Units have been in the spotlight, with Phoenix and other neighboring municipalities updating their Codes. Staff has also been receiving applicant concerns regarding definitions in the Land Development Code and additional use permit requirements pertaining to Incidental Dwellings.

There are many terms associated with Incidental Dwelling Units including: Accessory Structure, Detached Structure, Guest Quarters, Habitable Space, Livable Floor Area, Living Quarters, Non-Habitable Space, Permanent Structure, Secondary Dwelling, Single Family, and Structure.

The above definitions all pertain to residential uses. Some should be amended; others could be eliminated. The LDC also references “ADU”s and “livable space” but does not define these terms, so additional terms may be necessary.

There is also an update needed to Table 3.1.2 Use Regulations. It currently requires Incidental Dwelling Units to obtain an Administrative Use Permit “A”. Prior to the LDC Refresh, only Secondary Dwellings were required to obtain Administrative Use Permits. Staff believes the change from Secondary Dwellings to Incidental Dwelling Units was inadvertent, and should revert back to Secondary Dwellings.

		Table 3.1.2 Use Regulations									
Use Category	Residential										
Subcategory	SF-43	SF-35	SF-15	SF-10	SF-8	SF-7	SF-6	SF-D	SF-A	MF/L	MF/M
Specific Use Type											
Residential											
Household Living											
Residential											
Loft Unit											
Single Family	P	P	P	P	P	P	P	P	P	L3	
Multi-Family										P	P
Incidental Dwelling Unit	A	A	A	A	A	A	A			L34	L34
Model Home Complex	P	P	P	P	P	P	P	P	P		

Staff is also exploring options to clarify the standards in Section 5.2.3 Incidental Dwelling Unit. These standards include heights, setbacks, lot coverage, relationship to the primary dwelling, and parameters to assure that Incidental Dwellings are truly subordinate to the Primary Dwelling.

Initiation of Amendments

Currently the LDC allows Town Council, Planning Commission, and Owners to initiate amendments to zoning. Staff is researching whether initiation of amendments should be limited to Council and Commission with property owners working through staff, Commission, and/or Council to pursue amendments.

6.7.2 Initiation of Amendments

A. *Town Council*

The Town Council may direct the Planning Commission to initiate and analyze, conduct a hearing, and make a recommendation to the Council for an amendment to the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map.

B. *Planning Commission*

The Commission may initiate consideration of an amendment by directing the Planning Manager to prepare an amendment to the text of the Zoning Code, a zoning ordinance, or the Official Zoning Map and to schedule a hearing on the proposed amendment pursuant to the procedures set forth in this section. Following the hearing the Commission may make a recommendation to the Town Council for action.

C. *Owner*

A property owner or an agent authorized in writing may apply for an amendment to the Official Zoning Map or a zoning ordinance governing the property.

Marijuana Facilities

The LDC currently allows Marijuana Facilities to operate until 8:00pm.

Section 5.1.15 Marijuana Facilities – Hours of Operation

A Marijuana Facility shall have operating hours not earlier than 8:00 am and not later than 8:00 pm.

The Town currently has one Marijuana Facility operating until 8:00 pm. Chandler, Phoenix, Apache Junction, and Tempe allow hours until 10:00 pm. Mesa allows hours until 9:00 pm. Staff is considering an amendment to permit operations until 10:00 pm. This could allow our dispensary to be more competitive with other dispensaries, satisfy the increased demand since the facility was established, and generate additional sales tax revenue.

In addition, there appears to be a scrivener’s error in the “lettering” of Section 5.1.15 of the Code. The subsections are currently lettered as “A, B, C, B, C.” This should be revised to correctly read “A, B, C, D, E.”

Scrivener’s Errors

Regional Commercial – landscape % is missing. Should be 15%.

Minimum Required Landscape Area (ft.)		
Front	25	B, C
Side [Street]	20	
Side [Residential]	40	
Side [Non-residential]	20	
Rear [Residential]	40	
Rear [Non-residential]	20	
Landscaping (% of net area)		See Landscape

General Industrial - front setback for required landscape area is missing. Should be 25 feet.

Minimum Required Landscape Area (ft.)	25	
Front [Arterial]		C, D
Front [Collector or Local]	25	
Side [Street]	25	
Side [Residential]	30	
Side [Commercial/Office/ Public Facility/Institutional]	20	
Side [Employment]	5	
Rear [Residential]	35	
Rear [Commercial/Office/ Public Facility/Institutional]	15	
Rear [Employment]	5	

GC 3.4.3.4.d.1 – minimum required landscape area 45’max (should say front)

Minimum Required Landscape Area (ft.)		
45’ max	25	B, C
Side [Street]	20	
Side [Residential]	40	
Side [Non-residential]	20	
Rear [Residential]	40	
Rear [Non-residential]	20	
Landscaping (% of net area)	15	See Landscape

PUBLIC NOTIFICATION AND INPUT

A notice of initiation and citizen review was advertised and published in The Arizona Republic newspaper, and an official notice was posted in four public places within the Town of Gilbert limits - Greenfield Public Library, Chamber of Commerce, Perry Public Library, and Civic Center Municipal Building II. The notification requirements of LDC Section 6.2.6 have been satisfied. Staff has received no comment from the public at this time.

STAFF RECOMMENDATION

- A. Initiate a text amendment to Chapter I Zoning Regulations, Section 2.0 Terms; Section 3.1.2 Use Regulations, Use Table; Section 3.2.4 Single Family Residential Development Standards, Accessory Structure and Incidental Dwelling Unit Tables; Section 3.4.3 General Commercial; Section 3.4.4 Regional Commercial; Section 3.7.4 General Industrial; Section 5.1.15 Marijuana Facilities; Section 5.2.3 Incidental Dwelling Unit; and, Section 6.7.2 Initiation of Amendments.
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Respectfully submitted,

Eva Cutro

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Planning Manager