

Type IV Legislative Action: **NEWBERG DEVELOPMENT CODE &** **MUNICIPAL CODE AMENDMENTS**

Potential Vacancy, Environmental, and
Economic Standards for Large Scale Retailers
(File # DCA-06-04)

City of Newberg City Council
Public Hearing, March 16, 2009



REQUEST

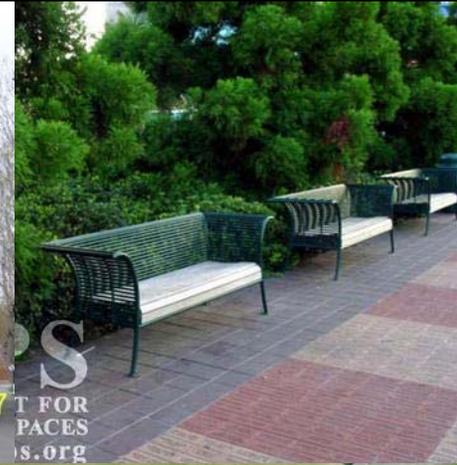
Amend the Code to require Large Scale Retailers to:

- a. Submit a **maintenance surety bond** filed with the city.
- b. Use **environmentally beneficial site design** and construction practices.
- c. Submit economic impact report and **mitigate substantial fiscal impacts** to the municipal budget.

Summary of Existing Requirements

* Large scale retailer = 30,000 sq. ft. building or 50,000 cumulative sq. ft. on site.

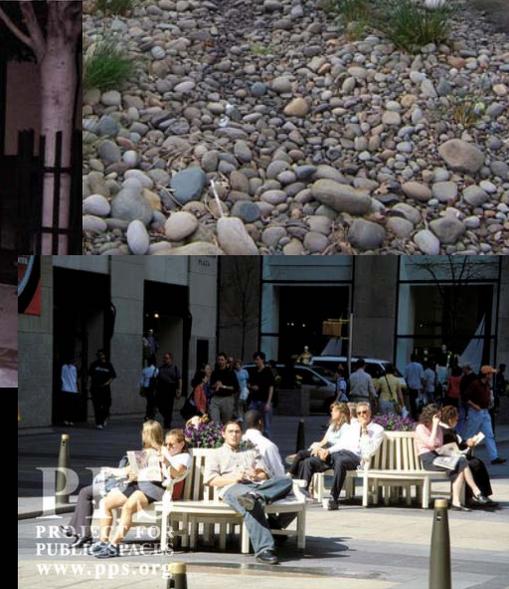
- Buildings oriented to the street or plaza space
- Minimum window area for building façade
- Use of certain architectural features
- Pedestrian entrances along façade
- Increased parking lot landscaping



Summary of Existing Requirements

* Large scale retailer = 30,000 sq. ft. building or 50,000 cumulative sq. ft. on site.

- Use of best management stormwater practices for parking lots
- Landscape buffering between residential
- Minimum open space area
- Internal pedestrian connectivity
- Pedestrian scale lighting
- Maximum parking requirements



POTENTIAL TEXT AMENDMENTS

Newberg Development Code

- * Large scale retailers have the option to meet the following requirements or go through the conditional use process

VACANCY AGREEMENT

All large scale retail development sites as defined in § 151.196 (H) shall have an abandoned building surety agreement filed with the City. The purpose of the agreement is to ensure a continued attractive business environment in case a building goes vacant. The agreement shall provide measures to maintain the **on-site landscaping** and **exterior of the buildings** to their pre-vacancy condition, and to assist in **finding a future tenant**. Vacancy is defined as a period exceeding **one year without legal occupancy**. The terms of the agreement shall include:

TERMS OF AGREEMENT

a. A surety bond equal to **one percent of the total valuation** of the buildings on-site.

b. If the owner fails to maintain the physical exterior of the property or any building on-site the bond may be used for items including, but not limited to: **landscape** maintenance, exterior building **repairs**, parking lot **paving**, amenities in the **public right of way** (lighting, benches, landscaping, etc.). If the cost of maintenance exceeds the amount of the bond, the City will bill the owner. Any unpaid amounts will become a lien on the property.

TERMS OF AGREEMENT

c. If the owner fails to legally occupy the site the bond may be used as an incentive for prospective tenants including, but not limited to: payment of permit fees, application fees, system development charges, funding for on-site landscaping, and façade improvements.

d. If the surety bond is expended in any amount, the owner shall provide a new surety bond prior to occupancy by a new tenant. The amount of the bond shall be equal to one percent of the value of the building at the time of occupancy.

TERMS OF AGREEMENT

- e. If at any time prior to one year vacancy, the Director finds the **property is in need of maintenance**, the Director shall **notify the owner in writing** of the need to maintain the property and the **intent to use the bond**. Unless the owner provides the needed maintenance or objects within 30 days of the notice, the surety may be used to maintain the property. If the owner objects, the City Council will hear the matter and determine whether the surety will be used.

BOND VALUATION

1. Many codes require bond value to be determined through CUP process
2. Others base bond value on a percentage of the total floor area (i.e. 20 cents per square foot of floor area).
3. **Newberg - Proposed bond value = 1% of total building valuation**
 - * Example
 - \$2 mil. building = \$20,000 bond
 - Maintenance cost = \$35 per hour + materials
 - Approx. 500+ hours of maintenance
 - Approx. 40 hours per month over 1 year.
 - Approx. 10 hours per week over 1 year
4. Typical landscape bonds are approx. \$10,000

WHAT IS LEED?

(Leadership in Energy and Environmental Design)

1. Third party certification program operated by the U.S. Green Building Council.
2. Weighted point system – six categories, numerous sub-categories
3. 4 levels of certification
4. Design review certification and for final construction
5. Design review fees = \$0.30/per sq. ft., Construction review fees = \$0.15/per sq. ft.
6. Approval typically occurs between 6-12 months after construction



LEED CERTIFICATION

Environmental Impact. All new large scale retail development as defined in § 151.196 (H) shall be LEED Certified as defined by the U.S. Green Building Council. The terms of approval are as follows:

TERMS OF APPROVAL

- a. The applicant shall demonstrate to the Director the extent to which the applicant has complied with the commitment to earn a **LEED New Construction Certification rating** for a completed project. Demonstration of LEED Certification shall be completed **prior to the issuance of final Certificate of Occupancy** for the new structure by submitting a report analyzing the extent credits earned toward such rating from the U.S.Green Building Council or another independent entity approved by the Director.

TERMS OF APPROVAL

b. With specific regard to the LEED **Stormwater Design** category, all buildings shall obtain a total of at least **two points** in this category.

c. With specific regard to the LEED **Water Efficiency** category, all buildings shall obtain a total of at least **one point** in this category.

TERMS OF APPROVAL

c. In this section the term "Leadership in Energy and Environmental Design (LEED)" means a green building rating system promulgated by the United States Green Building Council (USGBC) that provides specific principles and practices, some mandatory but the majority discretionary, that may be applied during the design, construction, and operation phases, which enable the building to be awarded points from reaching present standards of environmental efficiency so that it may achieve LEED certification from the USGBC as a "green" building, as such rating system exists on January, 1, 2009.

TERMS OF APPROVAL

d. The USGBC intends to release a revised version of

the LEED Green Building Rating System every three years; and the **Director shall refer to the most current version of the LEED** when reviewing a new building construction permit project or renovation.

e. The LEED Existing Building **rating system shall be**

used during retrofit projects of existing structures.

Project Checklist

Sustainable Sites

14 Possible Points

		Required
Prereq 1	Construction Activity Pollution Prevention	
Credit 1	Site Selection	1
Credit 2	Development Density & Community Connectivity	1
Credit 3	Brownfield Redevelopment	1
Credit 4.1	Alternative Transportation, Public Transportation Access	1
Credit 4.2	Alternative Transportation, Bicycle Storage & Changing Rooms	1
Credit 4.3	Alternative Transportation, Low Emitting & Fuel Efficient Vehicles	1
Credit 4.4	Alternative Transportation, Parking Capacity	1
Credit 5.1	Site Development, Protect or Restore Habitat	1
Credit 5.2	Site Development, Maximize Open Space	1
Credit 6.1	Stormwater Design, Quantity Control	1
Credit 6.2	Stormwater Design, Quality Control	1
Credit 7.1	Heat Island Effect, Non-Roof	1
Credit 7.2	Heat Island Effect, Roof	1
Credit 8	Light Pollution Reduction	1

Water Efficiency

5 Possible Points

Credit 1.1	Water Efficient Landscaping, Reduce by 50%	1
Credit 1.2	Water Efficient Landscaping, No Potable Use or No Irrigation	1
Credit 2	Innovative Wastewater Technologies	1
Credit 3.1	Water Use Reduction, 20% Reduction	1
Credit 3.2	Water Use Reduction, 30% Reduction	1

SS Credit 6.1: Stormwater Design: Quantity Control

1 Point

Intent

Limit disruption of natural water hydrology by reducing impervious cover, increasing on-site infiltration, reducing or eliminating pollution from stormwater runoff, and eliminating contaminants.

Requirements

CASE 1 — EXISTING IMPERVIOUSNESS IS LESS THAN OR EQUAL TO 50%

Implement a stormwater management plan that prevents the post-development peak discharge rate and quantity from exceeding the pre-development peak discharge rate and quantity for the one- and two-year 24-hour design storms.

OR

Implement a stormwater management plan that protects receiving stream channels from excessive erosion by implementing a stream channel protection strategy and quantity control strategies.

OR

CASE 2 — EXISTING IMPERVIOUSNESS IS GREATER THAN 50%

Implement a stormwater management plan that results in a 25% decrease in the volume of stormwater runoff from the two-year 24-hour design storm.

POTENTIAL TEXT AMENDMENTS

Newberg Municipal Code

* Applicable to all Large scale retailers

PURPOSE OF FISCAL IMPACT REPORT

The city finds that **large scale retail development can have adverse impacts** on a local economy such as creating a net loss of employment or wages, or exporting dollars from the local area. An economic impact assessment report **assists the city to identify any adverse economic impacts** and subsequently require mitigation measures for a proposed large scale retail development. It is intended as a tool to ensure that new businesses, in conjunction with existing businesses, provide **long term net benefits for the local economy.**

APPLICABILITY OF REQUIREMENTS

1. **New large scale retail** over 30,000 square feet gross floor area or 50,000 square feet cumulative gross floor area.
2. **Expansions** of large scale retail requiring a Type II or Type III design review.
3. **New tenants** to existing large scale retail.

PROCESS

An economic impact assessment report shall be conducted by an independent consultant chosen at the discretion of the Director. The report shall be paid for by the applicant. The report shall be submitted to the Director for review prior to issuance of a building permit for any large scale retail project, or prior to occupancy for any project not requiring a building permit. If the Director finds that the report meets the criteria in § 116.04 a determination of no adverse economic impact is found. If the Director finds that the criteria have not been met a public hearing will be held by the Planning Commission to review the report and make a determination based on the criteria.

CONTENTS OF REPORT

The economic impact assessment report shall include the following information:

1. The **anticipated fiscal impact on municipal services**, including police, fire, road maintenance, and stormwater, waste water, and water services.

“NO ADVERSE IMPACT” CRITERIA

In order to have a finding of no significant adverse impact, the report must show the following criteria are met:

1. The proposed development will not have an adverse fiscal impact on municipal services, including police, fire, road maintenance, and stormwater, sewer, and water services.

MITIGATION

If the report finds any of the criteria in section 116.04 are not met, the Planning Commission can require mitigation. Conditions may include, but are not limited to:

1. Requiring **additional payment for municipal services**. Installing or upgrading utility services, such as stormwater detention facilities.
2. **Providing additional transportation facilities**, such as sidewalks, traffic signals, bus stops, turn lanes, and street widening.

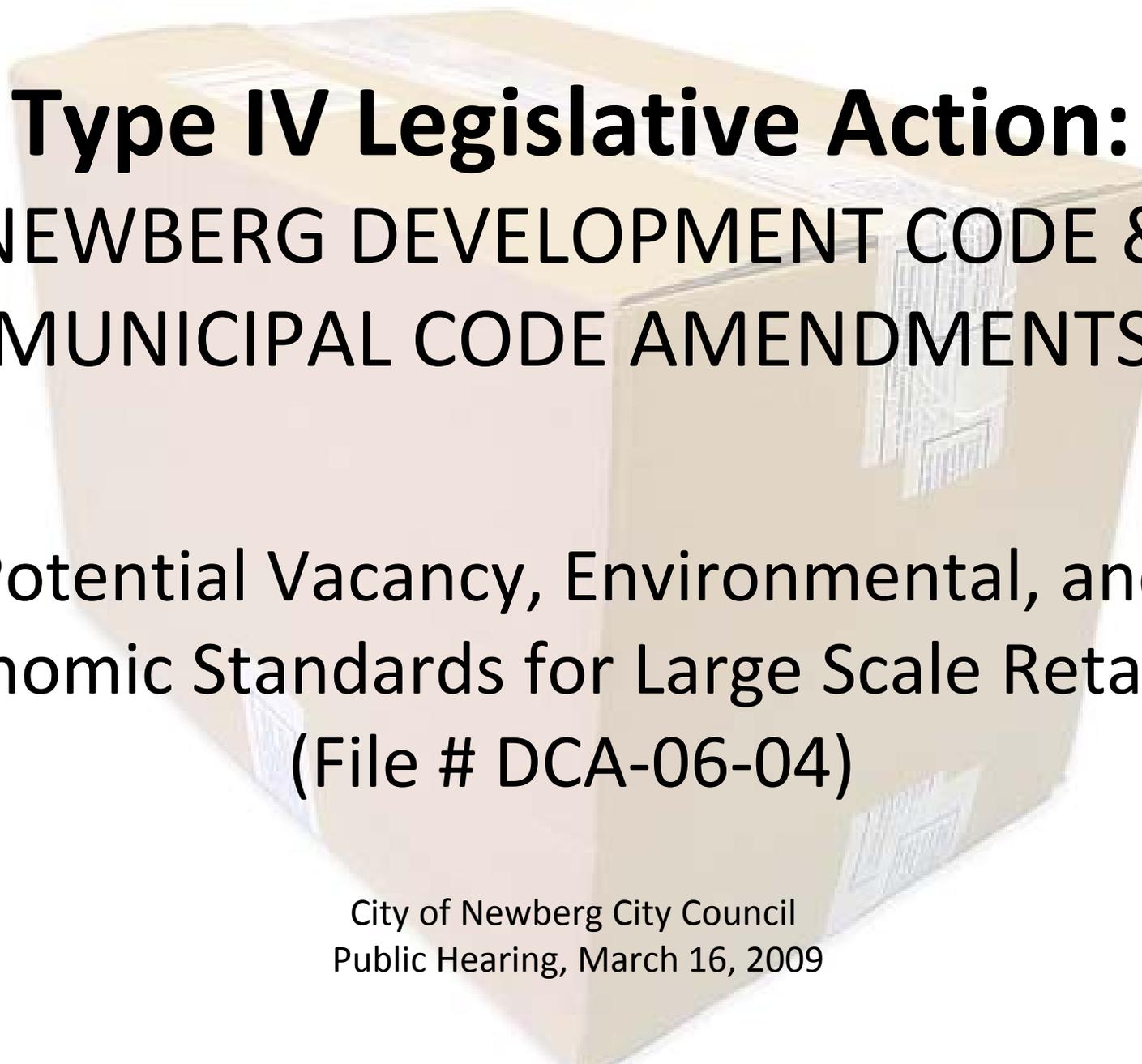
AMENDMENT CRITERIA

1. The proposed change is consistent with and **promotes the objectives** of the Newberg Comprehensive Plan and this code;
2. There is a **public need** for a change of the kind in question.

PLANNING COMMISSION & STAFF RECOMMENDATION

Adopt Ordinance 2009-2711 which recommends that the City Council adopt the proposed:

1. Development Code amendments to require:
 - a. Submittal of a **vacancy surety agreement & bond** .
 - b. **LEED** certification.
2. Municipal Code amendments to require:
 - a. An **economic impact study** and mitigation.



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