

**PLANNING COMMISSION RESOLUTION NO. 2007-235**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG  
RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE TO  
INCLUDE REGULATIONS FOR LARGE SCALE RETAIL ESTABLISHMENTS**

**RECITALS:**

1. Large retail buildings can be unattractive, disturbing to adjacent uses, and have significant impacts on the community.
2. On February 20, 2007, the Newberg City Council adopted Resolution 2007-2701, initiating amendments to the Development Code to address issues associated with large scale retail development.
3. On March 24, 2007, notice of a public hearing on the proposed amendments was published in the *Newberg Graphic* and posted in four public places.
4. On April 12, 2007, the Newberg Planning Commission held a public hearing on the proposed amendments. The meeting was continued until May 3, 2007.
5. On May 3, 2007 the Newberg Planning Commission held a mobile workshop to gain a better understanding of large scale retail development site design. The meeting was continued until October 11, 2007.
6. On September 19, 2007 notice of a public hearing on the proposed amendments was published in the *Newberg Graphic* and posted in four public places.
7. On October 11, 2007 the Newberg Planning Commission held a public hearing on the proposed amendments. The meeting was continued until November 8, 2007.
8. On October 22, 2007 notice of a public hearing was placed on the City's website.
9. On November 8, 2007 the Newberg Planning Commission held a public hearing on the proposed amendments.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Newberg that it recommends that the City Council approve the amendments to the Newberg Development Code as shown in Exhibit A and that the City Council pursue "Green Design" policies and ordinances for the City of Newberg. This recommendation is based on the staff report and the findings in Exhibit B, and testimony.

**DATED** this 8<sup>th</sup> day of November, 2007.

AYES: 5

NAYS: 0

ABSTAIN: 0

ABSENT: 1

ATTEST:

  
\_\_\_\_\_  
Planning Commission Secretary

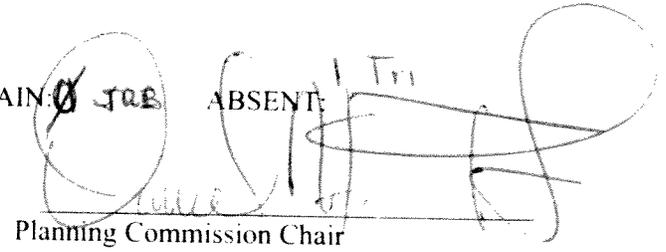
  
\_\_\_\_\_  
Planning Commission Chair

Exhibit A: Development Code Text Amendments  
Exhibit B: Findings

**Exhibit A to Resolution 2007-235**  
Potential Development Code amendments

Note: Existing text is shown in regular font.  
Added text is shown in double-underline  
Deleted text is shown in ~~strikethrough~~.  
Added text at previous public hearings, currently proposed to be deleted is shown in double underline and strikethrough.

**Section 1: Newberg Development Code § 151.196 shall be amended as follows:**

**§ 151.196 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT IN THE C-2 ZONING DISTRICT.**

The purpose of this section is to ensure that development in the C-2 Zoning District is designed to promote pedestrian and bicycle uses and improve aesthetics and compatibility. An applicant for a new development or redevelopment within the C-2 Zoning District, which is subject to the Site Design Review process, must demonstrate that the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements, except for requirements regarding parking and service drives.

(A) *Building entrances.* Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. "Oriented to a street" means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. "Primary street" means ~~the highest classification street abutting the lot. On lots which abut two or more streets of equal classification, the primary street shall be~~ the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk or pedestrian pathway system which is internally connected and provides a connection to the primary street.

(B) *Parking and service drives.* No off-street parking or service drives shall be placed within the required front yard setback. No off-street parking shall be placed between the front property line of the primary street, as defined in division (A) above, and the building. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way.

(C) *Exceptions.* The review body may approve exceptions to the above provided there are no reasonable alternatives that would allow access to or parking on the lot.

(D) *Building mass.* Where building elevations are oriented to the street in conformance with (A) above, architectural features such as windows, pedestrian entrances, building off-sets, projections, detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes.

(E) *Corner lots.* Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 40 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating or other pedestrian amenities. The building corner shall provide architectural detailing or beveling to add visual interest to the corner.

(F) *Pedestrian-scale building entrances.* Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.

(G) *Windows.*

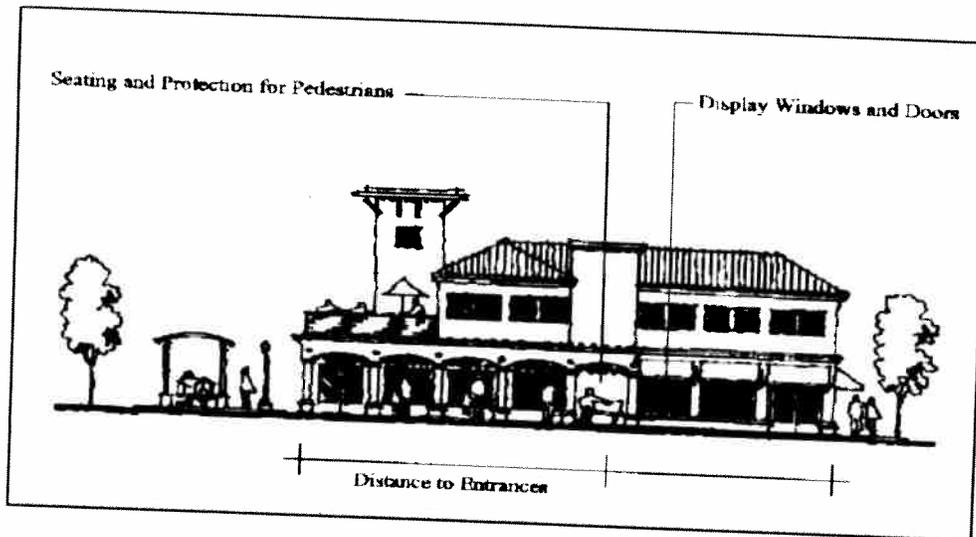
(1) On commercial building facades facing a public street, windows shall comprise a minimum of 40% of the ground floor facade. For large-scale buildings and developments meeting the standards under subsection (H) below, windows shall comprise a minimum of 20% of the ground floor facade.

(2) 50% of all required window area shall allow view into an active space. An active space is defined as any area within a building that is used for shopping, dining, office space, and so forth. Merchandise display windows shall be considered an active space. Examples of areas that are considered non-active spaces are storage and mechanical equipment areas.

(H) Design of large-scale buildings and developments. Commercial buildings and uses comprising more than 40,000 ~~30,000~~ square feet of total ground floor building space shall additionally conform to the standards below: All buildings on a development site shall conform to the design standards included under § 151.196 (H)(1) where the total square footage of one commercial building exceeds 30,000 square feet of total ground floor area or all commercial buildings exceed 50,000 square feet of total ground floor area. Deviations from these standards may be approved, where appropriate, through the conditional use permit process.

(I) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, ~~or up lighting~~); and similar features. At least ~~four~~ five of the following elements shall be included along each 100 feet of building frontage facing a street:

- (a) A building offset or projection of at least 6 feet depth and width.
- (b) An awning or roof sheltering a pedestrian walkway or seating area.
- (c) ~~A change in material.~~ Each building facade shall be comprised of at least two building materials, with the lesser comprising not less than 10% of the total facade.
- (d) Contrasting brick, stone, or natural wood trim.
- (e) Pitched roofs or gable-end roofs.
- (f) Curved arches or roof line features.
- (g) A tower, spire, or cupola.
- (h) a cornice.
- (i) ~~recessed entrances.~~
- (j) Second story windows that comprise a minimum of 10 percent of the second floor facade.



*[Note: the example shown here is meant to illustrate these building design elements, and should not be interpreted as a required architectural style.]*

(2) Every building elevation facing a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance no more than 100 from another entrance or end-wall; except that buildings elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way.

(3) For all ground floor facades that do not face a public street, windows shall comprise a minimum of 20 % of the ground floor facade or a landscape strip shall be provided adjacent to the building. The landscape strip shall be a minimum of 5 feet in width and include a combination of trees, shrubs, and groundcover or grass. Plant material shall be selected from at least two of the different plant material groups (example: trees and shrubs, or lawn and shrubs, or lawn and trees and shrubs). The type of tree selected shall have a crown of less than 15 feet at maturity. Exceptions to this standard include building facades that abut outdoor storage areas, loading docks, and mechanical equipment areas.

(4) Building orientation. All buildings shall be oriented to a primary street as defined in division (A) or oriented to a plaza or open space within the development site that connects to the primary street. "Oriented to a plaza or open space" means that the building entrance faces the plaza or open space or is connected to the plaza by a direct and convenient pathway not exceeding 60 feet in length. One square foot of interior open space or plaza space shall be required for every 500 square feet of gross floor area. Sitting spaces shall be provided for every 500 square feet of plaza space or open space. One tree shall be provided for every 800 square feet of plaza space or open space.

(5) On-site landscaping and screening.

(a) An island of landscape area shall be located to separate blocks of parking spaces. At a minimum, one deciduous shade tree per five parking spaces shall be planted to create a partial tree canopy over and around the parking area. The type of tree shall be chosen from the City of Newberg Preferred Street Tree List and have a minimum crown spread of 25 feet. No more than five parking spaces may be grouped together without an island separation unless otherwise approved by the Director based on the following alternative standard;

1. Provision of a continuous landscape strip, with a five foot minimum width, which runs perpendicular to the row of parking spaces.
2. Provision of tree planting landscape islands, each of which is at least 16 square feet in size, and spaced no more than 50 feet apart on average, within areas proposed for grouped parking. For every 5 planting landscape islands, 1 shall be no less than 500 square feet in size.

(b) A 20-foot wide landscaped buffer shall be provided between the development and any adjoining residential district. The buffer shall include a continuous 6-foot high sight-obscuring fence or wall, a continuous hedge and/or berm designed to achieve a height of 6-feet upon maturity, a row of trees not more than 35 feet on-center, and shrubs or living groundcover.

(c) Outdoor storage areas, loading docks, and mechanical equipment areas shall be fenced or screened with landscaping between the area and public streets.

(6) Vehicle and Pedestrian Connectivity.

(a) [pending adoption]

(b) At a minimum, 95% of the parking spaces shall be located within 75 feet of a private walkway.

(7) Pedestrian-scale lighting. [pending adoption]

(8) Parking. The number of parking spaces shall not exceed 125 percent of the minimum number of spaces required. Parking spaces constructed of grass blocks, grasscrete, or similar material shall not be counted in this limit.

**Section 2: Newberg Development Code § 151.356**

Section 151.196 (H) allows for uses that exceed 30,000 gfa to meet the applicable design standards or apply for a conditional use permit. This language conflicts with previous text amendment proposals included in section 151.356 that recommended size thresholds for particular uses. Staff recommends that no changes be made to section 151.356 below. The existing Development Code text is as follows (the previously proposed but currently proposed to be deleted text is shown in double underlined and has a strikethrough):

**§ 151.356 PERMITTED BUILDINGS AND USES.**

(A) In the C-2 Community Commercial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) These buildings and uses are subject to the general provisions and exceptions set forth in this code:

- (1) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.357.
- (2) Agricultural machinery sales and service.
- (4) Ambulance services.
- (5) Antique shops (less than 30,000 square feet gfa).
- (6) Appliance sales and service (less than 30,000 square feet gfa).

- (7) Art supplies (~~less than 30,000 square feet gfa~~).
- (8) Artist studios.
- (9) Athletic facilities.
- (10) Auction sales, excluding livestock.
- (11) Auditorium and theaters.
- (12) Automobile parts and accessories stores.
- (13) Automobile sales, new and used.
- (14) Bakeries, retail.
- (15) Bakeries, wholesale.
- (16) Banks.
- (17) Barber and beauty shops.
- (18) Bars or night clubs, provided that only a liquor license of the type "Dispenser Class A" is applied for.
- (19) Bed and breakfast establishments.
- (20) Bicycle shops.
- (21) Blood banks.
- (22) Blueprinting.
- (23) Book stores (~~less than 30,000 square feet gfa~~).
- (24) Bowling alleys.
- (25) Building maintenance service.
- (26) Business offices, general.
- (27) Camera and supplies shops (~~less than 30,000 square feet gfa~~).
- (28) Car washes, coin operated or mechanical.
- (29) Catering services.
- (30) Chapels.
- (31) Christmas tree sales (outdoor sales) in accordance with this code.
- (32) Churches.

- (33) Clinics.
- (34) Clothing apparel shops ~~(less than 30,000 square feet gfa).~~
- (35) Clubs, lodges and meeting halls.
- (36) Cocktail lounges.
- (37) Colleges, business or private.
- (38) Confectionery stores with fountains.
- (39) Curio shops ~~(less than 30,000 square feet gfa).~~
- (40) Dairy products stores, retail only.
- (41) Dance halls.
- (42) Day nurseries.
- (43) Data processing centers.
- (44) Delicatessen stores.
- (45) Department stores ~~(less than 30,000 square feet gfa).~~
- (46) Drapery stores ~~(less than 30,000 square feet gfa).~~
- (47) Dress and millinery shops ~~(less than 30,000 square feet gfa).~~
- (48) Driving ranges - private.
- (49) Dry cleaning establishments; coin operated, custom and self-service.
- (50) Dwelling units, provided the units are above any use permitted in §§ 151.355, 151.356 and 151.357. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (51) Electrical and electronic supplies, retail.
- (52) Equipment sales (limited to self-propelled equipment, if not within an enclosed building).
- (53) Fireworks sales (outdoor sales) from June 24 to July 6.
- (54) Floor covering stores ~~(less than 30,000 square feet gfa).~~
- (55) Florist shops ~~(less than 30,000 square feet gfa).~~
- (56) Furniture stores ~~(less than 30,000 square feet gfa).~~
- (57) Garden supplies ~~(less than 30,000 square feet gfa).~~
- (58) Gift shops ~~(less than 30,000 square feet gfa).~~

- (59) Grocery stores, markets and supermarkets, including food products stores, retail ~~(less than 30,000 square feet gfa)~~;
- (60) Group care homes provided they comply with the requirements listed under "Dwelling Units", listed above in this section.
- (61) Hardware stores ~~(less than 30,000 square feet gfa)~~;
- (62) Health studios.
- (63) Hobby shops, including slot racing tracks ~~(less than 30,000 square feet gfa)~~;
- (64) Hospitals.
- (65) Hotels, motels, motor hotels or tourist courts.
- (66) Interior decorators studios.
- (67) Jewelry stores ~~(less than 30,000 square feet gfa)~~;
- (68) Laboratories, medical and dental.
- (69) Laundromats, hand laundries and self-service laundries.
- (70) Leather goods stores ~~(less than 30,000 square feet gfa)~~;
- (71) Liquor stores, package.
- (72) Lockers, cold storage, retail use only.
- (73) Locksmith shops.
- (74) Marine sales and service.
- (75) Miniature golf courses.
- (76) Mobile home sales and service.
- (77) Mortuaries.
- (78) Movie theaters.
- (79) Music or dancing schools.
- (80) Music stores ~~(less than 30,000 square feet gfa)~~;
- (81) Newspaper printing establishments.
- (82) Offices for the following:
  - (a) Accountants.
  - (b) Attorneys.

- (c) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.
- (d) Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.
- (e) General administration.
- (f) Insurance brokers.
- (g) Lumber brokers.
- (h) Real estate sales.
- (i) Savings and loans.
- (j) Stockbrokers.
- (k) Telephone answering services.
- (83) Office supplies and equipment stores (less than 30,000 square feet gfa).
- (84) Open space.
- (85) Paint and wallpaper stores (less than 30,000 square feet gfa).
- (86) Parking areas; public or private.
- (87) Parking garages; public or private.
- (88) Pet shops (less than 30,000 square feet gfa).
- (89) Photographic film processing, photo-engraving, photocopying and photostating.
- (90) Photographers studios.
- (91) Planned unit developments.
- (92) Pool and billiard halls.
- (93) Post offices.
- (94) Printing shops.
- (95) Public and semi-public buildings.
- (96) Radio and television broadcasting studios.
- (97) Radio, television and record sales and service.
- (98) Reducing salons.
- (99) Repair garages.

- (100) Research institutes (non-manufacturing).
- (101) Restaurants; including drive-through windows.
- (102) Retail building material sales, provided outside storage is visually screened (~~less than 30,000 square feet gfa~~).
- (103) Schools; business or private.
- (104) Secondhand stores (if conducted wholly within an enclosed building ~~less than 30,000 square feet gfa~~).
- (105) Service stations.
- (106) Sewing machine sales and service.
- (107) Shoe repair shops.
- (108) Shoe stores.
- (109) Skating rinks, indoor.
- (110) Small animal hospitals and clinics.
- (111) Sporting goods stores (~~less than 30,000 square feet gfa~~).
- (112) Storage buildings (household goods only). Mini-storage.
- (113) Surgical, medical and dental supplies and equipment stores.
- (114) Tailor shops.
- (115) Taverns.
- (116) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.
- (117) Telephone and telegraph exchanges.
- (118) Theaters.
- (119) Tobacco shops.
- (120) Toy stores (~~less than 30,000 square feet gfa~~).
- (121) Transit centers.
- (122) Transportation facilities and improvements.
- (123) Travel agencies.
- (124) Upholstery; automobile and furniture.

(125) Variety shops (~~less than 30,000 square feet gfa~~);

(126) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

**Section 3: Newberg Development Code § 151.357, shall be amended as follows:**

**§ 151.357 BUILDINGS AND USES PERMITTED CONDITIONALLY.**

In addition to the buildings and uses permitted conditionally listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

(A) Dwelling units. The permitted density shall be stated on the conditional use permit.

(B) Fumigation chambers.

(C) Group care facilities. The permitted density shall be stated on the conditional use permit.

(D) Group care homes not meeting the requirements listed under permitted uses in § 151.356.

(E) Nursing homes.

(F) Recreational vehicle parks.

(G) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet.

(H) Theaters, drive-in.

~~(I) Any use greater than or equal to 30,000 square feet gfa, that would be a permitted use under § 151.356 except for the floor area limitation in that section. All developments sites within the C-2 district that include buildings that individually exceed 30,000 gfa or 50,000 cumulative gfa that do not meet the code requirements of §151.196 (G) and (H).~~

(J) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

**Section 4: Remaining Decision Items-Revised Text Amendment Proposals for § 151.196**

On October 11, 2007 the Planning Commission asked that staff make text changes to several text amendment proposals. Staff recommends that the Planning Commission review the revised proposals and make a decision on which options to add to § 151.196 Additional Requirements for Development in C-2 Zoning District. Note: The numbering from the October 11, 2007 staff report is used below for comparison purposes. Additional changes are also recommended at the end of this section. These items include minor changes that staff has made so the proposed text amendments integrate better with the existing Development Code language. There are also a few recommended changes where the proposed text amendments would duplicate or conflict with existing Development Code language.

## 2. Connectivity

### 2.a. On-Site Streets

**Option 2.a.2) Revised proposed text amendment:** §151.196 (H)(6)(a) Public streets shall be dedicated on-site. Internal streets shall be designed according to all applicable local street standards contained in the Development Code. Block length shall not exceed 800 feet and the average perimeter of blocks shall not exceed 2000 feet. Blocks in excess of these standards are allowed where; access controlled streets, railroads, topographic barriers, wetlands, water bodies, or pre-existing development restrict internal street location and design. In these cases, block length and perimeter shall be as small as practical. Streets shall connect to existing public streets approximately every 800 feet and connect to adjacent lots where an existing street connection is located.

~~Option 2.a.1) Previously proposed text amendment: Public streets shall be dedicated according to section 151.695 PLATTING STANDARDS FOR BLOCKS. Streets shall be constructed according to local street standards as described in 151.685 unless otherwise approved by the City Engineer and Fire Marshall. Streets shall comply with all applicable standards contained within the Newberg Development Code.~~

~~Option 2.a.2) Proposed text amendment: Public streets may be required to be dedicated where needed to improve internal circulation, to connect to neighboring properties or streets, to break up large blocks, or to reduce travel around a site.~~

**Staff Recommendation:** Adopt revised option 2.a.2.

## 3. Building & Site Design Elements

### 3a. Building Orientation

**3.a.3) Revised proposed text amendment:** §151.196 (H)(4)(b). *Building orientation.* The façade of greatest length shall be oriented to the primary street, plaza, or open space as defined in division (A) and division (H)(3). This requirement does not apply where the length of the building façade exceeds the width of the lot or the orientation requirements contained in this section conflict with any applicable vehicular access standards of the Municipal Code.

~~**3.a.2) Previously proposed text amendment:** All buildings on a development site shall front the same street. Only when the entire length of the street is found to be completely developed may buildings front another street. The street in which the buildings shall front will be at the discretion of the Director. Collector streets and local streets shall take precedent over arterial streets.~~

~~**3.a.3) Previously Proposed text amendment:** All buildings shall have the façade of greater length front a public street.~~

**Staff recommendation:** Staff changes previous recommendation. Adopt no option. Upon review of the existing code section § 151.196 it is found that current standards required in division (A) will provide adequate building orientation to public streets or on-site streets, setbacks, and pedestrian connectivity (see Attachment A, section 1 for existing code language). If the on-site street block standards are adopted as proposed in option 2.a.2 above, buildings will either be oriented towards an internal street or public street as required by 151.196 (A). Adopting option 3.a.3 would not necessarily enhance the pedestrian connectivity or completely hide parking. Buildings that have a majority of the façade in the interior of the lot may actually improve the pedestrian friendliness of a site as compared to a situation where building facades are primarily located along a street with heavy traffic volumes.

### 3f. Pedestrian Scale Lighting

**3.f.1) Revised proposed text amendment:** § 151.196 (H)(7) Pedestrian scale lighting. Pedestrian scale lighting shall be located along all internal walkways and provide a minimum illumination of 1 foot candle. Building entrances shall have a minimum illumination of 5 foot candles. Lighting shall be fully shielded so that no light is emitted at an angle above the horizontal plane as illustrated by the lighting plan. The type of features that should be considered, but not limited to, include; street lamps, light fixtures attached to buildings, and light bollards. All pedestrian scale light fixtures shall not exceed a maximum height of 15 feet as measured from grade to the fixture lamp.

~~3.f.1) Previously proposed text amendment: Pedestrian scale lighting should be located along all pedestrian pathways and provide a minimum lighting level of 1 lumen. The type of features that should be considered, but not limited to, include; street lamps below 15 feet in height, light fixtures attached buildings, and light bollards.~~

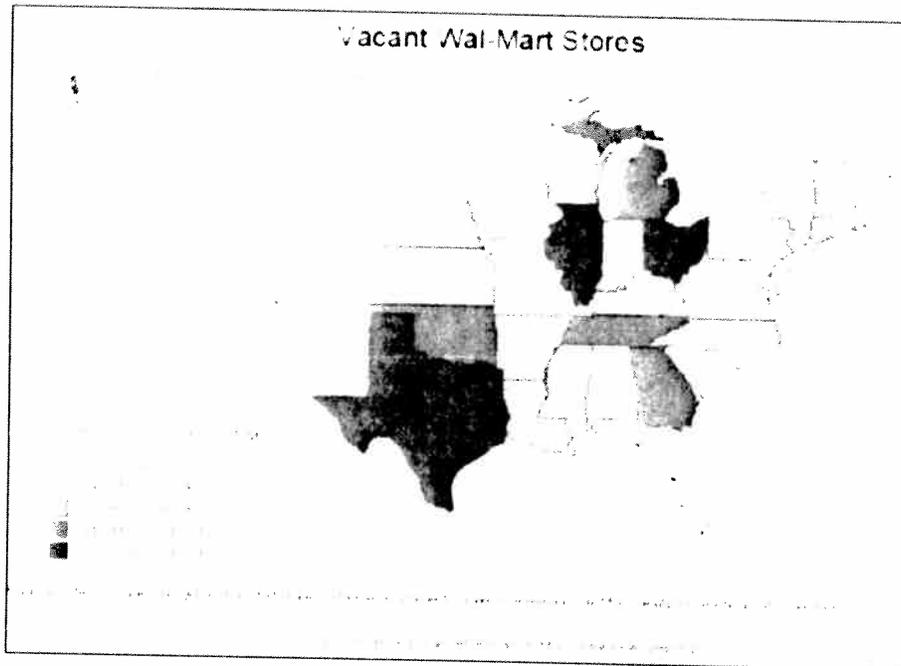
**Staff recommendation:** Adopt revised option 3.f.1.

### 7. Adaptive Reuse and White Elephant Clauses

Large scale buildings, often intended for a single purpose, when vacant can have a negative impact on the surrounding neighborhood and the community as a whole. The potential exists for vacant sites and buildings to lack required maintenance and become aesthetically unpleasant. Furthermore vacant large scale retail buildings are considered difficult to adapt for different uses and to find a future tenant. One way to ensure that the site is not vacant for long periods of time and used to its highest potential is to require a vacant building surety agreement at the beginning of the project. The agreements typically include a bond to be issued which would be used towards demolition, financial assistance for a future tenant, or redeveloping the property. The agreements may also include a strategy for adapting the site to be used by a future tenant if the building becomes vacated. Some research on this topic has pointed to two reasons why large scale vacancies occur; having an excess amount of retail in a community, and large scale retailers vacating an existing store to build a larger store in the same community.

On October 11, 2007 staff recommended that adaptive reuse agreements be considered during the conditional use process. The Planning Commission did not make a decision on this topic at the October 11 meeting and asked that staff provide examples of cities in Oregon that have experienced vacancies of large scale retail and or cities that require an abandoned building surety agreement.

Staff requested information from planners that participate in the Oregon Planners Network (an online email listserv network) regarding their experiences with vacant large scale retailers. Information, resources, and suggestions were obtained from several cities around Oregon. Most staff persons did not indicate that vacant large scale retail buildings are an existing problem or that vacant building reuse agreements are used. Rather many staff persons offered comments on the pros and cons of potentially using adaptive reuse agreements, which were similar to the points made by the Commissioners at the October 11, 2007 public hearing. To augment the information received by other planning staff, by using Wal-Mart vacancies as a proxy for all large scale retailers we can make some general assumptions regarding the degree to which large scale vacancies are occurring in Oregon. The following map of the United States can be used to compare Oregon's amount of vacant Wal-Mart retail space to other states in 2007. The map shows that Oregon is one of several states that have a relative low amount of vacant Wal-Mart retail building space. However, this may be likely due to a lower number of stores in Oregon. According to Wal-Mart's realty division ([www.wal-martrealty.com](http://www.wal-martrealty.com)) as of November 2007 Wal-Mart has 16 super centers and 14 discount stores in Oregon. No Wal-Mart stores are currently available for lease or sale.



Staff from the City of Medford stated that vacant large scale retail buildings have not been an issue however the Council has decided to look into requiring a maintenance agreement for vacant buildings. They have proposed to include the following brief paragraph in their large scale retail design guidelines:

***Maintenance of Vacant Buildings***

*"In the event of the vacancy of non-residential buildings, the owner shall maintain facilities and grounds, including structures, landscaping, parking lots and storm water facilities, to ensure the development does not become a public nuisance."*

This item along with large scale retail design guidelines have not yet been adopted but will be presented to the Medford Planning Commission this month.

The City of Redmond has recently experienced the vacancy of a Wal-Mart due to the construction of a new Super Wal-Mart on the opposite end of the city. The building has been vacant for approximately 3 months and staff feels confident that the building will be actively used in the near future. Wal-Mart's plan for the building is unknown at this time.

The following is a proposed text amendment regarding vacant large scale buildings. If adopted this would be included in § 151.196 Additional Requirements for Buildings in the C-2 District and would only apply to those buildings that go through the conditional use process.

**Proposed text amendment:** § 151.196 (H)(9) Vacant buildings. All buildings that exceed 30,000 gfa shall have a vacant building surety agreement filed with the City. The terms of the agreement will be reviewed during the conditional use permit process.

**Staff recommendation:** Adopt no option. It is found that a vacant building surety agreement is not necessary at this time.

## Additional Modifications to Existing and Previously Proposed Text

Staff recommends changes to the existing Development Code language due to overlap with proposed text, because previously proposed text is inconsistent with existing text, and to increase the number of different architectural elements on a building façade.

a) In § 151.196 (H)(1) remove “~~up lighting~~” as a small-scale lighting example, remove ~~recessed entrances~~ as an optional design element, and increase the number of elements for every 100 feet of building façade from four to five. The text regarding up lighting conflicts with the proposed pedestrian scale lighting standards and the recessed entrance is already a requirement for all C-2 development. Increasing the number of required architectural features along a building façade will ensure commercial buildings are more visually appealing and compatible with surrounding development. The proposed text is as follows:

(1) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, ~~or up lighting~~); and similar features. At least four five of the following elements shall be included along each 100 feet of building frontage facing a street:

- (a) A building offset or projection of at least 6 feet depth and width.
- (b) An awning or roof sheltering a pedestrian walkway or seating area.
- (c) A change in material. Each building façade shall be comprised of at least two building materials, but the lesser comprising not less than 10% of the total façade.
- (d) Contrasting brick, stone, or natural wood trim.
- (e) Pitched roofs or gable-end roofs.
- (f) Curved arches or roof line features.
- (g) A tower, spire, or cupola.
- (h) A cornice.
- ~~(i) recessed entrances.~~
- (j) Second story windows that comprise a minimum of 10 percent of the second floor façade.

b) Staff recommends that the existing definition for primary street in 151.196 (A). The purpose of the change is to ensure that buildings are oriented to lower traffic volume/higher pedestrian volume streets. The existing definition is proposed to be modified by deleting the following text:

(A) *Building entrances.* Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. “Oriented to a street” means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. “Primary street” means ~~the highest classification street abutting the lot. On lots which abut two or more streets of equal classification, the primary street shall be~~ the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk or pedestrian pathway system which is internally connected and provides a connection to the primary street.

c) Staff recommends that the previous proposal for plaza space or open space be changed to increase the required ratio of plaza or open space to building space from 1:10 to 1:5. The proposed definition is as follows:

§ 151.196 (H)(4) *Building orientation.* All buildings shall be oriented to a primary street as defined in division (A) or oriented to a plaza or open space within the development site that connects to the primary street. “Oriented to a plaza or open space” means that the building entrance faces the plaza or open space or is connected to the plaza by a direct and convenient pathway not exceeding 60 feet in length. One square foot of interior open space

or plaza space shall be required for every 5 ~~40~~ square feet of gross floor area. Sitting spaces shall be provided for every 500 square feet of plaza space or open space. One tree shall be provided for every 800 square feet of plaza space or open space.

**Exhibit B to Resolution 2007-235  
Findings**

**Comprehensive Plan Policy H.3.c.** *Commercial development will be encouraged to be clustered and to develop off-street parking facilities in conjunction with other nearby developments.*

**Comprehensive Plan Policy J.1.3.** *Developments should respect the natural ground cover of their sites to the extent possible and plans should be made to preserve existing mature, non-hazardous trees in healthy condition.*

**Comprehensive Plan Policy J.4.e.** *Off-street parking should be provided in adequate amounts.*

**Comprehensive Plan Policy M.1.a.** *The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.*

**Finding:** The amendment addresses the needs for off-street parking for commercial development, but discourages over-paving of commercial sites. By doing so, commercial development will “respect the natural ground cover to the extent possible” rather than unnecessarily paving areas. It also will encourage more compact and clustered development.

**Comprehensive Plan Policy F.9.** *The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.*

**Comprehensive Plan Section J. Urban Design, Goal 1:** *To maintain and improve the natural beauty and visual character of the City.*

**Comprehensive Plan Policy J.1.c.** *Non-residential uses abutting residential areas should be subject to special development standards in terms of setbacks, landscaping, sign regulations, building heights and designs.*

**Comprehensive Plan Policy J.1.g.** *Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort.*

**Comprehensive Plan Policy J.3.a.** *Where commercial development is permitted, such development should be subject to design requirements for ingress and egress, landscaping and sign control.*

**Comprehensive Plan Policy J.4.a.** *The City will require buffering and landscaping to minimize impacts between housing and potentially conflicting uses.*

**Comprehensive Plan Policy K.8.a.** *Adopt transportation and land use design standards that emphasize visual and aesthetic quality.*

**Finding:** The above policies stress maintaining the aesthetics of the community, and providing buffers between residential and non-residential uses. The proposed amendments achieve these goals by improving aesthetic standards for large scale retail developments, by providing buffering standards between commercial and residential uses, and by requiring screening of storage and loading areas.

**NEWBERG DEVELOPMENT CODE § 151.205 DESCRIPTION AND PURPOSE.**

- (A) *It is recognized that certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special consideration involves, among other things, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the use, the effect such uses have on any adjoining land uses and on the growth and development of the community as a whole.*
- (B) *All uses permitted conditionally are declared to be possessing such unique and special characteristics as to make impractical their being included as out-right uses in any of the various districts herein defined. The authority for the location and operation thereof shall be subject to review and the issuance of a conditional use permit. The purpose of review shall be to determine that the characteristics of any such use shall be reasonably compatible with the type of uses permitted in surrounding areas, and for the further purpose of stipulating such conditions as may be reasonable so that the basic purposes of this code shall be served. Nothing construed herein shall be deemed to require the hearing body to grant a conditional use permit.*

**Finding:** Very large retail buildings possess a number of unique characteristics that warrant special review. The buildings are much larger, posing much greater aesthetic presences in the community. They generate large volumes of traffic, noise, lighting, debris, and so forth in a concentrated area. Each development is unique and can have varied impacts on the community. Because of this, it is appropriate to require conditional use permits prior to construction of any such uses. Under conditional use review, additional conditions may be added to address specific issues.

**PLANNING COMMISSION RESOLUTION NO. 2007-235**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWBERG  
RECOMMENDING THAT THE CITY COUNCIL AMEND THE DEVELOPMENT CODE TO  
INCLUDE REGULATIONS FOR LARGE SCALE RETAIL ESTABLISHMENTS**

**RECITALS:**

1. Large retail buildings can be unattractive, disturbing to adjacent uses, and have significant impacts on the community.
2. On February 20, 2007, the Newberg City Council adopted Resolution 2007-2701, initiating amendments to the Development Code to address issues associated with large scale retail development.
3. On March 24, 2007, notice of a public hearing on the proposed amendments was published in the *Newberg Graphic* and posted in four public places.
4. On April 12, 2007, the Newberg Planning Commission held a public hearing on the proposed amendments. The meeting was continued until May 3, 2007.
5. On May 3, 2007 the Newberg Planning Commission held a mobile workshop to gain a better understanding of large scale retail development site design. The meeting was continued until October 11, 2007.
6. On September 19, 2007 notice of a public hearing on the proposed amendments was published in the *Newberg Graphic* and posted in four public places.
7. On October 11, 2007 the Newberg Planning Commission held a public hearing on the proposed amendments. The meeting was continued until November 8, 2007.
8. On October 22, 2007 notice of a public hearing was placed on the City's website.
9. On November 8, 2007 the Newberg Planning Commission held a public hearing on the proposed amendments.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Newberg that it recommends that the City Council approve the amendments to the Newberg Development Code as shown in Exhibit A and that the City Council pursue "Green Design" policies and ordinances for the City of Newberg. This recommendation is based on the staff report and the findings in Exhibit B, and testimony.

**DATED** this 8<sup>th</sup> day of November, 2007.

AYES:

NAYS:

ABSTAIN:

ABSENT:

ATTEST:

\_\_\_\_\_  
Planning Commission Secretary

\_\_\_\_\_  
Planning Commission Chair

Exhibit A: Development Code Text Amendments

Exhibit B: Findings

**Exhibit A to Resolution 2007-235**  
Potential Development Code amendments

Note: Existing text is shown in regular font.  
Added text is shown in double-underline  
Deleted text is shown in ~~strikethrough~~.  
Added text at previous public hearings, currently proposed to be deleted is shown in double underline and strikethrough.

**Section 1: Newberg Development Code § 151.196 shall be amended as follows:**

**§ 151.196 ADDITIONAL REQUIREMENTS FOR DEVELOPMENT IN THE C-2 ZONING DISTRICT.**

The purpose of this section is to ensure that development in the C-2 Zoning District is designed to promote pedestrian and bicycle uses and improve aesthetics and compatibility. An applicant for a new development or redevelopment within the C-2 Zoning District, which is subject to the Site Design Review process, must demonstrate that the following site and building design elements have been incorporated into the design of the project. Exceptions to these additional development requirements may be granted if the requirements would result in construction that is out of character with surrounding development. Applicants for redevelopment of a designated landmark will not be subject to these additional requirements, except for requirements regarding parking and service drives.

(A) *Building entrances.* Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. "Oriented to a street" means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. "Primary street" means ~~the highest classification street abutting the lot. On lots which abut two or more streets of equal classification, the primary street shall be~~ the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk or pedestrian pathway system which is internally connected and provides a connection to the primary street.

(B) *Parking and service drives.* No off-street parking or service drives shall be placed within the required front yard setback. No off-street parking shall be placed between the front property line of the primary street, as defined in division (A) above, and the building. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way.

(C) *Exceptions.* The review body may approve exceptions to the above provided there are no reasonable alternatives that would allow access to or parking on the lot.

(D) *Building mass.* Where building elevations are oriented to the street in conformance with (A) above, architectural features such as windows, pedestrian entrances, building off-sets, projections, detailing, change in materials or similar features, shall be used to break up and articulate large building surfaces and volumes.

(E) *Corner lots.* Buildings on corner lots shall have their primary entrance oriented to the street corner, or within 40 feet of the street corner (i.e., as measured from the lot corner). In this case, the street corner shall provide an extra-wide sidewalk or plaza area with landscaping, seating or other pedestrian amenities. The building corner shall provide architectural detailing or beveling to add visual interest to the corner.

(F) *Pedestrian-scale building entrances.* Recessed entries, canopies, and/or similar features shall be used at the entries to buildings in order to create a pedestrian-scale.

(G) *Windows.*

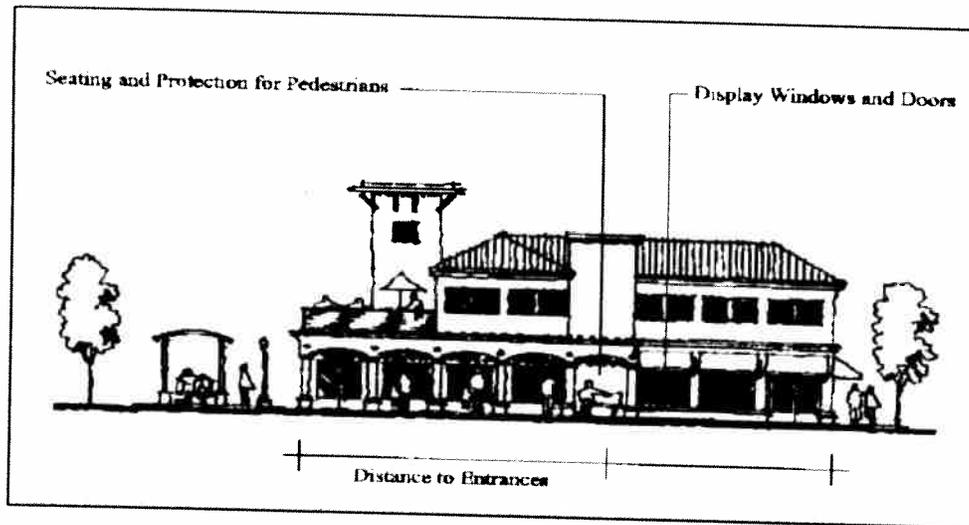
(1) On commercial building facades facing a public street, windows shall comprise a minimum of 40% of the ground floor facade. For large-scale buildings and developments meeting the standards under subsection (H) below, windows shall comprise a minimum of 20% of the ground floor facade.

(2) 50% of all required window area shall allow view into an active space. An active space is defined as any area within a building that is used for shopping, dining, office space, and so forth. Merchandise display windows shall be considered an active space. Examples of areas that are considered non-active spaces are storage and mechanical equipment areas.

(H) *Design of large-scale buildings and developments.* ~~Commercial buildings and uses comprising more than 40,000 30,000 square feet of total ground floor building space shall additionally conform to the standards below: All buildings on a development site shall conform to the design standards included under § 151.196 (H)(4) where the total square footage of one commercial building exceeds 30,000 square feet of total ground floor area or all commercial buildings exceed 50,000 square feet of total ground floor area. Deviations from these standards may be approved, where appropriate, through the conditional use permit process.~~

(1) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, ~~or up-lighting~~); and similar features. At least four five of the following elements shall be included along each 100 feet of building frontage facing a street:

- (a) A building offset or projection of at least 6 feet depth and width.
- (b) An awning or roof sheltering a pedestrian walkway or seating area.
- (c) A change in material. Each building facade shall be comprised of at least two building materials, with the lesser comprising not less than 10% of the total facade.
- (d) Contrasting brick, stone, or natural wood trim.
- (e) Pitched roofs or gable-end roofs.
- (f) Curved arches or roof line features.
- (g) A tower, spire, or cupola.
- (h) a cornice.
- (i) recessed entrances.
- (j) Second story windows that comprise a minimum of 10 percent of the second floor facade.



*[Note: the example shown here is meant to illustrate these building design elements, and should not be interpreted as a required architectural style.]*

(2) Every building elevation facing a street with a horizontal dimension of more than 100 feet, as measured from end-wall to end-wall, shall have a building entrance no more than 100 feet from another entrance or end-wall; except that buildings elevations that are unable to provide an entrance due to the internal function of the building space (e.g., mechanical equipment, areas where the public or employees are not received, etc.) may not be required to meet this standard. Pathways shall connect all entrances to the street right-of-way.

(3) For all ground floor facades that do not face a public street, windows shall comprise a minimum of 20 % of the ground floor façade or a landscape strip shall be provided adjacent to the building. The landscape strip shall be a minimum of 5 feet in width and include a combination of trees, shrubs, and groundcover or grass. Plant material shall be selected from at least two of the different plant material groups (example: trees and shrubs, or lawn and shrubs, or lawn and trees and shrubs). The type of tree selected shall have a crown of less than 15 feet at maturity. Exceptions to this standard include building facades that abut outdoor storage areas, loading docks, and mechanical equipment areas.

(4) Building orientation. All buildings shall be oriented to a primary street as defined in division (A) or oriented to a plaza or open space within the development site that connects to the primary street. "Oriented to a plaza or open space" means that the building entrance faces the plaza or open space or is connected to the plaza by a direct and convenient pathway not exceeding 60 feet in length. One square foot of interior open space or plaza space shall be required for every 540 square feet of gross floor area. Sitting spaces shall be provided for every 500 square feet of plaza space or open space. One tree shall be provided for every 800 square feet of plaza space or open space.

(5) On-site landscaping and screening.

(a) An island of landscape area shall be located to separate blocks of parking spaces. At a minimum, one deciduous shade tree per five parking spaces shall be planted to create a partial tree canopy over and around the parking area. The type of tree shall be chosen from the City of Newberg Preferred Street Tree List and have a minimum crown spread of 25 feet. No more than five parking spaces may be grouped together without an island separation unless otherwise approved by the Director based on the following alternative standard:

1. Provision of a continuous landscape strip, with a five foot minimum width, which runs perpendicular to the row of parking spaces.
2. Provision of tree planting landscape islands, each of which is at least 16 square feet in size, and spaced no more than 50 feet apart on average, within areas proposed for grouped parking. For every 5 planting landscape islands, 1 shall be no less than 500 square feet in size.

(b) A 20-foot wide landscaped buffer shall be provided between the development and any adjoining residential district. The buffer shall include a continuous 6-foot high sight-obscuring fence or wall, a continuous hedge and/or berm designed to achieve a height of 6-feet upon maturity, a row of trees not more than 35 feet on-center, and shrubs or living groundcover.

(c) Outdoor storage areas, loading docks, and mechanical equipment areas shall be fenced or screened with landscaping between the area and public streets.

(6) Vehicle and Pedestrian Connectivity.

(a) [pending adoption]

(b) At a minimum, 95% of the parking spaces shall be located within 75 feet of a private walkway.

(7) Pedestrian-scale lighting. [pending adoption]

(8) Parking. The number of parking spaces shall not exceed 125 percent of the minimum number of spaces required. Parking spaces constructed of grass blocks, grasscrete, or similar material shall not be counted in this limit.

**Section 2: Newberg Development Code § 151.356**

Section 151.196 (H) allows for uses that exceed 30,000 gfa to meet the applicable design standards or apply for a conditional use permit. This language conflicts with previous text amendment proposals included in section 151.356 that recommended size thresholds for particular uses. Staff recommends that no changes be made to section 151.356 below. The existing Development Code text is as follows (the previously proposed but currently proposed to be deleted text is shown in double underlined and has a strikethrough):

**§ 151.356 PERMITTED BUILDINGS AND USES.**

(A) In the C-2 Community Commercial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) These buildings and uses are subject to the general provisions and exceptions set forth in this code:

- (1) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § 151.357.
- (2) Agricultural machinery sales and service.
- (4) Ambulance services.
- (5) Antique shops (less than 30,000 square feet gfa).
- (6) Appliance sales and service (less than 30,000 square feet gfa).

- (7) Art supplies (~~less than 30,000 square feet gfa~~).
- (8) Artist studios.
- (9) Athletic facilities.
- (10) Auction sales, excluding livestock.
- (11) Auditorium and theaters.
- (12) Automobile parts and accessories stores.
- (13) Automobile sales, new and used.
- (14) Bakeries, retail.
- (15) Bakeries, wholesale.
- (16) Banks.
- (17) Barber and beauty shops.
- (18) Bars or night clubs, provided that only a liquor license of the type "Dispenser Class A" is applied for.
- (19) Bed and breakfast establishments.
- (20) Bicycle shops.
- (21) Blood banks.
- (22) Blueprinting.
- (23) Book stores (~~less than 30,000 square feet gfa~~).
- (24) Bowling alleys.
- (25) Building maintenance service.
- (26) Business offices, general.
- (27) Camera and supplies shops (~~less than 30,000 square feet gfa~~).
- (28) Car washes, coin operated or mechanical.
- (29) Catering services.
- (30) Chapels.
- (31) Christmas tree sales (outdoor sales) in accordance with this code.
- (32) Churches.

- (33) Clinics.
- (34) Clothing apparel shops (~~less than 30,000 square feet gfa~~).
- (35) Clubs, lodges and meeting halls.
- (36) Cocktail lounges.
- (37) Colleges, business or private.
- (38) Confectionery stores with fountains.
- (39) Curio shops (~~less than 30,000 square feet gfa~~).
- (40) Dairy products stores, retail only.
- (41) Dance halls.
- (42) Day nurseries.
- (43) Data processing centers.
- (44) Delicatessen stores.
- (45) Department stores (~~less than 30,000 square feet gfa~~).
- (46) Drapery stores (~~less than 30,000 square feet gfa~~).
- (47) Dress and millinery shops (~~less than 30,000 square feet gfa~~).
- (48) Driving ranges - private.
- (49) Dry cleaning establishments; coin operated, custom and self-service.
- (50) Dwelling units, provided the units are above any use permitted in §§ 151.355, 151.356 and 151.357. There shall be no density limitation. Parking shall be provided in private parking areas or garages on the basis of one parking space for each dwelling unit.
- (51) Electrical and electronic supplies, retail.
- (52) Equipment sales (limited to self-propelled equipment, if not within an enclosed building).
- (53) Fireworks sales (outdoor sales) from June 24 to July 6.
- (54) Floor covering stores (~~less than 30,000 square feet gfa~~).
- (55) Florist shops (~~less than 30,000 square feet gfa~~).
- (56) Furniture stores (~~less than 30,000 square feet gfa~~).
- (57) Garden supplies (~~less than 30,000 square feet gfa~~).
- (58) Gift shops (~~less than 30,000 square feet gfa~~).

- (59) Grocery stores, markets and supermarkets, including food products stores, retail (~~less than 30,000 square feet gfa~~);
- (60) Group care homes provided they comply with the requirements listed under "Dwelling Units", listed above in this section.
- (61) Hardware stores (~~less than 30,000 square feet gfa~~);
- (62) Health studios.
- (63) Hobby shops, including slot racing tracks (~~less than 30,000 square feet gfa~~);
- (64) Hospitals.
- (65) Hotels, motels, motor hotels or tourist courts.
- (66) Interior decorators studios.
- (67) Jewelry stores (~~less than 30,000 square feet gfa~~);
- (68) Laboratories, medical and dental.
- (69) Laundromats, hand laundries and self-service laundries.
- (70) Leather goods stores (~~less than 30,000 square feet gfa~~);
- (71) Liquor stores, package.
- (72) Lockers, cold storage, retail use only.
- (73) Locksmith shops.
- (74) Marine sales and service.
- (75) Miniature golf courses.
- (76) Mobile home sales and service.
- (77) Mortuaries.
- (78) Movie theaters.
- (79) Music or dancing schools.
- (80) Music stores (~~less than 30,000 square feet gfa~~);
- (81) Newspaper printing establishments.
- (82) Offices for the following:
  - (a) Accountants.
  - (b) Attorneys.

- (c) Physicians, osteopaths, dentists, optometrists, opticians, chiropractors and others licensed by the state to practice the healing arts.
- (d) Engineers, architects, landscape architects, surveyors and those engaged in the practice of drafting or graphics.
- (e) General administration.
- (f) Insurance brokers.
- (g) Lumber brokers.
- (h) Real estate sales.
- (i) Savings and loans.
- (j) Stockbrokers.
- (k) Telephone answering services.
- (83) Office supplies and equipment stores (~~less than 30,000 square feet gfa~~).
- (84) Open space.
- (85) Paint and wallpaper stores (~~less than 30,000 square feet gfa~~).
- (86) Parking areas; public or private.
- (87) Parking garages; public or private.
- (88) Pet shops (~~less than 30,000 square feet gfa~~).
- (89) Photographic film processing, photo-engraving, photocopying and photostating.
- (90) Photographers studios.
- (91) Planned unit developments.
- (92) Pool and billiard halls.
- (93) Post offices.
- (94) Printing shops.
- (95) Public and semi-public buildings.
- (96) Radio and television broadcasting studios.
- (97) Radio, television and record sales and service.
- (98) Reducing salons.
- (99) Repair garages.

- (100) Research institutes (non-manufacturing).
- (101) Restaurants; including drive-through windows.
- (102) Retail building material sales, provided outside storage is visually screened (~~less than 30,000 square feet gfa~~).
- (103) Schools; business or private.
- (104) Secondhand stores (if conducted wholly within an enclosed building ~~less than 30,000 square feet gfa~~).
- (105) Service stations.
- (106) Sewing machine sales and service.
- (107) Shoe repair shops.
- (108) Shoe stores.
- (109) Skating rinks, indoor.
- (110) Small animal hospitals and clinics.
- (111) Sporting goods stores (~~less than 30,000 square feet gfa~~).
- (112) Storage buildings (household goods only). Mini-storage.
- (113) Surgical, medical and dental supplies and equipment stores.
- (114) Tailor shops.
- (115) Taverns.
- (116) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.
- (117) Telephone and telegraph exchanges.
- (118) Theaters.
- (119) Tobacco shops.
- (120) Toy stores (~~less than 30,000 square feet gfa~~).
- (121) Transit centers.
- (122) Transportation facilities and improvements.
- (123) Travel agencies.
- (124) Upholstery; automobile and furniture.

(125) Variety shops (~~less than 30,000 square feet gfa~~);

(126) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section. (Ord. 96-2451, passed 12-2-96; Am. Ord. 2000-2536, passed 11-6-00; Am. Ord. 2005-2619, passed 5-16-05)

**Section 3: Newberg Development Code § 151.357, shall be amended as follows:**

**§ 151.357 BUILDINGS AND USES PERMITTED CONDITIONALLY.**

In addition to the buildings and uses permitted conditionally listed in § 151.211, the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- (A) Dwelling units. The permitted density shall be stated on the conditional use permit.
- (B) Fumigation chambers.
- (C) Group care facilities. The permitted density shall be stated on the conditional use permit.
- (D) Group care homes not meeting the requirements listed under permitted uses in § 151.356.
- (E) Nursing homes.
- (F) Recreational vehicle parks.

(G) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet.

(H) Theaters, drive-in.

~~(I) Any use greater than or equal to 30,000 square feet gfa, that would be a permitted use under § 151.356 except for the floor area limitation in that section. All developments sites within the C-2 district that include buildings that individually exceed 30,000 gfa or 50,000 cumulative gfa that do not meet the code requirements of §151.196 (G) and (H).~~

(J) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

**Section 4: Remaining Decision Items-Revised Text Amendment Proposals for § 151.196**

On October 11, 2007 the Planning Commission asked that staff make text changes to several text amendment proposals. Staff recommends that the Planning Commission review the revised proposals and make a decision on which options to add to § 151.196 Additional Requirements for Development in C-2 Zoning District. Note: The numbering from the October 11, 2007 staff report is used below for comparison purposes. Additional changes are also recommended at the end of this section. These items include minor changes that staff has made so the proposed text amendments integrate better with the existing Development Code language. There are also a few recommended changes where the proposed text amendments would duplicate or conflict with existing Development Code language.

## 2. Connectivity

### 2.a. On-Site Streets

**Option 2.a.2) Revised proposed text amendment:** §151.196 (H)(6)(a) Public streets shall be dedicated on-site. Internal streets shall be designed according to all applicable local street standards contained in the Development Code. Block length shall not exceed 800 feet and the average perimeter of blocks shall not exceed 2000 feet. Blocks in excess of these standards are allowed where; access controlled streets, railroads, topographic barriers, wetlands, water bodies, or pre-existing development restrict internal street location and design. In these cases, block length and perimeter shall be as small as practical. Streets shall connect to existing public streets approximately every 800 feet and connect to adjacent lots where an existing street connection is located.

~~Option 2.a.1) Previously proposed text amendment: Public streets shall be dedicated according to section 151.695 PLATTING STANDARDS FOR BLOCKS. Streets shall be constructed according to local street standards as described in 151.685 unless otherwise approved by the City Engineer and Fire Marshall. Streets shall comply with all applicable standards contained within the Newberg Development Code.~~

~~Option 2.a.2) Proposed text amendment: Public streets may be required to be dedicated where needed to improve internal circulation, to connect to neighboring properties or streets, to break up large blocks, or to reduce travel around a site.~~

**Staff Recommendation:** Adopt revised option 2.a.2.

## 3. Building & Site Design Elements

### 3a. Building Orientation

**3.a.3) Revised proposed text amendment:** §151.196 (H)(4)(b). *Building orientation.* The façade of greatest length shall be oriented to the primary street, plaza, or open space as defined in division (A) and division (H)(3). This requirement does not apply where the length of the building façade exceeds the width of the lot or the orientation requirements contained in this section conflict with any applicable vehicular access standards of the Municipal Code.

~~**3.a.2) Previously proposed text amendment:** All buildings on a development site shall front the same street. Only when the entire length of the street is found to be completely developed may buildings front another street. The street in which the buildings shall front will be at the discretion of the Director. Collector streets and local streets shall take precedent over arterial streets.~~

~~**3.a.3) Previously Proposed text amendment:** All buildings shall have the façade of greater length front a public street.~~

**Staff recommendation:** Staff changes previous recommendation. Adopt no option. Upon review of the existing code section § 151.196 it is found that current standards required in division (A) will provide adequate building orientation to public streets or on-site streets, setbacks, and pedestrian connectivity (see Attachment A, section 1 for existing code language). If the on-site street block standards are adopted as proposed in option 2.a.2 above, buildings will either be oriented towards an internal street or public street as required by 151.196 (A). Adopting option 3.a.3 would not necessarily enhance the pedestrian connectivity or completely hide parking. Buildings that have a majority of the façade in the interior of the lot may actually improve the pedestrian friendliness of a site as compared to a situation where building facades are primarily located along a street with heavy traffic volumes.

### 3f. Pedestrian Scale Lighting

**3.f.1) Revised proposed text amendment:** § 151.196 (H)(7) *Pedestrian scale lighting.* Pedestrian scale lighting shall be located along all internal walkways and provide a minimum illumination of 1 foot candle. Building entrances shall have a minimum illumination of 5 foot candles. Lighting shall be fully shielded so that no light is emitted at an angle above the horizontal plane as illustrated by the lighting plan. The type of features that should be considered, but not limited to, include; street lamps, light fixtures attached to buildings, and light bollards. All pedestrian scale light fixtures shall not exceed a maximum height of 15 feet as measured from grade to the fixture lamp.

~~3.f.1) Previously proposed text amendment: Pedestrian scale lighting should be located along all pedestrian pathways and provide a minimum lighting level of 1 lumen. The type of features that should be considered, but not limited to, include; street lamps below 15 feet in height, light fixtures attached buildings, and light bollards.~~

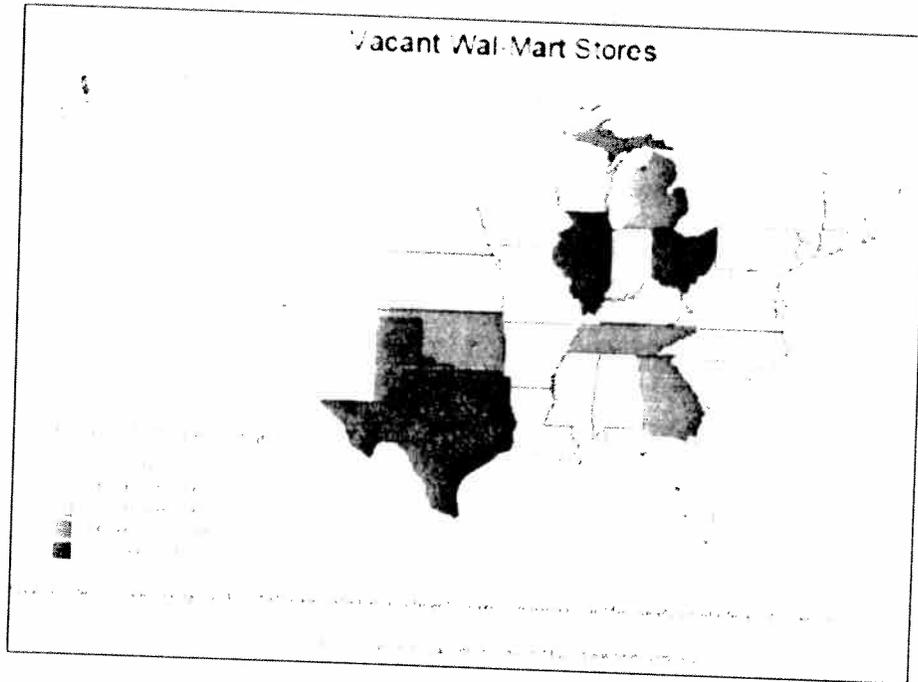
**Staff recommendation:** Adopt revised option 3.f.1.

## 7. Adaptive Reuse and White Elephant Clauses

Large scale buildings, often intended for a single purpose, when vacant can have a negative impact on the surrounding neighborhood and the community as a whole. The potential exists for vacant sites and buildings to lack required maintenance and become aesthetically unpleasant. Furthermore vacant large scale retail buildings are considered difficult to adapt for different uses and to find a future tenant. One way to ensure that the site is not vacant for long periods of time and used to its highest potential is to require a vacant building surety agreement at the beginning of the project. The agreements typically include a bond to be issued which would be used towards demolition, financial assistance for a future tenant, or redeveloping the property. The agreements may also include a strategy for adapting the site to be used by a future tenant if the building becomes vacated. Some research on this topic has pointed to two reasons why large scale vacancies occur; having an excess amount of retail in a community, and large scale retailers vacating an existing store to build a larger store in the same community.

On October 11, 2007 staff recommended that adaptive reuse agreements be considered during the conditional use process. The Planning Commission did not make a decision on this topic at the October 11 meeting and asked that staff provide examples of cities in Oregon that have experienced vacancies of large scale retail and or cities that require an abandoned building surety agreement.

Staff requested information from planners that participate in the Oregon Planners Network (an online email listserv network) regarding their experiences with vacant large scale retailers. Information, resources, and suggestions were obtained from several cities around Oregon. Most staff persons did not indicate that vacant large scale retail buildings are an existing problem or that vacant building reuse agreements are used. Rather many staff persons offered comments on the pros and cons of potentially using adaptive reuse agreements, which were similar to the points made by the Commissioners at the October 11, 2007 public hearing. To augment the information received by other planning staff, by using Wal-Mart vacancies as a proxy for all large scale retailers we can make some general assumptions regarding the degree to which large scale vacancies are occurring in Oregon. The following map of the United States can be used to compare Oregon's amount of vacant Wal-Mart retail space to other states in 2007. The map shows that Oregon is one of several states that have a relative low amount of vacant Wal-Mart retail building space. However, this may be likely due to a lower number of stores in Oregon. According to Wal-Mart's realty division ([www.wal-martrealty.com](http://www.wal-martrealty.com)) as of November 2007 Wal-Mart has 16 super centers and 14 discount stores in Oregon. No Wal-Mart stores are currently available for lease or sale.



Staff from the City of Medford stated that vacant large scale retail buildings have not been an issue however the Council has decided to look into requiring a maintenance agreement for vacant buildings. They have proposed to include the following brief paragraph in their large scale retail design guidelines:

***Maintenance of Vacant Buildings***

*"In the event of the vacancy of non-residential buildings, the owner shall maintain facilities and grounds, including structures, landscaping, parking lots and storm water facilities, to ensure the development does not become a public nuisance."*

This item along with large scale retail design guidelines have not yet been adopted but will be presented to the Medford Planning Commission this month.

The City of Redmond has recently experienced the vacancy of a Wal-Mart due to the construction of a new Super Wal-Mart on the opposite end of the city. The building has been vacant for approximately 3 months and staff feels confident that the building will be actively used in the near future. Wal-Mart's plan for the building is unknown at this time.

The following is a proposed text amendment regarding vacant large scale buildings. If adopted this would be included in § 151.196 Additional Requirements for Buildings in the C-2 District and would only apply to those buildings that go through the conditional use process.

**Proposed text amendment:** § 151.196 (H)(9) Vacant buildings. All buildings that exceed 30,000 gfa shall have a vacant building surety agreement filed with the City. The terms of the agreement will be reviewed during the conditional use permit process.

**Staff recommendation:** Adopt no option. It is found that a vacant building surety agreement is not necessary at this time.

## Additional Modifications to Existing and Previously Proposed Text

Staff recommends changes to the existing Development Code language due to overlap with proposed text, because previously proposed text is inconsistent with existing text, and to increase the number of different architectural elements on a building façade.

a) In § 151.196 (H)(1) remove “~~up lighting~~” as a small-scale lighting example, remove ~~recessed entrances~~ as an optional design element, and increase the number of elements for every 100 feet of building façade from four to five. The text regarding up lighting conflicts with the proposed pedestrian scale lighting standards and the recessed entrance is already a requirement for all C-2 development. Increasing the number of required architectural features along a building façade will ensure commercial buildings are more visually appealing and compatible with surrounding development. The proposed text is as follows:

(1) Incorporate changes in building direction (i.e., articulation), and divide large masses into varying heights and sizes. Such changes may include building offsets; projections; changes in elevation or horizontal direction; sheltering roofs; terraces; a distinct pattern of divisions in surface materials; and use of windows, screening trees; small-scale lighting (e.g., wall-mounted lighting, ~~or up lighting~~); and similar features. At least four five of the following elements shall be included along each 100 feet of building frontage facing a street:

- (a) A building offset or projection of at least 6 feet depth and width.
- (b) An awning or roof sheltering a pedestrian walkway or seating area.
- (c) A change in material. Each building façade shall be comprised of at least two building materials, but the lesser comprising not less than 10% of the total façade.
- (d) Contrasting brick, stone, or natural wood trim.
- (e) Pitched roofs or gable-end roofs.
- (f) Curved arches or roof line features.
- (g) A tower, spire, or cupola.
- (h) A cornice.
- ~~(i) recessed entrances.~~
- (j) Second story windows that comprise a minimum of 10 percent of the second floor façade.

b) Staff recommends that the existing definition for primary street in 151.196 (A). The purpose of the change is to ensure that buildings are oriented to lower traffic volume/higher pedestrian volume streets. The existing definition is proposed to be modified by deleting the following text:

~~(A) Building entrances. Each building on a lot shall have a primary pedestrian entrance oriented to the primary street. “Oriented to a street” means that the building entrance faces the street or is connected to the street by a direct and convenient pathway not exceeding 60 feet in length. “Primary street” means the highest classification street abutting the lot. On lots which abut two or more streets of equal classification, the primary street shall be the street which has the highest estimated volume of pedestrian traffic. This requirement does not apply to buildings that are located behind other buildings on the lot such that 50% or more of their building frontage is blocked by the front building, as measured by sight lines that are perpendicular to the street right-of-way. Such rear buildings shall have a primary entrance oriented to an internal sidewalk or pedestrian pathway system which is internally connected and provides a connection to the primary street.~~

c) Staff recommends that the previous proposal for plaza space or open space be changed to increase the required ratio of plaza or open space to building space from 1:10 to 1:5. The proposed definition is as follows:

§ 151.196 (H)(4) Building orientation. All buildings shall be oriented to a primary street as defined in division (A) or oriented to a plaza or open space within the development site that connects to the primary street. “Oriented to a plaza or open space” means that the building entrance faces the plaza or open space or is connected to the plaza by a direct and convenient pathway not exceeding 60 feet in length. One square foot of interior open space

or plaza space shall be required for every 540 square feet of gross floor area. Sitting spaces shall be provided for every 500 square feet of plaza space or open space. One tree shall be provided for every 800 square feet of plaza space or open space.

**Exhibit B to Resolution 2007-235  
Findings**

**Comprehensive Plan Policy H.3.c.** *Commercial development will be encouraged to be clustered and to develop off-street parking facilities in conjunction with other nearby developments.*

**Comprehensive Plan Policy J.1.3.** *Developments should respect the natural ground cover of their sites to the extent possible and plans should be made to preserve existing mature, non-hazardous trees in healthy condition.*

**Comprehensive Plan Policy J.4.e.** *Off-street parking should be provided in adequate amounts.*

**Comprehensive Plan Policy M.1.a.** *The City will encourage energy-efficient development patterns. Such patterns shall include the mixture of compatible land uses and a compactness of urban development.*

**Finding:** The amendment addresses the needs for off-street parking for commercial development, but discourages over-paving of commercial sites. By doing so, commercial development will “respect the natural ground cover to the extent possible” rather than unnecessarily paving areas. It also will encourage more compact and clustered development.

**Comprehensive Plan Policy F.9.** *The City will seek abatement of the aesthetic degradation of the environment resulting from blighted neighborhoods, indiscriminate waste disposal, offensive outdoor storage.*

**Comprehensive Plan Section J. Urban Design, Goal 1:** *To maintain and improve the natural beauty and visual character of the City.*

**Comprehensive Plan Policy J.1.c.** *Non-residential uses abutting residential areas should be subject to special development standards in terms of setbacks, landscaping, sign regulations, building heights and designs.*

**Comprehensive Plan Policy J.1.g.** *Community appearance should continue to be a major concern and subject of a major effort in the area. Street tree planting, landscaping, sign regulations and building improvements contribute to community appearance and should continue to be a major design concern and improvement effort.*

**Comprehensive Plan Policy J.3.a.** *Where commercial development is permitted, such development should be subject to design requirements for ingress and egress, landscaping and sign control.*

**Comprehensive Plan Policy J.4.a.** *The City will require buffering and landscaping to minimize impacts between housing and potentially conflicting uses.*

**Comprehensive Plan Policy K.8.a.** *Adopt transportation and land use design standards that emphasize visual and aesthetic quality.*

**Finding:** The above policies stress maintaining the aesthetics of the community, and providing buffers between residential and non-residential uses. The proposed amendments achieve these goals by improving aesthetic standards for large scale retail developments, by providing buffering standards between commercial and residential uses, and by requiring screening of storage and loading areas.

**NEWBERG DEVELOPMENT CODE § 151.205 DESCRIPTION AND PURPOSE.**

- (A)** *It is recognized that certain types of uses require special consideration prior to their being permitted in a particular district. The reasons for requiring such special consideration involves, among other things, the size of the area required for the full development of such uses, the nature of the traffic problems incidental to operation of the use, the effect such uses have on any adjoining land uses and on the growth and development of the community as a whole.*
- (B)** *All uses permitted conditionally are declared to be possessing such unique and special characteristics as to make impractical their being included as out-right uses in any of the various districts herein defined. The authority for the location and operation thereof shall be subject to review and the issuance of a conditional use permit. The purpose of review shall be to determine that the characteristics of any such use shall be reasonably compatible with the type of uses permitted in surrounding areas, and for the further purpose of stipulating such conditions as may be reasonable so that the basic purposes of this code shall be served. Nothing construed herein shall be deemed to require the hearing body to grant a conditional use permit.*

**Finding:** Very large retail buildings possess a number of unique characteristics that warrant special review. The buildings are much larger, posing much greater aesthetic presences in the community. They generate large volumes of traffic, noise, lighting, debris, and so forth in a concentrated area. Each development is unique and can have varied impacts on the community. Because of this, it is appropriate to require conditional use permits prior to construction of any such uses. Under conditional use review, additional conditions may be added to address specific issues.