

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1130

Amending County Land Use Code, Plans and Maps to Adopt Portland's Recent Land Use Code, Comprehensive Plan and Map Revisions Related to the Retail Sales and Services Regulations for Division Main Street in Compliance with Metro's Functional Plan and Declaring an Emergency

The Multnomah County Board of Commissioners Finds:

- a. The Board of County Commissioners (Board) adopted Resolution A in 1983 which directed the County services towards rural services rather than urban.
- b. In 1996, Metro adopted the Functional Plan for the region, mandating that jurisdictions comply with the goals and policies adopted by the Metro Council.
- c. In 1998, the County and the City of Portland (City) amended the Urban Planning Area Agreement to include an agreement that the City would provide planning services to achieve compliance with the Functional Plan for those areas outside the City limits, but within the Urban Growth Boundary and Portland's Urban Services Boundary.
- d. It is impracticable to have the County Planning Commission conduct hearings and make recommendations on land use legislative actions pursuant to MCC 37.0710, within unincorporated areas inside the Urban Growth Boundary for which the City provides urban planning and permitting services. The Board intends to exempt these areas from the requirements of MCC 37.0710, and will instead consider the recommendations of the Portland Planning Commission and City Council when legislative matters for these areas are brought before the Board for action as required by intergovernmental agreement (County Contract #4600002792) (IGA).
- e. On January 15, 2009, the Board amended County land use codes, plans and maps to adopt the City's land use codes, plans and map amendments in compliance with Metro's Functional Plan by Ordinance 1127.
- f. Since the adoption of Ordinance 1127, the City's Planning Commission recommended land use code, plan and map amendments to the City Council through duly noticed public hearings.
- g. The City notified affected County property owners as required by the IGA.
- h. The City Council adopted the land use code, plan and map amendments set out in Section 1 below and attached as Exhibits 1 through 2. The IGA requires that the County adopt these amendments for the City planning and zoning administration within the affected areas.

Multnomah County Ordains as follows:

Section 1. The County Comprehensive Framework Plan, community plans, rural area plans, sectional zoning maps and land use code chapters are amended to include the City land use code, plan and map amendments, attached as Exhibits 1 through 2, effective on the same date as the respective Portland ordinance:

Exhibit No.	Description	Date
1	Ordinance to revise Retail Sales and Services regulations for Division Main Street and amending the Comprehensive Plan Map and Zoning Map (PDX Ord. #182474)	1/14/09
2	Portland City Council Revisions to Division Street Regulation through the Regulatory Improvement Code Amendment Package 4	1/09/09

Section 2. In accordance with ORS 215.427(3), the changes resulting from Section 1 of this ordinance shall not apply to any decision on an application that is submitted before the applicable effective date of this ordinance and that is made complete prior to the applicable effective date of this ordinance or within 180 days of the initial submission of the application.

Section 3. In accordance with ORS 92.040(2), for any subdivisions for which the initial application is submitted before the applicable effective date of this ordinance, the subdivision application and any subsequent application for construction shall be governed by the County's land use regulations in effect as of the date the subdivision application is first submitted.

Section 4. Any future amendments to the legislative matters listed in Section 1 above, are exempt from the requirements of MCC 37.0710. The Board acknowledges, authorizes and agrees that the Portland Planning Commission will act instead of the Multnomah Planning Commission in the subject unincorporated areas using the City's own procedures, to include notice to and participation by County citizens. The Board will consider the recommendations of the Portland Planning Commission when legislative matters for County unincorporated areas are before the Board for action.

Section 5. An emergency is declared in that it is necessary for the health, safety and general welfare of the people of Multnomah County for this ordinance to take effect concurrent with the City code, plan and map amendments. Under section 5.50 of the Charter of Multnomah County, this ordinance will take effect in accordance with Section 1.

FIRST READING AND ADOPTION: February 12, 2009



BOARD OF COUNTY COMMISSIONERS,
FOR MULTNOMAH COUNTY, OREGON


Ted Wheeler, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Sandra N. Duffy, Assistant County Attorney

SUBMITTED BY:

M. Cecilia Johnson, Director, Department of Community Services

EXHIBIT LIST FOR ORDINANCE

1. Ordinance to revise Retail Sales and Services regulations for Division Main Street and amending the Comprehensive Plan Map and Zoning Map (**PDX Ord. #182474**).
2. Portland City Council Revisions to Division Street Regulation through the Regulatory Improvement Code Amendment Package 4.

Prior to adoption, this information is available electronically or for viewing at the Multnomah County Board of Commissioners and Agenda website (www.co.multnomah.or.us/cc/WeeklyAgendaPacket/). To obtain the adopted ordinance and exhibits electronically, please contact the Board Clerk at 503-988-3277. These documents may also be purchased on CD-Rom from the Land Use and Transportation Program. Contact the Planning Program at 503-988-3043 for further information.

ORDINANCE No. 182474 As Amended

Revise Retail Sales And Service regulations for Division Main Street through the Regulatory Improvement Code Amendment Package 4 (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

1. This project is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number.
2. During the Spring and Summer of 2007, staff from the Planning Bureau and the Bureau of Development Services (BDS) worked with the Regulatory Improvement Stakeholder Advisory Team (RISAT) to develop a workplan for the fourth Regulatory Improvement Code Amendment Package (RICAP 4). The RISAT includes participants from city bureaus and the community and advises staff.
3. On July 24, 2007, the Planning Commission held a hearing to discuss and take testimony on the RICAP 4 workplan. The workplan consisted of 49 issues proposed for further research in order to find potential solutions. Three additional items were added during the research of the workplan items; two were added by the Bureau of Development Services and one by City Council, bringing the total to 52 items.
4. During the Winter of 2007 and Spring of 2008, Planning staff worked with BDS and RISAT to address the issues in the workplan.
5. During the Spring and Summer of 2008, Planning staff also worked with BDS and RISAT to develop a workplan for the fifth Regulatory Improvement Code Amendment Package (RICAP 5).
6. At the August 26, 2008 Planning Commission hearing on the workplan for RICAP 5, members of the public requested the regulations for Retail Sales And Service Uses for the Division Main Street be amended.
7. At the conclusion of this hearing, the Planning Commission directed staff to prepare a code amendment to modify the Retail Sales And Service Uses limit for Division Main Street. They directed staff to bring the amendment before them as part of RICAP 4. This issue is the item addressed by this ordinance.
8. On August 27, 2008, notice of the proposed RICAP 4 code amendments was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by ORS 197.610.
9. On September 11, 2008, notice was sent to all neighborhood associations and coalitions, and business associations in the City of Portland as well as those involved with the Division Green Street / Main Street Plan (also known as Division Vision). In addition, notice was sent to those who were interested in a 2006 land use adjustment case and appeals involving the former Natures / Wild Oats

building on Division Street. The adjustment and appeals involved the regulations for Retail Sales And Service Uses for the Division Main Street. The notice was for the Planning Commission Hearing on the staff proposal for the Regulatory Improvement Code Amendment Package 4 (RICAP 4), and to announce the availability of the Proposed Draft.

10. On September 16, 2008, the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4) Proposed Draft* was published. It included an amendment to the Division Street retail limits that would remove the floor area restriction from buildings that existed when the regulation was adopted.
11. On October 14, 2008, the Planning Commission held a hearing on the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4), Proposed Draft*. Staff presented the proposal and public testimony was received. At the end of the meeting, Planning Commission directed staff to prepare amended language on several issues, including a change to the proposed Division Street retail limits. In response to testimony, they asked staff to prepare language that applied the retail limitation to only the ground floor of buildings that existed when the regulation was adopted.
12. On October 28, 2008, the Planning Commission heard additional testimony on the Division Street retail limits, and considered language staff had prepared in response to their October 14 request.
13. At the conclusion of the hearing, the Commission voted to recommend that City Council adopt the staff recommendation for RICAP 4, including the language that applied the Division Street retail limits only to the ground floor of buildings that existed when the regulation was adopted.
14. On December 10, 2008, City Council held a hearing on the portion of the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4), Planning Commission Recommended Draft* that affects Retail Sales And Service Uses on Division Street in the Main Street Corridor Overlay Zone. Staff presented the proposal and public testimony was received.
15. On December 17, 2008, Council decided to defer their vote on the portion of the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4), Planning Commission Recommended Draft* that amends the regulations affecting Retail Sales And Service Uses on Division Street in the Main Street Corridor Overlay Zone.
16. On January 7, 2009, Council made amendments to the Planning Commission's recommended code language, and voted to adopt the portion of the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4), Planning Commission Recommended Draft* that amends the regulations affecting Retail Sales And Service Uses on Division Street in the Main Street Corridor Overlay Zone, as amended.
17. For clarity, the portion of the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4)*, affecting Retail Sales And Service Uses on Division Street is now a separate document titled *Regulatory Improvement Code Amendment Package 4 (RICAP 4): City Council Revisions to Division Street Regulations*, dated January 9, 2009, and attached as Exhibit A.
18. On January 14, 2009, Council voted to adopt *Regulatory Improvement Code Amendment Package 4 (RICAP 4): City Council Revisions to Division Street Regulations*, dated January 9, 2009.

Findings on Statewide Planning Goals

19. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the state goals addressed below apply.
20. **Goal 1, Citizen Involvement**, requires the provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of this amendment has provided numerous opportunities for public involvement:
 - On July 24, 2007, the Planning Commission held a public hearing on the RICAP 4 Proposed Workplan and heard testimony from citizens on the proposed issues. The Planning Commission voted to adopt the workplan, directing staff to work on code amendments on the 49 issues listed in the workplan. The RICAP 4 workplan did not contain amendments to the regulations affecting Retail Sales And Service Uses on Division Main Street.
 - During 2007 and 2008, staff worked on proposed code amendments for RICAP 4.
 - During the summer of 2008, Planning received letters and phone calls from the Division/Clinton Business Association, Hosford/Abernathy Neighborhood Development Association and Richmond Neighborhood Association regarding the retail size limitations in the Zoning Code established through the Division Green Street / Main Street Plan.
 - On August 26, 2008, during the Planning Commission hearing on the workplan for RICAP 5, several members of the neighborhood and business associations as well as an owner in the Division Street area, testified to request that staff address the retail size limitations on Division Street. This Ordinance applies to the amendments associated with their request.
 - On September 11, 2008, notice was sent to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as persons involved with the Division Green Street / Main Street Plan (also known as Division Vision), as well as all those who were interested in a 2006 land use adjustment case and appeals involving the former Natures/Wild Oats building on Division Street. The adjustment and appeals involved the regulations for Retail Sales And Service Uses for the Division Main Street. The notice was for the Planning Commission Hearing on the staff proposal for the Regulatory Improvement Code Amendment Package 4 (RICAP 4) and to announce the availability of the Proposed Draft.
 - On September 16, 2008, the *Regulatory Improvement Code Amendment Package 4 (RICAP 4) Proposed Draft* was published. The report explained the proposed amendments to the Zoning Code. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
 - On October 14 and 28, 2008, the Planning Commission held a public hearing to discuss and take testimony on the report. The bulk of the testimony was on the proposed amendment to the Division Street retail size limits.
 - On November 21, 2008, notice was sent to those who testified at the Planning Commission hearings, and to people interested in RICAP 4, of the proposed City Council hearing on the Planning Commission recommendation for RICAP 4.
 - On December 10, 2008, the City Council held a public hearing to discuss and take testimony on the recommendations from the Planning Commission.
 - On December 17, 2008, Council voted to defer their decision on the portion of the *Regulatory Improvement Workplan: Regulatory Improvement Code Amendment Package 4 (RICAP 4), Planning Commission Recommended Draft* that amends the regulations affecting Retail Sales And Service Uses on Division Street in the Main Street Corridor Overlay Zone.

- On January 7, 2008, Council discussed the amendments affecting Retail Sales And Service Uses on Division Street in the Main Street Corridor Overlay Zone, and accepted additional testimony.

21. **Goal 9, Economic Development**, requires the provision of adequate opportunities for a variety of economic activities vital to public health, welfare and prosperity. The amendment to the Division Street retail regulations support this goal by providing additional flexibility for the economic re-use of existing buildings, while maintaining a pedestrian scale to the ground floor retail environment.

22. The following element of the Metro Urban Growth Management Functional Plan is relevant and applicable to the amendment affecting Retail Sales And Service regulations for Division Street in the Main Street Corridor Overlay Zone.

23. **Title 6, Central City Regional Centers, Town Centers and Station Communities**, defines Metro's policy to enhance Centers by encouraging growth within these Centers. This amendment is consistent with this Title by providing additional flexibility for commercial development within existing buildings along Division Street, which is designated a Region 2040 Main Street.

24. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.

25. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the amendment affecting Retail Sales And Service regulations for Division Street in the Main Street Corridor Overlay Zone.

26. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendment is consistent with this goal because it does not change policy or intent of existing regulations relating to metropolitan coordination and regional goals.

27. **Goal 2, Urban Development**, calls for maintaining Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. This amendment supports this goal by expanding the opportunities for the re-use of existing commercial buildings along Division Street, while retaining the street's character as an established commercial node.

28. **Goal 3, Neighborhoods**, calls for the preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density.

Policy 3.1, Physical Conditions calls for the provision of programs to prevent the deterioration of existing structures and public facilities. This amendment supports the policy by adding flexibility for the re-use of existing buildings that may have exceeded the size limits in place at the implementation of the Division Green Street / Main Street Plan, and that may have remained vacant as a consequence of these limits.

Policy 3.5, Neighborhood Involvement encourages active involvement of neighborhood residents and businesses in decisions affecting their neighborhood, through the promotion of neighborhood and business associations. This amendment supports this policy since the amendment is based upon suggestions from the neighborhood and business associations surrounding Division Street.

Policy 3.6, Neighborhood Plan calls for maintaining and enforcing neighborhood plans that are consistent with the Comprehensive Plan and that have been adopted by City Council. This includes the Division Green Street / Main Street Plan which was adopted by Council in February, 2006. The Division Plan includes goals to focus commercial activity in a series of villages, including building at a pedestrian scale. The Division Plan also calls for supporting a healthy local economy, including businesses that provide a diverse range of goods and services, and to allow a collaborative approach to achieve a connected community. The amendment supports these plan goals by forwarding a code change that was suggested by the neighborhood and business associations. The amendment also supports these goals by adding flexibility to use existing buildings for a wider range of retail uses. At the same time, the provision maintains the pedestrian scale of the ground level of buildings.

29. **Goal 5, Economic Development**, calls for the promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The amendment to the Division Street retail limitation supports this goal by adding flexibility for the economic re-use of existing buildings, while maintaining a pedestrian scale to the ground floor retail environment.
30. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement
31. **Goal 10, Plan Review and Administration**, includes several policies and objectives. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, directs that amendments to the zoning and subdivision regulations should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city.

The amendment is supportive of Policy 10.10 because it clarifies and streamlines a regulation in the Zoning Code. It also responds to an identified current and anticipated problem, such as a barrier to desirable development, and will help ensure that Portland remains competitive with other jurisdictions as a location in which to live, invest, and do business.

32. **Goal 12, Urban Design**, calls for enhancing Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Policy 12.4 recognizes that Portland is experienced most intimately by pedestrians and that development should ensure a pleasant, rich and diverse experience for pedestrians. The amendment is consistent with this policy by maintaining the retail size limit along the ground level of buildings in the Division Green Street / Main Street plan, thus ensuring a variety of uses along the ground level frontage.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Regulatory Improvement Code Amendment Package 4 (RICAP 4): City Council Revisions to Division Street Regulations*, dated January 9, 2009;
- b. Amend Title 33, Planning and Zoning as shown in Exhibit A, *Regulatory Improvement Code Amendment Package 4 (RICAP 4): City Council Revisions to Division Street Regulations*, dated January 9, 2009
- c. Adopt the commentary and discussion in Exhibit A, *Regulatory Improvement Code Amendment Package 4 (RICAP 4): City Council Revisions to Division Street Regulations*, dated January 9, 2009, as legislative intent and further findings;
- d. Direct staff to monitor the effect of the other amendments as part of their overall monitoring program.

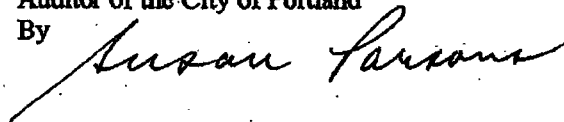
Passed by the Council: JAN 14 2009

GARY BLACKMER

Auditor of the City of Portland

By

MAYOR SAM ADAMS



Prepared by:
Phil Nameny Bureau of Planning and Sustainability
November 21, 2008

Deputy

Regulatory Improvement Workplan

Regulatory Improvement Code Amendment Package 4

(RICAP 4)



CITY OF PORTLAND
BUREAU OF
PLANNING



**Council Revisions to
Division Street Regulations**

January 9, 2009

The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.

For more information about **this report** or **Regulatory Improvement Code Amendment Package 4** please contact:

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I. Introduction

Summary

This report is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as a Regulatory Improvement Code Amendment Package (RICAP), followed by a number. The amendments addressed in this report were part of RICAP 4.

The workplan for RICAP 4 was adopted by the Planning Commission at a public hearing in July, 2007. The amendments addressed in this report, which affect Retail Sales And Service uses along Division Street, were not initially a part of this package. At the Planning Commission Hearing for the RICAP 5 workplan on August 26, 2008, there was considerable testimony about the retail size limitation, which is part of the portion of the Main Street Overlay Zone that applies to Division Street. The Planning Commission asked staff to bring forward a code amendment for this issue in time for the RICAP 4 Planning Commission hearing.

There was extensive testimony and discussion on this issue at the Planning Commission hearings. As a result, staff created a separate ordinance to allow the Council to approve the RICAP 4 package independent of the Division Street issue. Council also heard extensive testimony on December 10, 2008 and January 7, 2009.

On January 7, 2009, City Council adopted several amendments to the Planning Commission's recommended code language. This report includes Council's amendments.

II. Impact Assessment

During each RICAP review process, an impact assessment is conducted in order to identify and evaluate positive and negative impacts of regulations that may be proposed. The process also identifies situations where a nonregulatory approach is a better solution.

The impact assessment in the *Regulatory Improvement Code Amendment Package 4 (RICAP 4), Planning Commission Recommended Draft* describes the process used to select and analyze the items in RICAP 4, including the item addressed in this report. The information in this section supplements that assessment.

Stakeholder Outreach and Feedback

During the August 2008 Planning Commission Hearing for our next workplan (RICAP 5), several representatives of neighborhood and business organizations requested that the Commission direct staff to address the retail limits along part of SE Division Street. Their concern was that the current standard was having the unintended consequence of forcing the former Natures/Wild Oats building to remain vacant, and it was having a negative effect on the area. After hearing the testimony, the Planning Commission directed staff to prepare a code amendment on this issue as part of the RICAP 4 package of amendments.

In addition to the outreach and notice described in the *Regulatory Improvement Code Amendment Package 4 (RICAP 4), Planning Commission Recommended Draft*, notice was also sent to those who had been involved in Division Street planning, in the adjustment requested for the former Natures/Wild Oats building, and the subsequent appeals.

The Planning Commission Hearing afforded members of the public the opportunity to testify about any of the items in RICAP 4. Most of the testimony was on the proposed changes to the Division Street retail limits. Testimony was received both in favor and opposed to the proposed changes. The Commission felt that the neighborhood's proposal to waive the limitation only within existing buildings on floors other than the ground floor was the best compromise. This option would allow greater flexibility to reuse older buildings while maintaining a streetscape that features smaller storefronts.

Additional notice and opportunities to testify were provided with the City Council hearings on December 10 and January 7.

III. Amendments to the Zoning Code (Title 33)

The amendments to the Zoning Code are included in this section of the report. The amendments are on the odd-numbered pages. The facing (even-numbered) pages contain commentary about the amendment. The commentary includes a description of the problem being addressed, the legislative intent of the amendment, and an assessment of the impact of the change.

Division Street Regulations

33.460.300 Purpose

33.460.310 Additional Standards

The Division Green Street / Main Street Plan went into effect in March 2006. One of the regulations added to the Zoning Code was a limitation on the size of individual Retail Sales And Service uses to 10,000 square feet of net building area. Supermarkets are exempt from the limitation.

According to the commentary in the adopting report, the purpose of the regulation was: "The community places a high value on retaining the local scale of retail along Division. Although this does not prohibit chain stores less than 10,000 square feet, it sends a message that the scale of retail along Division is local serving, rather than providing a regional draw. Supermarkets require larger floor area to provide local services and are exempt from this regulation."

After the plan took effect, a grocery store in the plan area closed, and the building owner has had difficulty finding a tenant for the space. The floor area of the existing building is more than 10,000 square feet and includes a second story, but potential tenants must either use only part of the building, or seek an adjustment to the 10,000 square foot limitation. One potential tenant did request an adjustment; the City approved it, but it was appealed to LUBA and remanded to the City.

Concerned about the potentially blighting effect of a long-vacant large building, the neighborhoods in the area asked that the 10,000 square foot limitation be lifted in very limited circumstances. Several options were considered. The first, and simplest was originally offered by staff, and would exempt buildings that were larger than 10,000 square feet on the date the Division Street Plan took effect. The second option was one suggested by a coalition of neighborhood groups. This would apply the 10,000 square foot limitation only to the ground floor of buildings.

At the Planning Commission hearings, there was a considerable amount of testimony, both in favor and against the proposal. The Commission felt that the proposal from the coalition of neighborhood groups was the best approach to retain the desired neighborhood character of smaller storefronts, while increasing the flexibility to re-use buildings. The area this regulation applies to is small, and this regulation affects only a few buildings. This analysis was specific to the Division Street corridor. They agreed that a separate analysis should be done in any future areas that consider incorporating the Division Street retail limitations. Based upon the testimony of neighbors, the Planning Commission recommended that Council adopt the second option.

[Commentary continues on next even-numbered page]

PROPOSED ZONING CODE LANGUAGE

Language to be **added** is underlined
Language to be **deleted** is shown in ~~striketrough~~

Division Street Regulations

33.460.300 Purpose

These regulations promote development that fosters a pedestrian- and transit-oriented main street and reinforces the pattern of older industrial, commercial, and residential buildings along the street. These regulations ensure that development:

- Activates Division Street corners and enhances the pedestrian environment;
- Steps down building heights to reduce the negative impacts of larger scale buildings on the adjoining single-dwelling zones;
- Is constructed with high quality materials in combinations that are visually interesting;
- Consists of retail that primarily serves the surrounding neighborhood, is small in scale and promotes pedestrian activity; and
- Provides neighbors with the opportunity to give early input to developers on significant projects.

33.460.310 Additional Standards.

A-C. [No change.]

D. Floor area for Retail Sales And Service.

1. Generally. Each individual Retail Sales And Service use is limited to 10,000 square feet of net building area.
2. Exceptions.
 - a. Supermarkets are exempt from this regulation.
 - b. A Retail Sales And Service use may exceed 10,000 square feet if:
 - (1) The building it is in had more than 10,000 square feet of floor area on March 17, 2006;
 - (2) The maximum floor area of that use on the ground level of the building is no more than 10,000 square feet;
 - (3) The total building floor area is no more than 120 percent of the floor area that existed on March 17, 2006; and
 - (4) The applicant must present the proposal to City Council before a building permit is applied for. The Council discussion is advisory only and is not binding on the applicant.

Commentary

At the City Council hearings, there was also a considerable amount of testimony, both in favor and against the proposal. In Council's discussion, they were particularly concerned about the potential for buildings expanding by significant amounts to take advantage of the proposed provisions, and about removing the opportunity for neighborhood involvement. As a result, they added three elements to the Planning Commission recommendation:

1. Buildings taking advantage of this provision may have no more than 120 percent of the floor area that they had on the date the original regulation was adopted (March 17, 2006).
2. Applicants using this provision must offer to meet with the neighborhood, as is now required for applicants adding more than 5,000 square feet of floor area to a site.
3. Applicants using this provision must present their proposal to City Council for an advisory discussion before applying for a building permit.

PROPOSED ZONING CODE LANGUAGE

Language to be **added** is underlined
Language to be **deleted** is shown in ~~strike through~~

E. Neighborhood contact. Proposals meeting the following conditions are subject to the neighborhood contact requirement as specified in Section 33.700.025, Neighborhood Contact. All of the steps in 33.700.025 must be completed before a building permit is applied for:

1. The proposed development has not been subject to a land use review, and
2. The proposed development will add more than 5,000 square feet of gross building area to the site, or will utilize the Retail Sales And Service exception of D.2.b above.

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