

ORDINANCE NO. 601

AN ORDINANCE AMENDING ORDINANCE NO. 580 TO INCLUDE THE PLANNING COMMISSION'S RECOMMENDATION FOR W. C. 4.116 (.05) – E and G - RELATED TO THE TEMPORARY STORAGE OF INVENTORY AND OUTDOOR DISPLAY OF INVENTORY UNDER A PERMANENT COVER FOR COMMERCIAL DEVELOPMENT IN ANY ZONE

WHEREAS, the Wilsonville Comprehensive Plan land use and development section encourages an attractive, functional and economically vital community and urges that shopping areas be pleasant environments to live near and to do business within; and

WHEREAS, commercial development is a major identifying feature in a community, offering impressions to residents and visitors alike of the quality of life available; and

WHEREAS, Comprehensive Plan Policy encourages commercial growth to serve local needs; and

WHEREAS, it is the City's desire to attract new business and encourage attractive commercial development to contribute to a vibrant economic condition; and

WHEREAS, the current code does not allow for such activities as outdoor sales under a cover that when appropriately developed, can greatly contribute to a vibrant, economically sustained pedestrian-friendly commercial district; and

WHEREAS, it is in the best interest of the City and its citizens to allow these activities; and

WHEREAS, the proposed code amendments are intended to expand the list of exceptions, and clarify allowable outdoor commercial activities; and

WHEREAS, the City Council held a public hearing on the Staff proposal on this matter in April of 2005 as part of Ordinance No. 580, and remanded two specific sections (E and G) for the Planning Commission to reconsider requesting clear and objective code language; and

WHEREAS, the Planning Commission conducted a worksession in August and held a public hearing in September of 2005 to reconsider the remanded items and after concluding said proceedings, forwarded a recommendation of approval to the City Council; and

WHEREAS, the public interest is served by clarifying the code to better express and expand the list of exceptions to the “completely enclosed building” standard of the Planned Development Commercial zone; and,

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts as findings of facts the above recitals and that staff report in this matter dated October 31, 2005, attached hereto and incorporated herein as if fully set forth and directs the City Recorder to format this section of Code to accommodate these changes.

Section 2. Order. Wilsonville Code Section 4.116 (.05) is amended to read as follows:

(.05) All businesses, service or processing, shall be conducted wholly within a completely enclosed building, except for:

- A. The sale of automotive fuel, lubricants and fluids at service stations.
- B. Car washes and car vacuum bays.
- C. Off-street parking for customers and employees and off-street loading.
- D. Outdoor seating areas associated with food and drink establishments on private property, or on public easements, provided the area and activities conform to ADA standards and do not interfere with public uses, safety, access or circulation.
- E. **Temporary staging of inventory, as shall be authorized through a site development permit, complying with the following additional minimum development and performance standards:**

- 1. The staging area shall be screened by a fully sight obscuring fence or planting, high wall, high berm or high screen landscape standard as specified in Section 4.176-Landscaping Screening and Buffering;**
- 2. All parts of the staged inventory shall be completely concealed on all sides from public view at the right-of-way line; and**
- 3. The staged inventory shall be relocated into a completely enclosed structure of the primary retail operation within 48 hours of placement.**

F. Exterior sales that are specifically authorized through temporary use permit approval, subject to conditions of approval. Exterior sales that may be permitted are those that are limited in time duration, such as sidewalk sales, grand openings, or farmers' markets.


G. Exterior sales areas, complying with the following minimum development and performance standards:

- 1. The sales area shall be accessory to, and shall not exceed 5% of the floor area of the primary retail operation.**
- 2. The sales area shall be completely covered by a permanent structure of a design, construction and architecture compatible with that of the structure of the primary retail operation.**
- 3. All required ADA and pedestrian access ways and circulation aisles shall remain clear at all times.**
- 4. For new development, the Development Review Board may grant a waiver to allow exterior sales area of up to 10% of the floor area of the primary retail operation, provided that findings can be made that:**
 - a. The expanded covered area has received approval through a Stage II/Site Design Review process.**
 - b. The expanded area does not detract from the overall character of the development or the surrounding neighborhood.**
 - c. Partial walls are required for screening large or bulky items.**

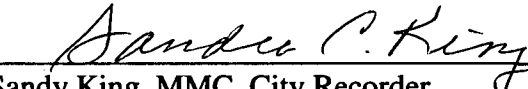
5. For Development existing on December 21, 2005, the Planning Director, pursuant to a Class II Administrative Review Process, may grant a waiver to allow exterior sales areas of up to 10% of the floor area of the primary retail operation, provided that findings can be made that:

- a. The expanded area does not detract from the overall character of the area,
- b. Partial walls are required for screening large or bulky items.

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 7th day of November, 2005, and scheduled for a second reading at a regular meeting of the Council on the 21st day of November, 2005, commencing at the hour of 7:00 P.M. at the Wilsonville Community Center.


Sandy King, MMC, City Recorder

ENACTED by the City Council on the 21st day of November, 2005 by the following votes: Yes: -4- No: -0-


Sandy King, MMC, City Recorder

DATED and signed by the Mayor this 28th day of November, 2005.


CHARLOTTE LEHAN, Mayor

SUMMARY OF VOTES

Mayor Lehan	Yes
Council President Kirk	Yes
Councilor Holt	Excused
Councilor Knapp	Yes
Councilor Ripple	Yes

**WILSONVILLE PLANNING DIVISION
STAFF REPORT**

HEARING DATE: November 7, 2005

DATE OF REPORT: October 31, 2005

APPLICATION NO: LP-2005-01-004 (Remand of a Portion)

REQUEST: A remand of Sections 4.116(.05)(E.) and (G.) for reconsideration which were originally proposed in Ordinance No. 580, a Planning and Land Development Ordinance text amendment to Section 4.116(.05), Standards Applying to Commercial Development in Any Zone, related to outdoor storage of retail inventory under a cover and temporary staging of inventory. **The City Council is the final authority on this matter.**

LOCATION: Commercial Development City Wide

APPLICANT: City of Wilsonville

STAFF REVIEWER: Chris Neamtzu AICP, Long-Range Planner

CRITERIA: *Wilsonville Comprehensive Plan* Citizen Involvement Goal 1.1; Implementation Measures 1.1.1.a, 1.1.1.e, 1.1.1.f; Land Use and Development Goal 4.1, Policy 4.1.1; Commercial Development Policy 4.1.2; Implementation Measures 4.1.2.a, 4.1.2.b; 4.1.2.c, 4.1.2.d, 4.1.2.g; *Planning and Land Development Ordinance* Section 4.003: Consistency with Plan and Laws; 4.008: Application Procedures in General; 4.009: Who May Initiate Applications; 4.032: Authority of the Planning Commission; 4.116: Standards Applying to Commercial Development in Any Zone; 4.131: Planned Development Commercial Zone; and 4.197: Zone Changes and Amendments to This Code.

SUMMARY:

After conducting a worksession in August, the Planning Commission held a public hearing in September to consider amended language regarding the outdoor display of commercial inventory under a cover, and the temporary staging of inventory. If the Council recalls, these two items were part of a larger package of code amendments (Ordinance No. 580) that came to the Council in April of this year and were remanded to the Planning Commission for additional work with a focus on providing clear and objective code language.

Staff has discussed the proposed code text amendments with two representatives of local business interests. To date, there has been no written objections provided for the record, and Staff has been able to answer the public's questions and address any concerns.

Proposed Language:

The language below contains the Staff's 9/14/05 proposal, plus the Planning Commission approved language. The text is bold because it is new language to the Code. The italicized and struck-through text indicates PC's changes at the 9/14/05 meeting.

The following language was forwarded to the City Council with a recommendation of approval:

(.05) All businesses, service or processing, shall be conducted wholly within a completely enclosed building, except for:

E. Temporary staging of inventory, as shall be authorized through a site development permit, complying with the following additional minimum development and performance standards:

- 1. The staging area shall be screened by a fully sight obscuring fence or planting, high wall, high berm or high screen landscape standard as specified in Section 4.176-Landscaping Screening and Buffering;**
- 2. All parts of the staged inventory shall be completely concealed on all sides from public view at the right-of-way line; and**
- 3. The staged inventory shall be relocated into a completely enclosed structure of the primary retail operation within 48 hours of placement.**

G. Exterior sales areas, as shall be authorized through a site development permit, complying with the following minimum development and performance standards:

- 1. The sales area shall be accessory to, and shall not exceed 5% of the floor area of the primary retail operation.**
- 2. The sales area shall be completely covered by a permanent structure of a design, construction and architecture compatible with that of the structure of the primary retail operation.**
- 3. All required ADA and pedestrian access ways and circulation aisles shall remain clear at all times.**
- 4. The Development Review Board may grant a waiver *to allow exterior sales area of up to 10% of the floor area of the primary retail operation, provide that findings can be made that:***
 - a. The expanded covered area has received approval through a Stage II/Site Design Review process.**
 - b. The expanded area does not detract from the overall character of the development *or the surrounding neighborhood.***
 - c. Partial walls are ~~recommended~~ *required* for screening large or bulky items.**

RECOMMENDATION: Staff respectfully recommends that the City Council conduct a public hearing on the proposed code text amendment to Planning and Land Development Ordinance Section 4.116 (.05), and approve the attached Ordinance.

BACKGROUND:

The Planning Commission conducted a public hearing on Ordinance No. 580 in February of 2005 and forwarded a recommendation of approval of the proposed Development Code text amendments to the City Council. On April 4, 2005 the City Council conducted a public hearing on the proposal, adopted part of the Commission's recommendation and remanded items E and G for reconsideration.

Item E applies to the temporary staging of inventory, and item G is the exterior sales under a permanent cover provision. The City Council asked Staff to propose additional language that would provide the DRB with clear and objective code language. Staff reworked the proposal and came back to the Planning Commission in worksession with revised language. The Commission conducted a worksession at their August 2005 meeting and provided Staff with additional direction on the revised proposal. Staff returned for a public hearing in September, and the Commission forwarded a recommendation of approval of the language that is before the Council.

Covered Storage Area

The Commission requested Staff to provide an example of what the 10% allocation in proposed Section (05) G. 1. would actually look like on the ground. As an example, Lamb's Thriftway has a year-round covered outdoor display. According to the Building Division records, the store measures just less than 46,300 SF in area. 10% of 46,300 equals 4,630 SF of potentially permitted covered display area. At a site visit, it was estimated that the actual display area under cover at Thriftway was approximately 1,800 (90' X 20') SF. The 10% allocation would allow for more than two times more outdoor covered display than Thriftway currently has which suggests that the proposed 10 percent could be reduced and still provide functional and attractive outdoor display. It appears that there is general consensus that Lamb's conducts their outdoor sales tastefully and that it is of a scale and size that is appropriate for the shopping center, is functional and attractive.

The numbers below are provided for comparison purposes only.

- At 10% a 10,000 SF store would be allowed 1,000 SF of covered outdoor display.
- At 10% a 100,000 SF store would be allowed 10,000 SF of covered display.
- At 5% a 10,000 SF store would be allowed 500 SF of covered display
- At 5% a 100,000 SF store would be allowed 5,000 SF of covered display

Open Storage Areas

Recently Fred Kent, President of Project for Public Spaces, came to Wilsonville to provide input on a variety of topics from Villebois to Wilsonville Road. One item that came out of the Fred Kent presentation was the concept of the "Power of 10". That all vibrant public places need to

have at least 10 different things to do, and that chaos can lead to great public spaces. One suggestion that Mr. Kent had for Old Town was to allow open uncovered commercial display. Councilor Knapp mentioned this at a past City Council worksession.

The City of Wilsonville has a long history on this topic. There was an actual vote of the people regarding whether to allow open uncovered display or not. There have been serious concerns beginning with the City's founding members up to today about the image uncovered outdoor retail products would create for the community given its location on Interstate-5 and the likely uses that would accompany this. The community decided at that time that all outdoor commercial activity needed to be conducted wholly within a completely enclosed building. Due to the long history of not allowing this activity and the precedence it would create, Staff is not proposing any changes to this provision. The remand was focused on two specific sections of Code language. The Commission discussed this topic and did not forward any recommendations regarding an approach.

Proposed Language at the Planning Commission:

(.05) All businesses, service or processing, shall be conducted wholly within a completely enclosed building, except for:

F. Temporary staging of inventory, as shall be authorized through a site development permit, complying with the following additional minimum development and performance standards:

- 1. The staging area shall be screened by a fully sight obscuring fence or planting, high wall, high berm or high screen landscape standard as specified in Section 4.176-Landscaping Screening and Buffering;**
- 2. All parts of the staged inventory shall be completely concealed on all sides from public view at the right-of-way line; and**
- 3. The staged inventory shall be relocated into a completely enclosed structure of the primary retail operation within 48 hours of placement.**

G. Exterior sales areas, as shall be authorized through a site development permit, complying with the following minimum development and performance standards:

- 5. The sales area shall be accessory to, and shall not exceed 5% of the floor area of the primary retail operation.**
- 6. The sales area shall be completely covered by a permanent structure of a design, construction and architecture compatible with that of the structure of the primary retail operation.**
- 7. All required ADA and pedestrian access ways and circulation aisles shall remain clear at all times.**

Originally Proposed Language from Public Hearings in April of 2005:

4.116. E. Standards Applying to Commercial Developments in any Zone.

Any commercial use shall be subject to the applicable provisions of this Code and to the following:

(.05) All businesses, service or processing, shall be conducted wholly within a completely enclosed building, except for:

- A. The sale of automotive fuel, lubricants and fluids at service stations.
- B. Car washes and car vacuum bays.
- C. Off-street parking for customers and employees and off-street loading.
- D. Outdoor seating areas associated with food and drink establishments on private property, or on public easements, provided the area and activities conform to ADA standards and do not interfere with public uses, safety, access or circulation.
- E. Temporary staging of inventory, not to exceed 48 hours, provided that the inventory and staging area is concealed from public view at the right of way line by a sight obscuring fence, wall, berm or plantings, consistent with Section 4.176 and are specifically authorized thorough a site development permit, subject to conditions of approval.**
- F. Exterior sales that are specifically authorized through temporary use permit approval, subject to conditions of approval. Exterior sales that may be permitted are those that are limited in time duration, such as sidewalk sales, grand openings, or farmers' markets.
- G. Exterior sales, accessory to a primary retail operation, involving an area for display of inventory, completely under a permanent cover, awning, or porch that are specifically authorized through a site development permit, subject to conditions of approval.**

CONCLUSIONARY FINDINGS:

GOAL 1.1 To encourage and provide means for interested parties to be involved in land use planning processes, on individual cases and City-wide programs and policies.

Implementation Measure 1.1.1.a Provide for early public involvement to address neighborhood or community concerns regarding Comprehensive Plan and Development Code changes. Whenever practical to do so, City staff will provide information for public review while it is still in "draft" form, thereby allowing for community involvement before decisions have been made.

Response: In March and December of 2004, the Planning Commission conducted work sessions on proposed amendments. In February 2005 the Commission conducted a public hearing on the proposed code amendment, and forwarded a recommendation of approval to the Council after affording opportunity for public testimony and considering the materials in the record. The Council conducted a public hearing in April and remanded two parts back to the Commission for consideration. The Commission conducted a worksession on revised language in August, and held a public hearing on September 14, 2005, forwarding a recommendation of approval to the Council. Public notice of the public hearing on this matter was provided. The City will continue to allow for a wide range of public participation opportunities related to citywide programs and policies. This goal and measure are satisfied.

Implementation Measure 1.1.1.e Encourage the participation of individuals who meet any of the following criteria:

1. *They reside within the City of Wilsonville.*
2. *They are employers or employees within the City of Wilsonville.*
3. *They own real property within the City of Wilsonville.*
4. *They reside or own property within the City's planning area or Urban Growth Boundary adjacent to Wilsonville.*

Response: Public notice was mailed regarding this proposal. Public notices were posted at four locations around the City, and printed in the newspaper. Previous meetings were held with the Planning Commission and the City Council. This notification encourages participation by a wide variety of individuals. This measure is satisfied.

Implementation Measure 1.1.1.f Establish and maintain procedures that will allow any interested parties to supply information.

Response: The City's legislative public hearing process before the Planning Commission and City Council provide a procedure for interested parties to supply information. This measure is satisfied.

GOAL 4.1: *To have an attractive, functional, economically vital community with a balance of different types of land uses.*

Response: The proposed code text amendment will allow for activities and uses that will assist in the creation of an attractive, functional and economically vital community, permitting outdoor activities that currently are required to be conducted wholly within a completely enclosed building. Activities such as sales under a cover help to create a sense of place. This criterion is met.

Policy 4.1.1 The City of Wilsonville shall make land use and planning decisions to achieve Goal 4.1.

Response: The proposed code text amendment would allow for uses and would assist the DRB to make land use and planning decisions that will assist in achieving an attractive, functional, economically vital community with a balance of different types of land uses. This criterion is met.

Policy 4.1.2 The City of Wilsonville shall encourage commercial growth primarily to serve local needs as well as adjacent rural and agricultural lands.

Response: By expanding the list of exceptions to the wholly enclosed building standard, the City may attract new goods and services that may not have been available in the past. Such new businesses and activities would serve local needs. This criterion is met.

Implementation Measure 4.1.2.a: Encourage commercial uses which are compatible with the residential nature of the community, and are complementary to or supportive of industrial development in the City.

Response: Outdoor sales accessory to primary retail operations and under cover can be compatible with the residential nature of the community and can encourage walking from home to commercial areas. The proposed code amendment supports this implementation measure.

Implementation Measure 4.1.2.b: Provide opportunities for a basic mix of needed goods and services.

Response: By expanding the list of exceptions to the “completely within a wholly enclosed building” standard, the City may gain potential sale of goods that will enhance opportunities for a basic mix of needed goods and services. This implementation measure is supported by the proposed code amendment.

Implementation Measure 4.1.2.c: Encourage a rate of commercial development consistent with serving the needs of residents of the City and adjacent rural and agricultural lands.

Response: The proposed code text amendment should not have any impact on the rate of commercial development. This criterion is satisfied.

Implementation Measure 4.1.2.d: Cluster commercial activity near the freeway interchanges and encourage service or freeway-oriented commerce to locate near the Stafford Interchange. Encourage retail and other local-oriented commerce to locate in commercial districts along Wilsonville Road to minimize transient traffic impacts on the Wilsonville Interchange.

Response: The proposed code text amendment should not have any impact on the development of service or local-oriented commerce, and is generally compatible with this criterion.

Implementation Measure 4.1.2.g: The location and development of commercial areas within the community should be given very careful consideration. Although they may occupy a relatively small percentage of the total land area, commercial developments customarily occur at points of maximum traffic movement and, therefore, have a tremendous impact on people's impressions of the visual quality of the community. If Wilsonville is to retain an image as a desirable place to live, its commercial areas must reflect that quality.

Response: The allowance for exterior sales under cover can promote pedestrian activity. This type of activity is accessory to commercial uses and is an enhancement rather than a major attractant. It can provide a positive impression of a community. This criterion is met.

Planning and Land Development Ordinance:

Section 4.003. Consistency with Plan and Laws.

Actions initiated under this Code shall be consistent with the Comprehensive Plan and with applicable State and Federal laws and regulations as these plans, laws and regulations may now or hereafter provide.

Response: The proposed Planning and Land Development Ordinance language amendment is consistent with and generally supports policy and implementation measures found in the Comprehensive Plan related to commercial development. The City has an acknowledged Comprehensive Plan, and has determined, as shown in these findings, that the proposed amendments are consistent with policies and implementations measures of that Plan. Therefore review of this code amendment for compliance with statewide land use goals is not required. This criterion is met.

Section 4.008. Application Procedures - In General.

(.01) The general application procedures listed in Sections 4.008 through 4.024 apply to all land use and development applications governed by Chapter 4 of the Wilsonville Code. These include applications for all of the following types of land use or development approvals:

F. Changes to the text of Chapter 4, pursuant to Section 4.197;

Response: Compliance with Section 4.197 is demonstrated within this findings document. All appropriate application and notice procedures listed in Section 4.008 through 4.024 have been followed and carried out for developing and hearing this legislative proposal. Staff finds that the application complies with these sections of the Wilsonville Code. This criterion is met.

Section 4.009. Who May Initiate Applications.

(.04) In the event the City of Wilsonville is the applicant, the City Manager may authorize any City employee or consultant to act as the City's agent.

Response: The City of Wilsonville has proposed the Planning and Land Development Ordinance text amendment. Staff in the Planning Division is the authorized agent. This criterion is met.

Section 4.032. Authority of the Planning Commission.

- (.01) *As specified in Chapter 2 of the Wilsonville Code, the Planning Commission sits as an advisory body, making recommendations to the City Council on a variety of land use and transportation policy issues. The Commission also serves as the City's official Committee for Citizen Involvement and shall have the authority to review and make recommendations on the following types of applications or procedures:*
- A. *Legislative zone changes and changes to the text of Chapter 4 of this Code;*

Response: The Planning Commission reviewed the proposed Planning and Land Development Ordinance text amendment consistent with the authority granted to that body by the Comprehensive Plan and Development Code. This criterion is met.

Section 4.033. Authority of City Council.

- (.01) *Upon appeal, the City Council shall have final authority to act on all applications filed pursuant to Chapter 4 of the Wilsonville Code, with the exception of applications for expedited land divisions, as specified in Section 4.232. Additionally, the Council shall have final authority to interpret and enforce the procedures and standards set forth in this Chapter and shall have final decision-making authority on the following:*
- A. *Applications for zone changes and changes to the text of Chapter 4, as authorized in Section 4.197.*

Response: The City Council is the final authority on this matter, and will review this proposal and conduct public hearings consistent with the authority granted to them by the Development Code. This criterion is met.

Section 4.197. Zone Changes and Amendments To This Code – Procedures.

- (.01) *The following procedure shall be followed in applying for an amendment to the text of this Chapter:*
- A. *The Planning Commission shall conduct a public hearing on the proposed amendment at its earliest practicable meeting after it is proposed and shall, within forty (40) days after concluding the hearing, provide a report and recommendation to the City Council regarding the proposed amendment. The findings and recommendations of the Commission shall be adopted by resolution and shall be signed by the Chair-of the Commission.*
- B. *In recommending approval of a proposed text amendment, the Planning Commission shall, at a minimum, adopt findings relative to the following:*

1. *That the application was submitted in compliance with the procedures set forth in Section 4.008; and*
2. *The amendment substantially complies with all applicable goals, policies and objectives set forth in the Comprehensive Plan; and*
3. *The amendment does not materially conflict with, nor endanger, other provisions of the - text of the Code; and*
4. *If applicable, the amendment is necessary to insure that the City's Land Use and Development Ordinance complies with mandated requirements of State or Federal laws and/or statutes.*

Response: Staff finds that the application was submitted in compliance with the requirements set forth in the WC, and also finds that the applicant's proposal substantially complies with the goals, policies, and objectives of the Comprehensive Plan and is not in conflict with other provisions of the WC. The proposal is not linked to any mandated requirements of State or Federal laws or statutes. These criteria are met.

OTHER BACKGROUND:

The following minutes from the April 4, 2005 City Council meeting on the proposed code amendments are included as background information:

City Council Worksession Notes from 4-04-05:

Agenda Review

Councilor Knapp felt Ordinance No. 580, Paragraph 4.116(.05) E, and Paragraph 4.116(.05) G. did not go far enough to provide direction or guiding standards to the DRB Panels and thought they should be removed from the ordinance and returned to the Planning Commission for more work. These two paragraphs are listed below:

Paragraph 4.116(.05) E is related to temporary staging of inventory and is intended to address the delivery of goods and products to commercial businesses. When screened from public view, this section allows a reasonable amount of time for that inventory to be relocated to other parts of the commercial operation.

Paragraph 4.116(.05) G addresses the use of attached outdoor covered areas for continuing sales activity accessory to a primary retail operation such as those at Thriftway and Rite Aid.

Minutes from the Public Hearing on Ordinance No. 580:

PUBLIC HEARING

A. Ordinance No. 580

An Ordinance Amending W.C. 4.116 (.05) – Expanding the List of Exceptions to the “Completely Enclosed Building” Requirement for Commercial Development in Any Zone. (LP 2005 01 004)

The City Attorney read Ordinance No. 580 by title on first reading.

Mayor Lehan presented the legislative hearing format and opened the hearing at 7:55 p.m.

Mr. Neamtzu prepared the following staff report for the packet: This code amendment is intended to clarify permitted uses and activities, expanding the list of exceptions to the “completely within a wholly enclosed building” standard for commercial developments citywide. These activities generally assist in providing a healthy, vibrant commercial district. In March and December of 2004, the Planning Commission conducted work sessions on proposed amendments to WC Section 4.116(.05) related to outdoor activities and storage of products and inventory in commercial developments. In February, the Commission conducted a public hearing on the proposed code changes and forwarded a recommendation of approval to the City Council. At the Planning Commission public hearing there was testimony from Bruce Burns of Argyle Square supporting the proposed code amendment. There was additional verbal testimony related to how this proposal might affect previously approved projects. Staff’s response was that those projects were approved and would not be affected. There was no testimony in opposition. To date, Staff has not received any additional written material or objections regarding the proposal.

Staff is asking the Council to adopt a Development Code amendment that would exempt specified uses from the “completely enclosed” requirement. The timing of this code amendment is important. As the warm season approaches, many businesses begin to desire outdoor seating and seasonal sales. The Council’s approval of this item would allow for the amendment to be finalized in time for the warm weather.

The current standard for commercial developments is that all commercial businesses, service or processing shall be conducted wholly within a completely enclosed building. This provision has been violated in a number of ways on a regular basis since it was adopted. Outdoor seating areas for restaurants and seasonal retail sales at supermarkets and other retail outlets are examples of this. Changes are warranted to support a vibrant and healthy commercial district. It is the intent of this code revision to clarify and define acceptable outdoor activities that are associated with commercial uses, and use the site development review process and conditions of approval, to address them on a case-by-case basis.

Paragraphs 4.116 (.05) A., C., and F., are contained in the existing development code.

Paragraph 4.116(.05) B. addresses car washes and vacuum bays at gas stations. This provision will make it clear that car washes and the associated vacuum bays, while requiring design review and attractive design, can be conducted outside, not needing to be within a wholly enclosed building.

Paragraph 4.116(.05) D. concerns outdoor seating at eating establishments and represents a situation that is critical to a vibrant commercial district and one for which there is community support.

Paragraph 4.116(.05) E is related to temporary staging of inventory and is intended to address the delivery of goods and products to commercial businesses. When screened from public view, this section allows a reasonable amount of time for that inventory to be relocated to other parts of the commercial operation.

Paragraph 4.116(.05) G addresses the use of attached outdoor covered areas for continuing sales activity accessory to a primary retail operation such as those at Thriftway and Rite Aid.

Mayor Lehan closed the public hearing at 8:03 p.m. no one testified or commented on the ordinance.

Councilor Knapp thought the ordinance addressed the pedestrian enhancing amenities in the community which the City Code precluded as currently written. The Councilor raised concerns with Paragraph 4.116(.05) E, and Paragraph 4.116(.05) G. and felt they did not give enough guidance to the Development Review Boards to make decisions. Councilor Knapp suggested removing these two paragraphs and asking the Planning Commission to develop detailed wording to help guide the DRB and to adopt on first reading the balance of the ordinance.

Mayor Lehan added the founding fathers were fearful the town would become a string of auto dealerships because of its location on I-5, so the development code was written to preclude that from happening. However, the development code makes it difficult to allow other types of outdoor retail situations.

Motion: Councilor Knapp moved to approve Ordinance No. 580 on first reading with the modification that Paragraph 4.116(.05) E, and Paragraph 4.116(.05) G be deleted at this time and be returned for further discussion at the Planning Commission. Councilor Kirk seconded the motion.

Mr. Kohlhoff recommended renumbering the paragraphs so gaps were not left in the numbering sequence in the ordinance.

Vote: Motion carried 5-0.