

ORDINANCE NO. 491

AN ORDINANCE AMENDING SECTION 155.656 OF THE NORTH PLAINS MUNICIPAL CODE REGARDING CLEAR VISION AREAS

WHEREAS, the City of North Plains ("City") Municipal Code, Section 155.656, provides clear vision standards for roadway intersections; and

WHEREAS, Lennar Northwest, Inc., submitted an application to amend Section 155.656 to clarify the clear vision standards for certain roadways (City File No. TA 23-060); and

WHEREAS, the City Planning Commission conducted a public hearing on July 12, 2023, at which the Planning Commission received evidence and heard testimony on the proposed amendment; and

WHEREAS, after reviewing the application, evidence and testimony, the Planning Commission forwarded to the City Council a recommendation that the City Council approve the amendment; and

WHEREAS, on August 21st, 2023, the City Council conducted a public hearing on the proposed amendment and continued the public hearing to a date certain of September 18, 2023; and

WHEREAS, on September 18, 2023, the City Council considered modified language to accomplish the proposed amendments to City Municipal Code Section 155.656 that, in the opinion of City Council, staff, and Lennar Northwest, Inc., both maintains the original intent and purpose of City File No. TA 23-060 and the Planning Commission's recommendation, and does not alter the proposed amendment to such an extent that the material submitted no longer reasonably describes the proposed changes; and

WHEREAS, the City Council consequently continued the public hearing on the proposed amendment to a date certain of October 2, 2023; and

WHEREAS, having reviewed the modified language of the proposed amendment and the evidence in the record, the City Council desires to amend City Municipal Code Section 155.656 to clarify the standards for clear vision areas at certain roadway intersections; and


WHEREAS, this Ordinance is necessary to meet the immediate needs of the City, an emergency is declared to exist, and this Ordinance takes effect on its passage (subject to Section 4 below).

NOW, THEREFORE, THE CITY OF NORTH PLAINS ORDAINS AS FOLLOWS:


- Section 1.** The application to amend North Plains Municipal Code Section 155.656 (City File No. TA 02-060) is approved with modifications, as further shown in Exhibit D to this Ordinance.
- Section 2.** The decision to approve the application is based on the evidence and testimony in the record, the findings in the staff report to the Planning Commission dated July 5, 2023, attached as Exhibit A to this Ordinance, and the staff report to the City Council dated September 28, 2023, attached as Exhibit D to this Ordinance. The findings in the staff reports, including all interpretations of the applicable standards, are adopted as the City Council's.
- Section 3.** The North Plains Municipal Code, Section 155.656, is amended as shown in Exhibit D to this Ordinance.
- Section 4.** This Ordinance shall become effective 30 days after adoption by Council.

ADOPTED by the North Plains City Council this 16th day of October 2023.

CITY OF NORTH PLAINS, OREGON

By: 
Teri Lenahan, Mayor

ATTEST:

By: 
Lori Lesmeister, City Recorder

STAFF REPORT TO PLANNING COMMISSION

City File Number TA 23-060

Clear Vision Standards
Zoning and Development Code Update

Staff Report Date: July 5, 2023

Public Hearing Date: July 12, 2023

From: Steve Miller, Planning Manager



Application Purpose: This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley).

Applicant: **Lennar Northwest, Inc.**
11807 NE 99th Street Suite 1100
Vancouver, WA 98682
(360) 258-7900

Planning Consultant: **Pacific Community Design (PCD)**
12564 SW Main Street
Tigard, OR 97223
(503) 941-9484
Contact: Maureen Jackson
Email: maureen@pacific-community.com

Site Location: Brynhill Subdivision and Sunset Ridge Subdivision

City Zoning: Neighborhood Community (NC)

APPLICANT'S REQUEST:

This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley). Alley loaded homes within North Plains are predominately located within the Sunset Ridge Master Plan area and the

Brynhill Master Plan area. The proposed amendment will support homeowners' ability to install fencing along rear and side property boundaries to create private open-space in rear yards while complying with clear vision area requirements.

PUBLIC COMMENT: City Staff mailed public notice to all property owners within the Brynhill Master Plan area, as well as the Sunset Ridge Master Plan area, since these are the only properties impacted by the proposed text amendment, as required by North Plains Municipal Code (NPMC) Section 155.031(D)(1)(a)(2) on Monday, June 12, 2023. Based on the required public notice mailings, Staff received two (2) comment letters/emails from surrounding property owners. The two (2) written comments staff received are listed below.

From: Don Weber <dweber0813@gmail.com> on behalf of Don Weber
Sent: Tuesday, June 20, 2023 7:00 PM
To: Steve Miller
Subject: Comments on amendment to 155.656
Steve and Planning Commission,

First I would recommend that the code be re written and state that no fences of any height are allowed next to driveways. With the smaller homes being built it is common for children to play in garages and in driveways. Many are under 3 ft tall which means they are hidden behind the 3 ft fences. Also they often ride their trikes and other toys up and down driveways and this also hides them behind 3 ft fence. My grandkids love to lay on the concrete driveway and do chalk art. The biggest danger would be when turning into your own driveway. I have lived in several planned developments like Brynhill and none allowed alley/ driveway fences because of safety issues and the obstruction to clear vision.

On the other issue of the fences that have been allowed it looks messy and unsafe when I walk through those alleys. Some houses have 3 ft some 6 ft and some houses have no fences which I presume they could add later. Sunset Ridge has no driveway fences. So does this proposed amendment mean Sunset homeowners could build either 3/6 ft fences in the future by their driveways. There would be significant opposition and if city allowed them likely litigation would result if a few wanted them. I personally feel it was a mistake for the city to allow any fences and it makes the alleys less safe for the children of those homeowners. Not sure best way to solve this issue but allowing taller fences for these homes and potentially those in Sunset Ridge is not a good idea.

In summary I recommend that no alley fences of any height be allowed next to driveways and the code be written to say this.

Thank you,
Don Weber, Sunset Ridge

City File No. TA 23-060 Lennar Northwest, Inc. – Type IV Zoning Text Amendment

COMMENTS:

We want 6ft fence height to ensure privacy and security of our family. Our fence is already 5ft 5inch away from private alley - (side). It is unfair to cut a fence-side which is 20ft away from any of the private alley.

Name (and Organization or Business, if any):

Ravikumar Gogoi & Ankita Patel

Address:

30957, NW Turel Dr. North Plains, 97133

E-mail Address (Optional but preferred):

RAVI.GOGOI@GMAIL.COM

Date:

06/22/23

Please return by mail, e-mail or in person:

MAIL: 31360 NW Commercial Street, North Plains, OR 97133

E-MAIL: steve.miller@northplains.org

IN PERSON: City Hall, 31360 NW Commercial Street, North Plains, OR

Thank you!

Ravikumar Gogoi and Ankita Patel
30957 NW Turel Dr. – Brynhill

* In case the comments above are not readable, staff has typed Ravikumar Gogoi and Ankita Patel comments below:

We want 6 ft fence height to ensure privacy and security of our family. Our fence is already 5 ft 5 inches away from private alley – (side). It is unfair to cut a fence -side which is 20 ft away from any of the private alley.

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE REQUIREMENTS AND REVIEW PROCEDURES

I. APPLICABLE REVIEW CRITERIA FROM THE *NORTH PLAINS ZONING AND DEVELOPMENT ORDINANCE*:

The following sections of the North Plains Zoning and Development Code have been deemed by Staff to be applicable to the proposal.

- 155.032 – Type IV Legislative and Other Decisions
 - 155.125 – 129 Comprehensive Plan and Zoning Amendments
 - 155.656 Clear Vision Areas
-

II. ZONING CODE REVIEW & FINDINGS

Below are applicable citations/review criteria from the *North Plains Zoning Ordinance* and findings in response to the criteria. Unless discussed below, the applicant has met the requirements of the applicable review criteria fully, and/or the Code's criteria are not applicable to this proposal and therefore do not warrant discussion.

Proposed Development Code Updates:

The North Plains Planning Commission is considering a Zoning and Development Code Text Amendment that would amend the existing regulations regarding clear vision standards and add new regulations regarding the applicability of the clear vision standards where private alleys intersect a public street and where private driveways intersect a private alley. The proposed Text Amendment requires a legislative public hearing before the Planning Commission who will make a recommendation to the City Council.

New text is identified with blue double underline in yellow highlighter and text to be removed in ~~red strikethrough in yellow highlighter~~.

Proposed Zoning and Development Code text amendments:

- 155.656 Clear Vision Areas
 - The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley).

APPLICANT'S REQUEST

This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley). Alley loaded homes within North Plains are predominately located within the Sunset Ridge Master Plan area and the Brynhill Master Plan area. The proposed amendment will support homeowners' ability to install fencing along rear and side property boundaries to create private open-space in rear yards while complying with clear vision area requirements.

The applicant is requesting approval of a Type IV Zoning text Amendment to amend Section 155.656 Clear Vision Areas.

The City code currently reads as follows:

Except in the C-1 Zone, a clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad or a driveway providing vehicular access to a public street, including alleys.

(B) A private access shall be treated as a public street for the purpose of this section. The vision clearance area shall be determined in the manner set forth form herein. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the right-of-way line in determining the vision clearance area.

The proposed text amendment would change the above code language to the following:

Except in the C-1 Zone, a clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets including private street or alley, a street and a railroad, or a driveway providing vehicular access to a public street, ~~including alleys~~.

(B) A private access shall be treated as a public street for the purpose of this section. Private access is defined as a private street or alley, not individual unit driveways. The vision clearance area shall be determined in the manner set forth form herein. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the right-of-way line in determining the vision clearance area.

SUMMARY CONCLUSIONS

This report includes findings regarding each applicable Comprehensive Plan Development Code criterion. The Applicant's proposal is consistent with the Comprehensive Plan and Development Code criteria for a Zoning Code Text Amendment.

BACKGROUND

The need for this Zoning Code text amendment was identified due to the placement of 6-foot fencing along rear yards of alley-loaded homes in the Brynhill Master Plan Area. In error of the city's clear vision standards, the City approved site plans for some alley loaded homes within the Brynhill subdivision, which showed fencing, even though the site plans didn't note the fence heights. Although the City must allow some fencing for the buildings in this development, it may enforce its clear vision area standards on all fences in the Brynhill Community which are out of compliance. In addition to the City's clear vision standard, the Brynhill Master Plan area is also goverened by the approved "Pattern Book" that set minimum standards and requirements for the Brynhill Community which in turn are subject to the terms of the City Code. The Pattern Book's prologue states that all construction of the Brynhill Community must comply with "all other applicable governmental regulations," which includes the City Code.

Although the Pattern Book does not specifically reference clear vision area standards, it does require compliance with City Code. The developer chose to include, and the City approved including, fences for these houses when the site plans were approved with "proposed fences" included. However, since no fence details were specified in the site plans, these proposed fences are still subject to all approved Pattern Book and City Coderequirements.

Lennar Northwest, Inc. is initiating an update to the Zoning and Development Code Clear Vision Standards at this time to resolve the alley fencing conflicts within the Brynhill Master Plan Area.

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE

COMPREHENSIVE PLAN & ZONING AMENDMENTS

§155.127 Review Criteria

(A) Text Amendment. *An amendment to the text of the Comprehensive Plan or this Ordinance shall be based upon a need for such an amendment identified by the City Council or the Planning Commission. Such an amendment shall be consistent with the following review criteria:*

(1) Impact of the proposed amendment on land use and development patterns within the city, as measured by:

(a) Traffic generation and circulation patterns in compliance with the Transportation System Plan (TSP);

(b) Demand for public facilities and services, in compliance with the City utility master plans;

(c) Level of park and recreation facilities;

(d) Economic activities;

(e) Protection and use of natural resources;

(f) Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.

FINDING: The Applicant and their representatives attended a Planning Commission work session on April 12th, 2023, and discussed the proposed text amendment with the Planning Commission. This Text Amendment application is a result of those discussions with the Planning Commission.

The application has provided the following statement in regard to how the proposed amendment is consistent with the following review criteria above.

“This proposed text amendment will not result in increased traffic generation; however, it will improve the safety of circulation patterns on private alleys and their corresponding intersections with public streets by more accurately defining private alleys and/ or streets for vision clearance.”

“The proposed text amendment does not impact the level of park and recreation facilities within the city.”

“This proposed text amendment is intended to provide clearer direction in the interpretation of Clear Vision Area standards in relation to private alleys, as such it will not have an impact on economic activities.”

“This proposed text amendment does not impact the City’s protection and use of natural resources.”

“The proposed text amendment does not alter or impact land use or development patterns; therefore, this criteria is not applicable. The applicant is also submitting a minor modification to the Brynhill Pattern Book for additional clarification regarding allowable locations of fencing along alley-loaded

residential lots.”

Staff concurs with the Applicant that the proposed Text Amendment will not result in increased traffic generation, will not impact the level of park and recreation facilities within the city, will not impact the City’s protection and use of natural resources, and will not alter or impact land use or development patterns within the city. Regarding the Applicant’s statement that the proposed text amendment will *“improve the safety of circulation patterns on private alleys”*. Staff finds this statement to be at the heart of the matter before the Planning Commission. The primary reason for establishing clear vision areas is to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections, including driveways.

The question before the Planning Commission is do the current clear vision standards operate as intended to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists, or should they be amended as proposed. Based on the public comments Staff received on this request, there are opposing views on whether the proposed text amendment will improve safety on alley ways, or if it just improves safety for private property on alley ways.

It is Staff’s opinion that the current clear vision standards are satisfactory in ensuring obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections. However, during the April 12th, 2023, Planning Commission Work Session, multiple Planning Commissioner’s indicated that they believed the clear vision standards were not intended to apply to alley driveways. Thus, in order to determine if the proposed text amendment satisfies the above criteria, the Planning Commission will need to decide if the proposed text amendment to the text of the Zoning Ordinance is based upon a need (emphasis added) for such an amendment.

Should the Planning Commission determine there is a “need” for the proposed text amendment to the clear vision standards, then Staff finds that the adoption of the proposed Zoning Code text amendment is necessary for the City to review proposed land use developments and will subsequently satisfy the above criteria.

(2) The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

FINDING: Oregon’s 19 Statewide Planning Goals are addressed below. Though several of the goals are not applicable to the proposed zoning code text amendments, those that are applicable are responded to in detail.

Goal 1 Citizen Involvement

The proposed changes to the Zoning and Development Code do not specifically address citizen involvement.

This land use application is subject to a City of North Plains Type IV land use review, which includes a significant citizen involvement component. This process has been established by the city and determined to be consistent with this goal. The mandatory public notice of the action and decision, and the hearings on this case before the Planning Commission and City Council are all avenues of citizen participation.

Goal 2 Land Use Planning

This statewide goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan.

The process identified above was utilized by the Applicant in the drafting of the proposed Zoning Code Amendment. Alternatives have been considered throughout the drafting of the proposed code language updates, including a publicly-noticed work session with the Planning Commission. The proposed changes are consistent with and adequate to carry out the Comprehensive Plan.

Goal 3 Agricultural Lands

This goal does not apply because the City does not include areas designated for agricultural use.

Goal 4 Forest Lands

This goal does not apply because the City does not include areas designated for forest use.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

There are no proposed changes to text regarding Goal 5 open spaces, scenic and historic areas and natural resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 6 Air, Water and Land Resources Quality

There are no proposed changes to text regarding air, water, or land resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 7 Areas Subject to Natural Hazards

There are no proposed changes to text regarding areas subject to natural hazards. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 8 Recreational Needs

There are no proposed changes to text regarding recreational needs. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 9 Economic Development

There are no proposed changes to text specifically regarding economic development. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 10 Housing

There are no proposed changes to the text regarding housing. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 11 Public Facilities and Services

There are no proposed changes to text regarding public facilities and services. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 12 Transportation

The Transportation Planning Rule (TPR), OAR 600-012.0060, requires that, where an amendment to a comprehensive plan or zoning regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures that assure that allowed land uses are consistent with the function, capacity, and performance standards of the facility. The proposed zoning code text amendment does not propose any changes to an existing or planned transportation facility and, as such, the proposed zoning code text amendment does not affect the transportation system of the City.

Goal 13 Energy Conservation

There are no identifiable energy consequences of this land use action. The proposed text amendments will not result in any appreciable difference in waste production or recycling compared with development under the existing zoning.

Goal 14 Urbanization

There are no proposed changes to text regarding urbanization. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

The City is not within the plan boundary for the Willamette River Greenway, does not have any estuarine resources, and is not on the Oregon Coast, so goals 15 through 19 do not apply. As discussed above, the proposed text amendments are generally consistent with the Statewide Planning Goals.

(3) The amendment is appropriate as measured by at least one of the following criteria:

(a) It corrects identified error(s) in the provisions of the plan.

(b) It represents a logical implementation of the plan.

(c) It is mandated by changes in federal, state, or local law.

(d) It is otherwise deemed by the City Council to be desirable, appropriate, and proper.

FINDING: The proposed text amendments generally represent a logical implementation of the Comprehensive Plan. The proposed amendment is appropriate and this standard is met.

(4) Compliance with the statewide Transportation Planning Rule. When a development application includes a Comprehensive Plan, Zone Map or Text Amendment, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, the Transportation Planning Rule. "Significant" means the proposal would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a street classification, requiring traffic to exceed the levels associated with a "collector" street classification, requiring a change in the classification to an "arterial" street as identified by the City's Transportation System Plan (TSP); or

(b) Change the standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the North Plains TSP or Comprehensive Plan; or

(d) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance identified in the North Plains TSP or Comprehensive Plan; or

(e) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan.

(5) Amendments that affect Transportation Plans. Except as provided in subsection 6 Exceptions, amendments to the Comprehensive Plan or land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level or service of the facility identified in the North Plains TSP. This shall be accomplished by one of the following:

(a) Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or

(b) Amending the North Plains TSP or Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or

(d) Amending the planned function, capacity or performance standards of the transportation facility; or

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

(6) Exceptions. Amendments to the Comprehensive Plan or land use regulation with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan, may be approved when all of the following criteria are met:

(a) The amendment does not include property located in an interchange area, as defined under applicable law;

(b) The currently planned facilities, improvements or services are not adequate to achieve the standard;

(c) The currently planned facilities, improvements or services at a minimum mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

(d) The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid degradation to the facility.

FINDING: The proposed text amendments do not include changes to the Transportation System Plan or significantly affect a transportation facility. The proposed text amendments are in compliance with the Transportation Planning Rule.

§155.129 Findings

Findings justifying a decision on an application shall be made in writing, and shall be provided to the applicant.

FINDING: The City Council's final decision will include written findings. Upon a final ruling by the City Council, Staff will prepare the necessary written findings justifying a decision on an application and they will be provided to the Applicant.

§155.129 Conditions

The granting of an approval of any land use action under Chapter 16.200 may be subject to such conditions as are reasonably necessary to protect the public health, safety or general welfare from potentially damaging effects resulting from approval of the permit, or to fulfill the public need for service demands created by approval of the request.

FINDING: Staff does not find it necessary to subject this decision to any conditions of approval.

CONCLUSION

The Planning Commission is considering a recommendation to the City Council for the proposed Zoning and Development Code Text Amendment. The Planning Commission may recommend that the City Council approve, approve with Conditions or deny the Text Amendment.

The proposed text amendment before the Planning Commission is one that regulates transportation safety standards for the city. Community wide transportation safety standards are critical to maintaining an environment that is safe for all citizens and visitors when traveling within the city limits of North Plains. In terms of a Staff recommendation to the Planning Commission on the

Applicant's proposed text amendment, Staff is taking a position of neutrality on the Applicant's proposal. As mentioned previously in this Staff Report, it is Staff's belief that the current clear vision standards are adequate to ensure obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections, including driveways. The Planning Commission's recommendation to the City Council on City File Number **TA 23-060**, Zoning and Development Code Text Amendment, will be presented to the City Council for a public hearing at their regularly scheduled meeting on August 7th, 2023.



CITY OF NORTH PLAINS

31360 NW Commercial Street, North Plains, Oregon 97133

Date: August 14, 2023
To: Mayor and City Council
From: Steve Miller, Planning Manager
Subject: Zoning Code Updates- Clear Vision Area (City File TA 23-060)

Request: It is requested that the City Council conduct a public hearing on the proposed Zoning and Development Code Text Amendment as recommended by the Planning Commission.

Background: The City Council is being asked to conduct a public hearing on the proposed zoning and development code text amendments, which were recommended for approval by the Planning Commission at their meeting on July 12, 2023. The proposal includes the Planning Commission recommendation with findings of fact, as well as the proposed code language. The text proposed for removal is shown in **red-strikeout** and new text proposed for inclusion is shown in blue double underline.

The Planning Commission recommended approval of the development and zoning code update for the Clear Vision standards under City File TA 23-060. This public hearing includes only the code update to the Clear Vision Standards as they apply to private alleys.

The proposed code update is prompted by the Applicant's request to amend the clear vision standards to clarify and revise a chapter of the Code to refine regulations as they pertain to the clear vision standards for private alleys in the city. The proposed code update complies with Oregon state law regarding these land standards.

Don Weber and Ravikumar provided written testimony in advance of the Planning Commission public hearing in opposition and in favor, respectively, to the proposed clear vision amendments in North Plains. This testimony is included in this packet.

Fiscal Impact: None.

Environmental Issues: None.

Recommendation: It is recommended by the Planning Commission that the City Council conduct the public hearing and approve the proposed Zoning and Development Code Text Amendment, City File Number TA 23-060.

Sample Motions:

1. I move to approve City File Number TA 23-060 Zoning and Development Code Text Amendment.
2. I move to conduct a first reading of Ordinance 491 (Clear Vision) by title only.
3. I move to approve the first reading of Ordinance 491.

The North Plains Community Development Code, Section 155.656, is amended as follows (new text in blue and underlined; deleted text in red and strike-through):

Section 155.656. Clear Vision Areas

Except in the C-1 Zone, a clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets, including private street or alley, a street and a railroad, or a driveway providing vehicular access to a public street, ~~including alleys~~.

(A) Lots or parcels on street corners (public and/or private) shall maintain a sight triangle with no sight obstruction between three feet and ten feet in height as measured from street grade. Sight obstructions include, but are not limited to, fences, vegetation, berms, signs and structures. The sight triangle shall be measured from the street corner (apex), to a distance of 20 feet along each street side. (See Figure 1.) For the purpose of this section, a STREET CORNER is defined as that point where the extended edges of the road surface of two intersecting streets meet. The city may require additional vision clearance based on a hazard identified by the city. However, tree trunks and sign poles not exceeding 12 inches in diameter may be located within the vision clearance area; provided, the diameter does not exceed 24 inches.

(B) A private access shall be treated as a public street for the purpose of this section. Private access is defined as a private street or alley, not individual unit driveways. The vision clearance area shall be determined in the manner set forth form herein. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the right-of-way line in determining the vision clearance area.

SUPPLEMENTARY STAFF REPORT TO CITY COUNCIL

City File Number TA 23-060

Clear Vision Standards

Zoning and Development Code Update

Staff Report Date: September 27, 2023

Public Hearing Date: October 2, 2023

From: Steve Miller, Planning Manager



Application Purpose: This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley).

Applicant: **Lennar Northwest, Inc.**
11807 NE 99th Street Suite 1100
Vancouver, WA 98682
(360) 258-7900

Planning Consultant: **Pacific Community Design (PCD)**
12564 SW Main Street
Tigard, OR 97223
(503) 941-9484
Contact: Maureen Jackson
Email: maureen@pacific-community.com

Site Location: Brynhill Subdivision and Sunset Ridge Subdivision

City Zoning: Neighborhood Community (NC)

APPLICANT'S REQUEST:

This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley). Alley loaded homes within North Plains are predominately located within the Sunset Ridge Master Plan area and the

Brynhill Master Plan area. The proposed amendment will support homeowners' ability to install fencing along rear and side property boundaries to create private open-space in rear yards while complying with clear vision area requirements.

PUBLIC COMMENT: City Staff mailed public notice to all property owners within the Brynhill Master Plan area, as well as the Sunset Ridge Master Plan area, since these are the only properties impacted by the proposed text amendment, as required by North Plains Municipal Code (NPMC) Section 155.031(D)(1)(a)(2) on Monday, June 12, 2023. Based on the required public notice mailings, Staff received two (2) comment letters/emails from surrounding property owners. The two (2) written comments staff received are listed below.

From: Don Weber <dweber0813@gmail.com> on behalf of Don Weber
Sent: Tuesday, June 20, 2023 7:00 PM
To: Steve Miller
Subject: Comments on amendment to 155.656
Steve and Planning Commission,

First, I would recommend that the code be rewritten and state that no fences of any height are allowed next to driveways. With the smaller homes being built it is common for children to play in garages and in driveways. Many are under 3 ft tall which means they are hidden behind the 3 ft fences. Also, they often ride their trikes and other toys up and down driveways and this also hides them behind 3 ft fence. My grandkids love to lay on the concrete driveway and do chalk art. The biggest danger would be when turning into your own driveway. I have lived in several planned developments like Brynhill and none allowed alley/ driveway fences because of safety issues and the obstruction to clear vision.

On the other issue of the fences that have been allowed it looks messy and unsafe when I walk through those alleys. Some houses have 3 ft some 6 ft and some houses have no fences which I presume they could add later. Sunset Ridge has no driveway fences. So does this proposed amendment mean Sunset homeowners could build either 3/6 ft fences in the future by their driveways. There would be significant opposition and if city allowed them likely litigation would result if a few wanted them. I personally feel it was a mistake for the city to allow any fences and it makes the alleys less safe for the children of those homeowners. Not sure best way to solve this issue but allowing taller fences for these homes and potentially those in Sunset Ridge is not a good idea.

In summary I recommend that no alley fences of any height be allowed next to driveways and the code be written to say this.

Thank you,
Don Weber, Sunset Ridge

City File No. TA 23-060 Lennar Northwest, Inc. – Type IV Zoning Text Amendment

COMMENTS:

We want 6ft fence height to ensure privacy and security of our family. Our fence is already 5ft 5inches away from private alley - (side). It is unfair to cut a fence-side which is 20ft away from any of the private alley.

Name (and Organization or Business, if any):

Ravikumar Gogoi & Ankita Patel

Address:

30957, NW Turel Dr. North Plains, 97133

E-mail Address (Optional but preferred):

RAVIGOGOIAR @ GMAIL COM

Date:

06/22/23

Please return by mail, e-mail or in person:

MAIL: 31360 NW Commercial Street, North Plains, OR 97133

E-MAIL: steve.miller@northplains.org

IN PERSON: City Hall, 31360 NW Commercial Street, North Plains, OR

Thank you!

Ravikumar Gogoi and Ankita Patel
30957 NW Turel Dr. – Brynhill

* In case the comments above are not readable, staff has typed Ravikumar Gogoi and Ankita Patel comments below:

We want 6 ft fence height to ensure privacy and security of our family. Our fence is already 5 ft 5 inches away from private alley – (side). It is unfair to cut a fence -side which is 20 ft away from any of the private alley.

PROCEDURAL HISTORY:

The City of North Plains ("City") Municipal Code, Section 155.656, provides Clear Vision Standards for roadway intersections and Lennar Northwest, Inc., submitted a Text Amendment application to amend Section 155.656 to clarify where the Clear Vision Standards apply for certain roadways (City

File No. TA 23-0606).

On July 12, 2023, the City's Planning Commission conducted a public hearing on the proposed Text Amendment request and received evidence and heard testimony on the proposed amendment. At the conclusion of the hearing after reviewing the application, evidence and testimony, the Planning Commission forwarded to the City Council a recommendation that the City Council approve the proposed text amendment. As part of the Planning Commission's recommendation, they recommended that 6-foot fences that are not see through be setback 3-feet from the property line along an alley way.

The City Council conducted a public hearing on the proposed text amendment on August 21st, 2023, and received evidence and heard testimony on the proposed amendment. At the conclusion of the hearing the City Council decided to continue the public hearing to September 18th to allow staff time to respond to some of the public comments and concerns raised at the August 21st public hearing. Staff worked with the City's legal counsel to draft some possible exemption language for the proposed text amendment to address residents concerns regarding the 3-foot fencing setback requirement. In conversations with the City's legal counsel, it was determined that any exemptions to the proposed text amendment could create liability issues for the city, so a different course of action should be pursued.

At the continued hearing on September 18th, City Staff presented an alternative option to the City Council that would revise Lennar Northwest's original text amendment proposal. The City Council opened the continued public hearing and received evidence and heard testimony on Staff's proposed revisions to the text amendment. At the conclusion of the continued public hearing, the City Council decided to continue the public hearing again to October 2, 2023, to allow staff time to revise the proposed text amendment per the recommendations from the City's legal counsel and having received consent from Lennar Northwest on the proposed revisions.

Below is Staff's revised Text Amendment proposal per the recommendations from the City's legal counsel.

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE REQUIREMENTS AND REVIEW PROCEDURES

I. APPLICABLE REVIEW CRITERIA FROM THE *NORTH PLAINS ZONING AND DEVELOPMENT ORDINANCE*:

The following sections of the North Plains Zoning and Development Code have been deemed by Staff to be applicable to the proposal.

- 155.032 – Type IV Legislative and Other Decisions
- 155.125 – 129 Comprehensive Plan and Zoning Amendments
- 155.656 – Clear Vision Areas

II. ZONING CODE REVIEW & FINDINGS

Below are applicable citations/review criteria from the *North Plains Zoning Ordinance* and findings in response to the criteria. Unless discussed below, the applicant has met

the requirements of the applicable review criteria fully, and/or the Code's criteria are not applicable to this proposal and therefore do not warrant discussion.

Proposed Development Code Updates:

The North Plains City Council is considering a Zoning and Development Code Text Amendment that would amend the existing regulations regarding clear vision standards and add new regulations regarding the applicability of the clear vision standards where private alleys intersect a public street and where private driveways intersect a private alley. The proposed Text Amendment requires a legislative public hearing before the City Council.

New text is identified with blue double underline in yellow highlighter and text to be removed in ~~red strikethrough in yellow highlighter~~.

Proposed Zoning and Development Code text amendments:

- 155.656 Clear Vision Areas
 - The purpose of this proposed text amendment is to clarify applicability of the standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley).

APPLICANT/STAFF PROPOSAL:

This application is for a Type IV Zone code text amendment of the North Plains Zoning and Development Code. The purpose of this proposed text amendment is to clarify applicability of the

standards in §155.656 Clear Vision Areas in the context of alleys (i.e., where private alleys intersect a public street and where private driveways intersect a private alley). Alley loaded homes within North Plains are predominately located within the Sunset Ridge Master Plan area and the Brynhill Master Plan area. The proposed amendment will support homeowners' ability to install fencing along rear and side property boundaries to create private open-space in rear yards while complying with clear vision area requirements.

The applicant is requesting approval of a Type IV Zoning text Amendment to amend Section 155.656 Clear Vision Areas.

The City code currently reads as follows:

Except in the C-1 Zone, a clear vision area shall be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad or a driveway providing vehicular access to a public street, including alleys.

(B) A private access shall be treated as a public street for the purpose of this section. The vision clearance area shall be determined in the manner set forth form herein. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the right-of-way line in determining the vision clearance area.

The proposed text amendment would change the above code language to the following:

§ 155.656 CLEAR VISION AREAS.

For the purposes of this subsection the following definitions shall apply regarding streets and alley ways.

PUBLIC ALLEY: A narrow vehicular service access, generally 20-feet in width, to the back or side of properties that is publicly owned and maintained and is open as of right to the public.

PRIVATE ALLEY: A narrow vehicular service access, generally 20-feet in width, to the back or side of properties that is privately owned and maintained, either by an association such as an HOA, or by a specific individual, and/or is not open to all members of the public.

PUBLIC STREET: The entire width between the boundary lines of every way of travel which provides for public use for the purpose of vehicular and pedestrian traffic and the placement of utilities and including the terms “road”, “highway”, “place”, “avenue” and other similar designations.

PRIVATE STREET: A street that provides for private or individual use for the purpose of vehicular and pedestrian traffic and the placement of utilities that is owned and maintained by a private entity, either by an association such as an HOA, or by a specific individual, and/or is not open to all members of the public.

Except in the C-1 Zone, a clear vision area shall be maintained on the corners of all property immediately adjacent to the intersection of the following: ~~two streets, a street and a railroad or a driveway providing vehicular access to a public street, including alleys.~~

- All public streets and public alleys intersecting with another public street or public alley.
- All public streets and public alleys intersecting with a private street or private alley.
- All public streets intersecting with a railroad.
- All driveways providing vehicular access to a public street or public alley, intersecting with such public street or public alley.

(A) Lots or parcels that are immediately adjacent to any of the intersections described above ~~on-street corners (public and/or private)~~ shall maintain a sight triangle with no sight obstruction between three feet and ten feet in height as measured from street grade. Sight obstructions include, but are not limited to, fences, vegetation, berms, signs and structures. The sight triangle shall be measured from the corner of the street, alley, driveway, or railroad in question (apex) ~~street-corner (apex)~~, to a distance of 20 feet along each side of the applicable street-side intersecting way described above. (See Figure 1.) ~~For the purpose of this section, a STREET CORNER is defined as that point where the extended edges of the~~

~~road surface of two intersecting streets meet.~~ The city may require additional vision clearance based on a hazard identified by the city. However, tree trunks and sign poles not exceeding 12 inches in diameter may be located within the vision clearance area; provided, the diameter does not exceed 24 inches.

~~(B) A private access shall be treated as a public street for the purpose of this section. The vision clearance area shall be determined in the manner set forth form herein. The edge of the paved surface area of the private access, be it roadway, curb or sidewalk, shall be treated as the right-of-way line in determining the vision clearance area.~~

~~(B) For clarity's sake, Driveways on private alleys~~ the following intersections are exempt from the City's clear vision standard requirements of this code section, and any HOA or other associated private entity shall bear full responsibility in connection with the same:
~~altogether.~~

- All private streets and private alleys intersecting with another private street or private alley.
- All driveways providing vehicular access to a private street or private alley, intersecting with such private street or private alley.

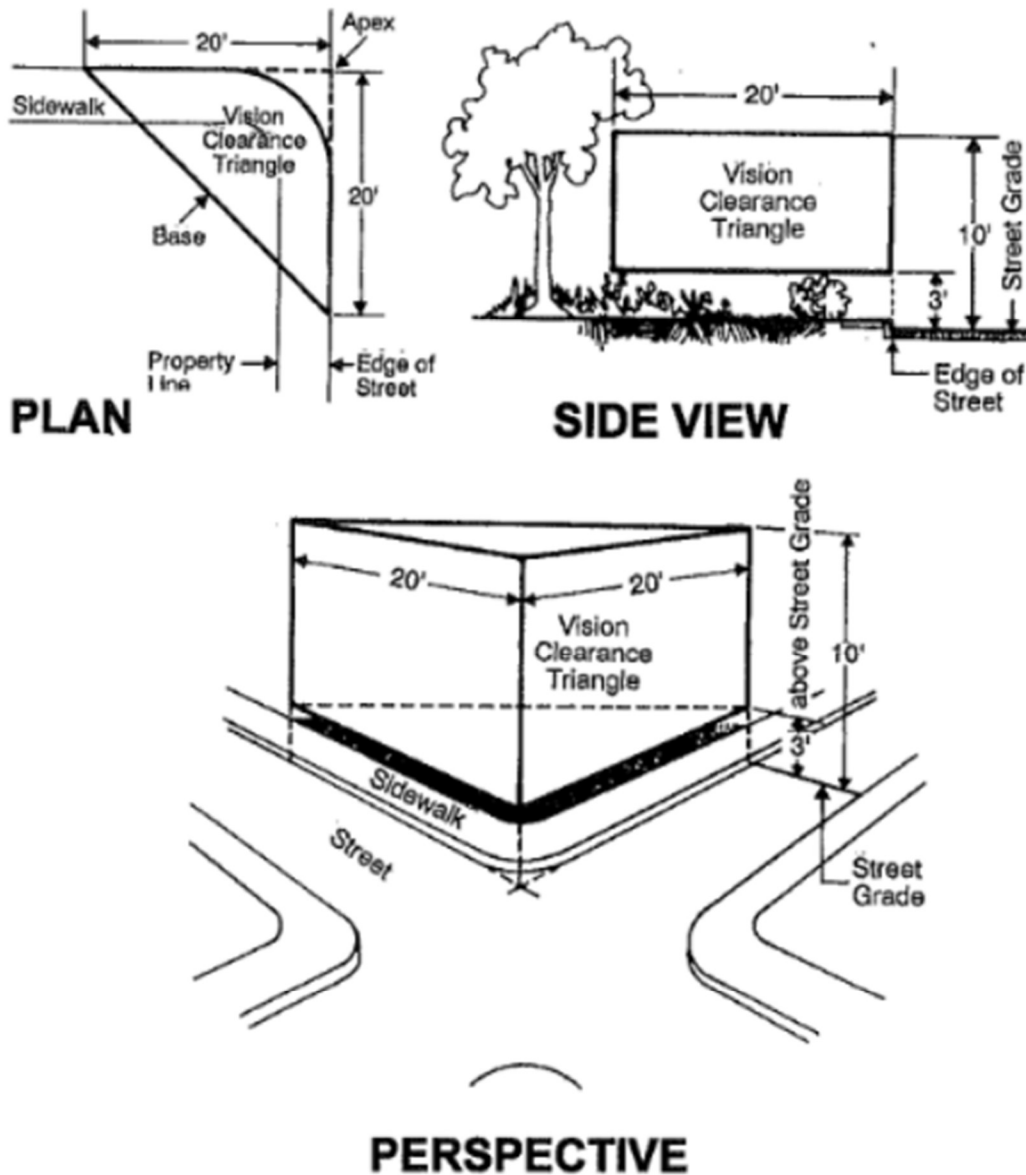


Figure 1: Clear Vision Area Illustration

SUMMARY CONCLUSIONS

This report includes findings regarding each applicable Comprehensive Plan Development Code criterion. The Applicant's proposal is consistent with the Comprehensive Plan and Development Code criteria for a Zoning Code Text Amendment.

BACKGROUND

The need for this Zoning Code text amendment was identified due to the placement of 6-foot fencing along rear yards of alley-loaded homes in the Brynhill Master Plan Area. In error of

the city's clear vision standards, the City approved site plans for some alley loaded homes within the Brynhill subdivision, which showed fencing, even though the site plans didn't note the fence heights. Although the City must allow some fencing for the buildings in this development, it may enforce its clear vision area standards on all fences in the Brynhill Community which are out of compliance. In addition to the City's clear vision standard, the Brynhill Master Plan area is also governed by the approved "Pattern Book" that set minimum standards and requirements for the Brynhill Community which in turn are subject to the terms of the City Code. The Pattern Book's prologue states that all construction of the Brynhill Community must comply with "all other applicable governmental regulations," which includes the City Code.

Although the Pattern Book does not specifically reference clear vision area standards, it does require compliance with City Code. The developer chose to include, and the City approved including, fences for these houses when the site plans were approved with "proposed fences" included. However, since no fence details were specified in the site plans, these proposed fences are still subject to all approved Pattern Book and City Code requirements.

Lennar Northwest, Inc. is initiating an update to the Zoning and Development Code Clear Vision Standards at this time to resolve the alley fencing conflicts within the Brynhill Master Plan Area.

COMPLIANCE WITH CITY OF NORTH PLAINS MUNICIPAL CODE

COMPREHENSIVE PLAN & ZONING AMENDMENTS

§155.127 Review Criteria

(A) Text Amendment. An amendment to the text of the Comprehensive Plan or this Ordinance shall be based upon a need for such an amendment identified by the City Council or the Planning Commission. Such an amendment shall be consistent with the following review criteria:

(1) Impact of the proposed amendment on land use and development patterns within the city, as measured by:

(a) Traffic generation and circulation patterns in compliance with the Transportation System Plan (TSP);

(b) Demand for public facilities and services, in compliance with the City utility master plans;

(c) Level of park and recreation facilities;

(d) Economic activities;

(e) Protection and use of natural resources;

(f) Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvements.

FINDING: The Applicant and their representatives attended a Planning Commission work session on April 12th, 2023, and discussed the proposed text amendment with the Planning Commission. This Text Amendment application is a result of those discussions with the Planning Commission.

The application has provided the following statement in regard to how the proposed amendment is consistent with the following review criteria above.

“This proposed text amendment will not result in increased traffic generation; however, it will improve the safety of circulation patterns on private alleys and their corresponding intersections with public streets by more accurately defining private alleys and/ or streets for vision clearance.”

“The proposed text amendment does not impact the level of park and recreation facilities within the city.”

“This proposed text amendment is intended to provide clearer direction in the interpretation of Clear Vision Area standards in relation to private alleys, as such it will not have an impact on economic activities.”

“This proposed text amendment does not impact the City’s protection and use of natural resources.”

“The proposed text amendment does not alter or impact land use or development patterns; therefore, this criterion is not applicable. The applicant is also submitting a minor modification to the Brynhill Pattern Book for additional clarification regarding allowable locations of fencing along alley-loaded residential lots.”

Staff concurs with the Applicant that the proposed Text Amendment will not result in increased traffic generation, will not impact the level of park and recreation facilities within the city, will not impact the City’s protection and use of natural resources, and will not alter or impact land use or development patterns within the city. Additionally, Staff finds that the revised proposed text amendment will *“improve the safety of circulation patterns on private alleys”*. The primary reason for establishing clear vision areas is to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections, including driveways.

The question before the City Council is do the current clear vision standards operate as intended to ensure that obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists, or should they be amended as proposed.

It is Staff’s opinion that the proposed revisions to the Applicant’s clear vision text amendment request are satisfactory in ensuring obstructions do not infringe on the sight lines needed by motorists, pedestrians, bicyclists and others approaching potential conflict points at intersections.

Based on all of the public hearings on the proposed text amendment, Staff finds that a “need” has been established for the proposed text amendment to the clear vision standards, and that the adoption of the proposed Zoning Code text amendment is necessary for the City to review proposed land use developments and will subsequently satisfy the above criteria.

(2) The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements.

FINDING: Oregon's 19 Statewide Planning Goals are addressed below. Though several of the goals are not applicable to the proposed zoning code text amendments, those that are applicable are responded to in detail.

Goal 1 Citizen Involvement

The proposed changes to the Zoning and Development Code do not specifically address citizen involvement.

This land use application is subject to a City of North Plains Type IV land use review, which includes a significant citizen involvement component. This process has been established by the city and determined to be consistent with this goal. The mandatory public notice of the action and decision, and the hearings on this case before the Planning Commission and City Council are all avenues of citizen participation.

Goal 2 Land Use Planning

This statewide goal requires that land use decisions 1) have an adequate factual base, 2) that alternatives have been considered, and 3) that implementation measures are consistent with and adequate to carry out comprehensive plan.

The process identified above was utilized by the Applicant in the drafting of the proposed Zoning Code Amendment. Alternatives have been considered throughout the drafting of the proposed code language updates, including a publicly-noticed work session with the Planning Commission. The proposed changes are consistent with and adequate to carry out the Comprehensive Plan.

Goal 3 Agricultural Lands

This goal does not apply because the City does not include areas designated for agricultural use.

Goal 4 Forest Lands

This goal does not apply because the City does not include areas designated for forest use.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

There are no proposed changes to text regarding Goal 5 open spaces, scenic and historic areas and natural resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 6 Air, Water and Land Resources Quality

There are no proposed changes to text regarding air, water, or land resources. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 7 Areas Subject to Natural Hazards

There are no proposed changes to text regarding areas subject to natural hazards. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 8 Recreational Needs

There are no proposed changes to text regarding recreational needs. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 9 Economic Development

There are no proposed changes to text specifically regarding economic development. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 10 Housing

There are no proposed changes to the text regarding housing. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 11 Public Facilities and Services

There are no proposed changes to text regarding public facilities and services. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 12 Transportation

The Transportation Planning Rule (TPR), OAR 600-012.0060, requires that, where an amendment to a comprehensive plan or zoning regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures that assure that allowed land uses are consistent with the function, capacity, and performance standards of the facility. The proposed zoning code text amendment does not propose any changes to an existing or planned transportation facility and, as such, the proposed zoning code text amendment does not affect the transportation system of the City.

Goal 13 Energy Conservation

There are no identifiable energy consequences of this land use action. The proposed text amendments will not result in any appreciable difference in waste production or recycling compared with development under the existing zoning.

Goal 14 Urbanization

There are no proposed changes to text regarding urbanization. Therefore, the intent of this goal remains satisfied by the policies of the Comprehensive Plan and implementation in the Zoning Ordinance.

Goal 15 Willamette River Greenway

Goal 16 Estuarine Resources

Goal 17 Coastal Shorelands

Goal 18 Beaches and Dunes

Goal 19 Ocean Resources

The City is not within the plan boundary for the Willamette River Greenway, does not have any estuarine resources, and is not on the Oregon Coast, so goals 15 through 19 do not apply.

As discussed above, the proposed text amendments are generally consistent with the Statewide Planning Goals.

(3) The amendment is appropriate as measured by at least one of the following criteria:

- (a) It corrects identified error(s) in the provisions of the plan.***
- (b) It represents a logical implementation of the plan.***
- (c) It is mandated by changes in federal, state, or local law.***
- (d) It is otherwise deemed by the City Council to be desirable, appropriate, and proper.***

FINDING: The proposed revised text amendment generally represents a logical implementation of the Comprehensive Plan. The proposed amendment is appropriate, and this standard is met.

(4) Compliance with the statewide Transportation Planning Rule. When a development application includes a Comprehensive Plan, Zone Map or Text Amendment, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060, the Transportation Planning Rule. "Significant" means the proposal would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a street classification, requiring traffic to exceed the levels associated with a "collector" street classification, requiring a change in the classification to an "arterial" street as identified by the City's Transportation System Plan (TSP); or

(b) Change the standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the North Plains TSP or Comprehensive Plan; or

(d) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance identified in the North Plains TSP or Comprehensive Plan; or

(e) Worsen the performance of an existing or planned transportation facility that is

otherwise projected to perform below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan.

(5) Amendments that affect Transportation Plans. Except as provided in subsection 6 Exceptions, amendments to the Comprehensive Plan or land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity and level of service of the facility identified in the North Plains TSP. This shall be accomplished by one of the following:

(a) Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or

(b) Amending the North Plains TSP or Comprehensive Plan to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or

(d) Amending the planned function, capacity or performance standards of the transportation facility; or

(e) Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

(6) Exceptions. Amendments to the Comprehensive Plan or land use regulation with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the North Plains TSP or Comprehensive Plan, may be approved when all of the following criteria are met:

(a) The amendment does not include property located in an interchange area, as defined under applicable law;

(b) The currently planned facilities, improvements or services are not adequate to achieve the standard;

(c) The currently planned facilities, improvements or services at a minimum mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

(d) The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid degradation to the facility.

FINDING: The proposed text amendment does not include changes to the Transportation

System Plan or significantly affect a transportation facility. The proposed text amendment is in compliance with the Transportation Planning Rule.

§155.129 Findings

Findings justifying a decision on an application shall be made in writing, and shall be provided to the applicant.

FINDING: The City Council's final decision will include written findings. Upon a final ruling by the City Council, Staff will prepare the necessary written findings justifying a decision on an application and they will be provided to the Applicant.

§155.129 Conditions

The granting of an approval of any land use action under Chapter 16.200 may be subject to such conditions as are reasonably necessary to protect the public health, safety or general welfare from potentially damaging effects resulting from approval of the permit, or to fulfill the public need for service demands created by approval of the request.

FINDING: Staff does not find it necessary to subject this decision to any conditions of approval.

CONCLUSION

The City Council is considering a recommendation to the City Council for the proposed Zoning and Development Code Text Amendment. The City Council may approve, approve with conditions, or deny the proposed revised Text Amendment.

The proposed revised text amendment before the City Council is one that regulates transportation safety standards for the city. Community wide transportation safety standards are critical to maintaining an environment that is safe for all citizens and visitors when traveling within the city limits of North Plains. In terms of a Staff recommendation to the City Council on the Applicant's revised proposed text amendment, Staff recommends approval of the Applicant's proposal.