

ORDINANCE NO. 517

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF THE CITY OF WILSONVILLE AND REPEALING ORDINANCE NO. 209 AND ORDINANCE NO. 318.

WHEREAS, the City of Wilsonville is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Plan and implementing ordinances; and

WHEREAS, the City has in effect Chapter 4 of the Wilsonville Code, which implements the Comprehensive Plan by regulating land development and planning activities within the City of Wilsonville; and

WHEREAS, the City's acknowledged Comprehensive Plan contains numerous provisions that are now out of date, or which conflict with City practices that have changed through the years; and

WHEREAS, the City is now in Periodic Review, the state-mandated process of updating the local Comprehensive Plan and implementing ordinances to keep pace with changed circumstances and meet new regional, state, or federal requirements; and

WHEREAS, state laws and administrative rules have undergone numerous changes since the last major revisions to the City's Comprehensive Plan in 1988. The local Plan must be amended to assure compliance with those laws and rules; and

WHEREAS, Metro has adopted the Urban Growth Management Functional Plan, that includes provisions requiring numerous changes to Wilsonville's Comprehensive Plan. Functional Plan provisions that have been addressed in these Comprehensive Plan amendments include:

1. Minimum residential densities set at not less than 80% of the maximum densities;

2. Accessory dwelling units permitted in conjunction with single-family dwellings, subject to standards;
3. Connectivity requirements setting limitations on cul-de-sac development;
4. Limitations on large retail operations (60,000 square feet) in industrial and employment areas; and
5. Flood plain development restrictions, including requiring balanced cut and fill and prohibition of the creation of new lots for development within base flood areas; and

WHEREAS, the Procedures section of the current Comprehensive Plan lists the required standards to amend the Plan, stating:

“In order to grant a Plan amendment, the City Council shall find that:

- a. The proposed amendment is in conformance with the text portions of the Plan not being considered for amendment.*
- b. The granting of the amendment is in the public interest.*
- c. The public interest is best served by granting the amendment at this time.*
- d. The factors in ORS 215.055 were consciously considered. These factors include the various characteristics of the areas in the City; the suitability of the various areas for particular land uses and improvements; the land uses and improvements in the areas, trends in land improvement, density of development; property values; the needs of economic enterprises in the future development of the area; transportation access; natural resources and the public need for healthful, safe and aesthetic surroundings and conditions.”* and

WHEREAS, ORS 215.055, noted in “d,” above, applied to county planning and zoning, rather than city planning and zoning, and was repealed by the State of Oregon in 1977. Hence, standard “d,” above, is no longer applicable; and

WHEREAS, in the course of working on the proposed Plan amendments, the City staff and Planning Commission also reviewed a number of state laws that have been changed since the last major amendments to the Plan. Legislation relating to City land use planning is found in ORS 197 and 227. Provisions relating to those statutory requirements have been included in the proposed Plan amendments; and

WHEREAS, the City Council adopted Ordinance No. 453 in March 1996, amending Chapter 2 of the Wilsonville Code and reorganizing various citizen panels that are involved with city planning in Wilsonville. As a result of those changes, the two panels of the Development Review Board now have primary responsibility for reviewing and taking action on quasi-judicial land development applications and the Planning Commission now has responsibility only for making recommendations to the City Council, or advising City staff, on legislative policy matters. As a result of those changes, and the fact that the Planning Commission has for a number of years already served as the citizen involvement body for the community, that role is being formalized for the Planning Commission through changes to the City's Development Code and Comprehensive Plan. No other body or organization except the Planning Commission has served in that citizen involvement capacity for the City for many years; and

WHEREAS, the City's Comprehensive Plan relies heavily on the Planned Development process to assure that new development meets the City's standards, while also allowing for maximum flexibility in design. That reliance on the Planned Development process will continue with the proposed revisions to the Comprehensive Plan; and

WHEREAS, the City's Planning staff has been working on the proposed Plan revisions since beginning this Periodic Review process in 1996. The City Planning Commission has reviewed the proposed changes in work sessions and public hearings; and

WHEREAS, a duly noticed public hearing was conducted before the City's Planning Commission on April 12, 2000, with continuances to May 10, 2000, June 14, 2000, July 12, 2000, and July 26, 2000, after which the Commission adopted Resolution 00PC01, recommending that the City Council take action on Ordinance No. 517; and

WHEREAS, individual public hearing notices were sent to all property owners in the City, as required by Ballot Measure 56, on March 7, 2000; and

WHEREAS, the public notice for the initial public hearing before the Planning Commission was posted at five locations around the city on March 24, 2000, and published in the *Wilsonville Spokesman* on March 29, 2000; and

WHEREAS, a Notice of Proposed Amendment was provided to the Oregon Department of Land Conservation and Development on February 25, 2000; and

WHEREAS, a duly noticed public hearing was conducted before the Wilsonville City Council on September 14, 2000,

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

Section I: FINDINGS AND DETERMINATIONS

- A. The City Council adopts the above recitals as findings and incorporates them by reference in support of this ordinance.
- B. Ordinance No. 209 and Ordinance No. 318 are hereby repealed.
- C. The Wilsonville City Council hereby determines that:
 - 1. Attachment "A" is hereby adopted to amend the Wilsonville Comprehensive Plan.
 - 2. Attachment "B," the staff report dated September 6, 2000, is hereby adopted as additional findings of fact in support of the Plan amendments specified in Attachment "A;"
 - 3. This Ordinance will take effect 30 days after its approval on second reading by the City Council and signature by the Mayor.

Section II: CHANGES TO LAND USE MAP OF THE COMPREHENSIVE PLAN

The Planning Director is hereby instructed to make the necessary changes to the residential density designations on the Official Land Use Map of the Comprehensive Plan to reflect the contents of Ordinance No. 517.

Section III. VALIDITY and SEVERABILITY

The validity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other provision of this ordinance which can be given effect without reference to the invalid part or parts.

SUBMITTED to the Wilsonville City Council and read for the first time at a special meeting thereof on the 14th day of September, 2000, commencing at the hour of 7 p.m. at 8445 SW Elligsen Road, Wilsonville, Oregon, and scheduled for a second reading at a regular Council meeting on the 16th day of October, 2000, commencing at the hour of 7 p.m. at the Wilsonville Community Center.



SANDRA C. KING, CMC, City Recorder

ENACTED by the Wilsonville City Council at a regular meeting thereof this 16th day of October, 2000, by the following votes:

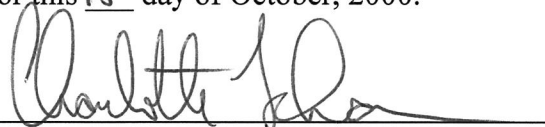
YEAS: 4

NAYS: 1



SANDRA C. KING, CMC, City Recorder

DATED and signed by the Mayor this ^{18th} day of October, 2000.



CHARLOTTE LEHAN, Mayor

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Helser	Yes
Councilor Kirk	Yes
Councilor Holt	Yes
Councilor Barton	No

PLANNING STAFF MEMORANDUM

DATE: September 6, 2000

TO: Mayor Lehan and City Council

FROM: Stephan Lashbrook, Planning Director

SUBJECT: Public Hearing on September 14, 2000
Comprehensive Plan Amendments
Ordinance No. 517, 00PC01

SUMMARY:

After several months of work sessions and public hearings, the Planning Commission completed work on this set of amendments to the City's Comprehensive Plan and has recommended their adoption by the City Council. The City's Comprehensive Plan constitutes the policy framework that is used to evaluate development applications and make decisions on community growth. By adopting Ordinance No. 517, the City Council will put the proposed changes into effect, meeting many of the requirements of the State's Periodic Review process and Metro's Urban Growth Management Functional Plan.

It is also important to note that the City Council recently approved numerous amendments to the Wilsonville's Land Development and Planning Ordinance that will not take effect until the amendments to the Comprehensive Plan take effect.

RECOMMENDATION:

The staff joins the Planning Commission in recommending that the City Council adopt Ordinance No. 517. The Council will note that the staff is recommending a slightly different version of the Plan applying to Areas of Special Concern (attached as Option #2).

BACKGROUND:

This is a legislative process. The City Council has the authority to make whatever changes to the Comprehensive Plan that it finds to be needed, based on the record that is created in the course of the Council's hearing. That includes the entire record of the Planning Commission on this matter. The Council's prior knowledge of the City's Comprehensive Plan, the recent hearings on the Development Code, and work sessions on the Plan amendments all contribute to the background that the City Council will draw upon in acting on the proposed amendments.

The City Council recently approved Ordinance No. 509, amending the Planning and Land Development Ordinance, but postponing the effective date of that ordinance until these Comprehensive Plan amendments have been enacted. Because of that, the adoption of Ordinance No. 517 will have the effect of enacting both the changes to the Comprehensive Plan and the Development Code.

Required findings:

The Comprehensive Plan contains the following criteria for Plan amendments.

"In order to grant a Plan amendment, the City Council shall find that:

- a. *The proposed amendment is in conformance with the text portions of the Plan not being considered for amendment.* The Plan has been carefully reviewed in this amendment process to assure that the new provisions of the Plan do not conflict with the portions of the Plan that will not be changed.
- b. *The granting of the amendment is in the public interest.* As has been noted, these amendments have resulted from the Periodic Review process. It is in the public interest to amend the Plan to keep pace with changed circumstances and to assure that the Plan complies with State rules and statutes and with Metro requirements.
- c. *The public interest is best served by granting the amendment at this time.* The City faces deadlines from both the State and Metro requiring that the Plan be updated before July 2000. It is in the public interest to complete these amendments at this time and meet the deadlines.
- d. *The factors in ORS 215.055 were consciously considered. These factors include the various characteristics of the areas in the City; the suitability of the various areas for particular land uses and improvements; the land uses and improvements in the areas, trends in land improvement, density of development; property values; the needs of economic enterprises in the future development of the area; transportation access; natural resources and the public need for healthful, safe and aesthetic surroundings and conditions.* ORS 215 applies to county agricultural zoning, and the specific subsection noted was repealed by the State many years ago. However, the listed factors to be considered remain relevant and have all been addressed in the course of this Plan amendment process.

Overall organization of the text of the Plan:

In most respects, the overall purposes and goals of the Plan have changed relatively little through the latest revision process. What has changed fairly substantially is the way in which the text of the Plan is organized. The text of Sections A through D of the Plan is organized as follows:

A brief section of *Background* information is provided to explain the issues raised and further explain what the community hopes to achieve. Each section has one or more *Goals*. Then, specific *Policies* are listed, addressing the *Goals*. Each *Policy* is clearly stated as a commitment from the Wilsonville City Council on these matters. Finally, *Implementation Measures* are listed so that the specific actions to be taken by the City can readily be seen.

The text is organized to enable the reader to focus on particular subjects of interest. Each Section has several Policies and each Policy has one or more Implementation Measures that relate specifically to that Policy. For instance, someone with a particular interest in how the City's planning program will be made more accessible by the general public should note the following from Section A, the Citizen Involvement Section. Policy 1.2 commits the City "to assist the public in participating in City planning programs and processes," supporting Goal 1.2: "For Wilsonville to have an interested, informed, and involved citizenry." . Implementation Measures 1.2.1.a through 1.2.1.c follow immediately after Policy 1.2.1 and explain how the City will go about implementing that Policy

Moving from Goals to Policies to Implementation Measures, the Plan guides the reader from the general to the specific. As time goes on, readers of this document should be able to look at the specific Implementation Measures and determine whether, in fact, all of the steps outlined in the Plan have been taken.

Over time, it can be expected that portions of this Plan will be amended to keep pace with unforeseeable changes in circumstances. By organizing the Plan in this way, it should make it easier for those considering changes to know whether they need to change the *Goals*, the *Policies*, or just the *Implementation Measures*. At any point in the future, it should be possible for readers of this document to look at the community and know whether the City of Wilsonville has done the things that it has said that it would do to achieve the *Goals* of this Comprehensive Plan.

Additional to the multiple elements and sub-elements of the Plan that are actually separate documents, the Comprehensive Plan, as it is now open for public hearing, consists of the following parts:

Introduction.

Which includes information on the history of Wilsonville, and the City planning that has taken place here. It also describes the parts of the Plan that follow and explains how the Plan can be amended in the future.

Section A -- Citizen Involvement.

Which describes the City's on-going citizen involvement efforts and lists the City's commitments to continue those efforts in the future.

Section B -- Urban Growth Management.

Which describes the City's plans and procedures relating to the community's outward growth and expansion.

Section C – Public Facilities and Services.

Which describes the City's commitment to provide public facilities and services to keep pace with community growth. It also explains the City's policies requiring that needed facilities and services be available concurrently to serve new development.

Section D – Land Use and Development.

Which contains the City's policies on growth, development, and land use.

Comprehensive Plan Land Use Map.

Which shows all of the land in the City, and the City's surrounding planning area, dividing all of the land among the following land use designations: Residential, Commercial, Industrial, Public, and either Primary or Secondary Open Space. Explanatory text to aid in interpreting the Map is contained in the Introduction to the Comprehensive Plan.

Compliance with Statewide Planning Goals:

As part of the Periodic Review process, the City must assure that the Comprehensive Plan complies with the Statewide Planning Goals. It should be noted, however, that the City is still in the process of completing Plan amendments for compliance with Goals 5 (dealing with natural resources, scenic and historic areas, and open spaces) and 12 (Transportation). The City continues to work on a Natural Resource Plan, a Transportation Systems Plan, a Stormwater Master Plan, and Code amendments that will implement all of those master plans. City Council hearings on those master plans will be conducted in the months ahead.

Goal 1 (Citizen Involvement). The City of Wilsonville has made a concerted effort to inform and invite the participation of the public in this planning process. Hearing notices were sent to every property owner in the City before the initial Planning Commission hearing and again before the City Council hearing.

Goal 2 (Land Use Planning). The proposed revisions to the City's Comprehensive Plan are intended to assure that the Plan meets State and Metro requirements and serves the community's needs. It is recognized that the Plan provides the policy guidance for all City decisions about growth and development.

Goal 3 (Agricultural Lands) and Goal 4 (Forest Lands). Although cities do not have the same level of responsibility to protect agricultural lands as do counties, the City of Wilsonville has long recognized the importance of an efficient mixture of urban land uses within the City limits – as a means of reducing the pressure on resource lands for conversion to urban uses. That pattern continues with the proposed Plan amendments, including changes that will set minimum densities in residential areas.

Goal 5 (Natural Resources...). See comments above. No substantial changes to the natural resource provisions of the existing Comprehensive Plan have been recommended, pending the outcome of the current Goal 5 planning process.

Goal 6 (Air, Water, and Land Resources Quality). The proposed Plan amendments are not expected to have significant effects on the quality of air, water, or land, other than localized impacts where development occurs. Increasing efficiency of land uses is expected to minimize adverse environmental impacts in general.

Goal 7 (Natural Disasters and Hazards). The Comprehensive Plan includes numerous provisions intended to reduce risks associated with hazards. For example, two provisions of the proposed Plan amendments are being made to support the requirement of Title 3 of Metro's Urban Growth Management Functional Plan, dealing with development in flood plains. One requires a balance between the volume of fill material that can be added to a flood plain with the amount that must be removed (i.e., balanced cut and fill). This change helps to assure that development within the flood plain will not increase flood levels at downstream locations. The other change prohibits the creation of more lots for human occupancy within flood plains.

Goal 8 (Recreational Needs). Plan amendments are intended to clarify park standards and open space requirements in developments. The City's adopted Parks and Recreation Master Plan (a sub-element of the Comprehensive Plan) remains the most applicable policy document addressing the requirements of this Goal. The City continues to require that individual residential developments address the recreational needs of residents.

Goal 9 (Economic Development). Wilsonville relies on a "planned development" approach to reviewing development proposals of all kinds. This approach encourages creative designs and mixed use developments. This practice will continue under the revised Comprehensive Plan. Overall, the proposed changes are expected to continue to encourage a diverse range of businesses with a resulting benefit to the local economy.

Goal 10 (Housing). The City's long-standing objective of providing housing opportunities at price or rent levels that make them accessible to people employed in Wilsonville continues to be a priority. Two provisions have been specifically included to assure compliance with the housing standards of Metro's Urban Growth Management Functional Plan, and hence, to expand housing opportunities within the community. The first permits accessory dwelling units in conjunction with detached single-family dwellings in any zone. The second sets the minimum density of planned development residential zones at 80% of the maximum density that is typically permitted.

Goal 11 (Public Facilities and Services). The proposed amendments will result in a number of changes to City policies affecting public facilities or services. Wilsonville's Comprehensive Plan has long contained numerous standards requiring concurrency of the provision of public facilities and services with development. The overall approach has not changed, but the new language attempts to consolidate those provisions and reduce confusion.

Goal 12 (Transportation). No significant transportation impacts are expected to result from the proposed changes, other than clarifying that many of the proposed transportation improvements and standards of the old Plan are now out of date. Note that additional Plan amendments are anticipated after the completion of the City's updated Transportation Systems Plan, later this year.

Goal 13 (Energy Conservation). The proposed Plan amendments are not expected to have significant effects on energy consumption, other than localized impacts where development occurs. Increasing efficiency of land uses is expected to minimize adverse environmental impacts in general and result in energy conservation. Although the City has had solar access provisions in place in the Development Code, the Comprehensive Plan has not previously contained policy language in support of those provisions. In spite of changes to building construction and insulation standards since the original solar provisions were enacted, City staff remains supportive of solar access standards because of the uncertainties about future energy prices.

Goal 14 (Urbanization). Wilsonville's Comprehensive Plan now contains numerous provisions dealing with the Urban Growth Boundary (UGB) that are out of date. Wilsonville no longer has the authority to set its own UGB. Metro has that responsibility for the entire region. On the other hand, Wilsonville now has increased responsibilities relative to annexation because there is no longer a regional Boundary Commission charged with that task. As noted above, the increased efficiency of land uses resulting from the proposed Code changes is expected to postpone the conversion of some rural lands to urban uses in the Wilsonville area.

Goal 15 (Willamette River Greenway). Wilsonville's Greenway standards are not being substantially amended in this process. Those standards will receive additional scrutiny in the near future as the City continues work on a new Natural Resources Plan.

None of the other four Statewide Planning Goals apply to Wilsonville.

Most significant changes proposed:

The following list represents the proposed Plan amendments that are considered by the staff to be the most significant. It is organized by section.

Introduction:

Some of the changes to the Introduction are primarily intended to emphasize that Wilsonville is no longer the small town that it was when the original Comprehensive Plan was drafted. Additionally, the Introduction now includes text explaining how the Land Use Map of the Plan is to be interpreted. This is particularly important relative to Map designations for open spaces and residential densities.

A. Citizen Involvement:

One of the most significant changes to this section involves officially designating the Planning Commission as the City's Committee for Citizen Involvement. The Commission heard considerable testimony on, and spent quite a bit of time in work sessions discussing, this change. The Commission decided to expand its citizen involvement efforts in order to best meet these added responsibilities. One result of that change will be that the City Council can expect to hear more suggestions and recommendations from the Planning Commission on ways to facilitate citizen involvement in City decision-making.

B. Urban Growth Management

Most of the changes to this section are up-dates to bring the text current with 21st century realities. This section also emphasizes the importance of inter-governmental agreements with both Washington and Clackamas Counties to formalize the City's role in planning for outward urban expansion. Both the planning that has been done for the Dammasch area, and planning that is still needed for the area around the Coffee Creek Correctional Facility are justifications for those agreements.

C. Public Facilities and Services

Wilsonville's Comprehensive Plan currently contains about five pages of text dealing concurrency of facilities and development. While that text makes it clear that Wilsonville has a long history of emphasizing the importance of the connection between the timing of development and the availability of public facilities, the current text contains inconsistencies and the various concurrency provisions are spread throughout several sections of the Comprehensive Plan. The proposed text is intended to consolidate and clarify the concurrency standards in one part of the Plan.

The parts of the Plan dealing with water and stormwater have been significantly updated. Parts dealing with transportation facilities, although in need of significant work, will not be amended until the completion of the Transportation Systems Plan.

D. Land Use and Development

Not surprisingly, this section of the Plan contains the proposed changes that have generated the most discussion. Much of that discussion has centered on possible changes to the Land Use Map of the Plan. The staff has argued that no changes to the Map should be made until the current work on the Transportation Systems Plan (TSP) has been completed. The work on the TSP may result in changes to the Map and it does not seem logical to change the map now, when those changes might have to be reversed in the near future. This is especially true as we consider the implications of a State-wide initiative (Ballot Measure 7) that could require the City to compensate land-owners for any regulatory action that could reduce property values. (More on Measure 7 will follow in this staff report.)

A number of recent requirements stemming from Metro's Urban Growth Management Functional Plan (the Functional Plan) are also addressed in this section of Wilsonville's proposed Comprehensive Plan amendments. Metro's "design types" are the designations given to properties within Wilsonville. Metro's map of design types serves essentially the same purpose as the Land Use Map of the Comprehensive Plan. Wilsonville is required to address Metro's design types, relative to our Comprehensive Plan designations. Because of this, it makes sense for the City to include the detailed consideration of the relationship between Metro's design types and Wilsonville's land use designations until the Land Use Map is reconsidered in detail (in coordination with the Transportation Systems Plan).

Wilsonville's Comprehensive Plan has included language for many years indicating that the focus of local commercial developments is to be on providing goods and services within the community, rather than encouraging shoppers to come here from other locations. A relatively large area within the City has been designated for commercial development. These facts, and the fact that retail commercial development tends to generate large volumes of traffic unless specifically limited by performance standards, have added to the staff's contention that additional land should not be designated for commercial development until the Transportation Systems Plan has been completed.

The discussion about commercial development has led to a situation where the Planning Commission's recommendation for Council action differs slightly from that of the staff. The Commission's recommendation is the text that has been included in the City Council packet (with Areas of Special Concern 'F' and 'G' beginning on page 50 of Section D). The staff feels that the Commission's recommendation implies a commitment to expanded commercial zoning, primarily on the West Side. For that reason, the staff has offered Option #2 (attached to this memo) postponing any commitment about expanded commercial development at this time. Option #2 is intended to reflect the language suggested by the City Council at a previous work session.

Implications under Ballot Measure 7:

Oregon voters will cast their ballots in November of this year on an initiative measure that could have serious financial implications for all of the cities and counties in the course of land use planning. The Secretary of State has estimated an annual impact on cities and counties totaling 3.8 billion dollars. There is, of course, no way of knowing if the Measure will be approved by the voters. Nor is there any way to be sure of the exact financial implications for Wilsonville if the measure does pass.

If approved, Measure 7 will apply to situations where the City "*...passes or enforces a regulation that restricts the use of private real property, and the restriction has the effect of reducing the value of a property...*". The proposed Ballot Measure also states,

"Compensation shall be due the property owner if the regulation was adopted, first enforced or applied after the current owner of the property became the owner...". The staff interprets this language to mean that current Comprehensive Plan provisions, most of which have been enforced for approximately 20 years, would be excluded from the compensation provisions of Measure 7, unless the same owner has held the property since prior to the original enactment of the Comprehensive Plan. In that case, such a long-term owner may be able to make a claim based on regulations enacted years ago.

This causes the staff to conclude that, until the voters determine the fate of Measure 7, there are even more reasons to be very cautious about enacting any new standards or policies that could be interpreted as having any negative impacts on property values. As noted elsewhere in this staff report, the staff is not recommending that the designations shown on the Land Use Map of the Comprehensive Plan be changed for any properties until the completion of the Transportation Systems Plan. That Plan is not expected to be ready for Council action until after the November election, so the fate of Ballot Measure 7 will be known by that time.

A review of the Comprehensive Plan amendments proposed at this time indicates that there are few, if any, changes proposed that are likely to be interpreted as reducing property values. It is impossible to know how the language of Measure 7 might be interpreted through litigation, and it is conceivable that changes such as the concurrency provisions of Section C (Public Facilities and Services) or the map interpretation provisions of the Introduction could be deemed to reduce property values.

While it makes sense for the City Council to consider the possible financial ramifications of the proposed Comprehensive Plan amendments under Measure 7, it is still appropriate for the Council to move forward with the process of adopting Ordinance No. 517. Otherwise, the City Council could find itself in sort of a political gridlock while we continue to operate with a Comprehensive Plan that is badly out-of-date.

CONCLUSION

More changes to the Comprehensive Plan will be needed in the near future as the Planning Commission hears and considers testimony on the proposed master plans dealing with natural resources, transportation, and stormwater management. Changes to the Land Use Map of the Comprehensive Plan have been deliberately postponed, pending the completion of the Transportation Systems Plan.

The City Council may want to schedule a work session after the initial public hearing to concentrate on specific parts of the proposed Comprehensive Plan amendments.

Stephan A. Lashbrook, AICP
Planning Director