



To: Mike McDowell, City Manager
Mike Gartenberg, Public Services Director
Carlos Trejos, Planning and Zoning Administrator

From: E. Scott Harrington, AICP, Principal Planner

Date: July 19, 2006

Re: Review of City Land Development Regulations for Consistency with Draft Strategic Plan

I have reviewed the entire City Code and have the following observations and recommendations concerning the consistency of the City's current land development regulations with the draft Strategic Plan.

General Observations and Recommendations

Code Organization

The City of Olivette Revised Code has 32 Chapters of which 17 contain one or more regulations dealing with land development or the establishment of some type of use. While it is not unusual to divide regulations between several chapters of a municipal code, the regulations in Olivette's code are broken up to such an extent that it is very difficult to find them and understand all of the provisions that are applicable to a particular development project. Compounding this difficulty is the lack of any cross-references. For example, Sec. 280.150B.4. in the Zoning Code (Chapter 280 of the City Code) provides for setbacks and landscaping along parking lots but mentions nothing about requirements for fences or walls. However, Sec. 40.430 (in Chapter 40 Building Regulations) provides detailed requirements for parking lot fencing, and neither section references the other. This is just one of several examples that are detailed further in this memo.

Recommendation

To avoid these problems and provide for a more user-friendly approach, many communities have developed "unified development codes" where all regulations are located in a single chapter and have common definitions and sets of procedures. Whether or not Olivette elects to pursue such an approach, serious consideration should be given to consolidating regulations dealing with the same use/issue in the same chapter of the Code, preferably in the Zoning Code. Where consolidation is not possible, appropriate cross-references need to be provided to assist users of the Code.

Code Format

The City Code has very few tables and no figures or illustrations. Further, much of the Code is written in antiquated legalese. Coupled with the disjointed organization, the stilted and confusing language results in a very user-unfriendly Code. National retailers, industrial site selectors, commercial real estate brokers, developers and similar business and development professionals often "scout" communities through their websites and by other means prior to actually making direct contact with City staff. Often, they have a

Vandewalle & Associates

120 East Lakeside Street • Madison, Wisconsin 53715
608 255-3988 • 608 255-0814 Fax • va@vandewalle.com

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specific project in mind and very specific questions about regulations that would apply to it. If they have to wade through a highly complex layout and confusing language, they may decide to just give up on the community and look somewhere else, and the City would never even know it was under consideration.

Recommendation

Land development regulations will always be complex, and some degree of code interpretation will always be necessary. However, part of being able to attract quality developers and businesses, as recommended in the Strategic Plan, is presenting the regulations and procedures in as simple a format as possible. Accordingly, any code revisions should look for opportunities to incorporate tables and/or illustrations where ever possible and to simplify text by using bullets and plain language.

Procedures

Various critical development review procedures are scattered throughout the Code. In particular, the site plan review process and community design review cover nearly the same types of development yet they are located in two different chapters and neither acknowledges the other. Further, the criteria for review are extremely general for both. For example, Sec. 55.040 ii. provides a list of factors to be considered by the PCDC in reviewing a project, but there are no standards for these factors other than they shall “be in the interest of the public health, welfare, safety and morals; and harmonious and consistent with the property in the surrounding area”. The result is to give the PCDC extreme latitude of discretion while providing little or no guidance or predictability to prospective developers.

As was discussed with the Project Management Team process, the efficiency, fairness and predictability of the development review process is just as critical, if not more so, than the regulations themselves in terms of whether a developer will pursue a project in the City. As currently constructed, at least in the text of the code, the City’s process is redundant, confusing and provides no predictability. Good, modern codes not only protect the community from undesirable types and forms of development, but they also describe and direct development to those uses and forms that are desired. In dealing with matters of design, a high measure of flexibility and “qualitative” standards will always be needed; however, the code needs to provide a much more detailed set of standards related to all of the various factors.

Recommendation

To correct these problems, the site plan review and community design processes should be combined into a single process. Further, this process and other procedures and administration should be contained in a single article within the Zoning Code that clearly spells out the roles and responsibilities in the development review process of the PCDC, BOA, City Council and Building Commissioner as well as clearly setting out the application submittal requirements and the specific review criteria that will be applied for each type of review. Further, provisions should be made to allow the staff to approve minor additions and changes. Basically, processes should be set up where the time, intensity and cost of the review process is equivalent to the potential impacts of the project.

Additional observations and comments about the community design and site plan review processes are provided under their respective chapters below.

Planned Unit Developments/Olive Boulevard Design Guidelines

Throughout this memo are numerous recommendations to include a higher level of specificity for various standards and criteria for all manner of development components. This is particularly true with development standards for properties located along Olive Blvd. That said, the City currently lacks a process whereby the totality of a development and its designs and benefits can be used as a means to alter the otherwise firm requirements of the district and code.

Recommendation

While it may appear to be a contradiction, I recommend the City pursue both a Planned Unit Development zoning designation and Olive Boulevard Design Guidelines. Better defining standards and review criteria will provide much needed guidance and direction to developers as noted above. The City has a good start on some of the components to be addressed along Olive, but needs to take a more comprehensive approach and to present the requirements in a more illustrated format. Further, the City needs a process like a Planned Unit Development that permits certain zoning standards to be adjusted, as appropriate, where the overall quality of the project and the benefits it provides more than offset the adjustments. As wide open as the site plan review and community design reviews are now, many zoning regulations cannot be adjusted without the approval of a variance, which establishes a very high standard for a "hardship" and cannot account for other tradeoffs being offered by a project.

Boards and Commissions

Chapter 20 of the City Code establishes numerous boards and commissions to advise the City Council on various matters. No less than 8 of these overlap with the recommendations of the Strategic Plan to create a Dynamic Sense of Place. These include the: Planning and Community Development Commission, Economic Development Commission, Parks and Beautification Commission, Cultural Affairs Committee, Community Affairs Commission, Tax Increment Finance Commission, Marketing Commission, and Residential Neighborhood Preservation and Redevelopment Advisory Committee. Clearly, the PCDC and EDC will continue to have a lead role in the implementation of the Plan; however, the role of these other commissions needs to be considered.

Recommendation

As issue and development Project Management Teams are established, consider the addition of members from one or more of these other commissions. In addition, where the focus of an issue PMT overlaps with the responsibilities of a commission, determine the formal role that the commission will have in reviewing the findings of the PMT and making recommendations on the same to the City Council.

Chapter-by-Chapter Observations and Recommendations

The following chapters of the Olivette Revised Code contain one or more regulations or standards dealing with land development or the establishment of a land use. Chapters not included on this list either do not contain land development regulations or were found to be generally acceptable as written. The following comments and recommendations are not intended to be an all inclusive list but rather a summary of the most significant issues that future Code amendments should address in order to achieve consistency between the City's land development regulations and the Strategic Plan.

20 Administration

General: This Chapter establishes and assigns responsibilities to the various commissions discussed above. While no revisions are recommended for this chapter, the roles of each commission in overall Plan implementation need to be determined consistent with their assigned responsibilities.

30 Animals

Article II: This article provides regulations for non-commercial kennels, which are an accessory use to single family homes. The section should be relocated to the permitted residential uses section(s) of the Zoning Code or at least cross-referenced in the Zoning Code.

40 Building Regulations

Article I: The City's current building code is the old BOCA code. BOCA and the other national/regional code organizations have since merged into the ICC (International Code Conference) which publishes the International Building Code, the International Residential Code for one- and two-family dwellings, and the International Building Reuse Code. Although other codes are in use throughout the country, the ICC is quickly becoming the singular standard. As a result, developers and business owners across the country have familiarity with the Code and thus, would quickly understand the requirements in Olivette. Accordingly, Olivette should investigate adoption of the ICC codes. Part of this investigation should be a review of the codes adopted in other communities within the region as most developers are likely to be located in or very familiar with the St. Louis area.

Article III: This article deals with height requirements for various structures. Height regulations are typically part of zoning regulations. Accordingly, the entire article should be relocated to the Zoning Code.

Article V: This article provides standards for fencing, including fencing around parking lots as noted previously. The entire article should be moved to the Zoning Code.

Article VII: This article provides standards for communication towers. As defined in the article, communication towers are a type of land use and require review by the PCDC prior to the issuance of building permits. Accordingly, the entire article should be moved to the Zoning Code.

50 Business and Trades

General: This chapter appears to overlap with Chapter 120 License and Taxes, but just deals with different businesses. Consideration should be given to consolidating the two.

Articles III, IV, and VII (self-service laundries and dry cleaners, trampoline centers, and public dance halls): These are all land uses and many of the regulations contained in these articles deal with zoning-type matters such as setbacks, screening, and hours of operation. While the business licensing requirements should remain in this chapter, the zoning regulations should be moved to the Zoning Code, with a cross-reference back to this chapter to indicate that a

business license is required. Further, some of these use definitions are antiquated and should be considered for deletion altogether.

Article VI: This article prohibits “massage businesses” but does not define this use. Therapeutic massage performed by a licensed massage therapist is an integral part of many health and wellness center services as well as many hair salons and spas – uses which would be appropriate for location along Olive Blvd. The definition of “massage business” should be clarified to differentiate therapeutic massage from “adult entertainment” uses.

55 Community Design

Article I: As noted previously, the development proposals required to be reviewed under this article/chapter are very similar to those that require a site plan review under Article IX of the Zoning Code. Accordingly, the two review processes should be combined with one set of procedures and criteria and should be located in the Zoning Code.

Article II – Building Design Standards: Unlike the highly general standards contained in Article I of this chapter and the site plan review section of the Zoning Code, the building design standards are described in both specific and qualitative terms. By and large, the standards that are included are fine as written and consistent with the recommendations of the Strategic Plan. However, the following should be considered as part of the Olive Boulevard design guidelines study:

- A review of the existing material standards;
- The addition of standards/guidelines for building orientation, entries, storefronts, fenestration and articulation; and
- The addition of site design standards/guidelines for parking areas, vehicular and pedestrian circulation, public gathering areas and site amenities, signage, and integration/buffering of uses within and adjacent to the project.

Article II – Landscaping Standards: Like the building design standards, the landscape standards are well-defined and generally appropriate and consistent with the recommendations of the Strategic Plan. The major exception to this is the requirement for a 20-foot landscape strip along the entire length of Olive Blvd. As described and shown in the Plan, there are several locations and uses where the preferred building location is immediately adjacent to the Olive Blvd. right-of-way. Accordingly, the landscape and setback standards should be revisited either separately or as part of Olive Blvd. design guidelines study.

70 Excavations and Grading

General: These regulations are fine as a separate chapter from the Zoning Code, but might be better located in Chapter 40 Building Regulations. In addition, the point at which a grading permit is issued relative to zoning approvals needs to be clarified. For example, can a grading permit be issued and work started prior to zoning approval of the ultimate development project? Further, consideration should be given to the protection/preservation of specimen trees.

80 Floodplain Management

General: This chapter is redundant with Article XXI of the Zoning Code. The two should be combined and located in one place or the other. If not located in the Zoning Code, appropriate cross-references should be provided.

85 Forestry

General: The site plan review and community design review processes both include improvements/landscaping within the adjacent rights-of-way. Accordingly, the standards of this chapter should be cross-referenced.

90 Hazardous Materials and Processes

Article I: This article contains definitions and standards relating to dry cleaning establishments. Most of these exceed those typically found with zoning regulations, but they certainly have a significant impact on the design of the sites and buildings for these uses. Accordingly, these standards can be maintained in a separate chapter, but appropriate cross-references need to be added to the Zoning Code. Better yet, the whole article should be relocated to Chapter 50 Business and Trades as that would be a more logical location for someone to look for it.

Article IV: This entire article dealing with self-service gas stations also should be relocated to Chapter 150 Motor Fuel Dealers, or both this article and that chapter moved to Chapter 50 Business and Trades. Either way these provisions should be cross-referenced in the Zoning Code.

100 Health and Safety

Article II: The “visibility triangle” standards for street corners and driveways should be moved to the Zoning Code or Chapter 230 Streets. Regardless, they should be specifically referenced in all regulations dealing with landscaping and other improvements and obstructions permitted in rights-of-way and setbacks.

Article IV: These regulations dealing with emissions and impacts from industrial operations typically appear in zoning codes as “performance standards”. Accordingly, they should be relocated to the Zoning Code or at least cross-referenced in the standards for the LID-1 District.

110 Housing

Article V: This article seems to address garage and estate sales, which are really accessory uses to residential dwelling units. Accordingly, they should be relocated to the Zoning Code.

120 License and Taxes

General: Cross-references should be made in the Zoning Code for those uses that are covered by this Chapter. Further, there appears to be overlap between this chapter and Chapter 50 Business and Trades except that they deal with different uses. Consideration should be given to consolidating the two.

150 Motor Fuel Dealers

General: Combine with Article IV of Chapter 90 and consider moving both to Chapter 50 Business and Trades.

190 Private Streets, Roads and Lanes

General: This chapter should cross-reference Chapter 240 Subdivisions for the design and construction of private streets.

210 Restaurants, Taverns and Other Eating and Drinking Places

General: Consideration should be given to moving the entire chapter to Chapter 50 Business and Trades. The definition of “restaurant” here does not match that in the Zoning Code. Further, the chapter provides regulations for temporary food vendors but the Zoning Code makes no provisions for allowing such uses. Cross references in the Zoning Code should be provided as appropriate.

225 Signs and Advertising

Content Regulations: This chapter contains several regulations pertaining to the “content” of the message permitted on a sign, such as allowing only real estate signs in residential areas. Evolving case law throughout the country suggests that content regulations should be avoided where ever possible and the regulations focused strictly on the number, type, size, and location of signs with no reference to what the signs say.

Olive Blvd. Standards: As part of the Olive Blvd. design guidelines study, all of the sign standards should be revisited, particularly the following:

- Sec. 225.270 which prohibits awning signs, “A-Frame” or sandwich board type signs and the use of neon to outline buildings;
- Sec. 225.210 which is entitled “Illumination” but provides no standards for internal or external lighting of signs and which type of lighting is permissible or desired for which locations and types of signs;
- Sec. 225.310 which regulates signs in the POR district and prohibits “non-illuminating” signs and projecting signs but provides no maximum height for monument signs; and
- Sec. 225.320 which regulates signs in the COR district and prohibits window signs and projecting signs. Further, the provisions relating to shopping centers do not address modern developments that have multiple buildings (often on multiple lots) as part of a single development project and need to consolidate signage onto a single freestanding sign.

240 Subdivisions

General: This Chapter appears to have been updated recently and accordingly, is in good shape. Depending on the outcome of the Olive Blvd. design guidelines study, some specific aspects may need to be revised, but most of the standards, particularly for street widths, are consistent with the Strategic Plan and the character and quality of development called for therein. Some items to consider for further refinement include:

- A landscape plan is required but no standards are provided. Presumably, the landscape plan would be only for those areas to be dedicated to the City, such as street rights-of-way and parks, but the text doesn't say that. Further, there is no reference to Chapter 85 Forestry and no general standards about the types of species or the location of trees.
- The street design standards appear to apply to both private and public streets and are generally very good standards. However, the difference between a "private street" and "drive aisle or driveway" within a development isn't clear and when one is required/preferred over the other. This should be clarified once the site development standards are more clearly defined as part of the Olive Blvd. design guidelines study.
- Similar to the above, it's unclear how the "street frontage" requirement can be met by a development that has multiple lots with common access, circulation, and parking. Certainly, land-locked parcels without access need to be prohibited, but it is very common today to have developments with separately platted "outparcels" that obtain access via easements over adjoining parcels.

250 Taxicabs and Taxicab Drivers

General: Consideration should be given to consolidating this as part of Chapters 50 or 120.

260 Tourist Camps

General: This is an antiquated chapter and should be removed. I can find nowhere in the Zoning Code where such a use is permitted. None currently exist in the community, nor is one likely to. Further, the RV storage regulations in Sec. 260.030 conflict with those in Sec. 270.318 of Chapter 270 Traffic.

270 Traffic

Parking: Sec. 270.238 (parking on lawns) should be moved to the off-street parking and loading regulations found in Article XII of the Zoning Code as should the RV parking regulations in Sec. 270.318.

280 Zoning

Article I - Definitions: The list of definitions is very limited and probably will need to be expanded as the various provisions discussed above are relocated into the Zoning Code.

Article V: The PRO District appears to be a creative approach to providing a two-tiered flexible district that permits somewhat intensive development adjacent to Olive Blvd. while limiting development and providing buffering in areas adjacent to single family areas. The general concept is a good one, but the structure of text is extremely difficult to follow and would benefit greatly from one or more tables and illustrations. Although the approach is creative and provides some flexibility, there are several "hard and fast" standards for building heights, setbacks, coverage and density with strict limits on variances. While most of the standards appear to be consistent with the recommendations in the Strategic Plan, the Olive Blvd design guideline study should evaluate all of them. Further, as noted at the beginning of this memo, consideration should be given to a site-specific zoning approval process,

such as a Planned Unit Development, where various standards can be altered in exchange or the provision of better designs and greater community benefits.

Article VI: The COR District also appears to be a creative approach to flexible site design and development along Olive Boulevard. However, as part of the Olive Blvd. design guideline study, the following should be revisited:

- Sec. 280.064 – The list of permitted uses is antiquated and very specific but not very inclusive of the type of modern, multiple and mixed uses envisioned in the Strategic Plan. This is further complicated by Sec. 280.210 which states that any use not specifically listed is prohibited, making interpretations difficult. A more modern list of uses with broader definitions should be developed that specifically includes multiple family residential dwellings.
- Sec. 280.066B. – The height limit is 35 feet, except as may be permitted under a site plan review. This is too open ended and should be more clearly defined;
- Sec. 280.066 C. – The 35-foot setback along Olive Blvd. needs to be revised to allow buildings to be pulled up closer to the street; and
- Sec. 280.066 – Provides no standards for lot coverage, floor area ratio, landscape areas, etc. Some of these are covered in Chapter 55, but it is very confusing how those standards work with those in the district. As discussed previously, it's important that the code provide good direction and guidance about what is expected. While the lack of any standards provides for a great deal of flexibility, it also is of no help to a developer in trying to design a project.

Article VII: The standards in the LID-1 district are generally consistent with the recommendations of the Strategic Plan for the industrial parks, but the following should be reconsidered once the market “niches” for the parks are better defined:

- Permitted Uses – The lists of permitted and special uses should be expanded to allow a greater variety of uses as part of a mixed-use development and to include any niche uses that the code doesn't currently address. Further, the use names and definitions should be consistent with the COR and PRO districts so that the same use, where permitted in more than one district, is named and defined the same way, something the current code fails to do.
- Bulk Standards – The height limit may need to be revisited to accommodate a large office building. Further, standards should be provided for lot coverage, floor area ratio, landscape areas, etc.

Article IX: As noted at the beginning of this memo, the site plan review process should be combined with the community design process and more specific standards developed for the items contained in Sec. 280.100.

Article X: The special use “criteria” for review and approval simply defer to the site plan review section. While the items covered under the site plan review are appropriate for a special use review, they lack specific standards as discussed above. Further, there are no specific criteria that focus on the use itself and its appropriateness for the given the location.

Typically, a “site plan review” is applied to uses that are permitted but where a review of the site design is needed to ensure compliance with various quantitative and qualitative standards. A “special use” review, on the other hand, is first concerned about the appropriateness of the use itself in the location for which it is proposed. As already stated in the code, these uses “are not permitted except as otherwise determined to be suitable and compatible”. Another way to think of it is that the “burden of proof” for a site plan review ought to fall on the City in the event of denial. These are uses that are permitted, so the City should demonstrate specifically why it’s not appropriate as proposed. With a special use, that burden is shifted to the applicant. The code essentially says, ‘This use is not permitted, but we’ll let you make a case about why we should make an exception for you.’ The current text of the code does not clearly define these differences and should be revised accordingly.

Article XI: Like many codes of this era, this article tends to blend nonconforming uses and structures and treat them the same even though they are very different. Revisions should be made to differentiate these and the regulations that apply to each as well as to nonconforming lots.

Article XII: The parking standards in this article are generally fine as written but the following should be reconsidered as part of the Olive Blvd. design guidelines study:

- Sec. 280.144 D. – Provisions should be made to allow shared parking for uses that have different peak periods. Also, as transit improvements come on-line, some of the parking requirements should be reduced;
- Sec. 280.148 – The list of uses should match that used within the zoning districts;
- Sec. 280.150 B. – The 21-foot aisle width is very narrow and may need to be increased to 24 feet;
- Sec. 280.150 B.(3) – The lighting standards are completely inadequate and do not refer to the more detailed standards contained in Chapter 55; and
- Sec. 280.150 B.(4) – The landscape standards don’t reference the fence requirements for parking areas in Sec. 40.430 nor the standards in Chapter 55. All of these should be combined into a single set of standards in a separate landscaping article of the Zoning Code.

Procedures: As noted previously, an entirely separate procedures and administration article should be created in the Zoning Code that clearly identifies the roles and responsibilities of the PCDC, BOA, City Council, and Building Commissioner as well as the application submittal and review procedures and criteria.

With the adoption of the Strategic Plan and the new forms of development described within it, the time is ripe for Olivette to undertake a significant code revision process to address the issues noted above. Whether through the development of a unified code, or just a better organization and format of the current code, significant revisions are necessary to achieve consistency between the land development regulations and recommendations of Strategic Plan.