



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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Salem, OR 97301-2540

(503) 373-0050

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[www.lcd.state.or.us](http://www.lcd.state.or.us)

### NOTICE OF ADOPTED AMENDMENT

April 28, 2008



TO: Subscribers to Notice of Adopted Plan or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Keizer Plan Amendment  
DLCD File Number 004-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: May 14, 2008**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative  
Bill Holmstrom, DLCD Transportation Planner  
Bob Cortright, DLCD Transportation Planning Coordinator  
Sam Litke, City of Keizer

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# PROF 2 Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE STAMP	DEPT OF
	APR 24 2008
	LAND CONSERVATION AND DEVELOPMENT
	For DLCD Use Only

Jurisdiction: Keizer Local file number: TA2007-34  
Date of Adoption: 4/21/2008 Date Mailed: 4/23/2008  
Date original Notice of Proposed Amendment was mailed to DLCD: 8/24/2007

- |   |   |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment        | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                  | <input type="checkbox"/> Other: _____                     |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**Amends Section 2.107 (Mixed Use) zone to increase commercial square foot limit from 10,000 to 120,000 square feet in MU designated lands subject to meeting certain development criteria and incentive for mixed use type of devleopment.**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

**Includes incentives for encouring vertical mixed development; includes greater mitigation requirements; includes all lands designated MU not only Area C lands.**

Plan Map Changed from: na to: na

Zone Map Changed from: na to: na

Location: na Acres Involved: na

Specify Density: Previous: na New: na

Applicable Statewide Planning Goals: na

Was and Exception Adopted?  YES  NO

DLCD File No.: 004-07 (16337)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

none

Local Contact: Sam Litke, Senior Planner Phone: (503) 856-3442 Extension: \_\_\_\_\_

Address: 390 Chemawa Rd. City: Keizer

Zip Code + 4: 97307- Email Address: litkes@keizer.org

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

1 BILL NO. 550

A BILL

ORDINANCE NO.

2

2008- 571

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FOR

4

5

AN ORDINANCE

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AMENDING KEIZER DEVELOPMENT CODE

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REGARDING SECTION 2.107.01 (MIXED USE);

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AMENDING ORDINANCE 98-389

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WHEREAS, the Keizer Planning Commission has recommended to the Keizer

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City Council amendments to the Keizer Development Code (Ordinance No. 98-389); and

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WHEREAS, the City Council has held a hearing on this matter and considered the

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testimony given and the recommendation of the Keizer Planning Commission; and

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WHEREAS, the Keizer City Council has determined that it is necessary and

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appropriate to amend the Keizer Development Code as set forth herein; and

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WHEREAS, the Keizer City Council has determined that such amendments meet

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the criteria set forth in state law, the Keizer Comprehensive Plan, and the Keizer

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Development Code;

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NOW, THEREFORE,

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The City of Keizer ordains as follows:

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Section 1. FINDINGS. The City of Keizer adopts the Findings set forth in

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Exhibit "A" attached hereto and by this reference incorporated herein.

1 Section 2. AMENDMENT TO THE KEIZER DEVELOPMENT CODE. The  
2 Keizer Development Code (Ordinance No. 98-389) is hereby amended by the adoption  
3 of the changes to Section 2.107 (Mixed Use) as set forth in Exhibit "B" attached hereto,  
4 and by this reference incorporated herein.

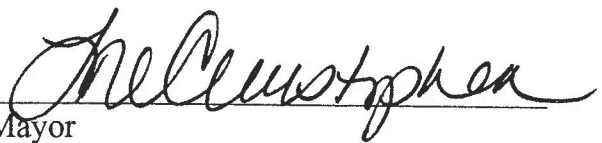
5 Section 3. SEVERABILITY. If any section, subsection, sentence, clause,  
6 phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional, or  
7 is denied acknowledgment by any court or board of competent jurisdiction, including,  
8 but not limited to the Land Use Board of Appeals, the Land Conservation and  
9 Development Commission and the Department of Land Conservation and Development,  
10 then such portion shall be deemed a separate, distinct, and independent provision and  
11 such holding shall not affect the validity of the remaining portions hereof.

12 Section 4. EFFECTIVE DATE. This Ordinance shall take effect thirty (30) days  
13 after its passage.

14 PASSED this 21st day of April, 2008.

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16 SIGNED this 21st day of April, 2008.

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Mayor

  
\_\_\_\_\_  
City Recorder

## EXHIBIT "A"

### Findings regarding the adoption of amendment to the Keizer Development Code (Section 2.107, Mixed Use)

#### Generally:

The proposal is to amend the text of KDC Sec. 2.107 Mixed Use (MU). The City has decided to use the incentive of allowing larger format retail store uses in exchange for mixed uses under certain conditions to encourage the development of mixed use projects in the City MU zone. The proposal is designed to encourage mixed use developments, both horizontally and vertically integrated, in the City's MU zone with a program of incentives and greater regulatory flexibility for mixed use projects so long as they are developed in accordance with an approved in a master plan.

Some background is important to understand the proposal as well as the Council's rationale for the proposal.

The existing City MU district was established at the inception of the city in 1987, and the existing MU zone is not prescriptive. Specifically, the MU zone allows, but does not require, the development of Mixed Uses. Individual uses (residential, hotels, offices, retail) may be established. However, certain types of individual retail stores may not exceed 10,000 square feet. Specifically, in the existing MU zone, retail commercial stores as described in KDC 2.107.02(I) are restricted to buildings housing each store that may not exceed 10,000 square feet. Nothing in the existing City MU zone prohibits a single building with a single footprint containing multiple 10,000 square foot retail stores, but a single store consisting of more than 10,000 square feet is prohibited. For example, the existing MU district allows KDC 2.107.02(I) stores of 100,000 square feet of total floor area so long as within the footprint there are ten or more smaller retailers none of which exceed 10,000 square feet. The Council finds this limitation to be too restrictive and poor policy. The Council also finds there is no required relationship between store size and mixed use projects. However, the Council also finds there is significant market demand for larger format retail stores and that such market demand can be used as a vehicle to encourage mixed use developments.

One of the ways the proposed amendment encourages mixed use projects to allow individual retail commercial uses, of the kind described in KDC 2.107.02.(I), to have up to 80,000 square feet (defined as a "larger format store") for a single store use, so long as certain strict conditions are met. Those strict conditions are that a larger format store may be approved if it (1) is approved as a part of a master plan, (2) the master plan provides that at least 25% of the area is for development of nonretail/non-single family residential uses, and (c) observes the greater mitigation requirements required under proposed section 2.107.05.

The proposal also encourages mixed use by allowing a single store of the kind described in KDC 2.107.02(I) to include more than 80,000 square feet so long as the above requirements are met *plus* square footage exceeding 80,000 is allowed only to the extent vertical mixed use is provided in the master plan and then on an equivalent per square foot basis, that is, for

each square footage of vertical mixed use in an approved master plan area, the 80,000 square footage limitation described in KDC 2.107.2(I) may be increased in an equivalent amount to the amount of proposed vertical mixed use.

Council is persuaded that mixed use can thrive based on market forces alone, without such encouragement, in larger metropolitan areas that are densely populated and close to downtown cores, where the area also has strong transit amenities, but not in a suburban context like the City of Keizer. Council is persuaded that for mixed use to occur in Keizer that it makes sense as a policy matter to encourage it as contemplated in this ordinance. Council also acknowledges that not all cities employ a “cookie cutter” approach to achieve mixed use ends as some testimony suggested. The example explained by Keizer City Planning Commissioner Jacks regarding the City of Tualatin demonstrates that store size need not be limited and in fact is not always limited in mixed use areas. The City of Tualatin’s town center contains a mixed use district but that district does not impose square footage limits on the size of commercial retail or other establishments that may be located there. The Council is not persuaded that limiting retail square footage is the only or best way to achieve mixed use projects in Keizer’s mixed use zone.

#### **Applicable Text Amendment standards**

The review criteria are listed in Section 3.111.04 of the Keizer Development Code.

The City of Keizer finds that:

1. **A need exists for the proposed amendment - Section 3.111.04.B.**

Testimony in the record establishes that since the MU zone was imposed in 1987, it has not delivered the anticipated kind or amount of mixed use development originally envisioned. In fact, the record establishes that only one very small project (restaurant with a small managers apartment above) has been delivered in the City MU zone, according to City permit records, since year 2000. In this regard, a map was placed into the record and discussed by staff demonstrating that in the City there are about 166 parcels zoned MU and the majority of them are developed. Of the parcels that were identified by city staff as being either under-utilized or vacant, these are primarily confined to the MU areas along River Road and Trail Ave, and Area C in the Keizer Station. Of the parcels that comprise the River Road / Trail Ave area, two are large enough to be reasonably developed, the remainder of the site is comprised of smaller parcels that are currently predominately developed with single family homes. It would be necessary to consolidate a number of these parcels before any redevelopment would likely happen. The MU zoned parcels that are included within Keizer Station Plan (KSP) Area C is comprised of approximately 36 acres with 34.5 acres being zoned MU (Mixed Use), and 1.5 acres zoned CR (Commercial Retail). The KSP area MU property is the largest undeveloped area of the City’s MU zones and, as indicated during the public hearing, has largely been consolidated.

The Council was persuaded by evidence in the record explained by staff and others that notable mixed use developments in the region have had varied success in creating viable projects, have relied generally on public sector participation in their development, and have significantly altered regulatory structures to foster the developments of mixed use projects. The development of these projects has generally relied on some economic driver to address the additional construction costs associated with mixed use development. The material presented at the League of Oregon Cities conference in 2008 by Johnson Gardner LLC on mixed use development was presented which indicated that for developments outside of dense urban centers, other economic drivers and incentives must be formed. These can be in the form of various public participation or other incentives.

The City is not in an economic position to fund public subsidies to create mixed use projects nor does it believe it is good public policy to do so in the suburban context. The City must rely on the private market to deliver mixed use projects. The City finds that it lacks the required demographics to attract market driven mixed use projects under the restrictions in the existing MU zone. The City finds that the record establishes that to have the market establish mixed use projects, it must provide regulatory incentives to facilitate that outcome. The Council wishes to see mixed uses developed in the City as being consistent with Oregon land use goals generally. Accordingly, the City finds there is a need to amend the existing MU zone to provide incentives for the market to deliver mixed use projects.

The Council finds that the proposal is likely to attract market driven mixed use projects because the proposal:

- Recognizes that the limitation of a maximum building size of 10,000 sq ft is too restrictive for efficient use of property and provides the needed adjustments with corresponding incentives for mixed uses in a master planned area.
- Creates an economic motivator that otherwise does not exist to establish mixed use, including mixed use that includes commercial and residential uses in a project area; and gives private property owners more flexibility in the types of developments individual properties can pursue.
- Encourages more comprehensive development under a master plan which is likely to provide economic support for needed infrastructure improvements and to support project mitigation; in this regard, evidence in the record establishes that residential and other less economically attractive uses have been unable to develop in Area C of the KSP, for example, because the cost of required infrastructure is too high and only a larger format store can afford to put in the required infrastructure.
- Encourages assembly of smaller parcels to provide a larger economic center to support mixed use this maximizing the utility of the available mixed use land resources of the City.
- Provides property owner incentives to achieve a higher intensity of use within the City making it less likely that Mixed Use zoned land will lie fallow and undeveloped or will develop with uses other than a mix of uses. This in turn supports a more efficient use of land within the City.



2. **The proposed amendment to the Keizer Development Code complies with all applicable statewide land use planning goals and applicable administrative rule requirements – Section 3.111.04.C.**

**Goal 1 – Citizen Involvement:** The proposal is a legislative amendment to the text of the KSP MU zone. Adoption of the proposal adhered to the acknowledged legislative adoption process established in the city code set forth in KDC Section 3.111. In addition, the Council provided additional public notice than is strictly required by the City's code.

The Council conducted 3 public hearings and an additional work session and the planning commission conducted four public hearings on the matter. In addition, due to public interest in the proposal from citizens who lived near KSP Area C, the Council directed staff to provide property owners within 250 feet of the perimeter of KSP Area C with individualized mailed notice of the public proceedings before the planning commission and City Council. In this regard, the evidence establishes that staff provided such additional notice as directed.

Public notice of the proposal and City proceedings was published in the Keizer Times.

Public hearings were conducted before the Planning Commission in October and November of 2007. Following the Planning Commission's recommendation for adoption of the proposed text amendment, the City Council held public hearings twice in December and then at their January meeting they referred the matter back to the Planning Commission for additional consideration. The Planning Commission held additional public hearings in February and March and forwarded their recommendation for adoption of the revisions to the City Council. A public hearing was held before the City Council at their March meeting.

Goal One is satisfied because the City adhered to its acknowledged public involvement processes as well as provided additional enhancements and public participation opportunities as explained above.

Goal One is further satisfied by requiring certain types of mixed use projects to be approved through a master plan process which provides additional opportunities for public involvement.

**Goal 2 – Land Use Planning:** The proposal amends the Keizer Development Code. Goal 2 requires amendments to land use regulations such as the KDC be consistent with the Keizer Comprehensive Plan. As explained below the proposal is consistent with the City's Comprehensive Plan.

Goal 2 also requires coordination with other governmental agencies where called for in the Plan. Here the Keizer Comprehensive Plan specifies that because the proposed action is not the amendment of a Regional Policy, that the subject land use

action shall be based solely on the KCP and the KDC. KCP IV(F)(3). Accordingly there are no coordination obligations with other cities or counties that were triggered by the proposal. Notice was provided to agencies (ODOT, DLCD,). ODOT did not object to the proposal and concurred in the Kittelson analysis that the proposal does not add trips to public facilities not already contemplated under existing zoning. DLCD comments were considered. Goal 2 is met.

**Goal 3 – Agricultural Land:** The purpose of this goal is to protect lands that are designated for agricultural uses. Within the city limits there is only one zone located in the northwest portion of the city near the city’s urban growth boundary that is designated to allow for commercial agricultural uses. The proposed amendment does not affect that designation or zone. Rather the proposal only affects the City’s mixed use zones, which is not a Goal 3 implementing zone. Goal 3 does not apply.

**Goal 4 – Forest Land:** The intent of this goal is to protect lands that are designated for commercial forest uses. There are no lands designated within the city limits to allow for commercial forestry. Goal 4 does not apply.

**Goal 5 – Natural Resources:** Goal 5 protects various natural, historic and cultural resources including wetlands, waterways and big game habitat. The city established a Resource Conservation (RC) overlay zone to maintain, preserve and protect the natural features under Goal 5 and these RC zones are all adjacent to Claggett Creek. The proposed amendment to the MU zone has no effect on the City’s RC overlay. The MU area that is located along the eastern portion of Staats Lake and also in the area between River Road and Trail Ave contains both a creek and a portion of Staats Lake and is subject to the RC overlay. Any development within this area must be consistent with the RC overlay and nothing in the proposal relieves such property from that obligation. Goal 5 does not apply or if it does the proposal is consistent with it.

**Goal 6 – Air, Water and Land Quality:** This goal protects the City’s air, water and land qualities. The City provides its residents with city water from groundwater sources. New construction is required to be connected to the city water systems as well as established sanitary sewer system. The proposal does not add to City burdens for city water or sewer beyond that contemplated in the existing MU zone.

The proposal provides incentives for mixed uses. Mixed use development provides the opportunity for fewer vehicle trips. This makes the proposal one that has the potential to enhance air quality. The proposal is consistent with Goal 6.

**Goal 7 – Natural Hazards:** The purpose of this goal is to protect life and property from hazards resulting from flooding, steep slopes or other natural hazards. The city has floodplain regulations that govern the placement of structures within identified 100-year floodplains. There are no identified steep slopes within Keizer and no other types of identified natural hazards. The MU zoned area that is located

along the eastern portion of Staats Lake and also in the area between River Road and Trail Ave contains both a creek and a portion of Staats Lake. The portions of this area subject to Goal 7 are covered by City floodplain regulations. Nothing in the proposal relieves any development from complying with these floodplain regulations. The proposal complies with Goal 7.

**Goal 8 – Recreation:** This goal requires the city to identify and plan for the current and future recreation needs of the residents of the city. There are a number of parks, playgrounds, and other recreational opportunities within the city limits. The proposed amendment is limited only to land that is zoned MU which is not a recreational use zone. The proposal has no effect on city planning for recreational amenities including public parks. This goal is inapplicable. If this Goal applies, then it is complied with because there is no change in the calculus of recreational uses available to City residents under the proposal.

**Goal 9 – Economic Development:** Goal 9 is generally designed to ensure that the City plans for and maintains its overall economic vitality. While the MU zone is designed to accommodate development of economic uses, it is not an acknowledged Goal 9 implementing zone. Rather, it is a zone that is allowed and intended to supply regulatory flexibility to allow developers to install a suite of uses including different mixes of uses in a single area. In addition to allowing the mixing of uses, it also allows the development of a single commercial uses or single residential use at the developer's option. *See* KDC 2.107.02 and 2.107.03. Accordingly Goal 9 does not apply.

The Council noted that to the extent Goal 9 applies, or potentially applies, that the proposed amendment will have an overall positive impact on the availability of economic development activities or uses within the city. One of the areas which will be affected by the text amendment is Area C of the Keizer Station Plan (KSP). This KSP area is west of I-5 and is stated in the City Comprehensive Plan to deliver large scale retail, professional offices, hotel and other economic uses. *See* KCP analysis below. Much of Area C in the KSP is designated MU and the proposal encourages the MU uses to develop in Area C. MU uses include larger scale uses such as offices and hotels. Moreover, the proposal continues to allow retail uses to be established, either smaller or larger format. If in larger format, mixed uses other than retail must also be provided for in the relevant master plan and enhanced mitigation is required. This policy program serves this goal.

Evidence placed before the planning commission and council by the developers and owners of the Area C property establishes that the text amendment is required to supply an anchor tenant needed to facilitate the completion of the KSP as it was contemplated to develop. The MU zoned areas of Area C are a part of Keizer Station and the Regional Service Center that is Keizer Station. Under the proposal the MU zone provides the realistic potential for the KSP area at the Chemawa interchange to be completed with the mix of uses the MU zone always allowed and that have not located in KSP Area C because of retail individual store size

restrictions. Council finds the evidence in the record is persuasive that a major anchor tenant is required for the KSP to function as intended (See Roodhouse December 10, 2007 letter in the record). Further there was evidence in the record that a discount grocery store is desired in the City and that citizens are driving significant distances to other cities to obtain discount groceries. This takes Keizer dollars from Keizer and adds costs to the daily lives of Keizer citizens. Further evidence in the record establishes that the minimum size for a store with discount groceries is 80,000 square feet and there is no other place in the KSP to locate such a store. According, the proposal that enhances the potential for the KSP to develop as envisioned, and the potential for a discount grocery to be established in Keizer so long as certain mixed use objectives are also met.

The other MU zoned areas of the City can be developed or redeveloped as the case may be, given the incentives for aggregating parcels under the proposal.

The proposal is consistent with this goal to the extent that it applies.

**Goal 10 – Housing:** This goal requires the city to plan and provide for the housing needs of its residents. The City's MU zone is not acknowledged as a Goal 10 zone and is not expected to deliver any particular number of Goal 10 housing units under any inventory; acknowledged or otherwise. This goal does not apply.

The Council also notes however that the proposed revision to the MU zone allowing for the option of constructing a commercial retail larger than 10,000 square feet , will not in and of itself, preclude the option still available in the MU zone for residential development. This option was before and continues to be an option in the MU zone under the proposal. However it has also always been the case that any given MU zoned parcel in the City could be developed entirely with nonresidential uses. This is not changing either under the proposal.

Council finds persuasive evidence in the record to show where significant public infrastructure investments are needed in order to provide enough capital investment to pay for infrastructure systems, that only a larger format store (or public subsidy) can provide the costs of such expensive infrastructure. Council also finds that the City does not have money for a public subsidy of such infrastructure. There is evidence in the record in this regard that residential development in Area C has been unable to move forward because the transportation, water and sewer needs are beyond the capability of residential development or smaller format developments.

This goal either does not apply or is met.

**Goal 11- Public Facilities and Services:** The proposal does not add or subtract land in MU zoning. The same amount of development is allowed to occur on any given parcel as before the proposal. This goal does not apply.

To the extent it does apply, then the only impact the proposal has to public facilities and services is that it provides a mechanism to finance public facilities and services in areas that require expensive public infrastructure that is unaffordable to a smaller format developer or residential developer of uses allowed under the existing text of the MU zone. Evidence in the record establishes that the larger format retailer is able to and does finance public infrastructure including those in reimbursement programs, that smaller developments simply cannot afford. Therefore, if this goal applies, it is met.

The City currently has adequate police protection to serve the City. Nevertheless, there were issues raised during the local proceedings arguing that larger format stores allowed under the proposed amendments require greater police services. At the outset, the Council notes that no particular development is proposed. Therefore, it is impossible to evaluate a particular proposal's use of public services. However, the Council also note that the City chief of police supplied evidence that larger format stores in the City have not generated and in his opinion do not generate a disproportionately greater amount of criminal behavior or need for police services.

To the extent relevant at this juncture, the City Council finds the evidence provided by the City of Keizer Police Chief convincing that the amount of service necessary to provide for the public safety for development allowed with this text amendment is consistent with the level of police service that would be required under a development under the existing text. Further the City Council finds the potential exists with larger format stores for a higher level of service to deter and deal with criminal activity given the evidence that larger format stores tend to hire their own private security resources, as compared to individual small format retail establishments that tend not to do so, and that tend to require a full and more time consuming range of police assistance. Therefore, the City Council finds as a general matter, that the text amendment will not be beyond the capacity of the City's existing law enforcement resources, and that it will require the functional equivalent or fewer police services as the uses now allowed require. The proposal is consistent with Goal 11.

**Goal 12 – Transportation and the Transportation Planning Rule (TPR) (OAR 660-0012-0060):** The proposal is an amendment to the text of a land use regulation. As required under the Goal 12 and TPR analysis, the City examined whether the proposal to allow a larger format retail store as opposed to equivalent numbers of square feet of smaller format retail stores has a significant affect on a transportation facility. The evidence in the record from Kittelson, ODOT and the City's independent transportation engineer all establish that the trips to be expected from a larger format store are fewer than the trips associated with equivalent amounts of retail square footage in smaller formats. Accordingly, the proposal does not have a "significant affect" on a transportation facility as that term is defined in the TPR and Goal 12.

Moreover, the proposal includes programs to require transportation mitigation for specific development proposals. A specific development proposal may be required to supply significant transportation mitigation. However, at this point, as a text amendment, there is no specific development proposal to review.

The Council further notes that the proposed change to Section 2.107(7) includes a specific provision that provides enhanced authority to review and require transportation improvements that may be needed as shown in a TIA or Master Plan for a specific development proposal. Further, a TIA is required for projects in an Activity Center of which KSP area C is a part as follows: KDC 2.125.04(B)(2):

“For any project for which the projected average daily traffic will exceed 250 vehicle trips per day, in accordance with the Institute of Traffic Generation Manual, a traffic impact analysis will be required and a written explanation how negative impacts will be mitigated.”

Further, KDC 2.301.03 requires a TIA in the City for any project that has the following characteristics:

C-5. Street Improvements for Commercial or Industrial Expansions:

“Street access permits must obtain access permits from the Marion County Public Works Department. The City will require improvement to full City standards when the use meets any of the following criteria:

“a. The use generates an average of 100+ trips per day per 1000 gross square feet of building as documented in the Trip Generation Manual of the Institute of Transportation Engineers or other qualified source; or

“b. The use includes daily shipping and delivery trips by vehicles over 20,000 pounds gross vehicle weight.”

The proposal is consistent with and meets Goal 12 and the TPR.

**Goal 13 – Energy Conservation:** This goal seeks to maximize the conservation of energy. The point of the amendment is to achieve a mix of uses that can further pedestrian use of developments minimizing vehicle trips. As such the proposal is consistent with this goal. To the extent that the proposal is successful in incentivizing such mixed use development to occur, this Goal is met.

**Goal 14 – Urbanization:** All city MU land is within the city limits and the UGB. The proposal does not change the locations for MU zoning or the mix of the types of uses that may occur there. This goal does not apply.

**Goal 15 – Willamette River:** This goal seeks to protect, conserve, and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River. While the Willamette River is located along the western flanks of Keizer the proposed text amendment will not impact the Willamette River. The revision will have no impact on the ability of the city to regulate uses along the river or the Willamette River overlay zone regulations. This goal is not applicable.

Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes), and Goal 19 Ocean Resources) govern areas along the ocean. Since Keizer is not located along the coast these goals are not applicable

In consideration of the above findings, the proposed text amendment complies with all applicable statewide land use goals and with all applicable administrative rules.

3. **The amendment is appropriate as measured by at least one of the following criteria – Section 3.111.04.D:**

- a. It corrects identified error(s) in the previous 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 council to be desirable, appropriate, and proper.

**FINDINGS:** This provision includes alternative standards. It is adequate if the Council determines compliance with just one of these provisions. Here, the proposal may well satisfy more than one of these provisions. However, the Council determines that the proposal is desirable, appropriate and proper. The Council also notes that the proposal is not mandated by any federal, state, or local law.

In the Council's judgment, the proposal establishes good policy for the City as it takes important steps designed to encourage the private sector to develop mixed uses in the City MU zone, in developments containing strong mitigation measures and that are developed as a part of a master plan. All of these the Council determines are desirable, appropriate and proper. Further, there are housekeeping amendments and revisions that are primarily intended for grammatical purposes to KDC 2.107 which are also desirable, appropriate and proper. For example, clarifications have been made to the purpose statement to clarify the intent of the zone, and specifying the applicability of area requirements applying to retail uses.

The proposal complies with this criterion.

4. **Potentially Applicable Keizer Comprehensive Plan (KCP) Standards**

- A. The KCP at 23 contains potentially applicable policies concerning energy conservation. Specifically, p 23 provides, in relevant, part the following:

“f. Energy Conservation

- “4) Encourage renewal and conservation of existing urban neighborhoods and buildings, and create a multi-centered land use pattern to decrease travel needs. In-filling of passed over vacant land should be encouraged. Emphasis on close locational relationships among developments for living, working, shopping and recreation should be encouraged through planned mixed-use zones.
- “6) Plan for commercial, office, retail and service facilities, including schools, churches, public and semi-public uses at both the community and neighborhood level, and within walking distance of residential areas.
- “7) Encourage cluster developments of mixed uses to promote energy conservation and to allow more efficient centralized energy systems.”

The proposal is consistent with all of the above plan provisions. At the outset, the Council notes that Policy (f)(4) and (7) about are aspirational only and not mandatory standards. The Council further notes that Policy (f)(6) simply requires the Council “plan” for certain things. The proposal is consistent with this policy because it plans for the walking distance connection between commercial types of facilities that can occur at both the community and neighborhood level and within walking distance of residential areas. The word “plan” is not the equivalent of the word “mandate.”

The proposal encourages development of undeveloped and underdeveloped MU zoned properties by a program of incentives. The proposal encourages clustering of development through the aggregation of parcels in master planned MU projects. Moreover, master planning areas of MU furthers the emphasis on close locational relationships between and within MU areas and nearby areas which may include living, working, shopping and recreation. The proposal is designed to provide greater incentives to the market to establish mixed uses as a part of a master plan to be submitted by a developer for a larger area, thus furthering the potential for walkability among and between developments. Master planning is a well recognized planning tool to facilitate creating pedestrian connections. The City as well as interested members of the public has a strong role in the design of development in a master plan application process.

Moreover, the proposed amendments include mitigation enhancements requiring strong pedestrian connections. The Council notes that all of the MU zoned areas of the City are within walking distance (i.e. within ¼ mile) of existing residential areas. In particular, Area C of the KSP is within ¼ mile of an existing residential area. The proposal will facilitate pedestrian connections to the uses developed in Area C. This is especially the case given the enhanced requirements for pedestrian connections for larger format retail developments in master planned areas.



The record shows that larger format commercial uses are more profitable and desirable in the Keizer market place than several smaller stores of the same general type. This means the proposal is likely to result in clustered pedestrian friendly projects near residential areas. This increases the potential for walking over the use of vehicles. This conserves energy. Accordingly, allowing larger format stores in exchange for installing a mix of uses in the master planned area furthers the goal of achieving the establishment of office, retail, commercial and service facilities at a neighborhood and community level within walking distance of residential areas. The program for creating incentives that allow larger format stores in exchange for mixing uses in a master planned area provides the realistic potential for the creation of the benefits envisioned by this part of the KCP.

The proposal is consistent with this City policy favoring energy conservation.

B. KCP p 26-27 is also satisfied by the proposal as follows:

Plan Policy at KCP p 27 B.1.a.10, states:

“Residents want to provide for more shopping opportunities in Keizer.” Plan Policy at KCP p 27 No. B.1.a.12: “Residents find it fiscally prudent to diversify Keizer’s tax base by encouraging more non-residential development” and Plan Policy at KCP p 27 No. B.1.a.13 and respectively 14 state:

- “13) The recent opening of Chemawa Interchange on I-5 and planned improvements to Olson Road, a major east-west arterial, make vacant land adjacent to these transportation facilities attractive for commercial, industrial and high-density residential development.
- “14) Keizer has a unique opportunity to capitalize on existing open space and recreation facilities at the center of the city by encouraging a mixed-use development creating a new town center.”

The proposal is consistent with these KCP policies. At the outset, Council notes that these policies are strictly aspirational and do not impose mandatory approval standards.

The most significant portion of the City’s MU land is in Area C of the Keizer Station Plan (KSP) area. The KCP envisions that the KSP areas, including Area C, will develop with significant amounts of intense development. It is designed to be an economic engine for the City. The proposal furthers the goal of establishing this kind of envisioned intensive development in Keizer Station by providing incentives for mixed use projects as explained above. For the MU in the rest of the City, it is designed to make vacant land more attractive to development while also requiring significant improvements to further mitigation objectives.

The proposal provides the opportunity for greater shopping opportunities in Keizer as well as the opportunity for nonresidential development. In fact, the mix of uses that the MU zone

currently allows is still allowed in the MU district as it is proposed to be amended here. The important difference with the proposal is that larger format retail is also allowed, so long as it occurs in a master planned area with mixed uses other than retail and with significant mitigation.

Further, under the proposal the MU zone provides the realistic potential for the KSP area at the Chemawa interchange to be completed with the mix of uses the MU zone always allowed and that have not located in KSP Area C. Council finds persuasive the evidence in the record that a major anchor tenant is required for the KSP to function as intended with Area C (See Roodhouse December 10, 2007 letter in the record). In this regard, the MU zoned areas of Area C are a part of Keizer Station and the Regional Service Center that is Keizer Station. According, the proposal that enhances the potential for the envisioned development of the Keizer Station to occur furthers this policy. Additionally, the Council finds persuasive that a larger format store is required where significant public infrastructure investments are needed to provide enough capital investment to pay for required improvements to City water and sewer delivery systems. There is evidence in the record in this regard that residential development in Area C has been unable to move forward because of this issue. This is especially important in Area C of the KSP as the evidence in the record establishes that the transportation, water and sewer needs are beyond the capability of residential development or smaller format developments. In the absence of the proposed amendment the MU area of KSP Area C will continue to be undeveloped in contravention of this policy.

Regarding the potential for town center enhancement using the MU zone as a tool, Council notes that this does not mean the Council must impose prescriptive size limits on retail stores. As explained in the beginning of these findings, at least one other city has decided not to impose square footage limits in its "Town Center" mixed use areas, as a way to effectively encourage and support proposals for mixes of uses and town centers. The proposal is consistent with Policy 14 above because it facilitates mixed uses in the areas in which the zone already exists and provides a realistic opportunity for development of mixed uses.

C. KCP p 33 states:

"2. GOALS AND POLICIES: RESIDENTIAL DEVELOPMENT

a. General Goals

"\* \* \*

"9) Protect existing and proposed residential areas from conflicting non-residential land uses while providing for compatible mixed-use development (residential and non-residential).

The proposal is consistent with this policy. The proposal includes significant mitigation requirements to protect residential areas from nonresidential uses but at the same time allowing mixed use to occur.

D. KCP p 35 policy states:

- “19) Investigate and, when advisable, implement mixed use zoning, particularly in established neighborhoods where compatible and functional mixes of land uses are desirable.”

This policy does not apply to text amendments to the MU zone. Rather, it applies to the application of the MU zone to new areas. In other words, this policy applies to map amendment proposals, which is not at issue here. The neighborhoods that now have MU zoning within or near them is not changing under the proposal. Moreover, the mix of uses allowed in the MU zone and the footprint of a type of use – all remain the same under the proposal. The difference between the existing text and the proposal in this regard is that some of the mixed uses may include a larger format retail store use in exchange for other types of use mixed in the same area under an approved master plan. However, this does not change the fact that the same retail footprint was always allowed.

In any case, to the extent this policy is found to apply here, however, Council finds the proposal is consistent with it because of the significant mitigation measures also required and the requirement for master planning of larger format retail uses.

E. KCP at p 37-38 provides:

- “7) Keizer has three major opportunities for economic development.
- “(a) Mixed-use development (office, retail, government) in the area north of Olson Street and generally west of North River Road.
- “(b) Commercial and industrial development in the area adjacent to the Chemawa Interchange on I-5, primarily to the north of Lockhaven Drive, secondarily to the south.
- “(c) Redevelopment and in-filling of commercial development along the North River Road and Cherry Avenue corridor from the southern City limit to Olson Street.
- “10) There exists both general and specific support for commercial and industrial development at the Chemawa Interchange. Property owners owning a majority of the vacant and largely vacant land northwest of the interchange have indicated their desire to have the land zoned for industrial and commercial uses.

- “11) There exists both general and specific support for mixed-use development northwest of the interchange of Olson and North River Roads, provided any development thoroughly addresses the issue of potential flooding. Several property owners have begun preliminary feasibility studies.

The proposal is consistent with these policies. While none of these policies are mandatory approval standards, the proposal is consistent with them. This is because to the extent there is MU zoning in the areas envisioned for MU, the proposal further incentivizes achieving mixed uses there.

F. KCP p 38 provides:

“4. GOALS AND POLICIES: ECONOMIC, COMMERCIAL AND INDUSTRIAL DEVELOPMENT

a. General Goals

- 1) Broaden, improve and diversify the Keizer economy while maintaining or enhancing its environment.
- 2) Supply an adequate amount of land to accommodate new and existing businesses.
- 3) Reserve enough remaining large parcels for special developments requiring large lots.
- 4) Ensure compatibility between commercial and industrial lands and lands adjacent to them.
- 5) Provide for limited mixing of office, commercial, and industrial land uses when such mixing does not reduce the suitability of the site for the primary land use designated in the plan.
- 6) Provide the necessary public facilities and services to allow economic development.
- 7) Encourage public and private efforts to increase economic development in Keizer. To the extent possible, such development should use local capital, labor, and management.”

The proposal is consistent with these general goals. The Council notes as general goals, these policies are not mandatory approval standards.

The proposal does not change the mix of uses already allowed in the MU zone. Rather, the proposal provides a way to strongly encourage and achieve mixed uses in the existing places

where MU zoning is now applied, by ratcheting up the potential amount of allowed square footage of certain types of retail uses. This increased allotment of retail however can only occur in exchange for mixing the area with other types of uses, as well as master planning for the area and significant mitigation. This is a way to achieve financing of adequate facilities for areas that need them and encourages economic development in Keizer.

G. KCP p 41-42:

d. Area-Specific Policies

“\* \* \* \* \*

- 1) Work with landowners and developers to promote the development of a major mixed-use development northwest of the intersection of North River Road and Olson Road.
- 2) Encourage industrial and commercial development on vacant and largely vacant parcels near the Chemawa Interchange.

The proposal is consistent with these Area Specific Policies. As with several other policies and goals, Council wishes to note these are not mandatory approval standards. However, the proposal well meets their terms because to the extent MU zoning exists in these areas, the proposal significantly encourages and furthers mixing of differing uses. This is especially the case with the KSP Area C located at the Chemawa Interchange which has remained undeveloped under the existing terms of the MU zone. The proposal is designed to change that and enable the development of the MU zone in Area C with the same mix of uses always allowed, but allowing differing formats for certain retail uses in exchange for mixing the area with other types of uses under an approved master plan. Such a master plan requires greater mitigation than was previously required under the existing MU zone.

H. KCP p 43-44

c-1. Mixed Use

“1. Provide areas intended for development that combines commercial and residential uses in a single building or complex. These areas will allow increased development on busier streets without fostering a strip commercial appearance. The designation encourages the formation of neighborhood “nodes” of activity where residential and commercial uses mix in a harmonious manner. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the nonresidential uses is primarily on locally oriented retail, service, and office uses. Commercial development may occur within the same building or complex as residential development. Clusters of residential and commercial uses

around landscaping features or parking areas will also occur. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk. Parking may be shared between residential and commercial uses. “

The MU zone is not an acknowledged housing or Goal 10 zoning district. This policy does not apply. The proposal is consistent with this finding to the extent it is potentially applicable. This policy seeks only that the city provides an opportunity for certain types of mixed uses. It could only potentially be applicable here in the sense that the MU zone, both as it existed before the proposed amendment and under the proposed amendment, provides the opportunity for combined commercial and residential development. However, the proposal also continues to offer the opportunity not to mix developments whether commercial or retail. The proposal continues to offer the opportunity to mix development with retail and nonretail types of commercial developments or housing. The allowed mix and types of mixes of uses in the MU zone is not changing under the proposal. But the proposal furthers what was always there and in that respect is consistent with this policy to the extent it applies at all.

I. KCP p 45 provides:

“d. Commercial

1) Provide for retail office centers:

(a) Allowed uses are department stores, offices, other retail facilities, and medium and high-density housing.

(b) A retail-office center should:

(1) Be from 20 to 50 acres in size.

(2) Have direct access from one or more arterial streets.

(3) Be centrally located to existing and future residential neighborhoods.

(4) Provide facilities and services to Keizer as a primary market.

(5) Not encourage traffic through residential neighborhoods.

(c) A retail-office center will be located west of North River Road and north of Olson Street at the McNary Activity Center.

- 2) Provide for an employment area service center:
  - (a) Allowed uses are retail, service and office uses related to nearby industrial districts, and area commercial uses serving the traveling public such as restaurants, hotels, conference centers and shopping facilities.
  - (b) A employment area service center should:
    - (1) Be from 20 to 50 acres in size.
    - (2) Have direct access from I-5 and an arterial street.
    - (3) Provide facilities and services to adjacent industrial areas and to the traveling public.
    - (4) Not encourage traffic through residential neighborhoods.

\* \* \* \*

- (c) An employment area service center will be located near the Chemawa Interchange in the Keizer Station.”

These policies do not apply directly to the proposal. Moreover, they are written in aspirational, not mandatory, terms. Further, the text amendment to the MU zone adjusts the size and manner in which the mix of uses already allowed, will be allowed. The proposal allows for and encourages the aggregation of parcels to achieve the allowed mix of uses that were always allowed in the MU zone. The proposal does not, of itself, create a retail office center or a employment area service center. However, to the extent these policies do apply here, the proposal is consistent with them. The proposal allows for a retail office center or an employment center on a parcel developed to meet those specifications and that meets the terms of those categories. A department store is potentially allowed in the MU district so long as (where it consists of 10,000 square feet or more) a mix of other uses is also provided for in a master plan. The mitigation measures further the policy that where an employment service center is created, which may or may not occur in an MU zone, that traffic is not encouraged in residential neighborhoods. The Council notes that the KSP Area C is already a part of an Employment Service center.

J. P 51 provides the following policies:

- “7) Establish the following objectives for the McNary Activity Center.

- (a) Primary uses are retail-office center, public park and open space lands including the 50-acre lake, medium and high density residential.
- (b) \* \* \*
- (c) Encourage mixed use developments and multi-use structures. Within the district, pedestrian circulation and access should be emphasized.

These policies do not apply here. These policies relate to establishing an activity center. The City has established activity centers and the proposal does not change those designations. To the extent there is MU zoning in the activity center, the proposal is consistent with it because it provides for the same allowed use types as were always allowed but enhances the likelihood they will be developed, as well as provides for enhanced pedestrian connections and improves access through the tool of master planning.

K. P 51 provides the following policies:

“8) Establish the following objectives for the Keizer Station:

- “(a) The primary uses are regional service center, light industry, hotel/motel and supporting facilities, convention facilities, and retail shopping facilities.
- “(b) Improve access to the district and Lockhaven Drive. Coordinate transportation improvements with the industrial district to the north.”

The objectives for the Keizer Station have long been established in the KSP. To the extent this policy applies, however, the proposal is consistent with it. A significant portion of the City’s MU zoning is in the Keizer Station Area C. The proposal is consistent with this policy by furthering the potential for the uses which are objectives in this area. The MU district has sat fallow for many years. The evidence in the record establishes with the changes to the text of the MU district that are proposed here, the objectives of Keizer Station can be achieved.



## **2.107 MIXED USE (MU)**

### **2.107.01 Purpose**

The Mixed Use (MU) zone promotes development that combines a combination of differing uses (permitted or special permitted) commercial, and residential uses in a single building or complex. This zone will allow increased development on busier streets without fostering a strip commercial appearance. The zone encourages the formation of neighborhood "nodes" of activity where residential and commercial uses mix in a harmonious manner. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. (5/98)

The Mixed Use zone is intended to include a variety of uses identified in this section in relative close proximity to each other as compared to a traditional zone district in which differing uses are segregated. The emphasis of the nonresidential uses is primarily on locally-oriented retail, service, and office uses. Commercial Vertical mixed use is a building in which significant amounts of differing uses are located in the same building with different uses on different floors. While mixed use development is will consist of primarily intended to consist of retail or other businesses on the ground floor with housing or office uses on upper stories it is not required that every building within a mixed use area is developed with different uses within it. Clusters of residential and commercial uses around landscaping features or parking areas will also occur. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk. Parking may be shared between residential and commercial uses. (5/98)

The Mixed Use zone is suitable for the Medium Density Residential, Medium-High Density Residential and Mixed Use Comprehensive Plan designations. (5/98)

### **2.107.02 Permitted Uses**

The following uses, when developed under the applicable development standards in the Zoning Ordinance, are permitted in the MU zone:

- A. **One or more buildings with one or more dwelling units** or guest rooms on a lot. (5/98)
- B. **One or more buildings with one or more dwelling units** or guest rooms and one or more other uses allowed in this section on a lot. (5/98)
- C. **Residential homes** and facilities. (5/98)
- D. **Child day care service**, including family day care provider. (5/98)

- E. **Public parks, playgrounds, community clubs** including swimming, tennis and similar recreational facilities, and other public and semi-public uses. (5/98)
- F. **Public or private utility substation**, but excluding electrical substation. (5/98)
- G. **Landscape counseling and planning (078)**. (5/98)

H. **Transportation, Utilities and Communication**. (5/98)

- 1. **Travel agency (4722)**. (5/98)
- 2. **Communication (48) BUT EXCLUDING** communication services, not elsewhere classified (489). (5/98)
- 3. **Public utility** structures and buildings. (5/98)

I. **Retail Trade:**

~~1. Outside of Area C of the Keizer Station: The following retail commercial uses are allowed:~~

- ~~a.1. **General merchandise stores** provided all displays is within a building and further provided the gross floor area shall not exceed 10,000 square feet (53). (5/98)~~
- ~~b.2. **Food stores** provided all display is within a building and further provided the gross floor area shall not exceed 10,000 square feet (54). (5/98)~~
- ~~c.3. **Apparel and accessory stores** and further provided the gross floor area shall not exceed 10,000 square feet (56). (5/98)~~
- ~~d.4. **Home furnishing, appliance and equipment stores** provided all display is within a building and further provided the gross floor area shall not exceed 10,000 square feet (57). (5/98)~~
- ~~e.5. **Eating and drinking places** and further provided the gross floor area shall not exceed 10,000 square feet (58). (5/98)~~
- ~~f.6. **Retail, miscellaneous (59)** provided all display is within a building and further provided the gross floor area shall not exceed 10,000 square feet (59) BUT EXCLUDING non-store retailers (596) and fuel and ice dealers (598). (5/98)~~

2. Within Area C of the Keizer Station: One building is allowed to exceed the 10,000 square foot limit, however it shall not exceed 120,000 square feet, and must be located as approved in a master plan for Area C. The Keizer Station Plan has a maximum total floor area of 135,000 square feet in Area C shall apply the uses identified in Sections 2.107.02 (F), (G), (H), (I), (J), and (K):

Except as allowed under Section 2.107.05.B, the following retail uses shall be limited to buildings of 10,000 square feet or less:

- a. **General merchandise stores (53).** (5/98)
- b. **Food stores (54).** (5/98)
- c. **Apparel and accessory stores (56).** (5/98)
- d. **Home furnishing, appliance and equipment stores (57).** (5/98)
- e. **Eating and drinking places (58).** (5/98)
- f. **Retail, (59) BUT EXCLUDING non-store retailers (596) and fuel and ice dealers (598).** (5/98)
- g. Uses listed in 2.107.02.I. a through f if developed in a vertical mixed use development shall not be considered as a specified use in 2.107.05.-GE.

J. **Business, Professional and Social Services:** The following business and professional and service oriented uses are allowed:

- 1. **Finance, insurance and real estate (60, 61, 62, 63, 64, 65, 67).** (5/98)
- 2. **Hotels, motels and lodging facilities (701).** (5/98)
- 3. **Personal services (72) BUT EXCLUDING:** power laundries, family and commercial (7211), linen supply (7213), dry cleaning plants, except rug cleaning (7216), carpet and upholstery cleaning (7217); and industrial laundries (7218). (5/98)
- 4. **Business services (73) BUT EXCLUDING** disinfecting and exterminating services (7342), building and cleaning services (7349), and equipment rental (735). (5/98)
- 5. **Watch, clock and jewelry repair (763).** (5/98)
- 6. **Recreational or athletic clubs.** (5/98)

7. **Health services (80) BUT EXCLUDING hospitals (806).** (5/98)
8. **Legal services (81).** (5/98)
9. **Miscellaneous services (89).** (5/98)
10. **Community or neighborhood clubs.** (5/98)
11. **Parking lots.** (5/98)
12. **Pet Grooming** (6/01)

K. **Public administration (91 - 97).** (5/98)

**2.107.03 Special Permitted Uses**

The following uses, when developed under the applicable development standards in the Ordinance and special development requirements, are permitted in the MU zone:

- A. **Partitions**, subject to the provisions in Section 2.310. (5/98)
- B. **Subdivision**, subject to the provisions in Section 2.310. (5/98)
- C. **Planned unit development**, subject to the provisions in Section 2.311. (5/98)
- D. **Accessory structures** and uses prescribed in Section 2.203.02. (5/98)
- E. The following special uses subject to the applicable standards in Section 2.4:
  1. **Shared housing facilities** (Section 2.403). (5/98)
  2. **Zero side yard dwelling** units (Section 2.404). (5/98)
  3. **Home occupations** (Section 2.407). (5/98)
  4. **Bed and breakfast** establishments (Section 2.408). (5/98)
  5. **Residential sales offices** (Section 2.409). (5/98)
  6. **Public golf course** (SIC 7992) or membership recreation club having golf course (SIC 7997) (Section 2.410). (5/98)
  7. **Boat and RV storage** area (Section 2.411). (5/98)
  8. **House of Worship** (Section 2.423). (5/98)

- 9. **Recreational vehicle storage** space (Section 2.413). (5/98)
- 10. **Electrical substations** (Section 2.426). (5/98)
- 11. **Wireless Telecommunications Facilities** (Section 2.427). (5/98)
- 12. **Transit Stations.**

**2.107.04 Conditional Uses**

The following uses may be permitted subject to obtaining a conditional use permit:

- A. **Craft Industries**, subject to the provisions in Section 2.421. (5/98)

**2.107.05 Use Restrictions**

~~A. The following uses are not permitted: No permitted or special permitted use shall in any way involve any of the following:~~

- ~~A.1. Farm Use. (5/98)~~
- ~~B.2. The rendering, processing, or cleaning of animals, fish, seafoods, fowl, poultry, fruits, vegetables, or dairy products for wholesale use. (5/98)~~
- ~~C.3. Any outdoor display or storage of merchandise or materials unless consistent with Section 2.107.05.B.7. (5/98)~~
- ~~4. Camping or over-night in parking lots.~~

~~B. Within Area C of the Keizer Station A building greater than 10,000 square feet of gross leasable area shall. Retail uses as set forth in Section 2.107.02(I) are limited to buildings not exceeding 10,000square feet of gross leasable area except as provided herein. Such retail uses over 10,000 square feet may be permitted as allowed in an approved master plan subject to meeting the following requirements:~~

- ~~1. In addition to the requirements in Section 2.309 (Site and Landscaping Design), provide increased screening and buffering when any portion of the building is located adjacent (as defined in Section 1.200) to existing or planned residential areas so as to adequately screen the building.~~
- ~~2. In addition to the requirements in Section 2.107.06(B), provide increased building setbacks when any portion of the building is located adjacent (as defined in Section 1.200) to existing or planned residential areas.~~

3. In addition to the requirements in Section 2.315.08, provide increased additional architectural features such as the use of three differing materials, color, textures, on building facades facing all that are visible from a oriented to public street so as to minimize the effect of large blank walls. In addition, there shall be varying building articulation and jogs so as to avoid building walls of a single plane. The elevations of all buildings shall be varied in textures, and material and shall incorporate human scale design elements. Elevations of all buildings shall incorporate no more than fifteen feet between varied vertical elements such as materials, patterns and textures, architectural features such as columns, projections, and differing planes shall be used liberally with no greater than 22 feet between such features. Materials shall be varied at the same frequency as the architectural elements. These materials shall incorporate cultured stone, split face Concrete mortar units (CMU's), as well as smooth faced CMU walls.
4. Locate and design the building to substantially comply with an adopted master plan consistent with the same criteria indicated for the Keizer Station Master Plan approval process.
- 4.5. Include architectural features that reflect those of the remainder of the building around any outdoor garden / nursery area to include such things as hard walls, windows and awnings.
6. Have at least 25% of the building dedicated to the sale of groceries and related merchandise typically sold in a full line supermarket.
6. Allow only 1 b Buildings in Area C may to may exceed 10,000 square feet in size as defined in Section 2.107.02.I above .05 .D below.
5. Limit any outdoor display or storage of merchandise to the area adjacent to the building.
6. Direct Orient lighting so as to avoid causing glare onto adjacent properties and be generally low in height, light sources shall not be visible beyond development boundaries.
7. Provide mitigation measures that address adverse traffic and livability impacts in the surrounding neighborhood. This will include such things as enclosing all service equipment and service areas and any other issues identified in a master plan or traffic impact analysis. requiring street improvements including curb, gutter, and 6' sidewalks on all arterials supporting the development within 1/2 mile of the development, and providing ample on-site pedestrian/bicycle access and facilities.

8. Drive-thru businesses shall have the drive-thru oriented away from both existing and planned residential areas.

~~C. A limitation of the total floor area for specified uses applies to all of Area C – Keizer Station Center of the Keizer Station Plan. A maximum total floor area of 135,000 square feet shall apply to the uses identified in Sections 2.107.02 (F), (G), (H), (I), (J), and (K). (12/03)~~

~~C.D. A building is allowed to exceed the 10,000 square foot limit subject to master plan approval. However it shall not exceed 80,000-120,000 square feet of gross leasable area, except as allowed herein. For each square foot of vertical mixed use development the building size limitation can be increased above 80,000 square feet by an equivalent amount. A minimum 25% of the gross leasable floor area within a MU zone shall be developed to allow require for mixed use development as herein described.~~

C. A retail building of the type described in Section 2.107.02(I) is allowed to exceed the 10,000 square foot limit subject to Master Plan approval and compliance with all requirements of this Chapter.

D. Larger Format Stores.

1. Retail buildings of the type described in Section 2.107.02(I) that exceed 10,000 square feet ("Larger Format Stores") require the development of non-retail/non-single family home uses in the Master Plan area that have a total square footage of at least 25% of the gross leasable area of the Larger Format Store. As used herein, "non-retail" shall mean uses other than those listed in Section 2.107.02(I).
2. Larger Format Stores in excess of 80,000 square feet of the type described in Section 2.107.02(I) shall meet the requirement set forth in Subsection D(1) above. In addition to such requirement, for each square foot of vertical mixed use development in the Master Plan area, the Larger Format Store can be increased above 80,000 square feet by an equivalent amount. The mixed use square footage requirements of Subsection D(1) and this Subsection cannot be combined.
3. The development required in Subsections D(1) and D(2) above shall take place in the same Master Plan area. The approved Master Plan shall be conditioned to require such development to be constructed before or concurrently with the Larger Format Store.

D. For buildings over 10,000 square feet but under 80,000 square feet a minimum 25% of the gross leasable floor area shall be constructed for non-retail uses in the same master plan area.

E. A limitation of the total floor area for specified uses applies to all of Area C – Keizer Station Center of the Keizer Station Plan. A maximum total floor area of 135,000 square feet shall apply to the uses identified in Sections 2.107.02 (F), (G), (H), (I), (J), and (K).

F. Proposals to develop properties within Area C of the Keizer Station shall comply with Master Plan requirements outlined in Section 3.113, and also with requirements specified in 2.107.05.G.1 through 6 below..

G. Proposals to develop properties outside of Area C of the Keizer Station shall require approval of a Master Plan and compliance with the following: (2/03)

1. Pedestrian Access, Safety and Comfort (2/03)

a. To ensure safe, direct, and convenient pedestrian circulation, development shall provide a continuous pedestrian and/or multi-use path system. (2/03)

b. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas wherever possible. (2/03)

c. Pathways with developments shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets and parking areas. (2/03)

d. For all developments subject to Master Plan review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable. (2/03)

e. Recessed entries, canopies, and/or similar features shall be used at the entries to a building in order to create a pedestrian scale. (2/03)

f. The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines. (2/03)

2. Vehicular Movement (2/03)

a. Encourage traffic to enter and exit the development at locations in a safe manner. (2/03)

3. Crime Prevention and Security (2/03)

Crime prevention shall be considered in the site design through application of all of the following guidelines: (2/03)



- a. Territoriality – All proposed building entrances, parking areas, pathways and other elements are defined with appropriate features that express ownership. For example, landscaping, fences, pavement treatments, art and signs are some physical ways to express ownership through design. Such features should not conflict with the need for natural surveillance, as described in b.; and (2/03)
- b. Natural Surveillance – The proposed site layout, building and landscape design promote natural surveillance. Physical features and activities should be oriented and designed in ways that maximize the ability to see throughout the site. For example, window placement, the use of front porches or stoops, use of low or see-through walls, and appropriate use of landscaping and lighting can promote natural surveillance. Sight-obscuring shrubs and walls should be avoided, except as necessary for buffering between commercial uses and lower density residential districts, and then shall be minimized; and (2/03)
- c. Activity Support – The proposed site layout and building design encourage legitimate activity in public spaces. For example, locating outdoor seating in areas that are visible from inside a restaurant helps to discourage crime and supports the activity of dining; and (2/03)
- d. Access Control – By properly siting and designing entrances and exits (i.e., in clear view from the store), and through the appropriate use of lighting, signs and/or other features, the proposed plan controls access in ways that discourage crime; and/or (2/03)
- e. The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines. (2/03)

#### 4. Reduced Parking (2/03)

Reduce or waive minimum off-street parking standards. The applicant may request a reduction to or waiver of parking standards based on a parking impact study. The study allows the applicant to propose a reduced parking standard based on estimated peak use, reductions due to easy pedestrian accessibility; availability of transit service, and likelihood of car pool use; and adjacent on-street parking. The parking study is subject to review and approval or modification by the City. (2/03)

#### 5. Creating and Protecting Public Spaces (2/03)

- a. The development provides an appropriate amount of public space as determined by the City Council in addition to sidewalks and landscaping. (2/03)
- b. Public space may be a landscaped open space or plaza with pedestrian amenities, as approved by the City Council. (2/03)

6. Human Scaled Building Design (2/03)

Building facades are designed to a human-scale, for aesthetic appeal, pedestrian comfort, and design character of a development. The City Council may determine architectural character, continuity of building sizes, roof forms, rhythm of window and door spaces and the general relationship of buildings to public spaces such as street, plazas, other open space and public parking. (2/03)

The proposal contains an equally good or superior way to achieve the intent of the above criterion and guidelines. (2/03)

In addition, the provisions within Section 3.113.05 apply.

**2.107.06 Dimensional Standards**

A. Minimum Lot Dimension and Height Requirements

DIMENSION	Single Family	Duplex or Multi-Family	Commercial	Mixed Use
Lot Size	4,000 sq. ft. (1)	6,000 sq. ft. (2)	None (3)	None (3)
Average Width	40 feet	50 feet	None	None
Average Depth	70 feet	80 feet	None	None
Maximum Height	35 feet	50 feet	50 feet	50 feet

- (1) *A single family dwelling attached on one side has a minimum lot area of 3500 square feet, and a single family dwelling attached on both sides has a minimum lot area of 3000 square feet. (5/98)*
- (2) *Multi-family development must comply with the density standard in Section 2.107.07.1 (06/07)*
- (3) *Parcel size shall be adequate to contain all structures within the required yard setbacks. (06/07)*

(4) Height of vertical mixed use development may exceed this limitation without a concurrent variance and maximum height will be determined during master plan process.

B. Minimum Yard Setback Requirements

SETBACKS	Single Family or Duplex	Multi-Family	Commercial	Mixed Use
Front	10 feet	10 feet (1)	10 feet (1)	10 feet (1)
Side	5 feet (2)	10 feet	(4)	(4)
Rear	(3)	(3)	(4)	(4)
Street-side (4)	10 feet	10 feet	10 feet	10 feet
Garage entrance (5)	20 feet	20 feet	20 feet	20 feet

- (1) For all MU zoned property fronting Cherry Avenue south of Manbrin Drive the minimum setback shall be 5 feet and the maximum shall be 10 feet for yards adjacent to Cherry Avenue. The maximum setback shall apply to the primary wall of the building. Indentations in the primary wall, such as alcoves, courtyards, etc. have no maximum setback. (5/98)
- (2) Zero side yard dwelling units are subject to the setback provisions in Section 2.404. (5/98)
- (3) The rear yard setback shall be as follows: 14 feet for a 1-story single family home, duplex, or multi-family building; 20 feet for a 2-story single family home, duplex, or multi-family building. Setbacks are to be measured from the architectural rear of the building regardless of the building's orientation to the property lines. (06/07)
- (4) The rear and side yard setbacks adjacent to a residential zone shall be no less than the minimum rear yard setback of the zone on the adjacent property. In no case shall the setback be less than 10 feet, except there is no required setback adjacent to a non-residential zone. (5/98)
- (5) Setbacks are measured from property lines, not easement lines. However, no structure shall be placed any closer than five feet from the edge of an access easement or 20 feet from the right-of-way of an arterial or collector street. (5/98)
- (6) The garage entrance setback shall be measured from the property line or edge of private access easement to the entrance of the garage. The centerline of the driveway shall be measured if the driveway to the garage entrance is not perpendicular to the property

*line or private access easement. In no case shall a garage be set back less than the minimum front, side, and rear setbacks. (5/98)*

**2.107.07 Development Standards**

All development in the MU Zone shall comply with the applicable provisions of this Ordinance. The following includes referenced items as well as additional development requirements:

- A. **Off Street Parking:** Parking shall be as specified in Section 2.303. (5/98)
- B. **Design Standards -** Unless specifically modified by provisions in this Section, buildings located within the MU zone shall comply with the following standards: (5/98)
  - 1. Single family homes shall comply with the design standards in Section 2.314. (5/98)
  - 2. Residential structures with four or more attached dwelling units and non-residential structures shall comply with the provisions in Section 2.315 - Development Standards. (5/98)
  - 3. For MU zoned property fronting Cherry Avenue south of Manbrin Drive; residential use shall occupy no less than 35% and no more than 65% of the building floor area on any property. (5/98)
- C. **Subdivisions and Partitions:** Land divisions shall be reviewed in accordance with the provisions of Section 2.310. (5/98)
- D. **Yards and Lots:** Yards and lots shall conform to the standards of Section 2.312. (5/98)
- E. **Signs:** Signs shall conform to the requirements of Section 2.308. (5/98)
- F. **Accessory Structures:** Accessory structures shall conform to requirements in Section 2.313. (5/98)
- G. **Landscaping:** All required yards shall be landscaped. Landscaped areas shall be landscaped as provided in Section 2.309. The minimum landscaped area requirements shall be as follows: (5/98)
 

Commercial development:	15%
Mixed commercial and residential development:	20%
Residential development:	25%
- H. **Lot Coverage:** The maximum coverage allowed for buildings, accessory structures and paved parking shall be as follows: (5/98)

Commercial development:	85%
Mixed commercial and residential development:	80%
Residential development:	75%

I. **Density:**

1. For property zoned MU as identified in the Keizer Station Plan, the minimum density for subdivisions, partitions, multi-family or any residential development shall be a minimum 8 units per acre and a maximum 24 units per acre, except there shall be no minimum residential density requirement for multi-family development within a mixed use building. (12/03)
2. The minimum density for multi-family development shall be 8 units per acre; the maximum density shall be 24 units per acre, except there shall be no minimum residential density requirement for multi-family development within a mixed use building.

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