

Comments to Technical Committee Report on amendments to Comprehensive Plan and Zoning Code (LAND-2015-02261)

DATE: 10-Feb-2016

TO: Planning Commission

FROM: Eugene Zakhareyev, Friends of Overlake

The applicant thanks Technical Committee for research into feasibility of implementing amendments as proposed and alternative solutions. However the applicant respectfully disagrees with the committee recommendation to deny the amendments.

The applicant firmly believes that the proposed amendments will contribute to more rigorous land use development process in the City of Redmond and Overlake neighborhood and will better protect the residents in existing residential neighborhoods while allowing variety of non-residential uses thereof.

About the applicant: the amendment was submitted by Friends of Overlake group, group of over 100 residents in Overlake neighborhood. Initial proposal and comments were presented and discussed on the group FB page.

Applicants' response to Technical Committee report

The document below addresses Technical Committee report, discussing each amendment proposed separately.

Amendment "to require all non-residential uses within Residential zones be reviewed through a Conditional Use Permit (CUP) process"

The applicant believes that the alternative amendment proposed by the Technical Committee *(to require a neighborhood meeting for three non-residential uses in Residential zoned areas including A) Community indoor recreation; B) Parks, open space, trails and gardens; and, C) Religious institutions with fewer than 250 seats)*, by requiring public meeting for these uses instead of Type IV (CUP) review process falls short of the original amendment intended goal.

The goal of the proposed amendment is to allow Redmond residents to participate in a more transparent process, where the decision on land use development impacting lives of many is made by the city's elected officials in a public hearing (rather than by the city staff in a closed meeting as is the case with Type II permits), and takes into consideration public testimony. The fact that the decisions in CUP process are quasi-judicial and discretionary and are made by the City Council is vital to improving the public's role in the process and is a key point of the amendment. Introducing public meeting into Type II process does not achieve the intended effect.

Additionally, while the Technical Committee report agrees that the proposed amendment is in line with state, county and the city of Redmond general policies and development goals, the report argues that implementing the proposal would incur additional monetary and time costs deterring permitted non-residential development in residential areas.

The applicant agrees with the report that *all* non-residential uses currently requiring Type II permitting process are not equally impactful and is willing to limit the proposed amendment to *(quote the report): "[three non-residential uses] when an applicant proposes either a new use or a substantial improvement to an existing use that would increase the capacity for people to gather"*.

For those uses (to wit A) Community indoor recreation; B) Parks, open space, trails and gardens; and, C) Religious institutions with fewer than 250 seats), the applicant believes that the changes in the process are justified, as such land uses affect much larger residential population. The report concentrates on additional costs of development, quoting, for example, additional signage cost of \$400, completely leaving out the costs for the public, should Type II decision be challenged by the city resident(s). To illustrate the costs of appeal, the land use attorneys

typically charge from \$300 per hour, and traffic study review by the traffic engineer will incur costs of thousands dollars.

Hence the applicant believes that while reviewing potential impact of the changes in permitting process, the Technical Committee should not only concern themselves with the costs to developer, but also with the costs to the city residents during the process, and the potential costs to the developer, city and the residents in case of appeals.

The Technical Committee report states that *“the Comprehensive Plan supports the location of non-residential uses within residential zones, recognizing that having schools, parks, religious institutions, home businesses and day cares nearby is important for residents’ access to these services and contributes to the fabric of a community”*. The applicant wholeheartedly agrees that having multitude of services is important to the community; but such uses as parks, recreation centers and religious establishments tend to serve much wider communities than immediate nearby residents, with the residents bearing the majority of nuisances such as parking issues, increased non-local traffic and additional traffic congestion.

Based on the Technical Committee report findings, the applicant believes that the proposed amendment can be changed to include only three non-residential uses that would require Type IV (CUP) review process, specifically A) Community indoor recreation; B) Parks, open space, trails and gardens; and, C) Religious institutions with fewer than 250 seats. That would address the Technical Committee concerns about monetary and time cost increases for majority of the uses while still protecting the interests of the residents in cases of impactful uses.

The applicant also believes that using Type III review process may provide viable alternative to additionally address the Technical Committee costs concerns.

The applicant believes that suggested compromise will address the concerns expressed in the Technical Committee report while retaining the spirit of originally submitted amendment.

The applicant disagrees with the Technical Committee proposed alternative of requiring neighborhood meeting for three non-residential uses as part of Type II review process as it does not serve the stated goals of the submitted amendment.

Further below the applicant presents in depth rebuttal of the statements made in the Technical Committee report to support the proposition above.

In the section below, the applicant addresses “Factors considered and alternatives” portion of the Technical Committee report, specifically subsections

Process differences

The applicant agrees with the Technical Committee that Type IV permitting process represents additional expense for the developer in land use application process, however the city has duty not only to the developer but to its residents as well. As such, more transparent process involving general public and elected officials instead of administrative process serves both the community and ultimately the developer by preventive unnecessary litigation on later stages.

The applicant agrees with the Technical Committee that there are three non-residential uses that represent major risk to the existing residential community that would warrant more public process, specifically

- 1) community indoor recreation
- 2) parks, open space, trails and gardens
- 3) religious institutions with less than 250 seats

As those uses may have major impact on day-to-day quality of life of the residents as well as on potential values of the existing residences, the applicant believes that the increase in time\costs in permitting process is justified by the benefits all parties gain in process that involves public and elected officials.

Issues in terms of impacts

The Technical Committee references the research performed by the city staff to identify the non-residential uses impact on the communities, and claims that the said research did not identify major issues in such uses.

As the specific research is not part of the report, the applicant lacks the ability to review the findings. However, the applicant did interview Redmond residents in vicinity of existing non-residential developments and found that there are cases where the city’s assertions are at odds with the residents’ observations.

Additionally, the city did not identify specific statistics as to mitigations of the impacts of non-residential uses in residential areas. If the Technical Committee report intends to show that non-residential uses in residential areas have negligible or easily addressable effect on the lives of the residents, such statistical data is needed.

Current review process and opportunity for public input

The Technical Committee report recommends adding mandatory neighborhood meeting to the existing Type II process for three non-residential uses identified above and claims that will serve to support more transparent process.

The applicant disagrees with the Technical Committee position for following reasons

- The residents are able to submit comments to the city using the current process
- The city is not obligated to address the comments submitted, and the proposed meeting does not change that

The proposed amendment makes sure that the public comments are addressed properly via CUP process; and that will include public meeting by the virtue of the process as it is defined today.

Reasoning to require meetings for three non-residential uses only

The Technical Committee report recommends adding mandatory neighborhood meeting to the existing Type II process only for three non-residential uses identified above due to the high impacts those uses may have in residential neighborhoods.

The applicant agrees that it is possible to identify three non-residential uses that may have the greatest impact on residential areas and that currently follow Type II permitting process. However the applicant disagrees that the neighborhood meeting is the proper way to mitigate the potential impact and insists that CUP process provides both needed transparency and public involvement.

Another review process option

The Technical Committee report discusses using Type III permitting process instead of CUP (Type IV) process for non-residential uses in residential areas. The applicant believes that Type III process may be viable alternative as it is a process that involves public and the decision is made by the third party (Hearing Examiner) based on facts and public testimony.

The applicant again disagrees with the Technical Committee that the fact the decision on impactful land uses becomes quasi-judicial and discretionary is detrimental, and believes that this will benefit the residents and developers alike in providing fair transparent process that takes into account needs of all parties involved.

In the section below, the applicant addresses “Additional supporting analysis” portion of the Technical Committee report, specifically subsections

GMA compliance

The Technical Committee report alleges that proposed amendment contradicts planning goal #7 of GMA. The goal states “(7) *Permits. Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.*” The applicant believes that the amendment does not interfere with the permitting as it does not introduce new arbitrary practice. CUP is defined in Redmond Zoning Code and serves to provide fair handling of land use applications that may have significant effect not only on the property being developed but on neighboring properties as well as other residents of the city of Redmond.

Additionally, the proposed amendment supports goal #11 of GMA “(11) *Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.*” CUP provides for transparent process in cases where public welfare may be affected.

Redmond Comprehensive plan

The proposed amendment supports Redmond development goals, specifically:

- *To retain and enhance Redmond’s distinctive character and high quality of life, including an abundance of parks, open space, good schools and recreational facilities*

Who is better judge of the existing community character than the neighborhood residents? The proposed amendment allows the residents to participate in permitting process, and proposed permitting process takes into account the public opinion on proposed developments.

- *To cultivate a well-connected community, working together and with others in the region to implement a common vision for Redmond’s sustainable future.*

Transparent decision making process with public involvement will support community sense of togetherness and will work on involving residents into the process.

Moreover, the amendment supports range of the city policies listed below.

Framework policies

FW-21 Strengthen ongoing dialogue between each neighborhood and City officials.

FW-22 Make each neighborhood a better place to live or work by preserving and fostering each neighborhood’s unique character and preparation for a sustainable future, while providing for compatible growth in residences and other land uses, such as businesses, services or parks.

Land use policies

LU-30 Allow some compatible nonresidential uses in Residential zones, such as appropriately scaled schools, religious facilities, home occupations, parks, open spaces, senior centers and day

care centers. Maintain standards in the Redmond Zoning Code for locating and designing these uses in a manner that respects the character and scale of the neighborhood.

Compatible growth (emphasis in quotation added) is assured via transparent decision making process, public involvement during the process makes sure that the character of the neighborhood is respected and retained.

Contrary to the Technical Committee report claims (*“proposed amendments could interfere with the provision of land uses and services by making the review process longer and more costly and by resulting in fewer potential places for non-residential uses”*), allowing public to have its say during the permitting process and involving elected officials in actual decisions will not result in fewer places for allowed non-residential uses, but will make sure that such uses will fit with the community and will be truly welcomed by the residents, rather than resulting in costly litigation involving the city, developers and concerned citizens.

The applicant maintains that the proposed amendment fully supports Redmond Comprehensive plan policies and serves to evolve Redmond Zoning Code to protect existing residential community values while allowing compatible and properly scaled non-residential uses.

Potential general impacts to the capacity of public facilities and services. Potential economic impacts

The applicant believes that involving the community in decision making and using transparent process is cost-effective and proper way of using the resources. The changes in process will serve to build relationship of trust between the city and its residents and may result in decrease in number of appeals, thus saving even more city resources.

Amendment “to extend the height limit overlay area of the OBAT zone by 300 feet into nearby residential zones”

The Technical Committee report recommends denying the amendment on the grounds that extending overlay may “*interfere with the location of non-residential uses in Residential zones by not allowing height exceptions for uses which are governed through Special Regulations specific to the use, such as religious institutions and communications structures*” as well as claims that such extended overlay will be inconsistent with the zoning code elsewhere in the city.

OBAT overlay area purpose is to limit the height of the buildings in transition areas between Overlake employment area and established residential neighborhood. The Technical Committee report recommendation concentrates on the fact that the current overlay is set for commercial construction, however the focus of the amendment submitted is on overlay stated *purpose* and the reason it exists, namely protection of established residential Overlake neighborhood. The applicant finds it extremely logical that the same standard should apply to both sides of the streets [that represent the natural boundaries of OBAT area].

Allowing exceptional heights on residential side of OBAT border makes overlay stated purpose unattainable, by allowing new structures on the boundary of OBAT area that are higher than what overlay currently allows. The proposed amendment fixes that by setting the maximum height uniformly in transition area both on OBAT and residential area sides.

Additionally, overlay is by definition a special district applying stricter standard in the area where such standard is desired. As such, OBAT transition overlay applies to Overlake neighborhood alone and modifying it does not introduce additional inconsistencies into the zoning code.

To: Planning Commission Members

Subject: Zakareyev Amendment to the Redmond Comprehensive Plan

Project File Number: LAND-2015-02261

Date: February 10, 2016

Dear Planning Commission Members:

Eugene Zakareyev, on behalf of the Friends of Overlake Neighborhood Group, proposed two amendments to the Redmond Comprehensive Plan.

The Zakareyev Amendment had two parts. One part would require that all proposed non-residential uses in Residential Zones obtain a Conditional Use Permit. The second part extends the height limits in the Overlake Building and Technology (OBAT) into the adjacent residential neighborhood.

On January 11, 2016, I submitted comments on this proposal noting my objection to the requirement for Conditional Use Permits in Residential Zones for all non-residential uses because I felt that it would add a layer of bureaucracy and cost that was unnecessary. Additionally, it would apply to all residential neighborhoods in Redmond, including my neighborhood on Education Hill. I did not comment on the OBAT amendment.

The Zakareyev Amendment was processed as a single amendment. It seems that there should have been two separate amendments submitted by the same proponent, but processed separately. This administrative decision has created confusion.

In the January 15, 2016 Technical Committee Report for these amendments, the report recommended that both parts of the amendments be denied. It also recommended that Redmond Zoning Code be amended to require a neighborhood meeting for three non-residential uses in Residential zoned areas including A.) Community indoor recreation; B.) Parks, open space, trails and gardens; and, C.) Religious institutions with fewer than 250 seats.

RZC 21.76.060 (F) states that when the Technical Committee makes a recommendation on a Type VI Review, they can recommend that the amendment be APPROVED, APPROVED WITH CONDITIONS, or DENIED.

If the amendments are being DENIED, then there can be no further conditions or recommendations.

However, the recommendation by the Technical Committee that the amendments be denied can be overturned by the Planning Commission, in which case, the Planning Commission can approve one or both of the amendments.

It is not clear which amendment the additional conditions requiring neighborhood meetings should be attached to. In the event that the Planning Commission recommends that the Redmond City Council approve one or both parts of the Zakareyev Amendment and also recommends that the Redmond Zoning Code be amended to include the neighborhood meetings, I would like to request that the recommendation for neighborhood meetings be processed as a separate Type VI Permit because it is substantially different from the original amendments.

I am particularly concerned that requiring neighborhood meetings for non-residential uses would significantly affect our ability to develop and maintain park trails, especially in the newly acquired Keller Farm and also in Hartman Park. I am also concerned that requiring neighborhood meetings for religious institutions would interfere with our right to practice our religions and to assemble. Also note that RZC 21.76.070(J)(2)(b)(iii) requires that Comprehensive Plan amendments be consistent with existing local, state and federal laws. I question whether the neighborhood meeting as it applies to religious institutions would be in compliance with the law.

Thank you for considering my comments,

Susan Wilkins
18024 NE 99th Ct
Redmond, WA 98052

Attachment: RZC 21.76 Review Procedures

RZC 21.76 Review Procedures

21.76.050 PERMIT TYPES AND PROCEDURES

1. **Purpose.** The purpose of this chapter is to provide detailed administrative review procedures for applications and [land use permits](#) classified as Types I through VI.
2. **Scope.** Land use and [development](#) decisions are classified into six processes based on who makes the decision, the amount of discretion exercised by the decision maker, the level of impact associated with the decision, the amount and type of input sought, and the type of appeal opportunity...

Table 21.76.050A notes that Type VI permits have "Potential for greatest level of impact due to changes in regulation or policy. Greatest level of discretion [is expected.]"

Table 21.76.050B notes that there are 3 Permit Types that require the Type VI decision:

- Comprehensive Plan Map and/or Policy Amendment
- Zoning Code Amendment (text)
- Zoning Code Amendment (that requires a Comprehensive Plan Amendment)

Figure 21.76.050F / Flow Chart for Type VI Process (see flow chart on next page) shows the steps that have occurred for the Zakareyev Comprehensive Plan Amendment that is under review.

- 1.) The SEPA Determination of Non-significance was issued on December 28, 2015.
- 2.) The Technical Committee Recommendation to the Planning Commission was published on January 15, 2016. RZC 21.76.060 F applies to this recommendation.
- 3.) Study Session - was scheduled for January 27, 2016. (Rescheduled for Feb 10.)
- 4.) Planning Commission Public Hearing - Feb 10, 2016.

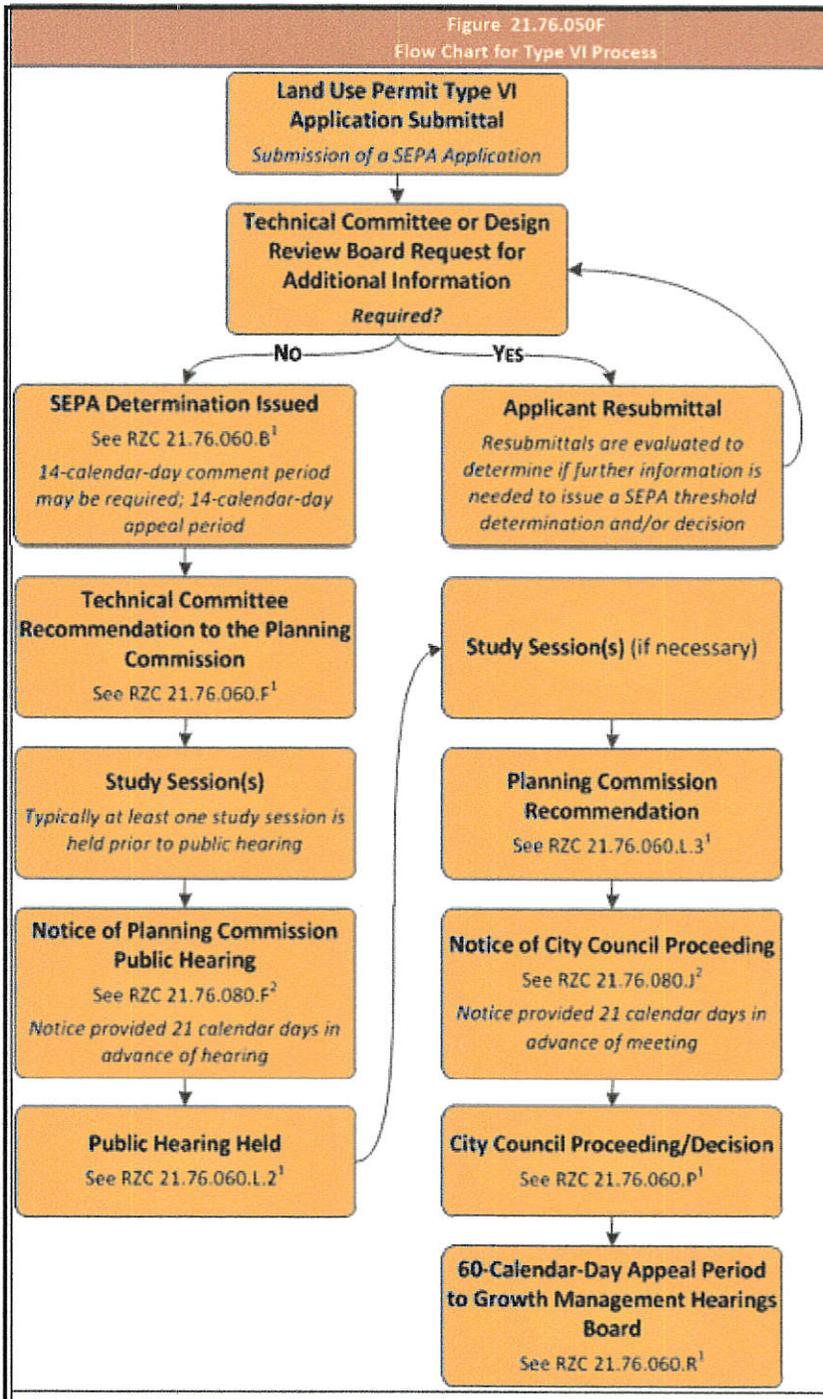
21.76.060 PROCESS STEPS AND DECISION MAKERS

F. Technical Committee Recommendations on Type VI Reviews.

The Technical Committee shall make a recommendation to the... Planning Commission for all Type VI Reviews. The Technical Committee's recommendation shall be based on the decision criteria for the application set forth in the RZC, and shall include any conditions necessary to ensure consistency with the City's development regulations. Based upon its analysis of the application, the Technical Committee may recommend:

- approval,
- approval with conditions or with modifications, or
- denial.

Note that there is no provision for denial with conditions or modifications.



21.76.070 Land Use Actions and Decision Criteria

J. Comprehensive Plan and Policy Amendments

(2)(b.)(iii.) The proposed Comprehensive Plan amendment is consistent with existing local, state, and federal laws;