AGENDA REPORT

DATE: October 28, 2013

TO: Planning Commission

FROM: Mike Smith, Community Development Director MS

RE: **PUBLIC HEARING – Legislative**
- **Final Draft Land Development Code (LDC) Update**

NOTE: The final draft Land Development Code (LDC) document referenced below as Exhibit 'A' is nearly 400 pages long and cannot be physically attached to this Agenda Report. It is therefore incorporated by reference into this Agenda Report as if set out in full and will be entered into the public hearing record as such. The complete document can be reviewed or downloaded on the City's webpage at http://www.ci.ellensburg.wa.us/index.aspx?NID=395. CDs containing the document may also be obtained from the Ellensburg Community Development Department at 501 N. Anderson, Ellensburg, Washington. And hard copies will be available for review at the Community Development Department and at the City Library, 209 North Ruby Street.

Summary: In 2010 City Council directed that the land development code be completely updated. Based on Council direction provided in response to comments on earlier drafts by the Planning Commission, Landmarks and Design Commission, individual Councilmembers, and the public, a final draft of the Land Development Code (LDC) Update has been prepared. (Exhibit 'A') The Planning Commission has set a public hearing for November 6, 2013 to receive public comment on the final draft and to then make a formal recommendation to City Council on that final draft.

Background: The City has been working for three-plus years to completely revise and update its land development codes in order to:

- Update currently outdated codes;
- Reflect current best planning practices;
- Remove and/or correct inconsistencies and conflicting code language;
- Help implement the 2007 Comprehensive Plan Update; and
- Consolidate the land development codes and review processes into a single section of City Code and better organize it to assist the public and staff.

Planning Commission Review Process

A consultant was engaged to assist the City and has worked with the staff, Planning Commission and City Council to develop the Final Draft LDC that is the subject of this public hearing. At the start of the project the Planning Commission was designated by

City Council as the steering committee with oversight of the preparation of the LDC Update and has been engaged throughout the process including:

- An initial kick-off meeting held with City Council that outlined the goals of the project and a timeline;
- Several joint Planning Commission and City Council study sessions to track the progress of the update and to discuss some of the larger policy directions involved with the Code Update;
- Review by the Planning Commission of an initial September 2011 Draft 1 of the LDC at study sessions open to the public on August 25, 2011, September 7, 2011, September 29, 2011, October 13, 2011, November 10, 2011, December 8, 2011, January 26, 2011, March 29, 2012, April 12, 2012, and May 10, 2012.
- Planning Commission comments on that Draft 1 LDC document were then reviewed by staff and the consultant, along with other comments received on Draft 1, and a Revised Draft 1 LDC document was released in early January 2013 for public review and comment;
- Planning Commission then met jointly with City Council on January 28, 2013 to discuss the remaining Planning Commission comments on the initial Draft1 LDC that had not been incorporated into the Revised Draft 1 LDC;
- City Council provided consensus direction from that January 28, 2013 joint meeting that was then incorporated into a Final Draft LDC document released in July 2013 for public review and comment;
- That Final Draft then underwent a series of City Council Special Meetings for review and public comment on the draft document which resulted in City Council providing additional consensus of changes to be incorporated into a Final Draft LDC that would undergo formal consideration for approval and adoption subject to a public hearing by the Planning Commission prior to making a formal recommendation to City Council.

Notice of that public hearing has been published in the *Daily Record* on October 24, 2013.

State Environmental Policy Act and Growth Management Act Notice

State Environmental Policy Act (SEPA) review of the final draft LDC document was completed on August 14, 2013 with the issuance of a Determination of Non-Significance (DNS) for the non-project action. No appeal was made of that DNS.

The Growth Management Act (GMA) required 60-day notice to state agencies of proposed adoption of development regulations was issued on July 8, 2013. Only one comment was received from the WA Department of Ecology commenting on the City's Critical Area Ordinance that is set forth in Article 6 of the draft LDC. Those comments recommended a number of changes to the critical area ordinance, however the City made a choice at the start of the LDC update project to not amend the CAO as part of the project and to address changes to the CAO at a later date in 2014.

Council held a series of special meetings in July, August, September and October 2013 to review the final draft document, to take informal public comment on the final draft LDC and to provide staff with consensus direction on any changes to that final draft. None of the directed changes were deemed by the SEPA Responsible Official or the Director to rise to the level that either SEPA or the 60-day notice processes needed to be reopened.

Staff has incorporated the Council direction in the final draft LDC document that is the subject of this Public Hearing.

Analysis:

Record

The record for this major update to the City's land development codes is voluminous and is still being compiled and indexed as of the drafting of this Agenda Report. Due to the volume of material, the record will be stored electronically and will be available on the City's webpage at http://www.ci.ellensburg.wa.us/index.aspx?NID=395 and Staff will have an index of it available at the public hearing. A single hard copy will be available and will be entered into the record for this public hearing.

Code Formatting

The draft LDC will be recodified as new Title 15 of the Ellensburg City Code. Two current Code sections (Title 12-Subdivisions and Title 13 – Zoning) will be repealed and incorporated into that new Title 15, while several other current Code sections have either been moved to the new Title 15 or have been amended and left in current Code sections. A draft ordinance that would enact those Code changes is being developed for City Council consideration and should be available at the Planning Commission public hearing for informational purposes.

NOTE: Because of numerous changes to the draft LDC document over time the numbering of Chapters and Sections has changed, making it difficult to directly compare a specific chapter or section number from the initial draft to the current Final Draft. In addition, due to section numbering needs, the Final Draft LDC has been renumbered from earlier drafts by making the Chapter number a 3-digit number thru addition of a zero as the last number. For instance previous Chapter 15.32 would now be 15.320, with the 15 being the Title number and 320 being the Chapter number.

The draft LDC is divided into 6 Articles with each one focusing on a certain aspect of the development process.

- Article 1 General Provisions
    - Contains a User Guide to assist the reader.
    - Outlines the Purpose, Authority and Interpretation provisions.
    - References the Comprehensive Plan that the LDC is implementing
    - Contains definitions for many terms in the LDC. Those definitions will be formatted for electronic review to enable the reader to hover over the word/phrase with the mouse and the definition will pop up.

- Article 2 Permits, Legislative Actions & procedures
  This Article identifies the various permits and actions involved with land development and establishes uniform and specific processes for review, decision, and appeals.

  It is important to note two significant changes in the draft LDC:
  1. The draft LDC utilizes a permit "Type" system similar to most jurisdictions in the state which categorizes each permit into a handful of specific permit Types based on the level of discretion involved in the decision, the amount of public review to be allowed (notice or notice with public hearing), and whether they are quasi-judicial or legislative decisions
  2. The draft LDC proposes that the City utilize a Hearing Examiner system in which a professional Hearing Examiner holds public hearings and appeal hearings for various permits to establish the legal record for the decision and thereby better ensure compliance with land use laws. NOTE: As drafted, the Planning Commission retains its public hearing and decision-making authority for Conditional Use Permits because Council feels that the Commission has a special knowledge of local circumstances and would be better able to resolve such decisions.

  This Article also includes:
  - a new nonconformance framework that distinguishes between benign and detrimental nonconformities in order to allow some nonconformities to be replaced;
  - new subdivision codes that are up to date with current law and best practices and that also include options for binding site plans; and
  - the Landmarks and Design Commission authority and procedures.

- Article 3 Zoning Districts and Land Uses
  This Article establishes the various zoning districts and land uses allowed in each zoning district. The City has not changed the zoning districts in this draft LDC but has changed some of the uses allowed in the zones. The Planning Commission provided significant input into the new uses during the earlier review process and many have been incorporated in the draft LDC.

  In addition, this Article addresses Form and Intensity Standards for new lots by establishing more specific design parameters relating to:
  - densities for the residential zones and floor area ratios for commercial and industrial zones
  - building heights and setbacks
  - fence/wall/hedge heights
  - density bonus incentives

- supplemental use criteria for bed and breakfasts, home occupations, manufactured homes/parks, small wind energy system siting, wireless towers and facilities, the Airport Overlay Zone (NOTE: this section has not been amended other than its code numbering), annexations, medical cannabis, and development agreements.

- Article 4 Community Design
  This Article establishes new community-wide design standards designed to upgrade the character and visual appearance of the city and to establish more uniform streetscapes for similar street types. It results in new street design which incorporates sidewalks separated from traffic by planting strips for all categories of streets and it offers 3 types of local access street design. It also establishes community-wide subdivision design and block structure requirements that encourage walkability, connectivity, increased open spaces, more landscaping along street frontages and a variety of lot designs that will allow for varied lot sizes and configurations.

- Article 5 Project Design
  This Article establishes new project design standards for site orientation, side/rear yards and open spaces, building design, off-street parking (these are predominantly unchanged from current code), landscaping and outdoor lighting (NOTE: unchanged from current code).

- Article 6 Critical Areas
  This Article incorporates the current Critical Area Code into the draft LDC without change. The Critical Area Ordinance will be reviewed on a separate timeline in 2014.

Significant Changes

The Planning Commission has reviewed several drafts of the proposed LDC and has made a number of recommendations, many of which have been incorporated into the final draft LDC. The discussion that follows will identify some of the more significant changes that have been made at the direction of City Council subsequent to that January 28, 2013 Joint Special Meeting with the Planning Commission. Those changes are in response to public comment on the Final Draft released in July 2013.

ARTICLE 1

Several new definitions have been added.

15.110.060(E) Shifts review and recommendation on regional retail commercial master site plans and decisions on non-landmark register property DEPARTURES from Article 5 design standards away from Landmarks and Design Commission and makes them a Director decision. This shift is further implemented in:

15.110.060(F) authorizing Director to decide non-landmark register property DEPARTURES

15.250.070(C)(1) which authorizes the Director to utilize a consultant to assist in the review of regional retail master site plan applications

15.280 Ellensburg Landmark Register & Procedures

15.130.150 Adds a definition for "Outlet Center" taken from current Code definition

Table 15.310.040 also adds "Outlet Center" as a permitted use in the C-H – same as current Code

ARTICLE 2

Table 15.210.050(D) Adds new administrative variance as a Type II decision

- SEE new 15.500.040 that establishes an Administrative Variance of up to 10% for Article 5 dimensional standards

15.250.070 Regional retail commercial master site plans remain unchanged except:

- that Director now reviews and recommends on the master site plan design instead of Landmarks and Design Commission
- additional permit review consolidation and concurrent review procedures are added in 070(C)
- the design standards have been removed from Landmarks section and placed in Article 5 with all other design standards as new 15.590

ARTICLE 3

15.300.040(E) Adds new description for Manufactured Home Park (MHP) zone since that zone currently exists and has developed properties within it

Table 15.310.040 Adds small retail and espresso stands to R-S zone subject to conditions

Adds regional retail commercial to R-S zone subject to requirement that the land is designated appropriate for regional retail. There are R-S areas at both interchanges that fall within the regional retail overlay so they are appropriate for it subject to requirements in 15.250.070

Adds a number of "Accessory Uses" to the Public Reserve (P-R) zone to acknowledge that they are appropriate provided they are accessory to the primary public use

Adds new Yard and Garage Sale language from current Code

Adds Outlet Centers as permitted uses in C-H zone

OFFICES

Adds small and medium offices to C-T

Adds small offices to I-L zone and limits small offices, but not medium or large offices, in I-L to accessory to transfer of development right footnote 7

Deletes medium and large offices from C-N zone

Adds large offices to the C-H zone

Adds Adult Entertainment as a permitted use in C-T zone as current even though regulations have been moved to Title 6 of current code since they are primarily license oriented.

Adds super scale retail to C-T and C-H subject to being within a regional retail project QUESTION: Should the large scale retail also be allowed in C-T under same regional retail condition?

15.310.050(D) Adds new language to allow rezone of P-R zone property when use changes to non-public use or buildings become obsolete

15.320 Form and Intensity Standards

.030 Residential Zones

- changes R-S minimum density to none from original 6 du/acre
  - significant discussion about a need for some lots to be larger than 7,000 sq.ft. to provide mix of housing types
- changes maximum floor area ratios for R-S to none from 0.5
- changes garage front yard setback for all residential to 22-ft from 25ft

.040 Non-Residential Zones

- removes maximum floor area ration for C-T, C-H and I-L zones
- removes maximum impervious surface area requirements from the earlier drafts of the LDC (former 15.320.070) because they are inapplicable to semi-arid climate with the City's current storm water detention/retention requirements in place
- changes all garage front yard setbacks to 22-ft from 25-ft

.130 Fences, walls and hedges

- (A)(4) changes alley fence heights
  - ➢ Fences 3 ft. from alley (used to be 5-ft.) now limited to 42 inches in height
  - ➢ Fences set back more than 3 ft. from alley (used to be 5-ft.) may be up to 6-ft (used to be 60-inches) tall

15.340 Supplemental Uses

.010 Bed and breakfasts

- No longer requires owner to reside on site
- Changes the available meal from only "breakfast" to any meal

.020(G) Home occupations restricts deliveries to nothing larger than a small parcel delivery van or truck

.060 Small wind energy systems requires that documentation be provided demonstrating compliance with American Wind Energy Association performance and safety standards

15.350 Airport Overlay Zone has been included unchanged except numbering STAFF NOTE: Should be amended to reference of include Map "B" that is found in15.300.060(D) Special Districts

15.380 Development Agreements is a new Chapter that enables a developer to contract with the City for the terms of development provided they are consistent with code. Typically used in very large projects, these are authorized by state statute.

Article 4

15.410.020(B) Provides guidance for when new road design is required for infill projects where existing road is developed but does not meet new standards. Also SEE 15.410.030(B), 15.410.040(B)

15.410.020 Includes specific design new features and dimensions for arterial streets

15.410.030 Includes specific design new features and dimensions for collector streets

- reduces planting strip width to 8-ft from 10-ft

15.410.040 Includes specific new design features and dimensions for the 3 options for Local Access streets

- reduces planting strip to 6-ft
- allows off-street parking for 20-ft wide streets to be off-site or to use parking bulb-outs provided they take up no more than 50% of planting strip length

15.420.030(D) Still prohibits gated communities

Prohibits reverse frontage lots in subdivisions with an exception if the reverse frontage is landscaped 10-ft to fence

15.420.

050(C) Courtyard access lots
- (2) allows access to be up to 150-ft if sprinklered beyond 100-ft
- (3) Changes surface width from 12 to 15-ft minimum and requires they be kept clear of snow, parking etc.
- (5) Limits height to 2-stories

050(D) Pedestrian-only entry lots
- (3) requires sprinklers for homes greater than 100-ft from fire road
- (4) building limited to 2 stories tall
- (5) homes more than 150-ft require fire department access

050(E) adds new Alley Access Lot

15.420.060

Requires all lots to have access directly to a public right-of-way except certain excepted designs
Also requires lots not adjacent to right-of-way to demonstrate right of ingress/egress over adjoining properties

ARTICLE 5

15.500.040

Provides new administrative variance flexibility up to 10% from Article 5 dimensional standards

15.510.050

Storefront Streets
(G) Deletes street permits for over-sidewalk projections

15.510.060

Secondary Streets
(A) apply just to non-residential and multi-family developments

15.510.080

Landscaped Streets
(A) apply just to non-residential and multifamily developments

15.530.020(B)

(1) Historic building design standards have been moved here from Landmarks and Design Commission Chapter
(2) Historic district property owners shall use Secretary of Interior's Standards
STAFF NOTE: Record is unclear whether this should be amended to read "…should be encouraged…"

15.540

Housing Type Standards
.020(B)(2) covered entry still required but eliminates former requirement for minimum dimension of 4-ft by 6-ft
.020(B)(3) reduces façade window transparency from 15% down to 10% or 8% if north facing façade

.020(C)(2)	limits garage doors to 50% of ground-level façade facing street but allows DEPARTURE up to 65% if 2 of several design features are used
.020(C)(3)	reduces garage setback minimum from 25-ft down to 22-ft from sidewalk edge
.020(D)(2)	increases driveway width minimum from 20-ft to 24-ft on 50-ft or wider lots
.020(D(3)	if lot 50-ft or less in width driveway may be minimum12-ft and tandem parking allowed
.030(B)(1)	increases minimum width of duplex/triplex driveway from 20-ft to 24-ft
.040(B)	eliminated requirement that Accessory Dwelling Unit entrance be subordinate to primary dwelling unit entrance (less visible from street)
.040(D)	Detached Accessory Dwelling Unit maximum size increased from lesser of 40% floor area of primary dwelling unit or 800 sq.ft. – to lesser of 40% floor area of primary DU or 1,000 sq.ft.
.050(E)	Table for Cottage Housing – eliminated maximum ground or main floor area of 800 sq.ft. – single story cottage ground floor could be up to entire maximum of 1200 sq.ft. Maximum height increased from 25-ft to 26-ft
.050(G)	reduces façade transparency from 15% down to 10% or 8% if north facing

15.550 Off-Street Parking – No changes except:

- moved standards from Public Works Development Standards back to Land Development Code
- added off-street parking requirements for:
  - Studios 1.2 per dwelling units
  - Studios in CC zone and outside Historic Dist. 0.7 per DU
  - Cottage housing 1.5 per DU
  - Accessory Dwelling Unit 1.0 per DU
- reduced bicycle parking for:
  - Hotels/motels to 1 per 20 guest rooms (was at 1 per guest room)
  - Offices, banks, etc. to 1 per 5,000 sq.ft. up to 50,000 sq.ft., then 1.0 per 10,000 sq.ft. (was 1 per 300 sq.ft.)

15.560 Signage REMOVED FROM THE LAND DEVELOPMENT CODE without changes and remains in ECC 3.12
Will be reviewed in 2014.

15.570 Landscaping

- reduced from 5 types down to 4 types
- references WSU for list of trees, shrubs, etc. appropriate for eastern Washington

15.580 Outdoor Lighting - No Changes from current Code

15.590 Regional Retail Commercial Design Standards

- no changes from current Code and applicable only to regional retail commercial master site plan applications
- relocated here in the Project Design Article 5 to keep all design in same Title.

ARTICLE 6 Critical Areas

- no changes from current Code other than to renumber and to make processes follow Article 2 processes.

Remaining Process The Planning Commission is to make a formal recommendation to City Council on the proposed final draft LDC that should include any recommended amendments. City Council will then hold a public hearing on the draft implementing ordinance and the final draft of the LDC, after which Council can conduct first reading of the ordinance if it chooses, make any amendments to the ordinance or the draft Land Development Code if warranted, and then at the following meeting, or later, conduct second reading and consider adoption of the ordinance. It is anticipated that Council will hold its public hearing on Monday November 18, 2013 at 7 PM in City Council Chambers and notice thereof will be published and posted.

Recommendation:

1. Conduct public hearing on final draft Land Development Code.
2. Close the public hearing.
3. Discuss and make formal recommendations to City Council