



Planning and Development Services Section

MEMORANDUM

TO: Mayor and Council

THROUGH: Josh Copley, City Manager

DISTRIBUTION: Barbara Goodrich, Deputy City Manager; Mark Landsiedel, Community Development Director; Dan Folke, Planning Director

FROM: Roger E. Eastman, AICP, Comprehensive Planning and Code Administrator

Date: November 23, 2015

RE: Amendments to Zoning Code (Chapter 10-40, Specific to Zones)
Response to Council Discussion at the November 10, 2015

At the October 19th special Council work session on the Zoning Code, some Flagstaff residents asked questions on the proposed amendments to Section 10-40.30.040 (Commercial Zones) with specific reference to the idea of allowing single-family residences and duplexes in the CC (Community Commercial) Zone, which is for example, applied to the Sunnyside neighborhood south of 6th Street.

Staff has talked with one of these residents in the past weeks, and in that conversation learned that there was an error in how an amendment was written which made it confusing. Staff has subsequently corrected this error – see Page 40-11 in the attachment. Specifically the correction is to End Notes #11 about two-thirds down the page to clarify that single-family dwellings and duplexes in the CC Zone must comply with the building height standards of the R1 (Single-family Residential) Zone rather than the building form standards of the R1 Zone.

Also attached are some proposed additional amendments in Chapter 10-40 (Specific to Zones) that address the following issues:

- Minor amendments in Section 10-40.30.050 (Industrial Zones) and in Division 10-40.40 Transect Zones that correct errors and improve cross-references.
- **Division 10-40.60 Specific to Uses: Section 10-40.60.160 (Drive-through Retail and Service Facility)** – Includes a revision that would allow a drive-through lane to be located between the front of a building and the property line.
- **Division 10-40.60 Specific to Uses: Section 10-40.60.250 (Mixed Use)** – Includes a revision that explicitly states that the Zoning Code does not include a density limit for mixed use projects in commercial zones, and that other factors such as setbacks, allowable height, parking standards, etc. control to limit the size of a new development.

- **Division 10-40.60 Specific to Uses: Section 10-40.60.300 (Secondary Single-family Dwelling)** – Includes a revision in response to comments made by some Flagstaff residents to staff that the amendments proposed to Table 10-40.60.300.A (Secondary Single-family Dwelling) were incomplete. A proposed amendment seeks to ensure the relationship between a primary residence and a secondary residence at the time of the land split is maintained, even if one of both of the parcels are sold to a separate owner.

Please let me know if you need any additional information, or if you have any questions.

10-40.30.040 Commercial Zones
 Table 10-40.30.040.B Allowed Uses

- Page 40.30-15
Industrial, Manufacturing, Processing & Wholesaling

	SC	CC	HC	CS	CB
Manufacturing and Processing, Incidental	--	P	P	P	P
<u>Micro-brewery or Micro-distillery</u>	--	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

This amendment permits micro-breweries and micro-distilleries as permitted uses in the zones where the rather obtusely named "manufacturing and processing, incidental" use is also permitted. This latter use, formerly used to include a brewery, is not being deleted as it would allow for a coffee roaster, as an example.

Also, add the new Section 10-40.60.240 in the "Specific Use Regulations" column. Renumber all following Sections, and check for and correct all cross references.

Recreation, Education & Assembly

	SC	CC	HC	CS	CB
Meeting Facilities, public or private	⁵				
Regional	-- <u>P/UP</u> ⁵	P/UP ⁵	P/UP ⁵	P/UP ⁵	P/UP ⁵
Neighborhood	<u>P</u> ⁵ / <u>UP</u> ⁵	P/UP ⁵	--	--	--

End Notes

⁵ A Conditional Use Permit is required if liquor is sold, or if facilities exceed 250 seats.

The Suburban Commercial (SC) Zone is established to provide neighborhood serving land uses only. Staff, therefore, recommends that a regional meeting facility is inappropriate in the Suburban Commercial (SC) Zone.

- Page 40.30-16
Residential ⁷

	SC	CC	HC	CS	CB
Dwelling: Single-family	--	<u>P</u> ⁹ --	--	--	--
Dwelling: Two-family <u>Duplex</u>	P ⁶	P ⁹	P ⁶	P ⁶	P ⁶
Planned Residential Development	<u>P/UP</u>	<u>P/UP</u> ²	UP	UP	UP
Rooming and Boarding Facilities <u>Dormitories</u>	UP ⁶	UP ⁶	UP ⁶	UP ⁶	UP ⁶
<u>Fraternities and Sororities</u>	<u>UP</u> ⁶	<u>UP</u> ⁶	<u>UP</u> ⁶	<u>UP</u> ⁶	<u>UP</u> ⁶
<u>Single Room Occupancy</u>	<u>UP</u>	--	<u>P</u>	--	<u>P</u>

- Page 40.30-15 & 16

End Notes

⁶ Residential uses with more than 2 units are ~~only~~ allowed as part of a mixed-use development located above or behind the commercial uses subject to the development standards established in the HR Zone and as a Planned Residential Development (Section 10-40.60.270). New developments that include residential uses with more than 2 units shall provide a minimum of 15% of the gross lot area in the form of common open space.

⁹ Single-family and duplex building types (see Division 10-50.110) are permitted by right on lots ≤9,000 sf existing prior to November 1, 2011. A Conditional Use Permit is required for all other building types and multi-family residential uses with 3 or more units regardless of the size of the lot or parcel.

Many of the areas of the City that in the Community Commercial (CC) Zone are characterized by small lots developed with existing small single-family homes. This includes most of the Sunnyside and Southside neighborhoods, as well as areas to the north and west of the Downtown. Under current Code standards, a property owner may not build a single-family home in the CC Zone unless a Planned Residential Development approach is pursued which requires approval of a Conditional Use Permit from the Planning and Zoning Commission. This can be a time consuming and expensive process that makes it very hard for a family to build a new home. Staff recommends that the process to build a single-family home in the CC Zone should be simplified by allowing a single-family dwelling as a permitted use in the CC Zone. The amendment to End Note #6, therefore, ensures that a single-family dwelling and a duplex may be established in the CC zone by right without the need for additional commercial uses on the property.

CITY COUNCIL: *A minor amendment to this standard is proposed following the Council’s October 19th work session by adding that a project with more than 2 units in the CC Zone may also be developed as a Planned Residential Development.*

The addition of End Note #9 (which is only applied within the CC Zone) further clarifies that existing single-family and duplex building types are permitted by right on lots ≤ 9,000 sq. ft. in area without having to go to the Planning and Zoning Commission for Conditional Use Permit approval. This is especially important in the Sunnyside neighborhood where over 50 percent of the neighborhood has CC zoning yet is developed predominantly with single-family homes, and is also relevant in such neighborhoods as Southside. Note that this is not a more restrictive standard than the standard currently in this table as the latter standard required a Conditional Use Permit for a single-family residence or a duplex established with a PRD in the CC Zone.

The former LDC allowed residential uses in commercial zones subject to the development standards of the HR Zone. This standard was not included in the Zoning Code.

Consistent with the amendments proposed in Section 10-40.30.030 (Residential Zones), the rooming and boarding facility use has been deleted and the uses included within it have been listed separately. SROs are only allowed in those zones where lodging uses are permitted (i.e. SC, HC and CB).

Retail Trade

	SC	CC	HC	CS	CB
Bars/Taverns	P	P-	P	P	P

This amendment was requested by a local inn-keeper who requested that bars and taverns should be considered as a permitted use in the CC Zone. Staff supports the amendment as micro-breweries and micro-distilleries (formerly categorized as “Manufacturing and Processing, Incidental”) are already permitted in this Zone and are allowed in Transect Zone T5 (Main Street).

- Page 40.30-16

End Notes

⁷ Residential uses in the CC, HC, CS and CB Zones, and residential uses and properties listed on the National Historic Registry or within the Landmarks Overlay Zone, ~~in the CC, HC, CS and CB Zones~~ existing prior to the effective date of this Zoning Code are considered legal, nonconforming uses. Residential uses in the CC, HC, CS and CB Zones shall be subject to the development standards established in the HR Zone.

This amendment clarifies the former confusing language to ensure that residential uses in the listed zones as well as residential uses and properties that have defined historic characteristics are considered as legal conforming uses.

Further, an amendment at the end of this End Note codifies staff's current practice from the former LDC by stating that residential uses in the commercial zones are subject to the development standards of the HR Zone.

Table 10-40.30.040.B Allowed Uses (continued)

- Page 40.30-17

Retail Trade (continued)

	SC	CC	HC	CS	CB
Farmers Markets and Flea Markets	--	P	P	P	-- <u>P</u>

This amendment permits a farmers market in the Flagstaff downtown area.

Table 10-40.30.040.B Allowed Uses (continued)

- Page 40.30-18

Transportation & Infrastructure

	SC	CC	HC	CS	CB
Passenger Transportation Facilities	--	--	-- <u>UP</u>	UP	UP

The former LDC listed Passenger Transportation Facilities as an Unclassified Use in the C-3-E zone (now called the HC Zone), and they were only allowed in this Zone with a Conditional Use Permit. An error was made in this use table in the new Zoning Code as Passenger Transportation Facilities were listed as not permitted in the HC zone, which is incorrect. This use should be consistent with the former LDC, and listed as conditionally permitted (UP) in the HC zone.

Table 10-40.30.040.C Building Form Standards

- Page 40.30-19

Building Placement Requirements	SC	CC	HC	CS	CB
Setback					
Front (<u>See also 10-50.60.040.B</u>)	15' min ¹	0'	0' ²	0'	0'
Side Adjacent to Residential <u>Use</u>	----- 15' min. ¹⁰ -----				

Section 10-50.60.040.B (Non-Residential Zone Buffers) requires a minimum of 5 feet of landscaping in the front setback area between a building and the property line. This standard, therefore, eliminates the 0' front setback established in the Table C (Building Form Standards) in the CC, HC, CS, and CB Zones. Consistent with other Sections of the Zoning Code that require

building-forward design, and to accommodate a developer who may wish to locate a new building on the property line, staff recommends that a cross-reference be included in this Table that refers to the front yard buffer standards in the Landscaping Division (10-50.60). Note that an amendment to Section 10-50.60.040.B (Non-Residential Zone Buffers) is also proposed. The addition of the word use clarifies that the side setback is measured to an adjacent residential use rather than a zone.

End Notes

¹⁰ Except that the setback from a proposed residential use in a commercial zone to other residential uses shall be 5' min.

Staff recommends that when a residential use is proposed in a commercial zone it is appropriate to reduce the side setback to adjoining residential uses to 5' min.

Building Form Requirements	SC	CC	HC	CS	CB
Building Height (max.)	235'	60' ^{4,11}	60' ⁴	60' ⁴	60' ⁴
Gross FAR (max.)	0.8 ⁵	2.5 ⁵	3.0 ⁵	2.0 ⁵	No max.

Staff recommends that the maximum building height in the SC Zone should be increased because this is consistent with the overall height requirement of residential zones (which are the most likely zones surrounding a SC Zone). The former LDC allowed a total height of 35 feet for mixed use with two floors. This is also the maximum height for a Live/Work Unit, which is allowed in the SC Zone.

As the standards for FAR are building form standards and not density requirements, it is recommended that the Gross FAR row be moved into the Building Form Requirements section of this table.

End Notes

¹¹ Single-family dwellings and duplexes in the CC Zone shall be limited to a maximum height of 35 feet consistent with the height standard for the RI Zone.

This end note is needed to ensure that single-family dwellings (which are proposed to be allowed as a permitted use in the CC Zone – see Page 8) are not constructed to 60 feet in height. Max. building height in the R1 Zone is 35 feet. Updated for clarity on November 16, 2015.

Density Requirements

	SC	CC	HC	CS	CB
Gross Density (units/acre) (max.) <u>(Not applicable to Mixed Use)</u>	13	13	13	13	13
	-----Refer to HR Zone-----				
Gross FAR (max.)	0.8 ⁵	2.5 ⁵	3.0 ⁵	2.0 ⁵	No max.

The statement about mixed use clarifies that mixed use is not subject to density standards. This is because as stated in Section 10-40.60.250 (Mixed Use), only FAR standards apply. The density stated in the current Zoning Code is incorrect because when residential uses are developed in commercial zones, consistent with the LDC, the standards of the HR Zone should be applied. For this reason this correction to the density standard is recommended.

Additional Proposed Amendments to the Zoning Code (Identified by Staff after P&Z Commission Recommendation)

September 2, 2015; Updated Sept. 25, 2015; November 20, 2015

Chapter 10-30: General to All Division 10-30.70: Residential Sustainable Building Standards

10-30.70.040 Minimum Standards

- Page 30.70-3

D. Energy Efficiency

- In order to qualify for the density incentive established in Table 10-30.20.050.A (Percentage of Affordable Housing Units and Corresponding Density Bonus) an efficiency standard that is 50 percent of the ~~current~~ HERS Reference Home rating established in the 2003 International Energy Conservation Code as measured on the HERS (Home Energy Rating System) index shall be met. Solar collectors, including solar thermal and photovoltaic systems may be installed to ensure that the residence qualifies.

This minor amendment clarifies that the HERS Reference Home rating is based on the 2003 International Energy Conservation Code.

Chapter 10-40: Specific to Zones Division 10-40.30 Non-Transect Zones

10-40.30.050 Industrial Zones

- Page 40.30-23

Table B. Allowed Uses (continued)

Residential

	RD	LI	LI-O	HI	HI-O
Live/Work	PZ	PZ	PZ	--	--

This amendment provides consistency in the application of this standard as it ensures that the live/work use is also subject to the FAR limitations applicable to other commercial uses (see Subsection 10-40.30.050.F) in these industrial zones.

Division 10-40.40 Transect Zones

10-40.40.070 T4N.1 Neighborhood (T4N.1) Standards

- Page 40.40-25

Table C. Allowed Building Types¹

Add Single-Family Cottage and Courtyard Apartment to this table. [Also add Stacked Triplex to this table.](#)

10-40.40.080 T4N.2 Neighborhood (T4N.2) Standards

- Page 40.40-31

Table C. Allowed Building Types¹

Add Courtyard Apartment, Apartment Building and Commercial Block to this table. [Also add Stacked Triplex to this table.](#)

10-40.40.090 T5 Main Street (T5) Standards

- Page 40.40-37

Table C. Allowed Building Types¹

Add Apartment House and Apartment Building to this table. [Also add Stacked Triplex to this table.](#)

In Division 10-50.110 (Specific to Building Types) a new Stacked Triplex building type is proposed to be added (see Page 50-45 of the proposed amendments to Chapter 10-50 (Supplemental to Zones)). This new building type is appropriate in the T4N.1, T4N.2, and T5 transect zones but was not included in the Allowed Building Types tables for these zones as described above.

Amendments that apply to multiple Transect Zones:

Table H. Allowed Uses

Transect Zones – T3N.1, T3N.2, T4N.1, T4N.2, T5, and T6:

~~— Add Greenhouses as a Permitted use in these transect zones.~~

Accessory structures are allowed in all of these transect zones. This simple amendment explicitly states that green houses as an accessory structure are permitted. In the T5 and T6 Transect Zones where space may be at a premium, the greenhouse could be placed on the roof. The term “accessory building and structure is defined in Chapter 10-80, Definitions in Section 10-80.20.010, Definitions, “A.” to include “greenhouses”. Throughout the non-transect zones and the transect zones accessory buildings and structures are already listed in the Use Tables. Logically, therefore, there is no need to list greenhouses separately in the use tables in transect zones as they are already listed under the accessory buildings and structures category. For this reason the amendment originally proposed above is not necessary.

Division 10-40.60 Specific to Uses

10-40.60.160 Drive-through Retail or Service Facility

- Page 40.60-30

C. On-site Circulation Standards

1. Drive-through Aisle Design

- a. The entrance/exit of any drive-~~through lane~~**aisle** shall be a minimum of 50 feet from an intersection of public rights-of-way (measured at the closest intersecting curbs).
- b. The drive-~~through lane~~**aisle** shall be designed with a minimum 10-foot interior radius at curves and a minimum 10-foot width.
- c. To the maximum extent feasible drive-~~through lanes~~**aisle** shall not be located between a property line and the front of the building. Where this is not practical, the drive-through lane shall be screened by a wall designed to match the building materials of the primary building on the site.

[Insert a new illustration showing a screen wall based on a photograph – perhaps McDonalds on S. Milton Road.]

These minor amendments ensure that these standards apply to both drive-through retail (e.g. fast food restaurant) and service (e.g. bank) facilities.

The amendment in paragraph c. would allow a drive through to be placed between the property line and the front of the building.

10-40.60.250 Mixed Use

- Page 40.60-49

E. Site Layout and Development Standards

1. Each proposed mixed-use development shall comply with the property development standards of the applicable zone, and the requirements of Table B (Site Layout and Development Standards).

2. There is no density limitation established for residential uses in mixed-use developments. Instead, applicable floor area ratio, building height, parking, landscaping, etc. standards will apply to provide a control on the bulk and mass of the development and the number of residential units permitted.

The current Zoning Code and proposed amendments to the Code do not establish a maximum density for mixed-use developments. Instead, the number of residential units in a mixed-use development is limited by such standards as parking, landscaping, FAR and building height. This amendment explicitly states this principle.

10-40.60.300 Secondary Single-Family Dwelling

- Page 40.60-57

A. Applicability

This section applies to existing detached residential units (except for Accessory Dwelling Units) established prior to November 5, 2002 on lots located in the MR and HR Zones not subject to the Resource Protection Overlay, and the R1N Zone. Where two existing detached residences are ~~located~~established on a ~~n-existing~~ lot, following the procedures established in Division 11-10.90 (Modified Subdivision Process) or Division 11-10.100 (Land Splits and Combinations) two new lots may be created subject to the standards provided below.

B. Standards

~~Two detached dwellings may exist and be maintained as principal buildings on a lot that has frontage on, and access to, a public street.~~ If the lot with two existing detached residential units is proposed to be divided pursuant to this Section, each ~~remaining~~resulting lot shall have frontage on, and/or legal access to, a public street or alley. The following standards in Table A (Secondary Single-Family Dwelling) shall also be met.

Table 10-40.60.300.A: Secondary Single-Family Dwelling

Building Placement Requirements

Existing residential units shall maintain building separation requirements of applicable Sections for the R1N, MR and HR Zones, ~~to the maximum extent feasible.~~

Lots proposed to be divided: the new property line shall be drawn in such a manner as to divide this distance approximately equally between the two new lots, but in no case shall a new property line be drawn between existing structures that would be inconsistent with applicable City Building Code separation requirements.

Lot Requirements

Lot Size (min.)	5,000 sf in MR and HR Zones If the lot is proposed to be divided: the smaller of the two remaining lots shall be at least 40% of <u>the</u> original lot or 2,000 sf, whichever is larger
Lot Width (min.)	50' If the lot is proposed to be divided, the smaller of the two remaining lots shall have a lot width of at least 40'
Lot Depth (min.)	75' If the lot is proposed to be divided, the smaller of the two remaining lots shall have a lot depth of at least 40'

Building Form Requirements

◆ Lot Coverage (max.)	40% If the lot is proposed to be divided, each remaining lot shall have maximum coverage of 40%
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Building Height In a Historic Overlay Zone, if one or more of the pre-existing detached residential units are demolished or expanded, then any new residence or the expansion of an existing residence shall comply with the height and form standards established for the Historic Overlay Zone. The relationship between the primary and the secondary residence before the split was approved shall be maintained. i.e. there shall only be one primary residence (typically closest to the street) and a secondary residence (typically at the rear with access to an alley). The property owner(s) shall sign before a notary public a restrictive covenant that runs with the land on a form prepared by the City affirming this primary/secondary relationship. The restrictive covenant shall be submitted to the City prior to approval of the application for the land split. The City shall record the restrictive covenant.

Utilities

If the lot is proposed to be divided, each residential unit shall be provided with separate utility services in approved locations, subject to the provision of utility easements as necessary.

The amendments suggested above provide an option for resolving challenges with this Section of the Zoning Code. The need for amending the building form standards in Table 10-40.60.300.A was originally identified by concerned residents of the Flagstaff Townsite neighborhood, as they

have been worried that if as a result of a Land Division as authorized and approved under this Section, and one or both of the existing homes were demolished, then two primary dwellings could be constructed. This is contrary to the standard established in the Townsite Historic Design Standards that require a careful relationship between a larger "Primary" residence closer to the street, and a smaller "Secondary" residence at the rear typically with access from an alley. This relationship is very important in this Historic District. Note that the amendment proposed only applies in a Historic Overlay Zone (currently only the Townsite neighborhood has such an overlay zone with building height standards), and this new standard would not apply in other R1N, MR, or HR Zones. This is staff's recommended option.

(P&Z): At the June 10th public meeting a majority of commissioners indicated they preferred and supported this option. At the June 24th meeting a minor amendment to the text in the new Building Height" row suggested by a Flagstaff resident was supported by the Commission. This amendment adds "an addition to an existing building" within this standard.

Since the June 10th Planning and Zoning Commission staff has been contacted by some residents of the Flagstaff Townsite district concerned that the original amendment proposed by staff and recommended by the Planning and Zoning Commission did not go far enough to ensure that the relationship between the primary and secondary residence was preserved after a split has occurred, and especially if the lot on which the secondary residence is located, is sold to a third party. After further review with the City Attorney's office, the Building Height row in Table A has been amended to resolve this concern. However, there are possible Proposition 207 issues resulting from this amendment.

In the alternative, the R1N Zone could be deleted so that the ability to split a lot under the conditions described in this Section would only apply to the MR and HR Zones. This option would raise Proposition 207 issues.

NOTE: Regardless of which option is selected, it is recommended that this Division be moved from the Zoning Code to Title 11 (General Plans and Subdivisions) of the City Code because this Section really establishes a process and standards for the subdivision of land under specific conditions.

C. Parcel Division

If two residential units exist on a lot in conformance with Subsection A above, such lot may be divided, upon application through the Modified Subdivision Process set forth in Division 11-10.10 (Title and Authority), or Land Split procedure outlined in Division 11-20.100 (Land Splits and Combinations), into two separate lots, one for each residential unit, if the following requirements are met:

1. The lot line created between the two residential units shall be substantially perpendicular to the side lot lines if the buildings are located in the front and rear portions of the original lot, or to the front and rear lot lines if the buildings are located side by side;
2. The division complies with the Land Split requirements of Chapter 11-10 (Subdivision and Land Split Regulations), except as modified by this Section for development standards in the ~~R1N and~~ MR and HR Zones not subject to the Resource Protection Overlay, and the R1N Zone;

3. If the proposed property division is a Land Split and the lot boundaries are set by a recorded plat and all public improvements exist along the entire frontage of the property prior to splitting, then the division may be processed as a Land Split in compliance with Division 11.10.10 (Title and Authority); and
4. If the City Engineer determines that as a result of the proposed property division public improvements are required in compliance with Division 10-30.50.070 (Minimum Requirements), then the property division shall follow the Modified Subdivision Process as defined in Division 11-10.90 (Modified Subdivision Process).

10-40.60.310 Telecommunications Facilities

- Page 40.60-60

B. Permitting Applicability

2. Uses Requiring a Conditional Use Permit

a. Antenna-supporting Structures

All new antenna-supporting structures and replacement antenna supporting structures intended for commercial [and emergency services or public facility](#) use shall obtain a conditional use permit in compliance with Section 10-20.40.050 (Conditional Use Permits) prior to submittal for building permit approval and the initiation of construction.

This amendment will ensure that a conditional use permit is required for a new or replacement antenna-supporting structure for both a commercial facility as well as for such uses as the Police or Fire Department, Public Works Division, etc.