

**BOARD OF COUNTY COMMISSIONERS
WALLA WALLA COUNTY, WASHINGTON**

ORDINANCE NO. 368

APPROVING A REQUEST BY THIRD STREET INVESTMENTS, LLC FOR A ZONING CODE TEXT AMENDMENT TO WALLA WALLA COUNTY CODE TITLE 17 TO ESTABLISH CHAPTER 17.50 - DEVELOPMENT AGREEMENTS.

WHEREAS, application has been made by Third Street Investments, LLC to request a zoning code text amendment to Walla Walla County Code Title 17 by establishing Chapter 17.50, and

WHEREAS, the Planning Commission held a workshop on August 6, 2008, and

WHEREAS, the Board of County Commissioners held a workshop on October 6, 2008 and suggested changes be made to the proposed Chapter 17.50, and

WHEREAS, the Planning Commission held a public hearing on October 8, 2008 to consider the request and recommends to the Board of County Commissioners that the zoning code text amendment establishing Chapter 17.50 - Development Agreements be approved based on the following findings of fact and conclusions of law:

Findings of Fact:

1. On September 25, 2008 a Notice of Public Hearing was published in the Waitsburg Times.
2. On September 25, 2008 a Notice of Public Hearing was published in the Walla Walla Union Bulletin.
3. On September 25, 2008 a Notice of Public Hearing was published in the Tri-City Herald.
4. On July 17, 2008 the applicant's proposed amendments were received by the Washington State Department of Community, Trade and Economic Development for review.
5. The amendment was proposed by the applicant on June 26, 2008.
6. On September 17, 2008 a Determination of Non-Significance was issued by the SEPA Responsible Official.
7. The proposal meets a definable public need.

- 8. The defined need conforms to policy directives of the comprehensive plan and countywide planning policies.
- 9. The proposal does not require amendment of current policies in other areas of the comprehensive plan.

Conclusions of Law:

- 1. The proposed amendments constitute good planning and development regulations.
- 2. The proposed amendments are consistent with the Walla Walla County Comprehensive Plan.
- 3. As proposed the amendments will not have a significant adverse influence on public welfare and safety.
- 4. The proposed amendments will provided clear direction to members of the public wanting to enter into a development agreement with Walla Walla County.
- 5. The proposed amendments do not require that Walla Walla County approve or enter into a development agreement.
- 6. The proposed amendments are consistent with RCW 36.70B. 170 - 210.

WHEREAS, the Board of County Commissioners held a public hearing October 27, 2008 for the purpose of receiving testimony for and/or against said request now therefore,

BE IT ORDAINED, by the Walla Walla County Board of County Commissioners that they uphold the Planning Commission recommendation and approve the zoning code text amendment Alternative 3, Docket Number ZCA-07-04 based on the findings of fact and conclusions of law above. The amendments read as follows:

Section 1. Amendment to Walla Walla County Code Title 17

Chapter 17.50 Development Agreements

17.50.010 Applicability.

- A. This chapter applies to development agreements authorized pursuant to RCW 36.70B.170 - 36.70B.210 between Walla Walla County and any person having ownership or control of real property located within Walla Walla County’s jurisdiction, except that Development Agreements related to development of an Urban Planned Community site are governed exclusively by WWCC 17.14.030.
- B. The provisions of this chapter do not apply to or affect the validity of any contract rezone, concomitant agreement, annexation agreement or other agreement in existence on or before the effective date of this chapter, or adopted under separate authority, even though such agreements may also relate to development standards, mitigation, and other regulatory requirements.
- C. The County may enter into development agreements pursuant to this chapter. The decision whether to enter into a development agreement is discretionary with the Board of County Commissioners.

17.50.020 Development Standards.

- A. A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement.
- B. In order to encourage innovative land use management and provide flexibility to achieve public benefits, a development agreement adopted pursuant to this chapter may impose development standards that differ from the following development standards of the Walla Walla County Code that are otherwise applicable to a proposed development: infrastructure requirements, street standards, and duration of approvals, provided that any development standards imposed by the development agreement must be consistent with the comprehensive plan. Additionally, a development agreement may authorize development of mixed commercial and residential uses in a planned unit development for property in an urban growth area or limited area of more intense rural development, so long as there is a public benefit and the development standards in the development agreement are consistent with the comprehensive plan.
- C. Subsequently adopted standards which differ from those in the development agreement shall apply to the subject site only where necessary to address a serious threat to public health and safety or where the development agreement specifies a time period or phase after which certain identified standards may be modified. Building permit applications shall be subject to the building codes in effect when the building permit application was deemed complete.

17.50.030 Contents of a Development Agreement.

- A. A Development Agreement shall include the following:
 - 1. A conceptual site plan depicting parcel boundaries and project elements, such as: location and acreage of active and passive recreational areas, if any; location, acreage and range of densities for residential development, if applicable; location and range of types of uses of nonresidential development, if applicable; location and size of critical areas and buffers, if any; perimeter buffers, if any; and motorized and nonmotorized circulation routes, including connections to streets and pedestrian routes servicing and/or abutting the site;
 - 2. The expected buildout period and, if applicable, the phasing of development;
 - 3. Provisions for the termination of the development agreement.
 - 4. If environmental review is required under the State Environmental Policy Act, measures to mitigate significant adverse impacts including any impacts to public services and facilities.
 - 5. A memorandum of understanding with Walla Walla County that includes cost recovery provisions and timelines for the processing of implementing land development and construction permits and other permits and approvals.
- B. Upon submission of a development agreement meeting the requirements of this section, the County shall issue a notice of application pursuant to WWCC 14.07.080.

17.50.040 Approval.

The Board of County Commissioners shall approve a development agreement by ordinance or resolution only after a public hearing before the Board of County Commissioners or, at the election of the Board of County Commissioners, before the Hearing Examiner. If the hearing is to be held before the Hearing Examiner, the Hearing Examiner's determination shall be in the form of a recommendation to the Board of County Commissioners. No Motion for Reconsideration may be made from the Hearing Examiner's recommendation. Notice of the public hearing shall be issued pursuant WWCC 14.07.090.

17.50.050 Effect.

A development agreement pursuant to RCW 36.70B and this chapter shall be:

- A. Binding on the parties and their successors during the term of the development agreement and enforceable during its term by a party to the agreement, unless the agreement is amended or terminated;
- B. Recorded with the Walla Walla County auditor prior to the effective date of any development proposal that was submitted and reviewed concurrently with the development agreement.

Section 2. Effective Date. This ordinance is effective immediately upon adoption.

Section 3. Savings and Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 4. Publication. This ordinance will be published by an approved summary consisting of the title.

PASSED by the Walla Walla County Board of County Commissioners in regular session at Walla Walla, Washington, then signed by its membership and attested by its Clerk in authorization of such passage this 27th day of October, 2008.

Approved this 27th Day of October, 2008

David G. Carey
David G. Carey, Chairman

Gregg C. Loney
Gregg C. Loney, Commissioner

Gregory A. Tompkins
Gregory A. Tompkins, Commissioner

Constituting the Board of County Commissioners of Walla Walla County, Washington

Attest:

Connie R. Vinti
Connie R. Vinti, Clerk of the Board

Approved as to form:

Jesse D. Nolte
Jesse D. Nolte, Deputy Prosecuting Attorney