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CITY OF DOVER – BUILDING AND PLANNING DEPARTMENT

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**STAFF REPORT
DOVER PLANNING AND ZONING COMMISSION
FILE #AM020-21
PROPOSED AMENDMENT TO PUBLIC USES TABLE**

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PROJECT DESCRIPTION: The City of Dover has initiated an amendment to its land use codes to amend Title 12, Zoning Regulations, Section 12-5-6, Public Use Table, to add municipal facilities, structures, administrative offices, services, and post office as permitted uses in all zoning districts. The Planning and Zoning Commission will make a recommendation to City Council, which will hear the amendment and make the final decision.

APPLICANT: City of Dover
P.O. Box 115
Dover, ID 83825

DATE APPLICATION RECEIVED: Initiated: City of Dover, August 5, 2021

HEARING DATES: Planning & Zoning Commission: September 2, 2021
City Council: Pending

LEGAL NOTICE PROVIDED: Newspaper notice for Planning and Zoning Commission hearing: Published August 13, 2021
Notice mailed to taxing districts, school district, and airport manager: Mailed August 13, 2021

STAFF REPORT ATTACHMENTS: Draft ordinance dated for 09/02/21
Legal notice

PROJECT SUMMARY:

The City of Dover initiated an amendment to the Public Use Table, Section 12-5-6, to specifically list municipal facilities and structures, including administrative offices, services, and a U.S. post office, as permitted uses in all zones. The current public use table lists “structures, facilities, yard activities and other infrastructure necessary to provide public or private utilities” as permitted outright in all zones. While these uses may encompass municipal uses such as city hall, service centers, or the operation of a U.S. post office on city land, the proposed additional language would clarify that other city-operated or city-owned uses are also permitted outright and need to be sited where they can best serve the public in any zone.

City Hall is currently located in the Residential zone. The site was developed as part of the existing planned unit development of Dover Bay. The current post office was moved from the former Loretta Lane/Fourth Avenue site to its present location within the Residential zone. (A special use permit authorizing the use was not located in city records. However, the building previously was used as a fire station, and the post office may have been considered a continuation of a public facility or utility.)

Allowing the municipal structures and facilities “by right” in any zone does not exempt these uses from the required building permits, floodplain compliance, or stormwater/erosion control plans or other site-specific requirements. If the code amendment is adopted, the city may still choose to provide informational notices or hold public information meetings to advise the community of proposed uses.

Any ordinance amendment must be in accord with the city's adopted Plan goals and policies, pursuant to state and city codes. A summary of the goals, policies, and implementation sections of the adopted comp plan are provided with this report.

AUTHORITY:

- The authority for cities and counties to enact and amend land use codes is established at Title 67, Chapter 65, of the Idaho Local Land Use Planning Acts.
- The process for considering land use codes and amendments is set forth at §67-6511.
- Idaho Municipal Corporations Title 50, Chapters 3, 9, and 13 provide authority for the City of Dover to adopt ordinances, establish standards, and set procedures,
- Section 12-9-2 of Dover City Code authorizes the Planning and Zoning Commission and City Council to initiate amendments to zoning regulations.

AGENCY COMMENTS:

Notice of the proposed land use amendment has been provided to all political subdivisions within the City of Dover, the school district, the Sandpoint airport manager, and the media. At the time this report was issued, no agencies had provided comment on the proposed amendment.

PUBLIC COMMENTS:

To date, there have been no written public comments submitted to the record.

STANDARDS REVIEW:

Idaho Code §67-6511 (1) (c) requires the governing board analyze the proposed zoning amendment and ensure it is not in conflict with the policies of the adopted comprehensive plan.

Dover City Code (DCC) 12-9-4 requires amendments to the zoning regulations be in accord with the general and specific goals and objectives of the adopted comprehensive plan.

Comprehensive Plan goals and objectives: The decision makers must find the amendment is not in conflict with the adopted Plan. While the governing bodies must consider all elements of the Plan to ensure the proposed code is in accord, the portions of the adopted Plan that are particularly pertinent to the public use table amendment include the following: (“P” stands for adopted policy and “G” stands for goal. “I” stands for Implementation. Italicized text provides analysis of how the proposed amendment meets the adopted goals and policies.)

3. Community Design, Land Use, Economic Development:

3.P.4: Develop active and passive public spaces in identified activity centers such as public restrooms, plazas, or small parks, small outdoor courts, gathering spaces, community gardens and more.

3.I.3: Develop and adopt zoning classifications and ordinances that allow well-regulated compact suburban, small lot single family and small scale multi-family residential development; mixed use areas, small scale commercial, and retail development in areas identified on the future land use map. Consider proactive rezoning in locations where there is broad community and property owner support for new use(s).

3.I.4: Develop a plan and budget to complete the public facilities and open spaces called for in activity centers 3.4.

3.I.5: Move the post office and bus stop to an identified activity center.

3.I.10: Develop and adopt procedures and/or regulations for streamlined consideration of community recreational and event facilities.

The proposed amendment to the public use table would allow stream-lined permitting of necessary city or municipal services and functions and advance goals for activity centers and spaces within the city.

4. Transportation/Airports

4.P.1: Develop a detailed plan for desired placemaking features for a gateway at the entrance to Highway 2 that is safe, highly visible, attractive, welcoming to visitors and express Dover’s character.

4.I.1: Complete the detailed gateway placemaking plan.

The draft amendment does not address specific community and civic placemaking and gateway projects, but does provide an opportunity for the city to include such goals in municipal designs.

6. Recreation

6.G.3: Require new development to provide recreational amenities and spaces with access to the public in proportion to the development’s impact or pay a fee in lieu of such.

6.P.1: Support completion of new public spaces/plaza/parks as resources allow. Identify and prioritize potential locations and desired amenities.

6.P.3: During project approval, seek useable public connections to the waterfront and waterways and public recreational access points to trails requiring new development to provide those where directly related to the impact of the development.

While the proposed public uses table amendment does not directly address any specific uses or trail access, this section of the comprehensive plan is a reminder to seek these opportunities when municipal services and uses are developed.

7. Public Services

7.G.3: The Dover Post Office is maintained or enhanced.

7.I.5: Explore adding electric vehicle charging stations, perhaps at City Hall or in other public spaces.

The draft amendment does include the siting of municipal buildings and the U.S. Post Office in any zoning district. The implementation statement is included here to keep in mind the opportunity for recharging stations.

9. Natural Resources, Special Areas or Sites – Agriculture:

9.G.2: Manage impacts of stormwater runoff in Dover.

9.P.2: Minimize new development’s impacts on natural landscape by regulating grading, fill, and other site modification, maintaining slope stability, minimizing loss of wetlands and retaining valuable ground cover.

9.P.3: Control stormwater runoff at its source using green infrastructure and other strategies that mimic natural processes to prevent pollution of Dover’s valuable water resources.

9.I.4: Develop and begin using green stormwater techniques and strategies in public facilities and as a requirement in new development.

Public use structures and facilities are not exempt from the requirements for grading/stormwater management plans. Development of public sites that trigger the need for a basic or full-fledged stormwater plans will require the filing of a stormwater mitigation plan. Green stormwater techniques could be considered for these municipal facilities, where appropriate, to provide community demonstrations of alternative options for handling stormwater run-off.

10. Hazardous Areas

10.P.3: Regulate new development to not impede floodplains or the carrying capacity that they have for flood waters along the Pend Oreille River and other streams.

10.P.4: Enforce regulations that require engineering studies and mitigation related to landslide dangers in development ordinances and regulations and during development review.

10.I.2: Require floodplain review in accordance with adopted map and require appropriate mitigation measures during development applications.

Municipal facilities and structures are required to adhere to the flood damage prevention regulations of city code. Other potential hazards with respect to potential landslides or fire dangers would be evaluated on a case-by-case basis prior to construction and development.

11. Private Property Rights

11.G.1: Ensure land use policies, restrictions, conditions, and fees do not violate private property rights, or create unnecessary technical limitation of the use of the property.

11.G.2: Consider fundamental property rights of all parties and the effects of decisions when adopting and applying planning policies and zoning standards.

ATTORNEY REVIEW:

The city attorney has reviewed the draft public use table ordinance. While post offices are quasi-federal and often quasi-municipal, he suggested the U.S. post office be specifically listed in the public use table amendment rather than assuming that municipal facilities and structures includes post offices. The public use table amendment was revised to list U.S. post office specifically.

STAFF ANALYSIS:

The proposed addition to the public use table to allow municipal structures and facilities in all zones, including a post office, clarifies that structures as well as public utilities and facilities are permitted outright. A number of Idaho communities, including Sandpoint, Moscow, Bonners Ferry, and Kellogg, permit municipal facilities outright in all or most zoning districts. Special use permitting for city uses can present challenges for staff and governing boards, who have to avoid ex parte contact (discussions/communications outside the public hearing). But budgeting, facility siting, and other specific details of projects often have to be reviewed by governing bodies with staff before a particular use is scheduled to public hearing. This situation is alleviated by permitting municipal uses outright. However, the city can still conduct neighborhood meetings or issue informational brochures, or media releases to get the word out about a project. Such community meetings are planned for the future post office. The city's comprehensive plan does not provide specific goals regarding the siting of municipal uses, but gives general policies to encourage placemaking, community activity centers, and the need for development to address hazards, stormwater mitigations, and flood damage prevention. Future municipal uses are required to meet adopted city regulations for building, safety, stormwater controls, and floodplain compliance.

DRAFT MOTIONS FOR GOVERNING BODY:

MOTION TO RECOMMEND APPROVAL: I move to recommend approval of this file #AM20-21, amending the Public Use Table to add municipal facilities, structures, administrative offices, services, and post office as permitted uses in all zoning districts, finding that it **IS** in accord with the adopted policies of the City of Dover comprehensive plan and Dover City Code, as enumerated in the findings and standards, as presented (or as amended).

MOTION TO CONTINUE: I move to continue this file AM20-21 to [date, time and place] to allow for additional time for [public comment, additional information, etc.].

MOTION TO RECOMMEND DENIAL: I move to recommend denial of this file #AM20-21, amending the Public Use Table to add municipal facilities, structures, administrative offices, services, and post office as permitted uses in all zoning districts, finding that it **IS NOT** in accord with the adopted policies of the City of Dover comprehensive plan and Dover City Code, because [STATE WHAT STANDARDS THE AMENDMENT FAILS TO MEET AND WHY].