



Home of the Tualatin River National Wildlife Refuge

Planning Commission Meeting Packet

FOR

April 12, 2016 at 7 PM

**Sherwood City Hall
22560 SW Pine Street
Sherwood, Oregon**



City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
April 12, 2016

7:00 PM Planning Commission Meeting

Agenda

1. Call to Order/ Roll Call

2. Consent Agenda

- a. February 23, 2016 Planning Commission Minutes approval
- b. March 10, 2016 Planning Commission Minutes approval

3. Council Liaison Announcements (Council President Robinson)

4. Staff Announcements (Brad Kilby)

5. Community Comments

6. New business

a. Public Hearing – PA 16-02 Public or Commercial Parking within the Old Town Overlay

The Sherwood Urban Renewal Agency is proposing a text amendment to conditionally allow public or commercial parking (non-accessory, stand-alone) on residentially zoned lots provided the lot is within the Old Town Overlay District, and the property is located on a collector or arterial street.

7. New business

a. Public Hearing – PA 16-04 Industrial Uses Code Amendment

The City is proposing to amend the Development Code to update the uses on all industrially zoned properties. It is envisioned that the end result will be clearer code language with more allowed uses. The overall goal is to provide certainty for potential developers regarding the uses that will be allowed while continuing to protect the community from undesirable uses.

8. Planning Commissioner Announcements

9. Adjourn

**City of Sherwood, Oregon
Planning Commission Meeting
February 23, 2016**

Planning Commissioners Present:

Chair Jean Simson
Vice Chair Russell Griffin
Commissioner Chris Flores
Commissioner Alan Pearson
Commissioner Lisa Walker

Staff Present:

Julia Hajduk, Community Development Director
Brad Kilby, Planning Manager
Bob Galati
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Michael Meyer
Commissioner Rob Rettig

Council Members Present:

Councilor Jennifer Kuiper

1. Call to Order/Roll Call

Chair Jean Simson convened the meeting at 7:00 pm.

She moved to the consent agenda and asked for comments or a motion.

2. Consent Agenda

- a. January 12, 2016 Planning Commission Minutes approval
- b. January 26, 2016 Planning Commission Minutes approval

Motion: From Commissioner Alan Pearson to approve the Consent Agenda, Seconded by Vice Chair Russell Griffin. All present Planning Commissioners voted in favor (Commissioners Michael Meyer and Rob Rettig were absent).

3. Council Liaison Announcements

None.

4. Staff Announcements

Brad Kilby, Planning Manager, reported that staff met with the Police Advisory Board and invited members to participate in a Public Work Session with the Planning Commission on March 10, 2016 at 7pm. He disclosed that from March 1st to 31st there would be an online survey for recreational marijuana.

Mr. Kilby explained that city staff would like to hold a public hearing for the Community Garden during spring break on March 22, 2016 and asked to poll commission members as to their availability. Discussion followed and it was decided that the hearing would take place at a later date so Planning Commission members and interested parties could attend the hearing.

Mr. Kilby concluded by saying that the next step for Industrial Land Uses was a hearing tentatively scheduled for April 12, 2016.

5. Community Comments

None were received

6. New business

a. Public Hearing – SUB 15-01 Mandel Farms Subdivision

Chair Simson began the public hearing by reading the public hearing statement and asked for any ex parte contact, bias or conflicts of interest.

Commissioner Walker indicated that she had known the Mandel family for many years, but did not think it would make a difference in her considerations.

Chair Simson said she had an ex parte conversation at a previous City Council meeting with Kurt Kristensen regarding school capacity. She said the comment would not affect her ability to participate. She asked for objections to any of the Planning Commission member's ability to participate. None were received.

Chair Simson asked for the staff report.

Brad Kilby, Planning Manager started a presentation (see record, Exhibit 1) and explained that the approval criteria should be read in the public hearing. He said the application was subject to the following code sections of the Sherwood Zoning and Community Development Code Sections:

§16.12 (Residential Land Uses), §16.58 (Clear Vision and Fence), §16.60 (Yard Requirements), §16.72 (Procedures for Processing Development Permits), §16.94 (Off-Street Parking), §16.106 (Transportation Facilities); §16.110 (Sanitary Sewers); §16.112 (Water Supply); §16.114 (Storm Water); §16.116 (Fire Protection); §16.118 (Public and Private Utilities), §16.120 (Subdivisions), §16.128 (Land Division Design Standards), §16.142 (Parks, Trees and Open Space), §16.144 (Wetland, Habitat, and Natural Areas); and §16.156 (Energy Conservation)

Mr. Kilby explained that SUB 15-01 and was for approximately 22 acres of land located at the intersection of SW Edy and SW Elwert Road. He said the applicant proposes the area to be developed with 86 single family residential lots and there was a portion of the parent parcel was on the other side of SW Copper Terrace. He explained that Oregon is one of the states that does not recognize intervening ownership (in reference to the SW Copper Terrace that divided the property). Mr. Kilby said the City Council approved the rezoning of a commercial portion of the property adjacent to SW Elwert [from Neighborhood Commercial] to Medium Density Residential High so the entire property had split zoning. He said the density range between the Medium Density Residential Low (MDRL) and Medium Density Residential High (MDRH) was required to achieve a range between 5.5 and 11.0 dwelling units per acre spread across the development and 6.7 dwelling units per acre, consistent with both zones, was proposed with all of the lots at 5000 square feet or greater. He added that the minimum dimensions, including setbacks, would be verified.

Mr. Kilby noted that the applicant had requested exceptions under §16.144.030, Natural Resources, which allowed for a 30% reduction of all the setbacks for properties impacted by natural resources. The applicant asked for a 30% setback reduction to Lots 28-31, 36-37, and 53 only. Mr. Kilby explained that the standard allowed the setback to be reduced if an amount equal to or greater than the natural resource area was set aside and land was dedicated to those natural resources. He said the applicant was asking for half of what they could, that 2034 square feet of the area would be impacted and the applicant was proposing to mitigate with Tract C at 2155 square feet; more than the amount impacted. He noted the odd shape of some of the lots and said the exception would help fit homes on those lots.

Mr. Kilby said Washington County Engineering had reviewed and approved access spacing modifications to SW C Terrace onto SW Elwert Road and showed a proposed street plan showing SW C Terrace serving

the houses west of the natural corridor. He noted that because of intersection spacing requirements, the applicant was required to approach the Washington County Engineer to ensure they had enough spacing. He said the Washington County Engineer recommended approval and the County would require additional site distance certification once the road was constructed.

Mr. Kilby explained that the proposed subdivision would create three new streets and would make street improvements to SW Copper Terrace, SW Edy Road and SW Elwert Road. The streets would be constructed consistent with City and County Transportation System Plans and the applicant would have to get a facilities permit from Washington County to construct the improvements on SW Elwert and SW Edy Roads.

Mr. Kilby said the applicant had proposed to the County that the full improvements of sidewalk, curb and gutter at the northwest corner of the site not be required because of the topography and the fact that the intersection at Edy and Elwert needed major reconstruction. He noted that it was cost prohibitive to lay all of the cost onto the developer so the County had asked that the developer provide a cost estimate of the work. The County will look at and assess against the cost of other County projects to evaluate if it was a fair cost estimate. A fee in lieu of would then be assessed to the applicant to pay for improvements to go towards future intersection improvements.

Mr. Kilby said the County had asked that the applicant illuminate the intersection for security as there was no lighting there currently and it was added to the conditions. He said the City Engineer was available for questions.

Mr. Kilby explained that Lots 1-8 and the lots between Street A and Street B, fourteen total lots, would have access onto SW Copper Terrace and all other lots would take access from the internal streets.

Mr. Kilby showed a proposed pedestrian bridge crossing at the halfway point between the natural resource areas and said the location was chosen as the place of minimal impact to the natural resource area. He said the bridge provided pedestrian and bicycle connectivity to the site indicating that the intersection improvements at Edy and Elwert were not necessarily needed if people would cut through the natural resource area back onto the sidewalk system. He stated the applicant had proposed a soft trail system on the east side of the ravine as part of the open space which would make a connection to SW Edy.

Mr. Kilby said the applicant was proposing a phased development and to extend existing public utilities; some utilities would come from SW Elwert Road for the development area west of the natural resource area and all other utilities would come from existing stubs on SW Copper Terrace. He disclosed there would be some utilities that would be pushed through the development and cross under the pedestrian bridge.

Mr. Kilby confirmed that the natural resource areas onsite had been professionally delineated by a natural resource wetland scientist and biologist. Clean Water Services had generally concurred and issued a Service Provider Letter in response to that assessment. He said the applicant was not proposing to impact the area except with the pedestrian bridge and some required buffer improvements that must be mitigated as part of the soft path area.

Mr. Kilby explained that the City requires all subdivisions to provide a minimum of 5% open space on site and explained that the natural resource areas did not count as the 5% set aside for the benefit of the development. He stated the applicant had proposed to provide the open space in a series of five tracts totaling 8.5%. The tracts were located at the southwest corner, adjacent to the pedestrian bridge, in the southeast corner across from the "Ridges" schools, a pedestrian connection between Lots 15 and 16, and

a small open space, Tract E at the bottom of the lots adjacent to SW Edy Road. He said the applicant will be required to plant visual corridors along SW Edy and Elwert Roads and the minimum required tree canopy in a residential zone was 40%. Mr. Kilby stated the proposal retains quite a few trees in the vegetative corridor and the code allowed that any tree that is preserved is counted as twice the canopy towards the minimum canopy requirement. In addition, the street tree canopies in a residential subdivision are included to meet the canopy requirement. He said street trees were required along all frontages and with all the trees that would be planting, they will achieve a 59% canopy coverage of the area.

Speaking further to the open space, Mr. Kilby said the applicant was asked to clarify the programming of the open spaces. He said a lot of the open space was passive, not active, but our code was not prescriptive as to what programming had to be in the open spaces. He showed a few pictures of the types of programming that might take place in the open space tracts.

Mr. Kilby stated that community concerns came primarily through the neighborhood meeting held by the applicant plus a phone call with questions, but no formal comment had been received. Traffic was the biggest concern, as in every development and for this development a traffic engineer from Lancaster Engineering put together a traffic analysis that showed 65 AM peak hour trips (5-7AM) and 86 PM peak hour trips (5-7PM) would be generated by the development. Mr. Kilby said the proposal was to mitigate this impact by making all the required improvements: street widening, dedications, pedestrian improvements, and lighting to Edy/Elwert intersection as well as the fee in lieu for the improvements not being made to the intersection at this time. *Note: See page 5 for correct peak hour time frames.*

Mr. Kilby said that all natural resource protection was provided by delineating the natural resource and improving and protecting the area per Clean Water Services standards. He said school capacity at Sherwood Schools were near, at or above capacity, but that it varied throughout the district. State law does not allow cities to deny development based on school capacity. Mr. Kilby said the Sherwood School District commented that they were working on a facilities plan, and if in the course of the next couple years their enrollment exceeded school capacity they would look into installing modulars and addressing capacity through a long range capital facilities plan.

Mr. Kilby indicated that staff recommended the Planning Commission approve the proposed subdivision, subject to the findings and conditions of approval in the staff report to the Planning Commission. He said there were some scrivener's errors provided by the Planning Commission chair and some issues that would be cleared up after questions from the Commission.

Chair Simson asked for any questions for staff.

Commissioner Pearson stated that Chicken Creek ran through the heart of the subdivision and asked if flood plain considerations had been addressed and if the streets in the subdivision would be private streets maintained by the homeowners association or if the city would maintain them as public streets. Mr. Kilby confirmed that the flood plain had been considered and said there was no proposed development within the flood plain, waterway or corridor and explained that the streets would all be public streets built to a public standard except for the public alley that staff has proposed be a private alley because it was a small strip that would provide access to three properties and that access to Lot 78 be on the private alley, not C terrace. He confirmed that the homeowners' association would be responsible for maintenance of the private alley and reported that public and private streets would be noted on the final plat and in the CCRs. He noted that the city does not enforce CCRs but would ensure that they were drafted so the homeowners were responsible for maintaining private land set aside for access and private open space tracks. He gave the example of the park on Century Blvd where the playground equipment was replaced by the homeowners' association. Chair Simson asked for and received confirmation that all of the open space

tracks would be privately owned by the homeowners' association. Mr. Kilby said the city would request for access easements for pedestrian, sewer, and water access for utilities. He said the application did not meeting block length standards because of the topography and the natural resource areas, but the proposed mitigation was to provide a pedestrian bridge connection across the creek. He said the city would make sure there was a public access easement so the homeowners could not stop the public from using it.

Commissioner Walker asked who determined the peak hour trips to be from 5-7 AM/PM. Bob Galati responded that the International Traffic Engineers manual (ITE) manual. He said he misspoke and said the AM peak hours were from 7-9 AM and related to commuter traffic and the PM peak was from 4-6 pm. Mr. Galati indicated staff had asked Lancaster Engineering to look at the difference between the trips generated between what was initially zoned neighborhood commercial and the new zoning of Medium Density Residential Low. He said the trip count was significantly less with the residential compared to the initial commercial zoning.

Chair Simson requested clarification that Washington County had requested that the street improvements not occur next to the natural resource area at the intersection at Elwert and Edy Roads and that the developer was going to construct the southern connection of the sidewalk all the way from Lot 76 to the development to the south. Mr. Kilby said it was correct as the Daybreak Subdivision was required to stub the improvements because the topography wasn't as steep.

Chair Simson asked if the soft path was Americans with Disabilities Act (ADA) compliant. Mr. Galati suggested that the applicant would want to speak to the issue.

Mr. Kilby said he had received revised comments from Engineering staff (see land use record, Exhibit B) and noted there were no substantive changes.

With no further questions for staff, Chair Simson called for applicant testimony.

Mimi Doukas, from AKS Engineering and Forestry, came forward and stated she represented the applicant, Venture Properties. She gave a presentation beginning with the property location (see record, Exhibit 2). She said the property was located at the southeast corner of SW Edy Road and SW Elwert Road at the edge of the city limits and the current Urban Growth Boundary (UGB), so there was a rural edge north and west of the property. She pointed to SW Copper Terrace and the elementary and middle school to the east and explained that SW Edy and SW Elwert Roads were Washington County facilities; Edy was a Washington County collector and Elwert was a Washington County arterial roadway. She noted that Copper Terrace was a City of Sherwood facility and a neighborhood route. Ms. Doukas pointed out the split zoning across the property in a combination of Medium Density Residential Low and Medium Density Residential High. She noted that the plans had been rotated to the left and said it would enable them to zoom in on the plans to allow for the greatest detail. She showed the subdivision layout and said the property would be built in four phases shown color coded. Ms. Doukas commented that the property was unique and was bifurcated by several things; the tributary to Chicken Creek, an existing storm water facility that was constructed with the school construction, and Copper Terrace splits the site as well. She said that led to creativity when it came to the layout and we worked hard to create a sense of community for all of the disparate parts.

Ms. Doukas stated they were proposing eighty-six single family detached homes on lots at a minimum of 5000 square feet. She said they were requesting a reduced rear yard setback on seven of the lots backing up to the natural resource area and they had mitigated for that with additional open space area. She explained that they were not proposing, nor permitted to have any lot access directly on to Edy or Elwert Road, so all the access was internal. Ms. Doukas said there was one small area of alleyway that

accommodated a tight spot within the site and that they would be doing frontage improvements along Edy and Elwert except at the corner. She appreciated Chair Simson's clarification that those improvements would extend south along Elwert.

Ms. Doukas detailed that the subdivision open space system requirements were to have 5% of the site as open space and they were providing 8.6% without including the riparian corridor in the net calculation. She said of the entire site, 30% of the gross site area was within natural and open space area.

Ms. Doukas walked the Commission through that open space system beginning with the tributary to the creek that was protected by CWS. She said they had added a few areas around the edges to accommodate the mitigation for the rear yard setback reductions, then started laying in the open space areas identified on the plan. She said there were four concentrated areas of open space that were more passive, but landscaped and improved with benches and were interconnected. She talked about the pedestrian system that would pull this community together through a combination of hard surface sidewalks and trails and soft surface trails. She explained that the trail connection on the west side of the storm water facility was only allowed to be soft trail because it was within the CWS vegetative corridor. She said the soft path section was not ADA accessible, but there were full sidewalks along the public streets and the remainder of the trail system would be a hard surface and accessible. Ms. Doukas noted that within the four open space facilities Tract A to the north was the most unique and included a picnic shelter. She said they thought the tract adjacent to the school and could serve as a spot for families to wait for children as they were coming out of school. It also included landscaping, picnic tables and some passive amenities. She described the remaining open space facilities (Tracts B-G) as having benches, landscaping and the trail system. Ms. Doukas pointed out the soft path on the west side of the open space facility and the accessible hard path along the east side. She showed Tract H that extended all the way from the pedestrian bridge allowed for connectivity over to Elwert Road and had a combination of picnic tables, benches, trash cans and landscaping.

Ms. Doukas said the applicant was comfortable with the conditions of approval, she appreciated help from city staff, and requested approval of the application.

Chair Simson asked for any questions for the applicant from the Commission before public testimony.

Commissioner Pearson commented on the number of conditions of approval and asked if the developer could ensure that the conditions were met and what would happen if they were not met. Mr. Kilby responded that staff did work with the developer at every step along the way and would use code compliance efforts as necessary. From this point forward there were general conditions that must be met continually and other conditions that must be met at each stage; final plat, public improvements, grading or building permits. He stated that staff had a way to hold the developer responsible at every juncture as well as holding final occupancy, and any long term or general conditions that were unmet or later violated would be handled through code compliance. Julia Hajduk, Community Development Director added that it was not uncommon in a subdivision this size to have conditions and city staff were able to utilize conditions of approval for items that can be reasonably met, so there was not a big concern that these conditions could not be reasonably met.

Commissioner Pearson asked for confirmation from the applicant that they did not consider the conditions too difficult to be able to comply with. Ms. Doukas responded that they had reviewed the conditions of approval and thought they matched what the developer was proposing and they were comfortable moving forward.

In response to a question from the audience, Mr. Kilby explained that a soft surface path was like a bark trail or a surface that was not concrete or pavement. Chair Simson added that the portion of that trail that would be soft surface was because Clean Water Services did not want any addition impervious surfaces within the natural corridor. The pedestrian bridge to Edy Road and a short portion next to Elwert Road would be a soft path.

Commissioner Pearson asked who would maintain the natural area containing the creek. Ms. Doukas indicated that the space would be owned by the City and Clean Water Services controlled the long term maintenance of it. She said there was a maintenance period where the applicant would be required to install enhancement planting with a two year period where the applicant would be responsible before it would be turned over to the City if it was sufficiently stable.

Chair Simson noted the applicant had 23 minutes remaining for rebuttal and asked for public testimony.

Anthony Bevel, Sherwood resident came forward and said he lived close to the proposed development. He acknowledged that it was a large development and said he did not believe that traffic would not be impacted by the development. Mr. Bevel commented on another nearby development and properties for sale and said that the intersection at SW Elwert and Edy Road would need to be so well thought out as not to increase the existing traffic problems. He said he was very familiar and aware of the concerns at the intersection. Mr. Bevel read portions from the meeting packet asked if the issues were going to be addressed under the conditions.

- *City and County Engineers have agreed that the dedications along the entire frontage are required, but that full improvements would not be proportional to the impacts of this development (page 37)*
- *These trails and pathways serve as connections around and through the neighborhood due in part to adjust for the lack of sidewalks on segments of SW Edy and Elwert Road around the development. (page 53)*
- *Staff is concerned that the applicant does not propose any play structures, active play courts or exercise equipment within the development, limiting the recreation opportunities (page 54)*
- *Comments received from the County, SW Elwert Road is designated an “Enhanced Major Street Bikeway” (page 36)*

With no other public comments, Chair Simson asked for a rebuttal from the applicant.

Michael Ard, from Lancaster Engineering in Portland Oregon and Sherwood resident came forward with Ms. Doukas. Ms. Doukas stated several of Mr. Bevel’s concerns were discussed in the conditions of approval. Regarding the sidewalks on Edy and Elwert and the internal pedestrian connections, she explained that staff’s analysis was that the design accommodated pedestrian connectivity even though there would be a gap in the sidewalks short term along the Edy and Elwert intersection.

Regarding the lack of play structures within the development, Ms. Doukas noted that it was discussed with staff and within the applicant’s development team and they thought that with the proximity of the school facility that had such a good asset in terms of play structures and active play space that with our natural area in the riparian corridor, it was more appropriate to have the trails as the key identity for the how open space functioned for this community. She said there was also the noise factor of active play space and noise was something that needed to be accounted for in community design and with the school facility across the street, it was a great way to accomplish both active and passive play space. She turned the time over to Mr. Ard for transportation impacts.

Mr. Ard noted that Mr. Bevel stated the traffic would be massively impacted in the vicinity by the project. He said the development was a moderate scale residential development and the impacts were studied and found to be acceptable so the intersections and roadways within the vicinity met the applicable

performance standards of Washington County and the City of Sherwood. In particular, he said the concern expressed was regarding the intersection of Edy Road at Elwert Road and he pointed out that because most of the site was massed around Copper Terrace with the primary destinations to the east on Edy Road or to the south on Elwert Road there was not a lot of traffic from the site that actually passed through the intersection of Edy and Elwert. Mr. Ard said of the 65 AM trips generated by the new development, just 14 would pass through the intersection and during the PM peak hours, 20 of the 86 trips would pass through the intersection. Mr. Ard stated the impacts to the Edy and Elwert intersection were minimal at about 3% of the intersection's capacity being used by the development. He acknowledged that it was an intersection that was approaching capacity, but even with the development in place it still met all of the applicable performance standards. He said the City was well aware that the intersection would require improvements in the future.

Chair Simson asked what the level of service would be once the project was completed. Mr. Ard responded that either with or without this development, it was at a level of service C in the morning peak hours and a level of service E during the evening peak hours. Chair Simson confirmed those level would exist with or without the development and noted that people on Copper Terrace would see the impact more than at the intersection of Elwert and Edy because drivers would drive through Copper Terrace and to reach Handley Street or Edy Road.

Chair Simson asked for an explanation of what an Enhanced Major Street Bikeway was. Mr. Ard replied that it was a classification by Washington County as an aspirational goal; there was not a nice enhanced bikeway facility on that road. He explained that Washington County had in their long range plan that the road should be an enhanced bikeway. Chair Simson asked if the half street improvements on Elwert would meet the standards of an Enhanced Major Street Bikeway. Mr. Ard said the bikeway would not go in at this time, but right of way was typically required for the future half street cross section and the improvements programmed in are Washington County's purview, they asked for the necessary dedications that would be provided as part of the development. Chair Simson restated that the applicant would set aside and dedicate enough land to be able to build the road and the current requirement does not include a portion for a bikeway. Mr. Ard confirmed and said they had responded to Washington County's request for dedications and improvements. Chair Simson asked how wide the sidewalk would be on Elwert and Edy. Mr. Ard responded that it would be five feet on Edy and six feet on Elwert and the intersection would remain an all way stop.

Commissioner Russell asked if the street names would change from A, B, C. Ms. Doukas stated the names would change and commented that it was remarkably hard to come up with street names. Julia Hajduk added that the Municipal Code had naming conventions regarding street names.

Commissioner Walker asked about traffic impacts farther from the intersection such as where SW Edy intersects with Tualatin Sherwood Road. Mr. Ard responded that traffic impact studies are scoped early on based on the number of trips generated and the number of intersections that would be impacted. In this case, the intersections studied included Edy Road at Elwert Road, Copper Terrace at Edy Road, the north school access at Copper Terrace, Copper Terrace at Handley Street, Elwert Road at C Terrace, and Elwert Road at Handley Street. Mr. Ard stated the analysis did not extend to the intersection at Meinecke and 99W or the intersection of Edy Road at Sherwood Blvd. He acknowledged that there were impacts there, but by the time traffic got there, the traffic volumes were extremely high and the development represented a very tiny fraction of the traffic going through there.

Commissioner Walker asked how it was determined how far the impacts were studied. Mr. Galati responded that it was an engineering judgment of whether the impacts would be significant enough to

cause an issue so that improvements would be required. Usually staff was looking at in the base model of a 400 average daily total traffic count and the proposed development's impact was far below that. Mr. Galati said if an intersection was impacted by more than 5-10% of the traffic count then he would look at the review criteria because it would make a difference, but the counts on this were well below that. Commissioner Walker asked if Engineering had looked at the counts to ensure that they were below the 5-10%. Mr. Galati confirmed and the type of traffic that this development had was very small and would not show an impact requiring mitigation. He agreed that traffic counts and backups were high, but the development impact were so small they would not change the overall function of the intersection nor could he require improvements.

Mr. Ard added that the other related factor was that the City's Transportation System Plan (TSP) was tasked with providing an adequate transportation system for the development that can occur within the zoning that is allocated to the property. In this case, the property was zoned to develop at a higher density at the last TSP update, by scaling back the density (from commercial to residential) the impacts are reduced at those locations. Mr. Ard said the impacts are supposed to be covered through the TSP and the City's Capital Improvement Plan with cooperation with ODOT.

Chair Simson asked for an explanation of the fee in lieu of for the intersection of Elwert and Edy Roads. She commented that it was due to proportionality, because the City could not require a development that impacted an intersection at 3-5% to develop a multi-million dollar road project. She said it was because of State law that says we cannot mandate a multi-million dollar public improvement that is not proportionate to the impact they are creating to the community. Commissioner Walker added that paying a fee into a fund for future improvements to the intersection counted as paying their portion of the impacts. Chair Simson said they pay into a "pot" and when everyone pays enough, in theory, Washington County would have enough to improve the whole intersection. Bob Galati said Chair Simson had explained the process well and added that both the City's and the County's TSP had the intersection in need of major improvements. He said he did not think development in that entire area would be able to pay a fee in lieu of that would equate to the type of improvements necessary to handle that type of load on that intersection because of commuter traffic that passes through there. The fee in lieu of, or a number of developments combined would not begin to approach the cost required to develop that improvement. He said it would have to be a County project that would take a lot of funds, probably state, county, and federal funds to make it work. Mr. Galati pointed out that we have voice with the County for when the improvements are made by getting it on the Major Streets Transportation Improvement Program (MSTIP) funding program and the fact that the Sherwood West Preliminary Concept Plan included this intersection raised awareness to the road and its issues and we have had some unfortunate incidents out there including deaths that bring it up in the County's mind. He disclosed that a roundabout at another location on Elwert would be constructed and that the road was a higher priority on the county's map and it would not languish forever because it needed to be done. Julia Hajduk added that the developer would also have City System Development Charges (SDC) for transportation and Transportation Development Taxes (IDT) that are intended to pay for incremental impacts to offsite intersections. She said that is how improvements are funded that cannot be funded by any one project and all these pieces are put into place to help fund infrastructure. Alternatively, when a project is so huge that they break the system, they would be required to mitigate and make those intersection improvements.

Chair Simson asked about Lots 76-78 and said the three lots were on a private alley, but would be oriented towards Elwert Road, even though the rest of the development would be facing toward the interior of the site. Ms. Doukas responded that the front yard would technically face Elwert Road, but the homes would front the public alley, like the other homes with the garages and front doors inward. She noted that the

three lots were in an awkward spot, but the developer wanted a community design and putting your back to the neighborhood did not make a lot of sense. Ms. Doukas added that there were also visual corridor along Elwert Road, which was an odd thing for the front door, so it would face inward to the community.

Vice Chair Griffin commented on the new sidewalk on the east side of Elwert Road along Lots 79-86 and asked how the sidewalk would end. He noted the slope expressing concern for kids on skateboards or bikes falling into the green abyss. **Alex Hurley** from AKS Engineering responded that the sidewalk would end at a water quality facility with a Type III red and white barricade per Washington County code and the sidewalk would transition along the street to match the slope. Bob Galati, City Engineer communicated that city staff had walked the site which lead to the decision not to require improvements clear down to the intersection because it was too challenging. He said with proper signage, the end of the sidewalk would be safe; the type III barricade was significant enough and has been used in other parts of the city and the same condition was in place at the Daybreak Subdivision where the sidewalk ended.

Vice Chair Griffin asked about the street light installation at the intersection. Mr. Galati described the lighting along the developed street frontage with a light required to light the intersection.

Commissioner Pearson commented that the code allowed the developer to build houses that were 2 1/2 stories tall. He appealed to the developer to give serious consideration to building a percentage of the houses as one story and said his appeal was based on the fact that the two fastest growing elements of Sherwood's population were seniors and young couples starting out. That more and more Sherwood residents were aging out of the two story houses and we were losing senior citizens, because there were not enough one story houses to buy in order to stay in Sherwood. Commissioner Pearson added that a benefit of a one story house with a senior occupant in a new developed community was they would not likely be adding new kids to the school. He said the other aspect was the affordability of housing in Sherwood. He said it seemed logical to him that a one story house was less expensive than a two story and Sherwood needed to do more in the community to have affordable housing, especially for young couples starting out. He acknowledged that there was nothing in Sherwood's code to mandates this, but asked that the developer give consideration, because the Planning Commission was charged with planning for Sherwood and needed to address the needs of these two significant segments of the population, but there were few opportunities for large development, because we are running out of developable land and there is nothing that required it.

Ms. Doukas responded that the likely home builder had heard from market forces that the type of living Commissioner Pearson described was attractive. She conveyed that she did not think people understood that some of these homes were designed to live in as a one story structure with two story space to them such as bonus rooms, visitor space, or storage; homes are being designed to accommodate one story living even though they have a two story footprint. Ms. Doukas commented that there was the perception that a one story home might be more affordable, but the cost of the land stayed the same and the cost per square foot goes up, so a consumer looked at a house that costs more per square foot and lived the same as one that is less per square foot. She said consumers were also interested in different lifestyle configurations, like multi-generational, when lots are large enough to have a double suite, however that was not always visible from the street, but was something the home building industry was hearing in the marketplace. She added that the request was valid, but was not very pertinent to the land use application.

Chair Simson said she had received an additional request to speak and asked how to proceed as is was out of order. Mr. Kilby advised that the chair could poll the Commission to see if they wanted to hear the comment as well as the applicant to see if they were willing to rebut. Otherwise the opportunity to speak

had passed. Chair Simson did so and the Commission and applicant agreed to accept additional public testimony.

Barbara Bennick, resident on Elwert Road came forward and stated that initial plans showed no outlet onto Elwert Road, but now there was and twenty-two properties would be accessing Elwert Road. She said she was not alone in concerns over traffic and as a resident of the area she had to cross the street daily to get the mail and the traffic must be a consideration. She noted that her neighbor had been killed up the road and the new housing across the street (Daybreak) had required her mailbox to be moved three times before she had a safe way to get across. She asked that the Commission be cognizant of the traffic on Elwert.

Anthony Bevel, Sherwood resident said he has heard a phrase a few times that says traffic levels were “acceptable”. He stated it made him upset to hear it and asked who decided when traffic congestion was acceptable; if you lived there you would not think it was acceptable. Mr. Bevel said he did not know if it was a standard for planning, and asked how one could look the residents in the eye and say it was acceptable.

Chair Simson gave an opportunity for the applicant to respond.

Ms. Doukas and Mr. Ard came forward. Mr. Ard noted that Elwert Road was classified as an arterial road as a 45 mph posted speed. So it is intended to carry high volumes of traffic at fairly high speeds. This project would not significantly change the culture of that roadway, however, with development occurring adjacent to the roadway it provided a bit of massing adjacent to the roadway. He said anytime you provide something that either looked like an enclosure that visually narrowed the roadway or had a context that signals the need to travel slower, such as adjacency to residential development drivers tended to decrease speeds, so it could be possible as future development occurred, with this being a contributing factor, to reevaluate the speed limit on Elwert Road and reduce the speed. Mr. Ard specified that it was not something that could be done in advance of this project, but was something that could be looked at in the future. Chair Simson asked if that was something the residents would petition to Washington County. Mr. Ard confirmed and said it was not something that happened automatically or because of a request that speeds are typically set through the Oregon State Speed Control Board primarily based on the actual speed of travel traffic on the road. It is presumed that 85% of the drivers on the road are driving at a speed that is reasonable and prudent and 15% of the drivers are crazy idiots that need corrective action. He said travel speeds were the primary consideration and that was why it was so important that the culture along the roadside changed in order to initiate the change in the speed limit. Mr. Ard commented on Mr. Bevel’s exception to the word “acceptable” and said that within the State of Oregon the approval or denial of these applications was required to be on the basis of objective approval criteria. In other words, there was a specific standard that is either met or not met and the word acceptable means that it met the objective approval standard. Commissioner Walker asked when the standard was reviewed. Mr. Ard responded that it was part of the City’s TSP and the development code and the City had the purview to change the standards and what they were based on. He noted that other cities were moving away from a level of service as a standard to a volume over capacity ratio instead, because there were benefits to the community associated with that. He disclosed that volume over capacity ratios allowed some congestion to occur without indicating that there was a problem so long as it was safe and commented that Clackamas County was involved in making the change.

Chair Simson thought that Sherwood had changed to volume over capacity ratio and delay time. Bob Galati responded that the City used both. We apply the volume over capacity ratio because it indicated the basic capacity of a roadway between Point A and Point B; like a pipe with water, it tells you how full it can

operate at. He said the level of service tells how an intersection interacts with traffic and the longer you sit and wait at an intersection the worse the level of service with A-F designations (A being flow through easy and F being stopped in traffic). Mr. Galati said the city applied both because it gave a better handle on capacity objectively.

Mr. Ard added that there was a flip side to the coin in that if the City decided they wanted their standard to be very high, to achieve a level of service C or better everywhere, and never use more than 75% of the intersection capacity, then the TSP and the Capital Improvement Plan needed to be designed to accommodate that and suddenly, you are talking about mountains of dollars and lots of pavement to address to those concerns. There is a balance that had to be stuck as well.

Chair Simson asked for a response regarding access from the subdivision onto Elwert Road. Ms. Doukas referred to Exhibit F, Neighborhood Meeting Documentation in the land use application materials. She acknowledged that the plan had evolved since the neighborhood meeting, but there had always been access shown on to Elwert Road. It was originally shown for a traditional cul-de-sac, but the development team thought the new design was preferable. However, there was no way to access the island of land along Elwert Road without an entrance. She apologized for any confusion and explained that they received approval from Washington County to allow the access, but it had always been shown in the plans.

Chair Simson commented that the confusion may have come from the map prior to the crossing where in the Concept Plan before to the school development originally showed a crossings where the pedestrian bridge was proposed. It was assumed at that time that the site would be accessed in that manner. Mr. Ard noted that the plan also had other zoning that had been changed at another hearing.

Commissioner Flores asked if the peak hour trips, indicated earlier in the presentation, were the number of trips projected to be added to existing traffic flows. Mr. Ard confirmed and explained that traffic engineers count a trip to the store as two trips; one leaving your home and one arriving at the store. So the trips are separated into trips that are departing the residential area and trips that are arriving at the residential area and during the PM peak hour there would be 86 additional trips in total considering both of those, working out to be about one trip per home during the evening peak hour and a little bit less during the morning peak hour.

Chair Simson closed the public hearing and asked for any final comments from staff. Mr. Kilby reviewed the scrivener's errors and corrections in the packet given to staff by the commission chair.

- Page 28, the last sentence changed to: *As discussed and conditioned throughout the report the proposed development can satisfy this criterion.*
- Page 31, under the first finding in the second sentence changed from *68 lots to 86 lots*
- Page 63, the staff recommendation is to remove the condition *D.39 Improvements to the vegetative corridor shall be constructed with the first phase of the development to be constructed west of Southwest Copper tTerrace. Phase 2, 3, or 4* as an unnecessary and redundant condition because the phasing is determined by the Service Provider Letter 15003302 dated November 24, 2015 from Clean Water Services.
- Page 65, Condition 11. Amend the sentence to read *Prior to the issuance of any building permits for the site, the applicant provide a final grading permit that demonstrates compliance with this section (16.128.030)*
- Page 65, Condition 12 remove the word *obtained* in the second sentence.
- The staff report will be amended to specifically identify lots that will have a reduced setback as discussed on page 31.

Chair Simson asked for and received a general consensus regarding the scrivener's errors and changes as described by staff.

The following motion was received.

Motion: From Vice Chair Russell Griffin that SUB 15-01 Mandel Farms Subdivision based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the staff report with the modifications discussed previously in this meeting. Seconded by Commissioner Alan Pearson. All present Planning Commissioners voted in favor (Commissioners Meyer and Rettig were absent).

7. Planning Commissioner Announcements

Vice Chair Griffin announced the summer musical in the park would be My Fair Lady.

Commissioner Pearson commented on the New Partners for Smart Growth Conference attended by Planning Commissioners, City Councilors, and city staff. He said the conference was informational and felt they were based on problems that old cities face so none of it applied to Sherwood as we are a young growing city with different problems. Commissioner Pearson noted that a smart person learns from their own mistakes, but a wise person learned from the mistakes of others. He suggested that Sherwood could learn from the mistakes of other cities through their aging, growth, and development and he was confident that what was learned would be applied to future meetings, discussions, and developments for Sherwood, because we all want the same thing for Sherwood, the best place in the world to live. He spoke of a section on AARP livability and a conversation with the mayor of Wilsonville who said Wilsonville had the same score of livability as Sherwood, but Commissioner Pearson would rather live in Sherwood. He concluded that a lot of the developmental tools were interesting, but they were just tools that we need to use and he learned a lot.

Chair Simson noted a website that had free tools available for communities to provide citizen involvement. She explained that participants were asked to text "hi" to a certain number and were later asked to respond to four questions. She imagined the possibilities and said the software was open source. She thought it was a good opportunity to get citizens to give their opinions.

She spoke of a keynote speaker that changed her opinion of what smart growth meant to Sherwood as a community and up to the national level. She said the speaker explained how what we do at a planning level was important for smart growth in this country and that smart growth was not putting solar panels on houses, but the ability to walk in a neighborhood so energy and resources are used to the best possible capacity.

8. Adjourn

Chair Simson adjourned the meeting at 7:45 pm.

Submitted by:

Kirsten Allen, Planning Department Program Coordinator

Approval Date: _____

**City of Sherwood, Oregon
Joint Planning Commission and
Police Advisory Board Work Session
March 10, 2016**

Planning Commissioners Present:

Chair Jean Simson
Commissioner Alan Pearson
Commissioner Lisa Walker

Staff Present:

Jeff Groth, Police Chief
Ty Hanlon, Police Captain
Josh Soper, City Attorney
Brad Kilby, Planning Manager
Michelle Miller, Senior Planner
Michelle Babcock, CDD Administrative Assistant

Police Advisory Board Present:

Chair Laurie Zwinqli
Sean Garland
Amy Miller-Juvé
Chris West

Council Members Present:

Council President Jennifer Harris
Councilor Sally Robinson

1. Regulating Recreational Marijuana Facilities In Sherwood Discussion

The meeting began at 7:00 pm. Planning Commissioners, Police Advisory Committee Members and the members of the public who attended split up into four groups. Michelle Miller, Senior Planner informed the group that City Council had decided in January 2016 to put a ban on the November 2016 ballot. Should voters decide not to place a ban on recreational marijuana facilities locating in Sherwood, regulations would need to be adopted on the rules and processes for such facilities that would be in addition to the rules put in place by the Oregon Liquor Control Commission (OLCC).

Josh Soper, City Attorney, gave details of the ban that is in place until the election. Police Chief Groth discussed the need for the community to be proactive in developing regulations. Small group discussion at each table followed.

At the end of the discussion period, each table was asked to share their thoughts on the most appropriate location for each license type, and any additional regulations they would like considered in future regulation of marijuana facilities in Sherwood. The following comments were received:

- Discussion about zoning; Industrial already has security
- In some cases commercially zoned land and uses are adjacent to residentially zoned land and uses.
- Consider using similar regulations as medical marijuana already codified
- Enforcement and regulation should extend to parks, other public facilities and schools
- The group would like to have a better understanding of the different license types
- Limit the size of the use
- Consider code that regulates noxious smells from production
- Consider additional buffers
- Consider regulating co-location of medical and recreational per OLCC
- How can we increase public awareness
- Type of permit; possible conditional use

Michelle thanked participants and encouraged participation in the online survey open until March 31, 2016.

The meeting adjourned at 8:45 pm.

Submitted by:

Kirsten Allen, Planning Department Program Coordinator

Approval Date: _____

New Business Agenda

Item 6A

**City of Sherwood
STAFF REPORT:**

**April 5, 2016
File No: PA 16-02 Code Update**

Signed: 
**Brad Kilby, AICP
Planning Manager**

Proposal: The City Urban Renewal Agency is proposing to amend the Sherwood Zoning and Community Development Code to allow non-accessory parking lots within residential zones in the Old Town Overlay as a conditional use provided they are adjacent to a collector or arterial. Those streets include Pine, Washington, Main Street, and portions of 1st and 3rd streets, and are illustrated in the following figure.



I. BACKGROUND

- A. Applicant: This is an Urban Renewal Agency initiated text amendment.
- B. Location: The proposed amendment is to the text of the Comprehensive Plan and applies to any residentially zoned property within the Old Town Overlay that is adjacent to a collector or arterial street.
- C. Review Type: Proposed text amendments are legislative and require a Type V review, which involves public hearings before the Planning Commission and City Council. Any appeal of the City Council’s decision relating to this matter will be considered by the Oregon Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the April 12, 2016 Planning Commission hearing on the proposed amendment was published in *The Times* on March 17, 2016 and again on April 7, 2016. In addition notice was published in the April Gazette. Notice was also posted in five

public locations around town on March 17, 2016, on the City of Sherwood web site, and sent to all property owners within the Old Town Overlay.

Oregon Department of Land Conservation and Development (DLCD) notice was submitted on March 8, 2016.

E. Review Criteria:

The required findings for the Plan Amendment are identified in Section 16.80.030 of the SZCDC.

F. Background:

The Urban Renewal Agency purchased two lots within Old Town located at 15931 and 15919 SW 1st Street with the intention of building extra public parking that would be available in the event that the two lots located at 16020 SW 1st Street were to be sold and redeveloped. The two lots at 16020 SW 1st Street are currently unimproved, used for parking, and are across from City Hall. Lot 15919 SW 1st Avenue is zoned Medium Density Residential Low (MDRL) which currently does not allow non-accessory parking. It was determined that there may be other instances in the future where non-accessory parking may be needed in Old Town, and since there are a variety of mixed uses allowed throughout the Old Town Overlay, that it may be a good idea to allow them conditionally along collector and arterial designated streets where businesses are most likely to locate.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

DLCD notice was submitted on March 8, 2016. Notice was sent to affected agencies on March 25, 2016.

Staff did not receive any agency comments except a phone call from Metro to ask about the proposal and to say that they would not be providing comments.

The City has not received any additional agency comments to date.

Public:

Public Notice of the proposed amendments were sent out to everyone in Old Town, and posted in five public locations around town on March 17, 2016.

On March 23-28, 2016, staff received comments from Mike Versteegh of 22335 SW Washington Street. In his letter, Mr. Versteegh indicates that he is adamantly opposed to the proposal, and states that, "It makes absolutely no sense to purchase and demolish homes (many historic) that make up the character and charm of Old Town Sherwood to build parking lots..." Mr. Versteegh's comments are attached to this report as Exhibit B.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.A and C

16.80.030.A - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

The applicant makes the argument that there is a need for this amendment because there is a desire to place a standalone public parking lot on URA owned property within Old Town and the existing regulations prevent it. The proposal seeks to amend chapters of the Zoning and Community Development Code, Volume III of the Comprehensive Plan to allow public parking in Old Town via a conditional use if it is adjacent to a collector or arterial street. The Old Town standards do not require off-street parking within the Smockville portion and require only 65% of the required parking in the Cannery portion. Because there is limited off-street parking required, there is often a public perception that there is a parking shortage.

Ultimately the URA plans to redevelop the lot across the street from City Hall (referred to as the Robinhood Lot) which will decrease the existing available off-street parking. The URA desires to provide additional off-street parking, to compensate for the parking that will be removed, prior to redevelopment of the Robinhood lot. At this point, staff cannot comment on whether there is, in fact, a present or long term need for additional parking in Old Town, but the City does occasionally field complaints about the lack of public parking in Old Town. It should be noted that the City has made an application to the Transportation and Growth Management Program to undergo a more thorough and comprehensive study of parking in Old Town. If approved, the work and study could occur within the next year or so.

With respect to other applicable plans, the Town Center Plan, adopted by Council in 2013, includes Old Town, and a policy (Policy 9) related to parking which states, "The City will support actions that provide sufficient parking for businesses and residents, while maximizing the efficiency of parking areas."

The 2006 Economic Development Strategy recognizes Old Town as an overlay district generally applied to commercially zoned property, and residential properties with the potential for commercial conversion. Referred to as the EOA, the document was incorporated into the Comprehensive Plan by reference. Within the EOA, there is language to suggest that problems and opportunities within Old Town would require the enhancement of public parking. There are no specific goals or policies relative to the lack or provision of public parking within the plan, but the City URA board, which is also the City Council, has indicated that there is a need for additional parking to replace the parking that would be lost when the two lots located at the southwest corner of the intersection of SW 1st street and SW Pine were redeveloped. The URA board authorized the purchase of the two properties for this purpose, and has authorized their staff liaison to proceed with this request.

Applicable Regional (Metro) Standards

There are no known Metro standards that would conflict with the proposed amendment. Metro policies related to parking are only intended to ensure that minimum and maximum parking ratios called for by Cities within the Metro Urban Growth Boundary do not conflict with the Urban Growth Management Functional Plan limits.

Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comprehensive plan has been acknowledged by the State, there are no known conflicts with this text change. Staff is not aware of any other state or local regulations that the proposed amendment would conflict with. The language has been drafted in a manner that strives to provide clarity within the Code to staff, property owners, and developers.

Formal notice was also published in the newspaper two weeks prior to the hearing, published in the April issue of the Gazette, and has been posted around town in five conspicuous places, is provided on the City's website, and staff took the added measure of notifying all property

owners within the Old Town Overlay of the proposed amendment. The proposed amendments are consistent with Goal 1 (Citizen Participation) and Goal 2 (land use planning).

FINDING: While this specific proposal does not include changes to the goals and policies of the Comprehensive Plan, it would amend language of the Zoning and Community Development Code.

There do not appear to be any Comprehensive Plan requirements that would conflict with the proposed code language. As discussed in the analysis, the URA has indicated that there is a need for the proposed amendment to allow a parking lot to be constructed that could replace the parking that would be lost with the redevelopment of the more visible parcels located at the intersection of SW Pine and SW 1st Streets. That decision was also based on a perceived need by the business owners and public who patronize and live in Old Town. Therefore, the proposed amendment is not in conflict with any applicable City, regional or State regulations.

16.80.030.3 – Transportation Planning Rule Consistency

A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.

FINDING: The proposed amendment does not affect the functional classification of any street. It should be noted that future applications for parking lots are subject to Conditional Use review and are limited to streets that are collectors and arterials within Old Town.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends that the Planning Commission recommend approval of PA 16-02 to the City Council for their consideration.

V. EXHIBITS

- A. Applicants Materials
- B. Letter from Mike and Cheryl Versteegh dated March 28, 2016
- C. PA 16-02 Proposed Code Amendments Table



Home of the Tualatin River National Wildlife Refuge

Case No. PA 16-02
Fee 5330
Receipt #
Date 2-8-16
TYPE V

City of Sherwood Application for Land Use Action

Type of Land Use Action Requested: (check all that apply)

- Annexation
- Plan Amendment (Proposed Zone _____)
- Variance(list standard(s) to be varied in description)
- Site Plan (Sq. footage of building and parking area)
- Planned Unit Development
- Conditional Use
- Partition (# of lots _____)
- Subdivision (# of lots _____)
- Other: Text Amendment

By submitting this form the Owner, or Owner's authorized agent/ representative, acknowledges and agrees that City of Sherwood employees, and appointed or elected City Officials, have authority to enter the project site at all reasonable times for the purpose of inspecting project site conditions and gathering information related specifically to the project site.

Note: See City of Sherwood current Fee Schedule, which includes the "Publication/Distribution of Notice" fee, at www.sherwoodoregon.gov. Click on Departments/Planning/Fee Schedule.

Owner/Applicant Information:

Applicant: Robert Galati, PE - City of Sherwood Phone: (503) 925-2303
 Applicant Address: same as owner Email: _____
 Owner: Sherwood Urban Renewal Agency Phone: _____
 Owner Address: 22560 SW Pine Street, Sherwood, Oregon 97140 Email: GalatiB@SherwoodOregon.gov
 Contact for Additional Information: Keith Jones, HHPR - (503) 221-1131 - keithj@hhpr.com

Property Information:

Street Location: N/A - Legislative Text Amendment
 Tax Lot and Map No: N/A - Legislative Text Amendment
 Existing Structures/Use: N/A - Legislative Text Amendment
 Existing Plan/Zone Designation: N/A - Legislative Text Amendment
 Size of Property(ies) N/A - Legislative Text Amendment

Proposed Action:

Purpose and Description of Proposed Action: _____
Zoning Text Amendment to allow stand-alone parking in residential zones within the Old Town Overlay District as a conditional use, when the parking fronts an Arterial or Collector Street. Amend Section 16.162.040.

Proposed Use: N/A - Legislative Text Amendment

Proposed No. of Phases (one year each): N/A - Legislative Text Amendment

Exhibit A

LAND USE APPLICATION FORM

Authorizing Signatures:

I am the owner/authorized agent of the owner empowered to submit this application and affirm that the information submitted with this application is correct to the best of my knowledge.

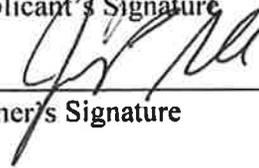
I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request.



Applicant's Signature

2. 17. 16

Date



Owner's Signature

2/2/16

Date

The following materials must be submitted with your application or it will not be accepted at the counter. Once taken at the counter, the City has up to 30 days to review the materials submitted to determine if we have everything we need to complete the review.

3 * copies of Application Form completely filled out and signed by the property owner (or person with authority to make decisions on the property).

Copy of Deed to verify ownership, easements, etc.

At least 3 * folded sets of plans

At least 3 * sets of narrative addressing application criteria

Fee (along with calculations utilized to determine fee if applicable)

Neighborhood Meeting Verification including affidavit, sign-in sheet and meeting summary (required for Type III, IV and V projects)

Signed checklist verifying submittal includes specific materials necessary for the application process

*** Note** that the required numbers of copies identified on the checklist are required for completeness; however, upon initial submittal applicants are encouraged to submit only 3 copies for completeness review. Prior to completeness, the required number of copies identified on the checklist and one full electronic copy will be required to be submitted.

HHPR JOB NUMBER – SHR-14

**Comprehensive Plan Text Amendment
Proposal to Allow Public Off-Street Parking Lots in Residential Zones
within Old Town
Applicant Narrative**

Owner/Applicant:

City of Sherwood
Robert J. Galati, PE
22560 SW Pine Street
Sherwood, OR 97140
(503) 925-2303
GalatiB@SherwoodOregon.gov

Contact:

Keith Jones, AICP, LEED AP ND
Harper Houf Peterson Righellis Inc.
205 SE Spokane Street, Suite 200
Portland, OR 97202
keithj@hhpr.com
(503) 221-1131

Summary of Request:

Amend Sherwood Zoning and Community Development Code Section 16.162.040 to allow stand-alone parking lots as a conditional use in residential zones within the Old Town Overlay District. Currently stand alone parking lots are allowed outright in commercial zones in the Old Town Overlay but not permitted in residential zones. Amendment would only allow stand-alone parking lots in residential zones along collector and arterial streets.

Date:

February 2, 2016



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I. DESCRIPTION OF PROPOSAL

In the past several years, City of Sherwood staff has received many comments on the need to expand the amount of public parking available within the Old Town area. Citing the lack of public parking as a main concern and limitation to business growth, the City of Sherwood Urban Renewal Agency has identified several areas within the Sherwood's Old Town that are capable of being developed as public parking lots. It is believed that additional public parking lots would provide the relief sought by Old Town business owners.

Chapter 16.162 (Old Town (OT) Overlay District) of the Sherwood Zoning and Community Development Code (SZCDC) regulates uses in the Old Town Overlay per Section 16.162.030 and 16.162.040. Both these sections state that the underlying zone dictates allowed uses in Old Town. However, these sections also state that the Old Town Overlay can set special standards for allowed uses specific to Old Town.¹

In Old Town, stand-alone parking lots, parking lots not directly tied to a specific land use, are not currently treated differently than the underlying zone's use requirements. Therefore, stand-alone parking lots are allowed as stated in the underlying zone. There are three zoning districts within the Old Town Overlay and stand-alone parking is allowed in these zones as follows:

1. Retail Commercial (RC) (Section 16.22.020) – Public or commercial parking (non-accessory) is a permitted use
2. High Density Residential (HDR) (Section 16.12.020) – Not specified and therefore not allowed
3. Medium Density Residential Low (MDRL) - (Section 16.12.020) – Not specified and therefore not allowed

To accommodate the identified need for an increase in public parking within Old Town, the applicant requests a zoning text amendment that would allow stand-alone parking (public and commercial (non-accessory) parking) in the Old Town Overlay as a conditional use.

Approval Request

The applicant requests a text amendment to the SZCDC as follows:

16.162.040 - Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Division VIII, and are approved in accordance with Chapter 16.82:

- A. *Uses permitted as conditional uses in the RC zone, Section 16.28.020, HDR zone, Section 16.20.020, and the MDRL zone, Section 16.16.020, provided that uses permitted as conditional uses on any given property are limited to those permitted in the underlying zoning district, unless otherwise specified by Section 16.162.030 and this Section.*

¹ Section 16.162.030 and 040 both refer to the underlying zone as dictating allowed uses in Old Town. However, these sections also state "unless otherwise stated" allowing uses to be treated differently in Old Town and establishing unique requirements for permitted and conditional uses in Old Town.



- B. *Townhouses (shared wall single-family attached) subject to Chapter 16.44. In addition, any garages shall use alley access. RC zone setback standards may be used in lieu of other applicable standards.*

- C. *Public and commercial (non-accessory) parking within residential zoning districts. Such parking is only allowed when the lot that the parking will be constructed on has street frontage on arterial or collector street as indicated per the Sherwood Transportation System Plan.*



II. RESPONSE TO APPLICABLE APPROVAL CRITERIA
SHERWOOD ZONING AND COMMUNITY DEVELOPMENT CODE

Chapter 16.80 – Plan Amendments

16.80.010 – Initiation of Amendments

An amendment to the City Zoning Map, the text of the Comprehensive Plan, or the text of the Zoning and Community Development Code may be initiated by the Council, Commission, or an owner of property within the City.

Response: The amendment request is being initiated by the City's Urban Renewal Agency as a property owner.

16.80.020 – Amendment Procedures

Zoning Map or Text Amendment

- A. Application - An application for a Zoning Map or text amendment shall be on forms provided by the City and shall be accompanied by a fee pursuant to Section 16.74.010.*
- B. Public Notice - Public notice shall be given pursuant to Chapter 16.72.*
- C. Commission Review - The Commission shall conduct a public hearing on the proposed amendment and provide a report and recommendation to the Council. The decision of the Commission shall include findings as required in Section 16.80.030.*
- D. Council Review - Upon receipt of a report and recommendation from the Commission, the Council shall conduct a public hearing. The Council's decision shall include findings as required in Section 16.80.030. Approval of the request shall be in the form of an ordinance.*

Response: The City of Sherwood Urban Renewal Agency conducted a neighborhood meeting on a proposed public parking lot site and solicited comments related to the proposal and public parking needs within Old Town. The neighborhood meeting was held on December 2, 2015. Documentation of the meeting including notice affidavit, sign-in sheet and copy of the mailed notice are attached.

16.80.030 – Review Criteria

A. Text Amendment

An amendment to the text of the Comprehensive Plan or the Zoning and Community Development Code must be based upon a need for such an amendment as identified by the Council or the Commission. Such an amendment must be consistent with the intent of the adopted Sherwood Comprehensive Plan, and with all other provisions of the Plan, the Transportation System Plan and this Code, and with any applicable State or City statutes and regulations, including this Section.

[...]

Response: The Sherwood Urban Renewal Agency Board has identified the need for providing additional parking within the Old Town area. Response to applicable Comprehensive Plan policies is provided in Section III of this report.



III. RESPONSE TO APPLICABLE COMPREHENSIVE PLAN POLICIES
SHERWOOD ZONING COMPREHENSIVE PLAN PART II

The Sherwood Comprehensive Plan Part II contains the City's land use policies. Review of this document the following applicable policies have been identified:

Chapter 4 – Section O. Community Design

Chapter 4 - Section 3 (General Objectives)

c. *To develop and implement policy which will minimize or eliminate adverse visual effects caused or perpetuated by the design and location of new development including but not limited to effects from.*

- 1) *The scale, mass, height, area, and architectural design of buildings and structures.*
- 2) *Vehicular and pedestrian ways and parking areas.*
- 3) *Existing or proposed alteration of natural topographic features, vegetation and waterways.*
- 4) *Other developments or structures including, utility lines, storage, or service areas and advertising features which may result in the interference with sun and light exposure, views, vistas, privacy and general aesthetic value of the neighborhood or area.*

Response: The Sherwood Urban Renewal Board has identified a need for additional parking within Old Town. There is an existing non-conforming parking area at the southeast corner of SW 1st Street and SW Pine. This off-street parking area does not meet current code standards including requirements for landscaping and paving. This parking area was created when the old Robin Hood Theater was demolished in 2002 and was intended at that time to be temporary. Now that the old Robin Hood Theater site is being considered for sale to private development, this parking will no longer be available. The Urban Renewal Board desires to replace this non-conforming parking lot with a permanent solution that will meet current code standards. As stated previously, the proposed text amendment is necessary to allow public parking lots within residential areas of Old Town where stand-alone public parking lots are not currently allowed by the SZCDC.

This text amendment, if approved, would apply within all of the Old Town Overlay District. As each proposed project and potential site are unique, the applicant proposes that any stand-alone parking projects on residential property within the Old Town Overlay be processed as a conditional use. The SZCDC already requires that all site plan reviews be processed as a Type IV Planning Commission hearing for sites in the Old Town Overlay. Making these proposals also a conditional use would allow the Planning Commission to place additional conditions on these proposals and to review a proposal for consistency with the Comprehensive Plan. The conditional use would also give the Planning Commission greater authority to deny the proposal if it was found not to be consistent with City goals and objectives for Old Town.



In addition to requiring conditional use approval, the applicant also proposes that parking lots on residential property in the Old Town Overlay only be allowed on arterial and collector streets. Doing this will prevent parking lots from being constructed within the areas of Old Town that have the most residential character and where the parking would likely have the greatest negative impacts on residential character.

IV. RESPONSE TO APPLICABLE POLICY DOCUMENTS

2005 Sherwood Old Town Design Guidelines

Response: The Sherwood Old Town Design Guidelines only have one guideline specific to parking areas. This one guideline states that stormwater runoff should be treated in vegetated swales. Stormwater treatment is site specific and must meet the requirements of Clean Water Services. Treatment of runoff with vegetated swales is a typical requirement for development of parking areas and is typically required by Clean Water Services and the City of Sherwood.

This is a guideline and not a requirement. Each site should be reviewed independently including topography and availability of stormwater systems. However, current standards and regulations regarding parking lots are consistent with this guideline.

2013 Sherwood Town Center Plan

Response: The 2013 Sherwood Town Center Plan indicates that parking should be managed so that there is sufficient parking for businesses and residents while using land efficiently. Public off-street parking lots are identified in the Town Center Plan as an effective way of addressing parking needs and therefore the proposal is consistent with the Town Center Plan.

Policy 9 of the Town Center plan addresses parking. In particular, Strategy 9.1 applies directly to Old Town, stated as follows:

STRATEGY 9.1 Examine parking supply and demand in Old Town to determine if changes to existing parking standards are necessary.

The applicant proposes to allow stand-alone parking in residential zones as a conditional use. All parking lots will need to also have a Type IV site plan review approval since this is currently required for all site plan reviews in Old Town. The conditional use and Type IV site plan review will give the Planning Commission the ability to review each Old Town parking proposal in residential zones and to determine if the proposal meets City policy and objectives. The Planning Commission will be given greater authority to place conditions on the proposal or to deny the proposal if found to not be consistent with the site in which it is proposed to be located.

The applicant is requesting this text amendment in support of proposed stand-alone parking (public and commercial (non-accessory) parking) within the Old Town Overlay. The applicant finds that there is a need for public parking since the existing non-conforming parking lot at NW 1st Street and SW Pine (former Robin Hood Theater site) will be displaced in the near future and because the Sherwood Urban Renewal Agency in consultation with Old Town area business owners has identified a need to provide additional off-street public parking lots within Old Town.



V. CONCLUSION

This summary of request demonstrates compliance with applicable approval criteria and code. The applicant respectfully requests that the City approve this application.



Mike & Cheryl Versteegh
22335 SW Washington St.
Sherwood, Oregon 97140

March 28th, 2016

Planning Department – City Hall
22560 SW Pine Street
Sherwood, OR 97140

COMMENT RE: Public or Commercial Parking within the Old Town Overlay

Dear Planning Member(s)

Let it be known and stated for public record that we are adamantly **opposed** to the proposal for a text amendment to conditionally allow public or commercial parking (non-accessory, stand-alone) provided the lot is within the Old Town Overlay District, and the property is located on a collector or arterial street.

It makes absolutely no sense to purchase and demolish homes (many historic) that make-up the character and charm of Old Town Sherwood in order to build parking lots. Displacing residents, who are active tax payers, from their community is not the answer.

Tearing down homes that are the fabric of our community only to replace them with scabs of asphalt patches peppered throughout the heart of our city is poor planning. I suggest you consider utilizing areas within the city that are not currently occupied. I propose that you open (and pave) the large gravel lot located at the corner of 3rd and Pine Street which is currently not in use and could accommodate numerous vehicles.

If you are really “hell bent” on using tax payer money to pave over something.....I suggest you start with the streets in old town as they are in grave dis-repair.

Chapter 16.12 - RESIDENTIAL LAND USE DISTRICTS¹¹

The residential districts are intended to promote the livability, stability and improvement of the City's neighborhoods.

SectionS:

Footnotes:

--- (1) ---

Editor's note—Ord. No. 2011-03, § 2, adopted April 5, 2011, amended the Code by repealing former Ch. 16.12, §§ 16.12.010—16.12.070, in its entirety, and added a new Ch. 16.12. Former Ch. 16.12 pertained to the Very Low Density Residential zoning district, and derived from Ords. 86-851, 87-857, 88-919, 90-921, 1997-1019, 2000-1092, 2000-1108, 2003-1153, and 2006-021; and Ord. No. 2010-015, adopted October 5, 2010.

16.12.010 - Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

1. Standard Density

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas that warrant preservation but are otherwise deemed suitable for limited development. Standard density in the VLDR zone is 0.7 to 1 dwelling unit per acre.

2. VLDR Planned Unit Development Density Standards

Property in the VLDR zone that is developed through the Planned Unit Development (PUD) process under Chapter 16.40, if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, may develop to a density of 1.4 to 2.0 dwelling units per net buildable acre under the following conditions:

- a. The minimum lot size is not less than 10,000 square feet;
- b. The following areas are dedicated to the public or preserved as common open space: floodplains under Section 16.134.020 (Special Resource Zones); natural resources areas as shown on the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan; and wetlands defined and regulated under current Federal regulation and Division VIII of this Code; and
- c. The higher density development will better preserve natural resources as compared to one (1) unit per acre.

3. Southeast Sherwood Master Planned Unit Development

- a. Property in the VLDR zone that is developed through the Planned Unit Development process under Chapter 16.40 and is based on, and generally conforms to the concepts, goals and objectives of the SE Sherwood Master Plan may develop to a maximum density of four (4.0) dwelling units per net buildable acre.

Exhibit C

Page 1

- b. Development under Section 16.12.010.A.3 must generally follow the development pattern shown as Alternative B/C in the SE Sherwood Master Plan (2006) and address the following factors:
 - (1) Varied lot sizes are allowed with a minimum lot area of 10,000 square feet if it can be shown that adequate buffering exists adjacent to developed properties with screening, landscaping, roadways or open space.
 - (2) The open space areas as required by Chapter 16.40 (Planned Unit Development), where feasible, should include parks and pathways that are located within the general vicinity of Alternative B/C in the SE Sherwood Master Plan.
 - (3) There is a pedestrian-friendly transportation system that links the site with nearby residential developments, schools, parks, commercial areas and other destinations.
 - (4) The unique environmental opportunities and constraints identified in the SE Sherwood Master Plan.
 - (5) The view corridors identified in the SE Sherwood Master Plan.
 - (6) The housing design types that are compatible with both surrounding and existing development.
- c. A density transfer under Chapter 16.40.050.C.2. is not permitted for development under this Section 16.12.010.A.3.
- d. The Planning Commission will consider the specific housing design types identified and the preservation of the identified view corridors at the time of final development review to ensure compatibility with the existing and surrounding development.

B. Low Density Residential (LDR)

The LDR zoning district provides for single-family housing and other related uses with a density of 3.5 to 5 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

C. Medium Density Residential (MDRL)

The MDRL zoning district provides for single-family and two-family housing, manufactured housing and other related uses with a density of 5.6 to 8 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirements.

D. Medium Density Residential High (MDRH)

The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing multi-family housing, and other related uses with a density of 5.5 to 11 dwelling units per acre. Minor land partitions are exempt from the minimum density requirement.

E. High Density Residential (HDR)

The HDR zoning district provides for higher density multi-family housing and other related uses with density of 16.8 to 24 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2013-003, § 2, 9-3-2013; Ord. No. 2011-003, § 2, 4-5-2011)

16.12.020 - Allowed Residential Land Uses

A. Residential Land Uses

The table below identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and defined in Chapter 16.10.

| USES | VLDR | LDR | MDRL | MDRH | HDR |
|---|------|-----|------|------|-----|
| RESIDENTIAL | | | | | |
| • Single-Family Attached or Detached Dwellings | P | P | P | P | P |
| • Two Family Dwelling Units | N | N | P | P | P |
| • Multi-family Dwellings | N | N | N | P | P |
| • Townhomes-subject to Chapter 16.44 | N | N | N | P | P |
| • Planned Unit Developments (PUDs)-subject to Chapter 16.40 | P | P | P | P | P |
| • Manufactured Homes on Individual Lots | P | P | P | P | P |
| • Manufactured Home Park-subject to Chapter 16.46 | N | N | P | P | N |
| • Accessory Dwelling Unit-subject to Chapter 16.52 | P | P | P | P | P |
| • Group Homes ¹ | P | P | P | P | P |
| Whereas P=Permitted, C=Conditional, N=Not Allowed | | | | | |

¹ Group homes not to exceed five (5) unrelated persons in residence provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the zoning district.

| USES | VLDR | LDR | MDRL | MDRH | HDR |
|---|------|-----|------|------|-----|
| • Government-Assisted housing [2] | P | P | P | P | P |
| ACCESSORY USES | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| • Home Occupations-subject to Chapter 16.42 | P | P | P | P | P |
| • Temporary Uses-subject to Chapter 16.86 | P | P | P | P | P |
| • Amateur Radio Tower-subject to § 16.12.060 | P | P | P | P | P |
| • Family Daycare Providers | P | P | P | P | P |
| COMMERCIAL | | | | | |
| • Agricultural Uses ^[3] | P | P | P | P | P |
| • Residential Care Facilities | P | P | P | P | P |
| • Special Care Facilities (such as hospitals, sanitariums, and specialized living facilities) | C | C | C | C | P |
| • Plant Nurseries ^[4] | C | C | C | C | C |
| • Public and Private Schools | C | C | C | C | C |
| • Daycare Facilities | C | C | C | C | C |
| • Any business, service, processing, storage, or display not conducted entirely within an enclosed building that is essential or incidental to any permitted or conditional use | C | C | C | C | C |
| • Raising of Animals other than Household Pets | C | C | C | C | C |

| | | | | | |
|--|---|---|---|---|---|
| • <u>Public or Commercial Parking (non-accessory)</u> ⁶ | N | N | C | C | C |
| CIVIC | | | | | |
| • Public Recreational Facilities ^[5] | P | P | P | P | P |

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| • Religious Institutions, Private Fraternal Organizations and Lodges, Country clubs or other similar clubs | C | C | C | C | C |
| • Cemeteries and crematory mausoleums | C | C | C | N | N |
| • Civic Buildings-(such as police and fire stations, post office) | C | C | C | C | C |
| • Public Use Buildings-(such as libraries, and community centers) | C | C | C | C | C |
| Whereas P=Permitted, C=Conditional, N=Not Allowed | | | | | |

| USES | VLDR | LDR | MDRL | MDRH | HDR |
|---|------|-----|------|------|-----|
| • Golf Courses | C | C | C | C | C |
| • Basic Utilities (such as electric substations, public works yard) | C | C | C | C | C |
| • Radio and communications stations, on lots with a minimum width and depth equal to the height of any tower in conformance | C | C | C | C | C |
| Whereas P=Permitted, C=Conditional, N=Not Allowed | | | | | |

- B. Any use not otherwise listed that can be shown to be consistent or associated with the permitted uses or conditionally permitted uses identified in the residential zones or contribute to the achievement of the objectives of the residential zones will be allowed or conditionally permitted using the procedure under Chapter 16.88 (Interpretation of Similar Uses).
- C. Any use that is not permitted or conditionally permitted under this zone that cannot be found to be consistent with the allowed or conditional uses identified as in B. is prohibited in the residential zone using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

(Ord. No. 2012-006, § 2, 3-6-2012; Ord. No. 2011-003, § 2, 4-5-2011)

Footnotes:

--- (2) ---

Provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the zoning district.

--- (3) ---

Includes truck farming and horticulture, but excludes commercial building or structures or the raising of animals except as otherwise permitted by this code.

--- (4) ---

Includes other agricultural uses and associated commercial buildings and structures

--- (5) ---

Includes, but is not limited to parks, playfields, sports and racquet courts, but excludes golf courses

~~---(6)---~~

Public or commercial parking lots (non-accessory) subject to conditional use approval provided the lot is located within the Old Town Overlay District, and has frontage on a collector or arterial.

New Business Agenda

Item 7A

City of Sherwood
STAFF REPORT:

April 5 2016
File No: PA 16-04 Industrial Uses Code Amendment

Signed:



Julia Hajduk, Community Development Director

Proposal: The City proposes to amend the Development Code to update Chapter 16.31 regarding the allowed uses on all industrially zoned properties. The overall goal is to provide more clarity and certainty for potential developers regarding the uses that will be allowed while continuing to protect the community from undesirable uses.

I. BACKGROUND

- A. Applicant: This is a City initiated text amendment.
- B. Location: The proposed amendment is to the text of the development code and, applies citywide.
- C. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission is scheduled to consider the matter on April 12, 2016. At the close of their hearing, they will forward a recommendation to the City Council who will consider the proposal, and make the final decision whether to approve, modify, or deny the proposed language. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the April 12, 2016 Planning Commission hearing on the proposed amendment was published in *The Times* on March 17, 2016 and April 7, 2016, and published in the April edition of *The Gazette*. Notice was also posted in five public locations around town and on the web site on March 18, 2016. In addition, a separate notice was sent to all Industrial properties in town consistent with the provisions of ORS 227.186 on March 18, 2016. Finally, notice was sent via email to interested parties who signed up for additional notification.
- DLCD notice was mailed on February 19, 2016.
- E. Review Criteria:
The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC). Comp plan policies Chapter 4, H (Economic Development) and K (Industrial Planning Designations). In addition, because the changes are to industrial uses, Metro Title 4 standards are applicable.
- F. Background:
The City of Sherwood adopted a concept plan and implementing code language for the Tonquin Employment Area (TEA) in October 2010. The intent at the time was to make the types of uses we wanted most, permitted outright and other uses that would complement the vision permitted conditionally upon demonstrating that they were compatible with the desired uses and intent. In August 2012 the City updated the industrial use code sections

as part of a larger code clean-up project and in the translation process of merging 3 chapters with slightly different use categories into 1, there were very few uses allowed outright or conditionally in the TEA area. This was brought to the City's attention by multiple property owners and brokers as they were trying to sell and develop properties in the TEA. The City staff and Planning Commission identified this as an opportunity to not only address the problem in the TEA but also to better categorize uses in all industrial zones to regulate the types of uses that would not be compatible with the community (for example, those that are attractive nuisances or emit noxious odors) while being open to new products and processes. After obtaining feedback from industrial property owners, representatives from the development community, Sherwood residents, and the planning staff drafted the proposed amendments. A summary of the amendments are included in Attachment 1 to this staff report. The proposed changes with track changes shown are in Attachment 2 and a clean copy of the proposed changes are included as Attachment 3.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

DLCD notice was sent on February 19, 2016. The City has not received any comments to date on the proposed amendments.

Metro was provided notice and indicated that they would like to see analysis in the staff report that identifies how much of the LI, GI, and EI land overlaps with Title 4 land. Some of the permitted uses might raise concerns about increases in daily traffic, but it would depend on whether they're in Title 4 areas or not.

Staff response: Compliance with Title 4 is discussed in Section III of this staff report.

Public:

Notice was initially sent to all industrial property owners informing them of work sessions on the topic. An interested parties list was developed and a project web page developed. Notice of the public hearing was mailed to all industrial property owners, emailed to interested parties, posted on the web site, posted in 5 locations around the City and published in The Times and The Gazette.

The following comments have been received as of the date of this staff report:

Pride Disposal submitted a letter dated March 21, 2016 (Attachment 4). Their letter stated "Pride Recycling Company operates a solid waste transfer and recycling station at 13910 SW Tualatin-Sherwood Road. The new amendments to the Sherwood Development Code, specifically regarding a facility as ours needs to be clarified. In one section the siting of a solid waste transfer station is a conditional permit; another section refers to General purpose solid waste landfills, incinerators and other *solid waste facilities* as not being allowed. A solid waste transfer station is a solid waste facility, and therefore the intent is unclear. It is my hope that this can be easily corrected."

Staff response: The proposed changes did not make changes to these existing categories. That said, it is clear that there is an inconsistency and, as currently written makes it unclear. It is proposed that "not otherwise permitted in this code" be added to the end of "General purpose solid waste landfills, incinerators and other solid waste facilities" to make it clear that the other use category "solid waste transfer stations" is allowed.

Rhys Conrad, representing the Orr Family, submitted a letter dated April 4, 2016 (Attachment 5). Their letter is generally supportive of the proposed amendments but propose that there be no cap on the amount of standalone warehousing that is permitted without a conditional use permit. If a cap is necessary, they recommend it be increased to 150,000 square feet rather than 100,000 as currently proposed.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.A and C

16.80.030.A - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

There is a clear need for clarification of the industrial use categories in the EI zone to open up the permissible uses to those that are realistic and in line with the vision of the Tonquin Employment Area plan. Feedback received through the public outreach process also demonstrates a need for the additional clarification and modifications made with the proposed amendments.

Applicable Comprehensive Plan Policies

Chapter 4, H. ECONOMIC DEVELOPMENT POLICIES AND STRATEGIES

Policy 5 - The City will seek to diversify and expand commercial and industrial development in order to provide nearby job opportunities, and expand the tax base.

Economic Development Strategy - Policy 1 - Support existing businesses and recruit additional businesses that provide local family-wage jobs. Replace any employment land rezoned for other uses with other employment land.

Strategy 1.3: Support and build upon manufacturing and other industries likely to produce family-wage jobs.

Chapter 4, K. INDUSTRIAL PLANNING DESIGNATIONS

Policy 2 - The City will encourage sound industrial development by all suitable means to provide employment and economic stability to the community.

The proposed amendments are consistent with the applicable criteria by providing for uses that expand and provide family wage jobs. In addition, by distinguishing uses based on impacts off site and providing for specific uses that are deemed incompatible in all zones, the changes respect the intent outlined in the comprehensive plan for the LI, GI and EI zones. In addition, the modifications made that affect the EI zone allow for uses that provide jobs, limit commercial and uses incompatible with the long term vision for the area. These changes also help set the stage for development of the area.

Applicable Regional (Metro) Standards

Metro Functional Plan - 3.07.430 Protection of Industrial Areas

A. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses—such as stores and restaurants—and retail and professional services that cater to

daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

1. Within the boundaries of a public use airport subject to a facilities master plan, customary airport uses, uses that are accessory to the travel-related and freight movement activities of airports, hospitality uses, and retail uses appropriate to serve the needs of the traveling public; and
2. Training facilities whose primary purpose is to provide training to meet industrial needs.

B. Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for the uses described in subsection A to ensure that they do not interfere with the efficient movement of freight along Main Roadway Routes and Roadway Connectors shown on the Regional Freight Network Map in the RTP. Such measures may include, but are not limited to, restrictions on access to freight routes and connectors, siting limitations and traffic thresholds. This subsection does not require cities and counties to include such measures to limit new other buildings or uses.

C. No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map to authorize uses described in subsection A of this section that were not authorized prior to July 1, 2004.

Sherwood updated its code in 2012 to fully comply with Title 4 and the proposed changes do not change the uses that are otherwise limited by the Title 4 requirements. Sherwood's industrial land is primarily identified on the Metro Title 4 maps as "Industrial Area" with some of the light industrial areas identified as "employment areas". The proposed amendments do not modify the uses already restricted by the Title 4 requirements. In instances where a new category was added that had the potential of allowing more uses that might cater to daily customers or allow for commercial uses, clarifications or footnotes were added. Attachment 3 provides a detailed summary of each change and an explanation of the change. This summary also notes where the change was made to clarify/confirm Title 4 compliance.

Consistency with Statewide Planning Goals

The process for developing and identifying the proposed changes has been made consistent with Goal 1, citizen involvement. There are no known Statewide Planning Goals that directly apply to the proposed amendments, however, it could be argued that the changes will provide more economic development opportunities and have been developed based on specific and valid feedback from the development community. If these changes were not made there is a very good chance that the TEA would remain undeveloped for years to come because the existing permissible uses are very limited and incompatible with the market realities. Therefore, the amendments are supportive of Goal 9.

FINDING: As discussed above in the analysis, there is a need for the proposed amendments in order to clarify the Sherwood Zoning and Community Development Code. The proposed amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.3 – Transportation Planning Rule Consistency

A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a

development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.

FINDING: The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. Rather, the proposed amendments are provided to clarify existing language within the existing development code. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends Planning Commission forward a recommendation of approval of PA 16-04 to the City Council.

- V. Attachements**
1. Proposed development code changes – Clean format
 2. Proposed development code changes – Track changes format
 3. Summary of proposed changes
 4. March 21, 2016 letter from Mike Leicher of Pride Disposal
 5. April 4, 2016 letter from Rhys Conrad of Macadam Forbes

16.10.020 Definitions

ADD the following:

Small-scale energy facilities - a facility, such as a solar panel, that produces energy but that is generally not visible from neighboring properties, with the exception of facilities attached to a building that do not exceed the height limits of the underlying zone and do not exceed the building height by more than 25%. For example, solar panels on the roof of a 24-foot-tall home could not exceed 6 feet in height.

Large-scale facilities - a facility that produces energy and exceeds the thresholds of a 'small-scale energy facility'".

Chapter 16.31 - INDUSTRIAL LAND USE DISTRICTS^[19]

Sections:

Footnotes:

--- (19) ---

Editor's note—Ord. No. 2012-011, adopted August 7, 2012, amended the Code by consolidating the provisions of Chs. 16.31, 16.32 and 16.34. Former Ch. 16.31, §§ 16.31.010—16.31.100, pertained to the Employment Industrial district, and derived from Ord. 2010-014, adopted October 5, 2010. See Chs. 16.32 and 16.34 for specific derivation.

16.31.010 - Purpose

- A. Employment Industrial (EI) - The EI zoning district provides employment areas that are suitable for, and attractive to, key industries and industry clusters that have been identified by the State of Oregon and the City's economic development strategy as important to the state and local economy. The following are preferred industry sectors for areas zoned EI: Clean Technology; Technology and Advanced Manufacturing; and Outdoor Gear and Active Wear.

Land zoned EI shall provide for large and medium-sized parcels for industrial campuses and other industrial sites that can accommodate a variety of industrial companies and related businesses. Areas zoned EI are also intended to provide the opportunity for flex building space within small- and medium-sized industrial campuses and business parks to accommodate research and development companies, incubator/emerging technology businesses, related materials and equipment suppliers, and or spin-off companies and other businesses that derive from, or are extensions of, larger campus users and developments. Retail and commercial uses are allowed only when directly supporting area employers and employees.

Industrial establishments and support services shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Hearing Authority.

- B. Light Industrial (LI) - The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.
- C. General Industrial (GI) - The GI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products from previously prepared or raw materials, providing such activities can meet and maintain minimum environmental quality standards and are situated so as not to create significant adverse effects to residential and commercial areas of the City. The minimum contiguous area of any GI zoning district shall be fifty (50) acres.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.020 - Uses

- A. The table below identifies the land uses that are permitted outright (P), permitted conditionally (C) and not permitted (N) in the industrial zoning districts. The specific land use categories are described and defined in Chapter 16.88.
- B. Uses listed in other sections of this Code, but not within this specific table are prohibited.
- C. Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the industrial zones or contribute to the achievement of the objectives of the industrial zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88.
- D. Additional limitations for specific uses are identified in the footnotes of this table.

| Uses | LI | GI | EI ¹ |
|--|----|----|-----------------|
| RESIDENTIAL | | | |
| • Single Dwelling unit, including a manufactured home, for one (1) security person employed on the premises and their immediate family | P | P | P |
| CIVIC | | | |
| • Hospitals | C | N | N |
| • Police and fire stations and other emergency services | C | C | C |
| • Vehicle testing stations | C | C | C |
| • Postal services - Public | C | C | C |
| • Postal substations when located entirely within and incidental to a use permitted outright | C | C | C |

| | | | |
|---|---|---|----------------|
| • Public and private utility structures, including but not limited to telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells, and public work yards | P | P | P |
| • Small-scale power generation facilities | P | P | P |
| • Large-scale power generation facilities | C | P | C |
| • Public recreational facilities including parks, trails, playfields and sports and racquet courts on publicly owned property or under power line easements | C | C | C |
| COMMERCIAL | | | |
| • Commercial Trade Schools, commercial educational services and training facilities | P | P | C |
| Entertainment/recreation | | | |
| • Country clubs, sports and racquet clubs and other similar clubs | C | C | C |
| • Indoor recreation facilities such as arcades, mini-golf, or bounce house facilities ^{2,3} | C | C | C |
| Motor Vehicle related | | | |
| • Motorized vehicle and sport craft repairs and service | C | C | N |
| • Motorized vehicle and sport craft repair and service clearly incidental and secondary to and customarily associated with a use permitted outright or conditionally | P | P | P |
| • Automotive, boat, trailer and recreational vehicle storage | C | C | C ⁴ |
| • Vehicle fueling stations or car wash facilities ⁵ | C | C | C |
| • junkyards and salvage yards | N | N | N |
| • Manufactures home sales and display area | N | N | N |
| Office and Professional Support services | | | |
| • Business and professional offices ³ | P | P | P |

| | | | |
|--|----------------|----------------|---|
| • Business support services such as duplicating, photocopying, mailing services, fax and computer facilities ³ | P | P | P |
| • Any incidental business, service, processing, storage or display, not otherwise permitted, that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building | P | P | P |
| Childcare | | | |
| • Day cares, preschools, and kindergartens, when clearly secondary to a permitted use | P | P | P |
| • Day cares, preschools, and kindergartens as a stand-alone use ³ | C | C | C |
| General Retail - sales oriented | | | |
| • Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business ³ | P | P | P |
| • Medical marijuana dispensary, not exceeding 3,000 square feet of gross square footage | p ⁶ | p ⁶ | N |
| • Tool and equipment repair, rental and sales, including truck rental ⁷ | P | P | P |
| • Retail plant nurseries and garden supply stores (excluding wholesale plant nurseries) | P | P | N |
| • Wholesale building material sales and service | C | P | N |
| • Retail building material sales and lumberyards ³ | C | P | N |
| Personal Services | | | |
| • Health clubs and studios less than 5,000 square feet in size | P | P | P |
| • Personal services catering to daily customers where patrons pay for or receive a service rather than goods or materials, including but not limited to financial, beauty, pet grooming, and similar services ⁸ | C | C | C |
| • Public or commercial parking (non- accessory) | N | N | N |

| | | | |
|---|---|---|---|
| • Veterinarian offices and animal hospitals | C | C | C |
| • Animal boarding/Kennels and pet daycare facilities with outdoor recreation areas ⁸ | C | C | C |
| Eating and Drinking establishments: | | | |
| • Restaurants, taverns, and lounges without drive-thru ³ | C | C | C |
| • Restaurants with drive-thru services | N | N | N |
| • On-site cafeteria that is secondary to, and serving employees of, a permitted use | P | P | P |
| INDUSTRIAL | | | |
| • Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products contained wholly within an enclosed building provided there is no exterior odor, noise or unscreened storage and not otherwise regulated elsewhere in the code, | P | P | P |
| • Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products not otherwise prohibited elsewhere in the code provided other off-site impacts are compliant with local, state and federal regulations. | C | P | C |
| • Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of acids, paints, dyes, paints, soaps, ammonia, chlorine, sodium compounds, fertilizer, herbicides, insecticides and similar chemicals | N | C | N |
| • Distribution, warehousing and storage associated with a permitted use operating on the same site | P | P | P |
| • Distribution and warehousing up to 100,000 square feet, provided product(s) are stored within an enclosed building ⁹ | P | P | P |
| • Distribution and warehousing greater than 100,000 square feet provided product(s) are stored within an enclosed building ⁹ | N | P | C |
| • mini-warehousing or self-storage | N | P | N |
| • Medical or dental laboratories, including biomedical compounding | P | P | P |

| | | | |
|---|---|---|----------------|
| • Laboratories (not medical or dental) | P | P | P |
| • Research and development and associated manufacturing | P | P | P |
| • Contractors' storage and equipment yards, | C | P | C ⁴ |
| • Building, heating, plumbing or electrical contractors and suppliers, building maintenance services, and similar uses ¹⁰ | P | P | P |
| • Industrial laundry, dry cleaning, dyeing, or rug cleaning plants | C | P | N |
| • Sawmills | C | C | N |
| • Sand and gravel pits, rock crushing facilities, aggregate storage and distribution facilities or concrete or asphalt batch plants | N | C | N |
| • Solid waste transfer stations | N | C | N |
| The following Uses are specifically prohibited in all industrial zones because they have been determined to have adverse environmental, public and aesthetic impacts and are not suitable for location in any of the industrial zones in the City | | | |
| • Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community | N | N | N |
| • Pulp and paper mills | N | N | N |
| • Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products | N | N | N |
| • Metal rolling and extraction mills, forge plants, smelters and blast furnaces | N | N | N |
| • Meat, fish, poultry and tannery processing | N | N | N |
| • General purpose solid waste landfills,-incinerators, and other solid waste facilities | N | N | N |

| WIRELESS COMMUNICATION FACILITIES | | | |
|---|---|---|---|
| • Radio, television, and similar communication stations, including associated transmitters | C | C | C |
| • Wireless communication towers ¹¹ and transmitters | C | C | C |
| • Wireless communication facilities on City-owned property | C | C | C |
| • Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure | P | P | P |
| OTHER | | | |
| Agricultural uses including but not limited to: | | | |
| • Farm equipment sales and rentals | N | N | N |
| • Farming and horticulture | P | P | P |
| • Raising of animals other than household pets | N | N | N |
| • Truck and bus yards | N | P | N |

¹ See special criteria for the EI zone, 16.31.030 and the Tonquin Employment Area (TEA), 16.31.040.

²If use is mixed with another, such as a restaurant, it is considered secondary to that use and permitted, provided it occupies less than fifty (50) percent of the total area.

³ Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.

⁴ On constrained land where structures would not otherwise be permitted, provided that no natural resources such as wetland or floodplains are impacted

⁵ Limited to Cardlock, wholesale or facilities incidental to and solely serving an associated permitted or conditional use- no public retail fuel sales.

⁶ See Special Criteria for Medical Marijuana Dispensary under Section 16.38.020.

⁷Sales and rental area Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.

⁸ Animal boarding/kennels and pet daycare facilities entirely within an enclosed building are considered "other personal service."

⁹ Stand alone. Warehousing and distribution associated with another approved use is ancillary and permitted without size limitations

¹⁰ These businesses are involved in the servicing and supplying of materials and equipment primarily intended for industrial, institutional, or commercial businesses. On-site sales are limited as most activity occurs electronically or off-site. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products are generally delivered to the customer. Few customers, especially the general public, come to the site.

¹¹ Except for towers located within one thousand (1,000) feet of the Old Town District which are prohibited.

(Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2012-011, § 2, 8-7-2012)

16.31.030 - Development Standards

A. Generally

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84 (Variances and Adjustments).

B. Development Standards

Except as otherwise provided, required minimum lot areas and dimensions and setbacks shall be:

| Development Standards by Zone | EI | LI | GI |
|---|----------------------|-----------|-----------|
| Lot area- Industrial Uses: | 3 acres ⁹ | 10,000 SF | 20,000 SF |
| Lot area- Commercial Uses (subject to Section 16.31.050): | 10,000 SF | 10,000 SF | 20,000 SF |
| Lot width at front property line: | 100 feet | | |
| Lot width at building line: | 100 feet | | |
| Front Yard Setback ¹¹ | 20 feet | 20 feet | None |
| Side Yard Setback ¹⁰ | None | None | None |

| | | | |
|--------------------------------------|---------|---------|------|
| Rear Yard Setback ¹¹ | None | None | None |
| Corner lot street side ¹¹ | 20 feet | 20 feet | None |
| Height ¹¹ | 50 feet | | |

⁹ Lots within the EI zone that were legal lots of record prior to October 5, 2010 and smaller than the minimum lot size required in the table below may be developed if found consistent with other applicable requirements of Chapter 16.31 and this Code. Further subdivision of lots smaller than three (3) acres shall be prohibited unless Section 16.31.050 applies.

¹⁰ When a yard is abutting a residential zone or public park, there shall be a minimum setback of forty (40) feet provided for properties zoned Employment Industrial and Light Industrial Zones, and a minimum setback of fifty (50) feet provided for properties zoned General Industrial.

¹¹ Structures located within one-hundred (100) feet of a residential zone shall be limited to the height requirements of that residential zone.

16.31.040 - Employment Industrial (EI) Restrictions

A. Use Restrictions

1. Retail and professional services that cater to daily customers, such as restaurants and financial, insurance, real estate, legal, medical and dental offices, shall be limited in the EI zone.
 - a. New buildings for stores, branches, agencies or other retail uses and services shall not occupy more than five thousand (5,000) square feet of sales or service area in a single outlet and no more than twenty thousand (20,000) square feet of sales or service area in multiple outlets in the same development project, and
 - b. New buildings for stores, branches, agencies or other retail uses and services shall not be located on lots or parcels smaller than five (5) acres in size. A "development project" includes all improvements proposed through a site plan application.
2. Notwithstanding the provisions of Section 16.31.050 "Commercial Nodes Use Restrictions", commercial development permitted under 16.31.050(1)(a) may only be proposed concurrent with or after industrial development on the same parcel. Commercial development may not occur prior to industrial development on the same parcel.

B. Land Division Restrictions

1. Lots of record prior to October 5, 2010 that are smaller than the minimum lot size required in the EI zone may be developed if found consistent with other applicable requirements of Chapter 16.31 and this code. Further subdivision of lots smaller than three (3) acres shall be prohibited unless Section 16.31.050 applies.
2. Lots or parcels larger than fifty (50) acres may be divided into smaller lots and parcels pursuant to a Planned Unit Development approved by the city so long as the resulting division yields at least one (1) lot or parcel of at least 50 acres in size.
3. Lots or parcels fifty (50) acres or larger, including those created pursuant to subsection (2) above, may be divided into any number of smaller lots or parcels pursuant to a Planned Unit Development

approved by the city so long as at least forty (40) percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.050 - Tonquin Employment Area (TEA) Commercial Nodes Use Restrictions

- A. Within the Tonquin Employment Area (TEA), only commercial uses that directly support industrial uses located within the TEA are permitted as conditional uses.
- B. Commercial development, not to exceed a total of five (5) contiguous acres in size, may be permitted.
- C. Commercial development may not be located within three hundred (300) feet of SW 124th Avenue or SW Oregon Street, and must be adjacent to the proposed east-west collector street.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.060 - Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, the applicable provisions of Divisions V, VIII and IX will apply.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.070 - Floodplain

Except as otherwise provided, Section 16.134.020 shall apply.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.10.020 Definitions

ADD the following:

Small-scale energy facilities - a facility, such as a solar panel, that produces energy but that is generally not visible from neighboring properties, with the exception of facilities attached to a building that do not exceed the height limits of the underlying zone and do not exceed the building height by more than 25%. For example, solar panels on the roof of a 24-foot-tall home could not exceed 6 feet in height.

Large-scale facilities - a facility that produces energy and exceeds the thresholds of a 'small-scale energy facility'.

Chapter 16.31 - INDUSTRIAL LAND USE DISTRICTS^[19]

Sections:

Footnotes:

--- (19) ---

Editor's note—Ord. No. 2012-011, adopted August 7, 2012, amended the Code by consolidating the provisions of Chs. 16.31, 16.32 and 16.34. Former Ch. 16.31, §§ 16.31.010—16.31.100, pertained to the Employment Industrial district, and derived from Ord. 2010-014, adopted October 5, 2010. See Chs. 16.32 and 16.34 for specific derivation.

16.31.010 - Purpose

- A. Employment Industrial (EI) - The EI zoning district provides employment areas that are suitable for, and attractive to, key industries and industry clusters that have been identified by the State of Oregon and the City's economic development strategy as important to the state and local economy. The following are preferred industry sectors for areas zoned EI: Clean Technology; Technology and Advanced Manufacturing; and Outdoor Gear and Active Wear.

Land zoned EI shall provide for large and medium-sized parcels for industrial campuses and other industrial sites that can accommodate a variety of industrial companies and related businesses. Areas zoned EI are also intended to provide the opportunity for flex building space within small- and medium-sized industrial campuses and business parks to accommodate research and development companies, incubator/emerging technology businesses, related materials and equipment suppliers, and or spin-off companies and other businesses that derive from, or are extensions of, larger campus users and developments. Retail and commercial uses are allowed only when directly supporting area employers and employees.

Industrial establishments and support services shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Hearing Authority.

- B. Light Industrial (LI) - The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.
- C. General Industrial (GI) - The GI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products from previously prepared or raw materials, providing such activities can meet and maintain minimum environmental quality standards and are situated so as not to create significant adverse effects to residential and commercial areas of the City. The minimum contiguous area of any GI zoning district shall be fifty (50) acres.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.020 - Uses

- A. The table below identifies the land uses that are permitted outright (P), permitted conditionally (C) and not permitted (N) in the industrial zoning districts. The specific land use categories are described and defined in Chapter 16.88.
- B. Uses listed in other sections of this Code, but not within this specific table are prohibited.
- C. Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the industrial zones or contribute to the achievement of the objectives of the industrial zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88.
- D. Additional limitations for specific uses are identified in the footnotes of this table.

| Uses | LI | GI | EI ¹ |
|---|----|----|-----------------|
| RESIDENTIAL | | | |
| <ul style="list-style-type: none"> • <u>Single</u> Dwelling unit, including a manufactured home, for one (1) security person employed on the premises and their immediate family | P | P | P |
| CIVIC | | | |
| <ul style="list-style-type: none"> • Hospitals | C | N | N |
| <ul style="list-style-type: none"> • Police and fire stations and other emergency services | C | C | C |
| <ul style="list-style-type: none"> • Vehicle testing stations | C | C | C |
| <ul style="list-style-type: none"> • Postal services - Public | C | C | C |

| | | | |
|---|---|---|----------------------------|
| • Postal substations when located entirely within and incidental to a use permitted outright | C | C | C |
| • Public and private utility structures, including but not limited to telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells, and public work yards | P | P | P |
| • Small-scale power generation facilities | P | P | P |
| • Large-scale power generation facilities | C | P | C |
| • Public recreational facilities including parks, trails, playfields and sports and racquet courts on publicly owned property or under power line easements | C | C | C |
| COMMERCIAL | | | |
| • Commercial Trade Schools, commercial educational services and training facilities | P | P | C |
| Entertainment/recreation | | | |
| • Country clubs, sports and racquet clubs and other similar clubs | C | C | C |
| • Indoor recreation facilities such as arcades, mini-golf, or bounce house facilities ^{2,3} | C | C | C |
| Motor Vehicle related | | | |
| • Motorized vehicle and sport craft repairs and service | C | C | N |
| • Motorized vehicle and sport craft repair and service clearly incidental and secondary to and customarily associated with a use permitted outright or conditionally | P | P | P |
| • Automotive, boat, trailer and recreational vehicle storage | C | C | NC ⁴ |
| • Vehicle fueling stations or car wash facilities ^{4,5} | C | C | C |
| • junkyards and salvage yards | N | N | N |
| • Manufactures home sales and display area | N | N | N |

| Office and Professional Support services | | | |
|--|----------------------------|----------------------------|-----------|
| • Business and professional offices ⁵³ | P | P | P |
| • Business support services such as duplicating, photocopying, mailing services, fax and computer facilities ³⁶ | P | P | <u>PC</u> |
| • Any incidental business, service, processing, storage or display, not otherwise permitted, that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building | <u>CP</u> | <u>CP</u> | <u>CP</u> |
| Childcare | | | |
| • Day cares, preschools, and kindergartens, when clearly secondary to a permitted use | P | P | P |
| • Day cares, preschools, and kindergartens as a stand-alone use ³⁶ | C | C | C |
| General Retail - sales oriented | | | |
| • Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business ⁷³ | P | P | P |
| • Medical marijuana dispensary, not exceeding 3,000 square feet of gross square footage | P⁶⁴⁰ | P⁶⁴⁰ | N |
| • Tool and equipment <u>repair</u> , rental and sales, including truck rental ⁷ | P | P | P |
| • Retail plant nurseries and garden supply stores (excluding wholesale plant nurseries) | P | P | N |
| • Wholesale building material sales and service | C | P | N |
| • Retail building material sales and lumberyards ³⁷ | C | P | N |
| Personal Services | | | |
| • Health clubs and studios less than 5,000 square feet in size | P | P | P |

| | | | |
|--|----------|----------|-----------|
| <ul style="list-style-type: none"> Personal services catering to daily customers where patrons pay for or receive a service rather than goods or materials, including but not limited to financial, beauty, pet grooming, and similar services⁸ | C | C | C |
| <ul style="list-style-type: none"> Public or commercial parking (non- accessory) | N | N | N |
| <ul style="list-style-type: none"> Veterinarian offices and animal hospitals | C | C | C |
| <ul style="list-style-type: none"> Animal boarding/Kennels and <u>pet</u> daycare facilities with outdoor recreation areas⁸ | C | C | C |
| Eating and Drinking establishments: | | | |
| <ul style="list-style-type: none"> Restaurants, taverns, and lounges without drive-thru³⁷ | C | C | C |
| <ul style="list-style-type: none"> Restaurants with drive-thru services | N | N | N |
| <ul style="list-style-type: none"> <u>On-site cafeteria that is secondary to, and serving employees of, a permitted use</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| INDUSTRIAL | | | |
| <ul style="list-style-type: none"> <u>Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products contained wholly within an enclosed buildingFood products provided there is no exterior odor, noise or unscreened storage and not otherwise regulated elsewhere in the code, appliances, textiles and fiber products, pottery, glass and previously pulverized clay ceramics, small electronics, communication equipment, instruments, toys, novelties, electronics components, maintenance equipment, vending machines, cosmetics, chemicals and other small products and tools manufactured from previously prepared or semi finished materials</u> | P | P | <u>NP</u> |
| <ul style="list-style-type: none"> <u>Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products not otherwise prohibited elsewhere in the code provided other off-site impacts are compliant with local, state and federal regulations.</u> | <u>C</u> | <u>P</u> | <u>C</u> |
| <ul style="list-style-type: none"> <u>Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of -Acids, paints, dyes, paints, soaps, ammonia, chlorine, sodium compounds, fertilizer, herbicides, insecticides and similar chemicals</u> | N | C | N |
| <ul style="list-style-type: none"> Distribution, warehousing and storage associated with a permitted use <u>operating on the same site</u> | P | P | P |

| | | | |
|--|--------------|--------------|-----------------------|
| <u>Distribution and warehousing up to 100,000 square feet, provided product(s) are stored within an enclosed building⁹</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| <u>Distribution and warehousing greater than 100,000 square feet provided product(s) are stored within an enclosed building⁹</u> | <u>N</u> | <u>P</u> | <u>C</u> |
| • Limited manufacturing entirely within an enclosed building that is generally secondary to a permitted or conditional commercial use | P | P | P |
| • mini-warehousing or self-storage | N | P | N |
| • Medical or dental laboratories, <u>including biomedical compounding</u> | P | P | P |
| • Laboratories (not medical or dental) | P | P | P |
| • Research and development and associated manufacturing | P | P | P |
| • Contractors' storage and equipment yards, building maintenance services, and similar uses | C | P | <u>NC⁴</u> |
| <u>Building, heating, plumbing or electrical contractors and suppliers, building maintenance services, and similar uses¹⁰</u> | <u>P</u> | <u>P</u> | <u>P</u> |
| • Industrial laundry, dry cleaning, dyeing, or rug cleaning plants | C | P | N |
| • Sawmills | C | C | N |
| • <u>Sand and gravel pits, rock crushing facilities, aggregate storage and distribution facilities or concrete or asphalt batch plants</u> | <u>N</u> | <u>C</u> | <u>N</u> |
| • <u>Solid waste transfer stations</u> | <u>N</u> | <u>C</u> | <u>N</u> |
| Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products: | | | |
| • Pharmaceuticals in facilities up to 50,000 square feet building size | P | P | P |
| • Pharmaceuticals in facilities larger than 50,000 square feet building size | N | C | N |

| | | | |
|---|--------------|--------------|--------------|
| • Building components, furniture, fixtures, signs | P | P | N |
| • Non-motorized recreational vehicles and equipment | P | P | N |
| • Manufactured homes, farm equipment, and greenhouses | N | P | N |
| • Any non-toxic materials or products made of metal, paper, wood, plastic, stone, fabric or other materials or products not otherwise permitted in the zone | P | P | N |
| • Renewable energy/energy efficiency, sustainable environmental products, advanced manufacturing, high technology, biotechnology, sports apparel and other recreational products | P | P | P |
| • Toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community | N | N | N |
| <u>The following Uses are specifically prohibited in all industrial zones because they have been determined to have adverse environmental, public and aesthetic impacts and are not suitable for location in any of the industrial zones in the City</u> | | | |
| <u>• Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community</u> | <u>N</u> | <u>N</u> | <u>N</u> |
| • Pulp and paper mills | N | N | N |
| • Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products | N | N | N |
| • Metal rolling and extraction mills, forge plants, smelters and blast furnaces | N | N | N |
| • Meat, fish, poultry and tannery processing | N | N | N |
| • Sand and gravel pits, rock crushing facilities, aggregate storage and distribution facilities or concrete or asphalt batch plants | N | € | N |
| • Solid waste transfer stations | N | € | N |

| | | | |
|---|--------------|--------------|--------------|
| <ul style="list-style-type: none"> General purpose solid waste landfills,-incinerators, and other solid waste facilities | N | N | N |
| <ul style="list-style-type: none"> Manufacture of biomedical compounds as regulated by the U.S. Food and Drug Administration | N | C | N |
| WIRELESS COMMUNICATION FACILITIES | | | |
| <ul style="list-style-type: none"> Radio, television, and similar communication stations, including associated transmitters | C | C | C |
| <ul style="list-style-type: none"> Wireless communication towers¹¹⁹ and transmitters | C | C | C |
| <ul style="list-style-type: none"> Wireless communication facilities on City-owned property | C | C | C |
| <ul style="list-style-type: none"> Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure | P | P | P |
| OTHER | | | |
| Agricultural uses including but not limited to: | | | |
| <ul style="list-style-type: none"> Farm equipment sales and rentals | N | N | N |
| <ul style="list-style-type: none"> Farming and horticulture | P | P | P |
| <ul style="list-style-type: none"> Raising of animals other than household pets | N | N | N |
| <ul style="list-style-type: none"> Truck and bus yards | N | P | N |

¹ See special criteria for the EI zone, 16.31.030 and the Tonquin Employment Area (TEA), 16.31.040.

²If use is mixed with another, such as a restaurant, it is considered secondary to that use and permitted, provided it occupies less than fifty (50) percent of the total area.

³ Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.

⁴ On constrained land where structures would not otherwise be permitted, provided that no natural resources such as wetland or floodplains are impacted

⁴⁵ Limited to Cardlock, ~~or~~ wholesale or facilities incidental to and solely serving an associated permitted or conditional use- no public retail fuel sales.

⁶⁴⁰ See Special Criteria for Medical Marijuana Dispensary under Section 16.38.020.

⁵⁷ Sales and rental area Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.

~~⁶ Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.~~

~~⁷ Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.~~

⁸ Animal boarding/kennels and pet daycare facilities entirely within an enclosed building are considered "other personal service."

⁹ Stand alone. Warehousing and distribution associated with another approved use is ancillary and permitted without size limitations

¹⁰ These businesses are involved in the servicing and supplying of materials and equipment primarily intended for industrial, institutional, or commercial businesses. On-site sales are limited as most activity occurs electronically or off-site. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products are generally delivered to the customer. Few customers, especially the general public, come to the site.

⁹¹¹ Except for towers located within one thousand (1,000) feet of the Old Town District which are prohibited.

~~⁴⁰ See Special Criteria for Medical Marijuana Dispensary under Section 16.38.020.~~

(Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2012-011, § 2, 8-7-2012)

16.31.030 - Development Standards

A. Generally

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84 (Variances and Adjustments).

B. Development Standards

Except as otherwise provided, required minimum lot areas and dimensions and setbacks shall be:

| Development Standards by Zone | EI | LI | GI |
|-------------------------------|----|----|----|
| | | | |

| | | | |
|---|----------------------|-----------|-----------|
| Lot area- Industrial Uses: | 3 acres ⁹ | 10,000 SF | 20,000 SF |
| Lot area- Commercial Uses (subject to Section 16.31.050): | 10,000 SF | 10,000 SF | 20,000 SF |
| Lot width at front property line: | 100 feet | | |
| Lot width at building line: | 100 feet | | |
| Front Yard Setback ¹¹ | 20 feet | 20 feet | None |
| Side Yard Setback ¹⁰ | None | None | None |
| Rear Yard Setback ¹¹ | None | None | None |
| Corner lot street side ¹¹ | 20 feet | 20 feet | None |
| Height ¹¹ | 50 feet | | |

⁹ Lots within the EI zone that were legal lots of record prior to October 5, 2010 and smaller than the minimum lot size required in the table below may be developed if found consistent with other applicable requirements of Chapter 16.31 and this Code. Further subdivision of lots smaller than three (3) acres shall be prohibited unless Section 16.31.050 applies.

¹⁰ When a yard is abutting a residential zone or public park, there shall be a minimum setback of forty (40) feet provided for properties zoned Employment Industrial and Light Industrial Zones, and a minimum setback of fifty (50) feet provided for properties zoned General Industrial.

¹¹ Structures located within one-hundred (100) feet of a residential zone shall be limited to the height requirements of that residential zone.

16.31.040 - Employment Industrial (EI) Restrictions

A. Use Restrictions

1. Retail and professional services that cater to daily customers, such as restaurants and financial, insurance, real estate, legal, medical and dental offices, shall be limited in the EI zone.
 - a. New buildings for stores, branches, agencies or other retail uses and services shall not occupy more than five thousand (5,000) square feet of sales or service area in a single outlet and no more than twenty thousand (20,000) square feet of sales or service area in multiple outlets in the same development project, and
 - b. New buildings for stores, branches, agencies or other retail uses and services shall not be located on lots or parcels smaller than five (5) acres in size. A "development project" includes all improvements proposed through a site plan application.

2. Notwithstanding the provisions of Section 16.31.050 "Commercial Nodes Use Restrictions", commercial development permitted under 16.31.050(1)(a) may only be proposed concurrent with or after industrial development on the same parcel. Commercial development may not occur prior to industrial development on the same parcel.

B. Land Division Restrictions

1. Lots of record prior to October 5, 2010 that are smaller than the minimum lot size required in the EI zone may be developed if found consistent with other applicable requirements of Chapter 16.31 and this code. Further subdivision of lots smaller than three (3) acres shall be prohibited unless Section 16.31.050 applies.
2. Lots or parcels larger than fifty (50) acres may be divided into smaller lots and parcels pursuant to a Planned Unit Development approved by the city so long as the resulting division yields at least one (1) lot or parcel of at least 50 acres in size.
3. Lots or parcels fifty (50) acres or larger, including those created pursuant to subsection (2) above, may be divided into any number of smaller lots or parcels pursuant to a Planned Unit Development approved by the city so long as at least forty (40) percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.050 - Tonquin Employment Area (TEA) Commercial Nodes Use Restrictions

- A. Within the Tonquin Employment Area (TEA), only commercial uses that directly support industrial uses located within the TEA are permitted as conditional uses.
- B. Commercial development, not to exceed a total of five (5) contiguous acres in size, may be permitted.
- C. Commercial development may not be located within three hundred (300) feet of SW 124th Avenue or SW Oregon Street, and must be adjacent to the proposed east-west collector street.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.060 - Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, the applicable provisions of Divisions V, VIII and IX will apply.

(Ord. No. 2012-011, § 2, 8-7-2012)

16.31.070 - Floodplain

Except as otherwise provided, Section 16.134.020 shall apply.

(Ord. No. 2012-011, § 2, 8-7-2012)

| Summary of draft Industrial Use changes – 4-12-16 | | |
|---|---|---|
| Change | Explanation | |
| 1 | <p>Added: Small-scale energy facilities - a facility, such as a solar panel, that produces energy but that is generally not visible from neighboring properties, with the exception of facilities attached to a building that do not exceed the height limits of the underlying zone and do not exceed the building height by more than 25%. For example, solar panels on the roof of a 24-foot-tall home could not exceed 6 feet in height.</p> <p>Large-scale facilities - a facility that produces energy and exceeds the thresholds of a 'small-scale energy facility'.</p> | <p>These are referred to in the existing code but have no definition. These were added in 2012 when the code was updated and the proposed definitions were discussed with the Commission and Staff, however it appears the definition was inadvertently not included in the amendments at the time.</p> |
| 2 | <p>Added: "single" in from of dwelling unit</p> | <p>To clarify that you could not have more than one dwelling unit</p> |
| 3 | <p>Changed "Automotive, boat, trailer and recreational vehicle storage" from not permitted to conditional with restrictions in the EI zone</p> <p>Added: restriction note that this use was conditional "On constrained land where structures would not otherwise be permitted, provided that no natural resources such as wetland or floodplains are impacted"</p> | <p>Helps to address concerns raised by property owner with property almost entirely constrained by overhead powerline easements.</p> |
| 4 | <p>Added: Footnote to the vehicle fueling stations or car wash facilities" that allows for facilities incidental to and solely serving an associated permitted or conditional use</p> | <p>This is to take into account industrial uses that might have fueling facilities for their fleet or equipment. This was based on comments from Enterprise Holdings. Remains consistent with Title 4 by continuing to limit to prohibit public sales</p> |
| 5 | <p>Changed footnote on Business and Professional offices to reflect renumbering</p> | <p>Reflects renumbering</p> |
| 6 | <p>Changed: "Business support services such as duplicating, photocopying, mailing services, fax and computer facilities" from Conditional in the EI to Permitted in the EI</p> | <p>Unnecessary to have that added layer of discretion in the EI zone</p> |
| 7 | <p>Changed footnote on "Business support services..." to reflect renumbering</p> <p>Changed: "Any incidental business, service, processing, storage or display, not otherwise permitted, that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building" from Conditional in all industrial zones to Permitted</p> | <p>Unnecessary to have that added layer of discretion for something that is "essential to and customarily associated with" a permitted use</p> |
| 8 | <p>Changed footnote on "daycares, preschools..." to reflect renumbering</p> | <p>Reflects renumbering</p> |
| 9 | <p>Changed footnote on "incidental retail sales..." to reflect renumbering</p> | <p>Reflects renumbering</p> |
| 10 | <p>Changed footnote on "medical marijuana dispensary..." to reflect renumbering</p> | <p>Reflects renumbering</p> |

| | | |
|----|--|--|
| 11 | Added “repair” to tool and equipment rental and sales... | To clarify that tool repair would also be allowed. Footnote 7 was also modified to add “sales and rental areas” to make it clear that those types of uses are still limited per Metro title 4 requirements but industrial repair types of uses would be permitted. |
| 12 | Changed footnote on “retail building material sales and lumberyards” to reflect renumbering | Reflects renumbering |
| 13 | Added: “pet” under animal boarding/kennels and daycare facilities... | Clarification that it was a pet daycare and not a child daycare |
| 14 | Changed footnote on “Restaurants, taverns, and lounges without drive-thru” to reflect renumbering” | Reflects renumbering |
| 15 | Add: On-site cafeteria that is secondary to, and serving employees of, a permitted use | To make it clear that a cafeteria on-site and serving the employees of a business does not require a conditional use. Because it is serving employees and secondary to a permitted use, it is consistent with Metro Title 4 requirements. |
| 16 | Add: Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products contained wholly within an enclosed building provided there is no exterior odor, noise or unscreened storage and not otherwise regulated elsewhere in the code | This provides general categories and allows for differentiation by zone when considering what it looks like from the outside and potential adverse impacts. Removed many of the specific categories in the original section. Differentiated from other categories in that there is “no exterior odor, noise or unscreened storage and not otherwise regulated elsewhere in the code” |
| 17 | Add: Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products not otherwise prohibited elsewhere in the code provided other off-site impacts are compliant with local, state and federal regulations. | Allows for industrial uses with some off site impacts (noise, odor, etc) provided they comply with other standards such as DEQ regulations. By stating “not otherwise prohibited” it allows restriction of specific uses not desired |
| 18 | Added ” Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of” in front of “acids, paints, dyes, paints, soaps, ammonia, chlorine, sodium compounds, fertilizer, herbicides, insecticides and similar chemicals” | To clarify this is different from the more general category. The reason for this is because of the chemicals used. It is not appropriate in the LI zone due to the proximity to residential and commercial and is not consistent with the vision for the Tonquin Employment Area, therefore this distinction retains it is prohibited in the LI and EI and conditional in the GI |

| | | |
|----|--|--|
| 19 | Added: "operating on the same site" in front of Distribution, warehousing and storage associated with a permitted use | Clarifies that a permitted use (such a manufacturing: may also have distribution and warehousing associated with it without the size limitations for a standalone use |
| 20 | Add: Distribution and warehousing up to 100,000 square feet, provided product(s) are stored within an enclosed building ⁹ | Responds to specific feedback from owners within the TEA area to allow some distribution and warehousing while providing some level of protection of the area for jobs. This category (up to 100,000 square feet) is permitted in all zones |
| 21 | Add: Distribution and warehousing greater than 100,000 square feet provided product(s) are stored within an enclosed building | Footnote clarifies that this only applies to standalone facilities. Responds to specific feedback from owners within the TEA area to allow some distribution and warehousing while providing some level of protection of the area for jobs. This category (greater than 100,000 square feet) makes it possible for larger facilities in the TEA area provided the applicant demonstrates compliance with conditional use criteria, including demonstrating a need. |
| 22 | Deleted: Limited manufacturing entirely within an enclosed building that is generally secondary to a permitted or conditional commercial use | Footnote clarifies that this only applies to standalone facilities. Unnecessary with the other changes being made |
| 23 | Changed: Medical or dental laboratories to add "including biomedical compounding | Later on (#32) we propose to delete "Manufacture of biomedical compounds as regulated by the U.S. Food and Drug Administration". Currently medical labs are permitted but biomedical compounding is only permitted conditionally in the GI zone. It is not clear how or why this is different from a medical lab. According to the FDA website, "In general, compounding is a practice in which a licensed pharmacist, a licensed physician, or, in the case of an outsourcing facility, a person under the supervision of a licensed pharmacist, combines, mixes, or alters ingredients of a drug to create a medication tailored to the needs of an individual patient." |
| 24 | Changed: "Contractors' storage and equipment yards, building maintenance services, and similar uses" to remove "building maintenance services and similar uses" | Allows us to respond to property owner/develop desire for building maintenance type uses while restricting contractors storage to only lots with constrained land. This helps to address |

| | | |
|----|---|--|
| | <p>Added: restriction note that this use was conditional “On constrained land where structures would not otherwise be permitted, provided that no natural resources such as wetland or floodplains are impacted”</p> <p>Added: Building, heating, plumbing or electrical contractors and suppliers, building maintenance services, and similar uses</p> <p>Added: footnote “These businesses are involved in the servicing and supplying of materials and equipment primarily intended for industrial, institutional, or commercial businesses. On-site sales are limited as most activity occurs electronically or off-site. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products are generally delivered to the customer. Few customers, especially the general public, come to the site.”</p> | <p>concerns raised by property owner with property almost entirely constrained by overhead powerline easements</p> <p>Responds to comments from owners and developers to allow uses that are customarily associated with industrial areas. Footnote provides clarification of use to differentiate it from a commercial use to address Metro Title 4 requirements</p> |
| 25 | | |
| 26 | <p>Added: “Industrial” in front of “laundry, dry cleaning, dyeing, or rug cleaning plants”</p> | <p>To clarify this is different from a personal service. This is more consistent with Title 4 requirements than the current code which does not provide this clarity. One reason for this distinction and maintaining existing use restrictions is that there are more chemicals and impacts associated with a large scale industrial facility which could be incompatible with LI adjacent to residential and commercial areas and is inconsistent with the vision for the EI zone.</p> |
| 27 | <p>Deleted “Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:”</p> | <p>Replaced with more general as described above in #16 and #17</p> |
| 28 | <p>Deleted</p> <ul style="list-style-type: none"> ● Food products, appliances, textiles and fiber products, pottery, glass and previously pulverized clay ceramics, small electronics, communication equipment, instruments, toys, novelties, electronics components, maintenance equipment, vending machines, cosmetics, chemicals and other small products and tools manufactured from previously prepared or semi-finished materials ● Pharmaceuticals in facilities up to 50,000 square feet building size ● Pharmaceuticals in facilities larger than 50,000 square feet building size ● Building components, furniture, fixtures, signs ● Non-motorized recreational vehicles and equipment ● Manufactured homes, farm equipment, and greenhouses ● Any non-toxic materials or products made of metal, paper, wood, plastic, stone, fabric or other materials or products not otherwise permitted in the zone | <p>These uses were very specific and otherwise covered by #16 and #17 described above</p> |

| | | |
|----|---|---|
| | <ul style="list-style-type: none"> Renewable energy/energy efficiency, sustainable environmental products, advanced manufacturing, high technology, biotechnology, sports apparel and other recreational products | |
| 29 | <p>Moved “Toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community” to new subheading and Changed to read “<u>Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of Toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community</u>” to new subheading</p> | Moved new subheading capturing the prohibited uses in all industrial zones |
| 30 | <p>Added: “The following Uses are specifically prohibited in all industrial zones because they have been determined to have adverse environmental, public and aesthetic impacts and are not suitable for location in any of the industrial zones in the City”</p> | To provide for a subheading of all prohibited uses across all industrial zones |
| 31 | <p>Moved: “Sand and gravel pits, rock crushing facilities, aggregate storage and distribution facilities or concrete or asphalt batch plants” and “Solid waste transfer stations”</p> | Housekeeping move to separate out from prohibited uses. These are conditionally permitted in the GI zone. |
| 32 | <p>Deleted “Manufacture of biomedical compounds as regulated by the U.S. Food and Drug Administration”</p> | See explanation above under #23 |



March 21, 2016

Sherwood Planning Department
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Pride Recycling Company operates a solid waste transfer and recycling station at 13910 SW Tualatin-Sherwood Road. The new amendments to the Sherwood Development Code, specifically regarding a facility as ours needs to be clarified. In one section the siting of a solid waste transfer station is a conditional permit; another section which refers to General purpose solid waste landfills, -incinerators, and other *solid waste facilities* as not being allowed. A solid waste transfer station is a solid waste facility, and therefore the intent is unclear. It is my hope that this can easily corrected.

Thank you.

Mike Leichner
Pride Recycling Company



April 4, 2016

Planning Commission
City of Sherwood

RE: Allowed Uses on Industrial Properties

Dear Planning Commissioners:

As you know, we represent Orr Family Farm, LLC. Orr Family Farm, at 96 acres, is the largest single property owner in the City of Sherwood. Its property is located in the Tonquin Employment Area, directly abutting Tualatin-Sherwood Road and the future extension of S.W. 124th Avenue. We have been working closely with staff over the past six months or so as part of the City's review of allowed uses in its industrial code. That collaboration has been very productive and we believe that the proposed code amendments that are currently before you go a long way to ensure the success of the Tonquin Employment Area. There is still one area of disagreement, however, and that is with respect to standalone warehousing in the Employment Industrial ("EI") zone, which is the zoning designation for the Orr Family Farm's property. The current proposal is to allow standalone warehouses in the EI zone as a permitted use, but only up to 100,000 square feet. Any proposed warehouse over 100,000 square feet would be a conditional use in the EI zone. We would prefer that standalone warehousing be a permitted use in the EI with no cap, but if there is a cap, we would ask that it be raised to 150,000 square feet.

As we have discussed throughout this process, standalone warehousing is a critical component of the overall industrial employment system. Warehouses provide services and support for the region's most significant employers, which is particularly evident in the Sherwood/ Tualatin Industrial market. One example is the 100,000sf industrial building currently occupied by Lamm Research as storage space. Another more recent example is Oregon Wine Storage who operates a 145,000 square foot standalone warehouse that serves the surrounding vineyards and wineries. In both instances, these facilities are providing a secondary need to the primary business/industry.

If the fear is that, without a square-footage cap, a huge regional distribution center will locate in the EI zone, that is extremely unlikely. Sherwood is not close enough to the region's freight movement infrastructure, e.g., the Portland Airport and major transportation systems, to attract such a use. Therefore, the market for standalone warehouses in the Sherwood/Tualatin

industrial market is self-limiting, but it is still critical. Warehousing supports just the kinds of businesses that the City hopes to attract to the Tonquin Employment Area, and not allowing sufficient warehouse capacity would be detrimental to vitality of that area.

It is critical to consider the complexity of our client's property when discussing this issue. Zoning, while critical, is one component to developing a property. Through evaluation of high-level planning analysis of the Orr Family Farm property, there will be significant costs related to infrastructure, natural resource mitigation, and grading to create areas that are flat enough to accommodate industrial buildings. These site constraints require significant time and money to overcome. The proposed square-footage cap at 100,000sf is another constraint that will cause further delay in the development of the subject property. Allowing additional square-footage at the current limits through a conditional use process is not a satisfactory alternative as there is so much uncertainty related to the approval criteria and process for conditional uses.

We appreciate staff's willingness to include standalone warehousing as a permitted use, and acknowledging its importance in the EI zone. We appreciate the opportunity to continue to participate in this important code update process.

Sincerely,

Stu Peterson, SIOR
Principal

Rhys Konrad, LEED AP
Broker

Sherwood Planning Commission Meeting

Date: April 12, 2014

Meeting Packet

Approved Minutes

Date Approved: May 24, 2014

Request to Speak Forms

Documents submitted at meeting:

Exhibit 1 - Presentation, Old Town Parking
Amendment PA 16-02

Exhibit 2 - Presentation, Industrial
Uses Code Amendment PA 16-04

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4-12-16 Agenda Item: Parking Lots (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: _____ Opponent: _____ Other:

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: Tim Voorhies

Address: Po Box 908

City/State/Zip: Sherwood Ore 97146

Email Address: Tim@steeltelindustries.com

I represent: **Myself** **Other** _____

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4-12-16 Agenda Item: Parking Old town overlay (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: Opponent: _____ Other: _____

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: Jeffrey Scott McCole McColm

Address: 16101 S.W. 3RD ST

City/State/Zip: Sherwood, Oregon

Email Address: Speakmuch@yahoo.com

I represent: **Myself** **Other** _____

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 3-12-16 Agenda Item: Old town parking (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: _____ Opponent: X Other: _____

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: Pam Meissinger

Address: 15268 SW Division St

City/State/Zip: Sherwood OR 97140

Email Address: pammeissinger@yahoo.com

I represent: **Myself** X **Other** Family / old Sherwood & People

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4-12-16 Agenda Item: Old Town Parking (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: _____ Opponent: X Other: _____

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER

Name: Edward T Schifke
Address: 160258 SW 3rd ST
City/State/Zip: Sherwood, OR 97140

Email Address: NONE

I represent: **Myself** X **Other** _____

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

Please do first

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4-12-16 Agenda Item: 1-2015 item 6 uses (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: Opponent: _____ Other: _____

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: STU PETERSON

Address: 1800 SW 1st Suite 650

City/State/Zip: Portland OR 97201

Email Address: Stu@madamforbes.com

I represent: **Myself** _____ Other Our family

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4-12-16 Agenda Item: PA 16-04 (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: _____ Opponent: _____ Other: X

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: ERHARDT F. STEINBORN

Address: PO Box 938

City/State/Zip: SHERWOOD, OR 97140

Email Address: E.F.STEINBORN2@FOUNTAIN.COM

I represent: **Myself** X **Other** _____

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4/12/16 Agenda Item: PA 16-04 (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: _____ Opponent: _____ Other: PROP OWNER

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: DAVID STILIER

Address: 14123 SE NICHOLAS ST.

City/State/Zip: BORING, OR 97009

Email Address: _____

I represent: **Myself** **Other**

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4/2/16 Agenda Item: INDUSTRIAL Code ADDM (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: _____ Opponent: _____ Other:

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: Tim Voorhes

Address: PO Box 908

City/State/Zip: Sherwood OR 97146

Email Address: Tim@steeltekindustries.com

I represent: **Myself** **Other** _____

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

I HAVE READ AND UNDERSTOOD THE RULES FOR MEETINGS IN THE CITY OF SHERWOOD.

1. PLEASE INDICATE THE ITEM YOU WOULD LIKE TO SPEAK ABOUT

Date: 4/12/2016 Agenda Item: 2 (From Agenda)

NOTE: If you want to speak to the Commission about more than one subject, please submit a separate form for each item.

2. PLEASE MARK YOUR POSITION/INTEREST ON THE AGENDA ITEM

Applicant: _____ Proponent: X Opponent: _____ Other: _____

3. PLEASE PROVIDE YOUR NAME AND ADDRESS IN A LEGIBLE FORMAT TO RECEIVE A COPY OF THE NOTICE OF DECISION ON THIS MATTER.

Name: Bill Bacht

Address: 1300 SW 5th Suite 3050

City/State/Zip: Portland, OR 97201

Email Address: bbacht@trammellerow.com

I represent: **Myself** _____ **Other** X company

4. PLEASE GIVE THIS FORM TO THE RECORDING SECRETARY PRIOR TO YOU ADDRESSING THE PLANNING COMMISSION. Thank you.

Old Town Parking Amendment PA16-02

April 12, 2016

Public Hearing

Sherwood Planning Commission

4-12-16
Date

PC
Gov. Body

6a
Agenda Item

Exh. 1
Exhibit #

Background

- The City sometimes fields complaints from business owners and residents that there's not enough parking in Old Town.
- Urban Renewal Agency would like to someday sell or develop the Robin Hood Lot in Old Town.
- Wanted to ensure that there would be property available for a parking lot to replace the parking lost if the Robin Hood Lot were sold or developed.
- Took advantage of an opportunity to purchase two lots on SW 1st Avenue in the vicinity of the Robin Hood theater.
- Decided that there was a need for the proposed amendment.
- It is important to note that the City is not actively seeking properties to purchase and develop with parking.

Site



PROPOSAL

The City Urban Renewal Agency is proposing to amend the Sherwood Zoning and Community Development Code to allow non-accessory parking lots (public and commercial) within residential zones in the Old Town Overlay as a conditional use provided they are adjacent to a collector or arterial.

Conditional Uses

- Conditional Uses in Old Town are always subject to a public hearing with Planning Commission review:
 1. All public facilities and services to the proposed use...are adequate; or that the construction of improvements needed to provide adequate services and facilities is guaranteed
 2. Proposed use conforms to other standards of the applicable zone and is compatible with abutting land uses in regard to noise generation and public safety.
 3. The granting of the proposal will provide for a facility or use that meets the overall needs of the community...
 4. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use...are sufficiently mitigated by the conditions proposed.
 5. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features.
 6. The use as proposed does not pose likely significant adverse impacts to sensitive wildlife species or the natural environment.

TEXT AMENDMENT CRITERIA

- An amendment to the text of the Comprehensive Plan shall be based upon the **need** for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.
- accordance with OAR 660-12-0060 (the Transportation Planning Rule)

Public Comment

- Letter from Mike Versteegh of 22335 SW Washington Street. Mr. Versteegh indicates that he is adamantly opposed to the proposal, and states that, “It makes absolutely no sense to purchase and demolish homes (many historic) that make up the character and charm of Old Town Sherwood to build parking lots...” Mr. Versteegh’s comments are attached to the staff report as Exhibit B.

STAFF RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends approval of PA 16-02.



City of
Sherwood
Oregon

Home of the Tualatin River National Wildlife Refuge



Industrial Uses Code Amendment PA 16-04

Planning Commission Public Hearing

April 12, 2016

4-12-16
Date

PC
Gov. Body

7a
Agenda Item

Exh. 2
Exhibit #

Background

- Tonquin Employment Area brought into the UGB 2002
- Tonquin Employment Area concept plan adopted 2010
 - Identified preferred industry targets:
 - Clean technology – renewable energy, energy efficiency, sustainable environmental products
 - Technology and advanced manufacturing – Manufacturing/metals, high tech, biotech and bio-pharmaceuticals
 - Outdoor gear and active wear – sports apparel, recreation products
 - Envisioned flex space with small and medium-sized industrial campuses and business parks
- Code update in 2012 - merged 3 chapters (LI, GI and EI) into 1
 - Unintentionally resulted in very few industrial use types being permitted or conditional in the EI zone

Planning Commission Work Sessions

- October 27, 2015 – Staff presented issue and got support for proceeding with code update process
- December 8, 2015 –beginning discussion project approach and timeline
- January 12, 2016 – Public work session with PC
- January 26, 2016 –1st draft staff recommended changes
- February 2, 2016 – 2nd draft staff recommended changes

Notice

- DLCDC notice was sent on February 19, 2016
- Published in *The Times* on March 17, 2016 and April 7, 2016,
- Published in the April edition of *The Gazette*.
- March 18, 2016
 - Posted in five public locations around town and on the web site
 - Mailed to all Industrial properties
 - Measure 56 notice; consistent with the provisions of ORS 227.186, 2016.
 - E-notice sent to interested parties who signed up for additional notification

Comments received

- Pride Disposal
- Rhys Conrad, Macadam Forbes
- *Willamette Water Supply*
- *David Stiller*
- *Bill Back, Trammell Crow*

Criteria

- **Section 16.80.030 An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.**
 - Comp plan policies Chapter 4,
 - H (Economic Development) and
 - K (Industrial Planning Designations).
 - Metro Title 4 standards

Recommendation

- Hold a public hearing, consider the testimony received prior to and at the hearing and consider forwarded a recommendation of approval to the City Council for their May 3, 2016 meeting.

APPROVED MINUTES

**City of Sherwood, Oregon
Planning Commission Meeting
April 12, 2016**

Planning Commissioners Present:

Chair Jean Simson
Vice Chair Russell Griffin
Commissioner Chris Flores
Commissioner Michael Meyer
Commissioner Alan Pearson
Commissioner Rob Rettig

Staff Present:

Tom Pessemier, Assistant City Manager
Julia Hajduk, Community Development Director
Brad Kilby, Planning Manager
Bob Galati, City Engineer
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Lisa Walker

Council Members Present:

None

1. Call to Order/Roll Call

Chair Jean Simson convened the meeting at 7:00 pm.

She moved to the consent agenda and asked for a motion to approve.

2. Consent Agenda

- a. February 23, 2016 Planning Commission Minutes approval
- b. March 10, 2016 Planning Commission Minutes approval

Motion: From Commissioner Alan Pearson to approve the Consent Agenda, Seconded by Vice Chair Russell Griffin. All present Planning Commissioners voted in favor (Commissioner Lisa Walker was absent).

3. Council Liaison Announcements

None.

4. Staff Announcements

Brad Kilby, Planning Manager, reminded the Commission that legislation to regulate marijuana facilities was being crafted to be put in place after the November election and said there would be another work session on April 26, 2016. If a ban is imposed the regulations would go away. The police advisory board was invited to the work session.

Mr. Kilby reported that expedited land divisions and flood plain legislation would come before the commission in the near future. Expedited land divisions are a division of land on a residentially zoned property that cannot go to a public hearing unless it was appealed; if appealed it would go to a hearings body. He said they have been around for a while, but the Home Builders Association wanted to ensure developers know it was available in the cities. Mr. Kilby explained that the Federal Emergency Management Agency (FEMA) was adopting new FEMA maps and the city would have to adopt them along with any regulations our code does not cover under their new proposed legislation. An audit of the code has been done. Maps have been promised since 2007.

Mr. Kilby asked for a report on the city's Arbor Day celebration. Ms. Allen stated that volunteer coordinator Tammy Steffens invited the 1st and 3rd grade classes from the Charter School who partnered with the

Sherwood High School Green Team. Commissioner Rettig attended the event and AKS Engineering and Forestry held a demonstration on how to plant trees and why they were important.

5. Community Comments

None were received

6. New business

a. Public Hearing – PA 16-02 Public or Commercial Parking with in the Old Town Overlay

Chair Simson began the public hearing by reading the public hearing statement and stated as it was a legislative action; ex parte contact, [bias or conflicts of interest] did not apply. She said the Planning Commission would make a recommendation to the City Council, who would be the final hearing authority unless appealed to the Land Use Board of Appeals (LUBA). She turned the time over to staff.

Bard Kilby said the Urban Renewal Agency (URA) was requesting to amend the Sherwood Zoning and Development Code and gave a presentation (see record, Exhibit 1). He said the city hears from businesses and residents in Old Town that there is not enough parking. He pointed out properties owned by the URA; the property known as the Robin Hood lot on the corner of 1st and Pine Street (actually two lots) and two adjacent properties located off of 1st Street. Mr. Kilby said the URA had decided that the two lots on the corner of 1st and Pine were more valuable developed as a commercial use, because they were close to downtown, and they would like to replace it with a parking lot on 1st street. He said the URA wanted to ensure there was parking available in Old Town if the Robin Hood lot was sold or redeveloped. Mr. Kilby commented that the City was not actively seeking properties to purchase and develop with parking, but under this amendment, it could happen, even though that was not the purpose behind the amendment.

Mr. Kilby clarified that the proposal before the Commission was from the URA to amend the Sherwood Zoning and Community Development Code specifically within the Old Town to allow non-accessory public and commercial parking lots within residential zones in the Old Town Overlay as a conditional use provided they were adjacent to a collector or arterial street. He said the parking lots would only be permitted as Conditional Uses and would only be allowed when next to an arterial or collector street; streets with greater traffic than a local street. He showed a map of affected streets in Old Town and explained that those properties could be developed with parking, even though it was highly unlikely. He added that because it was a conditional use there would be more oversight and control. He repeated that the City was not looking to purchase any property to tear down for a parking lot, but in the extreme, it could happen.

Mr. Kilby specified that Conditional uses in Old Town were always subject to a public hearing before the Planning Commission and there were six general criteria that applied to conditional uses wherever they occurred.

1. All public services to the proposed use had to be available to the site.
2. The proposed use conformed to other standards of the applicable zone such as landscaping, lighting, storm water quality, parking dimensions, and internal circulation.
3. The proposal would provide a facility that met the overall need of the community.
4. The hearings body (Planning Commission in this case) could impose conditions on the use to mitigate any adverse impacts to surrounding properties; for example the lighting might be required to be shut down and the lots be closed at 10 pm so as not to impact surrounding neighborhoods.
5. The proposed use and development must be conscientious of the shape, location, topography and natural features of the lot.
6. The use as proposed protects sensitive wildlife species and the natural environment.

Mr. Kilby stated that in order to amend the Comprehensive Plan text there were two criteria required to be met. The text amendment had to be based on a need for the amendment as identified by the Council or the Commission. He said the URA Board was made up of council members and they had established that there was a need. He added that the text amendment had to be consistent with the intent of the Comprehensive Plan as well as statewide goals and Metro policies that were applicable. Mr. Kilby disclosed that the Department of Land Conservation and Development (DLCD) and Metro were both notified of the proposed amendment and neither agency chose to submit comments, but indicated the amendment would not conflict their proposed or existing legislation. Mr. Kilby reported that the second item in order to approve a text amendment was that it had to be consistent with the Transportation Planning Rule. This rule says an amendment was allowed to occur when it was not going to change the functional classification of a designated right away or negatively affect a state facility. In this case the proposed amendment would not affect any existing functional classifications in the Transportation System Plan (TSP). He commented it was rare to find a use that would as they would be uses on a really large scale like a school or a similar use that would add a lot of additional traffic.

Mr. Kilby noted that a public comment letter was received from Mike Versteegh (see planning record, exhibit B). Mr. Versteegh commented that he was opposed to the proposal and it did not make sense to purchase and demolish homes in Old Town to replace them with parking.

Mr. Kilby said the staff recommendation was based on the above finding of fact for the two criteria; that there was a need and that the amendment would not affect the Transportation Planning Rule. Based on those and on the applicable criteria staff recommended approval of PA 16-02. He asked for questions from the Commission and informed that the applicants representing the URA were Tom Pessemier, Assistant City Manager, and Bob Galati, City Engineer, representing the City. Commission members directed questions to Mr. Kilby.

Commissioner Pearson received confirmation that there were no houses on the suggested properties and asked if a high rise parking structure was considered. He said there was a need for parking in Old Town especially when there were festivals and events. He asked if the Code would permit a multi-story parking garage as a more efficient use of the land. Commissioner Pearson said he assumed there was a height limit in Old Town, Sherwood clearly needed parking, and a multi-story parking facility would do a lot to take the pressure off. Mr. Kilby responded that it was a condition of economics that structured parking was not typically seen in the suburbs, but it was not prohibited, and if the URA decided to fund the structure they could go through the process. Commissioner Pearson argued that it was the heart of Old Town and if the City was trying to build up commercially it would need as much accessible parking as possible. Chair Simson commented that the Commission could not determine what the applicant was going to build only if they could. Mr. Kilby said the current code would allow for someone to bring in an application for a multi-story parking structure.

Commissioner Flores asked what land in Old Town was available under the current rules. Ms. Hajduk responded that stand-alone parking was allowed on commercially zoned properties, but not allowed on residential properties. This proposal would allow stand-alone parking on residential properties through the Conditional Use process. Mr. Kilby added that commercially zoned properties could have stand-alone parking. He gave examples of the parking lot behind the American Legion, at the old Robin Hood Theater site and next to Center for the Arts.

Chair Simson asked for applicant testimony.

Tom Pessemier, Assistant City Manager representing the Urban Renewal Agency (URA) came forward and said over the last eleven years working for the City he had heard concerns about parking in Old Town. The proposal was intended to address that issue for today and future availability of parking for the long term. He thought there were a lot of different opinions about how much parking there was in Old Town, but the whole

reason for the URA, was to promote business growth in Old Town and the reality was that as Old Town became stronger economically, parking would become more of a challenge. He said the URA wanted to ensure that there was a parking lot that met code requirements in the same general location when the Robin Hood lot was redeveloped; and the URA had purchased the two vacant lots in a good market. He said the URA had thought about structured parking, but the URA did not have the funds. Mr. Pessemier noted the property could have been rezoned to commercial, but the URA recognized that someday there may be additional need. He reported that the City was not considering buying properties or doing anything else at this time; the purpose was to prevent a situation where parking became a problem because more parking could not be added, structured or unstructured. He clarified they were trying to solve a long term problem by doing a text amendment rather than just solving one problem with a zone change on the property.

Stephanie Slyman, senior land use planner with Harper Hough Peterson Righellis in Portland representing the URA, thanked staff for the positive staff report that recapped the proposal. She reiterated that there were only two approval criteria for a text amendment that staff indicated had been met; there was a need; the proposal was consistent with the City's plans and goals and there were no transportation impacts that resulted from the text amendment. Ms. Slyman highlighted that the text amendment on the surface affected many properties and was a conservative approach by adding offsite public or commercial parking lots to the list of conditional uses for residential properties. Ms. Slyman said the Planning Commission would retain control over future uses and have full review of those offsite impacts to ensure that parking facilities were both compatible and the impacts mitigated. She added that the properties were within the Old Town Overlay which had another series of site plan requirements to contain how the site developed. She said Old Town Overlay applications would come to the Planning Commission as a Type IV hearing with public notice and opportunities for the public to comment.

Chair Simson asked for questions from the Commission for the applicant.

Vice Chair Griffin stated the parking lot was listed for public and business uses and asked if the City had plans for putting up signage that would restrict usage to staff only. Mr. Pessemier responded that there were no plans to put up restrictions and said the parking lot was meant to be a public parking lot just like the one it would replace.

Vice Chair Griffin asked if the new parking lot was intended to be used similar to the Robin Hood lot for festivals, tents, or as needed. Mr. Pessemier replied that when a festival was held, the City tried to open up as much area as possible and be accommodating for every event. He said the nice part was the new lot would be paved, safe and secure. Mr. Pessemier was confident the City would work to make sure space was available to suit organizer's needs.

Ms. Slyman repeated that the parking lot was not part of the request before the Commission, but the approval was for the ability of the URA to come forward with conditional use application in the future.

Vice Chair Griffin said he was not confused about the application, but as a citizen he wanted to make sure that if the City was going to build a parking lot it would be a true replacement for the Robin Hood parking lot and the citizens and businesses could use it.

Chair Simson stated she would like to hear the citizen's concerns before asking her questions.

Edward Schiele and **Pam Meissinger**, Sherwood residents who lived in Old Town came forward together. Mr. Schiele stated he agreed with the written testimony in opposition. He commented that he was vehemently opposed to any amendment that would allow the City or any other body to come in and take away his house from the early 1920's and would be 100 years old in another four years. He said it was the house his wife lived in for 66 years and raised five children in until she had to go into a memory care facility and he would not allow anyone to take it away, especially for fair market value. He thought it ought to go to the highest bidder that wants to buy the house and he would not want it knocked down for a parking lot. Mr. Schiele

said there was property around, including the vacant lot on 3rd Street where the old school used to be located that could have been turned into a parking lot years ago.

Ms. Meissinger added that she had lived in Sherwood for almost 54 years was very opposed to the application. She commented that she could not foresee the home that she grew up in, sold to strangers to be knocked down for a parking lot. She said her dad bought the house for her mom on their wedding day and her dad died when she was ten. Ms. Meissinger said she did not know all the political reasons behind the proposal, but anybody that knew her was aware of how passionate she was about the old Sherwood. She told the Commission they could not take the heart of what made old Sherwood the amazing place that it was, that Sherwood had grown so much. She advised not to take the homes away from people and commented about the memories that would be lost. Ms. Meissinger commented that she grew up a Cochran and had tried to save the family farm where her dad and his siblings grew up, but her family could not afford to save it at the time, located where Meissinger Place is. Ms. Meissinger said she had a friend who worked at the city who was heartbroken at how hard it was to see a livable farmhouse knocked to the ground.

Ms. Meissinger said Sherwood was about compassion and even though she hated public speaking, she had promised her mom to stand up for what she was passionate about. She said her mom gave her courage to speak out and though she did not know the laws and rules she could not find herself allowing anybody to do this. She said she was speaking for herself and so many people who felt the same way who were not present because they felt like their testimonies were heard for the night, but later forgotten. Ms. Meissinger said that was not how to run a city and not to take people's homes. She said she knew others who were worried about losing their homes and memories. She was fighting for her house, for old Sherwood and taking the old homes out meant taking the heart out of Sherwood. Ms. Meissinger commented that there were so many vacant lots like the old school house lot which was supposed to have a replica built. She said her mom went to the school. She said parking was insane around town, but advised not take what made Sherwood, Sherwood, to honor and respect those that know the history of Sherwood. She said Sherwood had welcomed all the new people and she loved everything here and all that was going on. Her mom was the very first Maid Marian and she was very proud of her and was speaking for her mom who gave her courage to speak. Ms. Meissinger said growing up in Sherwood was amazing. She asked the Commission not to take people's homes from downtown.

Jeffrey McColm, Sherwood resident, said his mother had owned a home in Old Town for the past 30 years and his family has been in Sherwood since 1897. He was concerned with all the commercial property in Old Town shown in the staff presentation and said there had been several homes taken down within the Old Town Overlay in the last seven to ten years. He did not know why vacant lots were not being considered. Mr. McColm noted the old school house property that Ms. Meissinger's mother and his own father and grandparents attended. He said there was so much land in Old Town that has lost homes or buildings and his concern was for the homes that could be affected. He commented that he did not see the reason to even consider properties with homes in Old Town Sherwood and it was because of the residents from the last seventy to hundred years that built businesses and made Old Town what it was today. Mr. McColm did not think there was any need to take the homes and assumed Sherwood would have to grow a lot more in Old Town to need more parking. He asked that the Planning Commission look at the application with consideration for the homes that remained as well as if it was something the URA needed at this time. He commented that there was not a need because there were too many other empty lots. Mr. McColm commented that the parking lot at Stella Olsen Park used to be a treatment center on Washington Street and was converted to a parking lot for the Woodhaven Church's use. He said parishioners park along the street and only about a half dozen cars parked in the lot of 75-90 spaces. He asked the Commission to preserve the residential part of Old Town as there was enough commercial area still in the Old Town that could be used for parking.

Chair Simson asked if, as a resident of Old Town, Mr. McColm felt there was a need for a parking lot. Mr. McColm confirmed there was a shortage and when the church was constructed they counted parking in front of homes. He said Sherwood was constructed as the Smock House in the late 1800's/ early 1900's and the streets were not wide enough. He said there have been sewer issues throughout the years, but the properties were never deemed for a commercial business. He said residents love what is going on with Clancy's, who just had a big Saint Patrick's Day celebration where parking was short and residents did not mind a few days of festival parking in front of their homes, but the daily parking would be an issue. In his opinion there was a day to day parking issue in front of the businesses, but it was a lot worse for the festival event days. He said residents were not complaining about a half dozen days a year.

Tim Voorhies, Sherwood resident and business owner said he had a different perspective. He commented that the parking problem in downtown was created by staff; the apartment complex nearby and City Hall did not have enough parking spots and the parks do not have enough parking to handle the festivals. He said he could not go to the bank during a festival, had to park four or five blocks away and would go through the road block and booths to double park in front of the bank. Mr. Voorhies said he saw it as a knee jerk reaction by the City to fix a problem they had created. He commented that the city should have waited on the water line and given the water system over to Tualatin Valley Water like Walt Hitchcock wanted and there would not have been a big debt with the water system with another 2% increase. Mr. Voorhies said the citizens told city officials there was not enough parking for some of these things and then he heard people talk about their houses being torn down. He commented he has had incidences with this City and everything ends up with an attorney with the old regime. He said Sherwood was a good town, but the staff he did not know about, because they never look far enough in the future. He commented on congestion on Tualatin Sherwood Road and said he had told staff they needed four lanes all the way out, but the traffic engineer guaranteed there would not be a traffic problem. Mr. Voorhies suggested listening to the citizens.

Chair Simson asked for any other testimony. Having none, she asked for applicant rebuttal.

Mr. Pessemier and Ms. Slyman came forward. Mr. Pessemier responded that Mr. Voorhies had made a point and that the City was trying to avoid a knee jerk reaction and could have asked for a zone change to solve the issue once. He pointed out that they were looking at the long term, that there were no plans to take any houses down, or even to build additional parking lots past this one. He said the future parking needs for Sherwood were unknown and confirmed that retail commercial properties in the Old Town could be parking lots. The URA was trying to look down the road and expand the possibilities of where parking lots could be in the future should there be a need Mr. Pessemier added that parking lots were expensive to build so there would have to be a need and a desire to build one at that time.

Ms. Slyman acknowledged there was a lot of emotion around the issue and pointed out that from a land use perspective the properties in question were zoned Medium Density Residential Low which already allowed for conditional uses that were not residential in nature. She gave the example that raising animals other than household pets and said civic buildings and public use buildings were allowed as conditional uses so parking lots were in addition to that list, but not out of character with what the zone already allowed.

Chair Simson said she had questions and concerns when she first read the application. She expressed concern that the City was opening up a door without enough information and referred to the staff report that indicated the need for a parking study to determine need in the area. She suggested it was putting the cart before the horse and if the application had been submitted by anybody other than City Council, the Planning Commission would have asked for a study. Chair Simson spoke of attending a meeting in Old Town on March 16th in the nine square blocks and was surprised by the big tent where she thought she would park. She said all of the twenty to thirty people found parking within two to three blocks of the meeting. Chair Simson commented that when the 503 Uncorked restaurant had a wine event, parking would have to be found a couple blocks away and during Robin Hood Festival or Cruisin' there is no parking anywhere. She

acknowledged that Old Town merchants have said there was not enough parking, but that meant there was not parking in front of their places of business. She said that parking would likely be available a block or two away. She added that without a valid parking study her concern was that the City was creating something that was not necessary; there was a lot of commercial land that had the opportunity for parking.

Chair Simson suggested that a zone change would have made the citizens in the surrounding area feel less threatened, because they would not think their houses were next on the list. She said it was a lot of change to put in one parking lot, she did not know why the Old School was not being used as a parking lot, but guessed it was because it was three city blocks away and everyone would complain that the only parking lot was far away.

Chair Simson said she did not know why the parking study was not done nor what the sense of urgency was for redevelopment of the Robin Hood theater site, but the Planning Commission could only review the two criteria and the Commission could not make a political or emotional decision, rather an objective decision of whether the criteria were met. She explained that the Commission would make a recommendation to City Council and they would make the decision. Chair Simson suggested a sunset clause on the conditions of approval would enable an application to come through and further information would allow the Planning Commission to either enforce the sunset clause or let it expire. She said there was not enough information to prove need and wanted the parking study to be completed. She expressed that she did not like losing the Robin Hood Theater or the Old School House and she did not want to see the flavor of Sherwood change again. She hoped the citizen's understood that the Planning Commission did not have the ability to make a political opinion, and that citizens needed to take emotional concerns to Council.

Mr. Pessemier responded that the City was trying to solve a problem and make the parking situation better. He said a parking study would have a fifty year time horizon and it was impossible to determine the need long term. Mr. Pessemier did not know the benefit of a sunset clause over such a long period of time from a parking study.

Chair Simson reasoned it would enable a proposal to come through for an application that was ready to go, not allow future applications to occur without more information, and provided hope in protecting other properties from being changed into parking lots.

Vice Chair Griffin asked if the City was trying to fill a need and remedy a perceived need caused by the sale of the Robin Hood lot. He commented on pushing a big change that would affect all of downtown instead of asking for a zone change.

Mr. Pessemier reiterated that the URA was trying to prepare for the future, to ensure there were options as Old Town developed, because the URA was going away and this was one of the last projects.

Vice Chair Griffin asked regarding City Council's vision for Old Town; do they anticipate more businesses that need parking lots or will there be more infill with residential that won't need parking lots. He said he was trying to get a sense for why the City Council thought it was a good idea now.

Mr. Pessemier responded the proposal was trying to open doors for the future to ensure that as Old Town becomes successful there were options to consider relative to the parking issue.

Commissioner Meyer said he thought there was a parking issue downtown that needed to be solved, but the commission saw different issues and had received oppositional testimony. He commented that the Old Town Overlay had a small population and this was the highest percentage of any community issue the Planning Commission has had come up. To him the issue really meant something to the people that lived there. He said there was a definite parking issue that needed addressed, but was not sure if this was it.

With no other questions for the applicant, Chair Simson closed the public testimony and asked for additional comments from staff. She asked for a clarification of the Planning Commission's role; the criteria and options available.

Mr. Kilby responded that the Planning Commission would make a recommendation to the City Council to approve as proposed, to modify the amendment, or to recommend denial. He stated the Planning Commission was an advisory body to the City Council and ultimately the City Council would make the decision. Mr. Kilby stated that staff wanted to do a Comprehensive Plan over the next couple of years that would include planning for Old Town and reminded that there is some definition of what Old Town might look like from the Town Center Plan. He said the Commission needed to be open to the idea that there would be parking issues that needed to be addressed over time, but it was up to Commission to decide whether they felt it was right to make the change now or in twenty years when there was more of a problem. Mr. Kilby acknowledged there was a cloudy vision for Old Town so we would need to rely on what the people that live and do business in Old Town perceived every day.

Commissioner Pearson stated the proposal came before the Planning Commission because the URA board and the City Council envisioned losing two lots used for parking and wanted to plan ahead to replace those lots should a better use come along for the existing. The proposal has asked the Commission to give flexibility today for something that may be needed ten years from now. He said it was a good approach and had nothing to disagree with about it saying it gave the City the maximum flexibility to allow them to building other parking lots without having to go through this process again. Commissioner Pearson said he agreed with planning for the future for flexibility, but he was against tearing down other property. He commented that Old Town's character was the heart of Sherwood and nobody wanted to lose that. He noted that it would be a political decision made by the City Council who would have to face the voters. He said he was going to have to vote for the proposal to maximize flexibility, rather than have to go through the process again.

Commissioner Flores said his perspective concerned the need for parking. He thought that it was needed, but noted there was available land elsewhere without having to make any changes. He said if there was not any other available land he could see that as a greater, imminent need, but it seemed to him that there was still a number of other options before hitting any of the residential areas

Chair Simson commented that, if it was not clear, the purpose for the sunset clause was to enable someone with an application to put in the parking lot if it happened within the year. It was understood the City had an application ready for the construction of the parking lot. She said a parking study would either affirm the decision and make it viable to remain in the code or the parking study would say there were other opportunities and the text amendment should be allowed to expire after the immediate need was resolved. She asked if the Commission had any interest in entertaining a modification to the recommendation. None were received. She asked for a motion.

Vice Chair Griffin said as he had considered the testimony from the public, the applicant, as well as Commissioner Pearson's comments. He agreed that the City Council had to make the political decision and the Planning Commission needed to base their recommendation on a couple points of criteria. He commented that if the Robin Hood Theater parking lot was gone it would be nice to have a lot that was fairly adjacent to where the other one was. He said if the lot on 3rd street was two blocks closer it would be an ideal situation and his hesitation was opening up a door which would allow something happen in Old Town that we don't want. He observed that we need to have faith in our elected officials, express our opinions by coming to the City Council meetings and being part of the process and making our opinions and concerns known.

Commissioner Flores asked for another explanation of the criteria. Mr. Kilby placed the text amendment criteria on the screen for the Commission to review.

Motion from Vice Chair Russell Griffin for the Planning Commission to forward a recommendation of approval to the City Council for PA 16-02 Code Update based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the staff report. Seconded by Commissioner Alan Pearson.

Vice Chair Griffin, Commissioners Pearson and Rettig voted in favor. Chair Simson and Commissioners Flores and Myer voted against (Commissioner Walker was absent).

Chair Simson stated her vote was against based on the fact that need was quantified by the applicant without a parking study; the need for parking was a perception. She said with the loss of the Robin Hood Theater parking lot there may be a need, but the Planning Commission needed to have the study or a sunset clause that enabled the parking study to occur before any further applications were received. Due to the tied vote, she asked staff how to proceed. Staff asked for a recess to evaluate.

Chair Simson called for a recess at 8:16 pm and reconvened at 8:20 pm.

Chair Simson disclosed that staff advised that a tie would become a non-recommendation to Council and would go before City Council on May 3, 2016 with no recommendation from the Commission. She asked for one more vote to allow commissioner to affirm their votes. The vote stood as a 3-3 tie and a non-recommendation would be forwarded to Council. She thanked those who provided testimony.

7. New business

a. Public Hearing – PA 16-04 Industrial Uses Code Amendment

Chair Simson read the public hearing statement and said this was a legislative decision and the Planning Commission would be forwarding a recommendation to the City Council who would make the final decision unless appealed to the Land Use Board of Appeals (LUBA).

Chair Simson disclosed that she received a call from Stu Peterson, of Macadam Forbes, after one of the multiple work sessions on the topic. She said the discussion related to industrial services not being a retail use, but supportive of the industrial marketplace. She related that he expressed concern about the size limitation which has been restated in his written testimony and he gave examples of businesses located in Tualatin at about 140,000-180,000 square feet. She noted his comment that the heavier, denser employment was in the larger buildings and that the only fifty acre parcels were Nike, Intel, and Mentor Graphics. Chair Simson stated the conversation would not impair her but made her a little smarter to understand the content of his letters.

Chair Simson asked for the staff report.

Julia Hajduk, Community Development Director gave a presentation and some background information (see record, Exhibit 2). The Tonquin Employment Area was brought into the UGB in 2002, a concept plan was adopted in 2010 where preferred industry targets. Target industries were made permitted uses and anything that would not be necessarily compatible with the area were conditional uses.

Ms. Hajduk reported that when the Code update was completed in 2012 and the Industrial Uses (Light Industrial, General Industrial and Employment Industrial) were merged to streamline the use categories the unintentional consequence resulted in very few industrial use types being permitted or conditional in the Employment Industrial (EI) zone. She explained that as the Tonquin Employment Area (TEA) started to be looked at for development by brokers and developers they came to staff with complaints that the permitted uses were too restrictive. Ms. Hajduk noted that staff presented this to the Planning Commission on October 27, 2015 and received support to proceed with the code update process. She described work sessions held on December 8, 2015, January 12, and February 9, 2016 when staff was directed do a public notice for a hearing. She said notice was provided to the Department of Land Conservation and Development (DLCD), public

notice was published in The Times and the Gazette, a public notice was mailed to all industrially zones properties, emailed to interested parties, posted in five locations around the city and placed on the website.

Ms. Hajduk pointed out the packet contained the staff report, a clean copy of the proposed changes, track changes copy, and a summary of the proposed changes with reasoning for the change. She said staff received comments from Pride Disposal regarding clarification of what other solid waste transfer facilities were and recommended a modification that general purpose solid waste landfills, incinerators, and other solid waste facilities be added as not otherwise permitted; there is another section in the code that addresses solid waste transfer stations with definitions. She said Pride Disposal was comfortable with the proposed changes and noted that the modification clarified a potential issue if the business wanted to expand.

Ms. Hajduk noted letters from Rhys Konrad from Macadam Forbes and Bill Bach from Trammell Crow (see planning record, Exhibits 5 & 8) saying the letters recommended either no size limit on stand-alone warehousing or raising the limit to 150,000-200,000 square feet. A letter from Willamette Water Supply was also received making sure the public infrastructure specifically permitted a water treatment facility; it was a permitted use (see planning record, Exhibit 6).

Chair Simson asked for more information about the letter from the Willamette Water Supply. Ms. Hajduk confirmed that public or private structures, including but not limited to water treatment plants, were permitted in all three industrial zones.

Ms. Hajduk reported there was a letter received from David Stiller who was concerned that quarry operations would not be permitted in the EI zone should his property was annexed into the city. She indicated those activities would not be permitted the proposed language. She had discussed with Mr. Stiller that the property could stay outside of the city if that was an activity he wanted do.

Julia said Mr. Bach's letter from Trammell Crow also recommended removing the limitation on outside odor and noise that could be perceived offsite. There were two sections in the proposed language with the idea that the less intensive and more appropriate levels for Light Industrial could be permitted outright. She directed the Commission to the track changes page 58 of the packet which showed the two options and said the intent was to permit the less intensive uses outright in all of the zones and to have a Conditional Use in the Light Industrial and Employment Industrial and permitted outright in the General Industrial zone for the more intense uses that were not otherwise prohibited elsewhere in the code provided other offsite impacts were compliant with local state and federal regulations. Staff's recommendation was to have two different categories of different intensities.

Ms. Hajduk said that Tim Voorhies had submitted written testimony in February, before the public notice, that centered on protecting the impact on the neighbors by requiring neighbors to sign a waiver stating they would not complain about the industrial uses rather than prohibiting those uses. She said it was something to think about.

Ms. Hajduk reviewed the criteria for a text amendment saying approval was based on the need, the amendment needed to be consistent with the intent of comprehensive plan, other provision of the code and applicable state or city regulations. She noted that the applicable plan policies were in Chapter 4 of the Comprehensive Plan Sections H, Economic Development and Section K Industrial Planning Designations and Metro Title 4 Standards. Metro had provided an email asking for more information and was provided with the table and staff report resulting in no concern with the proposed changes. Ms. Hajduk stated that the amendment also needed to comply with the Transportation Planning Rule which was not affected by this text amendment.

Chair Simson commented that Metro Title 4 defined broad restrictions that communities must protect industrial land and put limitations on retail. For example a New Seasons Market could not be put in industrially zoned land.

Staff recommended the Planning Commission forward a recommendation to the City Council. The first reading before City Council would be May 3, 2016 and the second was scheduled for June 7, 2016.

Chair Simson called for a recess at 8:42 pm and reconvened at 8:46 pm. She said the commission received the letter from David Stiller dated April 12, 2016 (see record, Exhibit 7). After confirming commission members had read the letter she asked for questions for staff. None were received so she asked for public testimony.

Bill Bach, Trammell Crow stated the Commission had his letter and he wanted to clarify his comment on the noise and odor issue was about the absolute “no” as a standard, because of perception. He said it was impossible to open a door without making noise and he had encountered the issue on other projects. He said that door opening or truck traffic could be perceived as noise that could lead to a violation. Mr. Bach noted that the occupants of industrial buildings were sophisticated about the issue and suggested a more reasonable standard based on the noise and nuisance codes.

Mr. Bach said there were industrial buildings in the 200,000 square foot range and he thought the industry could live with that limit on stand-alone warehouses. He said he could not speak to the employment densities and said they would vary from user to user. Typically warehousing use has fewer employees than manufacturing, but on the other hand once the space was in place they were convertible from one use to the other. He commented that as companies change their business model they may do some value additions and he did not think the city would want to shut out the user based on size alone. He cited in the letter dealings with wineshipping.com and said the project would not have happened without a larger warehouse.

Chair Simson thanked him for the clarification on his noise comment and suggested the code could be amended to include a measurable amount of noise instead of no noise. Mr. Bach commented on the impact of complaints and law suits for industrial buildings located near residential areas or neighboring businesses that took a dislike to the noise generated.

Commissioner Pearson asked about regulations regarding noise. Ms. Hajduk explained that the noise ordinance was in the Municipal Code. In the development code Section 16.152 it said “all otherwise permitted commercial and industrial and institutional uses shall incorporate the best practical design and operating measures so that odors produced by the use are not discernable at any point beyond the boundary of the development site”. She commented that an applicant would submit a narrative explaining the odor produced by the use and the City would consider the density, the characteristics of surrounding populations and uses, the duration of the emission and any relevant factor to abate any odor issues.

Stu Peterson, Macadam Forbes, said Ms. Hajduk’s characterization of the text amendment was correct and the construction of SW 124th Avenue had made the area viable from a development standpoint. He said he was involved as the listing agents for the Orr property and disclosed it was a 96 acre, keystone piece at 124th Avenue and Tualatin Sherwood Road. He reported after they read the zoning ordinance and met with prospective developers they realized a problem and conferred with City staff. He said if the property could be made a viable resource and overcome some of the physical issues it could become a member of Sherwood’s tax roll. Mr. Peterson stated that one issue holding development back was the size limitation for warehousing. He said warehousing was part of the economic ecosystem of industrial uses and about 16% of the workforce in Tualatin was employed in warehousing industries. He said industrial services that were now allowed in the text amendment were critical and many of those businesses provide services to other business. Nobody that develops a site wants to see a retail use.

Mr. Peterson commented that developers and investors that would turn this property into income from the standpoint of property taxes have a huge interest in building large buildings, because it cuts the cost of construction, allows more employment density overall, and makes it more economically viable. There are dozens of uses that were part of the agricultural industry that were important to the area, like the wine distribution. He said the building he and Mr. Bach were involved with was a free standing 150,000 square

foot building; the employment density was not tremendous, neither was it negligible. Mr. Peterson said he would love to see the building size limit go up to 200,000 square feet, but 150,000 would be more palatable than 100,000. He commented that about 75% of the buildings built around here in the last ten years were 100,000 square feet or greater.

Chair Simson asked for a size reference based on the buildings being built just inside Tualatin from Sherwood. Mr. Peterson said they were 50,000, 75,000 and 200,000 respectively. The 200,000 square foot building was the one in the back and the developer was a prospective builder for the property in the Tonquin Employment Area.

Vice Chair Griffin asked about the size of the Walmart building and was informed it was about 145,000 square feet with all the buildings on the site totaling approximately 190,000 square feet. Mr. Pessemier added that the new industrial buildings on Century Drive behind Walmart were 30,000 and 70,000 square feet.

Mr. Peterson commented that Sherwood was not a distribution area where 300,000-500,000 square foot buildings would be built, because distributors would not want to be tied up on Tualatin Sherwood Road and 124th Avenue would not be big enough to support any major distribution company, but agricultural products businesses nearby needed the warehousing and there were businesses that support the manufacturing industries via their warehouses. He gave the LAM Research site in Tualatin as an example with a 150,000 square foot building with offices and nearby warehouses that supported it.

Earhart Steinborn, Sherwood resident and industrial property owner said he owned two commercial buildings on Pacific Hwy and a three acre lot that was zoned Light Industrial. His concern was that the LI property be utilized as the best and highest use. He did not think an industrial building would do justice to the property or the city.

David Stiller, owner of property in the Tonquin Employment Area expressed concern if his property was annexed into the city and subject to the EI zoning rules. He said the property was owned by a family trust and his uncle's family. It was an operating rock quarry in 1984 as the Compton Stiller Quarry with no action by the operator the last fifteen years. The trust maintained a Department of Geology and Mineral Industries (DOGAMI) permit. He said Macadam Forbes was trying to market the property and his concern was to keep the option of selling the property to a rock pit developer. If a buyer came along and wanted to develop differently they would quit paying the DOGAMI permit.

Tim Voorhies, Sherwood industrial property owner commented that the code amendment had come a long way and he thought it was going well. His concern was for conditional uses in the code that should be outright permitted, like hospitals or a fire department. He commented on a waiver for people moving in next to industrial properties and said it would keep a lot of headaches off of the city. He said the people in the apartment complex were complaining about the public works yard starting too early and there would not be any issues if they had signed a waiver. Mr. Voorhies commented that there were a lot of things that go on in the planning process and the industrial codes that he did not understand. He cited the definition for a rock quarry or mining as confusing. He suggested that limits not be created to give the people or the environmentalists a leg to stand on.

With no other testimonies, Chair Simson turned the time to the applicant for rebuttal. Ms. Hajduk stated she did not have anything to add unless the Commission had questions as she thought the issues raised were policy items. She gave Mr. Pessemier an opportunity to respond to some of the comments received.

Mr. Pessemier stated his involvement was to ensure that the code encouraged economic vitality in industrial areas and under the previous code that was a challenge. He said great information and feedback had been received through this process and it was down to the size of the distribution and warehouse section. From his perspective the proposed code language was much better and he would rather fight the battle for employment on the incentive side instead of dictating it in the code. He noted that Walmart at roughly 150,000 square feet

looked massive, but a warehouse distribution center of the same size looked small. He pointed out that the goal was to have the area develop, but he was a little concerned some of the larger parcels could be taken up with activities that did not produce jobs with a 200,000 square foot warehouse.

Commissioner Pearson expressed concern for a 200,000 square foot warehouse that employed three people, but he had heard some good arguments that times change and the activity could change to manufacturing.

Ms. Hajduk said she had some recommended language if the commission wanted to amend the proposed language regarding odor. She suggested that on page 58 "*no exterior odor, noise or unscreened*" be changed to "*exterior odor and noise is consistent with Municipal Code standards and there is no unscreened storage*". Chair Simson asked if then the second section on noise would be in compliance with the code. Ms. Hajduk responded it would have to be in compliance with the code and DEQ standards.

Chair Simson closed the public hearing and gave scrivener's errors to staff. She asked about the use of acids, paints and dyes in the industrial area and whether or not it included heavy metals. She commented that the City of Portland was having issues with glass manufacturing and said Sherwood was utilizing DEQ regulations to help regulate. She asked if the code meant that heavy metals would not be allowed unless it was a conditional use in General Industrial and if it was a concern.

Commissioner Myer commented that the heavy metals were used in the manufacturing process so that would be attempting to regulate the manufacturing process of a potential industry and it would fall under DEQ. He noted the code was regulating what could be manufactured not the process of the manufacturing. He asked if the city wanted to regulate the process of a potential tenant. Commissioner Pearson suggested the City not have the bureaucracy to regulate process because it was the purview of the state or federal government. Discussion followed no language was amended.

Chair Simson asked for clarification for footnote 9 that discussed stand-alone warehousing and distribution associated with another approved use. Ms. Hajduk explained that the limitation on the size of a warehouse was if they were only doing a warehouse. If they were manufacturing a product and have a huge warehouse associated with it the size of the warehouse was not limited. The only restriction being carried forward from the Tonquin Employment Area (TEA) was no warehousing distribution because the intent was to have jobs and manufacturing and not just a storage facility. As long as you are having those manufacturing, processing components to it, then staff was not recommending that the size of the warehouse be limited. Discussion followed with staff being directed to clarify the language.

Commissioner Pearson asked if the quarry would be grandfathered in. Ms. Hajduk replied that if the quarry was operating it would be, but as it was not, her advice could be not to annex into the city, because they would be subject to the industrial zone standards.

Chair Simson clarified that annexation for the TEA was already approved by Sherwood residents and property owners could ask to be annexed. She commented that the Light Industrial property across from Home Depot was a zone change concern and noted that the waiver suggested by Mr. Voorhies was a process outside of a code amendment. Ms. Hajduk responded that the waiver had potential in the Brookman Road area regarding farming operations and there were situations where it might be beneficial for new development between incompatible zones, but she did not think it should be codified.

Motion: From Commissioner Pearson to increase the warehouse size from 100,000 square feet to 200,000 square feet, Seconded by Commissioner Meyer.

Discussion followed. Commissioner Pearson commented that input received was compelling enough to consider. His concern was that Sherwood had a finite amount of land and the need to maximize that in terms of jobs. He said warehouses could be converted to manufacturing over time and he did not want to deny

developers who wanted to develop warehouses at 200,000 square feet. He commented that it was pulling a number out of the air, but that the Commission had received input as to why 200,000 made more sense than 100,000.

Commissioners Pearson, Meyer, and Flores voted in favor. Chair Simson, Vice Chair Griffin and Commissioner Rettig voted against. Motion did not pass.

Motion: From Commissioner Pearson to increase the warehouse size from 100,000 square feet to 150,000 square feet, Seconded by Vice Chair Griffin. All present Planning Commissioners voted in favor (Commissioner Lisa Walker was absent).

Chair Simson asked for any other comments.

Motion: From Commissioner Pearson to incorporate all the previously mentioned changes. Seconded by Commissioner Meyer. All present Planning Commissioners voted in favor (Commissioner Lisa Walker was absent).

The following motion was received.

Motion: From Vice Chair Griffin to forward a recommendation of approval to the city council for PA 16-04 Industrial Uses Code Amendment, based on the applicant testimony, public testimony received, and the analysis, findings, and conditions in the staff report with the afore mentioned modifications. Seconded by Commissioner Pearson. All present Planning Commissioners voted in favor.

Chair Simson commented on the amount of effort over the past five months and expressed appreciation to input from the public, industrial property owners, and their representatives in helping educate Commission members.

8. Planning Commissioner Announcements

Vice Chair Griffin announced the summer musical in the park would be My Fair Lady.

9. Adjourn

Chair Simson adjourned the meeting at 9:40 pm.

Submitted by:



Kirsten Allen, Planning Department Program Coordinator

Approval Date: May 24, 2016