



Home of the Tualatin River National Wildlife Refuge

Planning Commission Meeting Packet

FOR

May 24, 2016

**Work Session at 7 PM
followed by a Regular Meeting**

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



City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
May 24, 2016
7 PM Work Session
followed by a Regular Meeting.

7 PM Planning Commission Work Session

1. Recreational Marijuana (Michelle Miller)

Regular Meeting to follow Work Session

1. Call to Order

2. Consent Agenda

- a. March 29, 2016 Planning Commission Minutes approval
- b. April 12, 2016 Planning Commission Minutes approval
- c. April 26, 2016 Planning Commission Minutes approval

3. Council Liaison Announcements (Councilor Robinson)

4. Staff Announcements (Brad Kilby)

5. Community Comments

6. Old 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;
- **The lot is vacant as of May 1, 2016 (*Amended language*)**; and
- The property is located on a collector or arterial street.

7. Adjourn

City of Sherwood, Oregon
Planning Commission Meeting
March 29, 2016

Planning Commissioners Present:

Chair Jean Simson
Commissioner Michael Meyer
Commissioner Alan Pearson
Commissioner Rob Rettig

Staff Present:

Julia Hajduk, Community Development Director
Craig Sheldon, Public Works Director
Brad Kilby, Planning Manager
Michelle Miller, Senior Planner
Tammy Steffens, Volunteer Coordinator
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Vice Chair Russell Griffin
Commissioner Chris Flores
Commissioner Lisa Walker

Council Members Present:

Councilor Sally Robinson

1. Call to Order/Roll Call

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

With no consent agenda she moved to staff and council announcements.

2. Consent Agenda

None

3. Council Liaison Announcements

Councilor Robinson noted that she was present at the work session on recreational marijuana on March 10, 2016. She commented that the maps did not specify the different types of commercial zones and in light of the new law for automatic voter registration through the DMV she anticipated more voters and encouraged citizens to reach out to friends and family to become educated on the subject. Ms. Robinson said there was a ban that would be on the ballot, but if the ban did not pass the Planning Commission's recommendation to City Council would go into effect. (Note: Councilor Robinson's comments were received after Staff Announcements)

4. Staff Announcements

Brad Kilby, Planning Manager, introduced David Bantz as the new member of the Planning Department staff who would fill a vacant position until July 2016. He reminded commission members of the Volunteer Appreciation Dinner on April 11, 2016. He reported that Michelle Miller would be accepting a \$68k Metro Grant for signage on the Cedar Creek Trail.

Ms. Miller added that it was a Nature in Neighborhood Metro Grant for trails in the regional trail system and would be for signage from the SW Murdock Road roundabout to the intersection of the trail with 99W. The signage will include intertwine signage with maps, mile markers, three interpretive signs as well as points of interest in Old Town. She said other trail amenities and some bike racks would be provided by a grant from the Washington County Visitor's Association with a total of about \$100,000

extra that can be used for the trail from both grants and the \$5.1m trail grant from the federal government could be saved for the actual construction of the trail. Ms. Miller said consultants had developed signage locations and the City has partnered with Sherwood Main Street to help with signage in Old Town. She reminded the Commission that the overall Cedar Creek Trail Project involved a Local Trail Advisory Committee to provide feedback on the interpretive signage with possible involvement from the Cultural Arts Committee regarding decorative bike racks along the trail. She said they hoped to get help with sign installation from volunteers. For more information about volunteering contact [Michelle Miller](#) or the [Tammy Steffens](#), Volunteer Coordinator.

Mr. Kilby concluded his announcements by reminding the Commission of two public hearings scheduled for April 12, 2016; Industrial Uses Code Amendments and Public or Commercial Parking within the Old Town Overlay. He said the online Recreational Marijuana Facilities Survey would conclude on March 31, 2016 that had so far received about 290 responses and work session on recreational marijuana would take place after the survey closed.

Chair Simson advised commission members to submit their Statements of Economic Interest forms (SEI) to the State.

5. Community Comments

None were received.

6. New business

a. Public Hearing – SP 16-03 Sherwood Community Garden

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

Chair Simson and Commissioner Pearson indicated they had driven past taken note of the site location. Chair Simson asked for any challenge that commission members could participate in the hearing. None were received. Chair Simson explained that the Planning Commission would make a decision and any appeal would be heard by the City Council. She asked for a staff report.

Michelle Miller, Senior Planner, gave a presentation and introduced Craig Sheldon, Public Works Director and Tammy Steffens, Volunteer Coordinator as staff involved in Community Garden (see record, Exhibit 1). She explained that the project was started by Mayor Clark's strong interest in promoting healthy eating and all things that build community in Sherwood. Mayor Clark introduced the idea of starting a Community Garden program within the city in 2015 and the Council became supportive. Ms. Miller said City staff began evaluating the feasibility of a community garden in Sherwood by looking at other community gardens, developing cost estimates and looking at various sites within the city that might be suitable. She said the city was awarded a Metro Grant to fund the first phase of the project after land use approval was received.

Ms. Miller showed a vicinity map of the proposed location and said the property was vacant, zoned Retail Commercial, and located at the end of SW Foundry Avenue; to the east was the TVF&R station with several residential properties, to the north was the railroad track and on the west was the public works yard (also zoned Retail Commercial).

Ms. Miller showed a larger map and said the property directly to the east of the site was a water quality public right of way about 25 feet wide where Foundry Avenue would be if it were extended. She said the extension of Foundry Avenue was unlikely, because of its proximity to the rail line. Ms. Miller stated

the property for the community garden was owned and maintained by the city and was proposed to have a fenced in area with two gated entrances; one on the north near Oregon Street, and one on the southern side off of Foundry Avenue.

Ms. Miller revealed that the project was expected to be constructed in two phases over the next two years, with the north side being constructed in 2016 and the south side in 2017, to total about 80 garden rental spots of various sizes. She said the proposed sizes were large beds at about 20 feet by 20 feet, medium raised beds at 10 feet by 20 feet and smaller waist high beds for easy access. Ms. Miller indicated that city staff had heard concerns about how the water would be extended. She said the water would be extended through the Public Works yard and metered separately.

Ms. Miller reported that there would be two bicycle parking areas, one each at the north and south side, with a common area for the west side. She said the Community Garden proposed to use the sixty one parking spaces from the Public Works yard and explained that the development code did not have a specific number of parking spaces required for a Community Garden or a park so staff looked at the potential number of garden beds (40 in this phase). She noted that staff anticipated gardeners would come and go throughout the day and use the facilities intermittently on different days of the week during daylight hours only. She said there were five additional on street parking spaces located along Foundry Avenue and staff felt this would be sufficient to accommodate the gardeners coming to the site at different times of the day. Ms. Miller addressed that if the parking should become a problem staff would be able make adjustments in Phase I and use the public works yard to accommodate additional parking spaces, if needed. She pointed out that the City wanted to be a good neighbor and ensure that parking was not a neighborhood issue.

Ms. Miller said the proposed powder coated chain link fence surrounding the garden was to keep out animals and to mark off the garden area so people did not walk through the garden as a shortcut. She pointed to Exhibit C from ODOT (facilities manager for rail facilities) who recommended an eight to ten foot fence. Ms. Miller said she called and found out it was a standard recommendation for fences along rail lines. She said to evaluate whether this was necessary, the city looked at the existing fencing next to rail lines in the Old Town area and showed two pictures of existing fences in old town with varying sizes of fences along the rail line. She pointed out that up and down the section of rail near the community garden anyone who wanted to walk on the tracks was not hindered and the height of the fence would not prohibit anyone from getting on the tracks. Ms. Miller noted that outside city hall was a six foot fence and for consistency staff recommended a six foot chain link fence next to the rail line and explained that the City proposed to use the existing public works yard fence on the west side and to tie it into new four foot fencing on the east side.

Staff recommended approving SP 16-03 Sherwood Community Garden, to open a public hearing and offered to field questions.

Commissioner Pearson asked if the gates would be locked after dark. Commissioner Meyer asked about the width of the gates to enable gardeners to bring in soil amendment or wheelbarrows. Ms. Miller indicated the applicant would speak to those questions.

Commissioner Pearson said he was aware of water consumption and billing concerns. Ms. Miller answered that the plan was to rent out the garden spaces where the gardeners would pay a fee that would cover the cost of the water. She said the cost was a best guess, but the garden would have a separate meter, and the city would be able to monitor the water usage. She said the city could make adjustments in the second year depending on how much water was used the first year so the water usage

was paid for by the gardeners. Mr. Pearson received confirmation that at no time was the city going to absorb the cost of the water and that the users would be required to pay for the water.

Chair Simson asked for applicant testimony.

Craig Sheldon, Public Works Director and **Tammy Steffens**, Volunteer Coordinator came forward. Craig Sheldon stated staff's presentation had covered the project well and added that there was a meter at Public Works, and there would be a meter at the end of the service line coming from public works. He said the usage would be backtracked from the public works usage and billed to the community garden. He confirmed that the City was asking for the six foot fence along the railroad as discussed by Ms. Miller and stated that it looked better than an eight or ten foot fence as ODOT requested. Mr. Sheldon said the four foot fence was to keep animals out and the gate openings would allow for wheelbarrow access, because Public Works staff would have to get in and maintain the area. There could also be a service gate off the Public Works side for equipment access.

Commissioner Pearson asked if the gate would be wide enough for wheelchair access and that raised beds would be helpful for wheelchair access. Mr. Sheldon agreed.

Chair Simson asked how fertilizer, pesticide, or soil treatment additive run off would be managed. Ms. Steffens responded that the garden would likely be a pesticide free garden, as most of the community gardens in neighboring municipalities are, and signs will be used to indicate so. Mr. Sheldon added that any other runoff would go into the storm system in the nearby swale.

Chair Simson stated she was okay with water runoff, but would have a concern if there were concentrations of pesticides and fertilizer into the area. She questioned if that should be conditioned as part of the application or if it would be conditioned for a non-city application. She asked who owned the community garden across from Sherwood Middle School and if it was operated differently than this one would be. Ms. Miller responded that the garden was owned by the Cedar Creek Church and they operated it as a function of their church so they monitored the garden plots, but the city was not involved in that project. Chair Simson wondered how that garden was dealing with pesticides and other runoff and if the city had any input or had heard any concerns. Miller said she received a letter from CWS today that indicated they had no issues with the project or no comment.

Commissioner Pearson asked about setting aside a compost area. Ms. Steffens replied that it was one of the options given to City Council at a work session, there would be room for one in the community area and it had not yet been decided as of a year ago. Commissioner Pearson strongly recommended using a compost bin. Chair Simson asked for further explanation of the community area. Ms. Steffens responded that some of the ideas were to install a picnic table, a basket for extra produce, a community board for Community Garden dates, and a children's garden, but no decisions had been made. Chair Simson asked about hours of operation. Ms. Steffens responded they would be from dawn to dusk.

Chair Simson asked about obtaining a parking access easement in case the public works yard changed ownership and the gardeners lost their parking. Ms. Miller advised that an access easement would not need to be created because the owner was the same for both properties and the interest is the same. She said if the ownership were to change, the city would be able to put an easement in the agreement of sale. Commissioner Rettig commented that a future easement would be needed for the water and sewer lines.

Chair Simson asked for the height of the neighboring fence at the public works yard. Mr. Sheldon responded that it was a six foot tall fence with 16-24 inches of barbed wire at the top and the proposed was a six foot powder coated chain link fence along the railroad side, a four foot fence along the swale and along Foundry Avenue and that they would use the existing fence at the public works yard. He added there would be no lights in the garden, because there should not be anyone in the garden after dark, however as part of the City's street light program (separate from this project) two lights were to be added on the poles by the residences on Foundry Avenue. Chair Simson asked if there were any concerns about transient traffic coming in and out of the area. Mr. Sheldon said they did not know, but that the City would address problems as needed.

With no other questions for the applicant, chair Simson asked for public testimony.

Tony Bevel, Sherwood resident said he was not being frivolous when he asked if recreational marijuana plants could be grown in the Community Garden. Ms. Miller responded that state regulations for growing recreational marijuana were that it had to be on private property and out of public view so growing marijuana at this site would be ruled out. Mr. Bevel said he had asked the question, because Sherwood was so fixated on marijuana.

There was no other testimony and the applicant declined rebuttal. Julia Hajduk offered that the Commission's review was for the overall concept to provide up to eighty plots and to clarify, an approval was for a community garden with up to eighty plots of varying dimensions with a fence and gates.

Chair Simson commented that her intent was to try to set a standard for future or existing community gardens that made sense and if the garden was going to be organic, with no concerns about pesticides that it should be conditioned as an organic garden and pesticides would not be used and go into our ground water. She said the parking was a non-issue, because of the common ownership, but if the garden was abutting commercial and residential properties she thought any potentially offensive smells or odors from a compost area should be oriented away from the residential neighborhood. She said if this were the first application for a community garden in a neighborhood they could orient it away from the residences.

Ms. Miller responded that imposing conditions meant setting requirements. She referred to calling the garden organic and asked if that would require the city to test all the materials that come with it or if it was, instead, a rule and a policy that was stated in the gardener's agreement for garden plots, instead of a condition.

Commissioner Pearson stated he was not suggesting the community garden should be organic, but that refraining from using pesticides made it sound like organic. Ms. Miller said she was using "organic" as an example and explained that if we impose conditions that it ties the hands of how it gets regulated and might be more onerous than intended. It should be a rule or policy that is set up through the program.

Commissioner Myer suggested the applicant had recommended types of fertilizers or herbicides that were low impact or non-toxic as being organic was a USDA regulation with a number of rules. He said if the City was concerned about the run off, maybe a low cost solution to address concerns would be a list of recommended products.

Commissioner Pearson said he understood the fire department and the city food bank, wanted to participate in the garden and he was all in favor of edible green space and this was going to be a wonderful addition to the city.

With no other comments, the following motion was received.

Motion: From Commissioner Alan Pearson that the Sherwood Planning Commission approve the application for the Sherwood Community Garden SP 16-03 based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the staff report. Seconded by Commissioner Michael Meyer. All present Planning Commissioners voted in favor (Commissioners Griffin, Flores and Walker were absent).

7. Planning Commissioner Announcements

Chair Simson noted that she had sent website video links for the smart growth conference and said the one to watch was Colonel Mickelby from the Friday session about what smart growth means. She said the speaker provided insight and opportunity for anyone on how to think about our country in a new way. She asked for the video to be distributed. Mr. Kilby said he would research it.

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
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 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 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 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: _____

City of Sherwood, Oregon
Joint Planning Commission and
Police Advisory Committee Work Session
April 26, 2016

Planning Commissioners Present:

Chair Jean Simson
Commissioner Chris Flores
Commissioner Alan Pearson

Police Advisory Committee Present:

Dianne Foster
Sean Garland
Amy Miller-Juvé
Bob Silverforb

Staff Present:

Jeff Groth, Police Chief
Ty Hanlon, Police Captain
Josh Soper, City Attorney
Julia Hajduk, Community Development Director
Brad Kilby, Planning Manager
Michelle Miller, Senior Planner
Kirsten Allen, Department Program Coordinator

Council Members Present:

Councilor Linda Henderson
Councilor Sally Robinson

1. Regulating Recreational Marijuana Facilities Public Work Session

The meeting began at 7:00 pm. Michelle Miller, Senior Planner explained the five types of marijuana facilities and described the options for regulations. She reminded the group of the need for regulations to be ready after the November 2016 elections in the event that voters rejected a ban on recreational marijuana facilities in Sherwood. The options include:

- Following Sherwood’s medical marijuana dispensary regulations,
- Following Oregon Liquor Control Commission (OLCC) rules combined with current Sherwood Development and Zoning Code regulations, or
- A hybrid in between.

Planning Commissioners, Police Advisory Board Members and the members of the public who attended split up into four groups. Discussion followed and the following comments were received:

- Producer and retailer facility types have the most impact
- Facilities should be restricted from Old Town Overlay
- Consider allowing testing facilities in commercial zones
- Concerns for policing that would allow for clustering businesses
- Added buffers to residential properties, the YMCA, and trails
- Need to receive more input from the community

The meeting adjourned at 8:33 pm.

Submitted by:

Kirsten Allen, Planning Department Program Coordinator

Approval Date: _____



Home of the Tualatin River National Wildlife Refuge

Memorandum

City of Sherwood
22560 SW Pine St.
Sherwood, OR 97140
Tel 503-625-5522
Fax 503-625-5524
www.sherwoodoregon.gov

To: Sherwood Planning Commission
From: Michelle Miller, AICP Senior Planner
RE: the Special Uses Draft Recreational Marijuana Facilities Code Amendments
Date: May 17, 2016

Mayor
Krisanna Clark

Council President
Jennifer Harris

Councilors
Renee Brouse
Linda Henderson
Dan King
Jennifer Kuiper
Sally Robinson

City Manager
Joseph Gall, ICMA-CM

Assistant City Manager
Tom Pessemier, P.E.

This memo provides the Commission with an overview of the Draft Code Amendments for recreational marijuana facilities. Public engagement to date has included an online survey and a work session with small group discussions on the issue. The public work sessions were with Commissioners and Police Advisory Board members leading the discussion.

Background

The City is developing land use regulations concerning recreational marijuana facilities. Any proposed regulations would be implemented only if Sherwood voters decided not impose a ban on recreational marijuana facilities locating in Sherwood. The issue of a ban along with a local recreational marijuana tax will be decided in November 2016.

The Oregon Liquor Control Commission (OLCC) is regulating five different license types of recreational marijuana facilities. These facility types are producers, processors, retailers, wholesalers and laboratories. The OLCC developed location restrictions on these five license types. The OLCC allows producers to be located in residential, industrial or commercial zones and the other four types are allowed to be in either a commercial, industrial or mixed use zone. The City of Sherwood may impose "time, place and manner" restrictions on recreational marijuana facilities.

Staff proposes draft code language on recreational marijuana facilities based on the community input and Planning Commission and Police Advisory Board direction received to date. The purpose of the upcoming work session is to provide staff feedback on the proposed language and provide the community with an opportunity to respond to the draft language.

Proposed Code Amendments

- Staff added the five recreational marijuana facility types to the definition section.
- Staff added recreational marijuana facilities to Chapter 16.38, Special Uses, similar to medical marijuana facilities. Staff proposed a Type II process with time, place and manner restrictions.
- Staff prepared a table showing the types of recreational marijuana facilities that will be inserted into the specific land use table for either Chapter 16.22 Commercial Uses or Chapter 16.31 Industrial Uses.

Proposed Community Development Code Amendments

Re: Recreational Marijuana Facilities

All proposed new language to be added to the Definitions Section: § 16.10.020

Marijuana Processing. A building or structure used in whole or in part for processing recreational marijuana as defined in Chapter 614, Oregon Laws 2015 as the processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extracts, and which is licensed by the Oregon Liquor Control Commission. Processing does not include packaging or labeling.

Marijuana Production. A building or structure used in whole or in part for producing recreational marijuana as defined in Chapter 614, Oregon Laws 2015, as the manufacture, planting, cultivation, growing or harvesting of marijuana, and which is licensed by the Oregon Liquor Control Commission. Producing does not include drying or cultivation of immature plants received from a producer, or the cultivation and growing of an immature marijuana plant by a processor, wholesaler, or retailer if that party purchased or otherwise received the plant from a licensed producer.

Marijuana Retail Sales. A building or structure used in whole or in part for retail sales to a consumer of marijuana, cannabinoid products, and miscellaneous items, and which is licensed by the Oregon Liquor Control Commission.

Marijuana Testing Laboratories. A building or structure used in whole or in part for testing of marijuana items, and which is licensed by the Oregon Liquor Control Commission.

Marijuana Wholesale Operations. A building or structure used in whole or in part for wholesale distribution of marijuana, cannabinoid products, and miscellaneous items to a person other than a consumer, and which is licensed by the Oregon Liquor Control Commission.

16.38 SPECIAL USES

16.38.030 Recreational Marijuana Facilities.

A. Characteristics:

1. Five types of recreational marijuana facilities are defined in Section 16.010.20.
2. Recreational marijuana facilities must be licensed by the Oregon Liquor Control Commission. A facility not licensed by the Oregon Liquor Control Commission is not permitted in any zone.

B. Approval Process. Where permitted, recreational marijuana facilities are subject to approval under 16.72.010.A2, the Type II process in addition to any other required land use review process required by this Code. Applications for approval shall include detailed responses to the applicable standards listed in this section.

C. Standards for Recreational Marijuana Production, Processing, Testing Laboratories, and Wholesale Operating Facilities

1. New Facility Construction Requirements. Recreational marijuana production, processing, testing laboratories, and wholesale sales facilities shall take place consistent with the following standards:
 - a. All new facility construction shall comply with Chapter 16.90 Site Planning.
 - b. In the case of production facilities, views from the exterior of the building into the production area are prohibited. Views of interior lighting in the production area from the exterior of the building are also prohibited.
 - c. Only indoor recreational marijuana production is allowed. Exterior growing is prohibited for commercial distribution
 2. Public Access Prohibited. Access to any production, processing, testing laboratory and wholesale facility shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.
 3. Security Measures Required
 - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
 - b. Exterior lighting shall be provided and continuously maintained.
 - c. Any security bars installed on doors or windows visible from the public right-of way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
 - d. No outdoor storage is allowed at any recreational marijuana facilities.
 4. Odor Mitigation Measures Required. Production and processing facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
 - a. Installation of activated carbon filters on all exhaust outlets to the building exterior;
 - b. Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and
 - c. Maintenance of negative air pressure within the facility; or
 - d. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
 5. Proximity Restrictions. A recreational marijuana production, processing, testing laboratory or wholesale sales facility shall not be located within 100 feet of any single-family residential or multi-family residential zone. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.
- D. Standards for Recreational Marijuana Retail Sales Facilities.

1. **Public Access Prohibited.** Access to a retail sales facility shall be limited to employees, personnel, and customers over the age of 21.
2. **Hours of Operation.** Retail sales facilities shall operate only between the hours of 10:00 a.m. to 8:00 p.m. all days of the week. An individual facility may set hours within those specified, but may not be open outside those parameters.
- 3 **Security Measures Required.**
 - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
 - b. Exterior lighting shall be provided and continuously maintained consistent with Section 16.154.
 - c. Any security bars installed on doors or windows visible from the public right-of way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
4. **Mobile or Temporary Businesses Prohibited.** A retail sales facility may not operate as a mobile or temporary business as defined in Section 16.10.020.
5. **Drive-in or Drive-Through Facilities Prohibited.** A retail sales facility shall not have a drive-in or drive-through facility, as defined in Section 16.10.020.
6. **Proximity Restrictions.** A retail facility shall not be located within the specified proximity of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.
 - a. **Schools.** Within 1,000 feet of a public or private elementary or secondary school attended primarily by children under 19 years of age.
 - b. **Other Retail Facilities.** Within 1,000 feet of another retail recreational marijuana facility or any medical marijuana dispensary.
 - c. **Public Plazas and Active Use Parks.** Within 1,000 feet of a public plaza or active use park. As used in this paragraph, an active use park includes a public park which includes features such as playground equipment, athletic courts or fields, active use water features, or skating or skateboard features.
 - d. **Other Uses.** Within any distance from any other use as specified by state law.

Proposed Sherwood Land Use Zoning By License Type

	<u>Neighborhood Commercial</u>	<u>Office Commercial</u>	<u>Retail Commercial</u>	<u>General Commercial</u>	<u>Light Industrial</u>	<u>General Industrial</u>	<u>Employment Industrial</u>
<u>Recreational Marijuana Producer</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>p¹</u>	<u>p¹</u>	<u>N</u>
<u>Recreational Marijuana Processor</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>
<u>Recreational Marijuana Wholesale Operator</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>
<u>Recreational Marijuana Retail Sales Operator</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>
<u>Recreational Marijuana Laboratory and Testing Facility</u>	<u>N</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>	<u>p¹</u>

N= Not Permitted

P= Permitted

¹ Subject to the Special Use Criteria, Recreational Marijuana Facilities § 16.38.030

NOTE: The footnote number will change depending on where it is inserted in the table within the Sherwood Zoning and Development Code.

Old Business Agenda

Item A

City of Sherwood
STAFF REPORT:

May 17, 2016
File No: PA 16-02 Code Update **(REVISED)**



Signed:

Brad Kilby, AICP, Planning Manager

Proposal: As a result of the last Planning Commission split vote, and after listening to public testimony regarding the proposal, the City Urban Renewal Agency is proposing to revise their original amendment and adding language to 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 AND the lot was vacant as of May 1, 2016. This applies to only one lot in the entire Old Town area. That lot is addressed as 15919 SW 1st Street. There was a question of whether or not it would apply to a second lot, 15804 SW 1st Street, but that lot was not vacant as of May 1, 2016. That is the second of two lots that the Sherwood School District purchased for constructing a Bowman house, and that lot has a recently constructed outbuilding on it for storage of construction tools and materials. The site is not considered vacant. All other residentially zoned lots in Old Town, located on a collector or arterial street are developed. The collector and arterial streets in Old Town Sherwood include Pine, Washington, Main Street, and portions of 1st and 3rd streets, and are illustrated in the following table.



I. **BACKGROUND**

- A. Applicant: This is a City initiated text amendment from the Urban Renewal Agency.
- 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 and was vacant as of May 1, 2016.
- 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 May 24, 2016 Planning Commission hearing on the proposed amendment was published in *The Times* on March 17, 2016, March 31, 2016, May 12, 2016, and again on May 19, 2016. Notice was also re-posted in five public locations around town on April 28, 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. In conversations with the DLCD District Representative, it was determined that a second notice of the revised language was not required.

- 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. Under the revised language, the proposal would only apply to one property given that all other residentially zoned properties within Old Town that are located along collector or arterial classified streets were not vacant as of May 1, 2016.

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 and again on April 29, 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 revised amendment was sent out to everyone in Old Town, and posted in five public locations around town on April 28, 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.

On April 30, 2016, Mr. Versteegh sent an e-mail (Exhibit C) reiterating his concern for the original proposal before it went to the City Council for their May 3, 2016 hearing (Application did not go to Council as it was amended before the May 3rd meeting). Mr. Versteegh was contacted by the URA staff, and the amended language was explained to him. Mr. Versteegh has not provided any additional comments to the amended proposal.

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 proposal seeks to amend chapters of the Zoning and Community Development Code, Volume III of the Comprehensive Plan. 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 are no specific standards other than ensuring that the language is consistent with the existing Comprehensive Plan and any applicable State or City Statutes and regulations.

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 in the event that the two lots located at the southwest corner of the intersection of SW 1st street and SW Pine were redeveloped. They authorized the purchase of the two properties for this purpose, and have authorized their staff liaison to proceed with this request.

Finally, the City does field complaints about the lack of public parking in Old Town, and 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. Without a comprehensive study of the parking downtown, the need is perceived at this point.

There do not appear to be any Comprehensive Plan requirements that would conflict with the proposed code language.

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 new hearing, 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 and revised amendments. The proposed amendments are consistent with Goal 1 (Citizen Participation) and Goal 2 (land use planning).

FINDING: As discussed in the above analysis, there is a need for the proposed amendment to allow the parking lot that would result from this amendment on SW 1st Street, and a perceived need by the business owners and public who patronize and live in Old Town. 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 approval of PA 16-02.

V. EXHIBITS

- A. PA 16-02 **REVISED** Code Amendments
- B. Letter from Mike and Cheryl Versteegh dated March 28, 2016
- C. E-mail to City Council from Mike and Cheryl Versteegh dated April 30, 2016

EXHIBIT A

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.

(Ord. 2002-1128 § 3; 94-990; 92-946; 87-859)

- 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.

(Ord. 2006-009 § 2)

- C. Public and commercial (non-accessory) parking within residential zoning districts when both of the following apply:
 1. On May 1, 2016, no buildings existed on the property where the parking is to be located; and
 2. The property has street frontage on an arterial and/or collector street as identified within the Sherwood Transportation System Plan.

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.

From: Mike Versteegh [<mailto:siletzfish@webtv.net>]

Sent: Saturday, April 30, 2016 2:10 PM

To: Krisanna Clark; Krisanna Clark (Contact); Jennifer Harris; Linda Henderson; Dan King; Sally Robinson; Jennifer Kuiper; Renee Brouse

Subject: OPPOSITION TO CASE FILE NO. PA 16-02

Dear Mayor & Council Members

As long time residents of Old Town Sherwood my wife and I are very concerned about allowing 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. This is referenced as Case File No: PA 16-02. I see that many of you are members of the Sherwood Historical Society and I hope that demolishing residential homes in Old Town (many historic) to build parking lots "rings loudly" in a bad way with you.

Unfortunately, my wife and I can not attend the May 3rd City Council, but we wanted to pass along our full opposition in the attached document. We hope you take the time to read it well before the May 3rd City Council meeting.

Thank you

If you have any questions for me please feel free to contact me at 503-625-7242

Sincerely,

Mike Versteegh
22335 SW Washington St.
Sherwood, OR

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: 5-21-10 Agenda Item: PA 1602 (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: Allen Bower
Address: 11741 SW Boones Ferry Rd
City/State/Zip: Portland OR 97219
Email Address: Bowserpat@yahoo.com

I represent: **Myself** **Other** Always
16066 SW 1st Street Sherwood OR 97219

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

Old Town Parking Amendment PA16-02

May 24, 2016

Public Hearing

Sherwood Planning Commission

05-14-18
Date

PC
Gov. Body

lea.
Agenda Item

No # assigned
Exhibit #

Background

- On occasion, the City 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.
- As a result of testimony received at the April 12th Public Hearing and split vote by the PC, the URA amended the language to limit the scope of the amendment.

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) on residentially zoned properties in the Old Town Overlay as a conditional use provided they are adjacent to a collector or arterial, **and the property was vacant as of May 1, 2016.**

Language in 16.162 as opposed to 16.12 to specify that the proposal is only applicable in the Old Town Overlay.

Affected Properties Map



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

- New notice sent out April 29, 2016
- No public comments to the revised language.

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

APPROVED MINUTES

**City of Sherwood, Oregon
Planning Commission Meeting
May 24, 2016**

Planning Commissioners Present:

Chair Jean Simson
Commissioner Chris Flores
Commissioner Michael Meyer
Commissioner Alan Pearson
Commissioner Rob Rettig
Commissioner Lisa Walker

Staff Present:

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

Planning Commission Members Absent:

Vice Chair Russell Griffin

Council Members Present:

Sally Robinson by phone

Work Session

1. Recreational Marijuana

Michelle Miller, Senior Planner gave a presentation and noted recreational marijuana license types determined by the Oregon Liquor Control commission (OLCC). She explained the proposed code regulations based on input from the Commission and public engagement. Discussion followed and a timeline was determined based on additional outreach opportunities over the summer including festivals and city sponsored events. Staff was directed to limit retail facilities to 3000 square feet.

Regular Meeting

1. Call to Order/Roll Call

Chair Jean Simson convened the meeting at 7:35 pm.

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

2. Consent Agenda

- a. March 29, 2016 Planning Commission Minutes approval
- b. April 12, 2016 Planning Commission Minutes approval
- c. April 26, 2016 Planning Commission Minutes approval

Motion: From Commissioner Alan Pearson to approve the Consent Agenda, Seconded by Commissioner Chris Flores. All present Planning Commissioners voted in favor.

3. Council Liaison Announcements

Councilor Robinson thanked the Commission for their efforts regarding marijuana facility regulation and public outreach. She said she would not be present for the next few meetings and there may not be an alternate present.

4. Staff Announcements

Brad Kilby, Planning Manager informed that TriMet would open a new bus line 97, from Tualatin to Sherwood, on June 6, 2016 (visit www.trimet.org/schedules/r097.htm) and the Community Garden opened May 23rd. He announced a Cedar Creek Trail Local Trail Advisory Committee meeting on May 25, 2016 with an open house on June 1st at 6:30 pm. Phase I will be constructed first between Tonquin Road and Hwy 99W.

Mr. Kilby informed that he sent an e-mail to the Sherwood West landowners about the possibility that Metro would revisit the Urban Growth Boundary maps in 2018 and that State Senate Bill 1573 regarding annexation requirements that may affect the ultimate timing of Sherwood West. He stated Federal Emergency Management Agency (FEMA) maps would be adopted shortly for Sherwood residents with flood insurance, but the National Marine and Fisheries Service (NMFS) had recently submitted a biological opinion regarding the new FEMA maps which may require two processes towards adoption. The maps cannot be changed by jurisdictions.

5. Community Comments

None were received.

6. Old Business

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

Chair Simson began the public hearing and read the public hearing statement stating the Planning Commission would make a recommendation to the City Council. She said the hearing was legislative and ex parte contact did not apply. Chair Simson asked for the staff report.

Brad Kilby, Planning Manager gave a presentation and said the City receives complaints about a parking shortage in Old Town and the URA, owners of the Robin Hood Theater lot, wanted to relocate the parking in order to develop the lot. Two lots off of First Street had been identified for the new parking lot. The lots were split zoned with one zoned residentially. Residential properties are not allowed to have non-accessory parking. Mr. Kilby said as a result of testimony received at the public hearing on April 12, 2016 and a split decision by the Planning Commission the application was amended to limit the scope of the amendment to residential properties adjacent to collector or arterial roadways and vacant as of May 1, 2016. He explained that non-accessory (stand-alone) parking did not have an associated use and gave the parking lot behind City Hall as an example of accessory parking. Only one lot met the criteria.

Mr. Kilby explained that conditional uses in Old Town were subject to a public hearing before the Planning Commission with notice to surrounding properties. He described approval criteria for a text amendment was based upon a need, which has established by the Urban Renewal Agency and must be in accordance with the Transportation Planning Rule in which the functional classifications of roads cannot be affected by the amendment. ODOT and the City Engineer have confirmed that no roadway classification would be affected.

Mr. Kilby noted that a new notice was sent to surrounding property owners explaining the new proposed language and stated that no public comments were received by staff. He recommended the Planning Commission forward a recommendation of approval to the City Council, reminded the commission that this was not an approval for the parking lot and reiterated that only one lot met the proposed language.

Chair Simson asked for applicant testimony.

Tom Pessemier expressed that there was a need for parking in Old Town and that comments were heard from citizens relative to historic structures and the desire to preserve the character of Old Town. He noted that the proposal was amended to address concerns expressed and it was the URA's desire to construct parking in Old Town on 1st Street. No homes would be removed to build the parking lot.

Keith Jones, Harper Houf Peterson Righellis stated he had prepared the application and had ensured that the record complied with the Comprehensive Plan and the Sherwood Zoning and Community Development Code. He confirmed a need to provide parking and stated it was a good site for parking.

Mr. Pessemier disclosed the May 1, 2016 date was chosen because of eventual demolition of privately owned houses on Ash Street and he wanted to avoid confusion. He added that the proposed language would be added to the Conditional Uses code, Section 16.162.040 as item C, and suggested a review of 16.162.040.A prior to going to City Council.

Chair Simson thanked staff and the applicant, noting that in legislative matters, public testimony could affect a positive change.

Mr. Pessemier noted that the City Council was not involved in the application as inferred by staff, because the URA Board was made up of city council members and they were the final decision maker.

Chair Simson asked for public testimony. The one person who had turned in a form to testify declined, because his concerns were addressed by the applicant.

Chair Simson closed the public hearing and the following motion was received.

Motion: From Commissioner Alan Pearson that the Sherwood Planning Commission forward a recommendation of approval to the City Council for PA 16-02 Public or Commercial Parking within the Old Town Overlay based on applicant testimony, public testimony received and analysis, findings and conditions in the staff report. Seconded by Commissioner Michael Meyer. All present Planning Commissioners voted in favor.

7. Planning Commissioner Announcements

Commissioner Pearson announced he was cancer free.

8. Adjourn

Chair Simson adjourned the meeting at 8:06 pm.

Submitted by:

Kirsten Allen
Kirsten Allen, Planning Department Program Coordinator

Approval Date: June 28, 2016