



Home of the Tualatin River National Wildlife Refuge

Planning Commission Packet

FOR

**December 9, 2014
At 7 PM**

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



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
December 9, 2014 – 7:00 PM**

AGENDA

1. Call to Order/Roll Call

2. Consent Agenda

- a. June 10, 2014 Planning Commission Minutes
- b. June 24, 2014 Planning Commission Minutes
- c. Sept 9, 2014 Work Session Minutes
- d. October 28, 2014 Work Session Minutes

3. Council Liaison Announcements (Mayor Middleton)

4. Staff Announcements (Brad Kilby)

5. Community Comments

6. New business

- a. **Public Hearing - PA 14-02, Sherwood Zoning and Community Development Code Update (Connie Randall)**

The Planning Commission will consider code updates which seek to correct errors, increase consistency between sections, consolidate definitions, and clarify code language and intent.

7. Planning Commissioner Announcements

8. Adjourn

City of Sherwood, Oregon
Planning Commission
June 10, 2014

Planning Commission Members Present: Staff Present:

Chair Jean Simson

Vice Chair James Copfer

Commissioner John Clifford

Commissioner Beth Cooke

Commissioner Sally Robinson

Julia Hajduk, Community Development Director

Bob Galati, Civil Engineer

Brad Kilby, Planning Manager

Michelle Miller, Senior Planner

Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Russell Griffin

Commissioner Lisa Walker

Council Members Present:

Councilor Robyn Folsom

Legal Counsel:

Chris Crean

1. Call to Order/Roll Call

Chair Jean Simson called the meeting to order at 7:03 pm.

2. Agenda Review

The agenda consisted of a public hearing for PUD 14-01/ SUB 14-01 Cedar Brook PUD

3. Consent Agenda

There was no Consent Agenda

4. Council Liaison Announcements

Councilor Folsom announced that the City budget was up for adoption at the next City Council meeting and invited all concerned citizens to come. She added that the Transportation System Plan (TSP) update was also scheduled for that night, but it may be carried over to July 1st. She stated that she would be going to Washington DC to advocate for the City with various agencies. Councilor Folsom said that the City had been hoping for \$50,000, but was awarded a \$200,000 grant to help study the [Frontier Leather] tannery site on Oregon Street. She said the awarding of the grant was due to efforts by staff, that it acknowledged concerns regarding the site, and that the federal government was willing to help address those concerns.

Council Folsom said that it was shaping up to be a busy schedule for the City Council and commented that the Community Center was starting to grow vertically.

5. Staff Announcements

Brad Kilby, Planning Manager, stated that there will be a Planning Commission meeting on June 24th for a landmark alteration and said that he met with TriMet earlier that day. He said TriMet would be

introducing the first draft of the Service Enhancement Plan that included the Sherwood area. Brad said TriMet was looking at providing service to the YMCA and adding service between Sherwood and Tualatin was a priority of the plan.

6. Community Comments

Tony Bevel, Sherwood resident, commented that he lived on SW Lynnly Way and wanted to address that there was no traffic calming on his street. He said his street was designated as a neighborhood street, but has turned into a through street between Roy Rogers to Edy Road. Mr. Bevel said one neighbor on SW Houston created a handmade STOP sign that has now been replaced with a real STOP sign. He commented that it showed the level of frustration about traffic going through the neighborhood, including his own frustration. Mr. Bevel said he was advised to file a complaint with the Police, which he did, and he hoped there would be some action.

Robert Claus, Sherwood resident, commented that Sherwood has the strongest form of city manager government and that the city manager was supposed to administer almost all of the functions in the town. He said the City did not have a city attorney, but a contract city attorney that was obligated to represent the City Manager, City Council and the Mayor. Mr. Claus commented that the Planning Commission was supposed to make policy decisions in a clear way, and unlike Oregon, Canada used a hearings examiner. Mr. Claus told the Planning Commission that it shouldn't sell zoning, because the Mayor or City Councilors pressure them and commented that the 14th amendment and Title 42 USC 1983 and 1988 do not allow it. He said that when the Planning Commission looked at applications it was making a policy decision, not administrating the law. He said the due process component of the Fifth and Fourteenth Amendments meant that decisions were to be non-arbitrary, non-capricious, and that reasonable language was consistently and fairly enforced.

Mr. Claus suggested that people were cleverly skirting ex parte contact and in Oregon, ex parte contact and ethics are very marginal unlike in the federal courts.

Mr. Claus commented that he had seen City Council and this body participate in private decisions where major public policy was made. He said there was denial regarding those decisions and commented about Walmart.

Mr. Claus commented that the Commission would review an application that was zoned General Commercial land rezoned to a residential density and that it was the natural consequence of what was done in the urban renewal area; Commercial and Retail zoning in Light Industrial. Mr. Claus said he hoped the Commission would be fair and consistent, but doubted they were. He suggested that in some cases there had been a conspiracy to violate civil rights and asked the Commission to spend time on the policy decisions so findings can be made rather than know that the decisions were made politically.

With no other community comments, Chair Simson turned to new business.

7. New Business

a. Public Hearing – PUD 14-01/SUB 14-01 Cedar Brook PUD

Chair Simson read the public hearing statement and asked for any ex parte contact, bias, or conflicts of interest from Commission members. She reminded that the Planning Commission would be forwarding a recommendation to City Council and would not be making the final decision.

Brad Kilby added that he had asked Chris Crean, legal counsel, to give a refresher on ex parte contact, because of social media.

Mr. Crean commented that the social media environment was expanding and civil servants use it with blogs and Facebook, which created other opportunities for people to communicate with the decision makers outside of the record in a quasi-judicial proceeding. Mr. Crean reminded the Commission that any communications in social media needed to be disclosed like a conversation in person, on the phone or through email. Ex parte contact needed to be stated on the record so that everybody had an opportunity to know what information the Commission was getting before a decision was made so they could respond to it. Mr. Crean also repeated that if any Commissioners receive an email from staff, they were not to use "reply all," because it made it a public meeting because a quorum was created.

Commissioner Robinson disclosed that she participated in testimony regarding an earlier zone change for the property in question and even though she submitted an email, she did not believe that her limited participation in that process had any bearing on her ability to make a fair and comprehensive evaluation of all the evidence.

Secondly, Commissioner Robinson disclosed that she had posted a Facebook message encouraging people to attend the meeting, but she did not engage in any discussions. There were a couple posts (by others) that did not necessarily reflect her opinion. Commissioner Robinson believed she could make a fair evaluation of the evidence without any bias.

Commissioner Clifford disclosed that he was a professional acquaintance of Jeff Simpson and that he worked with him at WRG over ten years ago. He said they have not had any collaboration on any projects and they had not kept in touch. Commissioner Clifford said there was no ex parte contact to report because he did not know Mr. Simpson would be in attendance.

Chair Simson indicated that Eugene Stewart approached her and asked regarding the roundabout near the subject property. She said she did not engage and suggested Mr. Stewart ask staff.

Chair Simson stated she worked for a company that was a wholesale distributor and commented that anyone in the building materials industry supplied to DR Horton at some point. She said her company did not sell directly to DR Horton, but to door shops and other suppliers that may sell hardware to DR Horton. She held that the connection was remote and said she would be able to perform her duties with impartiality.

With no other disclosures, Chair Simson asked if any member of the audience wished to challenge the ability of any of the Planning Commission members to participate.

Mr. Claus asked for confirmation that Chair Simson's employer supplied to subcontractors for DR Horton. Chair Simson responded that she was in the accounting department of a wholesale company that distributes to door shops, not subcontractors, nor to DR Horton. She explained that the company

sold door hardware to door shops and the hardware was placed on the doors that may be sold to DR Horton.

Chris Crean asked if the witness wished to challenge Chair Simson's testimony. Mr. Claus confirmed that he did. Mr. Crean said the challenge was on the record and the Land Use Board of Appeals (LUBA) could determine the relevancy of the testimony.

Chair Simson asked for a staff report.

Michelle Miller, Senior Planner, gave a presentation (see record, Exhibit 1) and explained that the City had received an application called Cedar Brook Planned Unit Development (PUD). She indicated that the issue before the Planning Commission was whether the Planning Commission should recommend approval of the Cedar Brook Planned Unit Development, a 66-unit, High Density Residential, development with a mix of single-family detached homes and attached townhomes. Michelle explained that one of the unique things about a PUD was that it allows a project to have some flexibility in the Code requirements and that it was a tool intended for challenging parcels for the tradeoff of innovative design and a general benefit to the community. She said the uniqueness of a PUD was that the community decides through the Planning Commission and the City Council and was not something staff could decide.

Michelle informed the Commission that staff reviews the application as in reference to the standards in the Code and for any deviations from the Code. She gave the definition of a planned unit development as *integrating buildings, land use, transportation facilities, utility systems and open space through an overall site design on a single parcel of land or multiple properties under one or more ownerships. The PUD process allows creativity and flexibility in site design and review which cannot be achieved through a strict adherence to existing zoning and subdivision standards.* Michelle explained the process for a Type V review: the Planning Commission forwards a recommendation of approval, approval with modifications, or denial of the application to the City Council. The City Council then considers the recommendation and holds a public hearing to determine whether to accept the PUD. Michelle said the City Council was the decision maker and any appeals go to the Land Use Board of Appeals (LUBA). Michelle said if the application is approved by the City Council, the Final Development Plan comes back to the Planning Commission for approval.

Michelle detailed that the project was a 66 lot residential development with single-family attached and detached homes. She showed an outlined area that indicated the parcel in review and said the site was 5.77 gross acres with 3.87 acres of developable area. Michelle pointed out that directly east of the property was Creek View Apartments, to the west was The Vineyards subdivision with Miller's Landing to the north. She said there are some commercial office buildings to the south and the intersection of SW Meinecke Parkway and 99W nearby. Michelle indicated that the property was tax lot 2S130CD13400 and the site was zoned High Density Residential (HDR). She described that the applicant has proposed lot sizes between 1,600 square feet and 3,245 square feet and said that this zone was unique from all of the other residential zones in Sherwood because it allows for no minimum lot size if developed as a PUD. PA 13-04, the Brownstone Zone Change and Text Amendment approved by City Council earlier this year, allowed for no minimum lot size in the HDR zone if the site was developed as a PUD.

Michelle related that HDR has a density range of 16.8 to 24 units. She said that if the property was developed as a standard subdivision there would be a 5% open space requirement, but because it was a

PUD, 15% of the area must be open space. She summarized that the project includes a buildable area of 3.87 acres with a minimum density of 65 and a maximum density of 92 units. Michelle said that the applicant proposed 66 dwelling units, which would equal about 17.1 dwelling units per acre, thus satisfying the criteria. She explained that after the staff report was drafted, the applicant amended site design that reduced the number of lots to 65 and increased the portion of open space. She said the applicant would address these issues during their presentation.

Michelle showed a table with the three different housing types for this development and said that 38 units will be two story townhomes with a one car garage in the front, facing Street A; 15 units will be single-family detached with rear loaded garages; 13 units will be two story homes with two car alley loaded garages.

Lot Numbers	Housing Type Description	Number of Units	Dwelling Unit Size (square feet)	Lot size range (square feet)	Number of Onsite Parking spaces
1-38	Two-story townhome with one car garage in front	38	1,500	1,610 - 2,552	38 garage and 38 driveway spaces
39-53	Two-story single family detached with rear loaded garage	15	1,304 -1,392	2,374 - 3,245	30 garage and 30 driveway spaces
54-66	Two-story townhome with two car alley-loaded garage	13	1,400	1,600 -1,974	26 garage and 26 driveway spaces

Michelle indicated that the 38 single car garages were all along the perimeter of Street A. She said that Tract G was a private street or alleyway, that Cedar Brook Way was proposed to go through to Hwy 99W and there would be 15 single family detached houses that front the new Cedar Brook Way with access off of the alley. Michelle related that there were 13 alley loaded townhomes on the other side of the alley from the single-family homes.

Note: *Private street* and *alleyway* were used interchangeably throughout the hearing. The recorder has used *alley* for each instance for continuity.

Michelle related that the standard for the single-family detached homes in the HDR zone was 5,000 square feet, and the applicant had proposed 2,374 square foot minimum lot size. She said the attached single-family townhomes standard was 1,800 square feet and a 1,585 square foot minimum was proposed. Michelle said the proposal met the lot width requirements. She related that the minimum lot depth was 80 foot and there was one unit with a 71 foot lot depth, which was a deviation of the standard requested.

Michelle defined a setback as the yard space in the front and back yards and the distance between the houses. She said the City had standards for the garage and the porch setback; garage 20 foot, porches 14 ft. and all the homes are proposed to have porches. Michelle stated that the applicant was requesting a

ten foot minimum setback for all of the lots, except for lots 38-39. The applicant requests a seven foot setback for these lots. She indicated that the applicant's materials asked for a seven foot setback on just lot 39, but the table provided by the applicant asked for the deviation for both lot 38 and 39.

Michelle related that the applicant was requesting a three foot side yard setback for all of the units and several homes were requesting a rear yard deviation of six feet, which adjusted the garage setbacks of 18 feet on lot 58 and 17 feet for lot 63. She said all the other lots would maintain a twenty foot garage setback and the heights are within the High Density Residential standards.

Michelle showed the parking layout. She said the attached units with one car garages will have room to park in the driveway and the units with two car garages will have space for two spots on the driveway with a total of four spaces. Michelle stated that the applicant proposed 79 spaces for on-street parking; Cedar Brook Way will include 60 parking spaces on both sides of the street and Street A will have 19 parking spaces on one side of the street. Michelle explained that staff had concerns regarding the one car garage units along the alley that will have limited access to on-street parking, because no parking will be permitted on the alley. She stated that the Development Code allowed garages in townhomes to be counted as a parking space, but the general parking standards did not allow garages to be counted toward the parking requirement. She commented that many perceive that garages are not used for individual parking, that the Cedar Brook area has known parking problems, and it will be something the Commission will need to review carefully.

Michelle said that Planned Unit Developments are required to have at least 15% open space that can be maintained by the public or privately maintained by the Homeowners Association (HOA). She indicated that the applicant initially had 21% or .83 acres of open space, but they have increased that and she did not have the new calculation. She showed that there were ten proposed open space tracts with the largest, Tract K (across Cedar Brook Way and apart from the development) and Tract E (in the center of the development). Michelle related that the applicant has proposed that Tract K be dedicated to the public and proposed a trail connection to The Vineyards subdivision, a connection which was part of the City's Transportation System Plan.

Michelle showed a detail of Tract K and the trail and said Staff went before the Parks Board about dedicating the tract to the City. She said the Parks Board was reluctant to accept the dedication of land, thought the area was not large enough to be a meaningful addition to the parks system, and felt that the Parks System Development Charges (SDC) credit for the dedication would be better utilized to serve the City as a whole rather than this specific development. The Parks Board requested that the developer maintain the park area through an HOA process and Covenants, Conditions, and Restrictions (CCR), but that a trail easement would be obtained.

Michelle said that Bob Galati, City Engineer would answer questions regarding how Parks SDC's were calculated and discuss street modifications requested by the applicant.

Bob referred to the letter from Emerio Design (Exhibit J, page 78 of the packet) and explained that Engineering had signed off on the proposed modifications. He stated that the letter was based on discussions between the design team and City staff in trying to resolve design criteria issues introduced during the design phase. Bob named four items: a private street modification request, a non-standard

bulb out, the intersection of Street A and Meinecke Parkway, and curb tight sidewalks on Street A (which also included rollover curbs).

Bob related that the developer first came in with a layout that had design variations already built in and said staff wanted to know about meeting the standard road layout requirements. He revealed that using the standards created a dramatic reduction in the ability to develop the lot with single family residential when utilizing spacing standards, right-of-way width requirements, public utility easements, and curbs. Bob explained that looking at the alternatives would allow for an apartment complex or opting for something in between. He said the modifications met the intent of providing city streets that meet the standards in general, that there was nothing proposed that has not been done within the City before, and the design can be defended.

As an example, Bob explained that driveway drops for Street A at each driveway would cause a lot of up and down movement, so the planter strip was eliminated and roll over curbs, already used near the cannery site in Old Town, were included. He said, because of the site layout, putting in a full street cut off too much development so the private street [or alley] was used. Bob commented that they considered how to minimize the number of units not directly accessing a public right of way, which was a requirement and indicated that page 71 of the packet was the end result. Bob said the applicant provided a layout which used a 21 foot wide, back of curb to back of curb private alley width, with a bulb out at the acute corner. He explained that the Tualatin Valley Fire and Rescue (TVF&R) standard required a clear 21 foot width, with no obstructions, and the alley had a rollover curb which met the standard and does not provide an obstacle towards traffic movement. Bob reported that the alley was a one-way street, without on-street parking and the nonstandard bulb out was for turning movements of the fire truck. He remarked that the intersection of Street A and Meinecke Parkway was not a fully developed turning intersection, did not meet the spacing standards from Hwy 99W, and was too close to the roundabout. Bob explained that it would be a right in/right out, which meant coming in to the complex on Street A and people coming out of the complex could use the roundabout on Meinecke to get to the highway. Bob asked if the Commission had any questions. There were none.

Michelle commented that there were concerns that there was not adequate on-street parking in close proximity to lots 29-38, which abut SW Meinecke Parkway. She expressed a hope that people would utilize the garages for parking and said that may not be enough. Michelle remarked on the limited amount of parking on Cedar Brook Way, that it seemed too far for visitors, that there was no flexibility or room for visitors, and it can be assumed that there will be two car families in these developments. She said there was no mass transit to this side of the city at this time and we need to be mindful that most people in our community drive their cars, so providing accessible parking was critical. Michelle repeated that the size of the single car garages in the townhomes were eight feet wide and the standard parking space was nine feet by twenty feet; these garages are smaller than the standard. She said that compact spaces and a 25% reduction can be used to satisfy the parking requirement, but she was not sure if this was the appropriate place to be putting the compact spaces.

Michelle asked the Commission to take a close look at the open space requirements and said that the Planning Commission heard what kind of homeowner might be moving into the homes during the zone change text amendment (empty nesters or young families). She suggested that the Commission keep that in mind when evaluating the areas of open space and that it should be designed appropriately.

Michelle urged the Commission to consider through the development plan approval whether the Architectural Pattern Book clearly shows what kind of housing the city will be getting and that the development met with the high community standards that the citizens expect.

Michelle commented that Tract B, the pathway that separates the Cedar Creek Apartments and this development, was five feet, but the code requires three foot buffers on either side for landscaping in between fences.

Michelle said that the proposed CC&R's could be reviewed during the Final Development Plan and they should clearly define how the site and areas of open space will adequately be maintained through the HOA. She commented that the property owners will need to have a clear knowledge, going in, that some accessory structures or decks may not be feasible with the limited setback requirements.

Michelle specified that the next steps in the hearing were to hear the applicant's presentation, then citizen testimony. After which would be staff's response with the Planning Commission making recommendation to City Council. City Council would then hold a public hearing. If approved, the applicant submits a Final Development Plan to the Planning Commission.

Michelle indicated that a citizen comment was received from Allison Holden (see Planning record, Exhibit B) who expressed concern with the school population at Edy Ridge Elementary and Laurel Ridge Middle Schools and the impact this development would have on the crowding of that school. Michelle reminded the Commission that school population and fluctuations could not be a determining factor in the approval or denial of an application. She said the Sherwood School District received notice of the application and has been in the loop regarding student projections. Michelle informed that the District's elementary schools have some schools with a lower population, the district was not at maximum capacity overall, and that they will be determining how they will be handling new population.

Michelle referred to the Staff Memo dated June 10, 2014 (see Planning record, Exhibit K) and said it indicated amendments to the staff report with some changes to the findings and recommended conditions. She asked if there were any questions.

Chair Simson suggested a recess for the Planning Commission and the applicant to read the Staff Memo and asked if any Commission members had questions for staff.

Commissioner Clifford commented that on page 25 in the Staff Report the drawing shows the Tract B between lots 6 and 7, but the staff report indicated it was between lots 22 and 23. Michelle responded that it was mis-numbered and should be between lots 6 and 7 and asked that it be amended.

Commissioner Robinson turned to page 9 of the packet, the Parks Board recommendation for Tract K and asked if staff considered the safety of pedestrians walking on the connecting trail. She expressed concern for safety because there are coyotes in the area. Bob responded that there is a lot of wildlife in the area, because it was a vegetative corridor with a stream. He said that wildlife was not considered regarding meeting the requirements of the TSP and if it was a safety concern of the trail, it would come out through the design process. He said at this point staff was reviewing if it complied with the requirements of the TSP with respect to pedestrian connectivity.

Commissioner Robinson asked how reducing the number of homes from 66 to 65 and creating more open space fit in regarding the Parks Board recommendation. Michelle responded that she would let the applicant talk about the changes made to the plan.

Commissioner Robinson turned to page 18 and asked for clarification regarding if the developer met the development standard regarding lot width. She said Michelle stated in her oral presentation that the applicant had met the requirements in lot width but the table in the staff report indicated that it did not meet the standard by half. Michelle explained that the staff report was correct.

Commissioner Robinson asked about the requirements for the number of off-street parking spaces required as to townhomes, on page 20 and the table on page 26. She said it was unclear where the standards were being met for the single-family residences as opposed to the townhomes where the garages are allowed to count towards the requirement. Michelle responded that the townhome standards allow the garages to count for the parking spaces and the requirement was to have two spaces per unit for the single-family detached homes. She said that the townhome standard was in conflict with the general parking standard that says in the footnote, that garages cannot be counted in the parking space requirements. Michelle commented that there was some discretion over which section controls, and if it would be a deviation of the standard or if the site is in compliance.

Commissioner Robinson asked if staff was counting the parking according the townhomes standards and not the single-family residences. Michelle responded that the proposed parking meets the requirements for the single family detached houses with the two driveway locations (15 units) and some of the townhomes also have two driveway spots (13 units). She said when looking at the parking standards alone, they would meet that standard, but there are 38 units that have only one driveway and one garage space. In the townhome standard that was fine because garages can be counted for the parking requirement, but in the general parking standards the garages cannot be counted. Michelle commented that when using that standard those 38 units do not meet the standard and she had specific concerns for those homes that do not abut a public street were additional on-street parking might be accessed.

Chair Simson clarified that there were 38 units with spaces in the driveways (not counting the garages). She said the requirement for detached single family was two parking spaces, and the applicant meets that because of the two driveway spots. In addition, there are approximately 79 spaces on the street.

Commissioner Cooke added that the proposed garages are eight foot wide versus the nine foot requirement, where you can actually park a car, and in essence the garages become storage space. Chair Simson responded that the garages were not being counted and all the detached houses have two driveway spots; the townhomes that have doublewide garages meet the parking with the driveways; then there are 38 units that only have one parking spot and 79 spaces on the street. Chair Simson indicated it was the proximity of the parking that was the concern, because not quite half of the 38 homes have no parking close by.

Commissioner Robinson noted that on page 26, staff recommended that the applicant consider additional parking to the nine townhomes located adjacent to SW Meinecke Parkway and asked what recommendation staff was making. Michelle responded that she was expressing concern about the amount of parking, that staff does not offer design solutions, and she was bringing it to the

Commissioner's attention. Commissioner Robinson asked if staff's concerns were significant enough for the Commission to require more parking spaces. Michelle confirmed.

Commissioner Robinson voiced concerns that if the Commission waited for a parking plan there would not be any more places to put parking. Michelle explained that the applicant had an opportunity to modify the design of the individual units and it would be reviewed at final site plan.

Commissioner Robinson commented on a memo from Bob Galati dated April 28, page 85 in the packet, regarding private street width and TVF&R requirements. She asked if any of the recommendations necessary to meet the TVF&R requirements would impact any of the 79 proposed parking spaces such as the ones near fire hydrants. Bob answered that there are certain areas where parking was not permitted such as in front of a fire hydrant or a driveway. He said the applicant will provide a plan identifying all of the proposed parking spaces, and staff will confirm that it complies. Commissioner Robinson asked if the parking had already been accommodated for fire hydrant locations. Bob responded that he could not tell at the scale provide, confirmed that there may not be 79 parking spaces, but that staff would ensure at the design phase. He said the applicant should take that into account, because it affects everything. Bob commented regarding fire truck turn movements and said one or two spaces may have to be dropped to make room for the fire truck.

Chair Simson asked if the Commission should consider the parking plan to the detail that it would at the final site plan review, because the Planning Commission was making a recommendation to City Council. Brad responded that it was appropriate for the Commission to raise it as a concern in its recommendation and it was appropriate for the applicant to have time to look at the parking and include it as part of the final PUD approval.

Chair Simson said the Commission would raise it as a concern and asked if they should be counting parking spaces. Brad suggested the Commission ask if the application met the required Code, but because it is a PUD, should they require enough parking and are there opportunities to recapture additional parking. He supposed that the applicant would address the reduced parking standard utilizing the garages. Brad said the proximity of parking was a legitimate concern, but designating off-street parking on a public right of way for specific units cannot really be done. He said parking would be first come, first served and we already know that the Creekview Crossing Apartments have problems with parking, as will this development.

Chair Simson called a recess at 8:11 pm and reconvened at 8:21 pm. She asked for any communication that took place over the break.

Commissioner Cooke disclosed that she was asked a question by a member of the audience and she referred them to Michelle Miller.

Commissioner Robinson said that she asked Michelle a clarifying question regarding the trail with another member of the audience that did not pertain to the proposed development.

Chair Simson asked for applicant testimony and reminded that they would have 30 minutes to split between presentation and rebuttal.

Steve Miller, with DR Horton Homes requested additional time if possible. Chair Simson responded that if the Commission asked questions it did not count toward the time.

Mr. Miller introduced Jeff Simpson from Simp.L LLC, a landscape and architecture firm; Neil Fernando, from Emerio Design, for engineering questions; and Andy Tiemann from DR Horton. He said he would give an overview of the project and address staff issues raised.

Mr. Miller indicated the project property was 5.77 acres located at the intersection of Cedar Brook Way and Meinecke Parkway and one of the unique aspects of the project was that the proposed road cuts a portion of the property off, leaving a remnant parcel on the west side that has to be addressed. He said that another component was a zone change to HDR and the recommendation that the development not contain apartment units like the property to the east. He explained that the applicant had tried to think outside of the box to come with a design that was unique to other areas of the city. Mr. Miller described that they had worked closely with staff regarding the design elements of the streets, the layout of the housing type, where the open space would go and how the open space could be the most efficient use of the land. He confirmed that the proposal had changed for the 66 lots to 65 lots, the minimum density for this zoning district. Mr. Miller related that one less lot allowed them to create more open space so there was about 40% more open space than required by Code for a parcel of this size. He expressed a hope of meeting the needs of the residents of the project by providing adequate space to move around.

Mr. Miller commented that staff raised concerns over parking. He said that the parking requirement was met for the project on individual lots by providing two parking spaces in the driveway or through a combination of the driveway space and on-street parking. He said they were required to provide 247 parking spaces and 267 spaces were provided in a combination of on-street and off-street parking. Chair Simson asked if that included the garages in the attached homes. Mr. Miller responded that it included what was allowed to be counted, they met the parking standard even with the Code conflict, and on-street parking could be counted to make up for that shortage. He said the combination meant they had twenty more spaces than required by Code. Regarding staff's concern for the attached units along Meinecke Parkway, Mr. Miller suggested creating language in the HOA CCR's that said the garages must be available for parking for those units. He acknowledged that it would limit the storage but could ensure that the garage space was available for parking for the dwelling units along Meinecke Parkway, as well as those along Street A, because they are the same product type. Mr. Miller said they felt they had the means to be able to adequately address parking concerns by putting provisions in the CCR's.

Mr. Miller gave a presentation (see record, Exhibit 2) and showed the layout of the project. He displayed an overview with 65 dwelling units with the single-family detached housing oriented to the south to create separation and space for solar access into the interior of the project. Mr. Miller presented that the more dense units were to the east side, abutting the density of the existing apartments. He said the housing type transitioned into less density moving towards Cedar Brook Way where the single family homes were and within that there was open space, trails and connectivity to the property on the west side of Cedar Brook Way where there is a park for the residents.

Mr. Miller showed a plan view of an apartment complex on the property and said if a PUD was not done, and the Code was met at face value, it could end up as shown. To answer Chair Simson's question

about how much density an apartment complex would achieve, he said it would be a significantly higher density and there would be a large parking lot.

Mr. Miller showed the on street parking configuration and revealed the architecture of the product displaying several renderings. He presented examples of detached homes, some with the same floor plan, but different architectural techniques for the fronts. He said there was a variety of what could be done with the single-family detached homes and similar designs would not be set side by side in order to create a diverse street scene along Cedar Brook Way. Mr. Miller showed examples of the attached homes that would front along Street A and on Meinecke Parkway. He then showed examples of the attached homes that would be on the interior of the subdivision with the rear loaded garages off of the alley. He ended with an overall design of the subdivision showing the trail connections. Mr. Miller said the trail along Meinecke Parkway showed the Cedar Creek Trail across Hwy 99W over to the trail connection that needs to be made through west side of the property.

Jeff Simpson, landscape architect and planner with Simp.L LLC gave a presentation (see record, Exhibit 3). He said his purpose was to present a case for the innovative distribution of the open space to better serve or benefit the community. Mr. Simpson showed a map from the Cedar Creek Trail Master Plan that showed trails in reference to the proposed development and said the trail master plan route abuts the south edge of the property. He said the proposed portion would provide connectivity to that trail infrastructure. He showed an overall site plan and explained that the various green spaces on the map were the areas of open space and private yards. Mr. Simpson said there was quite a bit of open space in relation to the overall project, and as staff pointed out, for open space requirement for a subdivision is 5% and a PUD has a 15% open space requirement; this project was offering 21%. He maintained that the project was better serving the community by dispersing the usable neighborhood open space throughout the neighborhood thus creating more community links to open space in a sequence that promotes healthy community. Mr. Simpson said they believed that “pocket parks” provide a more sensitive integration and distribution of building massing which allowed for better solar access to the buildings and open space. He said there were two main pocket parks; a centrally located active space with a play structure and fitness amenities in the center and across Cedar Brook Way, to the west, a pet exercise area or dog park. Mr. Simpson commented that the pocket parks amenities were integrated into the public realm, offering opportunities to connect the community and the neighborhoods. He showed an illustration of the site displaying the connections on the east side of the property through the trail corridor.

Chair Simson asked if the redesign from 66 lots to 65 lots increased the width of Tract B to accommodate the required sidewalk and setback. Mr. Simpson responded that the amended site plan integrated a five foot sidewalk and the three foot side yard setbacks to accommodate for landscape buffers on each side of the trail at a total of eleven feet. Mr. Miller confirmed that sidewalk and the landscape buffers have been set aside in Tract B and the townhome building setbacks on either side will be to the property lines.

Chair Simson received confirmation that when the townhomes put up fences the three foot landscape buffer would remain. Mr. Simpson explained that the applicant intended to pull materials from local public infrastructure and architecture by using brick and concrete seen in adjacent projects. He showed some slides using brick pavers in the sidewalks and a three rail fence into the dog park. He showed

photos to help understand the location of the project and the empty field that the site currently looks like.

Mr. Simpson showed models of the site that contained quotes and information taken from a variety of media including excerpts from the City of Sherwood's Parks Master Plan. The first one was from www.pocketparks.net and spoke to the community benefits associated with pocket parks and linked systems throughout communities. Mr. Simpson showed a view of the corner pocket park in the development and said it was providing a brick pad, bench, and some fitness amenities. The next two slides showed views of the primary interior open space and Mr. Simpson commented that they were providing a central play structure, trash receptacle, a dog waste station, a couple of benches and additional fitness stations. He described that the project integrated a pedestrian sidewalk that linked to the resident's front doors and said the alley loaded units face the central courtyard with sidewalks that radiate off the central route. The next two slides showed views above looking east and showed an overlay of the Cedar Creek Trail Master Plan. Mr. Simpson commented on the connectivity to the adjacent community which led to the dog park and the trail to Lady Fern Park, then on to Edy Ridge and Laurel Ridge schools.

The next slide illustrated the amount of open space. Mr. Simpson said it showed how the open space had been integrated throughout the community to evenly distribute the amenity for the neighborhood. He read the quote on the slide from the American Planning Association that read "*Successful pocket parks have four key qualities they are accessible; allowing people to engage in activities; are comfortable spaces and have a good image; and finally, are sociable people meet each other and take people to where they visit*". The next slides showed views from the northeast corner looking southwest. Mr. Simpson said they represented the private yards and public open spaces or pocket parks. He recounted that it could be seen how the pedestrian facilities had been integrated to be cohesive and connective; linking the spaces together in a coherent way. Mr. Simpson read the quote from the National Recreation and Parks Association "*Pocket parks have been successful because they are able to respond to the needs of local communities*" he spoke of another quote that referenced the impact of pocket parks on property values. Mr. Simpson showed a few slides of the corner of the property near the roundabout with the dog park and read the quote from the City of Sherwood Parks and Rec Master Plan regarding national trends and the integration of sports related activities like walking and exercising with equipment. He pointed out a second quote from the Master Plan regarding core values and guiding principles that included community and family, recreational opportunities, connectivity, sustainability and balance. Mr. Simpson said they felt that distributing the open space throughout the community created a balance and sustainability through solar access to the park spaces between the buildings. He concluded by saying that the project vision was from the Master Plan which was to balance passive and active, sport and non-sport recreation, connectivity and walkability and the applicant thought their open plan addressed all of these goals.

Mr. Miller pointed out some of the conditions of approval in the staff report.

- F.5. *Design, construct or pay a fee in lieu of 125% of the estimated construction costs for the trail extension from SW Cedar Brook way to the connection at the Wyndham Ridge subdivision trail.* Mr. Miller asked if the condition could have a fee in lieu of, or a bond for that improvement.

- G.6 *Install the perimeter screening separating the residential zones of the single family homes with the multifamily development to the east.* Mr. Miller said they were unsure what the referenced fencing was and needed direction as to what and where it was.
- H.6 *Fences separating lots from adjacent pedestrian access way may not exceed 42" in height unless the fences are setback with at least three (3) feet of landscaping from the pedestrian easement.* Mr. Miller said they were unclear of what staff is requiring with the condition.

Mr. Miller offered to field questions from the Commission.

Commissioner Clifford turned to the second Recommended Condition on page 35 regarding a water quality treatment facility, which read, "*The public improvement plans must include detention and treatment of all storm water on the site in compliance with Clean Water Services standards,*" and asked if the applicant would address the facility as part of the open space. He said if a detention pond had to be built, if it would be built per the plans or somewhere else on the site.

Neil Fernando, Emerio Design, reported that there is an existing water quality facility off site that was built as part of the apartment complex almost at the corner of Cedar Brook Way and 99W. He said the applicant was proposing to expand that and that there was a pipe stubbed to their site at the end of the exiting Cedar Brook Way. Mr. Fernando explained that all the low flow would go into that pipe and into the existing water quality which would be expanded and replanted as needed. He said the high flow would go directly into the creek off of Cedar Brook Way.

Vice Chair Copfer commented that the applicant was using a lot of on-street parking to make up the required parking spaces. He asked how the applicant planned to mitigate the parking spaces for the project and not have cars from the apartment complex use them. Mr. Miller responded that they had discussed, with staff, the creation of a parking district, that they have not been directed to move forward with that, but were willing to work with the Police Department to establish a parking district for the project. He expressed hope that it would be a mechanism to allow the parking to be more available for this project and alleviate some to the current congestion.

Vice Chair Copfer pointed out that that without a parking district a number of the spaces would be taken up by the apartment complex. He said the proposed on-street parking was intended for and being used to get approval for this project.

Mr. Miller commented that it would be a reasonable condition to require the project to establish a parking district. He noted the obvious parking issues with the apartment complex and said there was nothing to be done about that at this time and the developer could move forward with this project and try not to have it become worse.

Commissioner Clifford expressed concern with Street A and the rolled curbs. He said if someone needed to make a quick stop, they could drive up onto the sidewalk temporarily. Mr. Miller responded that there would be a planting strip between the curb and the sidewalk and the rolled curb would only be used on the alley. Chair Simson added that there would be no street parking at all on the alley.

Chair Simson indicated that the Commission has reservations for setbacks reduced beyond 10 feet. She asked the applicant to explain how many lots were requesting setback reductions and the context for

those reductions. She commented that the Commission had defined a 14 foot setback and the proposal asked for all of the porches to be ten feet or less.

Mr. Miller explained that the property was uniquely shaped and in order to get a reasonable sized home with parking, a porch, and amenities, plus get the street outside of the environmentally sensitive areas, it created some pinch points on some of the homes where some of the setbacks are less than fourteen feet. He acknowledged the Planning Commission's desire and commented on the attempt to design something that was functional. Mr. Miller explained that because of the street in that location, the plan ended up with some reduced setbacks.

Chair Simson responded that she was trying to get context, because it read as though 65 lots had porches set at ten feet, with lots 38 -39 set back at seven feet.

Mr. Miller responded that that not all 65 lots would have porches set back at ten feet because the homes to the east, along Meinecke and the ones in the interior have the front yards with the driveway set back twenty feet. He said the only lots that have a reduced front yard setback are the single family detached and primarily at the roundabout where the property curves. Mr. Miller explained that when coming off the curve of the round-about, the houses pull back from the street and gain space. He commented that the reduced setback will not be used all the way through the project, but that the minimum setback occurred where there are pinch points.

Chair Simson asked if the porches would be fourteen feet with the exception of the single family detached which could be setback at least ten feet or more. Mr. Miller confirmed and added that at the corner, there are single family detached that will have the smaller setbacks and as you move up to the middle of Cedar Brook Way the setbacks increase beyond ten feet with a nearly twenty foot setback near Street A.

Chair Simson indicated that she wanted the language to be correct in the documentation so it is clear the Planning Commission was not allowing reduced front porch setbacks on 65 lots, but allowing reduced front porch setbacks on a few of the detached homes based on said pinch points. Mr. Miller said the applicant would get the information to staff specifying exactly which homes needed the smallest setbacks. Chair Simson said the Commission could work with staff to have language crafted that addressed the concerns so the whole area does not have reduced setbacks. Mr. Miller clarified that lots 39 through 65 had the smaller setbacks. Chair Simson responded that it was more than she had anticipated. Discussion followed. Chair Simson asked for concrete information regarding setbacks.

Chair Simson commented that on page 19, the single family detached had corner side yards had six foot side setbacks proposed, but were supposed to have a fifteen foot setback. She asked if that was proposed for all of the lots. Mr. Miller responded regarding the following corner lots:

- Lot 1, adjacent to Cedar Brook Way, a reduced side setback near the front of the building
- Lot 28, on the other end of the row of houses along Street A, a reduced side setback near the front of the property line, next to open space which increased the separation between the home and the sidewalk
- Lot 53, a reduced side setback at the front near the driveway where it is pinched

- Lot 38, a reduced side setback, but also next to open space

Mr. Miller said that in the areas where the corner lot setbacks are reduced, they were trying to have open space to offset the impact. Chair Simson commented that the CCR's would not allow a six foot tall fence on those side yards. Mr. Miller responded they would not want that look.

Chair Simson commented on the six feet setbacks that acted as a buffer to the neighboring property. Mr. Miller replied that lots 1-28 on the east side, adjacent to the apartment complex had been adjusted so every lot had a minimum of fifteen feet between the back of the home to the property line. He said they recognized that those were smaller setbacks and had adjusted the plan to gain space on those lots. Mr. Miller said they had shared that information with staff and can submit the rest of that information into the record. He explained that the reduction of one lot moved the homes down to gain some additional space and per the City Engineer's testimony, there are some design modifications to the street standards. He said the applicant had requested a modification to the sidewalk near the park and next to the wetland so they did not encroach into the wetland, which they did not get approved which resulted in shifting the street. That has resulted in some of these changes.

Chair Simson commented that there were a lot of variances for setbacks, that the Commission had recently redefined front yard setbacks, and expressed concerns for not going below fourteen feet. She offered that the Commission needed to have a comfort level in order to recommend approval because of the lots that are deviating from the minimum setback. Mr. Miller concurred and commented that one of the struggles with a planned unit development was how to address those setbacks so it is clear and they chose to speak to the worst case scenario, which are the homes at those pinch point areas. He said they tried to maintain consistency, with reasonable setbacks, but could not because of minimum densities without having an apartment complex on the oddly shaped lot.

Chair Simson said it was the Commission's responsibility to consider the worst cases and commented that the setbacks would be easier to meet with a forty foot tall, three story apartment complex. Mr. Miller commented that this was why the street scene was set around Cedar Brook Way, to give the single family home street scene as opposed to the large building walls and parking spaces from an apartment. It was that balance between trying to achieve something unique and trying to find setbacks that are reasonable.

Chair Simson commented that the more dense housing was toward the center of the project.

Chair Simson asked if there were any other concerns from the Commission before public testimony.

Vice Chair Copfer asked about the rolled curbs on Street A. Mr. Miller responded that only the curb on the east side of Street A would be a rolled curb not the side where the alley is located. Chair Simson commented that this was so a pedestrian on Street A would not be walking up and down the driveway drops.

Vice Chair Copfer expressed concerns about the parking. He liked that the applicant wanted to address the parking with a parking district, but had concerns about existing apartment complex with a huge parking issue with a new subdivision of houses across the street. Vice Chair Copfer acknowledge that there were parking issues all over Sherwood, but he did not think that meant the Commission should allow more parking problems to be created. He wanted the parking problems to be mitigated in this

project and questioned how to mitigate this project's motorists from taking up parking spaces from the apartment complex or street parking along the houses being built.

Brad Kilby acknowledged Vice Chair Copfer's concerns and asked the Commission to consider that the subdivision will meet the minimum parking requirement; the apartment complex met the requirement when it was built, and this project was proposing to meet the minimum parking requirements. He intimated that you could not tell people how many vehicles they could drive. He stated that if the community sees parking as an issue the minimums might be too low, but Sherwood falls under Metro's guidelines and does not allow the minimum requirement to be set higher. Brad said you couldn't control the behavior or the number of vehicles that people own and commented that in Eugene or Corvallis, they are trying to fix parking for student housing, but they can make changes because they are outside of Metro. If you are building a three bedroom apartment in Corvallis you have to provide three parking spaces, but Sherwood does not have that standard. Brad added that the question that must be answered was if the applicant has met the standard and with a PUD, there was more subjectivity. He suggested the Commission ask what it can direct the applicant to do to mitigate the issue or to find parking by sacrificing either open space or minimum density.

Vice Chair Copfer commented that he was looking at it from the perspective of not dictating the number of cars someone owns, but more about having the parking district as a good solution. Chair Simson added that the applicant was willing to add garage parking requirement in the CCR's.

Mr. Miller said that the garage parking requirement would be for all the homes along Meinecke Parkway and along the east of the property. They would not be allowed to over store in the garages that would preclude them from parking there. He mentioned that there was discussion about the width of the garages and that explained that once the garage door was open there was about nine by twenty feet deep which included some space for storage and a vehicle which the CCR's would address.

Commissioner Cooke asked if there was a precedent in any of the other neighborhoods where that requirement for garages was used. Mr. Miller asked Andy Tiemann, from DR Horton to respond. Mr. Tiemann said that most of the DR Horton Communities use CCR's which specify that the garages cannot be used for storage and must be used for parking. He said they have been successful in most of their communities and parking is enforced by the HOA. Mr. Tiemann added that HOAs are well managed these days, and it has been a positive. He said these homes have been built in Happy Valley, Hillsboro, Vancouver and Seattle Washington and people like them.

Commissioner Clifford asked if the HOA was a neighborhood volunteer organization or managed through an outside source. Mr. Miller responded that Blue Mountain was their HOA property manager and that DR Horton maintained the HOA until 80% or more ownership. At that time the HOA elected their own officers to carry on the association. He said DR Horton set the CCR's and a budget for the HOA before selling homes so when people come in they know what they are committing, what the dues will be and how the community will be managed. Vice Chair Copfer received confirmation from Mr. Miller that there would be an HOA board with the management company providing the management.

Commissioner Cooke asked how feasible it was to do a parking district and asked if there were any other parking districts in Sherwood. Bob Galati answered that there was one other parking district in the Woodhaven community where parking is enforced. He said Chief Groth instituted the district at the

beginning of the 2013-14 school year, and it seemed to be working because there are fewer complaints from residents regarding high school students parking in the area. Mr. Miller related that he had spoken with the Police Chief on the issue and who was open to the idea, but wanted direction from the Planning staff as to whether it was necessary. Commissioner Cooke asked if that would include a temporary visitor space. Bob said he believed that the residents had parking cards and were allotted a certain number of visitor's passes.

Julia Hajduk, Community Development Director supposed that each parking district could be unique based on the needs of the district and the process was for the district to be created by legislation and approved by Council. She said the parking district near the high school was limited to certain hours. Vice Chair Copfer added that in a resident could use the pass to park on the street and allow the visitor to park in their driveway. He said that the parking district has been very effective.

Note: Commissioner Robinson left the meeting at 9:19 pm. The Planning Commission still had a quorum with five members remaining. If Commissioner Robinson (or Commissioners Griffin and Walker who were absent) wished to participate at another hearing for this matter they would have to listen to the meeting or read the minutes.

Chair Simson asked how much remaining time the applicant had for rebuttal. Kirsten Allen replied that there was about six and half minute's worth of questions within the applicant's testimony. Added to the remaining time on the clock the applicant had eleven and half minutes.

Chair reminded anyone who wanted to testify to fill out a blue card and called for public testimony.

David Emami, Sherwood property owner of the office buildings adjacent to the proposed action came forward and explained that the entrance to his parking lot had been chained to prevent apartment residents from parking in the lot and vandalizing the property that included shooting out the windows. He said that Mr. Doyel's visitors had left dirty diapers on and walked through his property. Mr. Emami asserted that Mr. Doyel should have been present at the meeting and that if individuals owned the apartments, instead of renting them, the Community Room and the Library would not be large enough to hold all the people that would be in attendance at this meeting. . He said all of the neighbors were polluters and that Mr. Doyel was deficient by 50-60 spaces in his parking lot where overflow parking takes place on Handley Street. Mr. Emami acknowledged that parking in the area was a problem and he was the only one who came to talk to the Planning Commission.

Mr. Emami related that he was involved in a Planned Unit Development in the city of West Linn and he could see a difference in public involvement because West Linn is an older community. He commented that the number of the exceptions on developments created a mess. Mr. Emami said he was not opposed to the project, but that developers had to be responsible. He explained that he had developed over 18 million square feet of land in Oregon and a PUD in West Linn an additional parking lot was designed next to the neighboring Burgerville as a buffer. Mr. Emami commented that parking districts near OHSU and northwest Portland did not work because the permits are copied and enforcement does not realize they are fake. He expressed his opinion that the variances should be denied and consider that other people are contributors to the problem.

Robert Claus, Sherwood resident requested that the record be kept open for two weeks and commented that there were not any standards for a PUD. He commented on using the terms variances or exceptions not deviations. He said if the development was approved, Cedar Brook Way would not be able to be used as a collector and suggested that the Commission go look at the apartment parking. Mr. Claus commented that there was no parking available and that Mr. Doyel did the same thing; the hearings officer tried to stop him but the City agreed to count the spaces as parking. He asserted that the problem has been building up and the Planning Commission needed to get an investigation into it, because the police won't enforce the parking. Mr. Claus compared the development to Walmart housing and expressed that he did not understand what the Commission was doing. He said there were issues with a collector street, parking, density, that the counts were wrong and that there is a wetland on the other side. Mr. Claus commented on Mr. Lucas losing property to foreclosure and said it was formerly owned by Howard Hadley. He commented on Mr. Miller's employment for Centex Homes during the construction of the Vineyards and said he did not like Texas where DR Horton originates. Mr. Claus said Mr. Miller did not have his facts straight and again requested that the record be held open.

Mr. Claus commented on an apartment complex with a hundred units downtown and said that parking was cut to three-quarters parking space per unit. He said parking did not mean anything and commented on the Arts Center. Mr. Claus asked the Commission to think about what it was doing and said there was no rule here anymore.

Mr. Claus said that Mr. Keyes had almost the same density the applicant was proposing, that it was 14 units [per acre] with a minimum of 17. He commented that Mr. Keyes had more open space and play area and he had a parking problem.

Mr. Claus commented regarding trespassers on his property, regulated wetlands, and about running Cedar Creek Trail through his property. He said the Commission had a property owner tell them that Mr. Doyel was adding parking and they had better sit down and work it out. He commented that he did not care what the Commission decided and said there were different rules for the Claus's, the Doyels, the Shannons, and the Elks. Mr. Claus said he did not like the American Planning Association, because it has never zoned anything for animals, but nobody was going to get into that ground down below thanks to Governor Roberts. He said he did not want kids going down there and killing the birds and snakes and messing around, because it was left for the next generation for clean water.

Jennifer Harris, Sherwood resident said some of her concerns were mentioned by Mr. Claus and Commissioner Robinson and that she represented her HOA as President. Ms. Harris commented regarding how much parking would be taken away by the fire hydrants and driveways and parking on the sides of Tract A. She assumed 90% of the homes would go to two parent families with children and said parking on two sides of the street in an area like that was super dangerous. She expressed concern for a child being hit by a car and asked the Commission to think about putting a path and a park on one side of a street that has parking on both sides. She commented on how to usher kids across the street and what would happen when the three year old gets away from mom for a second. Ms. Harris spoke of a girlfriend that was going about 20 mph and killed a two year old who got away and came out between two parked cars. She suggested that many homes would be sold to first time buyers with small children instead of empty nesters and commented on the magnetism of Sherwood and Edy Ridge Elementary. She said she used to drive a minivan that was 17 feet from front to back, commented that a twenty foot

garage would not leave much room and on forcing homeowners to park in their small garages did not mix. She suggested making the garages bigger and then telling homeowners to park in the garage. Ms. Harris remarked that she did not know that parking in front of driveways was illegal and that they had been dealing with it in her neighborhood. She agreed that keeping the apartment complex from parking on the street was tricky, and asked if the city had to allow the street parking to count as the parking count for these buildings. She suggested having the street parking as a bonus for guests and that the homes needed to be self-contained. She did not like the idea of saying one house requires two parking spots and the other has one parking spot here and one four blocks down around the corner and to the right. Ms. Harris recommended taking out a unit on each end and throwing in six parking spots at each end. She thought there was a way to do it but it would hurt profits. Ms. Harris said permitted parking gets messy and it was a better idea to get the homes to have designated parking and not be shared with grandma, the apartments or the dentist. She asked the Commission if it was looking at all of the units (including the new homes and apartments) or just compartmentalizing them and not thinking of the full scope. Ms. Harris asked who was providing the fitness and play structures.

Ms. Harris said her HOA was a DR Horton development and they did exactly what they said. They hung around for the first 80% and then they were gone. She said when she moved in, the dues were being paid to a bank account, there was no board, and no president. Half of the people were paying dues and none of the rules were being followed. Ms. Harris related that she has been in the neighborhood for nine years, and has been a very lenient HOA president for four years, but her neighborhood is different and could be more flexible. She said some of these things require structure and that concerns her. Ms. Harris encouraged the Planning Commission to look deeper into the situation and think long term, because when the HOA and the CCR's went into her neighborhood it probably seemed great, but five years later there was nothing being done with no rules being followed and nobody managing it.

Chair Simson wished to clarify a couple of points. She said in the TSP, Cedar Brook Way was a collector on the south side because it is intended to be the frontage road for 99W. She said Cedar Brook Way was a neighborhood street north of the roundabout and was meant to collect traffic from a few houses.

Chair Simson clarified that parking on Street A is only on one side and although Cedar Brook Way has parking on both sides, it is a steep slope on the opposite side of the development so there is a suggested crosswalk for the path.

With no other public testimony, Chair Simson recognized a request that the Commission keep the record open for two weeks. Chris Crean offered that the record could be kept open for written record comments only and the hearing could be continued to a date certain. He clarified that the statute requires the record to be left open for seven days or more. He said if the Commission wanted to close the record for public testimony it would want to hear the applicant's rebuttal first, but if it was going to continue the hearing it could defer the rebuttal to the next hearing date. She conferred with the rest of the commission and it was determined that the hearing would be continued and the record left open to June 24, 2014.

Chair Simson asked the applicant to come forward with any rebuttal comments.

Mr. Miller commented regarding the public testimony and said that this project was unique in that all the units would be purchased by someone who will own them which generally adds a higher level of

maintenance to the area. He expressed anticipation that people living in the development will take pride and want to maintain their homes and the park across the street. Mr. Miller commented that a PUD approval allows variances through a process and there are not separate variance applications. In terms of the area on the southwest side of the Cedar Brook right of way, he said they had worked with Clean Water Services and received a Service Provider Letter that indicated that their facilities were not located in the wetlands nor in the vegetative corridor. He clarified that a Service Provider Letter was required prior to application that verified that there was no impact to those areas. Mr. Miller said he could not control what other people may do in those areas.

Mr. Miller specified that the fire hydrants spacing was 300 feet and they were anticipating one or two fire hydrants with the project. He said one possible location was the intersection of Street A and Cedar Brook Way where it rounds so it did not remove a parking space one or two spaces could be lost. Mr. Miller confirmed that parking would be on both sides of Cedar Brook Way and asserted that when parking is on both sides of the street, speeds are reduced; as the corridor gets tighter people slow down and pay more attention. Mr. Miller offered to provide documentation.

Mr. Miller clarified that they were not requesting any variance to the garages, but proposing a single garage instead of a double garage, because that was the product type and it fits in this community. He confirmed that there was no parking on the east side of Street A and supposed one could park in front of their own driveway.

Mr. Miller commented that one of the key components to the property when it was rezoned was to maintain the minimum density requirement established in the comprehensive plan and removing homes to create parking spaces would not meet that density. He said that when you rezone a piece of land, the State is looking for an efficient use of the land, 65 dwelling units was the minimum density for the zoning district, and going any lower would put the City in jeopardy of not meeting the intent of what the state has put in place. Mr. Miller said there were a lot of dynamics that developers juggle in a land use process to get a project like this built. He believed they had spent a significant amount of time with City staff and their engineers to come up with a plan that would provide a quality project that addresses all of the concerns people would have. He acknowledged that there would always be concerns that don't get addressed as well as some that people would like.

Chair Simson turned to page 18 and 19 in the staff report and said that the way it read it appeared that the worst case scenario variance was being requested for all of the lots. She asked for clarification regarding which lots would be impacted and what those variances were. Mr. Miller established that he would provide a color legend for the lots. Chair Simson expressed that reduced setbacks that abut the park in the center were different from a setback on the street that is open to the community.

Vice Chair Copfer asked regarding the impact to the City if the project did not meet the minimum density by two units. Julia responded that the Development Code had a minimum and it was not the State that dictated density, but Metro in the Functional Plan requirements. She said without some sort of variance from Metro, the City could not authorize or recommend approval for something that clearly did not meet the Code criteria and there would have to be some process. She was unaware of a variance to density.

Discussion took place as to how to continue the meeting. Chris Crean informed that the hearing could be recessed. Chair Simson recessed the hearing for two weeks and said when the hearing was reconvened the hearing will be opened for further comment and the applicant will submit new testimony.

8. Planning Commissioner Announcements

There were no Planning Commissioner Announcements

9. Adjourn

Chair Simson adjourned the meeting at 9:53 pm.

Submitted by:

Kirsten Allen

Planning Department Program Coordinator

Approval Date: _____

City of Sherwood, Oregon
Planning Commission Meeting Minutes
June 24, 2014

Planning Commission Members Present:

Chair Jean Simson
Vice Chair James Copfer
Commissioner John Clifford
Commissioner Beth Cooke

Staff Present:

Brad Kilby, Planning Manager
Bob Galati, Civil Engineer
Michelle Miller, Senior Planner
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Russell Griffin
Commissioner Sally Robinson
Commissioner Lisa Walker

Council Members Present:

Mayor Bill Middleton

Legal Counsel:

Chris Crean

1. Call to Order/Roll Call

Chair Jean Simson called the meeting to order at 7:11 pm.

2. Agenda Review

The agenda consisted of minutes, a public hearing for PUD 14-01/ SUB 14-01 Cedar Brook PUD, and a public hearing for LA 14-01 Kelley House Addition

3. Consent Agenda:

- a. May 27, 2014 Planning Commission Minutes

Motion: From Commissioner Beth Cooke to approve the Consent Agenda as amended. Seconded by Vice Chair James Copfer. All present Planning Commissioners voted in favor (Commissioners Russell Griffin, Sally Robinson, and Lisa Walker were absent).

4. Council Liaison Announcements

Mayor Middleton stated that the Transportation System Plan update was passed by the City Council with the Planning Commission's amendments.

5. Staff Announcements

Brad Kilby, Planning Manager, stated there would be no meeting on July 8, 2014 and gave an overview of the upcoming projects in the Community Development Department that would be heard by the Planning Commission:

Sanitary Sewer Master Plan

Storm Water Master Plan

Sherwood West Concept Plan

Tonquin Employment Area (working with Washington County for a Countywide Industrial Lands analysis)

Cedar Creek Trail

Private Development by application

Brad indicated that on July 22nd the Commission would hear the application for an expansion of the Springs Living facility through a Planned Unit Development.

Bob Galati, City Engineer added that there would be an implementation and rate study that would take place as a follow up to the Transportation System Plan update. He discussed an internal process that was underway regarding the traffic calming issues near Lynnly Way and said there were several neighborhoods with traffic calming issues. Bob said that the process involved Public Works, the Police Department, TVF&R, Engineering, the Community Development Division, and City Management. He revealed that staff was in the process of creating the policies regarding traffic calming and said the city was trying to solve the problem by enforcement action first so there was a clear distinction between traffic flow and traffic speed with traffic safety as a priority even if it was a high volume problem. Bob commented that the question of how to fund it has not been resolved.

Chair Simson asked how long it would take to create a process. Bob answered that it would be three to four months.

Chair Simson asked for Community Comments.

6. Community Comments

Robert James Claus, Sherwood resident commented that the Planning Commission was supposed to make public policy and the staff was to administer it. He commented on the development and use of computer models for predicting and visualizing land use planning and zoning and said the rapid transit district was a result of that visualization and that it was used by W.A.C. Bennet in Whistler, B.C.

Mr. Claus commented on traffic speed and said that the Planning Commission needed to visualize the town for what was wanted. He pointed out that some uses would be crowded out, because the transportation cannot carry it. Mr. Claus set Dr. Doyel's property as an example and said Dr. Doyel had half of [the parking] that was needed. Mr. Claus commented regarding the National Academy of Sciences Transportation Research Board, said it was not a government agency, and stated that they look at the computer models and how many parking spaces were needed per thousand square feet. Mr. Claus commented that Dr. Doyel resolved his parking issues at a huge expense and that it would happen in other places in the city.

Mr. Claus spoke of when urban renewal was planned in San Francisco and said models were used by the consultants who were able to forecast to the point where a ferry was needed. He said that there are people who can do that, but City planners cannot. Mr. Claus suggested that the Planning Commission would have to make choices as a policy making body and said there were riparian corridors to protect. He commented that the city was postured to take the step of conceptualization. Mr. Claus stated that the Planning Commission was to make policies and staff should go to the expert communities in the country that inform what should be done in order to sustain a livable environment.

Mr. Claus commented on past traffic models and said the traffic circles would not carry demand. He commented that it meant there would be huge expenses to redo things in the future. Mr. Claus commented that some of the things that have been done in this town will begin to have incredible traffic shocks.

With no other community comments Chair Simson turned to new business.

7. Old Business

a. Public Hearing – PUD 14-01/SUB 14-01 Cedar Brook Planned Unit Development (PUD) - continued from June 10, 2014

Chair Simson stated that this was a continued hearing, reviewed the order of testimony, and asked for any ex parte contact, bias, or conflicts of interest from Commission members not previously disclosed. She reminded that the Planning Commission would be forwarding a recommendation to City Council and would not be making the final decision. There were no disclosures.

Chair Simson asked for a staff report.

Michelle Miller, Senior Planner, stated that the Planning Commission had continued the hearing from June 10th and had directed the applicant to provide additional information. She said the applicant had provided Exhibits L through P in the packet, which included a memo addressing some of the exceptions to the standards, maps, an example of Covenants, Conditions, and Restrictions (CCR's), and parking district information. Michelle indicated that a letter had been received by Mara Broadhurst and an email from Joe Broadhurst with concerns about the PUD (see Planning record, Exhibit Q). She said the letter questioned parking issues and if the density could be reduced to add additional parking. Michelle explained that the parking requirements consider the net developable acreage and it would not influence density to add parking spaces to the project. She said the letter also questioned rezoning to neighborhood commercial or an alternative to the commercial designation, but that was not what the applicant proposed so an alternative to the zoning had not been reviewed in detail. Michelle stated that there are additional commercial parking nodes within the area at Dr. Doyel's office building, a commercial area adjacent to the site, with more commercial areas to the south on the other side of the highway. Michelle indicated that Bob Galati, the City Engineer, was present to address the storm water and bonding for the trail to Wyndham Ridge.

Bob Galati explained that the storm water issue came up in the letter from Mara Broadhurst and explained that the storm water was not directly discharged to the creek under normal flow conditions. He said the storm water needed to be treated by going through a water quality facility using Clean Water Services (CWS) design standards. Bob described that there was an existing water quality facility that may need to be upgraded to handle the additional flow going to it. He stated that when there is a high flow event and the storm water overflows it can be discharged to the stream, because the volume of the water that discharges from the system is mixing with some delusion and that is why CWS allows that to happen. Bob pointed out that the engineer of record would have to ensure that the design parameters meet a storm water quality event.

Bob said there were a couple of ways of dealing with the trail bonding, but in the City Municipal Code under Construction Permit (see section 16.108.020.d, Improvement Guarantees) when building public infrastructure as part of the construction process the developer provides the City with some sort of surety guarantee that the facility will be built within the timeframe of the overall site development. He explained that a bonding for the facility means that it is going to be constructed during the same timeframe that the rest of the site and the bond covers it in case the developer fails to do so. In which case the City picks up the project and finishes it. Bob said all the internal streets in the project are going to be bonded for all of the work done there and if the developer fails to complete them then the City will take the bond and finish it. He said providing a bond for a long term promise to construct a facility was different and he had not had a bond issued to construct something with an indefinite time period. Bob said that if the developer wished to forestall building an infrastructure item, for a longer period of time, then it would be something similar to a cash equivalency.

Chair Simson commented that Condition F.5 was a condition that the developer will design, construct or pay a fee in lieu of in some form of a bond process guaranteeing to build the trail or pay 125% of the cost to get their building permits for the houses.

Bob responded by referring to another DR Horton project in the City where they have building permits, but cannot get occupancy until the infrastructure is completed. He explained that in certain cases the developer may want to bond for a construction process at 125% of the construction cost, but generally the public infrastructure items are completed before occupancy is granted. Chair Simson pointed to condition G.5 regarding the pathway. Bob confirmed and stated that was how it would work when using a bonding scenario. He said if it was an extended project and the developer wanted to hold off for a couple of years, he did not think the surety company would issue a bond. Usually a bond company does not like that uncertainty. Bob stated that if it took an extended period to build and include occupancy for the rest of the facilities, it would usually be a cash equivalent and according to code the City will accept a performance bond, a cash deposit or an irrevocable standby letter of credit. He explained that the last two items mean that the money goes into a bank account and is available to the City, and the City can reimburse money to the contractor as they construct it. Bob acknowledged that it was a heavy hammer, but the only way he knew of to work the scenario. Bob confirmed with Chair Simson that the correct conditions of approval were in place.

John Clifford asked if the plan was conceptual or if an engineer had inspected the site to determine the cost of the infrastructure. Bob replied that there are industry standard estimates that are within 10-15% of the actual cost and with a little extra for all of the unknowns the estimates are fairly accurate so the contractor knows the amount up front and the City would confirm the amount by matching it against other projects.

Commissioner Clifford asked if the existing storm water facility as it stands now had ever gone over capacity. Bob replied that there has not been a capacity problem; that it lacked maintenance at times, but it was a stable system and performing well.

With no other questions from the Commission, Michelle addressed a scrivener's error on page 9 of the Planning Commission Packet dated June 10, 2014 and asked to delete "amount would be" on the second line under Option 4. She asked if the lot depth was necessary on the chart on page 19 and which lots would not meet the lot depth standard of 80 feet. Michelle turned to page 23, and discussed the design standards for townhome developments. She said the building would go through a process of final development approval and the elevations would be prepared at that time. Michelle recommended adding a condition prior to final development approval to "provide plans that meet the design criteria so that the front façade of the townhome may not include more than forty percent of the garage door area and that the roofs for each attached townhome must be distinct from the other".

Chair Simson indicated that this would be condition D.16. Michelle confirmed. Chair Simson said that front elevations for all of the buildings had not been provided and would be reviewed at final site plan approval. Michelle indicated that the applicant had provided an architectural pattern book and had indicated that they would provide plans that will meet the criteria, but it could not be confirmed until the Commission reviewed each house plan and townhome unit individually.

Michelle said that during the applicant's testimony they referred to the trail connection as part of the Cedar Creek Trail. She stated that the Cedar Creek Trail was currently under design review and the actual alignment will likely go on the north side of Cedar Brook Way further away from this development. Michelle added that

the proposed trail in this development will not be part of the Cedar Creek Trail, but may serve as a connection point as the Cedar Creek Trail gets developed over time.

Michelle asked for any questions for Staff from the Commission. There were none.

Chair Simson asked for applicant testimony. She asked the applicant if they understood Condition D.16 that the final elevation would need to match the townhome design standards. The applicant confirmed.

Steve Miller, with DR Horton Homes, indicated that he had submitted information to answer the Commission's questions as stated by staff. He said they had prepared a parking layout (see Planning record, Exhibit M) with locations for the fire hydrants. Mr. Miller stated that they would prefer to relocate the fire hydrant shown on the Street A from the west side to the opposite side to retain the parking space. He said there was a fire hydrant along the west side Cedar Brook Way that would remain and reduce the proposed parking by one.

Mr. Miller indicated that a color coded map was provided showing the setback reductions (see Planning record, Exhibit N). He related that in every proposed unit the minimum side yard setback would be four feet and in some instances the setback would be greater; Lots 1 and 28 would be greater than four feet from the street because of the sidewalk or open space tract. He said Lot 53, which was a pie shaped lot, had a distance of four feet near the alley, but increases towards Cedar Brook Way.

Mr. Miller indicated that the smallest front porch setbacks were at the attached units on the interior lots and next to the open space which would be a four foot setback. He acknowledged that it was a tight setback on the lot, but then the open space acts as a buffer to the street so the setback is much greater in relationship to the street. Mr. Miller indicated that the setbacks for Lots 1-38 would have a fifteen foot rear yard setback so there will be reasonable rear yards for those homes. He specified that the single family detached homes have a range of setbacks depending on how they interface with the street and the street design. The street meanders around the bend which has an impact on some of the setbacks.

Mr. Miller said another issue that was brought up by the Commission was regarding a fourteen foot setback. He recounted that his company researched some of the past Planning Commission decisions for DR Horton projects and discovered that setbacks were not an issue for the zone change for this property and the Planning Commission requested a fourteen foot setback for another project, known as Daybreak Subdivision which was a more standard residential density zone.

Mr. Miller talked about the hearing on June 10, 2014 where staff expressed concerns for the units fronting Meinecke Parkway. He said a document was submitted to the record as Draft CCR's (see Planning record, Exhibit O) and within those CCR's there was a provision requiring that garages be made available for parking and storage cannot be made to the detriment of the parking. Mr. Miller asserted that any homeowner who purchased property in the subdivision would know, up front, that this was a requirement that must be adhered and would be enforced by the HOA.

Mr. Miller stated that they were trying to set up a process that allowed them to build homes and get the trail done in a manner that recognizes an extensive permitting process with Clean Water Services because of the wetlands. He said it was a very time consuming process that could last up to a year depending on the issues that arise. He wanted to be allowed to build homes with the understanding that the trail will be addressed and taken care of prior to project completion. Mr. Miller said their preference was to bond for the trail and have the trail constructed prior to final occupancy of the last dwelling unit on the project. That would give

the ability to build and sell homes while working on the trail. Mr. Miller asked for a condition of approval that would allow DR Horton to sell homes and get the trail built prior to exiting the project. He stressed that by tying the trail construction to final occupancy of the last structure the City had a trigger to keep the developer on the hook before exiting the project.

Regarding the 80 foot lot depth, Mr. Miller said that all of the interior lots (54-65) would be less than 80 feet deep, but all of the other lots would meet the depth requirement. He said that was a result of shifting the road to get out of the wetland boundary and the lot widths were reduced in order to maintain the open space. Chair Simson asked about the lot that was removed. She indicated that it was one lot that did not meet standards and now that the lot is removed all of the lots became narrower. Mr. Miller responded that as the street was reduced the home on the lot adjacent to 54 could no longer fit and the lot was eliminated and all of the lots in that area got smaller; there was a smaller space as a result of the road shifting which had an impact on those lots. In response to Chair Simson's question, Mr. Miller said that the homes were 50 feet deep, had a rear setback of 20 feet with four feet to the front making them about seventy four feet deep.

Mr. Miller offered to answer questions from the Planning Commission. Chair Simson requested that the staff report be amended to reflect seventy four feet deep for lot 54-65. Michelle confirmed. Chair Simson asked for questions from the Commission for the applicant.

Commissioner Clifford asked about the turning radius and the removal of a parking space as designated in a letter by TVF&R (see Planning record, Exhibit F) and asked if the applicant had addressed it. Mr. Miller indicated that he thought the turning radius concern was for the alley and said the alley was made wider between lots 38 and 39. Commissioner Clifford clarified that it was regarding the "pork chop diversion" on Meinecke Parkway and A Street. Mr. Miller responded that the last parking space on A Street before entering onto Meinecke may be eliminated if it impedes movement and added that it did not put the project below the parking requirement.

Commissioner Clifford asked regarding page 42 of the June 24, 2014 packet under the CCR's Landscape section where it referenced the City of Hillsboro's approved street tree plan. Mr. Miller indicated that it was an error, which he would correct, but the intent was to show that there will be mechanisms in place to address front yard landscaping and the landscaping that the HOA would be required to maintain.

Chair Simson said there was an error in the last paragraph of page 8 which should read the parking as required by the "City of Sherwood" instead of the Planning Commission.

Mr. Miller suggested a condition of approval that the applicant work with staff to get a set of CCR's that is agreeable. Chair Simson asked that the final CCR's would be close to the draft provided. Mr. Miller agreed and added that the CCR's are recorded with the subdivision and they would be accurate. He said the intent of providing Draft CCR's was to show the Commission that all aspects of the project would be taken care of.

Vice Chair Copfer commented on the parking district information and asked about enforcement periods. Mr. Miller responded that they would work with the Police Department, but the police department indicated it was too soon. He said he believed it was a function of a condition of approval to set up a certain time frame of the project per the Commission's discretion. Chair Simson clarified that the parking district information was to inform the Commission that it was a process that needed to be completed and added to the CCR's by the HOA. Mr. Miller agreed.

Vice Chair Copfer explained that he was interested if the enforcement period has been decided; was it every day, all day or for certain hours. Mr. Miller responded that the Police Department had the expertise regarding what was not working in the area and they would work with the Police Department on the time frames. He supposed that it would be between 5 pm and up to 6 am each day. Mr. Miller offered to put language into the CCR's to indicate that there would be a parking district and homeowners would need to get permits from the Police Department. Chair Simson added that the district would have to be approved by the City Council.

Chair Simson asked what the minimum parking for the site was. She commented on the applicant's calculations for the parking with four spaces on some units, she expressed understanding that there are parking issues in the area, and acknowledged that the applicant could not be held responsible for those parking issues. Chair Simson commented that by counting the driveways (92 spaces) and off street parking (76 spaces) there were 168 available spaces. She said that a basic single family residence requires two spaces or about 130 spaces for a sixty five lot subdivision, plus 15% for visitors would require 150 spaces. Vice Chair Copfer stated that the applicant had enough parking. Mr. Miller commented that they had four spaces for all of the detached single family units and the interior units, but the units along A Street had two spaces counting the driveway and the garage.

Chair Simson replied that she wanted to put a reasonability test to the parking. Vice Chair Copfer commented that the parking in the area was very sensitive and he wanted it understood that the parking problems were existing and the Commission could not make the applicant responsible for addressing the parking problems beyond the parking required for the new application. He said the Commission would not have the applicant design the parking in such a way that it fixes existing problems.

Commissioner Clifford asked regarding the HOA being responsible to enforce the rules found in the CCR's once the project was built and the homes are sold.

Mr. Miller responded that enforcement would come from the homeowners with the help of the property management company. He said that the HOA often depends on the property management company to do the "heavy lifting" for enforcement to soften the impact from neighbor to neighbor. He added that it was DR Horton's goal to set up the project with all of the design elements to make it successful. Mr. Miller added that they are in the business of selling homes and would not be able sell homes if the project did not work. He specified that the developer stayed with the HOA until the project reached 80% or more of the homes sold, by that time there are neighbors who want to be involved with the HOA, and it has not been a problem with other projects to get the HOA transferred to the homeowners. Mr. Miller stated that during the time that DR Horton runs the HOA they conduct meetings, get the neighbors familiar with the property management company, CCR's, bylaws and how to run the program.

Commissioner Clifford said he was familiar with how an HOA runs as he paid HOA fees for services himself. He asked if the property management company would help maintain this subdivision. Mr. Miller confirmed, but said there are HOA's that choose to do it on their own. He commented that fees would be relative to open space maintenance and amenities and suggested that when the fees are too high people are not interested in maintaining the HOA.

Commissioner Clifford commented that without an outside management company it is difficult to get some homeowners to comply with certain rules and regulations. Mr. Miller agreed and added that the property management company relieves the burden of putting together a budget, and as a third party, there is more confidence in the members with regards to their money being safe.

Vice Chair Copfer asked if the HOA would have to vote out the property management company. Mr. Miller confirmed.

Commissioner Cooke asked if the builder had any control over if the management company was retained. She commented that HOA's often decide not to use professional management companies after turnover due to the cost.

Chris Crean added that in some cases HOA's cease to operate, in which case the care and maintenance of common elements becomes an issue. He gave that when the grasses become too high it becomes a fire danger and the City of Sisters has provisions in the CCR's that allow the City to go in and cut the grass. Mr. Crean gave an example that, in Multnomah County, when the HOA ceases to exist those common elements fall to the County through property tax foreclosure which is a different sort of problem. He related that staff had asked him to look into how to add provisions to the CCR's to allow the City to go in and at least mitigate maintenance issues and assess the cost against benefited properties. Mr. Crean said that if a HOA ceased to operate it could allow the City to maintain those common elements so weeds would not get too high and allow the trees too become dangerous. He allowed that there would be time to make those revisions before the CCR's were approved.

Mr. Miller said that their attorneys could work on that language with the city attorney. He said with open space there are not many another ways to address managing them besides some type of HOA and there has to be a balance between the objectives of a PUD and the open space. Mr. Miller stated they wanted CCR's that addressed the Commission's concerns and would work with staff to ensure that the language was worded correctly.

Commissioner Cooke expressed concerns that the development would become mostly rental units and advised that failed HOA's come from neighborhoods that are no longer owner occupied. She said she would feel more comfortable if the City had the ability to move in and do the required maintenance if the HOA fails.

Chair Simson commented that it was a condition of approval that the CCR's have to be approved by staff. Vice Copfer commented that he understood the concerns and said he thought CCR's had a purpose, but if the residents voted out the CCR's by majority vote they would be removed and there is no guarantee.

Chris Crean agreed that in the strictest sense CCR's would be a contract between the sixty five property owners, but if it was a condition of approval, removing an HOA would put all of the owners out of compliance with the land use approval. Then the City could enforce or require the property owners to adopt new CCR's. Commissioner Cooke related that she was more concerned about the HOA being abandoned/disbanded and that the CCR's not being enforced.

Mr. Miller commented that the CCR's can require an approval by the City to disband an HOA. Mr. Crean said that did not solve the problem, because no formal action takes place, but they stop having meetings or collecting the assessments. Chair Simson directed staff to work with the attorneys to ensure that the CCR's and the conditions of approval were clear as to what the goals and objectives were. Vice Copfer granted that HOA's fail, but in Sherwood there are successful HOA's and gave Woodhaven as an example.

Chair Simson called for public testimony and reminded those interested in testifying to turn a blue testimony form.

Robert Claus, Sherwood resident suggested that Mr. Crean read John Hanna's book on condominiums and said in his experience people did not walk away from HOA's, because they could not afford to and a chance of litigation.

Mr. Claus commented that DR Horton had been very solicitous and reasonable. He said that there is no planning in the United States in the urban renewal guidelines for fish and wildlife and pointed out that the U.S. Fish & Wildlife had built the refuge systems specifically for the fish and wildlife. Mr. Claus commented regarding concerns about feedersstreams and creeks going to the refuge being clean enough for a sustainable environment which was more sensitive. Mr. Claus gave a brief history of the site and said the property was originally owned by Howard Hadley who gave a buffer of Chicken Creek to then City Manager, Jim Rapp. He commented about the placement of the sewer line next to the creek assuming the sewage would flow because the creek did and the lack of mitigation. Mr. Claus expressed concern regarding the area that opens up on Cedar Creek for fish and wildlife and said he went to Barbara Roberts, because he did not want a path there. He said there were a number of endangered birds that will not nest near a path and a problem was that the U.S. Fish and Wildlife could not come in to plant, work with property owners, or send a specialist without an invitation from the City. Mr. Claus commented that DR Horton was capable of doing the work and they were willing to help. He said his family had spent a fortune in the vegetated corridor and that there was a beaver living there that was taking down trees, but he did not want it trapped. He asked the Planning Commission to direct staff to work with the U.S. Fish and Wildlife and said Handley Street is set too low, degrading the watershed. Mr. Claus commented on the need for a management plan and said there was plenty of water. He said if the City started planning for the fish and wildlife inside zoned areas it would be the first city in the United States do to so and it might mean stepping on some toes. Mr. Claus concluded that if the City did not initiate it, it would not happen.

Jennifer Harris, Sherwood resident asked what the option of adding in the CCR's a percentage cap on rental units and said she lived in a condominium community that had a cap on the rentals that the entire community had. She said she did not know if that was an option, but neighborhoods with more than 50% rentals tend to go a different direction.

Chair Simson thanked those who testified and acknowledged the written testimony from the Broadhursts and said the Commission addressed the comments, questions and concerns at the beginning of the hearing.

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

Steve Miller from DR Horton came forward and stated that they had met with Mr. Claus to address some of his concerns and said something could be worked out regarding the number of rentals in the CCR's. He said that he would have to work out with the company president and the City to find out what the acceptable percentage was.

Chair Simson acknowledged the concerns that rental units become a potential opportunity for issues, questioned how the City could regulate someone's right to rent out their own property, and said she did not know how that could legally be done in the CCR's.

Chris Crean said the CCR's are a contract between the property owners. From the City's perspective, he would not be comfortable requiring that as a city mandate. He said the property owners could choose to add verbiage to the CCR's as a contract among themselves and enforce it however they choose, but the City would not require or enforce it. Chair Simson said she did not want to set that precedent.

Commissioner Clifford recognized that this was a large project smashed into a small space and asked if the storm water facility proposed was based on current documentation. He said it looked like a successful upgrade was feasible and another facility won't need to be constructed for storm water management.

Mr. Miller responded that if there was a need to go elsewhere, there was another storm water facility southwest of the roundabout on Cedar Brook Way. He said they did not want to use that facility because the larger facility made more sense. Mr. Miller said they could split the capacity but that would not be the preferred choice. Commissioner Clifford indicated that he did not want any of the people oriented open space tracts to be used for storm water management. Mr. Miller answered that there was no proposal to do that at this time.

Chair Simson asked the Commission if there were any issues that had not been adequately addressed and asked for clarification from staff regarding Conditions F.5 and G.5.; the pathways connecting to Wyndham Ridge. She summarized that the applicant was asking for final occupancy for sixty four of the sixty five lots before the amenities had to be completed and asked the applicant how long the applicant thought it would be to project completion. Mr. Miller responded that the project would take sixteen months obtaining building permits for four units per month. Chair Simson reminded Mr. Miller that he said it would take about a year to go through the permitting process for putting the trail in and asked if it would be unreasonable to condition the trail completion to be within a twelve month timeframe with a certain percentage of the lots being permitted. She expressed that she did not want sixty four lots built with final occupancy and have none of the amenities completed. She said if the developer worked on lots while going through the permitting process for the trail then at the time forty lots are done the City could expect work on the trail.

Mr. Miller responded that there was the permitting plus the building of the trail. He suggested tying the condition to the last multifamily unit. Chair Simson indicated she wanted it tied to something that protected the community's investment in the project. Mr. Miller commented on bonding the project so the funds are there to build the project. He said the trail would be the only amenity left during the build out of the project; all of the other open space areas amenities, road and infrastructure would be constructed at the same time as the houses. Mr. Miller said they wanted to work with the City regarding the trail due to the complexity of getting the permits and then getting it built. Chair Simson asked for and received confirmation that the parks and open space would be done much earlier than the trail. She recounted that the open space conditions would be met and the trail could be tied by condition to the last phase of development. Mr. Miller indicated that they wanted to be able to sell homes while trying to get the trail permitted. Discussion followed.

Mr. Miller commented that there had been questions from staff that had been resolved; the fencing along the east property boundary separating the apartment complex and fencing for the pedestrian access through the apartment complex.

Chair Simson closed the public hearing and asked for final comments from staff.

Michelle Miller, Senior Planner, responded that the only outstanding issue was concerning the bonding for the trail portion and deferred to Bob Galati. She said that Chair Simson had addressed concerns about timing and said that leaving a single unit for final occupancy might be held out for an extended period of time creating a challenge for the city to get the trail built.

Bob Galati said that the city was currently working with DR Horton on another development project and had opted to do two compliance agreements. The first compliance agreement related to the majority of the infrastructure which allowed DR Horton to begin construction, get the lots sold, and to receive occupancy

for a majority of the site. Bob said the City could use this option of two compliance agreements for the bonding of the trail with a condition that reserved occupancy for a certain number of units until the trail is completed. He did not indicate what that proportion should be and said it would be a balancing act between the cost of the trail being completed and the cost of the units reserved. The need to complete the trail would be driven by the desire to sell the units.

Chair Simson asked Commission members if they had a number to propose or suggested that staff create a cost comparison so the recommendation to City Council included an analysis of the proportionality. She said the Commission could make a recommendation for that final percentage or insert the number in the recommendation at the City Council hearing.

Brad Kilby, Planning Manager expressed concern regarding how proportionality was defined. He commented that if the Commission's concern was that the trail was constructed, then there needed to be some rationale behind the condition. Discussion followed.

Chair Simson offered all but thirteen units be allowed occupancy based on twelve months to permit the trail. Vice Chair Copfer suggested that if they intended to put four permits per month then occupancy for the last four units should be withheld. Brad pointed out that four units was a significant amount of money and DR Horton was not likely to walk away from that.

Brad added that the City does not enforce CCR's and the Commission can ask the applicant to add provisions to them, but from the City's point of view the public amenities have to be maintained through the CCR's. He commented that limiting the number of rental units in a subdivision may eliminate affordable housing options in the long term and said that not all renters are bad people. Brad remarked that our kids are not going to be able to afford a house at \$350,000 in Sherwood and the Commission should think about housing options for people that may not have assets available.

Commissioner Cooke commented that a neighborhood with rentals may not be a bad neighborhood, but in terms of an HOA, they become abandoned more often. Brad concurred and commented that the owners would fight on behalf of the HOA to protect against bad renters, that there are checks and balances, but the City cannot control it.

Chair Simson called for a recess at 8:34 pm and reconvened at 8:44 pm. She said she spoke with Bob Galati and Brad Kilby during the recess regarding the conditions so clear direction was provided for the staff report and the conditions that would be forwarded to City Council. Chair Simson reviewed the conditions that had been amended or added:

D.16 – Added to *provide plans that meet the design criteria so that the front façade of the townhome may not include more than forty percent of the garage door area and that the roofs for each attached townhome must be distinct from the other.*

F.5 – Discussed but no changes made

G.5 – Amended to read *Construct and install the pathway and other open space amenities described in the final development plan, excluding the trail connection conditioned in G.7*

G.7 – Added that the *Trail must be completed prior to the final occupancy permits issued to one of the following; one townhome building or three single family homes at the builder's discretion.*

The following motion was received.

Motion: From Vice Chair James Copfer to forward a recommendation of approval to the City Council for Cedar Brook Subdivision Planned Unit Development (PUD 14-01, SUB 14-01) based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the staff report including the amendments discussed by Commissioner Simson. Seconded by Commissioner John Clifford.

Chair Simson asked for discussion from the Commission

Commissioner Beth Cooke commented that this had been a very difficult development for her to review. She thought that the current laws and zoning left few choices regarding approval of the application and when the land use laws were changed in the 1970's she did not think this was the kind of development that lawmakers thought a PUD would be. Commissioner Cooke expressed that even with the open spaces provided by the applicant it does not seem sufficient for families and she had serious concerns about the parking issues. She commented on removing a few homes from the development and said having a minimum of 65 homes for a development of this size seemed like cramming them in and she did not think this was the type of neighborhood that we should be looking at for the benefit of the city. Commissioner Cooke recognized that legally the Commission was in a difficult position.

Chair Simson acknowledged Commissioner Cooke's concerns and stated that the alternative was 65-90 apartment units. She argued that the benefit a PUD provided was the opportunity for more single family homeownership and she thought there was parking for their own, but would likely inherit the neighbor's parking problem.

Vice Chair Copfer commented that the applicant has a good parking plan and a way to mitigate the neighbors' issues. He said the applicant was providing more parking than anywhere in the Woodhaven Subdivision and remarked that if the alternative was a development exactly like the one on the neighboring property, he would prefer to see a nice neighborhood development for single family.

All present Planning Commissioners voted in favor (Commissioners Russell Griffin, Sally Robinson, and Lisa Walker were absent).

Chair Simson moved to the next item on the agenda.

8. New Business

a. Public Hearing – LA 14-01 Kelley House Addition Landmark Alteration (Brad Kilby)

Chair Simson read the public hearing statement and asked for any ex parte contact, bias, or conflicts of interest from Commission members.

Commissioner Cooke disclosed that her children went to the same school as the applicant's and she heard about the application from the applicant's wife before public notice had been made. She said the conversation regarded adding on to the house and she stopped it when she realized it would require action before the Planning Commission. Commissioner Cooke said it would have no bearing on her decision.

Chair Simson noted that everyone had driven past the site to reach City Hall and asked if any member of the audience wished to challenge any Planning Commission member's ability to participate. None were received.

Chair Simson asked for a staff report.

Planning Manager, Brad Kilby gave a presentation for LA 14-01 (see record, Exhibit 1) and said it was the blue house on the corner of First and Oak Street. He said the applicant was proposing a 1500 square foot addition to the home and because it was in the Old Town Overlay had to meet the design standards. Brad explained that the applicant's proposal was consistent with City design standards, but the setbacks were outside what would normally be allowed and non-conforming. He pointed out that it was a pre-existing condition, the house was built on a 50 x 100 site, and the addition would be built in the same plane as the house so the setback was not encroached upon further nor was it exacerbated. Brad said there was a street between the house and the next house over so he did not see a problem. Staff recommended approval of the proposed expansion.

There were no questions for staff. Chair Simson asked for applicant testimony.

Rob Kelley, 22455 SW Oak Street noted that the only change to the proposal was to put lap siding on the house with a seven inch reveal which is different than the existing eleven inch reveal. He said that what the Planning Commission had before them was what the applicant intended to do.

John Clifford asked regarding placing an overhang on the front door. Mr. Kelley responded that the existing overhang was six inches and a six inch of overhang over the front door would look odd. He said he would like to put a dormer over the door and may apply for a variance in the future unless the Planning Commission wanted to grant it. Chair Simson received confirmation from staff that a dormer would encroach in the setbacks and said because the applicant did not apply for the variance, nor was it noticed, the variance could not be granted.

Mr. Kelley clarified that the addition was just under 1500 square feet.

Chair Simson asked regarding the existing tree. Mr. Kelley indicated that the tree would be trimmed, but would remain. He asked if permission needed to be granted to cut the tree down. Mr. Kelley was informed that when a tree is not a street tree, the homeowner can remove up to five trees or 10% whichever is less with a requested 24 hours noticed.

Commissioner Clifford asked if the lap siding would allow for a "belly band". Mr. Kelley confirmed.

With no other questions for the applicant, Chair Simson asked for public testimony and indicated that the applicant had 28:44 for rebuttal.

(Note: Mr. Claus' testimony was difficult to hear from the audio/video recording. Below is a synopsis of what was said from what could be heard on the recording and the notes taken.)

Robert James Claus, Sherwood resident commented that he rebuilt the hotel, the Robin Hood Theater and two older houses in Sherwood. He said he was in favor of the application. He spoke of specification and performance codes and said the Uniform Building Code starts with performance and moves into specification. Mr. Claus said he hoped the Commission ensured that the house had the ability to go back and commented on a remodel compared to a restoration. He commented that older building materials cannot conform to today's standards because they do not meet specifications, and allowances should be made for performance values.

Mr. Claus spoke of buildings in London that were seven hundred years old that were exactly replicated with the only thing that had changed being superior materials. He commented that some buildings in Sherwood Old Town have been remodeled not restored, and that Sherwood had lost some architectural gems. Mr. Claus encouraged the Commission to visit the restored district in San Francisco. He discussed the elements in the Robin Hood Theater; perfect acoustical sound, acting stage, organ, crying room, restroom and theater

purchase area. Mr. Claus commented on the demolition of the theater and said the one in Newberg went down in an earthquake.

The applicant declined rebuttal testimony. Chair Simson asked for final comments from staff.

Brad Kilby responded that he looked through the historic preservation records for this house to see if it had been considered a historically significant home. He said that in the 1989 version of the city's historic survey there were specific houses and properties within Old Town that were referenced and this one was not. Brad said the property was a candidate a couple of years ago, the City does not have any properties designated as historically significant, but everything in Old Town is considered a landmark.

Motion: From Vice Chair James Copfer to approve the Kelley House Addition (LA 14-01) based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the Staff Report. Seconded by Commissioner Beth Cooke. All present Planning Commissioners voted in favor (Commissioners Russell Griffin, Sally Robinson, and Lisa Walker were absent).

9. Planning Commissioner Announcements

There were no Planning Commissioner Announcements

10. Adjourn

Chair Simson adjourned the meeting at 9:07 pm.

Submitted by:

Kirsten Allen

Planning Department Program Coordinator

Approval Date: _____

City of Sherwood, Oregon
Planning Commission
Work Session Meeting Minutes
September 9, 2014

Planning Commission Members Present:

Chair Jean Simson
Vice Chair James Copfer
Commissioner John Clifford
Commissioner Beth Cooke
Commissioner Russell Griffin
Commissioner Sally Robinson

Staff Present:

Brad Kilby, Planning Manager
Connie Randall, Associate Planner
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Lisa Walker

Council Members Present:

Mayor Bill Middleton

Legal Counsel:

Chris Crean

1. Call to Order

Chair Simson called the meeting to order at 7:03 pm and turned the time over to staff.

Brad Kilby, Planning Manager introduced Connie Randall, new Associate Planner. He explained that her position was funded for a limited duration through a grant to help with the planning for the Sherwood West Concept Plan.

Brad informed the Commission that TriMet had issued the draft of the Southwest Service Enhancement Plan and was awaiting public comments. The plan recognized the importance of a connection between Tualatin and Sherwood and will be completed in the winter of 2015.

Brad commented that Metro had released their Urban Growth Report which is available at www.orgonmetro.gov. He said Metro forecasted a range of population growth. In all cases, the modeled growth did not show a need to expand the Urban Growth Boundary in 2015. Brad said the next opportunity for expansion would be in 2021.

Brad indicated there had been an informational meeting on September 8, 2014 regarding annexation for the properties in the Tonquin Employment Area that was well attended. He said there was a Snyder Dog Park Open House on the same evening at the Parks Board meeting and a land use application for the dog park will come before the Commission soon. He detailed a meeting scheduled for September 11, 2014 about the rules and enforcement for temporary and portable signs during the upcoming political season. Commissioner Cooke asked about enforcement and signs that were stolen from her property. She mentioned that some person came to the door of her residence before they were taken, and asked if that was possibly the Code Enforcement Officer. Brad indicated that the City will only enforce signs on private property when a complaint is filed, and that he was not aware of a complaint filed in her development. Discussion followed.

Brad disclosed that the notice board at Albertsons has been removed and that trail counts were taking place this week at Stella Olsen Park. Trail counts will occur again after the first leg of Cedar Creek Trail is opened.

Note: Notices will be posted at the US Post Office.

There were no updates from Mayor Middleton.

3. Sherwood West

Brad showed two maps of the Sherwood West area (see record, Exhibit 1) and said the area represented 1,291 acres in the Urban Reserve area as established by Metro. He said the Urban Reserves was land that would be looked at first by Metro when deciding to expand the Urban Growth Boundary over the next fifty years. Brad explained that consultants would be retained and funded through a grant. The process would take fourteen to sixteen months with the kickoff in November 2014. He commented on the need for robust citizen and property owner participation and said the City would not be placing zoning on this concept plan, but would be referencing what land uses would be needed and approximate locations for infrastructure. Chair Simson suggested calling it a *Preliminary* or *Generalized* Concept Plan. Discussion followed.

2. Code Clean UP Discussion

Brad turned to the *2014 Sherwood Zoning and Community Development Code Proposed Staff Amendments* chart found in the Planning Commission packet. He explained that the amendments in green were easy fixes, such as scrivener or numbering errors that should be amended right away; amendments in blue were more subjective items that needed clarification; and amendments in red were policy oriented items that will take more time. The Commission went page by page through the chart and gave direction to staff regarding each item. Proposed changes to the code will be brought to the Commission as a public hearing at a future date.

(Mayor Middleton, Vice Chair James Copfer, and Commissioner Robinson left before this discussion concluded.)

4. Planning Commission Announcements

5. Adjourn

Chair Simson adjourned the meeting at 9:14 pm.

Submitted by:

Kirsten Allen
Planning Department Program Coordinator

Approval Date: _____

**City of Sherwood, Oregon
Planning Commission
Work Session Meeting Minutes
October 28, 2014**

Planning Commission Members Present:

Chair Jean Simson
Commissioner John Clifford
Commissioner Beth Cooke
Commissioner Sally Robinson
Commissioner Lisa Walker

Staff Present:

Brad Kilby, Planning Manager
Connie Randall, Associate Planner
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Vice Chair James Copfer
Commissioner Russell Griffin

Council Members Present:

None

Legal Counsel:

Chris Crean

1. Call to Order

Chair Simson called the meeting to order at 7:03 pm and turned the time over to staff.

2. Council Liaison Announcements

There were none.

3. Staff Announcements

Brad Kilby, Planning Manager, informed the Commission that the City's legal counsel will review the consultant contract for the Sherwood West project which will include a housing needs analysis, but not residential design standards. Discussion followed.

Brad commented that the Cedar Brook PUD Final Development Plan would be heard by the Commission shortly and gave some guidance about Planned Unit Developments. He asked for input for the upcoming City Boards dinner regarding the goals and accomplishments from the Planning Commission. It was suggested that more hands on training be provided for new planning commissioners. Discussion followed.

2. Code Clean Up Discussion

Staff and Commission members went through the amended 2014 Sherwood Zoning and Community Development Code Proposed Amendments found in the Planning Commission Packet starting on page 4. Connie Randall, Associate Planner, handed out some corrections to the text in the packet (see record, Exhibit 1). Comments or concerns were received by staff and changes were made as directed by the Commission.

4. Planning Commission Announcements

Commissioner John Clifford pointed to the November edition of the Sherwood Gazette that announced his daughter, Caitie Clifford, was chosen as an Amazing Kid by the Pamplin Media Group. Awards would be presented in Portland on October 30, 2014.

5. Adjourn

Chair Simson adjourned the meeting at 8:24 pm.

Submitted by:

Kirsten Allen
Planning Department Program Coordinator

Approval Date: _____

New Business Agenda

Item A

City of Sherwood
STAFF REPORT:
File No: PA 14-02 2014 Code Update

December 2, 2014

Signed: 
Connie Randall, Associate Planner

Proposal: The majority of amendments in the 2014 Code Update seek to:

- correct errors;
- increase consistency between sections;
- consolidate definitions; and
- clarify code language and intent.

Two amendments propose substantive changes to the Code:

- An amendment to Chapter 16.31 would remove the Conditional Use Permit requirement for incidental retail sales in the Light Industrial (LI) and General Industrial (GI) zones, similar to what is permitted in the Employment Industrial (EI) zone.
- An amendment to Chapter 16.120 would increase the amount of monetary assurance of full and faithful performance of those seeking to subdivide land from 100% to 125% of the estimated cost of the improvements.

The proposal seeks to amend Chapters 16.06 (Planning Commission), 16.10 (Definitions), 16.12 (Residential Land Use Districts), 16.31 (Industrial Land Use Districts), 16.40 (Planned Unit Development), 16.50 (Accessory Structures, Architectural Features and Decks), 16.58 (Clear Vision and Fence Standards), 16.60 (Yard Requirements), 16.66 (Transportation Facilities and Improvements), 16.70 (General Provisions), 16.72 (Procedures for Processing Development Permits), 16.80 (Plan Amendments), 16.82 (Conditional Uses), 16.84 (Variances), 16.90 (Site Planning), 16.92 (Landscaping), 16.94 (Off-Street Parking and Loading), 16.102 (Temporary, Portable, and Banner Signs), 16.106 (Transportation Facilities), 16.120 (Subdivisions), and 16.134 (Floodplain (FP) Overlay) of the Sherwood Zoning and Community Development Code (Exhibit A).

I. BACKGROUND

- A. Applicant: This is a City initiated text amendment.
- B. Location: The proposed amendment is to the text of the development code and applies citywide.
- C. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission is scheduled to consider the matter on December 9, 2014. At the close of their hearing, they will forward a recommendation to the City Council who will consider the proposal and make the final decision whether to approve, modify, or deny the proposed language on January 6, 2015 (tentative). 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 December 9, 2014 Planning Commission and January 6, 2015 hearings on the proposed amendment was published in *The Times* on November 27, 2014 and December 4, 2014 and published in the December edition of the

Gazette. Notice was also posted in five public locations around town and on the web site on November 18, 2014.

Oregon Department of Land Conservation and Development (DLCD) notice was submitted on November 4, 2014.

E. Review Criteria:

The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).

F. Background:

The Planning Commission has held three work sessions to discuss potential code updates:

Planning Commission Public Work Session April 8, 2014

The Public Work Session was held to discuss three items: the Sherwood Transportation System Plan Update; medical marijuana dispensary regulations; and Zoning and Community Development Code updates. During this session, staff identified the need to update typographical errors and erroneous references and facilitated a discussion on additional potential code revisions.

Planning Commission Work Session September 9, 2014

A Planning Commission Work Session was held on September 9, 2014. The Commission reviewed approximately 80 potential code amendments. The majority of items were classified as “clean up” items that would correct existing errors or simple clarifications that could make the code easier to understand and implement, two items proposed substantive changes to the code received unanimous support to change (see below), and the remaining items were considered larger policy issues and tabled to provide time for additional study and public discussion.

The first substantive change was an amendment to allow incidental retail sales in the Light Industrial (LI) and General Industrial (GI) zones. In August 2012, the City Council adopted Ordinance 2012-011 amending the Zoning and Community Development Code as presented in case PA 12-01. Among other things, the amendment consolidated three industrial zone chapters into one. Prior to the consolidation, the Light Industrial (LI) and General Industrial (GI) zones allowed “Incidental retail sales, limited to 10% of the total floor area of a business” as a permitted use and allowed “Retail uses for warehousing or manufacturing operations, limited to 10% of the total floor area and not to exceed 60,000 square feet of gross leasable area per building or business” as a conditional use. In consolidating the industrial chapters, incidental retail sales were limited to 10% of the total floor area of a business and limited to 5,000 square feet of sales or service area in a single outlet and 20,000 square feet for multiple outlets in the same development project. This use was permitted outright in the Employment Industrial (EI) zone and permitted conditionally in the LI and GI zones. As a result, a number of businesses with incidental retail sales legally established in the LI and GI zones prior to the 2012 change became non-conforming uses. The Planning Commission expressed a desire to allow limited incidental retail sales in all industrial zones, similar to what had been previously permitted, but with size restrictions to limit significant increases in traffic patterns.

The second substantive change was an amendment to increase the amount of monetary assurance of full and faithful performance of those seeking to subdivide land from 100% to 125% of the estimated cost of the improvements. The City rarely has to pull a performance bond to ensure that public infrastructure improvements approved as part of a private subdivision are completed. However, in the event that it does happen, a bond for 100% of the estimated cost of improvements does not cover the cost incurred by the City to pull the

bond and oversee construction of the improvements. Increasing the amount of the monetary assurance would help cover the associated administrative costs.

Planning Commission Work Session October 28, 2014

At the October 28, 2014 Planning Commission Work Session staff presented a legislative edit of the proposed amendments. The Commission reviewed the proposal and provided additional comments. During the session, the City Attorney recommended that the code language use a direct, active voice and avoid using the word “shall”.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

DLCD notice was submitted on November 4, 2014. Notice was sent to affected agencies on November 17, 2014.

On November 26, 2014, staff received comments from the Oregon Department of Transportation and the Department of Land Conservation and Development asking if staff would address the Transportation Planning Rule due to the increased commercial uses allowed in industrial zones. This item is addressed in *Section III. Required Findings for a Plan Text Amendment*, below.

Staff received comments from the Engineering Department on December 2, 2014 stating that the proposed code changes would not present any impacts to the existing City transportation system or the way the City analyzes future transportation impacts (Exhibit B).

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

Public:

The Planning Commission held three Work Sessions to discuss potential code updates: April 8, 2014; September 9, 2014; and October 28, 2014. In addition to the notice published in *The Times* and the *Gazette* and posted around town, the Planning Department article in the October/November 2014 issue of *The Sherwood Archer* discussed the proposed text amendment. To date, staff has not received any public comments on the proposed amendments.

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.

A table of proposed text amendments is included in Exhibit A. In total, 52 items are proposed. The table lists each proposed amendment as well as an explanation for why it has been proposed. Two of the amendments propose substantive changes to the Code and are discussed below.

Item 10 of Exhibit A is an amendment to Chapter 16.31 which proposes to extend incidental retail sales permitted in the Employment Industrial (EI) zone to the Light Industrial (LI) and General Industrial (GI) zones. Currently, incidental retail sales are conditionally permitted, meaning a Conditional Use Permit is required. Prior to 2012, incidental retail sales, limited to 10% of the total floor area of a business, was permitted in the LI and GI zones. A text amendment in 2012 removed this provision and required a Conditional Use Permit for all incidental retail sales in the LI and GI zones while permitting them outright in the EI zone. This amendment would restore the ability of businesses in the LI and GI zones to have a small retail component to their business.

Item 45 of Exhibit A is an amendment to Chapter 16.120 which proposes to increase the amount of monetary assurance of full and faithful performance of those seeking to subdivide land from 100% to 125% of the estimated cost of the improvements. The City rarely has to pull a performance bond to ensure that public infrastructure improvements approved as part of a private subdivision are completed. In the event that it does happen, a bond for 100% of the estimated cost of improvements does not cover the cost incurred by the City to pull the bond and oversee construction of the improvements. Increasing the amount of the monetary assurance would help cover the associated administrative costs. This amendment also ensures consistency between Code Chapters as Section 16.108.020.D.2 requires a performance bond equal to 125% of the estimated cost of the improvements.

The remaining proposed amendments are administrative updates intended to correct scrivener, formatting and citation errors; consolidate definitions; and provide clarity to the code. For example, in a few instances the Code refers to sections that do not exist or have been renumbered through previous amendments. Additionally, in a prior edit, the publisher inadvertently inserted Section 16.90.030 (Site Plan Modification and Revocation) between Section 16.90.020.B and 16.90.020.C, which has caused some confusion. Where possible, the word "shall" has been eliminated and code language has been written in a more direct, active voice as suggested by the City's Attorney during the October 28, 2014 Planning Commission Work Session.

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 amendments. The Urban Growth Management Functional Plan places limits on the amount of commercial uses allowed in Employment areas. Specifically, Section 3.07.430 limits commercial uses to 5,000 square feet of sales or service area in a single outlet and 20,000 square feet for multiple outlets in the same development project. The proposed amendment to Chapter 16.31 would extend incidental retail sales permitted in the Employment Industrial (EI) zone to the Light Industrial (LI) and General Industrial (GI) zones limited to the area restrictions identified in the Functional Plan.

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.

The Planning Commission held one public work session to elicit proposed amendments followed by two commission work sessions to prioritize potential code amendments. In addition, an article regarding the proposed code amendments was published in the October/November issue of the Sherwood Archer. As a whole, the proposed amendments are consistent with Goal 1 (Citizen Participation) and Goal 2 (land use planning).

Formal notice was also published in the newspaper two weeks prior to the hearing, published in the December issue of the Gazette, and has been posted around town in five conspicuous places, and is provided on the City's website.

FINDING: As discussed above in the analysis, there is a need for the proposed amendments in order to clarify the Sherwood Zoning and Community Development Code. The proposal would restore the ability of businesses in the LI and GI zones to have a limited retail component to their business consistent with the provision of Section 3.07.430 of Metro's Urban Growth Management Functional Plan. The proposed amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.3 – Transportation Planning Rule Consistency

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

FINDING: The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. Rather, the proposed amendments are provided to clarify language within the existing development code. One proposal, Item 10 in Attachment A, would change incidental retail sales in the LI and GI zones from "conditionally permitted" to "permitted". As discussed above, limited incidental retail sales were permitted in both zones prior to 2012 and are currently allowed subject to a Conditional Use Permit. Consequently, the action does not permit a greater amount of retail commercial uses, but rather changes the method in which they are allowed. The City Engineering Department reviewed the proposed code amendments with DKS, the consulting firm that assisted the City with the 2014 Sherwood Transportation System Plan, and concluded that the proposed change would not present any impacts to the existing City transportation system or the way the City analyses future transportation impacts.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends Planning Commission forward a recommendation of approval of PA 14-02 to the City Council.

- V. EXHIBITS**
- A. PA 14-02 Proposed Code Amendments Table
 - B. E-Mail Correspondence from Bob Galati dated December 2, 2014

EXHIBIT A
PA 14-02 Proposed Code Amendments Table

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
1	16.06.020.C	269	A majority of members of the Commission shall constitute a quorum. A majority vote of those members, not less than a quorum, present at an open meeting of the Commission shall be necessary to legally act on any matter before the Commission. The Commission may make and alter rules of procedure consistent with the laws of the State of Oregon, the City Charter, and City ordinances.	<ol style="list-style-type: none"> 1. Eliminates the use of "shall" per advice of legal counsel. 2. Clarifies language to state that a majority vote of a quorum is necessary to legally act on a matter before the Commission. 	A majority of members of the Commission those members, not less than <u>shall</u> constitute a quorum. A majority vote of is shall be necessary to legally act on any matter before the Commission. The Commission may make and alter rules of procedure consistent with the laws of the State of Oregon, the City Charter, and City ordinances.
2a	16.10.020	272	Accessory Building/Use: A subordinate building or use which is customarily incidental to that of the principal use or building located on the same property.	<ol style="list-style-type: none"> 1. Relocates definition for "Accessory Building" to the definition section, Section 16.10.020. 2. Provides distinct definitions for "Accessory Building" and "Accessory Use". 	Accessory Building/Use: <u>A structure that is incidental and subordinate to the main use of property, is located on the same lot as the main use, and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the State Building Code.</u> A subordinate building or use which is customarily incidental to that of the principal use or building located on the same property. Accessory Use: <u>A use or activity that is subordinate and incidental to the primary use of the property. A property may have more than one accessory use.</u>
2b	16.50.010.A	362	Definition Accessory Building or Structure: A structure whose use is incidental and subordinate to the main use of property, is located on the same lot as the main use, and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the State Building Code.		Reserved Definition Accessory Building or Structure: A structure whose use is incidental and subordinate to the main use of property, is located on the same lot as the main use, and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the State Building Code.
3	16.10.020	277	<p>Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:</p> <p>Object: A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g., statue, fountain, milepost, monument, sign, etc.</p> <p>A. Site: The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e.g., battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, etc.</p> <p>B. District: A geographically defined area possessing a significant concentration of buildings, structures, objects, and/or sites which are unified historically by plan or physical development, e.g., downtown, residential, neighborhood, military reservation, ranch complex, etc.</p> <p>C. Primary, Secondary, & Contributing: Historic ranking in descending order based on four scoring criteria for surveyed properties — historical, architectural, use considerations, and physical and site characteristics.</p>	Corrects a scrivener's error.	<p>Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:</p> <p><u>A. Object:</u> A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g., statue, fountain, milepost, monument, sign, etc.</p> <p><u>AB. Site:</u> The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e.g., battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, etc.</p> <p><u>BC. District:</u> A geographically defined area possessing a significant concentration of buildings, structures, objects, and/or sites which are unified historically by plan or physical development, e.g., downtown, residential, neighborhood, military reservation, ranch complex, etc.</p> <p><u>CD. Primary, Secondary, & Contributing:</u> Historic ranking in descending order based on four scoring criteria for surveyed properties — historical, architectural, use considerations, and physical and site characteristics.</p>
4	16.10.020	282	Right-of-Way: The area between boundary lines of a street or other easement.	Updates the definition to more accurately define the term.	Right-of-Way: <u>An interest in real property typically acquired by reservation, dedication, prescription, or condemnation and intended for the placement of transportation and utility facilities and infrastructure or similar public use.</u> The area between boundary lines of a street or other easement.

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
5	16.10.020	283	<p>Solid Waste Facility:</p> <p>A. Conditionally Exempt Small Quantity Collection Facility: A facility that receives, sorts, temporarily stores, controls, and processes for safe transport hazardous waste from conditionally exempt generators, as that term is defined in ORS 465.003.</p> <p>B. Demolition Landfill: A land disposal site for receiving, sorting and disposing only land clearing debris, including vegetation and dirt, building construction and demolition debris and inert materials, and similar substances.</p> <p>C. Household Hazardous Waste Depot: A facility for receiving, sorting, processing and temporarily storing household hazardous waste and for preparing that waste for safe transport to facilities authorized to receive, process, or dispose of such materials pursuant to federal or state law.</p> <p>D. Limited Purpose Landfill: A land disposal site for the receiving, sorting and disposing of solid waste material, including but not limited to asbestos, treated petroleum, contaminated soil, construction, land clearing and demolition debris, wood, treated sludge from industrial processes, or other special waste material other than unseparated municipal solid waste.</p> <p>E. Resource Recovery Facility: A facility for receiving, temporarily storing and processing solid waste to obtain useful material or energy.</p> <p>F. Mixed Construction and Demolition Debris Recycling Facility: A facility that receives, temporarily stores, processes, and recovers recyclable material from mixed construction and demolition debris for reuse, sale, or further processing.</p> <p>G. Solid Waste Composting Facility: A facility that receives, temporarily stores and processes solid waste by decomposing the organic portions of the waste by biological means to produce useful products, including, but not limited to, compost, mulch and soil amendments.</p> <p>H. Monofill: A land disposal site for receiving, sorting and disposing only one type of solid waste material or class of solid waste materials for burial, such as a facility which accepts only asbestos.</p> <p>I. Municipal Solid Waste Depot: A facility where sealed containers are received, stored up to seventy two (72) hours, staged, and/or transferred from one mode of transportation to another.</p> <p>J. Small Scale Specialized Incinerator: A facility that receives, processes, temporarily stores, and burns a solid waste product as an accessory use to a permitted use, including incinerators for disposal of infectious wastes as part of a medical facility, but not including mass burn solid waste incinerators, refuse-derived fuel technologies, human or animal remains crematorium, or any energy recovery process that burns unseparated municipal solid waste.</p> <p>K. Solid Waste Facilities: Any facility or use defined in this Section of this Code.</p> <p>L. Solid Waste Transfer Station: A facility that receives, processed, temporarily stores and prepares solid waste for transport to a final disposal site, with or without material recovery prior to transfer.</p> <p>M. Treatment and Storage Facility: A facility subject to regulation under the Resource Conservation and Recovery Act. 42 USC Sections 6901-6987, for receiving, sorting, treating, and/or temporarily storing hazardous waste, and for processing such waste for safe transport to facilities authorized to receive, treat, or dispose of such materials pursuant to federal or state law. Treatment and storage facilities do not include facilities for on-site disposal of hazardous waste.</p> <p>N. Wood Waste Recycling Facility: A facility that receives, temporarily stores and processes untreated wood, which does not contain pressure treated or wood preservative treated wood, in the form of scrap lumber, timbers, or natural wood debris, including logs, limbs, and tree trunks, for reuse, fuel, fuel pellets, or fireplace logs.</p> <p>O. Yard Debris Depot: A facility that receives yard debris for temporary storage, awaiting transport to a processing facility.</p> <p>P. Yard Debris Processing Facility: A facility that receives, temporarily stores and processes yard debris into a soil amendment, mulch or other useful product through grinding and/or controlled biological decomposition.</p>	<p>Reformat subordinate items to be consistent with other entries (e.g. "Lot" and "Lot of Record" on pg. 279).</p>	<p>Solid Waste Facility:</p> <p><u> </u>A. Conditionally Exempt Small Quantity Collection Facility: A facility that receives, sorts, temporarily stores, controls, and processes for safe transport hazardous waste from conditionally exempt generators, as that term is defined in ORS 465.003.</p> <p><u> </u>B. Demolition Landfill: A land disposal site for receiving, sorting and disposing only land clearing debris, including vegetation and dirt, building construction and demolition debris and inert materials, and similar substances.</p> <p><u> </u>C. Household Hazardous Waste Depot: A facility for receiving, sorting, processing and temporarily storing household hazardous waste and for preparing that waste for safe transport to facilities authorized to receive, process, or dispose of such materials pursuant to federal or state law.</p> <p><u> </u>D. Limited Purpose Landfill: A land disposal site for the receiving, sorting and disposing of solid waste material, including but not limited to asbestos, treated petroleum, contaminated soil, construction, land clearing and demolition debris, wood, treated sludge from industrial processes, or other special waste material other than unseparated municipal solid waste.</p> <p><u> </u>E. Resource Recovery Facility: A facility for receiving, temporarily storing and processing solid waste to obtain useful material or energy.</p> <p><u> </u>F. Mixed Construction and Demolition Debris Recycling Facility: A facility that receives, temporarily stores, processes, and recovers recyclable material from mixed construction and demolition debris for reuse, sale, or further processing.</p> <p><u> </u>G. Solid Waste Composting Facility: A facility that receives, temporarily stores and processes solid waste by decomposing the organic portions of the waste by biological means to produce useful products, including, but not limited to, compost, mulch and soil amendments.</p> <p><u> </u>H. Monofill: A land disposal site for receiving, sorting and disposing only one type of solid waste material or class of solid waste materials for burial, such as a facility which accepts only asbestos.</p> <p><u> </u>I. Municipal Solid Waste Depot: A facility where sealed containers are received, stored up to seventy two (72) hours, staged, and/or transferred from one mode of transportation to another.</p> <p><u> </u>J. Small Scale Specialized Incinerator: A facility that receives, processes, temporarily stores, and burns a solid waste product as an accessory use to a permitted use, including incinerators for disposal of infectious wastes as part of a medical facility, but not including mass burn solid waste incinerators, refuse-derived fuel technologies, human or animal remains crematorium, or any energy recovery process that burns unseparated municipal solid waste.</p> <p><u> </u>K. Solid Waste Facilities: Any facility or use defined in this Section of this Code.</p> <p><u> </u>L. Solid Waste Transfer Station: A facility that receives, processed, temporarily stores and prepares solid waste for transport to a final disposal site, with or without material recovery prior to transfer.</p> <p><u> </u>M. Treatment and Storage Facility: A facility subject to regulation under the Resource Conservation and Recovery Act. 42 USC Sections 6901-6987, for receiving, sorting, treating, and/or temporarily storing hazardous waste, and for processing such waste for safe transport to facilities authorized to receive, treat, or dispose of such materials pursuant to federal or state law. Treatment and storage facilities do not include facilities for on-site disposal of hazardous waste.</p> <p><u> </u>N. Wood Waste Recycling Facility: A facility that receives, temporarily stores and processes untreated wood, which does not contain pressure treated or wood preservative treated wood, in the form of scrap lumber, timbers, or natural wood debris, including logs, limbs, and tree trunks, for reuse, fuel, fuel pellets, or fireplace logs.</p> <p><u> </u>O. Yard Debris Depot: A facility that receives yard debris for temporary storage, awaiting transport to a processing facility.</p> <p><u> </u>P. Yard Debris Processing Facility: A facility that receives, temporarily stores and processes yard debris into a soil amendment, mulch or other useful product through grinding and/or controlled biological decomposition.</p>

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment																
6a	16.10.020	286	<p>Transportation Facilities and Improvements: The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.). Transportation improvements include the following:</p> <ol style="list-style-type: none"> 1. Normal operation, maintenance repair, and preservation activities of existing transportation facilities. 2. Design and installation of culverts, pathways, multi-use paths or trails, sidewalks, bike lanes, medians, fencing, guardrails, lighting, curbs, gutters, shoulders, parking areas, and similar types of improvements within the existing right-of-way. 3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval. 4. Landscaping as part of a transportation facility. 5. Emergency measures necessary for the safety and protection of property. 6. Street or road construction as part of an approved land use application. 7. Transportation projects that are not designated improvements in the Transportation System Plan requires a site plan review and conditional use permit. 8. Transportation projects that are not planned, designed, and constructed as part of an approved land use application requires a site plan review and conditional use permit. 	<ol style="list-style-type: none"> 1. Provides a distinct definition for "Transportation Facilities" and "Transportation Improvements". 2. Corrects a scrivener's error: eliminates an extra ")". 3. Eliminates the regulatory portion of the definition as they are already included in Chapter 16.66. 4. Clarifies language to require a Conditional Use Permit for any Transportation Facility or Improvement that is not designated in the TSP or reviewed and approved with a land use application. 5. Eliminates the use of "shall" per advice of legal counsel. 	<p>Transportation Facilities and Improvements: The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.).</p> <p>Transportation Improvements: Transportation improvements include the following:</p> <ol style="list-style-type: none"> <u>A</u>1. Normal operation, maintenance repair, and preservation activities of existing transportation facilities. <u>B</u>2. Design and installation of culverts, pathways, multi-use paths or trails, sidewalks, bike lanes, medians, fencing, guardrails, lighting, curbs, gutters, shoulders, parking areas, and similar types of improvements within the existing right-of-way. <u>C</u>3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval. <u>D</u>4. Landscaping as part of a transportation facility. <u>E</u>5. Emergency measures necessary for the safety and protection of property. <u>F</u>6. Street or road construction as part of an approved land use application. 7. Transportation projects that are not designated improvements in the Transportation System Plan requires a site plan review and conditional use permit. 8. Transportation projects that are not planned, designed, and constructed as part of an approved land use application requires a site plan review and conditional use permit. 																
6b	16.66.010.B	377	Construction of Transportation Facilities and Improvements that are (1) not designated in the adopted City of Sherwood Transportation System Plan (TSP), and are (2) not designed and constructed as part of an approved subdivision or partition subject to site plan shall be subject to Conditional Use review.		<p>Construction of A Conditional Use Permit is required for Transportation Facilities and Improvements that are:</p> <p>(1.) a Not designated in the adopted City of Sherwood Transportation System Plan (TSP); or,</p> <p>and are</p> <p>(2.) a Not designed and constructed as part of an approved land use application subdivision or partition subject to site plan shall be subject to Conditional Use review.</p>																
7	16.12.010.D	289	The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing multi-family housing, and other related uses with a density of 5.5 to 11 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.	<ol style="list-style-type: none"> 1. Corrects a scrivener's error; a comma is missing. 2. Eliminates the use of "shall" per advice of legal counsel. 	The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing, multi-family housing, and other related uses with a density of 5.5 to 11 dwelling units per acre. Minor land partitions shall be <u>are</u> exempt from the minimum density requirement.																
8	16.12.030	292-293	Residential Land Use Development Standards Table (see attached)	Corrects table footnote formatting; restarts footnote numbering with each table.	See Attachment A: Residential Land Use Development Standards Table Legislative Edits. Note: No substantive changes are proposed; amendment is limited to renumbering the table footnotes.																
9	16.31.020.C	319	Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the commercial zones or contribute to the achievement of the objectives of the commercial zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88.	Corrects a scrivener's error; the section is speaking to industrial zones, not commercial.	Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the commercial <u>commercial-industrial</u> zones or contribute to the achievement of the objectives of the commercial <u>commercial-industrial</u> zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88.																
10	16.31.020 - Use Table	320	<table border="1"> <thead> <tr> <th>Uses</th> <th>LI</th> <th>GI</th> <th>EI¹</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business.⁷ </td> <td>C</td> <td>C</td> <td>P</td> </tr> </tbody> </table> <p>¹ See special criteria for the EI zone, 16.31.030 and the Tonquin Employment Area (TEA), 16.31.040.</p> <p>⁷ Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.</p>	Uses	LI	GI	EI ¹	<ul style="list-style-type: none"> Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business.⁷ 	C	C	P	Allows incidental retail sales or display/showroom uses in the Light Industrial (LI) and General Industrial (GI) zones, similar to what is allowed in the Employment Industrial (EI) zone. Incidental sales is limited to 5,000 square feet (for a single outlet) and 20,000 square feet (for a multi-outlet development).	<table border="1"> <thead> <tr> <th>Uses</th> <th>LI</th> <th>GI</th> <th>EI¹</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business.⁷ </td> <td><u>PG</u></td> <td><u>PG</u></td> <td>P</td> </tr> </tbody> </table> <p>¹ See special criteria for the EI zone, 16.31.030 and the Tonquin Employment Area (TEA), 16.31.040.</p> <p>⁷ Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.</p>	Uses	LI	GI	EI ¹	<ul style="list-style-type: none"> Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business.⁷ 	<u>PG</u>	<u>PG</u>	P
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11	16.40.020.B.5	341	If the PUD involves the subdivision of land, the proposal shall also include a preliminary subdivision plat and meet all requirements of Chapter 16.122. The preliminary subdivision shall be processed concurrently with the PUD.	<ol style="list-style-type: none"> 1. Corrects a scrivener's error: the correct reference is Chapter 16.120, not 16.122. 2. Eliminates the use of "shall" per advice of legal counsel. 	If the PUD involves the subdivision of land, the proposal shall <u>must</u> also include a preliminary subdivision plat and meet all requirements of Chapter 16. 122 <u>120</u> . The preliminary subdivision shall <u>will</u> be processed concurrently with the PUD.																
12	16.40.030.B	343	If the PUD involves the subdivision of land, a final plat shall be prepared and submitted for final approval, pursuant to Chapter 16.124.	<ol style="list-style-type: none"> 1. Corrects a scrivener's error: the correct reference is Chapter 16.120, not 16.124. 2. Eliminates the use of "shall" per advice of legal counsel. 	If the PUD involves the subdivision of land, a final plat shall <u>must</u> be prepared and submitted for final approval, pursuant to Chapter 16. 120 <u>124</u> .																

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
13	16.40.040.A.1	343-344	<p>A. 1. Phasing</p> <p>a. The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.</p> <p>b. Any PUD which requires more than twenty four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.</p> <p>2. Failure to Complete</p> <p>a. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.</p> <p>b. If continuation is found not to be in the public interest, the Commission shall recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.</p> <p>B. Changes in Approved Plans</p> <p>1. Major Changes Proposed major changes in a Final Development Plan shall be considered the same as a new application, and shall be made in accordance with the procedures specified in this Chapter.</p> <p>2. Minor Changes Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses.</p> <p>C. Multiple Zone Density Calculation When a proposed PUD includes multiple zones, the density may be calculated based on the total permitted density for the entire project and clustered in one or more portions of the project, provided that the project demonstrates compatibility with the adjacent and nearby neighborhood(s) in terms of location of uses, building height, design and access.</p>	<p>1. Corrects numbering error; "A. 1. Phasing", is inconsistent with the Code numbering format.</p> <p>2. Eliminates the use of "shall" per advice of legal counsel.</p>	<p>A. 1. Phasing</p> <p>a<u>1.</u> The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.</p> <p>b<u>2.</u> Any PUD which requires more than twenty four (24) months to complete shall<u>must</u> be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.</p> <p>2<u>B.</u> Failure to Complete</p> <p>a<u>1.</u> When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall<u>will</u> determine whether or not the PUD's continuation, in whole or in part, is in the public interest.</p> <p>b<u>2.</u> If continuation is found not to be in the public interest, the Commission shall<u>will</u> recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.</p> <p>B<u>C.</u> Changes in Approved Plans</p> <p>1. Major Changes Proposed major changes in a Final Development Plan shall be<u>are</u> considered the same as a new application, and shall be<u>are</u> made in accordance with the procedures specified in this Chapter.</p> <p>2. Minor Changes Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses.</p> <p>C<u>D.</u> Multiple Zone Density Calculation When a proposed PUD includes multiple zones, the density may be calculated based on the total permitted density for the entire project and clustered in one or more portions of the project, provided that the project demonstrates compatibility with the adjacent and nearby neighborhood(s) in terms of location of uses, building height, design and access.</p>
14	16.40.050.C.1	344	<p>Density</p> <p>The number of dwelling units permitted in a Residential PUD shall be the same as that allowed in the underlying zoning district, except as provided in Subsection (C)(2), below or 16.40.040.C above.</p>	<p>1. Revises reference to be consistent with similar references in the code.</p> <p>2. Eliminates the use of "shall" per advice of legal counsel.</p>	<p>Density</p> <p>The number of dwelling units permitted in a Residential PUD shall be<u>is</u> the same as that allowed in the underlying zoning district, except as provided in Subsections 16.40.040.D and 16.40.050.C.2(C)(2), below or 16.40.040.C above.</p>
15	16.40.060.C.6	346	<p>Density Transfer</p> <p>Where the proposed PUD includes lands within the base floodplain, a density transfer may be allowed in accordance with Section 16.142.040.</p>	<p>Corrects the reference from Section 16.142.040 to 16.40.050.C.2.</p>	<p>Density Transfer</p> <p>Where the proposed PUD includes lands within the base floodplain, a density transfer may be allowed in accordance with Section 16.40.050.C.2<u>142.040</u>.</p>

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
16a	16.58.020.B	370	<p>Definition:</p> <ol style="list-style-type: none"> 1. Fence: A freestanding structure that provides a barrier between properties or different uses on the same property and is generally used to provide privacy and security. A fence may be open, solid, wood, metal, wire, masonry or other materials and includes lattice or other decorative toppers. 2. Wall: A solid structural barrier that is not intended to alter the grade. 3. Retaining wall: A solid barrier that provides a barrier to the movement of earth, stone or water and is used to alter the grade. 4. Sound wall: An exterior wall designed to protect sensitive land uses including parks, residential zones and institutional public zones from noise generated by roadways, railways, commercial and industrial noise sources. 5. Landscape feature: A trellis, arbor or other decorative feature that is attached to or incorporated within the fence. 6. Hedges: A line of closely spaced vegetation specifically planted and trained in such a way as to form a barrier to mark the boundary of an area or visually screen an area. 		<p>ReservedDefinition:</p> <ol style="list-style-type: none"> 1. Fence: A freestanding structure that provides a barrier between properties or different uses on the same property and is generally used to provide privacy and security. A fence may be open, solid, wood, metal, wire, masonry or other materials and includes lattice or other decorative toppers. 2. Wall: A solid structural barrier that is not intended to alter the grade. 3. Retaining wall: A solid barrier that provides a barrier to the movement of earth, stone or water and is used to alter the grade. 4. Sound wall: An exterior wall designed to protect sensitive land uses including parks, residential zones and institutional public zones from noise generated by roadways, railways, commercial and industrial noise sources. 5. Landscape feature: A trellis, arbor or other decorative feature that is attached to or incorporated within the fence. 6. Hedges: A line of closely spaced vegetation specifically planted and trained in such a way as to form a barrier to mark the boundary of an area or visually screen an area.
16b	16.10.020	276	Fence: Any open or closed structure used to enclose any lot or parcel of ground, and usually constructed of wire, wood, brick, cement block, or stone.	Relocates all definitions to the definitions section of code.	Fence: A freestanding structure that provides a barrier between properties or different uses on the same property and is generally used to provide privacy and security. A fence may be open or solid and is usually constructed of wood, metal, wire, brick, cement block, stone, vinyl, or composite materials. Any open or closed structure used to enclose any lot or parcel of ground, and usually constructed of wire, wood, brick, cement block, or stone.
16c	16.10.020	287	None		Wall: A solid structural barrier that is not intended to alter the grade and is not considered a Retaining Wall or Sound Wall.
16d	16.10.020	282	Retaining Wall: A structure constructed of stone, concrete, steel or other material designed to retain or restrain earth or rock.		Retaining Wall: A structure solid barrier constructed of stone, concrete, steel or other material designed to retain or restrain earth, or rock, or water and is used to alter the grade.
16e	16.10.020	284	None		Sound Wall: An exterior wall designed to protect sensitive land uses including parks, residential zones and institutional public zones from noise generated by roadways, railways, commercial and industrial noise sources.
16f	16.10.020	278	None		Landscape Feature: A trellis, arbor or other decorative feature that is attached to or incorporated within the fence.
16g	16.10.020	277	None		Hedges: A line of closely spaced vegetation specifically planted and trained in such a way as to form a barrier to mark the boundary of an area or visually screen an area.
17	16.58.020.F	371	<p>General Conditions—All Fences:</p> <ol style="list-style-type: none"> 1. In all cases, the following standards apply: <ol style="list-style-type: none"> a. Fences must be structurally sound and maintained in good repair. A fence may not be propped up in any way from the exterior side. b. Chain link fencing is not allowed in any required residential front yard setback. c. The finished side of the fence must face the street or the neighboring property. This shall not preclude finished sides on both sides. d. Buffering: If a proposed development is adjacent to an dissimilar use such as commercial use adjacent to a residential use, or development adjacent to an existing farming operation, a buffer plan that includes, but is not limited to, setbacks, fencing, landscaping, and maintenance via a homeowner's association or managing company shall be submitted and approved as part of the preliminary plat or site plan review process per Section 16.90.020 and Chapter 16.122 e. In the event of a conflict between this section and the clear vision standards of Section 16.58.010, the standards in section 16.58.010 prevail. f. Fences and walls shall not be located within or over a public utility easement without an approved right-of-way permit. g. The height of a fence or wall is measured from the actual adjoining level of finished grade measured six (6) inches from the fence. In the event the ground is sloped, the lowest grade within six (6) inches of the fence shall be used to measure the height. 		<ol style="list-style-type: none"> 1. Eliminate Section 16.58.020.F.1 as it is unnecessary and renumber the conditions. 2. Corrects a scrivener's error: the words "Section" should be capitalized; and inserts "a" where appropriate. 3. Eliminates the use of "shall" per advice of legal counsel.

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
18	16.58.020.F	371-372	<p>Existing Code Language diagrams showing fence placement relative to a sidewalk. The top diagram shows a 'Back' yard with a fence 11 ft from the sidewalk and 8 ft from the structure. The bottom diagram shows a 'Front' yard with a fence 5 ft from the sidewalk and 8 ft from the structure. A legend indicates fence sizes: 6 Ft (thick line) and 3 1/2 Ft (thin line).</p>	Removes two diagrams as their purpose is unclear.	<p>Recommended Amendment diagrams showing fence placement relative to a sidewalk, identical to the existing code language diagrams, but crossed out with a red diagonal line.</p>
19	16.60.030.B	373	Where a side or rear yard is not required, and a primary structure is not erected directly on the property line, it shall be set back at least three (3) feet.	<ol style="list-style-type: none"> 1. Clarifies the word "it". 2. Eliminates the use of "shall" per advice of legal counsel. 	Where a side or rear yard is not required, and a primary structure is not erected directly on the property line, it a primary structure shall <u>must</u> be set back at least three (3) feet.
20	16.60.040.A and 16.60.040.B	373	If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68 (Infill Development).	<ol style="list-style-type: none"> 1. Adds "or parcel" to clarify the intent of the code to apply to a lot or a parcel. 2. Corrects a scrivener's error; "of" should be "or". 3. Cleans up use of commas to clarify intent. 4. Relocates the exception for residential use to the "Exceptions" section. 5. Eliminates the use of "shall" per advice of legal counsel. 6. Corrects Chapter title, "Infill Development". 	<p>If a lot <u>or parcel</u>, or the aggregate of contiguous lots or parcels, recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of or aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68 (Infill Development).</p> <p>B. Exceptions</p> <ol style="list-style-type: none"> 1. Residential uses are limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, a dwelling cannot be built on a lot with less area than thirty-two hundred (3,200) square feet, <u>except as provided in Chapter 16.68.</u> 2. Yard requirements of the underlying zone may be modified for infill developments as provided in Chapter 16.68 (Infill <u>Development</u>).

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
21	16.70.020.B	383	Applicants of Type III, IV and V applications are required to hold a meeting, at a public location for with adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Affidavits of mailing, sign-in sheets and a summary of the meeting notes shall be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.	1. Corrects a scrivener's error; the "with" in the first sentence is not needed. 2. Eliminates the use of "shall" per advice of legal counsel.	Applicants of Type III, IV and V applications are required to hold a meeting, at a public location for with adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Affidavits of mailing, sign-in sheets and a summary of the meeting notes shall <u>must</u> be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.
22	16.70.030.C.1.e	384	Vicinity Map showing the City limits and the Urban Growth Boundary.	Defines a useable scale for the Vicinity Map.	Vicinity Map showing <u>a minimum radius of 500 feet around the property and the closest intersection of two Principal Arterial, Arterial, Collector or Neighborhood roads</u> the City limits and the Urban Growth Boundary.
23	16.70.030.C.1.f	384	A narrative explaining the proposal in detail and a response to the Required Findings for Land use Review for the land use approval(s) being sought.	Corrects a scrivener's error; the word "Use" should be capitalized.	A narrative explaining the proposal in detail and a response to the Required Findings for Land use <u>Use</u> Review for the land use approval(s) being sought.
24	16.72.010.A.2.c	388	"Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.4, below.	1. Corrects the reference from 16.72.010.4 to 16.72.010.A.4. 2. Corrects a scrivener's error: "conditional use permit" should be capitalized.	"Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to <u>a</u> e <u>C</u> o <u>n</u> d<u>i</u><u>t</u><u>i</u><u>o</u><u>n</u><u>a</u><u>l</u><u>u</u><u>s</u><u>e</u><u>p</u><u>e</u><u>r</u><u>m</u><u>i</u><u>t</u>, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.<u>A.4</u>,below.
25	16.72.010.A.2.d	388	"Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.4.G.4.	Corrects the reference from 16.90.020.4.G.4 to 16.90.020.D.6.d.	"Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020. <u>D.6.d</u> 4.G.4 .
26	16.72.010.A.2.e	388	Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in 16.90.020.4.H.1.	Corrects the reference from 16.90.020.4.H.1 to 16.90.020.D.7.b.	Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in <u>Section</u> 16.90.020. <u>D.7.b</u> 4.H.1 .
27	16.72.010.A.3.b	388	Site Plan Review — between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010.4, below.	Corrects the reference from 16.72.010.4 to 16.72.010.A.4.	Site Plan Review — between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010. <u>A.4</u> , below .
28	16.72.010.A.4.d	388	Site Plans subject to Section 16.90.020.4.G.6.	Corrects the reference from 16.90.020.4.G.6 to 16.90.020.D.6.f.	Site Plans subject to Section 16.90. <u>020.D.6.f</u> 020.4.G.6 .
29	16.72.020.A.4.e	388	Industrial Site Plans subject to Section 16.90.020.4.H.2.	Corrects the reference from 16.90.020.4.H.2 to 16.90.020.D.7.b.	Industrial Site Plans subject to Section 16.90. <u>020.D.7.b</u> 020.4.H.2 .
30	16.72.020.B.2	390	Signage shall be posted on the subject property fourteen (14) calendar days in advance of the staff decision on Type II applications and twenty (20) calendar days in advance of the hearing before the Hearing Authority for Type III, IV and V applications.	1. Eliminates the use of "shall" per advice of legal counsel. 2. The term "initial" is added in front of hearing to formalize the fact that the 20 day notice is only required prior to the initial hearing. If an item is continued during a public hearing, the hearing authority can direct staff to provide additional notice if it is warranted.	Signage shall <u>must</u> be posted on the subject property fourteen (14) calendar days in advance of the staff decision on Type II applications and twenty (20) calendar days in advance of the <u>initial</u> hearing before the Hearing Authority for Type III, IV and V applications.
31	16.80.010 and 16.80.030.A	399-400	16.80.010 - Initiation of Amendments An amendment to the City Zoning Map or text of the Comprehensive Plan may be initiated by the Council, Commission, or an owner of property within the City. 16.80.030 - Review Criteria A. Text Amendment An amendment to the text of the Comprehensive Plan shall be based upon a need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the adopted Sherwood Comprehensive Plan, and with all other provisions of the Plan, the Transportation System Plan and this Code, and with any applicable State or City statutes and regulations, including this Section.	1. Clarifies the intent that amendments to the either the Comprehensive Plan or the Zoning and Community Development Code are processed in accordance with Chapter 16.80. 2. Eliminates the use of "shall" per advice of legal counsel.	16.80.010 - Initiation of Amendments An amendment to the City Zoning Map, or the text of the Comprehensive Plan, <u>or the text of the Zoning and Community Development Code</u> may be initiated by the Council, Commission, or an owner of property within the City. 16.80.030 - Review Criteria A. Text Amendment An amendment to the text of the Comprehensive Plan <u>or the Zoning and Community Development Code</u> shall <u>must</u> be based upon a need for such an amendment as identified by the Council or the Commission. Such an amendment shall <u>must</u> be consistent with the intent of the adopted Sherwood Comprehensive Plan, and with all other provisions of the Plan, the Transportation System Plan and this Code, and with any applicable State or City statutes and regulations, including this Section.

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
32	16.82.020.C.7 – 16.82.020.C.9	402- 403	<p>7. For a proposed conditional use permit in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 16.108.070 Highway 99W Capacity Allocation Program, unless excluded herein.</p> <p>8. For wireless communication facilities, no conditional use permit shall be granted unless the following additional criteria is found:</p> <p>a. The applicant shall demonstrate to the satisfaction of the City that the wireless communication facility cannot be located in an IP zone due to the coverage needs of the applicant.</p> <p>b. The proposed wireless communication facility is designed to accommodate co-location or it can be shown that the facility cannot feasibly accommodate co-location.</p> <p>c. The applicant shall demonstrate a justification for the proposed height of the tower or antenna and an evaluation of alternative designs which might result in lower heights.</p> <p>d. The proposed wireless communication facility is not located within one-thousand (1,000) feet of an existing wireless facility or that the proposed wireless communication facility cannot feasibly be located on an existing wireless communication facility.</p> <p>e. The proposed wireless communication facility is located a minimum of three-hundred (300) feet from residentially zoned properties.</p> <p>9. The following criteria apply to transportation facilities and improvements subject to Conditional use approval (in addition to criteria 1-7) per 16.66. These are improvements and facilities that are (1) not designated in the adopted City of Sherwood Transportation System Plan (TSP), and are (2) not designed and constructed as part of an approved subdivision or partition subject to site plan review.</p> <p>a. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.</p> <p>b. The project includes provisions for bicycle and pedestrian access and circulation consistent with the Comprehensive Plan, the requirements of this Code, and the TSP.</p> <p>c. Proposal inconsistent with TSP: If the City determines that the proposed use or activity or its design is inconsistent with the TSP, then the applicant shall apply for and obtain a plan and/or zoning amendment prior to or in conjunction with conditional use permit approval.</p> <p>d. State transportation system facility or improvement projects: The Oregon Department of Transportation (ODOT) shall provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Section 1-7 and 9.a.-9.d. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.</p>	<p>1. Section 16.82.020.C.7 is deleted because the Highway 99W Capacity Allocation Program has been eliminated.</p> <p>2. Remaining items are renumbered.</p> <p>3. Eliminates the use of "shall" per advice of legal counsel.</p> <p>4. Clarifies intent of the additional criteria for transportation facilities and improvements.</p> <p>5. Corrects scrivener's errors: "conditional use permit" should be capitalized; "Chapter" should be inserted before "16.66".</p> <p>6. Revises Section 16.82.020.C.8 to be consistent with the proposed language in Section 16.66.010.B (Item 7A).</p> <p>7. Corrects reference to renumbered sections of code.</p>	<p>7. For a proposed conditional use permit in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 16.108.070 Highway 99W Capacity Allocation Program, unless excluded herein.</p> <p>7.8. For wireless communication facilities, no eConditional uUse pPermit shallwill be granted unless the following additional criteria is found:</p> <p>a. The applicant shall demonstrate to the satisfaction of the City that the wireless communication facility cannot be located in an IP zone due to the coverage needs of the applicant.</p> <p>b. The proposed wireless communication facility is designed to accommodate co-location or it can be shown that the facility cannot feasibly accommodate co-location.</p> <p>c. The applicant shall demonstrate a justification for the proposed height of the tower or antenna and an evaluation of alternative designs which might result in lower heights.</p> <p>d. The proposed wireless communication facility is not located within one-thousand (1,000) feet of an existing wireless facility or that the proposed wireless communication facility cannot feasibly be located on an existing wireless communication facility.</p> <p>e. The proposed wireless communication facility is located a minimum of three-hundred (300) feet from residentially zoned properties.</p> <p>8.9. The following additional criteria apply to transportation facilities and improvements subject to Conditional uUse approval (in addition to criteria 1-7) per Chapter 16.66. These are improvements and facilities that are (1) not designated in the adopted City of Sherwood Transportation System Plan (TSP), and are (2) not designed and constructed as part of an approved land use application subdivision or partition subject to site plan review.</p> <p>a. The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.</p> <p>b. The project includes provisions for bicycle and pedestrian access and circulation consistent with the Comprehensive Plan, the requirements of this Code, and the TSP.</p> <p>c. Proposal inconsistent with TSP: If the City determines that the proposed use or activity or its design is inconsistent with the TSP, then the applicant shall is required to apply for and obtain a plan and/or zoning amendment prior to or in conjunction with eConditional uUse pPermit approval.</p> <p>d. State transportation system facility or improvement projects: The Oregon Department of Transportation (ODOT) shall must provide a narrative statement with the application demonstrating compliance with all of the criteria and standards in Sections 16.82.020.C.1-67 and 9.a.-8.9.d. Where applicable, an Environmental Impact Statement or Environmental Assessment may be used to address one or more of these criteria.</p>
33	16.84.030.A.1.d	406	A 5% reduction in other Code standards or dimensions not otherwise specifically identified in this section and not applicable at the time of the subdivision or partition approval.	Clarifies code language to cover proposed increases and decreases to Code standards.	A 5% reduction-increase or decrease in other Code standards or dimensions not otherwise specifically identified in this section and not applicable at the time of the subdivision or partition approval.
34	16.84.030.B.1.e	406	A 20% or less reduction in other Code standards or dimensions not otherwise specifically identified in this section.	Clarifies code language to cover proposed increases and decreases to Code standards.	A 20% or less reduction-increase or decrease in other Code standards or dimensions not otherwise specifically identified in this section.

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
35	16.90.010	408.12	<p>16.90.010 - Purpose</p> <p>A. Generally This Division is intended to establish a process and define a set of development standards to guide physical development in the City consistent with the Community Development Plan and this Code.</p> <p>B. Objectives Site planning review is intended to:</p> <ol style="list-style-type: none"> 1. Encourage development that is compatible with the existing natural and manmade environment, existing community activity patterns, and community identity. 2. Minimize or eliminate adverse visual, aesthetic or environmental effects caused by the design and location of new development, including but not limited to effects from: <ol style="list-style-type: none"> a. The scale, mass, height, areas, appearance and architectural design of buildings and other development structures and features. b. Vehicular and pedestrian ways and parking areas. c. Existing or proposed alteration of natural topographic features, vegetation and water-ways. 	Eliminates 16.90.010.A as it appears to be the purpose of the Community Design Division (Division V), rather than the Site Planning Chapter (16.90).	<p>16.90.010 - Purpose</p> <p>A. Generally This Division is intended to establish a process and define a set of development standards to guide physical development in the City consistent with the Community Development Plan and this Code.</p> <p>B. Objectives Site planning review is intended to:</p> <p><u>A</u>4. Encourage development that is compatible with the existing natural and manmade environment, existing community activity patterns, and community identity.</p> <p><u>B</u>2. Minimize or eliminate adverse visual, aesthetic or environmental effects caused by the design and location of new development, including but not limited to effects from:</p> <ol style="list-style-type: none"> <u>1</u>a. The scale, mass, height, areas, appearance and architectural design of buildings and other development structures and features. <u>2</u>b. Vehicular and pedestrian ways and parking areas. <u>3</u>c. Existing or proposed alteration of natural topographic features, vegetation and water-ways.
36	16.90.020.A	408.12	<p>Site Plan Review Required Site Plan review shall be required prior to any substantial change to a site or use, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use, and prior to the issuance of a sign permit for the erection or construction of a sign</p>	<ol style="list-style-type: none"> 1. Eliminates the use of "shall" per advice of legal counsel. 2. Eliminates requirements for Site Plan review for a sign. 3. Corrects a scrivener's error; a missing punctuation at the end of the sentence. 	<p>Site Plan Review Required Site Plan review shall be required prior to any substantial change to a site or use, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use, and prior to the issuance of a sign permit for the erection or construction of a sign</p>
37	16.90.020 – 16.90.030	408.12 – 412	Sections 16.90.020 (Site Plan Review) and 16.90.030 (Site Plan Modifications and Revocation) (see attached)	<ol style="list-style-type: none"> 1. Eliminates the use of "shall" per advice of legal counsel. 2. Corrects scrivener's errors: removes the extra comma at the end of item 16.90.020.B.2; corrects the plural/singular tense in 16.90.020.D.7.a.(5). 3. Corrects an error made when the publisher inserted Section 16.90.030, Site Plan Modifications and Revocation within Section 16.90.020 between 16.90.020.B and 16.90.020.C. 4. Removes reference to the Highway 99W Capacity Allocation Program as this program has been eliminated (Section 16.90.030.D.5) and renumbers the remaining items. 5. Corrects references to code sections. 6. Creates an actual matrix for the Commercial Design Review Matrix criteria in 16.90.030.D.7.d. 7. Revises the text of 16.90.030.A.1.b.(2) to clarify that adding a conditional use to approved Type II project is reviewed using a Type III procedure as the intent of this item is not to change an original Type IV procedure to a Type III by adding a conditional use. 	<p>See Attachment B: Sections 16.90.020 and 16.90.030 Legislative Edits. Note: No substantive changes are proposed: corrects errors; removes reference to the Highway 99W Capacity Allowance Program because it has been eliminated; clarifies code language and reformats the Commercial Design Review Matrix requirements into a matrix.</p>
38	16.92.020.A.3.b	413	Existing trees may be used to meet the standards of this chapter, as described in C.2. below.	Revises reference to be consistent with similar references in the code.	Existing trees may be used to meet the standards of this chapter, as described in <u>Section 16.92.020.C.2. below.</u>

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
39	16.94.020.A	421-423	Single, two-family and manufactured home on a lot ³ ; Minimum Parking Standard = 1 per dwelling unit ³ If the street on which the house has direct access is less than twenty-eight (28) feet wide, two (2) off-street parking spaces are required per single-family residential dwelling unit. (includes single-family detached or attached, two-family dwellings or a manufactured home on an individual lot)	Clarifies intent of footnote 3 by adding a requirement for two (2) off-street parking spaces for single, two-family and manufactured home on a lot if the street on which the house has direct access does not permit on-street parking.	Single, two-family and manufactured home on a lot ³ ; Minimum Parking Standard = 1 per dwelling unit ³ If the street on which the house has direct access <u>does not permit on-street parking or</u> is less than twenty-eight (28) feet wide, two (2) off-street parking spaces are required per single-family residential dwelling unit. (includes single-family detached or attached, two-family dwellings or a manufactured home on an individual lot)
40	16.102.040.B.2	445	Each portable sign shall be a maximum of six (6) square feet per sign face. A business that wishes to place a portable sign on the sidewalk in front of someone else's property must receive written permission from the property owner of the property where the sign is placed. Signs shall be sited per Section 16.102.040.	1. Eliminates the use of "shall" per advice of legal counsel. 2. Amends the section to be consistent with the most recent code amendments that allows portable signs within Old Town could be a maximum of (7) square feet as it pertains to an A-frame sign.	Each portable sign shall <u>can</u> be a maximum of six (6) <u>seven (7)</u> square feet per sign face. A business that wishes to place a portable sign on the sidewalk in front of someone else's property must receive written permission from the property owner of the property where the sign is placed. Signs shall <u>must</u> be sited per Section 16.102.040.
41	16.106.040.C	457	Future Extension Where necessary to access or permit future subdivision or development of adjoining land, streets shall extend to the boundary of the proposed development and provide the required roadway width. Dead-end streets less than 100' in length shall comply with the Engineering Design Manual. A durable sign shall be installed at the applicant's expense. The sign shall notify the public of the intent to construct future streets. The sign shall read as follows: "This road will be extended with future development. For more information contact the City of Sherwood at 503-625-4202."	1. Eliminates the use of "shall" per advice of legal counsel. 2. Updates code to direct concerned citizens to contact the City of Sherwood Engineering Department as opposed to a general phone number.	Future Extension Where necessary to access or permit future subdivision or development of adjoining land, streets shall <u>must</u> extend to the boundary of the proposed development and provide the required roadway width. Dead-end streets less than 100' in length shall <u>must</u> comply with the Engineering Design Manual. A durable sign shall <u>must</u> be installed at the applicant's expense. The sign shall <u>is required to</u> notify the public of the intent to construct future streets. The sign shall <u>must</u> read as follows: "This road will be extended with future development. For more information contact the City of Sherwood at 503-625-4202 <u>Engineering Department.</u> "
42	16.106.040.H	460	Buffering of Major Streets Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties shall be provided and through and local traffic shall be separated and traffic conflicts minimized. In addition, visual corridors pursuant to Section 16.142.030, and all applicable access provisions of Chapter 16.96, shall be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.	1. Eliminates the use of "shall" per advice of legal counsel. 2. Clarifies code language by adding commas. 3. Corrects the reference from 16.142.030 to 16.142.040.	Buffering of Major Streets Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties shall <u>must</u> be provided, and through and local traffic shall be separated, and traffic conflicts minimized. In addition, visual corridors pursuant to Section 16.142.040 030 , and all applicable access provisions of Chapter 16.96, shall <u>are to</u> be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.
43	16.120.040.I	470.12	A minimum of five percent (5%) open space has been provided per § 16.44.B.8 (Townhome-Standards) or §16.142.020 (Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable	1. Replaces the symbol "\$" with the word "Section". 2. Corrects the reference from Section 16.142.020 to 16.142.030.	A minimum of five percent (5%) open space has been provided per § <u>Section</u> 16.44.B.8 (Townhome-Standards) or § <u>Section</u> 16.142.030 020 (Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable
44	16.120.060.B	470.14	Performance Security The subdivider shall provide monetary assurance of full and faithful performance in the form of a bond, cash, or other security acceptable to the City in an amount equal to one hundred percent (100%) of the estimated cost of the improvements.	1. Eliminates the use of "shall" per advice of legal counsel. 2. Updates code to more accurately reflect the cost of realizing and administering financial securities. It should be noted that the City does not typically have to pull a bond or other type of financial security on construction projects, but it does happen.	Performance Security The subdivider shall <u>is required to</u> provide monetary assurance of full and faithful performance in the form of a bond, cash, or other security acceptable to the City in an amount equal to one hundred twenty-five percent (125 <u>100</u> %) of the estimated cost of the improvements.
45	16.134.040.A	470.25	Provided land is not required to be dedicated as per this Section, Greenways, a conditional use permit (CUP) shall be approved before any use, construction, fill, or alteration of a floodplain, floodway, or watercourse, or any other development begins within any FP zone, except as provided in this Section, Permitted Uses.	1. Revises reference to be consistent with similar references in the code. 2. Corrects a scrivener's error: "conditional use permit" should be capitalized. 3. Eliminates the use of "shall" per advice of legal counsel.	Provided land is not required to be dedicated as per this Section 16.134.030, Greenways, a e <u>Conditional u</u> se pPermit (CUP) shall be approved <u>is required</u> before any use, construction, fill, or alteration of a floodplain, floodway, or watercourse, or any other development begins within any FP zone, except as provided in this Section 16.134.050, Permitted Uses.
46	16.134.050	470.26	In the FP zone the following uses are permitted outright, and do not require a CUP, provided that floodway flow, or floodplain capacity, will not be impeded, as determined by the City, and when greenway dedication is not required as per this Section, Greenways:	Revises reference to be consistent with similar references in the code.	In the FP zone the following uses are permitted outright, and do not require a CUP, provided that floodway flow, or floodplain capacity, will not be impeded, as determined by the City, and when greenway dedication is not required as per this Section 16.134.030, Greenways:

#	Code Section	Page	Existing Code Language	Issue/Rational	Recommended Amendment
47	16.134.050.C	470.26	Public streets and appurtenant structures, and above and underground utilities, subject to the provisions of this Section, Floodplain Development and Floodplain Structures.	Revises reference to be consistent with similar references in the code.	Public streets and appurtenant structures, and above and underground utilities, subject to the provisions of this Sections <u>16.134.080 and 16.134.090</u> , Floodplain Development and Floodplain Structures .
48	16.134.070.F	470.26	Any use, activity, or encroachment located in the floodway, including fill, new construction, improvements to existing developments, or other development, except as otherwise allowed by this Section, Permitted Uses, and unless certification by a Registered Engineer or Architect is provided demonstrating that the use, activity, or encroachment shall not result in any increase to flood levels during the occurrence of the base flood discharge.	1. Revises reference to be consistent with similar references in the code. 2. Eliminates the use of "shall" per advice of legal counsel.	Any use, activity, or encroachment located in the floodway, including fill, new construction, improvements to existing developments, or other development, except as otherwise allowed by this Section <u>16.134.050</u> , Permitted Uses , and unless certification by a Registered Engineer or Architect is provided demonstrating that the use, activity, or encroachment shall <u>will</u> not result in any increase to flood levels during the occurrence of the base flood discharge.
49	16.134.080.A.5	470.28	Subdivisions and Partitions All proposed subdivisions or partitions including land within an FP zone shall establish the boundaries of the base flood by survey and shall dedicate said land as per this Section, Greenways. The balance of the land and development shall:	1. Eliminates the use of "shall" per advice of legal counsel. 2. Revises reference to be consistent with similar references in the code.	Subdivisions and Partitions All proposed subdivisions or partitions including land within an FP zone shall <u>must</u> establish the boundaries of the base flood by survey and shall -dedicate said land as per this Section <u>16.134.050</u> , Greenways . The balance of the land and development shall <u>must</u> :
50	16.134.090.A.2	470.28	The lowest floor elevation of a structure designed for human occupancy shall be at least one and one-half (1½) feet above the base flood elevation and the building site shall comply with the provisions of subsection A of Floodplain Development.	1. Eliminates the use of "shall" per advice of legal counsel. 2. Revises reference to be consistent with similar references in the code.	The lowest floor elevation of a structure designed for human occupancy shall <u>must</u> be at least one and one-half (1½) feet above the base flood elevation and the building site shall <u>must</u> comply with the provisions of <u>Section 16.134.080.A</u> subsection A of Floodplain Development .
51	16.134.090.D.1.d	470.29	Nonresidential structures that are elevated and not flood proofed, must meet the same standards for space below the lowest floor as per subsection C2 of Floodplain Structures.	1. Corrects a scrivener's error: deletes the comma after "proofed". 2. Revises reference to be consistent with similar references in the code.	Nonresidential structures that are elevated and not flood proofed, must meet the same standards for space below the lowest floor as per s <u>Subsection 16.134.090.C.2</u> of Floodplain Structures .
52	16.134.100.A	470.29	Dimensional standards or developments in the FP zone shall be the same as in the underlying zoning district, except as provided in this Section, Additional Requirements.	1. Eliminates the use of "shall" per advice of legal counsel. 2. Revises reference to be consistent with similar references in the code.	Dimensional standards or developments in the FP zone shall be <u>are</u> the same as in the underlying zoning district, except as provided in this Section <u>16.134.100</u> , Additional Requirements .

Attachment A: Residential Land Use Development Standards Legislative Edits

Section 16.12.030

C. Development Standards per Residential Zone

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
Minimum Lot areas:(in square ft.)						
• Single-Family Detached	40,000	10,000	7,000	5,000	5,000	5,000
• Single Family Attached	40,000	10,000	7,000	5,000	4,000	4,000
• Two or Multi-Family: for the first 2 units	X	X	X	10,000	8,000	8,000
• Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line ¹⁶ : (in feet)						
• Single-Family	None	None	60	50	50	50
• Two-Family	X	X	X	60	60	60
• Multi-family	X	X	X	X	60	60
Lot Depth	None	None	80	80	80	80
Maximum Height ²⁷ (in feet)	30 or 2 stories	30 or 2 stories	30 or 2 stories	30 or 2 stories	35 or 2.5 stories	40 or 3 stories
• Amateur Radio Tower	70	70	70	70	70	70
• Chimneys, Solar or Wind Devices, Radio and TV aerials ³⁸	50	50	50	50	55	60
Setbacks (in feet)						
• Front yard ⁴⁹	20	20	20	14	14	14
• Face of garage	20	20	20	20	20	20
• Interior side yard						
• Single-Family Detached	5	5	5	5	5	5
• Single-Family Attached	20	20	20	10	5	5
• Two Family	X	X	X	5	5	5
• Multi-Family						
• 18 ft. or less in height	X	X	X	X	5	5
• Between 18-24 ft. in height	X	X	X	X	7	7
• If over 24 ft. in height	X	X	X	X	§ 16.68 Infill	§ 16.68 Infill
• Corner lot street side						
• Single Family or Two Family	20	20	20	15	15	15
• Multi-Family	X	X	X	X	20	30
• Rear yard	20	20	20	20	20	20

¹⁶ Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard.

²⁷ Maximum height is the lesser of feet or stories.

³⁸ Some accessory structures, such as chimneys, stacks, water towers, radio or television antennas, etc. may exceed these height limits with a conditional use permit, per Chapter 16.62 (Chimneys, Spires, Antennas and Similar Structures).

⁴⁹ Reductions in front yard setbacks for architectural features as described in 16.50.050 are not permitted in the MDRL, MDRH, or HDR zoning districts.

Attachment B: Sections 16.90.020 and 16.90.030 Legislative Edits

16.90.020 - Site Plan Review

A. Site Plan Review Required

Site Plan review ~~shall be~~ required prior to any substantial change to a site or use that does not meet the criteria of a minor or major modification, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use, ~~and prior to the issuance of a sign permit for the erection or construction of a sign~~

For the purposes of Section 16.90.020, the terms "substantial change" and "substantial alteration" ~~shall~~ mean any development activity as defined by this Code that generally requires a building permit and may exhibit one or more of the following characteristics:

1. The activity alters the exterior appearance of a structure, building or property and is not considered a modification.
2. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial and is not considered a modification.
3. The activity involves non-conforming uses as defined in Chapter 16.48
4. The activity constitutes a change in a City approved plan, per Section 16.90.020 and is not considered a modification.
5. The activity is subject to site plan review by other requirements of this Code.
6. The activity increases the size of the building by more than 100% (i.e. the building more than doubles in size), regardless of whether it would be considered a major or minor modification.

B. Exemption to Site Plan Requirement

1. Single and two family uses
2. Manufactured homes located on individual residential lots per Section 16.46.010, but including manufactured home parks,
- ~~3. Major modifications~~
- ~~4. Minor modifications~~

(Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-011, § 1, 10-4-2011)

~~Editor's note— Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by, in effect, repealing former § 16.90.020, and adding new §§ 16.90.020 and 16.90.030. Former § 16.90.020 pertained to site plan review, and derived from Ord. 86-851; Ord. 91-922; Ord. 98-1053; Ord. 2003-1148; Ord. 2005-009; Ord. 2006-021; Ord. No. 2009-005, adopted June 2, 2009; Ord. No. 2010-05, adopted April 6, 2010; Ord. No. 2010-06, adopted April 6, 2010; and Ord. No. 2010-045, adopted October 5, 2010.~~

16.90.030 - Site Plan Modifications and Revocation

A. Modifications to Approved Site Plans

1. Major Modifications to Approved Site Plans

~~a. Defined. The review authority shall determine that a major modification(s) review is required if one or more of the changes listed below are proposed:~~

- ~~(1) A change in land use (i.e. residential to commercial, commercial to industrial, etc.);~~
- ~~(2) An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;~~
- ~~(3) A change in setbacks or lot coverage by more than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;~~
- ~~(4) A change in the type and/or location of access ways, drives or parking areas negatively affecting off-site traffic or increasing Average Daily Trips (ADT) by more than 100;~~
- ~~(5) An increase in the floor area or height proposed for non-residential use by more than 10 percent;~~
- ~~(6) A reduction of more than 10 percent of the area reserved for common open space; or~~
- ~~(7) Change to a condition of approval that was specifically applied to this approval (i.e. not a "standard condition"), or a change similar to items (1)-(2) as determined by the Review Authority.~~

~~b. Approval Criteria. An applicant may request a major modification as follows:~~

- ~~(1) Upon the review authority determining that the proposed modification is a major modification, the applicant shall submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The review authority may require other relevant information, as necessary, to evaluate the request.~~
- ~~(2) The application shall be subject to the same review procedure (Type II, III or IV), decision making body, and approval criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III procedure.~~
- ~~(3) The scope of review shall be limited to the modification request and does not open the entire site up for additional review unless impacted by the proposed modification. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping.~~

~~(4) Notice shall be provided in accordance with Chapter 16.72.020~~

~~(5) The decision maker shall approve, deny, or approve with conditions an application for major modification based on written findings of the criteria.~~

~~2. Minor Modifications to Approved Site Plans~~

~~a. A Minor Modification is any modification to a land use decision or approved development plan that is not within the description of a major modification as provided, above.~~

~~b. Minor Modification Review Procedure. An application for approval of a minor modification shall be reviewed by the review authority using a Type I review procedure under Section 16.72.010.A. Minor modifications shall involve only clear and objective code standards.~~

~~c. Minor Modification Applications. An application for minor modification shall include an application form, filing fee and narrative, updated Clean Water Services (CWS) Service Provider Letter or equivalent acknowledgement from CWS, and a site plan using the same plan format as in the original approval if possible. The review authority may require other relevant information, as necessary, to evaluate the request.~~

~~d. Minor Modification Approval Criteria. The review authority shall approve, deny, or approve with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code and conditions of approval on the original decision, and the modification is not a major modification as above.~~

~~B. Revocation~~

~~Any departure from approved plans shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of site plan approval are not or cannot be satisfied, the site plan approval, or building and occupancy permits, shall be revoked.~~

C. Reserved

D. Required Findings

No site plan approval ~~shall~~will be granted unless each of the following is found:

1. The proposed development meets applicable zoning district standards and design standards in Division II, and all provisions of Divisions V, VI, VIII and IX.
2. The proposed development can be adequately served by services conforming to the Community Development Plan, including but not limited to water, sanitary facilities, storm water, solid waste, parks and open space, public safety, electric power, and communications.
3. Covenants, agreements, and other specific documents are adequate, in the City's determination, to assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and other on-site features.
4. The proposed development preserves significant natural features to the maximum extent feasible, including but not limited to natural drainage ways, wetlands, trees, vegetation (including but not limited to environmentally sensitive lands), scenic views, and topographical features, and conforms to the applicable provisions of Division VIII of this Code and Chapter 5 of the Community Development Code.
- ~~5. For a proposed site plan in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 16.108.070 Highway 99W Capacity Allocation Program, unless excluded herein.~~
- ~~5~~6. For developments that are likely to generate more than 400 average daily trips (ADTs), or at the discretion of the City Engineer, the applicant ~~shall~~must provide adequate information, such as a traffic impact analysis or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer ~~shall be~~is required to mitigate for impacts attributable to the project. The determination of impact or effect and the scope of the impact study ~~shall~~must be coordinated with the provider of the affected transportation facility.
- ~~6~~7. The proposed commercial, multi-family, institutional or mixed-use development is oriented to the pedestrian and bicycle, and to existing and planned transit facilities. Urban design standards ~~shall~~ include the following:
 - a. Primary, front entrances ~~shall be~~are located and oriented to the street, and have significant articulation and treatment, via facades, porticos, arcades, porches, portal, forecourt, or stoop to identify the entrance for pedestrians. Additional entrance/exit points for buildings, such as a postern, are allowed from secondary streets or parking areas.
 - b. Buildings ~~shall be~~are located adjacent to and flush to the street, subject to landscape corridor and setback standards of the underlying zone.
 - c. The architecture of buildings ~~shall be~~are oriented to the pedestrian and designed for the long term and be adaptable to other uses. Aluminum, vinyl, and T-111 siding ~~shall be~~are prohibited. Street facing elevations ~~shall~~ have windows, transparent fenestration, and divisions to break up the mass of any window. Roll up and sliding doors are acceptable. Awnings that provide a minimum 3 feet of shelter from rain ~~shall be~~are required to be installed unless other architectural elements are provided for similar protection, such as an arcade.
 - d. As an alternative to the ~~above~~ standards in Section 16.90.020.D.6.7a—7c, the following Commercial Design Review Matrix may be applied to any commercial, multi-family, institutional or mixed use

development (this matrix may not be utilized for developments within the Old Town Overlay). A development must propose a minimum of 60 percent of the total possible points to be eligible for exemption from the standards in Section 16.90.020.D.6.7a—7c above. In addition, a development proposing between 15,001 and 40,000 square feet of floor area, parking or seating capacity and proposing a minimum of 80 percent of the total possible points from the matrix below may be reviewed as a Type II administrative review, per the standards of Section 16.72.010.A.2.

COMMERCIAL DESIGN REVIEW MATRIX

Design Criteria	Possible Points				
	0	1	2	3	4
Building Design (21 Total Points Possible; Minimum 12 Points Required)					
These standards may be applied to individual buildings or developments with multiple buildings.					
Materials¹	Concrete, artificial materials (artificial or "spray" stucco, etc.)	Cultured stone, brick, stone, decorative patterned masonry, wood	A mixture of at least two (2) materials (i.e. to break up vertical façade)	A mixture of at least three (3) materials (i.e. to break up vertical façade)	A mixture of at least three (3) of the following materials: brick, stone, cultured stone, decorative patterned masonry, wood
Roof Form²	Flat (no cornice) or single-pitch (no variation)	Distinctive from existing adjacent structures (not applicable to expansion of same building) or either variation in pitch or flat roof with cornice treatment	Distinctive from existing adjacent structures (not applicable to expansion of same building) and either variation in pitch or flat roof with cornice treatment	--	--
Glazing³	0-20% glazing on street-facing side(s)	>20% glazing on at least one street-facing side (inactive, display or façade windows)	>20% glazing on all street-facing sides (inactive, display or façade windows)	>20% glazing on at least one street-facing side (active glazing - actual windows)	>20% glazing on all street-facing sides (active glazing - actual windows)
Fenestration on street-facing elevation(s)	One distinct "bay" with no vertical building elements	Multiple "bays" with one or more "bay" exceeding 30 feet in width	Vertical building elements with no "bay" exceeding 30 feet in width	Vertical building elements with no "bay" exceeding 20 feet in width	--
Entrance Articulation	No weather protection provided	Weather protection provided via awning, porch, etc.	--	Weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance but not covered	Weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance and covered
Structure Size⁴ to discourage "big box" style development	Greater than 80,000 square feet	60,000 - 79,999 square feet	40,000 - 59,999 square feet	20,000 - 39,999 square feet	Less than 20,000 square feet

¹ No aluminum or T-111 siding permitted.

² Pictures and/or artistic renderings must be submitted for review by the Planning Commission if metal roofs are proposed.

³ Two (2) points if there is only one street-facing side and it is >20% glazing with inactive windows.

⁴ If multiple buildings are proposed, average the building sizes in the development.

<u>Design Criteria</u>	<u>Possible Points</u>				
	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Building Location and Orientation (6 Total Points Possible; Minimum 3 Points Required)					
<u>Location</u> ⁵	Building(s) not flush to any right-of-way (including required PUE adjacent to ROW, setbacks or visual corridor) (i.e. parking or drive aisle intervening)	Building(s) located flush to right-of-way on at least one side (with the exception of required setbacks, easements or visual corridors)	Buildings flush to all possible right-of-way (with the exception of required setbacks, easements or visual corridors) (i.e. "built to the corner")	==	==
<u>Orientation</u>	Single-building site primary entrance oriented to parking lot	==	Single-building site primary entrance oriented to the pedestrian (i.e. entrance is adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk and does not cross a parking area)	==	==
	Multiple building site primary entrance to anchor tenant or primary entrance to development oriented to parking lot	==	Multiple building site primary entrance to anchor tenant or primary entrance to development oriented to the pedestrian	==	==
<u>Secondary Public Entrance</u> ⁶			Secondary public pedestrian entrance provided adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk		
Parking and Loading Areas (13 Total Points Possible; Minimum 7 Points Required)					
<u>Location of Parking</u>	Greater than 50 percent of required parking is located between any building and a public street	25-50 percent of required parking is located between any building and a public street	Less than 25 percent of required parking is located between any building and a public street	No parking is located between any building and a public street	==
<u>Loading Areas</u>	Visible from public street and not screened	Visible from public street and screened	Not visible from public street	==	==
<u>Vegetation</u>	At least one "landscaped" island every 13-15 parking spaces in a row	At least one "landscaped" island every 10-12 parking spaces in a row	At least one "landscaped" island every 8-9 parking spaces in a row	At least one "landscaped" island every 6-7 parking spaces in a row	==
<u>Number of Parking Spaces</u> ⁷	>120%	101-120%	100%	<100% (i.e. joint use or multiple reduction) (1 bonus)	==
<u>Parking Surface</u>	Impervious	Some pervious paving (10-25%)	Partially pervious paving (26-50%)	Mostly pervious paving (>50%)	==

⁵ If multiple buildings are proposed in one development, one point is awarded if one or more buildings are located adjacent to one or more rights-of-way and two points are awarded if there is at least one building adjacent to each right-of-way.

⁶ If primary entrance is oriented to the pedestrian, the project is automatically given these points without need for a second entrance.

⁷ Percent of minimum required.

<u>Design Criteria</u>	<u>Possible Points</u>				
	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
<u>Landscaping (24 Total Point Possible; Minimum 14 Points Required)</u>					
<u>Tree Retention</u> ⁸	<u>Less than 50% of existing trees on-site retained</u>	<u>51-60% of existing trees on-site retained</u>	<u>61-70% of existing trees on-site retained</u>	<u>71-80% of existing trees on-site retained</u>	<u>81-100% of existing trees on-site retained</u>
<u>Mitigation Trees</u> ⁹	<u>Trees mitigated off-site or fee-in-lieu</u>	<u>25-50% of trees mitigated on-site</u>	<u>51-75% of trees mitigated on-site</u>	<u>76-100% of trees mitigated on-site</u>	--
<u>Landscaping Trees</u> ¹⁰	<u>Less than one tree for every 500 square feet of landscaping</u>	<u>1 tree for every 500 square feet of landscaping</u>	<u>2 trees for every 500 square feet of landscaping</u>	<u>3 trees for every 500 square feet of landscaping</u>	<u>4 trees for every 500 square feet of landscaping</u>
<u>Landscaped Areas</u>	<u>Greater than 35% of landscaped areas are less than 100 square feet in size</u>	<u>Less than 25% of landscaped areas are less than 100 square feet in size</u>	<u>No landscaped areas are less than 100 square feet in size</u>	--	--
<u>Landscaping Trees greater than 3-inch Caliper</u>	<25%	25-50%	>50%	--	--
<u>Amount of Grass</u> ^{11,12}	<u>>75% of landscaped areas</u>	<u>50-75% of landscaped areas</u>	<u>25-49% of landscaped areas</u>	<u><25% of landscaped areas</u>	--
<u>Total Amount of Site Landscaping</u> ¹³	<u><10% of gross site</u>	<u>10-15% of gross site</u>	<u>16-20% of gross site</u>	<u>21-25% of gross site</u>	<u>>25% of gross site</u>
<u>Automatic Irrigation</u>	<u>No</u>	<u>Partial</u>	<u>Yes</u>	--	--
<u>Miscellaneous (10 Total Points Possible; Minimum 5 Points Required)</u>					
<u>Equipment Screening (roof)</u>	<u>Equipment not screened</u>	<u>Equipment partially screened</u>	<u>Equipment fully screened</u>	<u>Equipment fully screened by materials matching building architecture/finish</u>	--
<u>Fences and Walls</u> ¹⁴	<u>Standard fencing and wall materials (i.e. wood fences, CMU walls, etc.)</u>	--	<u>Fencing and wall materials match building materials</u>	--	--
<u>On-Site Pedestrian Amenities Not Adjacent to Building Entrances</u>	<u>No</u>	<u>Yes; 1 per building</u>	<u>Yes; more than 1 per building</u>	--	--
<u>Open Space Provided for Public Use</u>	<u>No</u>	<u>Yes; <500 square feet</u>	<u>Yes; 500-1,000 square feet</u>	<u>Yes; >1,000 square feet</u>	--
<u>Green Building Certification</u>				<u>LEED, Earth Advantage, etc. (Bonus)</u>	

~~(1) Building Design (21 Total Points Possible, Minimum 12 Points Required). Note: These standards may be applied to individual buildings or developments with multiple buildings.~~

~~(a) Materials: Concrete, artificial materials (artificial or "spray" stucco, etc) = 0; cultured stone, brick, stone, decorative patterned masonry, wood = 1; a mixture of at least 2 materials (i.e. to break up vertical facade) = 2; a mixture of at least 3 materials (i.e. to break up vertical facade) = 3; a~~

⁸ Based on tree inventory submitted with development application).

⁹ When no mitigation is required, the project receives zero points.

¹⁰ In addition to mitigated trees on-site, does not include Water Quality Facility Plantings.

¹¹ Shrubs and drought resistant ground cover are better.

¹² Schools automatically receive the full 3 points and are not penalized for amount of grass.

¹³ Includes visual corridor.

¹⁴ Including retaining walls.

- mixture of at least 3 of the following materials: brick, stone, cultured stone, decorative-patterned masonry, wood = 4. Note: No aluminum or T-111 siding permitted.
- (b) ~~Roof Form: Flat (no cornice) or single-pitch (no variation) = 0; distinctive from existing adjacent structures (not applicable to expansion of same building) or either variation in pitch or flat roof with cornice treatment = 1; distinctive from existing adjacent structures (not applicable to expansion of same building) and either variation in pitch or flat roof with cornice treatment = 2. Note: Pictures and/or artistic renderings must be submitted for review by the planning commission if metal roofs are proposed.~~
 - (c) ~~Glazing: 0—20% glazing on street-facing side(s) = 0; >20% glazing on at least one street-facing side (inactive, display or facade windows) = 1; >20% glazing on all street-facing sides (inactive, display or facade windows) = 2 (2 points if there is only one street-facing side and it is >20% glazing with inactive windows); >20% glazing on at least one street-facing side (active glazing—actual windows) = 3; >20% glazing on all street-facing sides (active glazing—actual windows) = 4.~~
 - (d) ~~Fenestration (on street-facing elevation(s): One distinct "bay" with no vertical building elements = 0; multiple "bays" with one or more "bay" exceeding 30 feet in width = 1; vertical building elements with no "bay" exceeding 30 feet in width = 2; vertical building elements with no "bay" exceeding 20 feet in width = 3.~~
 - (e) ~~Entrance Articulation: No weather protection provided = 0; weather protection provided via awning, porch, etc. = 1; weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance but not covered = 3; weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance and covered = 4.~~
 - (f) ~~Structure Size: To discourage "big box" style development. Greater than 80,000 square feet = 0; 60,000—79,999 square feet = 1; 40,000 = 59,999 square feet = 2; 20,000—39,999 = 3; less than 20,000 square feet = 4. (Note: If multiple buildings are proposed, average the building sizes in the development)~~
- (2) ~~Building Location and Orientation (6 Total Points Possible, Minimum 3 Points Required).~~
- (a) ~~Location: Building(s) not flush to any right of way (including required PUE adjacent to ROW, setbacks or visual corridor) (i.e. parking or drive aisle intervening) = 0; building(s) located flush to right-of-way on at least one side (with the exception of required setbacks, easements or visual corridors) = 1; building(s) flush to all possible rights-of-way (with the exception of required setbacks, easements or visual corridors) (i.e. "built to the corner") = 2. Note: If multiple buildings are proposed in one development, one point is awarded if one or more buildings are located adjacent to one or more rights-of-way and two points are awarded if there is at least one building adjacent to each right of way.~~
 - (b) ~~Orientation: Single building site primary entrance oriented to parking lot = 0; single building site primary entrance oriented to the pedestrian (i.e. entrance is adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk and does not cross a parking area) = 2; multiple building site primary entrance to anchor tenant or primary entrance to development oriented to parking lot = 0; multiple building site primary entrance to anchor tenant or primary entrance to development oriented to the pedestrian = 2.~~
 - (c) ~~Secondary public entrance: Secondary public pedestrian entrance provided adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk = 2 (Note: if primary entrance is oriented to the pedestrian, the project is automatically given these points without need for a second entrance).~~
- (3) ~~Parking and Loading Areas (13 Total Points Possible, Minimum 7 Points Required).~~
- (a) ~~Location of Parking: Greater than 50 percent of required parking is located between any building and a public street = 0; 25 to 50 percent of required parking is located between any building and a public street = 1; less than 25 percent of required parking is located between any building and a public street = 2; no parking is located between any building and a public street = 3.~~
 - (b) ~~Loading Areas: Visible from public street and not screened = 0; visible from public street and screened = 1; not visible from public street = 2.~~
 - (c) ~~Vegetation: At least one "landscaped" island every 13—15 parking spaces in a row = 0; at least one landscaped "island" every 10—12 parking spaces in a row = 1; at least one landscaped "island" every 8—9 parking spaces in a row = 2; at least one landscaped island every 6—7 parking spaces in a row = 3.~~
 - (d) ~~Number of Parking Spaces (% of minimum required): >120% = 0; 101—120% = 1; 100% = 2; <100% (i.e. joint use or multiple use reduction) = 1 bonus point.~~
 - (e) ~~Parking surface: Impervious = 0; some pervious paving (10—25%) = 1; partially pervious (26—50%) = 2; mostly pervious (>50%) = 3.~~
- (4) ~~Landscaping (24 Total Points Possible, Minimum 14 Points Required).~~

- ~~(a) Tree Retention (based on tree inventory submitted with development application): Less than 50% of existing trees on-site retained = 0; 51—60% of existing trees on-site retained = 1; 61—70% of existing trees on-site retained = 2; 71—80% of existing trees on-site retained = 3; 81—100% of existing trees on-site retained = 4.~~
 - ~~(b) Mitigation trees: Trees mitigated off site or fee in lieu = 0; 25—50% of trees mitigated on-site = 1; 51—75% of trees mitigated on-site = 2; 76—100% of trees mitigated on-site = 3. Note: When no mitigation is required, the project receives zero points.~~
 - ~~(c) Landscaping trees (in addition to mitigated trees on-site, does not include Water Quality Facility Plantings): Less than one tree for every 500 square feet of landscaping = 0; 1 tree for every 500 square feet of landscaping = 1; 2 trees for every 500 square feet of landscaping = 2; 3 trees for every 500 square feet of landscaping = 3; 4 trees for every 500 square feet of landscaping = 4.~~
 - ~~(d) Landscaped areas: Greater than 25% of landscaped areas are less than 100 square feet in size = 0; less than 25% of landscaped areas are less than 100 square feet in size = 1; no landscaped areas are less than 100 square feet in size = 2.~~
 - ~~(e) Landscaping trees greater than 3" caliper: <25% = 0; 25—50% = 1; >50% = 2.~~
 - ~~(f) Amount of Grass (shrubs and drought resistant ground cover are better): >75% of landscaped areas = 0; 50—75% of landscaped areas = 1; 25—49% of landscaped areas = 2; <25% of landscaped areas = 3. Note: Schools automatically receive the full 3 points and are not penalized for amount of grass.~~
 - ~~(g) Total amount of site landscaping (including visual corridor): <10% of gross site = 0; 10—15% of gross site = 1; 16—20% of gross site = 2; 21—25% of gross site = 3; >25% of gross site = 4.~~
 - ~~(h) Automatic Irrigation: No = 0; partial = 1; yes = 2.~~
 - ~~(5) Miscellaneous (10 Total Points Possible, Minimum 5 Points Required):~~
 - ~~(a) Equipment Screening (roof): Equipment not screened = 0; equipment partially screened = 1; equipment fully screened = 2; equipment fully screened by materials matching building architecture/finishing = 3.~~
 - ~~(b) Fences and Walls (including retaining walls): Standard fencing and wall materials (i.e. wood fences, CMU walls, etc) = 0; fencing and wall materials match building materials = 2.~~
 - ~~(c) On-site pedestrian amenities not adjacent to building entrances (benches, tables, plazas, water fountains, etc): No = 0; yes (1 per building) = 1; yes (more than 1 per building) = 2.~~
 - ~~(d) Open Space provided for Public Use: No = 0; yes (<500 square feet) = 1; yes (500—1,000 square feet) = 2; yes (>1,000 square feet) = 3.~~
 - ~~(e) Green building certification (LEED, Earth Advantage, etc.) = 3 bonus points.~~
 - e. As an alternative to the ~~above~~ standards in Sections 16.90.020.D.6.7a—7c, the Old Town Design Standards (Chapter 16.162) may be applied to achieve this performance measure.
 - f. As an alternative to the ~~above~~ standards in Sections 16.90.020.D.6.7a.—7e, an applicant may opt to have a design review hearing before the Planning Commission to demonstrate how the proposed development meets or exceeds the objectives in Section 16.90.010.B of this Code. This design review hearing will be processed as a Type IV review with public notice and a public hearing.
- 7.8. Industrial developments provide employment opportunities for citizens of Sherwood and the region as a whole. The proposed industrial development is designed to enhance areas visible from arterial and collector streets by reducing the "bulk" appearance of large buildings. Industrial design standards ~~shall~~ include the following:
- a. Portions of the proposed industrial development within 200 feet of an arterial or collector street and visible to the arterial or collector (i.e. not behind another building) ~~must~~shall meet any four of the following six design criteria:
 - (1) A minimum 15% window glazing for all frontages facing an arterial or collector.
 - (2) A minimum of two (2) building materials used to break up vertical facade street facing frontages (no T-111 or aluminum siding).
 - (3) Maximum thirty-five (35) foot setback for all parts of the building from the property line separating the site from all arterial or collector streets (required visual corridor falls within this maximum setback area).
 - (4) Parking is located to the side or rear of the building when viewed from the arterial or collector.
 - (5) Loading areas are located to the side or rear of the building when viewed from the arterial or collector. If ~~the a~~ loading area ~~are is~~ visible from an arterial or collector, ~~they it~~ must be screened with vegetation or a screen made of materials matching the building materials.
 - (6) All roof-mounted equipment is screened with materials complimentary to the building design materials.
 - b. As an alternative to Section 16.90.020.D.7.8.a-~~above~~, an applicant may opt to have a design review hearing before the Planning Commission to demonstrate how the proposed development meets or exceeds the applicable industrial design objectives below (this design review hearing will be processed as a Type IV review):
 - (1) Provide high-value industrial projects that result in benefits to the community, consumers and developers.

- (2) Provide diversified and innovative working environments that take into consideration community needs and activity patterns.
- (3) Support the City's goals of economic development.
- (4) Complement and enhance projects previously developed under the industrial design standards identified in Section 16.90.020.D.74.H.
- (5) Enhance the appearance of industrial developments visible from arterials and collectors, particularly those considered "entrances" to Sherwood, including but not limited to: Highway 99W, Tualatin-Sherwood Road and Oregon Street.
- (6) Reduce the "bulk" appearance of large industrial buildings as viewed from the public street by applying exterior features such as architectural articulation, windows and landscaping.
- (7) Protect natural resources and encourage integration of natural resources into site design (including access to natural resources and open space amenities by the employees of the site and the community as a whole).

E. Approvals

The application ~~shall be~~ reviewed pursuant to Chapter 16.72 and action taken to approve, approve with conditions, or deny the application for site plan review. Conditions may be imposed by the Review Authority if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code. The action ~~must~~ include appropriate findings of fact as required by Section 16.90.020. The action may be appealed to the Council in accordance with Chapter 16.76.

F. Time Limits

Site plan approvals ~~shall be~~ void after two (2) years unless construction on the site has begun, as determined by the City. The City may extend site plan approvals for an additional period not to exceed one (1) year, upon written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.74.010. For site plan approvals granted on or after January 1, 2007 through December 31, 2009, the approval ~~shall be~~ extended until December 31, 2013.

(Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-011, § 1, 10-4-2011)

Editor's note— Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by, in effect, repealing former § 16.90.020, and adding new §§ 16.90.020 and 16.90.030. Former § 16.90.020 pertained to site plan review, and derived from Ord. 86-851; Ord. 91-922; Ord. 98-1053; Ord. 2003-1148; Ord. 2005-009; Ord. 2006-021; Ord. No. 2009-005, adopted June 2, 2009; Ord. No. 2010-05, adopted April 6, 2010; Ord. No. 2010-06, adopted April 6, 2010; and Ord. No. 2010-015, adopted October 5, 2010.

16.90.030 - Site Plan Modifications and Revocation

A. Modifications to Approved Site Plans

1. Major Modifications to Approved Site Plans

a. Defined. A major modification review is required if one or more of the changes listed below are proposed:

- (1) A change in land use (i.e. residential to commercial, commercial to industrial, etc.);
- (2) An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;
- (3) A change in setbacks or lot coverage by more than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
- (4) A change in the type and/or location of access-ways, drives or parking areas negatively affecting off-site traffic or increasing Average Daily Trips (ADT) by more than 100;
- (5) An increase in the floor area or height proposed for non-residential use by more than 10 percent;
- (6) A reduction of more than 10 percent of the area reserved for common open space; or
- (7) Change to a condition of approval that was specifically applied to this approval (i.e. not a "standard condition"), or a change similar to items identified in Section 16.90.030.A.1.a.(1)-(2) as determined by the Review Authority.

b. Approval Criteria. An applicant may request a major modification as follows:

- (1) Upon the review authority determining that the proposed modification is a major modification, the applicant must submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The review authority may require other relevant information, as necessary, to evaluate the request.
- (2) The application is subject to the same review procedure (Type II, III or IV), decision making body, and approval criteria used for the initial project approval, except that adding a Conditional Use to an approved Type II project is reviewed using a Type III procedure.
- (3) The scope of review is limited to the modification request and does not open the entire site up for additional review unless impacted by the proposed modification. For example, a request to modify a parking lot requires site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping.
- (4) Notice must be provided in accordance with Chapter 16.72.020
- (5) The decision maker approves, denies, or approves with conditions an application for major modification based on written findings of the criteria.

2. Minor Modifications to Approved Site Plans

- a. A Minor Modification is any modification to a land use decision or approved development plan that is not within the description of a major modification.
 - b. Minor Modification Review Procedure. An application for approval of a minor modification is reviewed by the review authority using a Type I review procedure under Section 16.72.010.A. Minor modifications involve only clear and objective code standards.
 - c. Minor Modification Applications. An application for minor modification must include an application form, filing fee and narrative, updated Clean Water Services (CWS) Service Provider Letter or equivalent acknowledgement from CWS, and a site plan using the same plan format as in the original approval if possible. The review authority may require other relevant information, as necessary, to evaluate the request.
 - d. Minor Modification Approval Criteria. The review authority approves, denies, or approves with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code and conditions of approval on the original decision, and the modification is not a major modification.
- B. Revocation
Any departure from an approved plan is cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of site plan approval are not or cannot be satisfied, the site plan approval, or building and occupancy permits, will be revoked.

EXHIBIT B

Connie Randall

From: Bob Galati
Sent: Tuesday, December 02, 2014 11:57 AM
To: Connie Randall; Bradley Kilby
Subject: Final Comment on Code Change Language

Brad & Connie,

I have reviewed the proposed code change with DKs and have concluded that the change will not present any impacts to the existing City transportation system or the way the City analyses future transportation impacts.

Robert J. Galati, PE

City Engineer

Ph: 503-925-2303

Email: galatib@sherwoodoregon.gov

Sherwood Planning Commission Meeting

Date: December 9, 2014

Meeting Packet

Approved Minutes Date Approved: January 13, 2015

Request to Speak Forms

Documents submitted at meeting:

Exhibit 1- Presentation
PA 14-02, 2014 Code Amendments

Exhibit 2- Memo, Connie Randall
December 9, 2014

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: 12-9-14 Agenda Item: 6 (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: Eugene Stewart
Address: PO Box 534
City/State/Zip: Sherwood, OR 97140

Email Address: _____

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

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

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

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

Date: 9 Dec Agenda Item: #13 (From Agenda)

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

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

Applicant: _____ Proponent: _____ Opponent: _____ Other:

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

Name: Tim Vordies
Address: Po Box 908
City/State/Zip: Sherwood OR 9
Email Address: Tim@steeltekindustries.com

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

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

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

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

Date: Dec 9 2014 Agenda Item: Community Connect (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: R. CLAUSS

Address: Sherwood

City/State/Zip: _____

Email Address: N/A

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

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

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

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

Date: 9 Dec Agenda Item: Concurrent Comments (From Agenda)

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

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

Applicant: _____ Proponent: _____ Opponent: _____ Other:

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

Name: TIM FOOEHIES
Address: PO BOX 908
City/State/Zip: SHERWOOD OR 97140
Email Address: TIM@STELTEKI.INDUSTRIES.COM

I represent: **Myself** Other _____

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

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

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

Date: 12-9-2014 Agenda Item: 5 (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: Eugene Stewart
Address: PO Box 534
City/State/Zip: Sherwood, OR 97140

Email Address: _____

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

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

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

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

Date: Dec 9th 2014 Agenda Item: 6. New Business (From Agenda)

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

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

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

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

Name: Clues R. J.

Address: Sherwood

City/State/Zip: _____

Email Address: NA

I represent: **Myself** A Other _____

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

PA 14-02

2014 CODE AMENDMENTS

PLANNING COMMISSION PUBLIC HEARING
DECEMBER 9, 2014

PA 14-02 Seeks To:

- ▶ Correct Errors
- ▶ Increase Consistency
- ▶ Consolidate Definitions
- ▶ Clarify Code Language
- ▶ Two Substantive Changes

12-9-14
Date

PC
Gov. Body

lea
Agenda Item

1
Exhibit #

Two Substantive Changes:

▶ Chapter 16.31 (Item 10)

Proposes to remove the Conditional Use Permit requirement for incidental retail sales in the Light Industrial (LI) and General Industrial (GI) zones.

▶ Chapter 16.120 (Item 45)

Proposes to increase the amount of monetary assurance of full and faithful performance of those seeking to subdivide land from 100% to 125% of the estimated cost of improvements.

Background

- ▶ April 8, 2014 - PC Public Work Session
- ▶ September 9, 2014 – PC Work Session
- ▶ October 28, 2014 – PC Work Session

Public/Agency Notice and Comments

▶ Public Notice

- Public Notices Posted in Five Locations and Online November 18, 2014
- Article in the November/December issue of the *Sherwood Archer*
- Public Notice Published in *The Times* on November 27, 2014 and December 4, 2014
- Public Notice Published in the December 2014 *Sherwood Gazette*

▶ Agency Notice

- DLCD Notice November 4, 2014
- Agency Notice November 17, 2014

Required Findings:

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.

16.80.030.C – Transportation Planning Rule Consistency

1. 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.

Item 10: Section 16.31.020 – Use Table

Uses	LI	GI	EI ¹
<ul style="list-style-type: none"> Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business.⁷ 	PC	PC	P

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

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

- ▶ Consistent with Metro Urban Growth Management Functional Plan, Section 3.07.430
- ▶ Consistent with Transportation Planning Rule

Item 44: Section 16.134.040.A

Performance Security

The subdivider ~~shall~~ is required to provide monetary assurance of full and faithful performance in the form of a bond, cash, or other security acceptable to the City in an amount equal to one hundred ~~twenty-five percent (125.00%)~~ of the estimated cost of the improvements.

- ▶ Proposal would help cover the associated administrative costs the City incurs.
- ▶ Provides consistency with Section 16.108.020.D.2 which requires performance bonds equal 125% of estimated costs.

Recommendation

Based on findings of fact in the staff report and presented in the Public Hearing, and the conclusion of law based on the applicable criteria, staff recommends the Planning Commission forward a recommendation of **APPROVAL** of **PA 14-02** to the City Council.



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: Connie Randall, Associate Planner
RE: PA 14-02 2014 Code Updates
Date: December 9, 2014

Mayor
Bill Middleton

Council President
Linda Henderson

Councilors
Dave Grant
Bill Butterfield
Matt Langer
Krisanna Clark
Dan King

City Manager
Joseph Gall, ICMA-CM

Assistant City Manager
Tom Pessemier, P.E.

During the October 28, 2014 Planning Commission Work Session, staff stated that the proposed code amendments would be moved forward as presented, incorporating the changes discussed in the meeting. No new items have been added. However, you will note that the numbering is slightly different.

First, Item 3 from the October 28th Work Session, the addition of a definition for "Diameter at Breast Height (DBH)" to Section 16.10.020 was eliminated. In preparing the Planning Commission Staff Report, staff discovered that the current code does include a definition for "Diameter at Breast Height (DBH)". Staff had been working with the previous version of the definition section, which did not have this definition, when the potential code amendments were first proposed. Upon discovering the error, the item was eliminated and the subsequent items were renumbered.

Staff consolidated a few other items that proposed changes to the same section of code:

- Items 33 and 34 from the October 28th Work Session proposed changes to Sections 16.82.020.C.7 and 16.82.020.C.9, respectively. These items were consolidated into one item, Item 32.
- Items 39, 40, and 41 from the October 28th Work Session proposed changes to Sections 16.90.020-16.90.030; 16.90.030.D.8(a)(5); and 16.90.030.D.8(b)(4), respectively. These three items were consolidated into one item, Item 37.



2009 Top Ten Selection



2007 18th Best Place to Live



12/9/14
Date

PC
Gov. Body

6a
Agenda Item

2
Exhibit #

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission
December 9, 2014

Planning Commission Members Present: Staff Present:

Chair Jean Simson

Commissioner John Clifford

Commissioner Russell Griffin

Commissioner Lisa Walker

Julia Hajduk, Community Development Director

Bob Galati, Civil Engineer

Brad Kilby, Planning Manager

Connie Randall, Associate Planner

Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Vice Chair James Copfer

Commissioner Beth Cooke

Commissioner Sally Robinson

Council Members Present:

None

Legal Counsel:

Chris Crean

1. Call to Order/Roll Call

Chair Jean Simson called the meeting to order at 7:04 pm.

2. Consent Agenda

Commissioner Lisa Walker asked about approving the minutes for commission members that were not present. With four commission members present there would not be a quorum to approve the Consent Agenda if any members abstained from voting. The following motion was received.

Motion: From Commissioner Russell Griffin to hold the Consent Agenda to the next meeting, Seconded by Commissioner John Clifford. All present Planning Commissioners voted in favor (Vice Chair Copfer and Commissioners Cooke and Robinson were absent).

3. Council Liaison Announcements

There were none

4. Staff Announcements

Brad Kilby, Planning Manager, spoke of the Boards and Commissions dinner held the previous week. He said the City was accepting applications for a Planning Commission vacancy coming in January with a deadline of December 19, 2014. Resolutions for appointment would go to the City council at the first of the year. (Note: the deadline for Planning Commission applications was extended to December 31, 2014.)

Brad commented that a resolution to form the Community Advisory Committee and the Technical Advisory Committee for the Sherwood West project would go before council on December 16, 2014 and

said there was a call for people interested in being on the Community Advisory Committee. For public outreach a letter was sent to property owners in the Sherwood West area (available online) and an article was placed in the December Gazette.

For more information see the city website at www.sherwoodoregon.gov/sherwoodwest.

Brad informed the Planning Commission of upcoming public hearings in January 2015 and said there would be no Planning Commission meeting on December 23, 2014.

Chair Simson asked if there was an update for traffic calming on Lynnly Way and the process for citizens to address traffic issues within the city. Julia Hajduk, Community Development Director, replied that the city receives complaints through the Community Development Department and the Police Department. She said the result might be increased enforcement, and in the case of Lynnly Way additional stop signs were placed. Julia advised that there was no funding for neighborhood traffic calming and she was hoping funding for a program could be allocated in the next budget cycle. She thanked citizens who continued to come to Planning Commission and City Council meetings to keep the issue “on the radar” until a long term solution is in place. Discussion followed.

5. Community Comments

Eugene Stewart, Sherwood business owner, commented about the traffic going through Sherwood which he said neither the transportation system plans for the city, county nor the state addressed. He said he traveled 99W a lot and he felt that a bypass needed to be on the front burner for the city. Mr. Stewart commented on development and traffic that slowed down the commute. He said that Sherwood West would add to traffic and pointed out the changes in traffic control devices over the years. Mr. Stewart added that TriMet busses did not have adequate space to stop out of traffic and commented on mass transit. He suggested that traffic increases should be monitored on a regular basis and said part of the traffic issues stem from people working outside of Sherwood. Mr. Stewart asked why the city could not assist businesses in coming to the city and used Two Kilts Brewery as an example.

Robert James Claus, Sherwood resident, commented on the upcoming changes in the City Council. He said he talked to the Secretary of State’s office and commented on the removal from the city charter regarding the ability for Council members to talk to a staff instead of going through the city manager. Mr. Claus commented on undue influence and alluded to a pattern of such. He commented on prosecutorial discretion, saying it was a felony.

Mr. Claus stated case law of Amber Realty vs. Euclid, spoke of zoning and takings which led into comments about overreaching police powers and Ferguson, Missouri. He commented on free speech in Sherwood and said it has been systematically shut down. Mr. Claus asserted that if zoning was given in one instance it should be granted in another. He suggested the Planning Commission had violated the 14th amendment and had a chance straighten it out.

Tim Voorhies, Sherwood property and business owner of Steeltek, said he wanted a two way conversation with staff and the Commission. He said he saw a public notice at the US Post Office for code changes for Industrial properties. He asked how long staff had been working on the code changes. Chair Simson responded that there was a work session on September 9, 2014. Mr. Voorhies commented

that there were around one hundred industrial properties in the city, his research indicated that only one other industrial property was aware of the code change and that it was common courtesy to send a notice to each of those properties. He said it was wrong that there was no public notification to the people being affected. Mr. Voorhies suggested that the room would be packed by the other industrial property owners if they knew what was going on. Chair Simson said Mr. Voorhies' comments belong on another agenda item and asked him to make his comments after the staff report.

Mr. Voorhies said he was talking about public notices and property owners deserve the courtesy of a notice by letter, not by posting it in different locations. He suggested that the change in City Council members would bring honor back to the city. Chair Simson directed staff to address Mr. Voorhies' comments regarding public notice in the staff report.

With no other community comments, Chair Simson turned to new business.

7. New Business

a. Public Hearing – PA 14-02 Sherwood Zoning and Community Development Code Update

Chair Simson read the public hearing statement and reminded that the Planning Commission would be forwarding a recommendation to City Council which would give another opportunity to provide testimony. PA 14-02 was a City initiated legislative amendment.

Connie Randall, Associate Planner, gave a presentation (see record, Exhibit 1) and said the amendment to the Sherwood Zoning and Community Development Code seeks to correct errors, increase consistency between sections of the code, consolidate definitions, and clarify code language. She said there were two substantive changes to the code.

Connie reviewed that the first substantive change was to Chapter 16.31 which proposed to remove the requirement to obtain a Conditional Use Permit for incidental retail sales in the Light and General Industrial zones. The effect would be to treat Light Industrial (LI) and General Industrial (GI) zoned properties the same as properties zoned Employment Industrial.

Connie described the second substantive change as a change to Chapter 16.120 which proposed to increase the amount of monetary assurance of full and faithful performance, to those seeking to develop land, from 100% to 125% of the estimated cost of improvements.

Note: These items are described in more depth later in the staff report.

Connie reminded that the Planning Commission had held three work sessions regarding the code amendments:

- April 8, 2014 – Potential code amendments were part of a number of topics open for comment from the public.
- September 9, 2014 – Staff organized comments heard from the April 8th work session and comments gathered by staff from applicants, phone inquiries, and staff review.
- October 28, 2014 – Amendments were clarified and prioritized. Language was reviewed again and staff received direction from the Planning Commission and comments from the City Attorney.

Connie recounted that public notices were posted in five locations and online November 18, 2014, an article was placed in the November/December issue of the Sherwood Archer, and a public notice was published in The Times on November 27, 2014 and December 4, 2014 and in the December 2014 edition of the Sherwood Gazette. She said this was a Type V application and all noticing requirements were met. Connie informed the Commission that a notice to the Department of Land Conservation and Development (DLCD) was sent on November 4, 2014 and Agency Notice to surrounding and affected agencies was sent on November 17, 2014.

Connie reported that staff had received comments from Oregon Department of Transportation (ODOT) and the DLCD asking if the Transportation Planning Rule (TPR) consistency would be addressed. No public comments were received.

Connie explained that two findings were required for text amendments:

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.

16.80.030.C – Transportation Planning Rule Consistency

1. 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.

Connie explained that the proposal sought to amend chapters of Volume 3 of the Zoning and Community Development Code of the Comprehensive Plan and did not include changes to the goals or policies. She said there were no additional standards other than ensuring that the language is consistent with the existing Comprehensive Plan and applicable rules.

Connie summarized that there was a table in the packet containing the proposed text amendments, as Exhibit A, containing 52 items or changes. Each table item listed the item and an explanation of what had been proposed and why. She reiterated that there were two substantive changes with the remainder being administrative updates intended to correct scriveners, formatting, and citation errors. Connie said the changes would consolidate definitions and provide clarity to the code. For example in a few instances the code refers to sections that do not exist or have been renumbered through previous amendments. Connie disclosed that in a prior edit the publisher inadvertently inserted section 16.90.30 between section 16.90.20.B and 16.90.20.C which had caused a lot of confusion.

Connie added that where possible the word “shall” was eliminated and code language was written in a more direct and active voice as suggested by the city attorney during the October 28, 2014 work session; an action supported by the Commission.

Connie said some changes had been made to the proposed amendments since the October 28, 2014 work session and referred to a memo provided to the Commission (see record, Exhibit 2). She discussed

the elimination of Item 3 from the proposed edits as it would put a duplicate definition for “Diameter at Breast Height” in the code and the consolidation of Items 33-34 and Items 39-41. Connie explained that the verbiage remained the same, but the modifications resulted in a change in the item numbers from previous work session packets.

Connie pointed to Item 37 on page 63 in the packet and said the verbiage should read “yes; 500-1000 square feet” in the row titled Open Space Provided for Public Use. She pointed to Item 39 on page 56, and said there should be a period on the end of footnote 3.

Connie moved to Item 10 on page 49 of the packet. She explained that this was Section 16.31.20 or the use table for industrial zones and said “that incidental sales or display showrooms associated with a permitted use and limited to a maximum of 10% of the total floor of the business” were a conditional use item in the Light Industrial and General Industrial zones. She indicated that the proposal was to change incidental sales to a permitted use and to eliminate the requirement for a Conditional Use Permit; treating the properties that are zoned Light Industrial and General Industrial the same as the Employment Industrial zoned properties. Connie said there was a footnote that limited the size to 5000 square feet in a single outlet and no more than 20,000 square feet in multiple outlets in the same development project. This is consistent with metro’s Urban Growth Management Functional Plan Section 3.07.430 which allows for incidental retail as long as it is restricted in the current manner.

Commissioner Griffin repeated the requirements for clarification and commented that the use would now be permitted outright for Light and General Industrial. Connie confirmed and clarified that the limit was 10% or 5000 square feet, whichever is less. Chair Simson added that the current chart used to be a narrative, and before it was changed to a chart the retail sales had been allowed. Connie confirmed that prior to 2012 incidental retail sales with limitations were allowed in the LI and GI zones and this amendment restored the property rights prior to 2012. Connie added that regarding the Transportation Planning Rule the Engineering Department reviewed and determined that there would not be an increase in the amount of incidental retail sales because it would be currently permitted through a conditional use permit and would not significantly impact transportation facilities (see Planning Commission Packet, Exhibit B).

Connie described the second substantial change as, Item 44, Section 16.134.010.A in the Subdivisions section, dealing with the performance security. She stated the amount that the city would recover from a performance bond would change from 100% to 125%. Connie reported that it was very rare that the City has to pull a performance bond, but in the instance that it must there were administrative costs that are not recovered; when a developer does not complete a project and the City has to complete a project there is an additional burden to the city and the taxpayers that is not recovered. She explained that a previous amendment changed section 16.108.020.D.2 (also dealing with performance bonds) to the 125% performance bond so the change was also cleaning up inconsistencies in the code.

Chris Crean, City Attorney added that if the project is a public improvement, the City has to pay prevailing wage and go through a public contracting process, and the cost to the city for the same improvement would be higher; another justification to go to 125%.

Connie concluded by stating that based on findings of fact in the staff report and presentation in the Public Hearing, and the conclusion of law based on the applicable criteria, staff recommended the Planning Commission forward a recommendation of approval of PA 14-02 to the City Council.

Chair Simson commented that in the open house work session held in April 2014, the code amendments were not as popular a topic as medical marijuana and Old Town standards. She said there were comments made about how the code needed improved and many of those where substantive changes where the public wanted the Planning Commission to change or improve a process.

Chair Simson indicated that staff recognized seventy nine code errors which were brought to the Planning Commission on September 9, 2014. She explained that the Commission decided that was too many changes for the citizens to look at so it was split into three chunks. The first chunk was to address scrivener's errors and inconsistencies within the code that were causing trouble with staff and the two substantive changes as discussed by staff. Chair Simson disclosed that there are more changes that will occur such as the process for a land use in Old Town so the right thing can be done more easily. She expressed an expectation that more people would attend the hearings for more substantive code changes and said Staff had gone above and beyond for noticing as the Planning Commission had asked staff to publicize the proposal as much as possible.

Brad commented on Mr. Voorhies' assertion that every industrial property should be sent a letter and declared that none of the uses allowed currently were changed or further restricted; in fact the restrictions were reduced. He said there was no requirement to provide a Ballot Measure 56 notice, which would have required a notice to each individual property owner, but because the changes were minor scrivener's errors and changes intended to make the code more consistent, they did not send letters to individual property owners. Brad informed that when we get into the next phase and there is more policy related content that affects property owner's ability to do things on their property, the City will be required to provide Ballot Measure 56 notice to individual property owners affected by the regulations. He reminded that it is a great cost to the City and the taxpayers, so when it is required, it will be done. Brad commented that notice was provided in accordance with state law and over above what is required by state law in Sherwood.

Chair Simson asked if there were additional questions on the process. None were received.

Chair Simson asked for questions from commission members.

Commissioner Griffin asked if the 125% bond insurance had been in place for a while, adding that 25% sounded expensive. Brad responded that it was common practice in other jurisdictions and was not specific to Sherwood. He reminded that a project may take place over a couple of years and the cost of materials, administration, and labor could go up and governments have to pay prevailing wages so the cost of the City doing development can be significantly more than a private developer and the 25% increase is intended to capture those additional costs.

Chris Crean added that it also matches Sherwood up with other jurisdictions across the metropolitan area so developers who build in multiple jurisdictions will face similar regulations in multiple places. To extend uniformity is a benefit as well.

Commissioner Griffin turned to page 47, 2b, Section 16.50.010.A. He asked what it meant to strike out the verbiage with red and replace it with “reserved”.

Connie responded that it was a place holder and there will not be a section 16.50.010.A; rather than renumbering all of the code, it holds the spot open.

Commissioner Griffin turned to page 51, 16g, Section 16.10.020, and read the definition “Hedges: a line of closely spaced vegetation specifically planted and trained ...” and asked if the word “trained” was correct. Commissioner Clifford (a landscape architect) responded that training was an acceptable definition. Connie pointed out that it was not new language being proposed, but the current language in Section 16.58.20.B and staff was consolidating the definition into the definition section.

Commissioner Griffin turned to page 61, the Design Review Matrix. Chair Simson pointed out that the chart was created from the existing language. Commissioner Griffin commented that it was much easier to understand and under the Building Design it listed 21 points possible with a minimum of 12 points required. He gave examples of reducing the glazing as part of the design and increasing in another area of the matrix or deciding not to screen the roof and asked if that was what the City wanted. Connie responded that the matrix did not change the current system and only changed from in-line text to the matrix format. Brad added that this came up in the Sherwood Industrial Park II hearings where the applicant was not meeting all the standards and said there was an option that if the applicant did not meet all the standards they could come before the Planning Commission for an architectural review. Brad said if they choose to go through the standard approval process they have to meet a certain number of points. Discussion followed. Connie reminded the Commission that now that the code language was easier to read and the implications more understandable the standards may need to be reviewed regarding the kind of development the citizens wanted and to propose changes. She stated that staff had not proposed any changes, but tried to make easier to understand what the code required.

Chair Simson turned to page 66, Section F, Time Limits and asked about the verbiage for site plan approvals between 2007 and 2009 that received an extension to December 31, 2013 and asked if it should be removed or remain. Connie replied that the code is written in the active voice and there could be a case to leave the historical reference in the code. She suggested that it could be changed from “are extended” to “were extended”, but if so it would be only time in code where past tense is used; staff’s intent was to keep the code and not make the change. Chris Crean suggested the verbiage be “A site plan approval granted on or after January 1, 2007 through December 31, 2009 is extended until December 31, 2013.” Discussion followed and the Planning Commission accepted the suggestion by Mr. Crean.

Commissioner Griffin pointed out formatting issues on page 66 for percentages in Section 16.90.030.A.1.a., staff was directed to use the format of *ten (10)*.

Commissioner Griffin turned to page 67 and asked if the equivalent acknowledgement of a Clean Water Services provider letter could be an email. Brad responded that it could be an email or an official letter on letterhead.

With no other questions for the Commission, Chair Simson asked for public testimony.

Eugene Stewart commented that the Planning Manger's explanation helped with the confusion about notices, but it was his understanding that with any changes made to the text of the code the affected property owners had to be notified. He said the notice said it affected the whole city. Mr. Stewart agreed that it would cost a lot of money to send notices out, but it seemed like there should have been a notice. He questioned how Goal 1 was met, said maybe he was reading it wrong, but it seemed like the Commission needed to sit down and have a session on this open to the public. Mr. Stewart said he and the Planning Manager disagree on Goal 1, but the Planning Commission was not doing what the Planning Manager points to for Goal 1. Mr. Stewart asked why the citizens' involvement plan was continually ignored, said it should be written down someplace, and we should see if it is being done.

Mr. Stewart commented that the Planning Commission did not understand why the public did not get involved and answered that it was because of the way it is done. He said a person is given four minutes to speak, but might have a twenty page outline to discuss and the Commission might glance at it and push it aside. Mr. Stewart suggested that the Planning Commission needed to take public opinions into the process before a formal hearing and receive comments from the general public during a work session. He expressed confusion that the decision was made during the work session, because he thought the Commission was not supposed to make a decision until the public hearing. Mr. Stewart commented that the Commission is not supposed to talk to people before the meeting, and asserted that it did not work to have the public talk to the Planning Commission for four minutes. He said the time needed to be expanded, especially when there are good thoughts to present and added that the public needed feedback from the Planning Commission on what their thoughts were. Mr. Stewart commented about having a hearing in one of the busiest seasons of the year and suggested avoiding December. Mr. Stewart commented that Goal 1 says there is supposed to be a committee for citizens involvement and he would like to see the minutes of those meetings that are supposed to be held once a year. He did not think there had been a meeting held which has been required by state law for 40 years. Mr. Stewart maintained that if the City looked at its citizen involvement, there would be more participation.

Tim Voorhies, Sherwood property and business owner of Steeltek Industries, said it was interesting that Connie said that two public agencies commented and no citizens. He said he took that as fact that there was no public notification on it, because the people that I talked to were very concerned about what was going on with it, but they said the city was going to do what the city was going to do and our voice does not matter. Mr. Voorhies remembered a conversation with one of the city's staff, under a previous mayor's regime, who said "Tim, you don't understand the public process, all the decisions are made prior to any public meeting. If you don't like it, move your shop out of town". Mr. Voorhies commented that the bare minimums for the public notifications was met and said they fought hard to get the 1000 foot radius for zoning changes and annexation notifications and that was why he fought against Brookman. Mr. Voorhies explained that he was not notified, but was within the 1000 feet, but staff said they followed state rules because the property was not within the city limits yet so they did not notify out to 1000 feet.

Mr. Voorhies communicated that he did not trust the city one bit. He added that he did not know if this was the proper place to mention it, but the City was going to have a devil of a time passing any more housing to be annexed into this city from what he has heard around town. We don't want to get bigger. Mr. Voorhies asked if Sherwood West was being annexed to keep work ahead of staff and to keep the cash flow coming in. He enquired about spending the money ahead of getting the area annexed in and suggested annexation prior to planning as to not waste the money planning for something that probably will never get voted in to the city.

Mr. Voorhies commented that it was no surprise that more people were not present, because it is like hitting your head against the wall. He gave an example of when the Planning Commission did a great job on the cannery site, because the Commission listened to the public, but City Council threw the Commission under the bus. He said it took him back to the comment that all decisions were made prior to any public meetings. Mr. Voorhies asked the Commission if staff was leading them down the path that they wanted to travel, that he did not know, but he did not trust them.

Robert James Claus, Sherwood resident, commented regarding Chair Simson's remark about the most exciting topic being marijuana and said the Planning Commission did not understand why the public was unresponsive. He spoke about the annexation and mayoral elections. Mr. Claus commented that the process stinks and said the Planning Commission did not know what the words procedural due process meant. He alluded to the city attorney's experience and commented about putting in a pipeline, annexing 1000 acres, and putting in a junk apartment behind the scenes. He commented on councilman stating that it was not Walmart and without a response from the Planning Commission.

Mr. Claus said he was the only person in the room that has had the US Supreme Court talk about a code he wrote and said he could not work with staff because of their arrogance. He said Mr. Crean declined to accept his help before billboards were placed in the city and that was how the city got billboards.

Mr. Claus commented that it did not make a difference what was said to the Planning Commission that follows a fee driven staff because there is not enough money to pay them. He said the Planning Commission would go with a City Council that thinks they can keep stealing from the landowners every time they turn around and pay for something that we don't want.

Mr. Claus spoke of the Langer Farms development, questioned design standards, and commented that there were not any design standards. He repeated that people were not in attendance and suggested that it was because it did not make a difference. He said he did not care about medical marijuana and the Planning Commission was wrecking the city step by step. Mr. Claus spoke of police powers and asked the Commission to continue for two weeks for the new City Council. He said the Cannery Apartments were embarrassing with three quarters of a parking space and fifty units to the acre because someone wanted to turn this into downtown Portland.

Chair Simson called for a recess at 8:22 pm and reconvened at 8:26 pm.

Chair Simson asked for comments from staff regarding issues raised by public testimony.

Brad Kilby, Planning Manager, responded that the application was a legislative process and not a quasi-judicial process and the Planning Commission was not obliged to leave the record open. He noted that the matter would go before the newly seated City Council for those who expressed concerns. Brad reminded that there were not any substantive changes that caused him concern and said he did not hear any testimony applicable to the proposed amendments that he could respond to. Julia Hajduk, Community Development Director, added that the code update would be heard at the January 20th meeting and the recommendation should be forwarded to that City Council meeting.

Chair Simson indicated that the only comment she heard addressing the code amendments before the Commission were concerned with notification requirements which both the person testifying and staff showed that the minimums were met; it was posted in all the regular locations and there have been many work sessions and opportunities for people to see and read about.

Chair Simson asked for the Commission's desire regarding PA 14-02. Commissioner Walker commented that the matter did not need to be left open, the commission has been working on it for a long time, and there was nothing substantial enough in this phase. Commissioner Clifford agreed, said he had attended most of the meetings, and that the Commission had gone through the amendment line by line to clarify all of the terminology.

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

Motion: From Commissioner Lisa Walker to forward a recommendation of approval to the City Council for PA 14-02, Sherwood Zoning and Community Development Code Update, based on the applicant's testimony, public testimony received and analysis, finding and conditions in the Staff Report with the proposed minor modifications discussed this evening. Seconded by Commissioner Russell Griffin. All present Planning Commissioners voted in favor (Vice Chair Copfer and Commissioners Cooke and Robinson were absent).

8. Planning Commissioner Announcements

Commissioner Walker asked about the Planning Commission position held by Sally Robinson. Brad Kilby replied that applications for Commissioner Robinson's position were being accepted and Commissioner Clifford's position would be open in March 2015. Brad indicated that staff may keep applications received for this recruitment and ask for Planning Commission applications for a shorter timeframe for the open seat in March. He encouraged anyone wanting to be part of the process to get involved and committed to contacting an applicant from the previous round of recruiting to see if he was still interested.

9. Adjourn

Chair Simson adjourned the meeting at 8:33 pm.

Submitted by:

Kirsten Allen

Kirsten Allen

Planning Department Program Coordinator

Approval Date: January 13, 2015