



Home of the Tualatin River National Wildlife Refuge

Planning Commission Meeting Packet

FOR

Tuesday, April 9, 2013

At 7:00 pm

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



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
April 9, 2013 – 7PM**

AGENDA

1. Call to Order/Roll Call

2. Agenda Review

3. Consent Agenda:

a. February 26, 2013 Planning Commission Minutes

4. Presentation

5. Council Liaison Announcements

6. Staff Announcements

7. Community Comments

8. Old Business

a. Public Hearing – Continued from February 26, 2013

PA 12-04 - VLDR PUD Text Amendment (Michelle Miller)

The applicant proposes to change the density standards for a Planned Unit Development in the Very Low Density Residential (VLDR) zone to four units per net acre, to reduce the minimum lot size to 8,500 square feet, and to allow lots a minimum of three acres in size to apply the planned unit development standards and process. At this hearing, Planning Commission will review proposed language based on the guidelines found in the SE Sherwood Master Plan (2006). Planning Commission will forward a recommendation to the City Council. The record has been closed and no new testimony will be received.

9. Adjourn

Consent Agenda

City of Sherwood, Oregon
Planning Commission Minutes
February 26, 2013

Commission Members Present:

Chair Patrick Allen
Vice Chair James Copfer
Commissioner Brad Albert
Commissioner Michael Cary
Commissioner Russell Griffin
Commissioner Lisa Walker

Staff Present:

Tom Pessemier, Assistant City Manager
Julia Hajduk, Community Development Director
Michelle Miller, Associate Planner
Kirsten Allen, Planning Dept. Program Coordinator

Commission Members Absent:

Commissioner John Clifford

Council Liaison

Mayor Bill Middleton

Legal Counsel Present:

Chris Crean

1. Call to Order/Roll Call

Chair Patrick Allen called the meeting to order at 7:01 pm.

2. Agenda Review

The agenda consisted of the Consent Agenda and the continued public hearing for the VLDR PUD Text Amendment (PA 12-04).

3. Consent Agenda

- a. August 14, 2012 Planning Commission Minutes
- b. February 12, 2013 Planning Commission Minutes

Chair Allen asked why the minutes being accepted were so old. Community Development Director Julia Hajduk responded that there was a backlog of minutes due to the transition in staff and that the priority had been to keep up with new minutes and to create the past minutes as time allowed.

A few scriveners' errors were corrected in the August 14th minutes, including corrections to the misnumbered exhibits, and the following motion was received.

Motion: From Vice Chair Copfer to accept the Consent Agenda, Seconded by Commissioner Brad Albert. All present Commission members voted in favor (Commissioner Clifford was absent).

4. Council Liaison Announcements

There were no Council Announcements

5. Staff Announcements

Community Development Director Julia Hajduk informed the Commission that recruitment for a new Planning Manager was underway and the building at the Community Center location is scheduled for demolition in March. Julia announced that Tri-Met is holding a meeting to discuss

service changes on bus lines 94 and 12 in Tigard at Max's Fanno Creek Brew Pub from 6pm to 7pm on February 27, 2013.

6. Community Comments

There were no community comments.

7. Old Business

a. Public Hearing – PA 12-04 VLDR PUD Text Amendment (continued from February 12, 2013)

Chair Allen reminded the Commission regarding the amendment being a legislative matter at the request of an applicant and the decision was made to use mainly quasi-judicial hearing procedures. He said that the applicant testified at the first public hearing, public and written testimony was received, and the record had remained open through and including the public hearing tonight. Chair Allen proposed that any additional public testimony be received and the applicant's representative be given 10 minutes of rebuttal time to make any further comments. Commission members assented.

Chair Allen asked for any conflicts of interest or bias that needed to be declared. Commissioner Lisa Walker commented that she would recuse herself and stepped down from the dais.

Chair Allen reopened the public hearing for VLDR PUD Text Amendment and asked for an update from staff.

Michelle Miller, Associate Planner, gave a summary of the application through a presentation (see record, Exhibit 1) and explained that a few months ago, the applicant proposed amendments to the standards that we apply to the PUD for the VLDR zone itself, and not just the Denali property [the applicant she represents the owner of the Denali property]. Michelle explained that public testimony was received on January 8, 2013 where staff was directed to look at some of the elements of the SE Sherwood Master Plan and whether elements in the Plan could be incorporated into the proposed language. Michelle said that the hearing on February 12th was continued because the applicant was unavailable, the VLDR property owners were re-noticed about the hearing on February 26th, and the record had been reopened to take public testimony.

Michelle showed a map with the VLDR zone highlighted and said it included the Fair Oaks Subdivision to the north running south and including the Sherwood View Estates to the south. Michelle explained that the current standard allows for one single family residential dwelling unit per acre with a minimum lot size of 40,000 square feet (sf) or an applicant can choose a planned unit special density allowance due to topographic and environmental constraints. A Planned Unit Development (PUD) allows for a minimum lot size of 10,000 sf and up to two units per acre with other PUD standards applied.

Michelle explained that the revised proposed language uses the SE Sherwood Master Plan as a guide for the standards of review by suggesting:

- Varying lot sizes no smaller than 8,500 sf.
- Density of 4 Dwelling Units per acre
- Buffering new development from existing development
- PUD requirements of open space (15%)

And by considering:

- the environmental opportunities and constraints identified in SE Sherwood Master Plan under Alternative b/c
- the identified view corridors
- the housing design type based on compatibility with existing development

Michelle explained that with a PUD, the Planning Commission issues a recommendation to the City Council after an initial review of a development; the application then goes to the City Council for review via ordinance and an overlay is placed on the property. As a plan develops, the applicant comes back with a final development plan review to the Planning Commission. It is at that time that the housing design type could be evaluated by the Commission for compatibility with the existing development.

Chair Allen confirmed that the bulleted points brought forward by staff were in answer to the Commission's request to refer to a Planning Commission resolution that was tied to the SE Sherwood Master Plan.

Michelle confirmed and asked the Planning Commission to consider identifying properties that can apply the SE Sherwood Master Plan standards or making it more clear in the existing code language. She said that existing code provisions regarding infill standards, variance standards, and lot averaging allowed for a reduced minimum lot size and the Commission should consider whether those would be included or specifically excluded. Michelle asked the Commission to consider holding a public hearing to recommend or specify changes to the code language identified, and to forward a recommendation to the City Council. She stated that since the last hearing, the Planning Commission had received in the Planning Commission packet a memo from staff; Exhibit K, written testimony from the Carters; Exhibit L, proposed Code language. Exhibit M, written Testimony from Lisa Walker was received at the tonight's meeting (see record, PA 12-04). Michelle recommended that the Planning Commission consider additional testimony from the applicant, and citizen comments.

Chair Allen asked for questions for staff. Seeing none, he asked for public testimony.

Bob Silverforb, 23581 SW McLoughlin Court, Sherwood. Mr. Silverforb said he had been to the previous hearings for this issue, had listened to the comments from concerned citizens, and in his view a majority of the comments were against approval. Mr. Silverforb asked if the Planning Commission wanted to approve the amendment to help a financial institution recuperate investments made or to listen to Sherwood citizens who want to retain the VLDR zoning as it exists. He said approval set a bad precedent and if approved, would increase the odds for any entity that wanted to amend the code for personal gain, to come before the Commission seeking change. Mr. Silverforb suggested that the Commission should ask if there was a compelling reason to approve the proposed amendment and urged the Commission to agree that there was not.

Curt Peterson, 14340 SW Fair Oaks Drive, Sherwood. Mr. Peterson said he was involved with the early stages of the SE Sherwood Master Plan and was opposed to the amendment. Mr. Peterson said the goals and conditions of the SE Sherwood Master Plan have not changed, it is still a unique area in the City and residents are still behind the plan. He said that there was a lot of time and expense involved to put the plan in place but it was never enforced in the City. Mr. Peterson commented that the City should revisit and put in place the SE Sherwood Master Plan before deciding on this amendment.

Kurt Kristensen, 22520 SW Fairoaks Court, Sherwood. Mr. Kristensen said he was one of the original community members who worked on the SE Sherwood Master Plan and he was disheartened by what he considered to be the unethical and perhaps illegal way the Plan was treated, because it did not go to City Council [for adoption]. Mr. Kristensen commented regarding the applicant making changes to City code for commercial gain and said the use of the hybrid public hearing format was an unbalanced approach. He put forward that a legal review of the format would indicate that it was an unstable way to change code standards.

Mr. Kristensen said that he had submitted the latest from the DEQ (see record, Exhibit 2) regarding the issue confronting the neighborhood, City, and future residents of the area and said the problem was being compounded. He commented that due to changes of EPA standards for the toxicity of chromium, and its derivatives, the situation is more serious.

Mr. Kristensen said that under the SE Sherwood Master Plan the [Denali] area was envisioned to be a City of Sherwood view site and as proposed by the applicant the view site will be occupied by an engineered dirt pod with the toxic chromium beneath it. Mr. Kristensen commented on the reasons why the Planning Commission should wait to take action and a way of removing all of the toxic overburden from the entire area before the Planning Commission or the City Council considers any development in the area.

Chair Allen asked Mr. Kristensen to be specific about who he felt had acted unethically or illegally.

Mr. Kristensen expressed his concerns about the SE Sherwood Master Plan not being forwarded to Council and said that the neighbors were led to believe by the former mayor and planning staff that the action was being processed. Mr. Kristensen said it was discovered in 2011 that nothing had happened to the resolution and that changing the standards would obliterate the concepts of the SE Sherwood Master Plan. Mr. Kristensen said he had reasons to say that there were ethics and legal issues for what has been done with the SE Sherwood Master Plan but it was difficult without an audit to determine who was responsible. He communicated his discomfort with the public hearing format where the he felt commercial applicant received more weight than the residents.

Chair Allen asked City Attorney, Chris Crean to address legal issues and the public hearing procedures being followed.

Mr. Crean replied that when a Planning Commission acts in a quasi-judicial capacity the procedures that have to be applied are very specific as set by statute and the Planning Commission cannot vary from them. When acting in a legislative capacity, state law does not require any particular procedures and the city is free to establish zone procedures for how it reaches a decision. Mr. Crean explained that this was a legislative decision because it affected more than one or two properties, there is no specific deadline for reaching a decision, and the decision is not based on a pre-existing set of criteria but based on policy and whether or not it is a good idea for the City. He said that because it comes to the Planning Commission at the request of applicant, the Planning Commission has provided for greater procedural protection and it is within the Commission's discretion.

Chair Allen asked for additional public testimony.

Mary Reid, 23580 SW Denali Lane, Sherwood. Ms. Reid said she thought she spoke for most of the residents at Sherwood View Estates and expressed her concern about what was going to happen to the property. Ms. Reid said she had been told that Denali would end in a cul de sac when they

built her home and commented regarding increased traffic, the comfort and safety of her neighborhood and how the City would supply services. Ms. Reid commented on the increase in traffic and said she did not want all the cars flying past her house.

Lisa Walker, 23500 SW Murdock Road, Sherwood. Ms. Walker said that she agreed with earlier testimony and commented that a majority of the testimony was against any change at all. Ms. Walker stated that she looked at what staff was suggesting and said that Exhibit M included her recommendations as alternative adjustments to the proposed language should the Planning Commission choose to move forward with a change.

Ms. Walker commented regarding *3.a Housing Density* at four units per acre and said that Sherwood View Estates was 3.61 units per acre. Regarding *3.b.1* Ms. Walker said the minimum varied lot sizes should be 10,000 sf minimum lots. Ms. Walker said she did some research with the help of staff that indicated that the smallest lot at Sherwood View Estates was over 10,000 sf with the largest lot over 19,000 sf and the average lot size of over 12,000 sf. Ms. Walker stated that her recollection was that the smaller lots in the SE Sherwood Master Plan were to give the Moser property a higher density in the front as an exchange for having the wooded area in the back of their property. She said that with the wooded area gone a 10,000 sf minimum lot size could be put in place.

Ms. Walker commented that the SE Sherwood Master Plan required a 21% open space compared to with the 15% open space required in a PUD. She asked for a definition for adequate buffering and suggested that the larger lots should be located on the outside to buffer adjacent properties as indicated in the SE Sherwood Master Plan.

Ms. Walker commented that the requirement in *3.b.2* open space in the *general vicinity* should be looked at again because it has changed and the Planning Commission may want to indicate where that open space should be.

Ms. Walker said the view corridors in *3.b.5* should be clarified and suggested the requirement of having a Home Owner's Association upon a certain percentage of the development to maintain the open space areas and gave the Woodhaven HOA as an example. Ms. Walker commented that the minimum acreage for a PUD should be kept at five acres and stated that all of the lots are over five acres with the exception of Ironwood Homes' property that is 4.88 acres but still qualifies to apply for a PUD. Ms. Walker concluded that these were her recommendations should the Planning Commission decide to move forward.

Jean Simson, 22466 SW Nottingham Court, Sherwood. Ms. Simson commented that she did not own property in the VLDR zone but was involved in the SE Sherwood Master Planning process that helped develop a plan that would benefit the homeowner and the community in general. Ms. Simson said that the area is a unique part of our community and it would be nice keep what was established through the existing code. Ms. Simson stated that increasing density by relying on a seven-year-old plan is a bad practice, especially considering the changes that occurred on the Moser property, and recommended a denial of the text amendment.

Ms. Simson noted that the current code says that when this area was brought into the city it was identified as environmentally sensitive so changing the text within that same code section to accommodate someone that wants to make more money does not seem right for our community. She said that her calculations showed that the proposed code language would result in even more

lots than proposed in the Master Plan. Ms. Simson commented that it is really hard to get a definitive number of acres that will benefit from this change. At four units per acres for 36 acres, less the 20% for roads easements and open spaces, a PUD would allow for 72 lots and with the new text there would be 115 lots. Ms. Simson said that for comparison the Planning Commission could look at page 109 of the packet from January 8, 2013 which shows a “worst case scenario” created by OTAK during the SE Sherwood Master Planning process based on 117 houses. She commented that it did not look too much different from any other area in Sherwood, with lots of small lots. Ms. Simson said that this area is very unique, environmentally sensitive and next to many places that need to be preserved.

Ms. Simson said that SE Sherwood Master plan Alternative B/C only had 82 lots. So we are adding to a number that was already uncomfortable in alternative B/C. Ms. Simson said that rounding the 4.4 units per acre from master plan was a net buildable after 2.2 gross buildable acres was taken, the wetlands were delineated, the Moser trees which are no longer on the property were preserved, and a neighborhood park and other easements were incorporated. Ms. Simson said that if the text amendment has to move forward the City should incorporate safeguards to protect the neighbors and communities. Ms. Simson suggested using 3 units per acre with a the minimum lot size of 10,000 sf or 15,000 on the adjacent buffering zone, and looking at height restrictions, especially in the view corridor. She remarked that the open space goals in the SE Sherwood Master Plan were closer to 30% as opposed to the 15% for a PUD. Ms. Simson said she hoped the Commission could vote to recommend denial of this text amendment and said that if the Commission goes forward it should consider what this area means to the community over what the developer wants.

Dee Moser, 6124 SW Washington Court, Lake Oswego. Ms. Moser said she owned the property at 22900 SW Murdock Road and said that before this was all changed the City had given her seven units per acre and she had expended money for plans to set in place a 66 lot subdivision. Ms. Moser said the City changed all that without her knowledge. She said they were told that they could cut down the trees and if they had known they would lose the seven units per acre they would not have cut down all the trees. Ms. Moser said she felt shafted in the loss of the seven units per acre after expending all that money to develop the property and stated that getting four units per acre was much less than expected but still better than what is currently allowed [under the PUD standards]. Ms. Moser said she was in favor of development and the City of Sherwood will benefit from people living there.

Eugene Stewart, 22595 SW Pine Street, Sherwood. Mr. Stewart recalled back in the sixties when the property was identified as a significant geological area called the Tonquin Scablands and the one-acre lots came from the question of how to preserve it. Mr. Stewart said that one purpose of the comprehensive plan is to provide a variety of properties that are not available outside a jurisdiction. He commented that it is hard to find one acre lots and questioned whether the City should be supplying larger lots or taking them away.

Mr. Stewart commented on the contamination at the Foster Farm location, its proximity to and possible of contamination of a City well off of Murdock Road if the land is disturbed. Mr. Stewart asked about contaminants that might be at an old dump on the other side of Murdock Road and said he hoped the Planning Commission could come up with a good solution for everyone.

Kirsten Van Loo, Emerio Design, 6107 SW Murray Blvd # 147, Beaverton, OR 97008. Ms. Van Loo commented that there was no plan in front of the Planning Commission at the hearing and

that testimony referring to the size of lots, the size of houses, and street connections were not the issue. Ms. Van Loo said the issue was regarding the development code in the City of Sherwood and to enable property owners who have VLDR land to develop in consensus with the SE Sherwood Master Plan. She said the SE Sherwood Master Plan was developed in response to land use applications and decisions that made it clear to City staff that developing land at one unit per acre cannot mandate urban services. She said that there has to be a nexus between the impacts of development and the requirement for the infrastructure that the City asks for a balance between the value of the development and the value of the development impacts. Ms. Van Loo referred to her comment regarding Nollan/ Dolan at the last hearing and said that the reason the SE Sherwood Master Plan was developed was because when Ironwood Estates developed the Hearings Officer said the City cannot ask for full urban improvements when development is at one unit per acre therefore the Hearings Officer did not require the developer to build the street to urban standards. Ms. Van Loo said the SE Sherwood Master Plan was to come up with a set of criteria or concepts that would put enough development in this part of the city to be able to mandate the necessary infrastructure. The SE Sherwood Master Plan was resolved by the Planning Commission at about the same time as the City's Transportation System Plan with requirements for full urban streets and services and infrastructure. Ms. Van Loo commented that before this land was annexed by the City of Sherwood it was in unincorporated Washington County with a zoning application of R-6 or R-9 which would allow 6 or 9 units per acre. She noted that when this property was annexed it went to one unit per acre for a variety of reasons (Tonquin scablands, slope of the land, and the dearth of infrastructure until Sherwood View Estates was built), and it has been challenging for any of the property owners to develop over the past 15 years.

Ms. Van Loo said she was asking the Planning Commission to entertain the staff recommendation on this option for developing in VLDR without modifications suggested and that it achieves a lot of the goals embodied in the SE Sherwood Master Plan. Ms. Van Loo said she understood Mr. Kristensen's desire to push the SE Sherwood Master Plan forward but she had gotten feedback from the City that it was unlikely to happen. Ms. Van Loo said the text amendment was the next best step and asked the Planning Commission to put forward a recommendation to City Council that embodies as many of the goals from the SE Sherwood Master Plan resolution. She said that property owners were predominantly in favor and it was important for them to be able to move forward. Ms. Van Loo said her only concern from Ms. Walker's testimony was that we keep the minimum size of the PUD at five acres as two of the five undeveloped parcels affected are under five acres. She said if it remains five acres the parcel that she represented would still qualify for a PUD because of environmental constraints but she was not sure that the other parcels would be able to use a PUD. The Huske property is 4.88 acres. Ms. Van Loo explained that the minimum lot size of 8,500 sf was developed as a workable number after dozens of designs were developed incorporating the SE Sherwood Master Plan. She said that from one acre of developable land, there is land taken for open space, a water quality facility, and easements and 8500 sf lots represent between 3.5 and 4 units per acre of net developable land.

Chair Allen asked if Ms. Van Loo had seen the amendments suggested by Ms. Walker and asked for her reaction. Ms. Van Loo responded that she received them at this meeting and philosophically the more words added to the code the more difficult it is to administer. Any application for development in this area is going to come before the Planning Commission and City Council and it will be reviewed so many times that we don't need to add a lot of "shalls" and "shoulds" into the development code.

Chair Allen commented that if the proposed numbers were placed into the Code then any developer could come and argue that the City has an obligation to allow the developer to build to the new standard.

With no other public testimony, Chair Allen called for a recess at 8:00 pm and reconvened at 8:05 pm.

Chair Allen asked what would happen if the Commission chooses not to change the code and what infrastructure could be required if the area develops at one unit per acre or 2 units per acre under a PUD.

Michelle Miller answered that, at one unit per acre, water and sewer are required if it is within a certain distance of existing water line connection. Chair Allen asked if that requirement was irrespective of cost. Michelle confirmed.

Chris Crean added that because the requirement is necessary to serve that development it offsets the impact of the development and explained that sewer and water are required for habitable dwellings. In Nollan/ Dolan terms it is no more than is necessary to offset the impact of the development and proportionate to the development.

Chair Allen asked regarding what roads could be required.

Michelle explained that with the development of Ironwood Homes the Hearings Officer did not find that there was proportionality to develop that 800 foot roadway fully and it is split three ways to serve the Yuzons, the Huskes and Denali area.

Chair Allen commented on the requirements of minimum road width, sidewalks, curbs, street trees elsewhere in the city, whereas the City could only require black top without those amenities in the VLDR zone.

Michelle confirmed and added that there would be no way to treat the storm water either. Curbs and sidewalks would not be proportional to the cost.

Julia added that the City will require whatever can be justified and it will depend on what development is proposed and its location. In this area at one unit per acre it would be harder to justify certain things, but without knowing the details of how many lots are being proposed it is hard to answer specifically what could be required. She added that this was why the grant for the SE Sherwood Master Plan was requested; the property was coming in piece meal and the question was if there was a better way to develop that allows the infrastructure to come in more cohesively.

Chair Allen commented on the concern about the propriety of what happened with the recommendations for the SE Sherwood Master Plan and stated that his recollection was that the Commission worked for a defined period of time on a Master Plan and arrived at a place where we had some alternatives but not a consensus among the various people impacted. He said the sense of the Planning Commission, at that time, was that more time was needed but staff informed that there were no longer resources available. The Planning Commission was not comfortable recommending the plan for adoption by City Council. Staff offered to simply adopt it as a Planning Commission Resolution stating principles the Planning Commission would like to be adhered to as development

occurred, but it did not have the force of a master plan. Chair Allen confirmed with Commissioner Griffin that it agreed with his recollection.

Commissioner Griffin confirmed and stated that a plan developed to that point was better than no plan at all.

Chair Allen stated that he did not know how that information might have been given to the public, but from his standpoint there was nothing illegal or unethical that occurred.

Chair Allen asked for other questions.

Commissioner Cary asked what the density for the area was prior to the SE Sherwood Master Plan.

Michelle answered that there is a standard zoning for all areas within the city and in the Very Low Density Residential zone it is up to one unit per acre or because of the constraints in this zone there is a special density allowance of 2 units per acre if the developer utilizes a Planned Unit Development.

Mr. Cary asked about Mrs. Moser's comment that she had 6-9 units per acre.

Julia Hajduk answered that the SE Sherwood Master Plan process was completed in 2006 and her understanding was that when the Moser property was annexed into the City it was zoned for 7 units per acre. Subsequent to that the City updated the Comprehensive Plan and identified the SE Sherwood area as a geological concern and zoned it VLDR years before the SE Sherwood Master Plan happened. In her testimony, Ms. Moser indicated that by cutting down the trees she lost the 7 units per acre, but the zone was VLDR with or without the trees and had nothing to do with the density changes that happened before the trees were cut down.

Commissioner Cary asked if there were other properties that were at 7 units per acre.

Julia responded that she was unsure, but did not believe all of the other properties used to be at that density.

Michelle added that the Moser property came in later than the other properties and properties came in to the City as development occurred.

Commissioner Griffin asked if it was known what the City's motivation was to lower the zoning to VLDR.

Julia responded that it was related to the Comprehensive Plan update and State Planning Goal 5 wanting to preserve the unique geological features in the area. Discussion followed.

Commissioner Cary asked regarding the open space requirement being reduced.

Michelle answered that the current requirement for the PUD allows for a 15% open space requirement; per testimony from Ms. Walker and Ms. Simson, the SE Sherwood Master Plan requires between 20%-30% open space.

Commissioner Cary asked regarding contaminated topsoil.

Julia answered that when Ironwood Homes was developed they placed the contaminated topsoil in two areas, but the contamination remains throughout the rest of the undeveloped properties. Julia commented that one of the applicant's arguments for the density increase was because of the cost of mitigating the contamination.

Vice Chair Copfer asked regarding the 15% open space requirement for the VLDR zone.

Michelle answered that the 15% open space requirement was for a Planned Unit Development and a regular subdivision required a 5% open space.

Julia pointed out that there was a resolution that the planning commission adopted in 2006 that said the City had gone through the SE Sherwood Master Plan process and the City will entertain proposals for development that were consistent with the master plan. Julia said that as public testimony suggested the questions for the Commission were if the proposed text amendment is consistent with what was in the resolution and does the Commission want to stand by that?

Chair Allen asked if the Planning Commission was required to make a recommendation to Council in a legislative action and if the Commission recommended denial does Council have to accept it or can they look at it de novo to consider other options.

Julia answered that the Planning Commission can forward its recommendation where the City Council will hold a de novo hearing and make a decision as they see fit. There must be a recommendation to council in order for the process to move forward.

Chris Crean added that because it is legislation it is a de novo hearing and the Council can do as they want because it is a policy decision. He said the Planning Commission is required to forward something. The Planning Commission can recommend the change is not approved and should include statements to support the recommendation so Council understands how the decision was reached.

Julia read from the Development Code for text amendments that states "*the Commission shall conduct a public hearing on the proposed amendment and provide a report and recommendation to the Council. The decision of the Commission shall include findings, as required by 16.80.030 [Plan Amendments].*" Julia said that staff has prepared those findings for the Planning Commission and will need to be modified as the Planning Commission decides.

Mr. Cary asked how many lots per acre would be allowed with 10,000 sf minimum lot size and how the calculation works.

Michelle replied that Sherwood View Estates had an average lot size around 10,000 sf and that turned out to be about 3.6 units per acre. She explained that if you are approaching the maximum allowed units per acre you round down because you cannot get a whole house and you round up for the minimum density.

With no other questions from the commission, deliberation began.

Vice Chair Copfer commented that it was a unique area and he was inclined to leave the area VLDR in fairness to all of the residents of the area that live there already; Sherwood has a lot of high density.

Commissioner Cary commented that he was still struggling with the reason for the change and if there was a need to make development cost effective.

Chair Allen commented on why the SE Sherwood Master Plan was developed and what would happen if the VLDR zone was left as it is. He said that doing nothing makes it difficult for the property owners to develop and his fear was that what will develop there would not of the expected character because of the low investment that going into the property. He said that the chromium issue has gotten bigger and the only way to clean it up is to develop it. Chair Allen said that the material provided by Mr. Kristensen was helpful in determining a reason to change things. Chair Allen commented that the best thing to do was to revisit the SE Sherwood Master Plan, but conditions have changed and it is unfortunate that the Planning Commission was unable to push it through. He said he was inclined towards something that looks like the amendments provided by Ms. Walker as a recommendation to Council which puts all three options in play: to deny, approve with proposed amendments, or revisit the Master Plan. Discussion followed.

Commissioner Albert commented that his greatest concern was the minimum lot size and he preferred the 10,000 minimum lot size with the 4 units per acre. The main question for him was what was more harmful: more houses and traffic or the chromium that is not being cleaned up. He said he could give a little on the density to clean up an environmentally sensitive area.

Commissioner Griffin commented that because it was legislative there was no rush and there was a need to come up with something that was good for the community. Mr. Griffin said he was sympathetic to residents in the area, but the expectation was that a person owning land should be able to develop. Mr. Griffin said the Planning Commission should make some kind of recommendation and he liked Ms. Walkers proposed edits with 10,000 sf minimum lot size and the 4 units per acre. He commented on the VLDR zoning and asked if the City Council still wanted that density. Mr. Griffin commented on the public process of the SE Sherwood Master Plan and the compromises made in that unfinished process. He said he was in favor of a recommendation to approve with changes and allowing the Council to come back on important issues regarding the area.

Vice Chair Copfer said he could agree with the 10,000 sf min lot size with 3.6 units per acre as shown in Sherwood View Estates and he did not think 4 units per acre was possible when considering the other requirements.

Michelle agreed that with the 15% open space, the right of way, and any water quality facility that may be required it would be difficult to come close to 4 units per acres. By requiring the minimum lot size to be 10,000 you are not allowing the density to be 4 units per acre.

Vice Chair Copfer said he understood the importance of cleaning up the Foster Farms area, but it was equally important to preserve the community that has been built there.

Discussion followed regarding revisiting the SE Sherwood Master Plan and allowing DEQ to continue with its assessment and establishing a density that allows for the contamination mitigation.

Julia commented that if Council directs staff, as budget allows staff will look at the Master Plan. In the past, master plan or concept planning was done from grant funding. She said it would be

difficult to get another grant to redo the master plan and she would not recommend moving the existing document forward.

Discussion followed regarding the Planning Commission's options for recommendation and findings to City Council. There was not a consensus until Chair Allen suggested a recommendation to approve with amended language that reflected what Ms. Walker put forward.

Staff was directed to provide a recommendation to Council that would outline the three options discussed in sufficient detail that they could be seen as alternatives by the Council with a Planning Commission recommendation of one of them. The three alternatives were to revisit the SE Sherwood Master Plan, to do nothing and recommend a denial of the application, or to adopt the amended language as discussed and outlined in Exhibit M. The memo would include a discussion of the pros and cons of each alternative.

Motion: From Vice Chair Copfer for the Planning Commission to continue, to the April 9, 2013 Planning Commission meeting, to give staff time to document the proposals and allow the Commission to vote at that time. Seconded By Commissioner Brad Albert. All Seated Commissioners voted in favor (Commissioner Walker had stepped down and Commissioner Clifford was absent).

Julia clarified for the record that the Planning Commission was in deliberation and would not be accepting new testimony.

Chair Allen confirmed that the record was closed and added that new testimony via cards, letters, and emails could be sent or will be forwarded to the City Council for consideration.

8. Adjourn

Chair Allen adjourned the meeting at 8:51 pm.

Submitted by:

Kirsten Allen
Planning Department Program Coordinator

Approval Date: _____

Old Business Agenda

Item A



MEMORANDUM

City of Sherwood
22560 SW Pine St.
Sherwood, OR 97140
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2009 Top Ten Selection



2007 18th Best Place to Live



DATE: April 2, 2013
TO: Planning Commission
FROM: Michelle Miller, AICP, Senior Planner
SUBJECT: VLDR Lot Size Minimum Comparison and Recommendation to Council Materials

At the February 26, 2013 hearing on the VLDR text amendment, the Planning Commission requested further information concerning the ability of a subdivision with a zoning designation of 10,000 square foot minimum lot size to achieve the density of four units per acre. I reviewed the Denali PUD (PUD 11-01) application from 2011 to see if the applicant's proposal was achievable with these objectives in mind.

Sherwood planning staff calculates density based on the definition section of the Sherwood Zoning and Development Code. The SZDC § 16.10 defines **density** as "(t)he intensity of residential land uses per acre, stated as the number of dwelling units per net buildable acre. Net acre means an area measuring 43,560 square feet **after** excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses." The definition of **environmentally constrained areas** is also found in § 16.10: "Any portion of land located within the floodway, 100 year floodplain, wetlands and/or vegetated corridor as defined by Clean Water Services."

This proposal includes several areas of public right of way, constrained areas as well as public use areas, which may be typical to this area along with the amount of right of way that would be needed for these sites.

An example that is readily available to compare minimum lot size and density is the Denali site. The total site area is 3.71 acres or 161,607.6 square feet. In the case of Denali, there are approximately 1.99 net buildable acres remaining because of environmentally constrained lands, right of way, as well as the open space area. Calculating net density under the proposed SE Sherwood Master Plan Unit Development density of four units per acre provides for nearly

eight lots (1.99 net acres x 4 units). Staff reached this calculation by subtracting all of the tracts and the right of way from the gross area as the definition requires.

Within the entire VLDR, it would be difficult to calculate accurately the percentage of land that would be excluded for right of way and environmental constraints. However, in the case of the Denali PUD, over 46 % of the site was not considered buildable and excluded from the net buildable site area calculation.

Another general example would be to consider the hypothetical subdivision of a 5-acre site. It is a safe assumption to subtract 25 % of the five-acre site or 1.25 acres for right of way, constrained lands, or other easements, leaving 3.75 acres of developable acreage. With a PUD and SE Sherwood Master Plan standards, 15% of the net developable site is required for open space, which in this case subtracts an additional .56 acres from the total, leaving the remainder left for single-family lots at 3.19 acres or 138,956. SF. If you were to calculate density based on the 10,000 square foot lot size, you could achieve 13 units. However, the maximum density in this case, would be 15 units (3.75 x 4 units per acre). As this example shows, the maximum density cannot be met with a 10,000 square foot lot minimum while trying to also achieve the four units per net buildable acre.

Staff has prepared a recommendation to Council outlining the three alternatives discussed at the February 26, 2013 hearing. Staff has included Exhibit O, which amends the proposed Code language from the earlier deliberations of the Commission. Although listed in the Recommendation, staff did not include any other exhibits that the Commission did not already receive during the course of the earlier hearings. Staff asks that Council consider the alternatives and make their recommendation to Council.

Attachments

1. Planning Commission Recommendation to Council on the text amendment
Exhibit O, Proposed text amendment with track changes

City of Sherwood Planning Commission Recommendation to City Council

April 2, 2013

PA 12-04 Very Low Density Residential Text Amendment

Recommendation:

The Planning Commission held hearings on January 8, 2013, and February 26, 2013 on proposed amendments to the Sherwood Zoning and Development Code pertaining to § 16.12.020 Very Low Density Residential zone. The Planning Commission heard and received written testimony from the applicant, staff and property owners within the area.

After receiving direction from the Commission at the first hearing on January 8, 2013, staff presented amendments to the initial applicant's text amendments that incorporated basic elements from the SE Sherwood Master Plan with a minimum lot size of 8,500 square feet and a maximum residential density of four units per acre if developed as a plan unit development. The applicant was in favor of these amendments and the Commission heard testimony on those amendments on February 26, 2013. At that hearing, Lisa and Roger Walker presented alternative language to staff's amendments that increased the minimum lot size to 10,000 square feet but kept the density at four units per net acre. The Commission found their amendments concerning minimum lot size persuasive. (Exhibit M) During their deliberations on the amendments, the Planning Commission weighed three alternatives for Council to consider.

Alternative 1 - The Planning Commission discussed the merits of conducting a new or revised SE Sherwood Master planning effort for the area and requested Council's guidance on this policy decision. They noted that many of the same challenges that brought the area to the forefront of a planning effort in 2006 still existed and that the area remained relatively undeveloped. The Commission continued to be concerned about how this area might develop in piecemeal fashion and recognized the SE Sherwood Master Plan attempted to ensure that this area developed in a more comprehensive manner. They recognized that the SE Sherwood Master Plan was not formerly adopted via ordinance by Council or incorporated into the Comprehensive Plan, which would generally be the conclusion of an approved master planning effort.

The Commissioners who had participated in the SE Master Plan noted that the actual plan did not reach a formal consensus from the participants. However, of the three alternatives developed through the master planning process, one alternative layout was the most agreeable to all parties and one concept layout matched most closely with the idea and vision of the participants for the area. The 2006 Planning Commission opted to agree to a resolution that recognized the planning efforts of the SE Sherwood Master Plan and encourage future development that reflected the objectives identified in the plan. In the end, the Commissioners noted that the grant funds for the master planning process in 2006 had been exhausted as well as the time allotted for the planning process for the group to continue developing a plan that they could wholeheartedly endorse.

The Commission discussed either starting the process anew with the new landowners and other property owners within the zone that would include new information on the site constraints and environmental contamination or in the alternative, to take the existing information found within the 2006 plan and revise the outcomes reached with the earlier plan. The Commission wanted Council to evaluate whether there was merit in developing an updated SE Sherwood Master Plan to reflect the changes within that zoning designation. This option would require Council to deny the requested text amendment. It would also include the recommendation that Council direct staff to budget funds and time to update the SE Sherwood Master Plan.

Alternative 2 - The Commission discussed the historical problems with the designation of the subject area to be zoned very low density residential (VLDR). The existing zoning was up to one single-family home per acre with 40,000 square foot lot minimums. If developed as a Planned Unit Development, the density could be up to two units per acre and the minimum lot size was 10,000 square feet. The Commission considered whether

VLDR continued to be an appropriate zoning designation for this costly, environmentally constrained area. Due to the constraints, the Commission concluded that it would likely continue to be difficult to develop under large lot zoning in an urbanized manner despite its location within the City limits.

The Commission noted that the surrounding property owners that resided in the area also had an expectation that the area would maintain its existing character of larger lot single-family homes. The Commission felt that these issues would continue to be unresolved under current circumstances. This option would require Council to deny the requested text amendment and wait for the contaminated soil issue to be resolved and consensus be reached.

Alternative 3: In this alternative, the Planning Commission recommended that Council consider the alternative amendment originally developed by staff and revised by Lisa and Roger Walker. (Exhibit O, Proposed Amendments) The amendments call for 10,000 square foot lot size minimum along with four units per net buildable acre if developed as a planned unit development. They noted it was the best compromise and used elements of the SE Sherwood Master Plan to achieve a greater density. It also most closely resembled the existing developments of Sherwood View Estates reflecting the same minimum lot size as well as a similar density of 3.6 units per acre within the Sherwood View Estates development. This option would require Council to adopt the proposed text amendment as revised.

Proposal: The applicant proposes to amend the § 16.12 Residential Uses section of the Sherwood Zoning and Development Code, (SZDC), specifically the § 16.12.020 Very Low Density Residential Zone. The proposed changes are attached as Exhibit M.

I. BACKGROUND

- A. Applicant: John Satterberg/Community Financial
P.O. Box 1969
Lake Oswego, OR 97035
- B. Applicant's Representative: Kirsten Van Loo, Emerio Design
- C. Location: The proposed amendment is to the text of the development code and specifically applies to the properties zoned Very Low Density Residential (VLDR).
- 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 will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision would go directly to the Oregon Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the January 8, 2013 Planning Commission hearing on the proposed amendment was published in *The Gazette* on January 1, 2013 and *The Times* on December 20, 2012. Staff posted notice in five public locations around town and on the web site on December 19, 2012. Regular updates were provided in the City newsletter.

While this does not apply citywide, it may affect the value of property located within the very low density residential zone; therefore Measure 56 notice was sent on December 19, 2012 informing property owners within that zoning designation. DLCD notice was provided on December 4, 2012.

- 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). Applicable Statewide Planning Goals: Goal 1 Citizen Involvement, Goal 2 Land Use Planning, Goal 5 Natural Resources, Scenic and Historic Areas and Open Space, and Goal 12 Transportation.

F. Background:

The area east of SW Murdock Road is zoned very low density residential, (VLDR). The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density of 0.7 to 1 dwelling unit per acre.

If developed through the Planned Unit Development (PUD) process, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, the permitted density of 1.4 to two (2) dwelling units per acre may be allowed.

There are two existing planned unit developments within this VLDR zoning designation: Fair Oaks, and Sherwood View Estates. The remaining properties, approximately fifty-five acres, consists of 11 parcels zoned VLDR and nine single-family homes. The area includes a 2.25-acre wetland located in the southeast corner of the site with standing water most of the year. Areas are included in Metro's natural resource Goal 5 inventory including Class A wildlife habitat, with groves of woodland habitat and mature trees.

Several challenges exist for site design including the Tonquin Scablands, a rocky terrain sculpted from ancient glacial flooding. There are two high points: one point in the center of the area and one in the southern portion of the site with sloping terrain in between. This results in challenges to the street and pedestrian circulation network and added costs to develop and design.

Another challenge to the area is due to the presence of soil contamination identified by the Department of Environmental Quality (DEQ). The VLDR site area was part of the "Ken Foster Farm" site, originally about 40 acres and was used for farming. Portions of the larger Ken Foster Farm site had been used for discarding animal hides and carcasses that were remnants from the local tannery operation in the city. As part of the Department of Environmental Quality (DEQ) investigation of the Tannery site located on SW Oregon Street, it was discovered that the soil on the Ken Foster Farm site was also contaminated. The property to the northeast of the undeveloped area, Ironwood Subdivision, was in development when the issue arose which required significant soil removal and oversight from the Department of Environmental Quality (DEQ).

DEQ entered the Ken Foster Farm site into the Environmental Cleanup Site Information Database in 2000, and completed a Preliminary Assessment (PA) in 2004, funded by cooperative grant funds from the Environmental Protection Agency (EPA) Region 10. (DEQ Technical Memorandum) The results of the soil sampling completed for this site listed concentrations of antimony, chromium, lead and mercury above expected background concentrations. In addition, sediment samples from the wetland areas on the site were found to contain elevated concentrations of chromium copper, mercury and zinc.

They found that the human health risk based upon the soil results from the EPA Impervious Area results and data from property-owner site investigations on two of the properties within the former farm acreage was relatively low, according to the report. Since valid soil sample tests of the subject site indicate that hexavalent chromium was not present in soils, and that the prevalent form of chromium in soils is trivalent chromium. The other concentrations do not present an unacceptable human health risk on an individual contaminant basis. The DEQ concluded that the chance of significant exposure to residents living around these areas is low under current conditions.

In 2005, the City received a grant to develop the Southeast Sherwood Master Plan (Exhibit D), a master plan for the area to serve as a guide to coordinating the potential separate land use actions and infrastructure investments of property owners, developers, and the City in order to create a cohesive, livable neighborhood that could develop over time. The SE Sherwood Master Plan was prepared with the input of property owners, developers, neighbors and City representatives. Three

open houses were held in order to develop a preferred alternative for development of this area. The purpose was to identify a more efficient way to develop the area and to try to get property owners in the area to work collaboratively when considering developments. The plan did not result in amendments to the Comprehensive Plan or Zoning map but was accepted by the Planning Commission via Resolution 2006-01(Exhibit E).

The recommended master plan was a hybrid of several alternatives that were developed through the open house workshops. Through the planning phase, the developers emphasized the need for providing sufficient density to pay for the necessary infrastructure while the citizens emphasized a preference for larger lots to preserve the wildlife habitat. This resulted in the development of a hybrid plan that provided for a mix of lot sizes with a range of increased density in the center of the plan area to 15,000 square foot lot sizes abutting the southern portion of the site. The gross density, under the preferred option would be 2.2 units per gross acre and a net density of 4.43 units per net acre.

The Planning Commission approved the SE Sherwood Master Plan in concept in 2006. Although not formally adopted and incorporated into the Comprehensive Plan nor adopted by the City Council, it does provide guidance for development and the intention of the community and surrounding property owners for the area. The applicant's proposal applies some of the recommendations for development as adopted by resolution to the SZDC regarding the density requirements and proposes a minimum lot size to achieve the resulting net density if developed through a planned unit development process.

The applicant, the property owner of tax lot 2S133CB01000, just north of the Sherwood View Estates had previously applied for a Planned Unit Development in 2011 for an eight-lot subdivision (Denali PUD 2011-01). The City Council approved via Ordinance 2012-004, a six-lot subdivision and Planned Unit Development known as Denali Planned Unit Development including application of a Planned Unit Development Overlay on the Comprehensive Plan and Zone Map.

The applicant has not submitted a final development plan for the planned unit development and elected to pursue a text amendment in order to achieve the greater density that would have been allowed under the SE Sherwood Master Plan.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent a request for comments to the standard agency notification list on December 5, 2012. The City received one comment as discussed below. The City has received either no response or no comment on the proposal from the other agencies.

Engineering Department: After review of the proposal, the proposed amendment will not have a significant impact on the infrastructure and services are available to accommodate this increased density.

Public:

Kurt Kristensen 22520 SW Fair Oaks Ct. Sherwood, OR 97140 submitted comments via email that are attached as **Exhibit C**.

Mr. Kristensen is opposed to the text amendment as written as it does not incorporate the entire SE Sherwood Master Plan and some of the elements of the plan may not be implemented if the Planning Commission recommends adoption of the text amendment as proposed by the applicant. He requests that the Planning Commission recommend to Council the SE Sherwood Master Plan so it can be implemented in its entirety. Mr. Kristensen is also concerned about the environmental impacts that the entire site area presents.

Response: Not all of the recommendations within SE Sherwood Master Plan are incorporated with this proposed text amendment. The text amendment standards will apply only to properties developed as a planned unit development. This gives the Planning Commission and City Council another level of review where they could impose the unique conditions that would not be available to them if developed as a standard subdivision or partition such as the open space areas and pedestrian connections that are part of the SE Sherwood Master Plan. They could incorporate the elements of the SE Sherwood Master Plan within each proposed development so long as the standards are not contrary to the Code.

The density standards and minimum lot size developed under the SE Sherwood Master Plan were not compatible with existing VLDR PUD standards and therefore the applicant submitted this proposal. The particular text amendment provisions are not contrary to the SE Sherwood Master Plan as a whole. The Commission could chose to move the plan forward to Council later and this text amendment does not prohibit this.

No other comments have been received as of the date of this staff report.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3.

16.80.030.1 - 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.

Need Identified:

The applicant identified the need for the proposed text amendment in response to the Planning Commission Resolution 2006-01. The Planning Commission resolution accepted the SE Sherwood Master Plan report and approved the process to implement the plan. The Resolution advised that the Planning Commission would consider development proposals from an applicant that is consistent with the principals and goals listed in the master plan. Alternative B/C from the master plan became the recommended layout with a net density of 4.43 units per buildable acre. Although not formally adopted and incorporated into the Comprehensive Plan nor adopted by the City Council, the plan provides guidance for development and the intention of the community and surrounding property owners for the area. Had it been formally adopted by the Council, it would have then required amendments to the SZDC regarding the density requirements in this particular zone as the density shown in the plan is much higher than the existing special density allowance currently allowed in the VLDR.

The Planning Commission did not forward a recommendation to the Council to adopt the specific changes to the density, minimum lot size and changes to the minimum parcel size to develop a planned unit development that the applicant is now proposing. Nor were any of the Code amendments outlined in the plan adopted by the Council. The Commission resolved that they would review applications applying the standards developed through the master planning process.

One could advance the idea that because the Planning Commission adopted via resolution the master plan that the Commission would subsequently find the need to adopt text amendments that would support the outcomes and the density achieved in the plan that was approved through the master planning process.

FINDING: The Planning Commission must review the proposed changes to the Code that the applicant has brought forward to determine if it does indeed achieve the result of the master plan and whether they satisfy the need within the zoning designation for these amendments.

Comprehensive Plan:

Chapter 3. Growth Management

Policy 1: To adopt and implement a growth management policy, which will accommodate growth consistent with growth limits, desired population densities, land carrying capacity, environmental quality and livability.

The property is located within the City limits and within the urban growth boundary. Most of the area has not been partitioned and the density is well below the 1 dwelling unit per acre minimum. Several of the properties do not currently have urban facilities such as adequate roadways, water, sanitary sewer and pedestrian connections. Development could improve the level of services occurring in this area and would provide improved connection and infrastructure within our City boundaries. Additionally, the properties will have direct access to SW Murdock Road, an arterial.

The applicant proposes a maximum density of four units per acre and a minimum lot size of 8,000 square feet if developed as a planned unit development. Planned unit developments are only allowed in this zone, if it can be demonstrated that the natural areas can be preserved. Each applicant within this zone will have to comply with this standard when applying for a PUD. This is consistent with the policy.

FINDING: Based on the above discussion, the proposed text amendment is consistent with the growth management policy objective.

Chapter 4. Land Use

Policy 6 The City will create, designate and administer five residential zones specifying the purpose and standards of each consistent with the need for a balance in housing densities, styles, prices and tenures.

Very Low Density Residential Minimum Site Standards:

1 DU/Acre, 1 acre minimum lot size

This designation is intended to provide for single-family homes on larger lots and in PUD's in the following general areas:

Where natural features such as topography, soil conditions or natural hazards make development to higher densities undesirable. This zone is appropriate for the Tonquin Scabland Natural Area.

Along the fringe of expanding urban development where the transition from rural to urban densities is occurring.

Where a full range of urban services may not be available but where a minimum of urban sewer and water service is available or can be provided in conjunction with urban development.

The applicant identified several changes to the Planned Unit Development (PUD) standards within the VLDR zone. The minimum lot size is still considered a large lot for an urbanized area as it will remain the largest minimum lot size in the City if developed as a PUD. The zone is located on the fringe of the urbanized area and compatible with the surrounding properties already developed as planned unit developments under the VLDR standards to the north and south of the subject area as the larger lots will still contain single family dwelling units.

FINDING: Based on the above discussion, the proposed amendments are consistent with the land use policy objective.

Consistency with Statewide Planning Goals

Goal 1- "Citizen Involvement"

The purpose statement of Goal 1 is "to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

The proposed code changes do not include changes to the City's citizen involvement program, which complies with Goal 1; however, the process to develop the proposed changes was fully compliant with this Goal. The City provided notice to property owners zoned VLDR, published notice in the paper and posted notice around the City.

In 2005, over 120 people participated and provided input through the various open houses in the SE Sherwood Master Plan process to develop the recommended plan. There were multiple work sessions with the Planning Commission and two public hearings were held on March 28 and April 4, 2006 to provide the public an opportunity to be heard.

Goal 2- "Land Use Planning"

The purpose statement of Goal 2 is "to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to ensure an adequate factual base for such decisions and actions".

The proposed code changes affect the land use process when utilizing the planned unit development standards. The City's land use planning process and policy framework, which are in compliance with Goal 2, will not change as result of this action.

FINDING: As discussed above in the analysis, the applicant identified a need for the proposed amendments to reflect the Planning Commission approval of the SE Sherwood Master Plan and the density, lot size and amendments when a planned unit development was sought. The amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.2 – 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.

The transportation analysis conducted during the SE Sherwood Master Plan process concluded that the street system could accommodate an increased density to the level proposed by the applicant. The analysis considered the trip generation increases for net densities ranging from 3.35 to 5.03 units per acre.

FINDING: The amendments will not result in a change of uses otherwise permitted and will not have a significant impact on the amount of traffic on the transportation system; therefore, this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, the Planning Commission has provided three viable alternatives for the City Council to consider. The Commission, recommends Alternative___ however respects that ultimately this is a legislative decision to be made by Council.

V. EXHIBITS

- A. Proposed development code changes--with "track changes" submitted by the applicant
- B. Applicant's materials submitted on October 16, 2012
- C. Comments from Kurt Kristensen, submitted via email on December 26, 2012
- D. SE Sherwood Master Plan dated February 26, 2006
- E. Planning Commission Resolution 2006-01 dated, May 9, 2006
- F. Patrick Huske Comments
- G. Lisa and Roger Walker Comments
- H. Jean Simson Comments
- I. Mary and Richard Reid Comments
- J. Mr. and Mrs. Joseph Barclay Comments
- K. John and Judith Carter Comments
- L. Proposed VLDR Text Amendment-SE Sherwood Master Planned Unit Development
- M. Walker additional proposed language with written comments
- N. Kurt Kristensen additional testimony
- O. Final Proposed Amendments—with "track changes" after hearings

**Recommended Development Code Language
April 2, 2013**

Please Note: Proposed Additions are underlined in blue

Proposed Deletions are crossed out in ~~red~~

Chapter 16.12 Residential Land Uses

16.12.010. - Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

1. Standard Density

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

2. VLDR Planned Unit Development Density Standards

~~Property in the VLDR zone that is~~ developed through the Planned Unit Development (PUD) process, ~~as~~ under ~~per~~ Chapter 16.40, ~~and~~ if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, ~~the permitted~~ may develop to a density of 1.4 to ~~2.0~~ two (2) dwelling units per net buildable acre ~~may be allowed under the following conditions:~~

~~Minor land partitions shall be exempt from the minimum density requirement.~~

a. ~~The Housing densities up to two (2) units per net buildable acre, and~~ minimum lot sizes ~~of~~ is not less than 10,000 square feet; ~~may be allowed in the VLDR zone.~~

b. The following areas are dedicated to the public or preserved as common open space: floodplains, ~~as per~~ under Section 16.134.020 (Special Resource Zones); natural resources areas as shown on, ~~per~~ the ~~—~~ Natural Resources and Recreation Plan Map, attached as Appendix C, or ~~as specified in Chapter~~ ~~5~~ of the Community Development Plan; ~~and~~ wetlands defined and ~~regulated~~ ~~as per~~ under current ~~—~~ Federal regulation and Division VIII of this Code; and

c. The ~~Review Authority determines that the~~ higher density development ~~would~~ will better preserve natural resources as compared to one (1) unit per acre ~~design~~.

3. Southeast Sherwood Master Planned Unit Development

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

Recommended Development Code Language
April 2, 2013

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

Sherwood Planning Commission Meeting

Date: 4-9-13

Meeting Packet

Approved Minutes

Date Approved: May 14, 2013

Request to Speak Forms N/A

Documents submitted at meeting:

Exhibit 1 - Presentation - VLDR Residential
PUD Text amendment 4-9-13

Blank lined area for additional notes or documents.

Very Low Density Residential-PUD Text Amendment

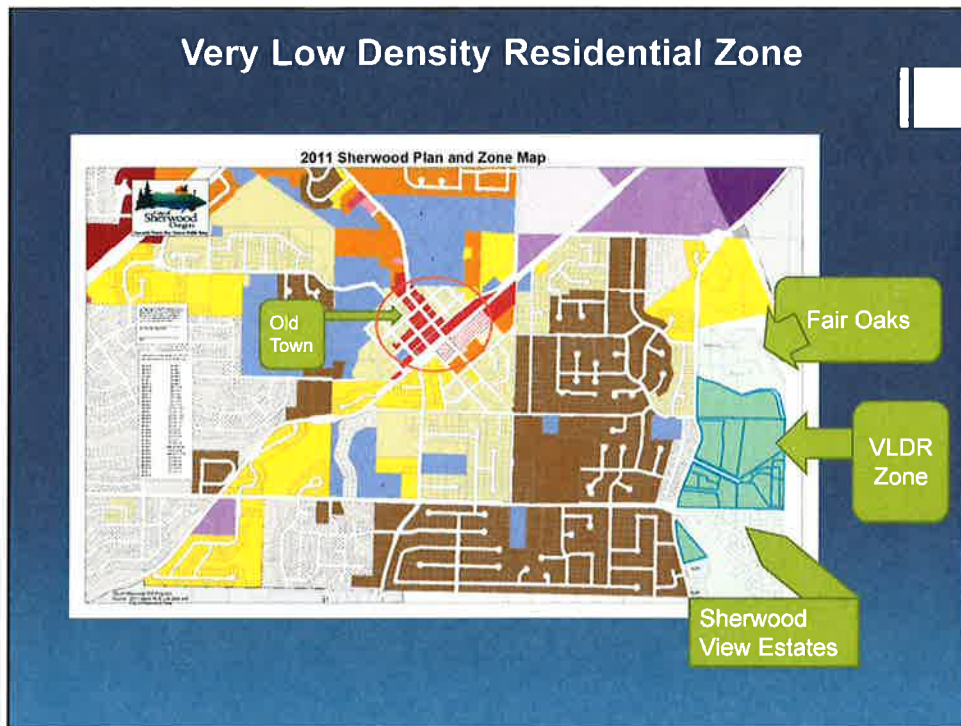
Presentation of the Recommendation
April 9, 2013

Project Background and Process

- Applicant proposed amendments to the standards as applied to the PUD for the VLDR zone itself, not just the Denali property
- Planning Commission Hearing on January 8, took testimony from parties and citizens
- PC wanted to consider elements of the SE Sherwood Master Plan in the proposed Amendment
- Hearing Continued on February 12, 2013
- Sent out Notice to VLDR property holders about hearing
- February 26- Hearing to Review amended Language
- ➔ ▪ **Tonight's hearing Planning Commission will Deliberate and Forward a Recommendation to Council**

4-9-13
Date
Ba
Agenda Item

Planning Comm
Gov. Body
1
Exhibit #

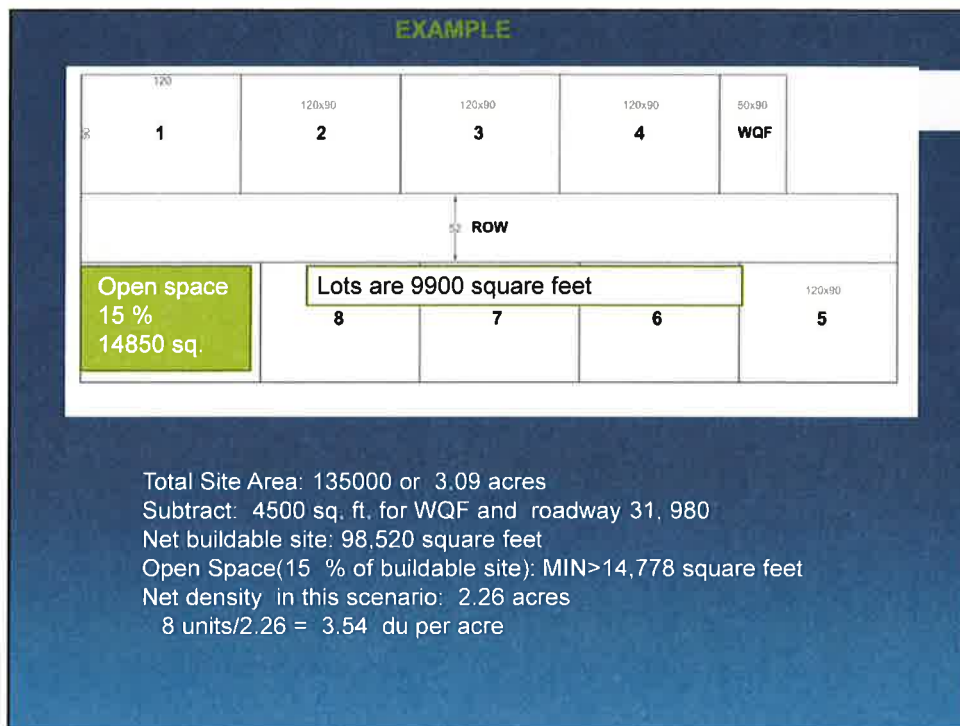


Alternatives for Recommendation to Council

- **Alternative 1: Update SE Sherwood Master Plan**
 - Renew discussion between residents and resident/developers
 - Opportunity to get a comprehensive plan developed for area
 - SE Sherwood Master Plan information has changed

- **Alternative 2: Recommend Denial**
 - Resolve contaminated soil issue
 - Presented alternative did not capture community consensus
 - PC did not have clear opinion for recommendation to Council

- **Alternative 3: Recommend Amended Language**
 - Keep 10,000 lot minimum for PUD
 - Allow net density of 4 units per acre if comply with factors from SE Sherwood Master Plan



Next Steps in the Process

1. Deliberate and Consider Alternatives
2. Forward a recommendation to the City Council-Hearing Tentatively scheduled for May 7, 2013



Any questions?

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
April 9, 2013

Commission Members Present:

Chair Patrick Allen
Vice Chair James Copfer
Commissioner John Clifford
Commissioner Russell Griffin
Commissioner Jean Simson
Commissioner Lisa Walker

Staff Present:

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

Commission Members Absent:

Commissioner Michael Cary

Council Liaison

Mayor Bill Middleton

Legal Counsel Present:

Chris Crean

1. Call to Order/Roll Call

Chair Patrick Allen called the meeting to order at 7:03 pm.

Chair Allen welcomed our new Planning Commissioner Jean Simson who has returned after two years absence and stated that the City Council had also re-appointed him for another term. Chair Allen announced that he was running for a Sherwood School District Board of Directors position unopposed and he would step down as a Planning Commissioner in July when that term begins.

Chair Allen skipped to Council Liaison Announcements.

2. Council Liaison Announcements

Mayor Middleton informed the Commission of some staffing changes. The vacant position of Planning Manager left open when Julia Hajduk became Community Development Director has been filled by Brad Kilby and Michelle Miller has been promoted to Senior Planner.

Julia commented that she will continue to attend Planning Commission meetings where possible.

3. Agenda Review

The agenda consisted of the Consent Agenda and the continued public hearing for the VLDR PUD Text Amendment (PA 12-04).

4. Presentation

Chair Allen presented a Certificate of Appreciation for former Planning Commissioner Brad Albert who served on the Planning Commission for four years with his term ending in March 2013 including a term as vice chair. Mr. Albert was unable to make it to the meeting.

5. Staff Announcements

Planning Manager, Brad Kilby discussed with the Commissioners membership with Planners Web an online City and Regional Planning Resource. Brad commented that if any of the Commissioners

were interested in training to let staff know. Chair Allen commented that there was training available with the Planning Institute in the fall. The Commissioners asked questions about the information available and showed interest in using the resource.

Brad informed the Commission that staff has discussed zoning options with Metro regarding a Planning Commission to look at area business or industrial park and ways to rezone these title IV areas which are protected as employment lands by Metro to “entrepreneurial zones” that will look at them more to serve as incubators to grow a business until it can build elsewhere in the community. There may be a limitation on size or use but an area to foster new businesses in Sherwood.

Brad apprised the Commission of a possible joint Planning Commission and City Council meeting for June 4, 2013 regarding the Town Center Plan. Michelle Miller, Senior Planner said that the Town Center project was nearing completion and by June 4th we should have the implementation report and the draft Town Center Plan and we may be having a joint session with the Steering Committee and the City Council to discuss any issues about the town center. Prior to that, in May there will be a couple of sessions to hear what the Stakeholder Advisory Committee and Technical Advisory Committees have thought about the Plan and a May 14th meeting in a listening session format to talk in depth about Town Center and to hear from the public.

Brad added that the May 14th meeting will also include information about the SW Corridor Project.

Brad reminded Commissioners to submit their Statement of Economic Interest (SEI) to the state by the deadline on April 15, 2013.

Chair Allen returned to the Consent Agenda item.

6. Consent Agenda

a. February 26, 2013 Planning Commission Minutes

Chair Allen suggested a change on page four of the minutes changing the word “zone” to “its own”.

Motion: From Vice Chair Copfer to accept and approve the minutes from February 26, 2013, as corrected. Seconded by Commissioner John Clifford. All present Commission members voted in favor (Commissioner Cary was absent).

7. Community Comments

There were no community comments.

8. Old Business

a. Public Hearing – PA 12-04 VLDR PUD Text Amendment (continued from February 26, 2013)

Chair Allen confirmed with counsel that no disclosure statement needed to be read as the Commission was in deliberation and asked if any of the Commissioners wished to recuse themselves. Commissioner Lisa Walker recused herself and stepped down from the dais.

Chair Allen clarified that legal counsel had been consulted and Commissioner Jean Simson, who testified on this matter before she was appointed to the Planning Commission, would be able to

participate because it was a legislative matter and she does not have any conflicts of interest. Commissioner Simson elected to participate in the deliberation.

Senior Planner Michelle Miller gave a presentation (see record, Exhibit 1) and said that the Commission was in the deliberations phase for the VLDR PUD Text Amendment. Michelle reminded the Commission that there was an application to amend the Very Low Density zone for planned unit developments and testimony was taken at the first hearing held on January 8, 2013. She said that the Planning Commission wanted to consider more elements of the SE Sherwood Master Plan, staff was asked to create proposed language, and the hearing was continued. Michelle indicated that the record was reopened at the February 12th hearing for citizen comments and the hearing continued to February 26th. VLDR property holders were re-noticed about a hearing held on February 26 where the Commission heard the amended language, closed the record and began deliberation.

Michelle said the Planning Commission would forward a recommendation to Council on the proposed amendment and showed a map with the location of the VLDR zoned property. She outlined the three alternatives discussed by the Commission at the previous meeting.

Alternative 1: Update SE Sherwood Master Plan

- SE Sherwood Master Plan information has changed
- Renew the discussion between residents and developers
- Opportunity to get a comprehensive plan developed for area

Alternative 2: Recommend Denial

- Planning Commission did not have clear opinion for recommendation to Council
- A consensus could not be reached that the amended language was beneficial
- Presented alternative language did not capture community consensus
- Contaminated soil issue should be resolved

Alternative 3: Recommend Amended Language

- Keep 10,000 lot minimum for Planned Unit Developments
- Allow net density of 4 units per acre if factors identified in the SE Sherwood Master Plan are complied with
- Amended language was in the April 9, 2013 meeting packet

Michelle showed a graphic that illustrated Alternative 3 and an example of how the language is interpreted. The example used 3.09 acres and reserved land for open space, roadways, and a water quality facility. This resulted in a net density of 2.26 acres with eight units or 3.54 dwelling units per acre. Michelle explained that with the VLDR zone there are some environmentally constrained areas and said that the Denali subdivision (see PUD 11-01) had roughly 36% of the site taken out because of portions that were environmentally constrained or not buildable. She commented that it would be difficult to achieve four units per acre in this area.

Chair Allen asked about providing language that allowed either 10,000 square foot (sf) lots **or** four units per acre instead of 10,000 sf **and** four units per acre. Discussion followed.

Commissioner John Clifford asked if the water quality facility size could be reduced by incorporating green streets or storm water management along the streetscape.

Bob Galati, City Engineer answered that the City of Sherwood has not officially adopted green street standards. Green streets are used in a portion of the City to help understand the impacts before they are adopted. Bob said that Clean Water Services has bioswale treatments and low impact development could be used to reduce the size. He said a regional water quality facility that could handle the lot sizes and the street impervious area could also give a little more room.

Commissioner Griffin commented that the Rychlick Farm subdivision has lots ranging from 5000 to 12,000 sf and said there might be somebody who would like to live in the VLDR but did not want 10,000 sf of lawn. He asked if there was a way to scale the lot sizes so that the average is 10,000 sf and asked regarding the lot sizes of the Denali subdivision.

Michelle answered that all the lots in the Denali subdivision were above 10,000 sf and explained that sometimes with a Planned Unit Development they do lot averaging, however the issue was the minimum allowed.

Vice Chair Copfer commented that it was important to continue with a 10,000 sf lot size for current residents.

Commissioner Clifford asked if a percentage of the lots could be under the 10,000 sf threshold.

Michelle responded that it would be up to the Planning Commission to structure the code language.

Vice Chair Copfer commented on the complexity of trying to word the code and advocated leaving the threshold at 10,000 sf.

Commissioner Simson commented that the area was comprehensively zoned, and maintained that zone since the eighties or nineties, with the expectation that the lots would be 20,000 to 40,000 sf lots. She said she believed that when that VLDR zone was made, it was in a comprehensive manner encompassing the City of Sherwood adding that while 10,000 sf is large to some people, 20,000 sf lots is what was expected.

Commissioner Griffin asked if the Commission was moving away from the SE Sherwood Master Plan.

Chair Allen said he maintained that the right thing to do was to revisit the SE Sherwood Master Plan and take that process to conclusion, but that was not what was before the Commission. He said that [Alternative 3] was not an implementation of the SW Sherwood Master Plan because many conditions have changed and many pieces contained in the Master Plan are not contained in the alternative. Discussion followed.

Chair Allen confirmed that all of the commissioners agreed with the 10,000 sf minimum lot size and acknowledged Commissioner Griffin's previous comments regarding an average lot size. Chair Allen asked for a consensus regarding the maximum density of four buildable units per acre; recognizing the math discrepancy between 10,000 sf lots and 4 units per acre. He asked if the commission wished to resolve the discrepancy. Discussion followed.

Michelle said that while four units per acre would be difficult, it was possible to get close. She gave the example of Denali that had a net buildable area of 1.99 acres that used 10,000 sf lots (1.99 acres

x 4 units per acre = 7.96 units). Michelle submitted that other properties in the area might have similar conditions.

Chair Allen commented that four units per acre may not be the inconsistency he thought it was.

Vice Chair Copfer asked if a 10,000 sf minimum could be side stepped if the language allowed four units per acre.

Chris Crean answered that both criteria would have to be met.

Chair Allen looked to the commissioners for agreement.

Commissioner Simson asked for confirmation that all of the alternatives would be sent to City Council and it was possible that Council could make the decision to fund revisiting the SE Sherwood Master Plan.

Michelle explained that the recommendation to Council would discuss three alternatives in detail with a final recommendation from the Alternatives selected by the Commission.

Chair Allen commented that the Commission wanted Council to know all of the issues considered in addition to the recommendation and to give a range of what could be done.

Chair Allen asked which alternative Commission members preferred. Commissioners Copfer and Clifford opted for Alternative 3.

Commissioner Simson indicated she would vote for Alternative 2; that having been involved with the SE Sherwood Master Plan she understood that what was being done was not a win. She said that taking one piece out of the plan seems like piecemeal planning and expressed her concerns that the City was not protecting that part of our community that we tried to plan for.

Commissioner Copfer asked Commissioner Simson to explain why she would vote for Alternative 2, because he was not present for the SE Sherwood master planning.

Ms. Simson explained that the SE Sherwood Master Plan was months of deliberation, that brought in the people involved in the community to see what the constraints were with that environment. She commented that her perception was that the neighborhood wanted to maintain a livability that encompassed larger lot sizes, buffer zones, and large open space dedications with parks. At the time there was a large dedication of an area with trees, but subsequent to [the SE Sherwood Master Plan] the treed area went away and contamination was found. Ms. Simson said the area has changed significantly and she did not feel comfortable trying to move forward a part of a master plan that was not completed. She commented that she understood that in order for the land to be developed the City needed to do something and Council has a difficult decision of answering that.

Chair Allen said he would be in favor of denial if there was something on the horizon to revisit the SE Sherwood Master Plan. He said that the conundrum was that there is hazardous waste to be remediated and infrastructure that has to be financed; a denial would not make any progress. Chair Allen commented that there will likely be some remediation and infrastructure resulting from Alternative 3.

Commissioner Clifford said that it could take a considerable amount of time for Alternate 1 to become part of our code; whereas Alternate 3 provides some teeth to the Master Plan as part of the language in the code.

Chair Allen commented that Alternatives 1 and 3 are not incompatible with each other, and Alternative 3 may not be sufficient to promote development. He said a recommendation helps to highlight the issues for Council to consider and that the City was at the beginning of the budgeting process, may be timely.

Commissioner Griffin said he would be okay with Alternative 3 if the Council said that it was an area of Sherwood that they wanted to protect because it is unique and that is why it was zoned VLDR all those years ago. He said if the development is compatible with what is in the area then he saw it as a plus. Commissioner Griffin said he could vote for Alternative 3.

Vice Chair Copfer and Commissioner Clifford said they could agree on Alternative 3; Commissioner Simson said Alternative 2.

Chair Allen asked if there was anything else the Commission should manipulate before moving to a motion.

Commissioner Simson commended on staff's ability to capture the Planning Commission's intentions and in trying to relate them to Council as options.

Motion: From Vice Chair Copfer for the Planning Commission to send a recommendation to Council for Alternative 3 for PA 12-04 VLDR PUD Text Amendment. Seconded By Commissioner John Clifford.

Chair Allen clarified that the Commission was sending the Staff Report on to Council with a full discussion of the three alternatives outlined with the Commission's recommendation to select Alternative 3.

Chair Allen, Vice Chair Copfer, and Commissioners Clifford and Griffin voted in favor, Commissioner Simson was opposed (Commissioner Walker had recused herself and Commissioner Cary was absent).

9. Adjourn

Chair Allen adjourned the meeting at 7:51 pm.

Submitted by:



Kirsten Allen
Planning Department Program Coordinator

Approval Date: May 14, 2013