



**City of Sherwood
PLANNING COMMISSION**

**Sherwood Police Facility
20495 SW Borchers Drive**

November 8, 2005

Regular Meeting - 7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Brief Announcements**
4. **Community Comments** (*The public may provide comments on any non-agenda item*)
5. **Public Hearings:**
 - A. **Chapter 6 - Plan Text Amendment – Public Fiber Conduit (PA 05-05)**
The Commission will consider a plan text amendment to the Sherwood Zoning & Community Development Code (Chapter 6) that add public improvement standards for Sherwood Broadband utility. The Commission will hold a hearing to take public testimony and consider a staff report and recommendation. Plan amendments require a hearing before the City Council for a final decision. (*Julia Hajduk, Senior Planner, Planning Department*)
 - B. **Sherwood Oaks - Zone Change/Site Plan Review (PA 05-02/SP 05-09)** *PA 05-03*
An applicant is proposing a concomitant zone change and site plan review for an Alzheimer's Facility and 35 townhouses in condominium ownership on two tax lots. The subject property is located on 1210 NE Oregon Street, formerly known as the Tannery. The Commission will continue a hearing from September 27 and take public testimony and consider a staff report and recommendation. Plan amendments require a hearing before the City Council for a final decision. (*Julia Hajduk, Senior Planner, Planning Department*)
 - C. **Hunters Ridge Building B - Site Plan Modification (SP 04-09/CUP 04-03 –A)**
An applicant is proposing to modify an approved site plan for Hunters Ridge Building B located at 20510 SW Roy Rogers Road. The Commission will render a decision based on Section 5.102.03.A. (*Julia Hajduk, Senior Planner, Planning Department*)
6. **Comments from Commission**
7. **Next Meeting:** November 22, 2005 – Area 59 Work Session
8. **Adjournment**

TO: PLANNING COMMISSION

Hearing Date: November 8, 2005

Report Date: November 1, 2005

FROM: PLANNING DEPARTMENT
Julia Hajduk, Senior Planner



I. BACKGROUND

In March of 2005, the City Council amended Chapter 4 of the Municipal Code (Ordinance No. 2005-007) to create the City of Sherwood Telecommunications Utility, a public utility that provides broadband access to residences and businesses in Sherwood. The City has existing telecommunication fiber optic conduit in various locations throughout the City as illustrated in Exhibit A. However, in order to ensure access is provided to existing and future residents and employers, conduit must be installed at the time a property develops. The Sherwood Zoning and Community Development Code requires public infrastructure to be extended within and along the frontage of a project site as part of the land use review; however, at this time the public telecommunication utility is not clearly identified as a public utility. In addition, while private utility conduits are also traditionally installed by the developer during construction, and required during the Engineering Plan review, the code does not clearly mandate that conduits for utilities such as private cable, phone and electricity be installed during construction. The proposed amendments (Exhibit B) will clarify existing procedures and ensure that Sherwood residents, employers and employees have better access to affordable telecommunication services. Also included (Exhibit C) is the proposed design and construction standards from the Engineering Department which will be adopted at the same time as the proposed amendments to provide definitive standards for the installation of the conduit and appurtenances.

II. AGENCY & PUBLIC COMMENTS

Staff sent a copy of the proposed changes via e-mail to affected/interested agencies on October 18, 2005. No comments or concerns have been provided or raised to date. Direct property notice is not required for a Type V – Legislative amendment. The proposed amendment does not limit or prohibit the use of property; therefore Measure 56 notice is not required. Staff sent notice to DLCDC on September 30, 2005.

III. FINDINGS

TEXT AMENDMENT (SECTION 4.203.01)

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 Comprehensive Plan, and with all other provisions of the Plan and this Code, and with any applicable State or City statutes and regulations.

Consistency with Comprehensive Plan:

The Planning Commission initiated the plan text amendment application on September 27, 2005 after considering the changes during a regular meeting.

The proposed amendments are consistent with Chapter 7 of the Comprehensive Plan (Part 2), which lists the general policy goal as: **“to insure the provision of quality community services and facilities of a type, level and location which is adequate to support existing development and which encourages efficient and orderly growth at the least public cost.”**

The Sherwood Broadband utility clearly meets this goal by providing low cost access to Sherwood. In order to ensure this goal is met, changes to the Comprehensive Plan Parts 2 and 3 are necessary. While Chapter 7 of Part 2 of the Comprehensive Plan does not fully reflect the advancements in technology (DSL and high speed internet connections) that are now critical to the operation of our economy and communication system, this section does list communications as a public facility and service that must be provided in order to meet the policy goal identified above. The update of Chapter 6 of the Sherwood Zoning and Community Development code to require installation of conduits for said utilities as part of a proposed development and provide for this newer advancement in communications is consistent with the policies and objectives of the Comprehensive Plan.

Consistency with State Law:

There are no known State land use laws that are applicable to these proposed amendments. The public facility planning rules (OAR 660-011) do not address telecommunications.

Consistency with Regional (Metro) law:

There are no known Regional land use laws that are applicable to these proposed amendments.

IV. RECOMMENDATION

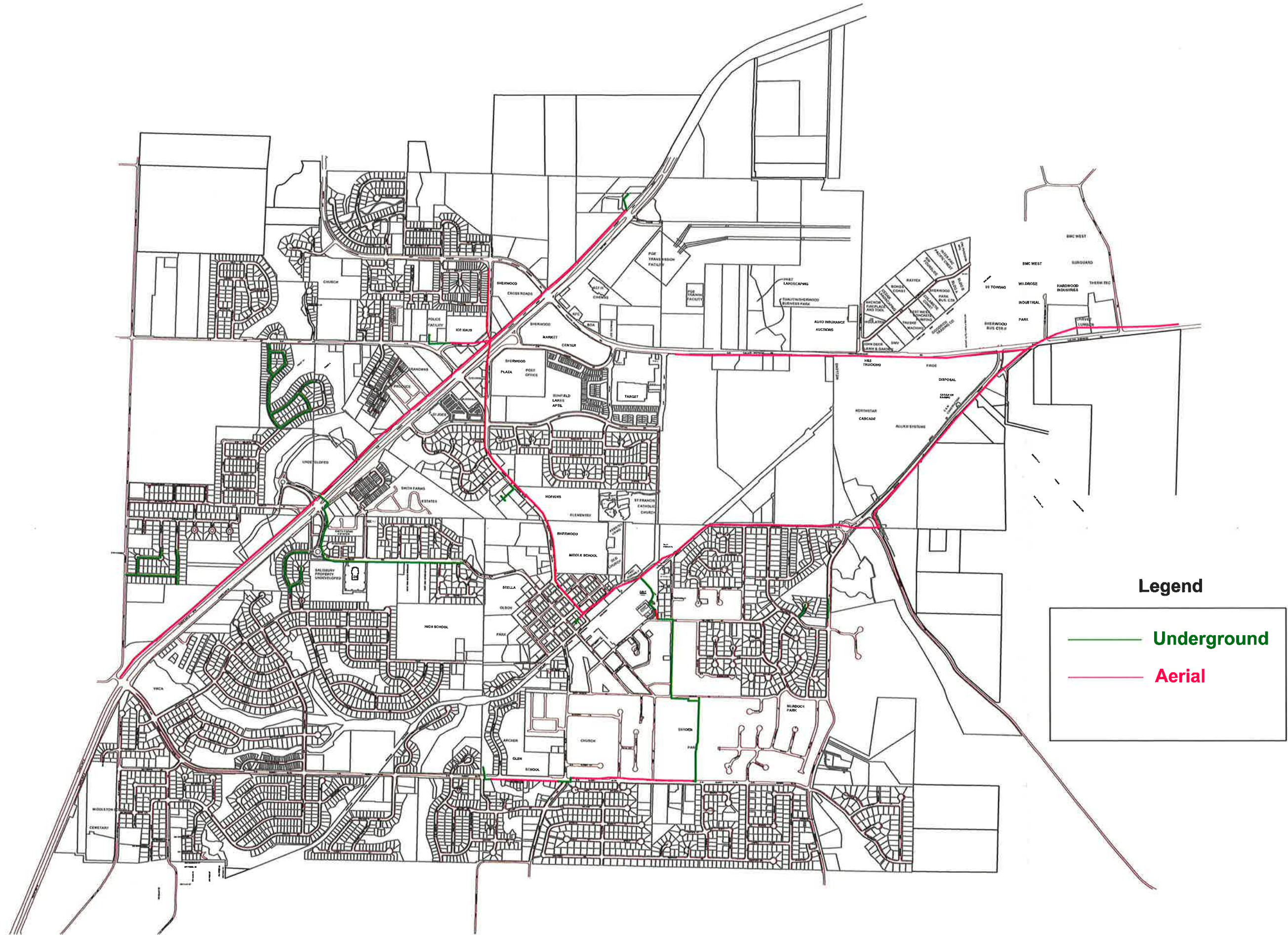
Planning staff recommends that the Planning Commission recommend **approval** of the attached plan text amendment, subject to any revisions, and forward the findings and proposal to the City Council for a second required hearing in the form of a proposed ordinance.

V. EXHIBITS

- A. Facility Map of City of Sherwood fiber optic conduits
- B. Draft changes to Chapter 6 of the Sherwood Zoning and Community Development Code version 1.0
- C. Draft Design and Construction Standards for conduit installation
- D. Ordinance No. 2005-007 (Sherwood Broadband)

City of Sherwood fiber asbuilts

Exhibit A



CHAPTER 6

PUBLIC IMPROVEMENTS

Section	Page
6.100 GENERALLY	3
6.101 STANDARDS.....	3
6.102 FUTURE IMPROVEMENTS.....	3
6.103 IMPROVEMENT PROCEDURES	3
6.200 IMPROVEMENT PLAN REVIEW	3
6.201 PREPARATION AND SUBMISSION	4
6.202 CONSTRUCTION PERMIT	4
6.203 CONSTRUCTION.....	5
6.204 ACCEPTANCE OF IMPROVEMENTS.....	6
6.300 STREETS.....	6
6.301 GENERALLY.....	6
6.302 STREET SYSTEMS IMPROVEMENT FEES (SIF).....	10
6.303 REQUIRED IMPROVEMENTS	10
6.304 LOCATION AND DESIGN	13
6.305 STREET DESIGN STANDARDS	15
6.306 SIDEWALKS.....	23
6.307 HIGHWAY 99W CAPACITY ALLOCATION PROGRAM (CAP).....	24
6.308 BIKE PATHS.....	29
6.400 SANITARY SEWERS.....	29
6.401 REQUIRED IMPROVEMENTS	29
6.402 DESIGN STANDARDS	30
6.403 SERVICE AVAILABILITY	30
6.500 WATER SUPPLY	30
6.501 REQUIRED IMPROVEMENTS	30
6.502 DESIGN STANDARDS	30
6.503 SERVICE AVAILABILITY	31

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

6.600 STORM WATER31

6.601 REQUIRED IMPROVEMENTS31

6.602 STORM WATER SYSTEM IMPROVEMENT FEES (SIF)32

6.603 DESIGN STANDARDS33

6.604 SERVICE AVAILABILITY33

6.700 FIRE PROTECTION33

6.701 REQUIRED IMPROVEMENTS33

6.702 STANDARDS33

6.703 MISCELLANEOUS REQUIREMENTS34

6.800 PUBLIC AND PRIVATE UTILITIES35

6.801 PURPOSE35

6.802 STANDARDS35

6.803 UNDERGROUND FACILITIES35

6.804 EXCEPTIONS35

6.805 PRIVATE STREETS35

Deleted: IMPROVEMENTS

Deleted: UTILITY STANDARDS

Deleted: 2

Deleted: 3

Deleted: 4

Deleted: 34

Deleted: 35

Deleted: 1
Rev. 6-1-05

CHAPTER 6

PUBLIC IMPROVEMENTS

6.100 GENERALLY

6.101 STANDARDS

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require proposed buildings and development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. The Council may establish specifications to supplement the standards of this Code and other applicable ordinances. Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities, shall generally be provided and improved at the standards established by this Code and other City regulations.

6.102 FUTURE IMPROVEMENTS

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in Chapters 4, 5, 6 and 7 of the Community Development Plan, are intended as general locations only. The precise alignments and locations of public improvements shall be established during the actual development process and shall be depicted on public improvement plans submitted and approved pursuant to Section 6.200 and other applicable sections of this Code.

6.103 IMPROVEMENT PROCEDURES

Except as otherwise provided, all public improvements shall conform to City standards and specifications and shall be installed in accordance with Section 6.200. No public improvements shall be undertaken until an improvement plan review fee has been paid, improvement plans have been approved by the City, and an improvement permit has been issued.

6.200 IMPROVEMENT PLAN REVIEW

6.201 PREPARATION AND SUBMISSION

Required improvement plans shall be prepared and stamped by a Registered Civil Engineer certifying compliance with City specifications. Two (2) sets of said plans shall be submitted to the City for review. Improvements plans shall be accompanied by a review fee as per Section 6.201.01.

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

6.201.01 Review Fee

Plan review fees are calculated as a percentage of the estimated total cost of improvements and are set by the "Schedule of Development and Business Fees" adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.

6.201.02 Engineering Agreement

A copy of an agreement or contract between the applicant and Registered Civil Engineer for:

- A. Surveying sufficient to prepare construction plans.
- B. Preparation of construction plans and specifications.
- C. Construction staking, and adequate inspection.
- D. Construction notes sufficient to develop accurate as-built plans.
- E. Drawing of accurate as-built plans and submission of reproducible mylars to the City.
- F. Certificate stating that construction was completed in accordance with required plans and specifications.

6.202 CONSTRUCTION PERMIT**6.202.01 Approval**

The City will return one (1) set of plans to the applicant marked "approved" or "modify and resubmit." Plans marked for re-submittal must be corrected in accordance with notations or instructions. After correction and approval, additional plans shall be provided the City for office use, field inspection and submittal to affected agencies.

6.202.02 Permit and Fee

Upon approval the applicant shall obtain a construction permit. The construction permit fee is set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.

6.202.03 Easement Documents

Necessary construction and/or permanent easements shall be provided in a form acceptable to the City prior to issuance of a construction permit.

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

6.202.04 Improvement Guarantees

Prior to issuance of a construction permit the applicant shall file the following documents with the City:

A. Liability Insurance

Evidence of public liability and property damage insurance adequate to protect the applicant and the City from all claims for damage or personal injury.

B. Performance Bond

To assure full and faithful performance in the construction of required improvements in accordance with approved construction plans, the applicant shall provide security in an amount equal to one hundred percent (100%) of the estimated cost of the improvements. In the event the applicant fails to carry out all provisions of the approved improvements plans and the City has unreimbursed costs or expenses resulting from such failure, the City shall call on the security for reimbursement. Security may be provided in the form of a surety bond executed by a surety company authorized to transact business in the State of Oregon, a cash deposit, or other form of security acceptable to the City.

6.203 CONSTRUCTION

6.203.01 Initiation of Construction

Actual improvements shall not begin, or after a discontinuance, be restarted until the City is notified in writing.

6.203.02 Inspection

All construction shall be done to the City's specifications. The City shall perform inspections to verify compliance with approved plans and shall make a final inspection of the construction at such time as the improvements are complete. The City may require changes in typical sections and details, if unusual conditions warrant the change.

6.203.03 As-Built Plans

A complete set of reproducible plans showing the public improvements as built shall be filed with the City upon completion of the improvements.

6.203.04 Suspension of Improvements Activity

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

The City shall have the authority to cause a suspension of improvement construction or engineering when, in the opinion of the City, work is not being done to the City's satisfaction.

6.204 ACCEPTANCE OF IMPROVEMENTS

6.204.01 Final Inspection

At such time as all public improvements, except those specifically approved for later installation, have been completed, the applicant shall notify the City of the readiness for final inspection.

6.204.02 Notification of Acceptance

The City shall give written notification of the acceptance of the improvements upon finding that the applicant has met the requirements of Section 6.200 and the specifications of all approved plans.

6.204.03 Maintenance Bond

At the time of City acceptance of public improvements, the applicant shall file with the City a maintenance bond computed at ten percent (10%) of the full value of the improvements, to provide for correction of any defective work or maintenance becoming apparent or arising within one (1) year after final acceptance of the public improvements.

6.300 STREETS

6.301 GENERALLY

6.301.01 Creation

Public streets shall be created in accordance with provisions of Section 7.304. Except as otherwise provided, all street improvements and rights-of-way shall conform to standards for the City's functional classification of said streets, as shown on the Transportation Plan Map, attached as Appendix B, in Chapter 6 of the Community Development Plan, and in other applicable City standards.

6.301.02 Street Naming

- A. All streets created by the subdivision process will be named prior to submission of the final plat.
- B. Any street created by a public dedication shall be named prior to or upon acceptance of the deed of dedication.

- C. An action to name an unnamed street in the City may be initiated by the Council or by a person filing a petition as described in Section 6.301.03.
- D. All streets named shall conform to the general requirements as outlined in Section 6.301.04.
- E. Private streets, at the request of the owner(s), may be named and addresses issued with the approval of the City. Private streets are subject to the same street name standards as are public streets. All private street signs will be provided at the owner(s) expense.

6.301.03 Street Renaming

- A. An action to rename a street in the City may be initiated by the Council:
 - 1. On its own action; or
 - 2. If a person files a petition as described in this section accompanied by a fee reasonably related to the costs of the process.
- B. A petition for naming or renaming a street shall include the following:
 - 1. A statement of the reasons for the proposed name change.
 - 2. The names and addresses of all persons owning any real property abutting the road proposed to be renamed.
 - 3. Signatures of either owners of percent sixty (60%) of the land abutting the subject road or sixty percent (60%) of the owners of land abutting the subject road.
- C. Notice and Hearing
 - 1. When a proceeding has been initiated under this section, the Council shall establish a time and place for a hearing to consider whether the proposed name change is in the public interest.
 - 2. At least ten (10) days prior to the date of hearing, notice of the proposed name change shall be provided as follows:
 - a. Notice by posting in no less than two (2) conspicuous places abutting the subject road; and
 - b. Notice by publication in a newspaper of general circulation in the area of the subject road.
 - 3. During or before a hearing under this section, any person may file information with the Council that alleges any new matter relevant to the proceedings or controverts any matter presented to the Council.

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

4. After considering the matters presented under this section, the Council shall determine whether the name change is in the public interest and shall adopt findings and an ordinance granting or denying the request.
5. When the ordinance becomes final, the Council shall cause the ordinance to be recorded with the County Clerk who shall cause copies of the ordinance to be filed with the Department of Public Works, the Department of Assessment and Taxation and with the County Surveyor.
6. For the purposes of this section, "owner" means the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser is the owner.

6.301.04 Street Name Standards

- A. All streets named or renamed shall comply with the following criteria:
 1. Major streets and highways shall maintain a common name or number for the entire alignment.
 2. Whenever practicable, names as specified in Section 6.301.05 shall be utilized or retained.
 3. Hyphenated or exceptionally long names shall be avoided.
 4. Similar names such as Farview and Fairview or Salzman and Saltzman shall be avoided.
 5. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the City.
- B. The following classifications (suffixes) shall be utilized in the assignment of all street names:
 1. Boulevards: North/south arterials providing through traffic movement across the community.
 2. Roads: East/west arterials providing through traffic movement across the community.
 3. Avenues: Continuous, north/south collectors or extensions thereof.
 4. Streets: Continuous, east-west collectors or extensions thereof.
 5. Drives: Curvilinear collectors (less than 180 degrees) at least 1,000 feet in length or more.

Deleted: 34
Deleted: 35
Deleted: 1 Rev. 6-1-05

- 6. Lanes: Short east/west local streets under 1,000 feet in length.
 - 7. Terraces: short north/south local streets under 1,000 feet in length.
 - 8. Court: All east/west cul-de-sacs.
 - 9. Place: All north/south cul-de-sacs.
 - 10. Ways: All looped local streets (exceeding 180 degrees).
 - 11. Parkway: A broad landscaped collector or arterial.
- C. Except as provided for by this section, no street shall be given a name that is the same as, similar to, or pronounced the same as any other street in the City unless that street is an extension of an already-named street.
- D. All proposed street names shall be approved, prior to use, by the City.

6.301.05 Street Names

Whenever practicable, historical names will be considered in the naming or renaming of public roads. Historical factors to be considered shall include, but not be limited to the following:

- A. Original holders of Donation Land Claims in Sherwood.
- B. Early homesteaders or settlers of Sherwood.
- C. Heirs of original settlers or long-time (50-100 years) residents of Sherwood.
- D. Explorers of or having to do with Sherwood.
- E. Indian tribes of Washington County.
- F. Early leaders and pioneers of eminence.
- G. Names related to Sherwood's flora and fauna.
- H. Names associated with the Robin Hood legend.

6.302 STREET SYSTEMS IMPROVEMENT FEES (SIF)

6.302.01 Purpose

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development and redevelopment of public rights-of-way, streets, bikepaths, sidewalks, traffic control devices, and appurtenant structures, designed to provide extra system capacity, and as designated on the Transportation Plan Map, attached as Appendix B, and in Chapter 6 of the Community Development Plan. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for street preservation improvements or for routine street system maintenance and operations.

6.302.02 Schedule of Charges

SIF's shall be assessed against new development in the City to support extra-capacity street improvements. The SIF for streets shall be set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein for purposes of information, but is deemed to be separate from and independent of this Code.

6.302.03 Assessment

Except as otherwise provided by this Code or by State Law, the SIF is immediately due and payable and shall be collected prior to issuance of any building permits for new residential construction; for alterations or additions to buildings that increase the number of residential dwelling units; or for commercial, industrial, or institutional construction requiring new or additional off-street parking as per Section 5.302.

6.302.04 Deferral

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the full SIF is paid in full.

6.303 REQUIRED IMPROVEMENTS

6.303.01 Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

6.303.02 Existing Streets

Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

development. In no event shall a required street improvement for an existing street exceed a pavement width of thirty (30) feet.

6.303.03 Proposed Streets

1. Except as otherwise provided, when a development includes or abuts a proposed street, in no event shall the required street improvement exceed a pavement width of forty (40) feet.
2. Half Streets: When a half street is created, a minimum of 22 feet of driving surface shall be provided by the developer.

6.303.04 Extent of Improvements

Streets required pursuant to Section 6.300 shall be dedicated and improved consistent with Chapter 6 of the Community Development Plan, the Transportation System Plan and applicable City standards and specifications included in the Standard Transportation Drawings, and shall include curbs, sidewalks, catch basins, street lights, and street trees. Improvements shall also include any bikeways designated on the Transportation System Plan map.

Catch basins shall be installed and connected to storm sewers and drainage ways. Upon completion of the improvements, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines. Street signs shall be installed at all street intersections and street lights shall be installed and served from an underground source of supply unless other electrical lines in the development are not underground.

6.303.05 Street Modifications

- A. Modifications to standards contained within Sections 6.300, 2.301 and the standard cross sections contained in Chapter 8 of the adopted Sherwood Transportation System Plan (TSP), may be granted in accordance with the procedures and criteria set out in this section.
- B. Types of Modifications. Requests fall within the following two categories:
 1. Administrative Modifications. Administrative modification requests concern the construction of facilities, rather than their general design, and are limited to the following when deviating from standards in Sections 6.300, 2.301 or Chapter 8 contained in the adopted Transportation System Plan:
 - a. Surfacing materials for roads or pedestrian facilities;
 - b. Asphalt and/or base rock thickness less than required;
 - c. Pavement marking layout;
 - d. Exceeding the maximum street grade;
 - e. Type and/or location of signage;
 - f. Channelization;
 - g. Intersection interior angles and curb radii less than required;

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

- h. Utilizing the current set of standards in lieu of the standards that were in place when the applicant's proposed project was vested;
 - i. Access-related modifications onto collectors, arterials, and state routes; provided other substantive criteria such as sight distance and limited access points are met; and provided further that access to a lesser classification of road is not available.
 - j. Needed changes as a result of a field investigation during construction; and
 - k. Similar revisions to the standards.
2. Design Modifications. Design modifications deal with the vertical and horizontal geometrics and safety related issues and include the following when deviating from Section 6.300, 2.301 or Chapter 8 cross sections in the adopted Transportation System Plan.
- a. Reduced sight distances;
 - b. Vertical alignment;
 - c. Horizontal alignment;
 - d. Geometric design (length, width, bulb radius, etc.);
 - e. Design speed;
 - f. Crossroads;
 - g. Access policy;
 - h. A proposed alternative design which provides a plan superior to these standards; and
 - i. All other standards.
- C. Procedure. A modification request shall be classified as an administrative decision by the City Engineer.
- 1. Administrative Modification. Administrative modifications may be requested at any time and are processed as Type II applications, unless defined under (C)(2) below. The application shall include sufficient technical analysis to enable a reasoned decision and shall include a letter of concurrency from the City Engineer.
 - 2. Design Modification. Design modifications shall be proposed in conjunction with the application for the underlying development proposal and processed as a Type III application. Design modification requests shall be processed in conjunction with the underlying development proposal unless it is submitted subsequent to the decision for the underlying development proposal. The design modification application shall:
 - a. Include a written request stating the reasons for the request and the factors which would make approval of the request reasonable;
 - b. Include a letter of Concurrency from the City Engineer.
 - c. Be accompanied by a map showing the applicable existing conditions and proposed construction such as contours, wetlands, significant trees, lakes, streams and rivers, utilities, property lines, existing and proposed roads and driveways, existing and projected traffic patterns, and any unusual or unique conditions not generally found in other developments;
 - d. In the case of modification requests based upon alleged disproportionality, include an engineering analysis of the standard sought to be modified which contrasts relevant traffic impacts from the development with the cost of complying with the standard; and

Deleted: 34
 Deleted: 35
 Deleted: ¶
 Rev. 6-1-05

- e. For crossroad and frontage construction and right-of-way dedication, the application shall include information indicating whether there are geographic or other factors which render connection/completion of the road unfeasible.
- D. Street modifications may be granted when criterion D.1 and any one of criteria D.2 through D.6 are met:
1. A letter of concurrency is obtained from the City Engineer or designee.
 2. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative which can accomplish the same design purpose is available.
 3. A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship. Self-imposed hardships shall not be used as a reason to grant a modification request.
 4. An alternative design is proposed which will provide a plan equal to or superior to the existing street standards.
 5. Application of the standards of this chapter to the development would be grossly disproportional to the impacts created.
 6. In reviewing a modification request, consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors, such as to advance the goals of the adopted Sherwood Comprehensive Plan and Transportation System Plan as a whole. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact.

6.304 LOCATION AND DESIGN

6.304.01 Generally

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic and pedestrian circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Section 8.311, and topographical considerations.

6.304.02 Street Connectivity and Future Street Systems

- A. Future Street Systems. The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Local Street Connectivity Map contained in the adopted Transportation System Plan (Figure 8-8).
- B. Connectivity Map Required. New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that responds to and expands on the Local Street Connectivity map contained in the TSP.
- C. Block Length. For new streets except arterials and principal arterials, block length shall not exceed 530 feet. The length of blocks adjacent to principal arterials shall not exceed 1,800 feet.

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

- D. Where streets must cross water features identified in Title 3 of the Urban Growth Management Functional Plan (UGMFP), provide crossings at an average spacing of 800 to 1,200 feet, unless habitat quality or length of crossing prevents a full street connection.
- E. Where full street connections over water features identified in Title 3 of the UGMFP cannot be constructed in centers, main streets and station communities (including direct connections from adjacent neighborhoods), or spacing of full street crossings exceeds 1,200 feet, provide bicycle and pedestrian crossings at an average spacing of 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.
- F. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways at least 8 feet wide, or consistent with cross section standards in Figure 8-6 of the TSP, shall be provided on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 300 feet. Multi-use paths shall be built according to the Pedestrian and Bike Master Plans in the adopted Transportation System Plan.
- G. Exceptions. Streets, bike, and pedestrian connections need not be constructed when any of the following conditions exists:
 - 1. Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;
 - 2. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
 - 3. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

6.304.03 Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

6.305 STREET DESIGN

Standard cross sections showing street design and pavement dimensions are located in the City of Sherwood Transportation System Plan, Technical Standards, and the City of Sherwood Public Works Standards, or whichever is most current.

6.305.02 Reserve Strips

Reserve strips or street plugs controlling access or extensions to streets shall not be allowed unless necessary for the protection of the public welfare or of substantial property rights. All reserve strips shall be dedicated to the City.

6.305.03 Alignment

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

All proposed streets shall, as far as practicable, be in alignment with existing streets. In no case shall the staggering of streets create a "T" intersection or a dangerous condition. Street offsets of less than one hundred (100) feet will not be allowed.

6.305.04 Future Extension

Where necessary to access or permit future subdivision of adjoining land, streets shall extend to the boundary of the development. Dead-end streets less than 100' in length shall either comply with City cul-de-sac standards of Section 6.305.06, or shall provide an interim hammerhead turnaround at a location that is aligned with the future street system as shown on the local street connectivity map.

A durable sign shall be installed at the applicant's expense. These signs 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.

6.305.05 Intersection Angles

- A. Streets shall intersect as near to ninety (90) degree angles as practical, except where topography requires a lesser angle. In no case shall the permitted angle be less than eighty (80) degrees without an approved special intersection design. Streets which contain an acute angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway edge radius of twenty (20) feet and maintain a uniform width between the roadway and the right-of-way line.
- B. Principal arterial, arterial, collector streets, or neighborhood routes intersecting with another street shall have at least one hundred (100) feet on tangent adjacent to intersections unless topography requires a lesser distance. Local streets, except alleys, shall have at least fifty (50) feet on tangent adjacent to intersections.

6.305.06 Cul-de-Sacs

1. All cul-de-sacs shall be no more than one hundred (100) feet in length, shall not provide access to more than 15 dwelling units and shall be used only when exceptional topographical constraints, existing development patterns, or compliance with other standards in this code preclude a street extension and circulation.
2. All cul-de-sacs shall terminate with a circular turnaround no more than 40 feet in radius (i.e. from center to edge of pavement) or hammerhead turnaround in accordance with the specifications in the Public Works Standards. The radius of circular turnarounds may be larger when they contain a landscaped island, parking bay in their center, Tualatin Valley Fire and Rescue submits a written request, or an industrial use requires a larger turnaround for truck access.

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

3. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.
4. Public easements, tracts, or right-of-way shall provide paved pedestrian and bicycle accessways at least 6 feet wide where cul-de-sacs or dead-end streets are planned, to connect the ends of the streets together, connect to other streets, and/or connect to other existing or planned developments in accordance with the standards. of 6.303.04 and other City standards.

6.305.07 Grades and Curves

Grades shall not exceed six percent (6%) for principal arterials or arterials, ten percent (10%) for collector streets or neighborhood routes, and twelve percent (12%) for other streets. Center line radii of curves shall not be less than three hundred (300) feet for principal arterials, two hundred (200) feet for arterials or one hundred (100) feet for other streets. Where existing conditions, such as topography, make buildable sites impractical, steeper grades and sharper curves may be approved. Finished street grades shall have a minimum slope of one-half percent (1/2%).

6.305.08 Streets Adjacent to Railroads

Streets adjacent to railroads shall run approximately parallel to the railroad and be separated by a distance suitable to allow landscaping and buffering between the street and railroad. Due consideration shall be given at cross streets for the minimum distance required for future grade separations and to provide sufficient depth to allow screening of the railroad.

6.305.09 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 8.304.04, and all applicable access provisions of Section 5.400, 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.

6.305.10 Median Islands

As illustrated in Chapter 8 of the adopted Transportation System Plan, median islands may be used on principal arterial, arterial or collector streets for the purpose of controlling access, or for aesthetic purposes.

6.305.11 Curbs

Except in the Old Town Overlay District where curbless (*woonerf*) streets are permitted, curbs shall be installed on both sides of public streets and shall be at least six (6) inches in height.

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

6.305.12 Transit Facilities

Developments along existing or proposed transit routes, as illustrated in Figure 7-2 in the TSP, shall be required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities to Tri-Met specifications. Transit facilities shall also meet the following requirements:

1. Locate buildings within 20 feet of or provide a pedestrian plaza at major transit stops.
2. Provide reasonably direct pedestrian connections between the transit stop and building entrances on the site.
3. Provide a transit passenger landing pad accessible to disabled persons (if not already existing to transit agency standards).
4. Provide an easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider.
5. Provide lighting at a transit stop (if not already existing to transit agency standards).

6.305.13 Traffic Controls

For developments of five (5) acres or more, the City may require a traffic impact analysis to determine the number and types of traffic controls necessary to accommodate anticipated traffic flow. Such analysis will be completed according to specifications established by the City. Review and approval of the analysis by the City, and any improvements indicated, shall be required prior to issuance of a construction permit.

6.305.14 Traffic Calming

- A. The following roadway design features, including internal circulation drives, may be required by the City in new construction in areas where traffic calming needs are anticipated:
1. Curb extensions (bulb-outs);
 2. Traffic diverters/circles;
 3. Alternative paving and painting patterns;
 4. Raised crosswalks, speed humps, and pedestrian refuges; and
 5. Other methods demonstrated as effective through peer reviewed engineering studies.
- B. With approval of the City Engineer, traffic calming measures such as speed humps and additional stop signs can be applied to mitigate traffic operations and/or safety problems on existing streets. They should not be applied with new street construction unless approved by the City Engineer and Tualatin Valley Fire & Rescue.

6.305.15 Vehicular Access Management

All developments shall have legal access to a public road. Access onto public streets shall be permitted upon demonstration of compliance with the provisions of adopted

Deleted: 34

Deleted: 35

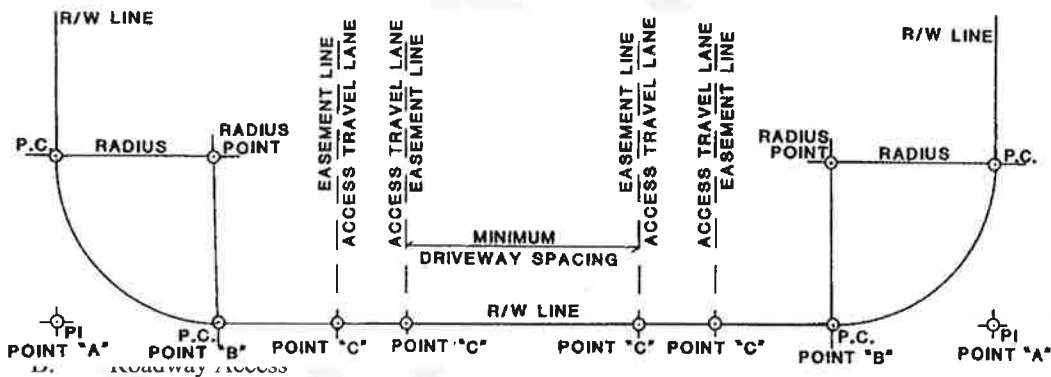
Deleted: ¶
Rev. 6-1-05

street standards in the *City of Sherwood Transportation Technical Standards* and the standards of Chapter 6.

A. Measurement

See following access diagram where R/W = Right-of-Way; and P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines.

1. Minimum right-of-way radius at intersections shall conform to city standards. Where city standards do not exist, the County Road Standards shall apply.
2. All minimum distances stated in the following sections shall be governed by sight distance requirements according to County Road Standards.
3. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.
4. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.
5. Minimum spacing between driveways shall be measured from Point "C" to Point "C" as shown below:



No use will be permitted to have direct access to a street or road except as specified below. Access spacing shall be measured from existing or approved accesses on either side of a street or road. The lowest functional classification street available to the legal lot, including alleys within a public easement, shall take precedence for new access points.

1. Local Streets

Minimum right-of-way radius is fifteen (15) feet. Access will not be permitted within ten (10) feet of Point "B," if no radius exists, access will not be permitted within twenty-five (25) feet of Point "A." Access points near an intersection with a Neighborhood Route, Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than ten (10) feet.

2. Neighborhood Routes

Deleted: 34
Deleted: 35
Deleted: 1 Rev. 6-1-05

Minimum spacing between driveways (Point "C" to Point "C") shall be fifty (50) feet with the exception of single family residential lots in a recorded subdivision. Such lots shall not be subject to a minimum spacing requirement between driveways (Point "C" to Point "C"). In all instances, access points near an intersection with a Neighborhood Route, Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in an access spacing greater than fifty (50) feet.

3. Collectors

All commercial, industrial and institutional uses with one-hundred-fifty (150) feet or more of frontage will be permitted direct access to a Collector. Uses with less than one-hundred-fifty (150) feet of frontage shall not be permitted direct access to Collectors unless no other alternative exists.

Where joint access is available it shall be used, provided that such use is consistent with Section 5.404.02, Joint Access. No use will be permitted direct access to a Collector within one-hundred (100) feet of any present Point "A." Minimum spacing between driveways (Point "C" to Point "C") shall be one-hundred (100) feet. In all instances, access points near an intersection with a Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than one hundred (100) feet.

4. Principal Arterials, Arterials, and Highway 99W

Points of ingress or egress to and from Highway 99W, principal arterials, and arterials designated on the Transportation Plan Map, attached as Figure 1 of the Community Development Plan, Part II, shall be limited as follows:

- a. Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W, principal arterials, and arterials. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.
- b. Other private ingress or egress from Highway 99W, principal arterials, and arterial roadways shall be minimized. Where alternatives to Highway 99W, principal arterials, or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress. Alternatives include shared or crossover access agreement between properties, consolidated access points, or frontage or backage road. When alternatives do not exist, access shall comply with the following standards:
 - 1) Access to Highway 99W shall be consistent with ODOT standards and policies per OAR 734, Division 51, as follows: Direct access to an arterial or

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

principal arterial will be permitted provided that Point 'A' of such access is more than six hundred (600) feet from any intersection Point 'A' or other access to that arterial (Point 'C').

- 2) The access to Highway 99W will be considered temporary until an alternative access to public right-of-ways is created. When the alternative access is available the temporary access to Highway 99W shall be closed.
 - c. All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local or collector streets, including frontage or backage roads, consistent with the Transportation Plan Map and Chapter 6 of the Community Development Plan.
- C. Exceptions to Access Criteria for City-Owned Streets
1. Alternate points of access may be allowed if an access management plan which maintains the classified function and integrity of the applicable facility is reviewed and approved by the City Engineer after considering the applicant's compliance with this Chapter.
 2. An application for an Access Management Plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. References to standards or publications used to prepare the Access Management Application shall be included with the application, including citations and numbers of engineering publications used to demonstrate compliance.
 3. An access management plan shall address the safety and operational problems which would be encountered should a modification to the access spacing standards be granted. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the State of Oregon. An access management plan shall at minimum contain the following:
 - (a) The minimum study area shall include the length of the site's frontage plus the distance of the applicable access spacing standard on each side of the subject property, as set forth in Section 6.306.B., measured from the property lines or access point(s), whichever is greater. For example, a property with 500 feet of frontage on an arterial (required 600 foot access spacing standard) shall have a minimum study area which is 1,700 (1,200 + 500) feet in length.
 - (b) The access management plan shall address the potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.
 - (c) The access management plan shall include a comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

utilizing the County standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.

- (d) The access management plan shall include a list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.
- (e) Notice for a proposed access management plan shall include all property owners within the study area defined above.

D. Access in the Old Town (OT) Overlay Zone

1. Access points in the OT Overlay Zone shown in an adopted plan such as the Transportation System Plan, are not subject to the access spacing standards and do not need a variance. However, the applicant shall submit a partial access management plan for approval by the City Engineer. The approved plan shall be implemented as a condition of development approval.

2. Partial Access Management Plan.

a. A partial access management plan shall include:

- 1) Drawings identifying proposed or modified access points
- 2) A list of improvements and recommendations necessary to implement the proposed or modified access.
- 3) A written statement identifying impacts to and mitigation strategies for facilities related to the proposed access points, especially considering safety impacts to all travel modes, operations, and the streetscape including on-street parking, tree spacing and pedestrian and bike facilities. The lowest functional classification street available to the lot, including alleys within a public easement, shall take precedence for new access points.

b. Access permits shall be required even if no other land use approval is requested.

6.306 SIDEWALKS

6.306.01 Required Improvements

- A. Except as otherwise provided, sidewalks shall be installed on both sides of a public street and in any special pedestrian way within new development.
- B. For Highway 99W, major or minor arterials, or in special industrial districts, the Commission may approve a development without sidewalks if alternative pedestrian routes are available.

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

- C. In the case of approved cul-de-sacs serving less than fifteen (15) dwelling units, sidewalks on one side only may be approved by the Commission.

6.306.02 Sidewalk Design Standards

A. Arterial Streets

Arterial and collector streets shall have minimum eight (8) foot wide sidewalks/multi-use path, located as required by this Code.

B. Local Streets

Local streets shall have minimum five (5) foot wide sidewalks, located as required by this Code.

C. Handicapped Ramps

Sidewalk handicapped ramps shall be provided at all intersections.

6.306.03 Pedestrian and Bicycle Paths

- A. Provide bike and pedestrian connections on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 330 feet except where prevented by topography, barriers such as railroads or highways, or environmental constraints such as rivers and streams.

6.307 HIGHWAY 99W CAPACITY ALLOCATION PROGRAM (CAP)

A. Purpose

The purpose of the Highway 99W Capacity Allocation Program is to:

1. Prevent failure of Highway 99W through Sherwood;
2. Preserve capacity on Highway 99W over the next 20 years for new development within Sherwood;
3. Preserve land values in Sherwood by preventing failure of one of the City's key transportation links;
4. Insure improvements to Highway 99W and adjacent primary roadways are constructed at the time development occurs; and
5. Minimize the regulatory burden on developments that have minimal impact on Highway 99W.

Deleted: 34
Deleted: 35
Deleted: 1 Rev. 6-1-05

B. Exclusions

The following types of projects and activities are specifically excluded from the provisions of this program:

1. Churches;
2. Elementary, middle, and high schools; and
3. Changes in use that do not increase the number of trips generated by the current use.

C. Definitions

1. **“Base Application”** means the site plan or conditional use application which invokes the provisions of this chapter.
2. **“Capacity”** means the maximum number of peak hour vehicle trips that Highway 99W through Sherwood may accommodate at the Level of Service Standard assuming full build-out of all land zoned for residential and industrial development in Sherwood.
3. **“Full Access Intersections”** means the following intersections on Highway 99W in Sherwood:

Sunset, Meinecke, Edy/N. Sherwood, Tualatin-Sherwood/Scholls-Sherwood (Roy Rogers Road, and Home Depot (Adams Street).
4. **“ITE Manual”** means the latest edition of the public titled “Trip Generation” by the Institute of Transportation Engineers.
5. **“Level of Service (LOS) Standard”** means the lowest acceptable level of service on a transportation corridor within Sherwood as stated in the Standard Requirements Section.
6. **“Mitigation”** means improvements to the transportation system that increase or enhance capacity.
7. **“Net Trips”** means the number of trips generated by a regulated activity during the PM Peak Hours. Net trips equal new trips, diverted trips, and trips from existing activities on a site that will remain. Net trips do not include: Pass-by trips, Internal trips, trips from existing facilities that will be removed, and Trips Reduced due to implementation of transportation demand strategies.
8. **“Peak Hour”** means a consecutive sixty (60) minute period during the twelve (12) PM hours of an average day, which experience the highest sum of traffic volumes on a roadway.

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

9. **“Regulated Activity”** means project(s) or activities proposed in the base application.
10. **“Site Trip Limit”** means the trip limit multiplied by the acreage of the site containing the regulated activity.
11. **“Trip Allocation Certificate”** means a certificate or letter from the City Engineer specifying that a regulated activity meets the trip limit and specifying any required mitigation.
12. **“Trip Analysis”** means a study or report that specifies the net trips from a regulated activity and analyzes the trip distribution and assignment from the activity.
13. **“Trip Limit”** means the maximum number of trips per acre from regulated activities that can be accommodated without violating the LOS Standard.

D. Standard Requirements

1. All regulated activities shall acquire a Trip Allocation Certificate prior to approval of their base application. Lack of a Trip Allocation Certificate shall be the basis for denial of a base application.
2. A Trip Analysis is required for **all** regulated activities prior to being considered for a Trip Allocation Certificate.
3. The Level of Service Standard for Highway 99W through Sherwood through the year 2020 is “E”.
4. The trip limit for a regulated activity shall be forty-three (43) net trips per acre.
5. Mitigation shall not be required for regulated activities occurring on land zoned General Industrial (GI) or Light Industrial (LI) when the activity produces less than eight (8) net trips per acre.

E. Trip Analysis

1. Purpose

The first step in the process of seeking a Trip Allocation Certificate is preparation of a Trip Analysis by the applicant for the regulated activity. The purpose of the Trip Analysis is to evaluate whether the net trips from a regulated activity exceed the site trip limit.

2. Timing

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

The Trip Analysis shall be submitted with the relevant base application. Base applications without a Trip Analysis shall be deemed incomplete.

3. Format

At a minimum, the Trip Analysis shall contain all the following information:

- a. The type and location of the regulated activity;
- b. A tax map clearly identifying the parcel(s) involved in the Trip Analysis;
- c. Square footage used to estimate trips, in accordance with methods outlined in the ITE Manual;
- d. Description of the type of activity, especially as it corresponds to activities described in the ITE Manual;
- e. Copy of the ITE Manual page used to estimate trips;
- f. Acreage of the site containing the regulated activity calculated to two (2) decimal points.
- g. Trip distributions and assignments from the regulated activity to all full access intersections impacted by ten (10) or more trips from the regulated activity with identification of the method used to distribute trips from the site.
- h. Copies of any other studies utilized in the Trip Analysis;
- i. Summary of the net trips generated by the regulated activity in comparison to the site trip limit.
- j. Signature and stamp of a professional engineer, registered in the State of Oregon, with expertise in traffic or transportation engineering, who prepared the analysis.

4. Methods

- a. The Trip Analysis and trip generation for an activity shall be based on the ITE Manual.
- b. If a trip generation for the proposed use is not available in the ITE Manual or the applicant wishes to dispute the findings in the ITE Manual, the trip generation calculation may be based on an analysis of trips from five (5) sites with the same type of activity as that proposed.

5. Modification of Trip Analysis Requirements

The City Engineer may waive, **in writing**, some of the requirements of the Trip Analysis if:

Deleted: 34
Deleted: 35
Deleted: 1 Rev. 6-1-05

- a. The proposed regulated activity is part of a previously approved Trip Allocation Certificate that meets the requirements of this chapter and the applicant demonstrates, to the satisfaction of the City Engineer, that the applicable provisions of the previously approved Trip Allocation Certificate shall be met; or
- b. The City Engineer determines, upon receipt of a letter of request from the applicant, that less information is required to accomplish the purposes of this chapter.

F. Trip Allocation Certificate

1. General

- a. Trip Allocation Certificates shall be issued by the City Engineer.
- b. Trip Allocation Certificates shall be valid for the same period as the land use or other city approval for the regulated activity.
- c. The City Engineer may invalidate a Trip Allocation Certificate when, in the City Engineer's judgment, the Trip Analysis that formed the basis for award of the Trip Allocation Certificate no longer accurately reflects the activity proposed under the base application.

2. Approval Criteria

- a. Upon receipt of a Trip Analysis, the City Engineer shall review the analysis. The Trip Analysis shall meet both of the following criteria to justify issuance of a Trip Allocation Certificate for the regulated activity:
 - 1) Adequacy of analysis; and
 - 2) Projected net trips less than the site trip limit.
- b. Adequacy of Analysis
The City Engineer shall judge this criterion based on the following factors:
 - 1) Adherence to the Trip Analysis format and methods described in this chapter;
 - 2) Appropriate use of data and assumptions; and
 - 3) Completeness of the Trip Analysis.

3. Mitigation

Deleted: 34
Deleted: 35
Deleted: 1 Rev. 6-1-05

- a. The Trip Allocation Certificate shall specify required mitigation measures for the regulated activity.
- b. Mitigation measures shall include improvements to Highway 99W and nearby transportation corridors that, in the judgment of the City Engineer, are needed to meet the LOS Standard and provide capacity for the regulated activity.
- c. Engineering construction plans for required mitigation measures shall be submitted and approved in conjunction with other required construction plans for the regulated activity.
- d. Mitigation measures shall be implemented in tandem with work associated with the regulated activity.
- e. Failure to implement required mitigation measures shall be grounds for revoking the regulated activity's base application approval.

G. Other Provisions

1. Acreage Calculation for a Regulated Activity

- a. Acreage calculations used to calculate net trips per acre in the Trip Analysis must use the entire area of the tax lot(s) containing the regulated activity, less 100-year flood plain area, in accordance with FIRM map for Sherwood.
- b. If the site contains existing uses, the net trips generated by these uses shall be included in the calculation of net trips generated from the site.

2. Partial Development of a Site

- a. If a regulated activity utilizes a portion of a vacant tax lot, such that the site could be further developed in the future, the applicant shall identify the potential uses for the vacant portion and reserve trips for that portion of the site in accordance with the uses identified. These reserve trips shall be included in the calculation of the net trips generated from the site.
- b. The Trip Allocation Certificate shall not be issued if the proposed future uses of the vacant area and the reserve trips are unrealistic in the opinion of the City Engineer.

Deleted: 34
Deleted: 35
Deleted: ¶
Rev. 6-1-05

6.308 BIKE PATHS

If shown on the Transportation Plan Map, attached as Appendix B, or in Chapter 5 of the Community Development Plan, bicycle paths shall be installed in public rights-of-way, in accordance with City specifications. Bike lanes shall be installed on both sides of designated roads, should be separated from the road by a twelve (12) inch stripe, not a curb, and should be a minimum of five (5) feet wide. Bike paths should not be combined with a sidewalk.

6.400 SANITARY SEWERS**6.401 REQUIRED IMPROVEMENTS**

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Provided, however, that when impractical to immediately connect to a trunk sewer system, the use of septic tanks may be approved, if sealed sewer laterals are installed for future connection and the temporary system meets all other applicable City, Unified Sewerage Agency and State sewage disposal standards.

6.402 DESIGN STANDARDS**6.402.01 Capacity**

Sanitary sewers shall be constructed, located, sized, and installed at standards consistent with this Code, the Sanitary Sewer Service Plan Map attached as Appendix F, Chapter 7 of the Community Development Plan, and other applicable Unified Sewerage Agency and City standards, in order to adequately serve the proposed development and allow for future extensions.

6.402.02 Over-Sizing

- A. When sewer facilities will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that over-sized system.
- B. Reimbursement shall be in an amount estimated by the City to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the development, for a period of ten (10) years from the time of installation of the sewers. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the City. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges.

6.403 SERVICE AVAILABILITY

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

Approval of construction plans for new facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing sewer systems shall include certification by the City that existing or proposed sewer facilities are adequate to serve the development.

6.500 WATER SUPPLY

6.501 REQUIRED IMPROVEMENTS

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development. All waterlines shall be connected to existing water mains.

6.502 DESIGN STANDARDS

6.502.01 Capacity

Water lines providing potable water supply shall be sized, constructed, located and installed at standards consistent with this Code, the Water Service Plan Map, attached as Appendix D, Chapter 7 of the Community Development Plan, and with other applicable City standards and specifications, in order to adequately serve the proposed development and allow for future extensions.

6.502.02 Fire Protection

All new development shall comply with the fire protection requirements of Section 6.700, the applicable portions of Chapter 7 of the Community Development Plan, and the Fire District.

6.502.03 Over-Sizing

- A. When water mains will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that over-sized system.
- B. Reimbursement shall be in an amount estimated by the City to be the proportionate share of the cost of each connection made to the water mains by property owners outside the development, for a period of ten (10) years from the time of installation of the mains. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the City. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges.

6.503 SERVICE AVAILABILITY

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

Approval of construction plans for new water facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing water systems shall include certification by the City that existing or proposed water systems are adequate to serve the development.

6.600 STORM WATER

6.601 REQUIRED IMPROVEMENTS

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage systems consistent with the Comprehensive Plan and the requirements of the Unified Sewerage Agency's water quality regulations contained in their Design and Construction Standards R&O 00-7, or its replacement.

6.602 STORM WATER SYSTEM IMPROVEMENT FEES (SIF)

6.602.01 Purpose

The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development or redevelopment of public storm water conveyance systems, specific street improvements designed to direct and control storm water flows, storm water treatment facilities, storm water detention or retention ponds, or other storm water facilities, designed to provide extra system capacity, and as designated on the Storm Drainage Plan Map, attached as Appendix E, in Chapter 7 of the Community Development Plan, or in the plans of Washington County's storm water management authority. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for storm water system preservation improvements or for routine storm water system maintenance and operations.

6.602.02 Schedule of Charges

SIF's shall be assessed against new development in the City to support extra-capacity storm water improvements. The SIF for storm water shall be set by the "Schedule of Development Fees" adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.

6.602.03 Assessment

Except as otherwise provided, the SIF is immediately due and payable and shall be collected prior to the issuance of any building permits for new construction, or for alterations or additions to buildings or sites that increase the area of impermeable surface.

6.602.04 Deferral

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the SIF is paid in full.

6.603 DESIGN STANDARDS

6.603.01 Capacity

Storm water drainage systems shall be sized, constructed, located, and installed at standards consistent with this Code, the Storm Drainage Master Plan Map, attached as Exhibit E, Chapter 7 of the Community Development Plan, other applicable City standards, the Unified Sewerage Agency's Design and Construction standards R&O 00-7 or its replacement, and hydrologic data and improvement plans submitted by the developer.

6.603.02 On-Site Source Control

Storm water detention and groundwater recharge improvements, including but not limited to such facilities as dry wells, detention ponds, and roof top ponds shall be constructed to limit the site discharge of storm water from a development to a level below that produced by a twenty-five (25) year storm on the undeveloped site.

6.603.03 Conveyance System

The size, capacity and location of storm water sewers and other storm water conveyance improvements shall be adequate to serve the development and accommodate upstream and downstream flow. If an upstream area discharges through the property proposed for development, the drainage system shall provide capacity to receive the floodwater discharge from the upstream area. If downstream drainage systems are not sufficient to receive an increase in floodwater caused by new development, provisions shall be made by the developer to increase the downstream capacity.

6.604 SERVICE AVAILABILITY

Approval of construction plans for new storm water drainage facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing storm water drainage systems shall include certification by the City that existing or proposed drainage facilities are adequate to serve the development.

6.700 FIRE PROTECTION

6.701 REQUIRED IMPROVEMENTS

When land is developed so that any commercial or industrial structure is further than two hundred and fifty (250) feet or any residential structure is further than five hundred (500) feet from an adequate water supply for fire protection, as determined by the Fire District, the

Deleted: 34
Deleted: 35
Deleted: ¶ Rev. 6-1-05

developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety.

6.702 STANDARDS

6.702.01 Capacity

All fire protection facilities shall be approved by and meet the specifications of the Fire District, and shall be sized, constructed, located, and installed consistent with this Code, Chapter 7 of the Community Development Plan, and other applicable City standards, in order to adequately protect life and property in the proposed development.

6.702.02 Fire Flow

Standards published by the Insurance Services Office, entitled "Guide for Determination of Required Fire Flows" shall determine the capacity of facilities required to furnish an adequate fire flow. Fire protection facilities shall be adequate to convey quantities of water, as determined by ISO standards, to any outlet in the system, at no less than twenty (20) pounds per square inch residual pressure. Water supply for fire protection purposes shall be restricted to that available from the City water system. The location of hydrants shall be taken into account in determining whether an adequate water supply exists.

6.702.03 Access to Facilities

Whenever any hydrant or other appurtenance for use by the Fire District is required by Section 6.700, adequate ingress and egress shall be provided. Access shall be in the form of an improved, permanently maintained roadway or open paved area, or any combination thereof, designed, constructed, and at all times maintained, to be clear and unobstructed. Widths, height clearances, ingress and egress shall be adequate for District firefighting equipment. The Fire District, may further prohibit vehicular parking along private accessways in order to keep them clear and unobstructed, and cause notice to that effect to be posted.

6.702.04 Hydrants

Hydrants located along private, accessways shall either have curbs painted yellow or otherwise marked prohibiting parking for a distance of at least fifteen (15) feet in either direction, or where curbs do not exist, markings shall be painted on the pavement, or signs erected, or both, given notice that parking is prohibited for at least fifteen (15) feet in either direction.

6.703 MISCELLANEOUS REQUIREMENTS

6.703.01 Timing of Installation

When fire protection facilities are required, such facilities shall be installed and made serviceable prior to or at the time any combustible construction begins on the land unless, in

Deleted: 34
Deleted: 35
Deleted: 1 Rev. 6-1-05

the opinion of the Fire District, the nature or circumstances of said construction makes immediate installation impractical.

6.703.02 Maintenance of Facilities

All on-site fire protection facilities, shall be maintained in good working order. The Fire District may conduct periodic tests and inspection of fire protection and may order the necessary repairs or changes be made within ten (10) days.

6.703.03 Modification of Facilities

On-site fire protection facilities, may be altered or repaired with the consent of the Fire District; provided that such alteration or repairs shall be carried out in conformity with the provisions of Section 6.700.

6.800 PUBLIC AND PRIVATE UTILITIES

6.801 PURPOSE

Public telecommunication conduits as well as conduits for franchise utilities including, but not limited to, electric power, telephone, natural gas, lighting, and cable television shall be installed to serve all newly created lots and developments in Sherwood.

6.802 STANDARD

A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards.

B. Public utility easements shall be a minimum of eight feet in width unless a reduced width is specifically exempted by the City Engineer.

C. Where necessary, in the judgment of the City Manager or his designee, to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property(ies).

Deleted: Director

D. Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency.

E. Public Telecommunication conduits and appurtenances shall be installed per the City of Sherwood telecommunication design standards.

F. Exceptions: Installation shall not be required if the development does not require any other street improvements. In those instances, the developer shall pay a fee in lieu that will finance installation when street or utility improvements in that location occur.

Deleted: pay
Deleted: 34
Deleted: 35
Deleted: ¶
Rev. 6-1-05

6.803 UNDERGROUND FACILITIES

Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, cable television, and telecommunication cable, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the City.

6.804 EXCEPTIONS

Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand (50,000) volts or more may be located above ground. The City reserves the right to approve location of all surface-mounted transformers.

6.805 PRIVATE STREETS

The construction of new private streets shall be prohibited unless it provides principal access to two or fewer lots or parcels i.e. flag lots. Provisions shall be made to assure private responsibility for future access and maintenance through recorded easements. Unless otherwise specifically authorized, a private street shall comply with the same standards as a public street identified in the Community Development Code and the Transportation System Plan. A private street shall be distinguished from public streets and reservations or restrictions relating to the private street shall be described in land division documents and deed records. A private street shall also be signed differently from public streets and include the words "Private Street".

Deleted: Private utilities shall be sized, constructed, located and installed consistent with this Code, Chapter 7 of the Community Development Code, and applicable utility company and City standards

Deleted: 6.802 . UNDERGROUND FACILITIES¶

Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, and cable television, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the Commission.¶

6.803 . EXCEPTIONS¶

Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand (50,000) volts or more may be located above ground. The City reserves the right to approve location of all surface-mounted transformers.¶

¶

Deleted: 4

Deleted: 34

Deleted: 35

Deleted: ¶
Rev. 6-1-05

EXHIBIT C

DRAFT DESIGN AND CONSTRUCTION STANDARDS

TO BE SUBMITTED AT THE PUBLIC HEARING

ORDINANCE NO. 2005-007

**AN ORDINANCE AMENDING THE CITY OF SHERWOOD MUNICIPAL CODE BY
ADDING A NEW CHAPTER 4.04, "CITY TELECOMMUNICATIONS UTILITY"**

WHEREAS, significant and evolving telecommunications technological developments have caused the City Council to recognize the need for the City to provide telecommunications services; and

WHEREAS, the City Council finds that it is in the public interest to create a City utility to provide telecommunications services; and

WHEREAS, the City Council adopts the following goals for the City telecommunications utility:

- A. Provide advanced and competitive telecommunications services on the widest possible basis to City businesses, institutions and residents; and
- B. Provide a resource for economic development for the City.

WHEREAS, the City Council by Resolution 2004-039 created the Telecommunications Fund beginning July 1, 2004;

WHEREAS, the City Council by Resolution 2004-082 created the Sherwood Telecommunications Advisory Board and Resolution 2004-100 provides that the Board will have seven members.

NOW THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. The Sherwood Municipal Code is amended by adding the following provisions as new Chapter 4.04, "City Telecommunications Utility":

4.04.010 Definitions

4.04.020 Utility creation

The City of Sherwood telecommunications utility is created. It will be know as the Sherwood Broadband. The city council will serve as the Broadband governing body and by resolution may adopt rules for its operations.

4.04.030 Operations

A. Broadband will operate as a department of the city under the administrative authority of the city manager. Broadband revenues and expenditures will be accounted for within the Telecommunications Fund of the city budget.

B. Rates for basic residential and business data and content services will be set by council resolution. Rates for specialized services, deposits, late fees and penalties may be

set by the city manager. Rates for out-of-city customers may include a return on capital investment for the city.

C. Broadband will comply with city regulations on similar franchised utilities, including the payment of a fee in lieu of franchise fees of up to 5% as set by council resolution.

D. Broadband may provide services to customers outside of city boundaries.

E. Broadband may provide services directly to customers or indirectly provide services through contracts.

4.04.040 Advisory board

A Broadband advisory board (board) is created to make recommendations to the city council and the city manager on Broadband policies, planning and services, and to perform other duties assigned by the city council.

4.04.050 Membership

A. The board consists of seven voting members appointed by the mayor with the consent of the city council. Board members serve at the pleasure of the city council and may be removed in its sole discretion.

B. At least three board members will be residents of the city. At least three other board members will be owners or employees of businesses or institutions located within the city.

C. Board members serve without compensation except for reimbursement for authorized expenses.

D. With city council consent, the mayor will appoint a council representative to the board. The council representative will be a non-voting member.

4.04.060 Terms of office

A. Board members will serve two year terms, and members may be re-appointed to serve two consecutive terms.

B. The council representative will be appointed for a board term equal to the length of the representative's term on the city council.

C. Upon resignation, disqualification, or removal of any board member by the city council, a successor will be appointed by the mayor with the consent of the city council to fill the remainder of the unexpired term. Board members who miss three consecutive regular meetings will be disqualified and removed from office.

4.04.070 Board Organization

A. The board will elect a chair, vice-chair and secretary from among its members at the board's first regular meeting of each fiscal year.

B. Four members of the board constitute a quorum for the conduct of business.

C. The board will act by a majority vote of the members present at a meeting.

D. The board will hold at least six meetings each fiscal year and may hold other meetings as necessary to perform its duties.

E. Before any meeting of the board, public notice must be given as required by law. Minutes must be taken for each meeting and filed with the city recorder.

F. The board may adopt bylaws to regulate the conduct at its meetings. In the absence of bylaws, board meetings will be conducted in accordance with the current edition of Robert's Rules of Order.

4.04.080 Staff assistance

City staff may be assigned from time to time by the city manager to advise and assist the board. However, the board may not direct the assignment or activities of city staff.

4.04.090 Board Duties

The board will:

A. Establish long-range plans, goals and objectives for Broadband and the improvement and maintenance of city telecommunications services.

B. Evaluate community needs and resources on a regular basis and incorporate relevant findings into a statement of purpose guiding the provision of city telecommunications services.

C. Regularly review and advise the city council and city manager on specific services and practices as they relate to Broadband goals and objectives.

D. Promote public participation and awareness programs designed to increase the use of Broadband.

E. Undertake additional responsibilities relative to Broadband as requested by the city council or city manager.

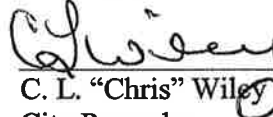
Section 2. This ordinance takes effect on July 1, 2005.

Duly passed by the City Council this 15th day of March, 2005.



Keith S. Mays, Mayor

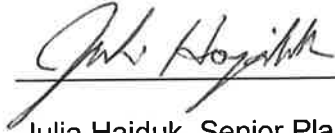
ATTEST:



C. L. "Chris" Wiley
City Recorder

	AYE	NAY
Luman	<input checked="" type="checkbox"/>	_____
King	<input checked="" type="checkbox"/>	_____
Henderson	<input checked="" type="checkbox"/>	_____
Heironimus	<input checked="" type="checkbox"/>	_____
Grant	<input checked="" type="checkbox"/>	_____
Durrell	<input checked="" type="checkbox"/>	_____
Mays	<input checked="" type="checkbox"/>	_____

PLANNING DEPARTMENT



Julia Hajduk, Senior Planner

Pre App. Meeting: September 8, 2004
App. Submitted: June 2, 2005
App. Complete: June 20, 2005
120-Day Deadline: January 18, 2006
(Extended from October 28, 2005)

- A. Applicant/Owner:
Lucas Development Corp.
Attn.: Patrick Lucas
18664 SW Boones Ferry Rd.
Tualatin, OR 97062
- B. Location: The site is located at 1210 SW Oregon Street and identified as tax lots 900, 1000 and 1100 on Washington County Tax Assessor's map number 2S1W29D. The three (3) subject parcels are located on the north side of SW Oregon Street, across from SW Hall Street and SW Lower Roy Street. There are no public streets platted or built on the north side of SW Oregon Street.

The Planning Commission opened the public hearing on September 27, 2005 to consider the proposed plan amendment and site plan for an Alzheimer care facility and townhouse development. The applicant requested an opportunity to submit additional information to support their proposed plan amendment and to respond to issues raised in the staff report. The applicant submitted additional information on October 14, 2005, which is included as Attachment 1 of this report. The additional narrative submitted by the applicant addresses the Plan Amendment only. The original staff report including findings and recommendations, dated September 20, 2005, and associated exhibits, are attached by reference. This supplemental staff report responds to the applicant's additional information and will supplement the findings identified as Part 2 of the original staff report.

Planning Commission Action Requested:

The Planning Commission will be asked to make a determination on three issues:

- Make a recommendation to the City Council to approve, approve with conditions, or deny the proposed plan amendment from LI to HDR;
- Approve, approve with conditions, or deny the proposed site plan for the care facility; and
- Approve, approve with conditions, or deny the proposed townhouse development.

SUPPLEMENT TO PART 2 - PLAN AMENDMENT REVIEW

I. PLAN AMENDMENT REQUIRED FINDINGS

4.203.02

Map Amendment - This section states that an amendment to the City Zoning Map may be granted, provided that the proposal satisfies all applicable requirements of the adopted Sherwood Comprehensive Plan, the Transportation System Plan and this Code.

The applicable Comprehensive Plan policies are discussed under Section II below. Section 1.101.08 requires that all development adhere to all applicable Regional, State and Federal regulations. Applicable Regional regulations are discussed under Section III and applicable State regulations are discussed under Section IV.

FINDING: This is discussed in detail below.

Additional criteria:

Section 4.203.02 also provides the following standards that must be met before a map amendment can be approved:

A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan and the Transportation System Plan.

Compliance with this standard is addressed under Section II, below.

FINDING: This is discussed in detail below.

B. There is an existing and demonstrable need for the particular uses and zoning proposed, taking into account the importance of such uses to the economy of the City, the existing market demand for any goods or services which such uses will provide, the presence or absence and location of other such uses or similar uses in the area, and the general public good.

The applicant has submitted a market study that demonstrates that there is a need for more Alzheimer care facilities in the area. As discussed further under 4.203.02.D, however, the market study demonstrating a need is not tied specifically to this property.

The applicant's supplemental narrative failed to provide any additional evidence supporting the need for the zone change for the townhouse development. The original narrative simply stated that there is a "healthy demand" for this type of housing. The applicant did not provide documentation to support the demand for High Density Residential land. In the future, the City may be able to assist in this documentation when we have completed an update to our employment lands inventory, however, since this information has not been updated and the applicant has provided no quantitative data, staff can not make findings that there is a need for additional residential land in relation to the economic importance of needed employment lands. The existing economic opportunities analysis (EOA) in the Comprehensive Plan is acknowledged by the state, and therefore is applicable to the proposal. However, the applicant has failed to provide findings linking the EOA to the need or availability of light industrial land.

Housing in the entire Portland Metro area is in demand; however, demand alone does not adequately justify a zone change from industrial to residential. If demand of a particular use alone were just cause for a zone change, an applicant could justify a zone change for any use as long as they had a market analysis substantiating the need.

FINDING: The applicant has not provided adequate information to show that this standard has been met.

C. The proposed amendment is timely, considering the pattern of development in the area, surrounding land uses, any changes which may have occurred in the neighborhood or community to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district.

The applicant's supplemental narrative indicates that this standard only requires the analysis of whether public facilities are presently appropriate to serve the use. However, the standard requires consideration of four (4) elements. The amendment must be determined to be timely after considering: (1) the pattern of development in the area; (2) the surrounding land uses; (3) changes to the community to warrant the amendment; AND (4) the availability to utilities and services to serve all potential uses. The applicant asserts that the amendment is timely because the community of Sherwood is aging and there is a greater need for this type of facility (presumably addressing #3) and because the transportation system has isolated this property from other industrially zoned land (presumably also addressing #3). Staff will evaluate compliance with this standard based on the four applicable components. Consideration of all four (4) elements must be factored and supported by findings of fact. If the proposal is timely when considering one element, but un-timely when considering another element, the applicant has not met the burden of proof.

1. While not specifically stated, the applicant suggests that the lack of development on the site in question and on surrounding properties is the development pattern and that the zone change is timely because the "pattern" of development will be improved if the zone is changed to accommodate the proposed use. Staff concurs that this element of the standard is addressed, but has concerns that the applicant has not demonstrated full compliance with this standard as discussed in more detail below.

2. The applicant has not addressed the surrounding land uses and, in fact, insinuates that surrounding land use is not a factor because of the quasi-judicial land use process. However, the criterion clearly requires the City to consider the surrounding land uses in determining whether an amendment is timely. Staff would argue that adjacent properties and the potential (or lack) of re-development or even re-zoning, must be considered when determining if a proposed change on a small adjacent piece of property is timely. In this case, consideration of "spot zoning" a particular piece of property entails the aforementioned level of analysis for staff to make findings regarding the timeliness of the zone change.

While it is not staff's intent to address every statement made by the applicant in their supplemental narrative, staff feels the need to address the portion of the applicant's narrative that indicates staff has weighed in on the issue of changing the GI zone to the north to residential. Staff has not provided an opinion or assessment of a potential zone change on that site, other than to indicate that the property owner is considering it, vis a vis a pre-application conference, and that the Planning Commission must factor in surrounding land uses and development patterns when considering the timeliness of a proposed plan amendment.

3. The applicant's original narrative indicated that the project was timely because the demand for industrial land is decreasing, while the need for senior housing was increasing. Other than a market study to support the need for an Alzheimer care facility in the general area, they have provided no comprehensive or factual evidence, whether quantitative or qualitative, to support the claim that the need for industrial land is decreasing or that the need for residential land (for the townhouse development) is increasing. While it is known fact that the baby boom generation is aging, the applicant has provided little evidence that the aging of the population is above and beyond the projected needs provided for in the comprehensive plan nor does the applicant provide any evidence of current and projected light industrial inventory.

The applicant mentions that Area 48, a UGB expansion area brought into the regional UGB in December 2004, is a change to the community that will more than off-set any industrial land

needs. This area is not in the city limits and is not expected to be in the next five years due to the process to concept plan, implement, and annex land for urban uses. This area can not be included in the local inventory of available land until the area is included in the Comprehensive Plan. Area 48 is discussed in more detail under Section III, below.

The applicant makes additional arguments for the timeliness of this project, citing the fact that the recently adopted Transportation System Plan (TSP) lowers the classification of SW Oregon Street from an arterial to a collector, and suggesting that the closure of the SW Oregon Street crossing acts to isolate the old "Tannery" site from the rest of industrial uses in Sherwood. However, road classification is merely a description of the number and type of trips intended to be accommodated. A collector street is intended to collect local traffic and carry it to the arterials, which in turn, carry traffic to the highways. The status of classification has little bearing on the type of use proposed; it reflects connectivity standards and not mobility. For example, SW Galbreath Drive, a street providing access to newly developing industrial sites, is classified as a collector, as are SW Meinecke Road and SW Langer Drive. Furthermore, SW Oregon Street provides connectivity because it feeds into Tualatin-Sherwood Road and SW Tonquin Road, which are both arterials serving light industrial employment uses.

In the applicant's supplemental narrative, they disagree with the staff analysis and cite Industrial Policy 1, Strategy 5 "industrial land will be restricted to those areas where adequate major roads, and/or rail, and public services can be made available." While the classification of SW Oregon Street was changed from an arterial to a collector, a collector is still considered a major road. The TSP acknowledgement that the function of SW Oregon Street does not fall within the "arterial" definition and subsequent re-classification is not evidence that the zoning should be changed to residential. Furthermore, the applicant states that they would be "surprised to hear staff advocate" zoning areas along arterials for residential use or areas along local streets for commercial or industrial uses. However, the City has several examples (Sunset, Sherwood Blvd and Murdock) where the functional classification is arterial and the prominent land use is residential and others (Galbreath, Langer Drive, and Borchers) where the functional classification is a collector street with the prominent use being commercial or industrial. Staff states this not to advocate for certain uses along a specific classification of road, but rather to further illustrate the fact that the functional classification reflects the capacity, connectivity, and functional order¹ of a road, not the uses or zoning adjacent to it.

4. Utilities are available to serve the proposed use.

FINDING: Based on the analysis above, the applicant has not adequately demonstrated that the Plan amendment is timely when considering surrounding land uses and changes that may have occurred in the community.

¹ Page 8-5 of the TSP adopted March, 2005 defines the differences between an arterial and collector street.

Arterial streets serve to interconnect and support the principal arterial highway system. These streets link major commercial, residential, industrial and institutional areas.

Collector streets provide both access and circulation within and between residential and commercial/industrial areas. Collectors differ from arterials in that they provide more of a citywide circulation function, do not require as extensive control of access (compared to arterials) and penetrate residential neighborhoods, distributing trips from the neighborhood and local street system.

Neighborhood routes are usually long relative to local streets and provide connectivity to collectors or arterials. Because neighborhood routes have greater connectivity, they generally have more traffic than local streets and are used by residents in the area to get into and out of the neighborhood, but do not serve citywide/large area circulation.

Local Streets have the sole function of providing access to immediate adjacent land. Service to "through traffic movement" on local streets is deliberately discouraged by design.

D. Other lands in the City already zoned for the proposed uses are either unavailable or unsuitable for immediate development due to location, size or other factors.

The market analysis demonstrating a need for the Alzheimer care facility is based on a 4 mile radius around the facility and “encompasses approximately 50 square miles in southeastern Washington County, and includes small portions of Clackamas and Yamhill Counties on its southern boundaries.” Clearly, the market analysis does not suggest that this is the only site in the study area suitable to meet the needed demand.

This site is not available for immediate development due to the DEQ clean-up action. DEQ has indicated that residential uses are not appropriate until they have completed the clean-up process.

That being said, the applicant has indicated that:

Most of the HDR District is already developed, and large parcels were developed in lower-density residential (i.e. Edy Village; Sherwood Village) before the Metro Functional Plan Title 1 compliance measure took effect, to require minimum density in the HDR zone. For the existing supply of HDR land, there is not another lot of appropriate size, located on a public right-of-way such as Oregon Street, fully supported by existing municipal services and already zoned HDR available for purchase or suitable for the immediate development of the Alzheimer's facility and townhouse community.

The care facility could be placed in a variety of zones. The applicant has not demonstrated that other land is unavailable for the uses proposed. Staff conducted a cursory review of all parcels in the City 2.5 acres or greater (the size of the proposed care facility site) that are vacant (or have only one dwelling) with a zone that would allow a residential care facility either outright or conditionally. There are 20+ parcels that fit this definition (Attachment 6 of the 9/20/05 staff report), one of which is actually owned by the applicant. The fact that there are over 20 parcels that are currently zoned appropriately and of adequate size to accommodate the facility confirms that the applicant has not demonstrated the need for this plan amendment. The applicant’s supplemental narrative states that “simply pointing out vacant parcels does not substantiate whether they are ready for development.” It is the applicant’s burden of proof to demonstrate that the criteria are met. Staff identified potential development sites because the applicant provided no data to support their argument that there were no other parcels that were suitable. If staff’s analysis of vacant or under-developed parcels of the same size as the proposed site revealed no parcels, staff would have indicated such in the original findings. Furthermore, while the applicant has verbally provided some anecdotal discussion of why this site is suitable and others are not, the discussion is centered entirely on the care facility use. The applicant has provided no evidence that: 1) there is a need, or 2) that other sites in the City are un-suitable for the residential component. Finally, the applicant’s final statement that “staff ignores the primary factor making the site suitable for the care facility is the proximity Old Town” is not relevant. The market analysis verified a need for a care facility in the area, but did not indicate the need in only this location near Old Town. The applicant must demonstrate that the existing sites are not available for the proposed use due to location², size or other factors (utilities, traffic, etc). Without this demonstration, staff can not find that this is the only suitable location given the number of existing care facilities in Sherwood and the region that are located on sites similar to those identified as potentially suitable by staff.

² Industry data identifying locational standards along with discussion as to why other care facilities located closer to arterials, away from Old Town and adjacent to retirement facilities can not be used as a comparison when determining whether another location is appropriate. (i.e. – has the industry standard changed?)

FINDING: The applicant has not shown that this standard has been met.

4.203.03 - 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.**
- B. "Significant" means that the transportation facility would change the functional classification of an existing or planned transportation facility, change the standards implementing a functional classification, allow types of land use, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility, or would reduce the level of service of the facility below the minimum level identified on the Transportation System Plan**
- C. Per OAR 660-12-0060, Amendments to the Comprehensive Plan or changes to land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.**

The City received a transportation study for this project on August 19, 2005. This report was forwarded to City Engineer, Gene Thomas, PE for technical review. Mr. Thomas forwarded the traffic study, along with the addendum information submitted August 29, 2005 to DKS Associates, the consulting firm that prepared the City's Transportation System Plan (TSP), for a third party, professional review and comments. Mr. Thomas submitted a memo (Attachment 7 of the 9/20/05 staff report) outlining the deficiencies DKS found in the traffic study that require further analysis to ensure compliance with the Transportation Planning Rule (TPR).

The applicant disagrees with the determination of what constitutes a "worst-case" scenario for development of the existing zoning. The applicant assumes the LI site would likely develop at a .53 FAR³, whereas the traffic consultant contracted to review the applicant's study projected a more likely FAR would be .30-.35. The TPR requires the proposed change to be evaluated based on worst case, but it does not require the same for the existing zone. The City confirmed with DKS that they used the Metro model for trip generation when they prepared the TSP. These numbers are less than what is in the ITE for each use and are meant to average and to take time into consideration since everything will not be built the day the TSP is adopted. Therefore, the consideration of how other industrial sites in the City have developed is appropriate to determine the likely FAR of an industrial building in this location. The applicant's supplemental narrative lists 5 sites in Sherwood as an example to illustrate that the .53 FAR assumed is appropriate. Staff reviewed the FAR by looking at the land use approvals and/or building permits for these 5 sites, as well as 5 additional industrially zoned sites and find the average FAR to be substantially less than that suggested by the applicant. Two of the five sites referenced by the applicant are .47 FAR and .46 FAR; however three are between .30 and .34⁴. Of the five additional sites randomly reviewed by staff, the FAR ranged between .13⁵ and .32⁶ FAR. Using an average FAR for only the 5 sites referenced by the applicant,

³ FAR= Floor to Area Ratio. It is calculated by dividing the total square footage of a building by the square footage of the parcel. (a 5,000 square foot building on a 10,000 square foot lot will have a FAR of .5)

⁴ 20707 Wildrose FAR =.47; 20551 Wildrose FAR = .46; 13985 Tualatin-Sherwood FAR=.32; 13939 Tualatin-Sherwood FAR= (approx) .30; 13565 Tualatin-Sherwood FAR = .34.

⁵ 14085 SW Galbreath Drive and 14985 SW Tualatin-Sherwood Road

⁶ 13920 SW Galbreath Drive

results in a FAR of .37. This equates to an average daily trip (ADT) of 541. Comparing this ADT to the potential estimated 673⁷ trips if the HDR zone is built to full density (115 units), shows that the proposed zone change must comply with the TPR standards.

FINDING: The applicant has not shown that this standard has been met.

II. APPLICABLE COMPREHENSIVE PLAN POLICIES

The applicant has indicated that the Growth Management Polices are applicable to this proposal. While this may appear to be the case when the policy is read by itself, the Growth Management section is intended to comply with Statewide Planning Goal 14 – Urbanization. The goals and policies identified in the Growth Management Section of the Comprehensive Plan relate to development in the urban areas and those areas transitioning from rural to urban and are not applicable to this proposal. The applicable portions of the Comprehensive Plan include Chapter 4, Land Use, Section E – Residential; Section H - Economic Development; and Section J – Industrial.

Residential Land Use

Policy 1 Residential areas will be developed in a manner which will insure that the integrity of the community is preserved and strengthened.

Policy 2 The City will insure that an adequate distribution of housing styles and tenures are available.

Policy 3 The City will insure the availability of affordable housing and locational choice for all income groups.

Policy 4 The City shall provide housing and special care opportunities for the elderly, disadvantaged and children.

Policy 5 The City shall encourage government assisted housing for low to moderate income families.

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.

While the proposal does provide special care opportunities for the elderly, the City's zoning ordinance already complies with this policy by allowing residential care facilities in most residential and commercial zones. With or without the proposed amendment, the City's zoning addresses the policies identified in the Comprehensive Plan.

FINDING: The proposed amendment is not inconsistent with the residential policies.

Economic Development Policies and Strategies

Policy 2 The City will encourage economic growth that is consistent with the management and use of its environmental resources.

⁷ This number is based on the ITE manual trip rate for a townhouse development which provides a trip rate of 5.86 trips per unit. A Low rise apartment provides a trip rate of 6.59 trips per unit, which results in 757 trips per day.

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

The applicant has indicated that the development of the site, as proposed, will promote responsible economic growth, by supporting the remediation and conversion of a previously contaminated industrial site into a site suitable for locating a needed Alzheimer's care facility, its residents, and the prospective townhouse residents. Staff would argue that the remediation is already in process and required regardless of potential development. Although laudable, clean up of a brownfield is not *quid pro quo* for a zone change.

In addition, the proposed amendment and development of the townhouse development is inconsistent with Policy 5 because it is removing job opportunities on this portion of the site. The applicant does not provide any evidence to support the new use based on an economic impact, i.e. living wage jobs, assessed valuation, etc.

All communities, including Sherwood, need a balance of residential and employment in order to be a complete community. Sherwood's housing market is strong and the retail market is growing. The community, through the economic development policies, encourages development of the industrial lands to increase jobs for community members. Regardless of what the *current* market demands are, the City is required, via Goal 9 of the Statewide Land Use Planning System, to have a 20 year supply of land for residential and employment growth. The acknowledged Comprehensive Plan (1991) met that requirement and actions taken by the City in past years to comply with the Metro Functional Plan requirements continue to provide the required balance. Simply changing the zone to meet a perceived need or because development is not occurring at the site as quickly as the property owner would like, does not address the economic development policies to "diversify and expand" industrial development. The fact that industrial land has not developed at the same pace as residential, merely indicates that more focus and emphasis is needed to develop an economic development strategy to further implement the economic development strategies.

FINDING: The applicant has not provided evidence demonstrating that this change will diversify and expand commercial and industrial development or, through an economic opportunities analysis, that the City does not need this land to meet the industrial land needs.

Industrial Planning Designations

Policy 1 Industrial uses will be located in areas where they will be compatible with adjoining uses, and where necessary services and natural amenities are favorable.

The Comprehensive Plan indicated that Light Industrial designations should be placed in areas where the development will be compatible with existing or planned long range land use patterns and will not detract from existing environmental assets. The fact that this site was designated Light Industrial and the property across SW Oregon Street was designated residential indicates that this was a suitable zoning designation that is compatible with the surrounding area. The Light Industrial designation encourages the development of suitable uses into industrial subdivisions or parks and allows a wide range of uses suitable for development adjacent to residential uses. SW Oregon Street creates a suitable buffer (60 feet of ROW) between residential and industrial uses. There is concern about setting a precedent about the appropriateness of an industrial boundary adjacent to residential uses. Staff is already aware of property owners waiting to see the outcome of this proposal that are considering additional plan amendments. Lastly, a new tannery operation would not be allowed at this site, and new uses would have less of an impact than the prior use. This, along

with performance standards in the zoning code, would address concerns from the neighborhood about the compatibility of new Light Industrial uses.

As discussed under Section I.C.3 of this report, the applicant disagrees that an industrial use is appropriate along a collector street. They state that this classification change “does not simply support, but actually suggests the proposed re-zone.” As staff’s discussion previously demonstrates, this is clearly not true. If it were, all property along SW Sunset Boulevard and SW Murdock Street should be changed to commercial or industrial and all land along SW Galbreath Drive, SW Langer Drive and SW Borchers Drive should be re-zoned to residential. This is neither appropriate nor warranted. The applicant has not demonstrated that this location is inappropriately zoned or that it is now inconsistent with the industrial location standards.

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

While the applicant has indicated that the care facility will provide an additional 30 jobs within the community, they have not addressed the entire area included in the proposal. The townhouse development will create no additional jobs and the precedent set of changing industrial zones to residential could result in the loss of even more employment opportunities. The City’s economic analysis, which was conducted for the development of the Comprehensive Plan in 1991, indicated the need for a greater balance between residential and employment development. Currently, according to the Washington County Tax Assessor’s office the City’s tax base is 80 percent residential and 20 percent employment. This imbalance would be exacerbated by the proposed zone change. In addition, the strategy identified in the Comprehensive Plan to address this policy was to allocate land to meet the current and future industrial space needs to provide an appropriate balance to residential and commercial activities. The applicant has provided no quantitative evidence substantiating that the community has an appropriate balance of uses within the current or future 20 year planning period.

The applicant indicates that this site could not be developed consistent with Comprehensive Plan policies. They indicate that this site has been “passed over” for many years and that there have been few inquiries into this property over the past 5 years. While this may be true, the applicant indicates that one of the reasons is an underdeveloped collector street and site with environmental contamination. It is possible that this site would not be as “passed-over” if the street was improved to City standards and the site contamination was cleaned up. A zone change is not necessary to make these site improvements.

The applicant cites Chapter 4 of the Comprehensive Plan, pg. 36 (which provides a map of the zoning designations) as evidence that the City did not intend for this area to be zoned industrial in the long term. The applicant argues that if it had been intended to be industrial for the long term, residential zoning would not have been designated across the street. By “down-zoning” the “Tannery” to Light Industrial, the Comprehensive Plan acknowledged the incompatibility of the site compared to the residential zone across the street, and ensured compatibility when re-development occurred through the down-zone. Furthermore, Policy 2 of the economic development section and related strategies further spoke to compatibility by suggesting that the city “adopt and implement environmental quality performance standards” and “seek to attract non-polluting industries”. Second guessing the map policies of an acknowledged Comprehensive Plan may be warranted during a city-initiated review of the Comprehensive Plan (periodic review), but when a change is proposed outside of the City’s comprehensive review process, the burden of proof is to demonstrate the problems exist and that the change will address the problems, not state the problem as fact.

FINDING: The applicant has not demonstrated that the existing zoning designation is inappropriate or inconsistent given the industrial policies identified in the Comprehensive Plan.

III. APPLICABLE REGIONAL (METRO) STANDARDS

The applicable Functional Plan criteria are Title 1 – Housing and Title 4 – Employment. The City of Sherwood is currently in compliance with the Functional Plan and any amendment to the zoning must show that the community continues to comply. The applicant has provided no discussion of how this Plan Amendment will continue to comply with the applicable Functional Plan elements. Without confirmation that Sherwood will comply, staff cannot recommend approval of the Plan Amendment.

A copy of Functional Plan Title 1 is included as Attachment 8 of the 9/20/05 staff report and Title 4 is included as Attachment 9 of the 9/20/05 staff report. Below is a brief description of what each Title states and requires.

Metro Functional Plan Title 1

This Title requires that cities provide, and continue to provide, at least the capacity specified in Table 3.01-7. Table 3.01-7 indicates that Sherwood's dwelling unit capacity is 5,216 and the job capacity is 9,518. The applicant acknowledges in their narrative that this re-zone will decrease the City's job capacity, but state that "Area 48" will more than off-set this reduction. As discussed below, staff can not confirm this to be true.

Metro Functional Plan Title 4

This site is identified as an "industrial area" on the Metro 2040 Growth Concept map. Section 3.07.430 of the Functional Plan requires that "No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map" to authorize retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area.

By allowing this Plan Amendment, the City would be changing the land use regulation for a site designated as industrial. Without an amendment to Title 4 Map, such amendment would not be consistent with the Metro Functional Plan.

Furthermore, the applicant has not provided any discussion regarding the compliance with the employment capacity impacts that such an amendment would have. The applicant has indicated that the existing vacant industrial land in the City demonstrates that there is surplus. However, the required capacity for employment remains the same regardless of whether it develops quickly or over time. The applicant must demonstrate that the employment capacity on the remaining industrially vacant land meets or exceeds the required employment capacity. The argument that additional land on the eastern boundary of Sherwood was brought in for industrial use does not address the issue. Staff spoke with the Metro Planning Manager on October 25, 2005 who confirmed that the act of bringing additional land into the UGB is a reflection of a regional need for a 20 year supply and does not decrease the local jurisdiction's capacity requirements. The applicant's argument that there will be surplus land and that the capacity will be met when the Area 48 land is brought into the City and developed is not accurate. In fact, Metro indicated that LCDC recently remanded their UGB expansion, in part, because the region is still 300 acres (after the industrial areas, including area 48 are brought in) short of the regional industrial land need. Metro also confirmed that Title 4 is intended to

preserve industrial land, not just from retail uses but from any non-industrial uses. Metro indicated that any change to the Title 4 industrial lands map would require Metro Council approval and would require Metro to re-calculate their regional industrial land capacity.

FINDING: The applicant has not demonstrated compliance with the Title 1 or Title 4 Metro Functional Plan standards.

IV. APPLICABLE STATE STANDARDS

The applicable Statewide Planning Goals include: Goal 2, Goal 9 and Goal 12.

Goal 9 – Economy of the State

Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

When the City completed its Comprehensive Plan it was required to identify and provide for a long term (20 year) supply of Industrial and Commercial land in accordance with OAR 660-009-000, which implements Goal 9. A full copy of OAR 660-009 is included as Attachment 10 of the 9/20/05 staff report. OAR 660-009-0010(4) states that:

(4) Notwithstanding paragraph (2), above, a jurisdiction which changes its plan designations of lands in excess of two acres to or from commercial or industrial use, pursuant to OAR 660, division 18 (a post acknowledgment plan amendment), must address all applicable planning requirements; and:

(a) Demonstrate that the proposed amendment is consistent with the parts of its acknowledged comprehensive plan which address the requirements of this division; or

(b) Amend its comprehensive plan to explain the proposed amendment, pursuant to OAR 660-009-0015 through 660-009-0025; or

(c) Adopt a combination of the above, consistent with the requirements of this division.

As discussed above, Goal 9 is implemented in the Comprehensive Plan via Chapter 4, Section H, policies 1-6. The proposed amendment is not consistent with the policies 2 and 5 as discussed under Section II of this report. The applicant has not demonstrated via the original narrative or the supplemental narrative that it is consistent with the economic development policies, therefore, staff can not make compliance findings based on (a) above. The applicant has not provided an explanation of the amendment pursuant to OAR 660-009-0015 through 660-009-0025 in order to make finding based on (b) or (c) above. As stated previously, the City has applied for grant funding to complete an updated EOA, however, this process has not begun, and therefore, staff does not have documentation to provide the applicant that might help them in establishing findings that demonstrate compliance. It is impossible for staff to recommend approval of this plan amendment since the applicant has not addressed or shown compliance with this standard.

FINDING: The applicant has not demonstrated that the proposal is consistent with the economic development policies of the Sherwood Comprehensive plan or provided documentation to support a finding of compliance pursuant to OAR 660-009-0015 through 660-009-0025.

Goal 10 - HOUSING

This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable

land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

This Goal is addressed by the existing Comprehensive Plan. While the City anticipates the need to complete an update to the Comprehensive Plan in the future, the current plan is acknowledged and addresses housing needs. It would be premature to consider changing zones to increase residential zones without conducting a thorough review of both existing housing and employment needs throughout the City. The applicant has provided no quantitative data that justifies the need for an amendment to the Comprehensive Plan and Zone Map without this necessary comprehensive review. Furthermore, the City complies with Metro Functional Plan requirements for housing and employment. In order to show compliance with the Metro Functional Plan, the City, in coordination with Metro, conducted a detailed analysis in 1997.

The applicant's supplemental narrative refers to the study conducted in 1997 and states that the study "acknowledged that low-density housing occurred in high-density zones, and that more density was needed to accommodate Sherwood's share of the Metro-region housing burden." Staff agrees with this statement. However, this finding was similar to that found around the region by many jurisdictions conducting the same analysis. The tool used by most jurisdictions was to impose a minimum density standard to ensure densities were built close to those anticipated with the Comprehensive Plan zoning. The fact that Sherwood has demonstrated compliance with Title 1 indicates that with the existing zoning built to minimum densities, the City would be able to provide for the required housing units without the need for additional up-zoning or zone changes.

FINDING: A proposed change to HDR would not be in conflict with Goal 10; however a change is not necessary as the existing Comprehensive Plan already complies with the Statewide Planning Goal 10.

Goal 12 - TRANSPORTATION

The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."

Goal 12 is implemented by OAR 660-012-0000. Compliance with this Goal and the OAR was discussed above.

FINDING: The applicant has not shown that State standards have been met.

Staff assessment and recommendation on Plan Amendment: Based on the analysis above, the applicant has provided inadequate information to make findings in support of the proposed amendment. Therefore, Staff recommends that the Planning Commission recommend denial of the proposed plan amendment to the Sherwood City Council.

Attachments:

1. Supplemental narrative submitted October 14, 2005
2. Original staff report and attachments, dated September 20, 2005 (**by reference** – Please contact the Planning Department if new packet materials are needed)

Attachment 1

Dunn
Carney ATTORNEYS
AT LAW
Allen
Higgins
& Tongue
LLP

FACSIMILE TRANSMITTAL

Date: October 14, 2005 **Pages:** 19
(including cover page)

To: Julia Hajduk, Senior Planner

Tele No.: 503.625.4204 **Fax No.:** 503.625.0629

Company: City of Sherwood, Planning Division

Client Mtr.: LUC15-1

Re: Sherwood Oaks Alzheimer's Care/Townhomes Project
City File No. PA05-02/SP05-09
Applicant's Supplemental Narrative (Oct. 14, 2005)

Comments:

From: Ty Wyman/ Dallas Fields
Direct Dial: 503.417.5478

**Original Being
Transmitted**

Not sent

Overnight mail

First-Class mail

Other

851 SW Sixth Avenue, Suite 1500 ■ Portland, Oregon 97204-1357 ■ 503.224.6440 ■ FAX 503.224.7324

..ODMAICRPWISEDUNN-CARPOST1.CLIENTS:370748.1

Confidentiality and Transmission Problems

Confidentiality: This facsimile transmission may contain confidential and privileged information. The information contained in this facsimile is intended for the addressee only. If you are not the addressee, please do not review, disclose, copy or distribute this facsimile. If you have received this facsimile in error, please contact the sender immediately at 503.224.6440.

Transmission Problem: If you do not receive all pages of this facsimile or experience other transmission problems, please call the sender at 503.224.6440.

BEFORE THE PLANNING COMMISSION OF THE CITY OF SHERWOOD**Sherwood Oaks Alzheimer's Care/Townhomes Project
City File No. PA05-02/SP05-09
Applicant's Supplemental Narrative (Oct. 14, 2005)**

In its September 20, 2005 Staff Report, Staff characterizes this Application as presenting the City with a policy decision,¹ but goes to recommend that the Commission deny the Application. We agree with Staff's first conclusion, but respectfully disagree with the latter. Pursuant to the continuance granted by the Planning Commission at its September 27, 2005 hearing, this narrative responds to issues raised in the Staff Report.

Context is vital to any planning policy decision. The context of this Proposal is unique. The site is not just another piece of dirt in an endless suburbia. It is the Tannery, the sight and smell of which defined the town during the last half of the 1900's. Tualatin had its dog food factory. Sherwood had its tannery. Both cities have grown up since then and, although this growth has been too quick in some ways, outgrowing the tannery could not happen quickly enough.

These are not the nostalgic waxings of a developer. They are manifest facts recognized by the Comp Plan - See Chap. 4, p. 36. ("Existing industrial uses in the City, including a tannery, have produced conflicts with surrounding residential uses") - and by Planning Commissioners at the first hearing.

The Proposal would invest \$37 million in the property to build a 48-bed Alzheimer's care facility and 35 townhome units within walking distance of Old Town, the revitalization of which constitutes a full chapter of the Comp Plan. That the Proposal is to make this investment in a site that has years of known toxic contamination, we think is all the better.

Thus, we agree with Staff that this Application requires the City's decision-makers to make a policy call. Any plan amendment requires a weighing and balancing of multiple (sometimes conflicting) goals. However, unlike Staff, we believe that, through fog of OAR's and UGMFP's, the Proposal advances the goals of the Comp Plan and the City's future.

Applicable Criteria from the Development Code**Code § 4.203.2.B**

There is an existing and demonstrable need for the particular uses and zoning proposed, taking into account the importance of such uses to the economy of the City, the existing market demand for any goods or services which such uses will provide, the presence or absence and location of other such uses or similar uses in the area, and the general public good.

Staff (at page 6 of its Sept. 20 report):

¹ "Without more current information, the City cannot make policy decisions about whether and how to focus efforts to increase development." Staff Report at p. 7.

Sherwood Planning Commission
October 14, 2005
Page 2 of 18

The applicant has submitted a market study that demonstrates that there is a need for more care facilities in the area. However, how the "area" is defined is an important factor in determining if this Plan Amendment should be approved. The applicant's narrative referencing the market study leads one to think that the market study showed this need for an additional 102 beds by 2008 within the City of Sherwood only. The applicant argues that, by not approving this Plan Amendment and care facility on this site, Sherwood residents will be forced to go out of town to find a care facility for their loved ones. The applicant states that: "This is an unfortunate burden and inconvenience for these individuals and their families who would prefer a care facility closer to home." Upon review of the market study, however, the area evaluated includes a 4 mile radius around the facility and "encompasses approximately 50 square miles in southeastern Washington County, and includes small portions of Clackamas and Yamhill Counties on its southern boundaries." Clearly, the residents of this facility will not only be Sherwood residents. Furthermore, as discussed under "D" below, the applicant has not adequately substantiated that there is a need for this use at this particular location, and that there is not available land in another permitted zone in Sherwood already suitable for the proposed use.

Regarding the townhouse development site, the applicant has not demonstrated a need for this development, other than stating that there is a "healthy demand." Housing in the entire Portland Metro area is in demand, but that is not justification to change all zones to residential.

The Applicant agrees with Staff that the Proposal must comply with Code § 4.203.2.B. However, we disagree with Staff's conclusion that the Application fails on this issue.

As to the Alzheimer's care facility, Staff initially acknowledges that the Applicant has demonstrated that a need exists. ("The applicant has submitted a market study that demonstrates that there is a need for more care facilities in the area.") That should conclude the analysis. However, Staff goes on to assert that the need for the facility must arise exclusively within the City proper. This misconstrues the relevant standard.

The Comp Plan recognizes the manifest need to provide more housing for the elderly. See Chap 4 C.1.b, "Aging Trends" (recognizing the fact of the City's aging population.) It, thus, goes on to instruct that that be done. See also Residential Planning Designations, Policy 4 ("The City shall provide housing and special care opportunities for the elderly.")

Staff's assertion that the need for a proposed use must be limited to that generated by City residents is not well taken. Nothing in the text of the Code § 4.203.2.B suggests such a limitation. Furthermore, countless recent projects in the City (e.g., Target and the new Providence medical office building) serve people outside of the City.

Sherwood Planning Commission
October 14, 2005
Page 3 of 18

Staff goes on to question whether either project (Alzheimer's facility or townhomes) is needed at this particular location. To the contrary, proximity of high density residential development within walking distance of Old Town is the primary factor demonstrating a need at this location.²

All communities, including Sherwood, need a balance of residential and employment in order to be a complete community. Sherwood's housing market is strong and the retail market is growing. The community needs to encourage more development of the industrial lands to increase jobs for community members. Simply changing the zone to meet a perceived need or because development is not occurring at the site, or at a rapid pace, is not smart development or planning. The City has applied for a state grant to update the employment lands (Goal 9) inventory, which would be a precursor to a Comprehensive Plan update. Without more current information, the City cannot make policy decisions about whether and how to focus efforts to increase development.

Here, Staff tries to use the Goal 9 rule as part of the need analysis required by Code § 4.203.2.B. The Goal 9 rule is discussed below and has no independent application here. Even if we assume that, as Staff asserts, the City needs an economic development strategy, the lack of such a strategy is no evidence that this Proposal is unneeded.

Staff's last comment is that this standard presents a policy question. We agree and believe that the City's policy makers will agree that the Proposal is in the best interests of the City.

Code § 4.203.2.C

The proposed amendment is timely, considering the pattern of development in the area, surrounding land uses, any changes which may have occurred in the neighborhood or community to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district.

Staff (at page 7 of its Sept. 20 report):

The applicant asserts that the amendment is timely because the community of Sherwood is aging and there is a greater need for this type of facility, and because the transportation system has isolated this property from other industrially zoned land. Staff does not concur with these statements for the following reasons:

² Greg Roderick explained at the hearing the reasons for placing an assisted living facility at this location. Because assisted living facility residents walk far more than do residents of single-family subdivisions, proximity to public services (e.g., police, fire) and a variety of commercial businesses is appropriate.

Sherwood Planning Commission
October 14, 2005
Page 4 of 18

- *The applicant has not provided any quantitative evidence to support their arguments, such as population estimates, demographics, or availability of land. While it is known fact that the baby boom generation is aging, the applicant has provided little evidence to support the need for this facility in this location and has not provided any evidence to support the townhouse development.*

In this initial comment, Staff questions whether there is a "need for this [assisted living] facility in this location." Need for the proposed use at the proposed location is addressed above in response to Code § 4.203.2.B. The relevant question here is the timeliness of the Proposal vis-à-vis public services and facilities.

- *While the applicant states that the demand for industrial land is decreasing, they have provided no comprehensive or factual evidence to support this claim. Sufficient evidence would be an analysis of needs based on the existing market conditions, as well as long term projected market conditions prepared by someone qualified to make such projections.*
- *Regardless of what the current market demands are, the City is required, via Goal 9 of the Statewide Land Use Planning System, to have a 20 year supply of land for residential and employment growth. The acknowledged Comprehensive Plan (1991) met that requirement and actions taken by the City in past years to comply with the Metro Functional Plan requirements continues to provide the required balance. The fact that industrial land has not developed at the same pace as residential merely indicates that more focus and emphasis is needed to develop an economic development strategy and that market conditions fluctuate depending on supply and demand for uses, goods, and services. No evidence was submitted to support a change based on market demand.*

Staff here suggests that this standard requires an applicant to show a lack of need for the existing LI zone. We believe that this misreads the relevant standard. The Goal 9 rule and Title 1 require the City to maintain an adequate supply of land in each given zone. Whether the City needs to retain land in the existing zone is addressed by those criteria. This standard requires analysis only of whether public facilities are presently appropriate to serve the proposed use.

We explain compliance with the Goal 9 rule and Title 1 below. They have no independent application here.

Sherwood Planning Commission
October 14, 2005
Page 5 of 18

- *The applicant makes additional arguments for the timeliness of this project, citing the fact that the recently adopted Transportation System Plan lowers the classification of SW Oregon Street from an arterial to a collector, and suggesting that the closure of the SW Oregon Street crossing acts to isolate the old Tannery site from the rest of industrial uses in Sherwood. However, road classification is merely a description of type of trips intended to be accommodated. A collector street is intended to collect local traffic and carry it to the arterials, which in turn, carry traffic to the highways. The status of classification has little bearing on the type of use proposed; rather it reflects connectivity standards and not mobility. For example, Galbreath, a street providing access to newly developing industrial sites is classified as a collector, as are Meinecke and Langer Dr.*

With this comment Staff finally addresses the relevant issue, timeliness for the Proposal. Indeed, the Applicant does contend that reclassification of Oregon St. from arterial to collector status makes the Proposal timely. Staff's contrary contention, viz., that "[t]he status of [street] classification has little bearing on the type of use proposed . . .," is not well taken.

The Comp Plan bears out the relationship of street classification to adjacent land use. See Industrial Policy 1, Strategy 5 ("Industrial development will be restricted to those areas where adequate major roads, and/or rail, and public services can be made available.")

We see nothing in the Comp Plan that suggests residential development should locate near arterials and would be surprised to hear Staff advocate zoning areas around arterial streets for single-family uses and areas around local streets for commercial and industrial uses.

- *There is also great concern that approval of this Plan Amendment would set a precedent for additional amendments in this vicinity as there are several industrially zoned parcels that have access on SW Oregon Street. Staff is aware of other property owners in the vicinity that are watching this proposal closely to determine whether to propose a similar zone change. In fact, the Planning Department held a pre-application meeting regarding the property directly to the north for a proposed plan amendment and medium density residential development. Again, as no quantitative analysis of needs of the existing industrial, commercial and residential land use was provided, it would be premature to approve a plan amendment that would set the precedent for future plan amendments without clear analysis and findings of fact.*

Sherwood Planning Commission
October 14, 2005
Page 6 of 18

A fundament of the quasi-judicial land use process in Oregon is that every development proposal be judged on its own merits. If Staff has a concern about the appropriateness of future development applications, it must voice them at that time. Staff's present concern should be to apply its rules fairly and evenly to each applicant.

The applicant indicates that the recently approved mini storage facility on the contiguous parcel directly north of the site underscores the decreasing demand for light industrial uses in this area. The site in question was changed from light industrial to general industrial in 2003 for the sole purpose of placing the mini-storage facility on that site. Furthermore, the general industrial zone is actually a more intensive industrial zone, which would indicate that there remains a need and a market for industrial zones in this area.

The site which Staff refers is formerly a battery plant, on which concentrations of heavy metals were found. The Applicant completed remediation and cleaned the site up to industrial standards. DEQ and the City agreed that the remaining heaving metals, although limited, should be capped by impervious surface. The City rezoned the site to GI in order to allow to facilitate this resolution. Given this resolution, we agree with staff that the zone of the mini-storage site should not be changed to residential.

Staff concludes that rezoning this adjacent site to GI is evidence of a need for industrial zones in this area. Mini-storage is not really an industrial use; it employs few people, manufactures no products, and its primary customers are residential landowners. Other than being a compatible use with other warehousing uses, typically found in industrial zones, self-storage has little if anything to do with industrial use, and is not an indicator of need for industrial uses.

Finally, this proposal is not timely because the site is currently under DEQ clean-up action. DEQ has indicated that a residential use is not appropriate until the site has completed the clean-up process. The applicant's statements that this site would be ready to be developed if it were zoned residential is misleading. DEQ has indicated that, at minimum, the site is three or more months away from being cleaned up and no activity has occurred on the site in recent months.

The Applicant has a "no further action" letter from DEQ on the site that is proposed to be the townhome development. We have cleaned this portion of the site to residential standards as it was not part of the former battery plant. The townhome portion of the site had leather hides only. All hides were removed and the soil extensively tested and signed off on by DEQ.

The Applicant is proud of its on-going effort to clean the Site up for redevelopment. Staff's contention that this proposal must await completion of the clean up is not well taken. Any concern that the City has regarding the completion of the clean-up can be addressed by conditioning final site plan review approval on a the letter of determination from DEQ.

Sherwood Planning Commission
October 14, 2005
Page 7 of 18

Code § 4.203.2.D

Other lands in the City already zoned for the proposed uses are either unavailable or unsuitable for immediate development due to location, size or other factors.

Staff (at page 8 of its Sept. 20 report):

Staff conducted a quick review of all parcels in the City 2.5 acres or greater (the size of the proposed care facility site) that are vacant (or have only one dwelling) with a zone that would allow a residential care facility either outright or conditionally. There are 20+ parcels that fit this definition (Attachment 6), one of which is actually owned by the applicant. The fact that there are over 20 parcels that are currently zoned appropriately and of adequate size to accommodate the facility confirms that the applicant has not demonstrated the need for this plan amendment. In addition, regardless of the individual analysis by staff, the applicant makes conclusive statements without quantitative or qualitative evidence to support the claim.

Staff identifies 20 parcels, one owned by applicant, that are available. Simply pointing out vacant parcels doesn't substantiate whether they are ready for development.

More importantly, Staff again ignores the primary factor that makes the subject property suitable for the proposed assisted living facility is its location near Old Town.

Applicable Criteria from the Comp Plan

Residential Land Use

Policy 1 Residential areas will be developed in a manner which will insure that the integrity of the community is preserved and strengthened.

Policy 2 The City will insure that an adequate distribution of housing styles and tenures are available.

Policy 3 The City will insure the availability of affordable housing and locational choice for all income groups.

Policy 4 The City shall provide housing and special care opportunities for the elderly, disadvantaged and children.

Policy 5 The City shall encourage government assisted housing for low to moderate income families.

Sherwood Planning Commission
October 14, 2005
Page 8 of 18

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.

While the proposal does provide special care opportunities for the elderly, the City's zoning ordinance already complies with this policy by allowing residential care facilities in most residential and commercial zones. With or without the proposed amendment, the City's zoning addresses the policies identified in the Comprehensive Plan. The proposed amendment is not inconsistent with the residential policies.

Economic Development Policies and Strategies

Policy 2 The City will encourage economic growth that is consistent with the management and use of its environmental resources.

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

The applicant has indicated that the development of the site, as proposed, will promote responsible economic growth, by supporting the remediation and conversion of a previously contaminated industrial site into a site suitable for locating a needed Alzheimer's care facility, its residents, and the prospective townhouse residents. Staff would argue that the remediation is already in process and required regardless of potential development. Although laudable, clean up of a brownfield is not quid pro quo for a zone change. Conversely, a brownfield is better suited for reuse and redevelopment as light industrial since contamination continues to be an issue in view of future owner liability.

Staff's dismissive tone toward the Applicant's remediation of the site – "although laudable" - is not well taken. It turns a blind eye to the fact that the industrial market has ignored this site for five years.

The Applicant does not suggest that remediation is a *quid pro quo* for a zone change. Neither may staff contend that remediation precludes a zone change. As the Applicant has noted, it signed a Prospective Purchaser Agreement, the specific purpose of which (according to the State) is to provide future owners certainly against potential liability.

In addition, the proposed amendment and development of the townhouse development is inconsistent with Policy 5 because it is removing the possibility for additional jobs within the community of Sherwood. While the care facility will provide some jobs, there is uncertainty as to whether more jobs could be provided if the site developed in accordance with the zoning designation. The

Sherwood Planning Commission
October 14, 2005
Page 9 of 18

applicant does not provide any evidence to support the new use based on an economic impact.

Staff's assertion that the proposal "removes the possibility for additional jobs within the community of Sherwood," although quite dramatic, is not well taken. Staff's better comment here (which it seems not to realize) is that "there is uncertainty as to whether more jobs could be provided if the site developed in accordance with the zoning designation." We agree. That the Site has remained inactive over the last five years should leave the Commission very uncertain as to whether it would be redeveloped under existing zoning.

The following, however, is certain. The Applicant has signed a PPA for the site, obtained state approval for the Alzheimer's facility, and attracted a care provider. If, as Staff suggests, this policy requires the City to weigh the risks of rezoning or not, we believe that the greater risk lies in maintaining the existing zone.

Industrial Planning Designations

Policy 1 Industrial uses will be located in areas where they will be compatible with adjoining uses, and where necessary services and natural amenities are favorable.

Staff (at page 10 of its Sept. 20 report):

The Comprehensive Plan indicated that Light Industrial designations should be placed in areas where the development will be compatible with existing or planned long range land use patterns and will not detract from existing environmental assets. The fact that this site was designated light industrial and the property across SW Oregon Street was designated residential indicates that this was a suitable zoning designation that is compatible with the surrounding area. The Light Industrial designation encourages the development of suitable uses into industrial subdivisions or parks. Light Industrial zones allow a wide range of uses suitable for development adjacent to residential uses. Staff would argue that SW Oregon Street creates a suitable buffer (60 feet of ROW) between residential and industrial uses. Again, there is concern about setting a precedent about the appropriateness of an industrial boundary adjacent to residential uses. Staff is already aware of property owners waiting to see the outcome of this proposal that are considering additional plan amendments. Lastly, a new tannery operation would not be allowed at this site, and new uses would have less of an impact than the prior use. This would address concerns from the neighborhood about the compatibility of new light industrial uses.

As noted above, under this policy, "industrial development will be restricted to those areas where adequate major roads, and/or rail, and public services can be made available." Staff simply ignores the fact the City just reclassified Oregon St. in front of the Site from arterial to

Sherwood Planning Commission
October 14, 2005
Page 10 of 18

collector. The Applicant again asserts that this reclassification does not simply support, but actually suggests the proposed rezone.

We are glad that Staff points out that this policy calls for "industrial park" development. (We note, furthermore, the location standards specific to LI zoning call for sites "of sufficient size to provide ample space for expansion, parking, landscaping, and buffering.") The subject property's odd configuration would preclude the type of industrial park envisioned by the policy and even make parking and landscaping a nightmare for an individual industrial user.

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

While the applicant has indicated that the care facility will provide an additional 30 jobs within the community, they have not addressed the entire area included in the proposal. The townhouse development will create no additional jobs and the precedent set of changing industrial zones to residential could result in the loss of even more employment opportunities. The City's economic analysis conducted for the development of the Comprehensive Plan in 1991 indicated the need for a greater balance between residential and employment development. Currently, according to the Washington County Tax Assessor's office the City's tax base is 80 percent residential and 20 percent employment. Clearly, this imbalance would be exacerbated by the proposed zone change. In addition, the strategy identified in the Comprehensive Plan to address this policy was to allocate land to meet the current and future industrial space needs to provide an appropriate balance to residential and commercial activities. The applicant has provided no quantitative evidence substantiating that the community has an appropriate balance of uses within the current or future 20 year planning period.

The applicant indicates that this site could not be developed consistent with Comprehensive Plan policies. They indicate that this site has been "passed over" for many years and that there have been few inquiries into this property over the past 5 years. While this may be true, the applicant indicates that one of the reasons is an underdeveloped collector street and site with environmental contamination. It is possible that this site would not be as "passed-over" if the street was improved to City standards and the site contamination was cleaned up. A zone change is not necessary to make these site improvements.

FINDING: *While the proposal is not inconsistent with the Comprehensive Plan policies regarding residential zones, the proposal is not consistent with the economic and industrial policies of the Comprehensive Plan.*

Staff seems to think that the industrial/residential interface is a good thing. As noted above, this position is directly refuted by the Comp Plan. See Chap. 4, p. 36. ("Existing industrial uses in

Sherwood Planning Commission
October 14, 2005
Page 11 of 18

the City, including a tannery, have produced conflicts with surrounding residential uses") If the City had long-term intent to keep jobs and make this part of town an industrial area, it would not have placed residential zoning across the street, outlawed the pre-existing industrial use of Site, put a round-about at the bottom of the hill, and reduced the functional classification of the major street providing access.

Applicable Criteria from the Statewide Goals

Goal 9 (Economy)

Staff (at page 12 of its Sept. 20 report):

When the City completed its Comprehensive Plan it was required to identify and provide for a long term (20 year) supply of Industrial and Commercial land in accordance with OAR 660-009-000, which implements Goal 9. . . . OAR 660-009-0010(4) states that:

Notwithstanding paragraph (2), above, a jurisdiction which changes its plan designations of lands in excess of two acres to or from commercial or industrial use, pursuant to OAR 660, division 18 (a post acknowledgment plan amendment), must address all applicable planning requirements; and:

- (a) Demonstrate that the proposed amendment is consistent with the parts of its acknowledged comprehensive plan which address the requirements of this division; or*
- (b) Amend its comprehensive plan to explain the proposed amendment, pursuant to OAR 660-009-0015 through 660-009-0025; or*
- (c) Adopt a combination of the above, consistent with the requirements of this division.*

OAR 660-009-0015 outlines the required elements for an Economic Opportunities Analysis (EOA). As stated previously, the City has applied for grant funding to complete an updated EOA, however, this process has not begun. The applicant has not discussed compliance with Goal 9 or the OAR and has provided no documentation that staff could use to make findings. It is impossible for staff to recommend approval of this plan amendment since the applicant has not addressed or shown compliance with this standard.

The Applicant agrees with staff that the Goal 9 rule is a standard relevant to the Proposal. However, staff overreads what the state mandates of the City in the quasi-judicial plan amendment process.

Sherwood Planning Commission
October 14, 2005
Page 12 of 18

Under OAR 660-009-0010(4)(a), an EOA is required only if a plan amendment applicant cannot demonstrate compliance with the local jurisdiction's existing Goal 9 implementing language.

The Applicant demonstrates compliance with Economic Development Policies 2 and 5 from the City's comprehensive plan. In so doing, the Applicant complies with the Goal 9 rule.

Goal 10 (Housing)

Staff (at page 13 of its Sept. 20 report):

This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

This Goal is addressed by the existing Comprehensive Plan. While the City anticipates the need to complete an update to the Comprehensive Plan in the future, the current plan is acknowledged and addresses housing needs. It would be premature to consider changing zones to increase residential zones without conducting a thorough review of both existing housing and employment needs throughout the City. The applicant has provided no quantitative data that would allow staff to support an amendment to the Comprehensive Plan and Zone Map without this necessary comprehensive review. Furthermore, the City complies with Metro Functional Plan requirements for housing and employment. In order to show compliance with the Metro Functional Plan, the City, in coordination with Metro, conducted a detailed analysis in 1997.

The study referenced by staff (conducted by City Planner Greg Turner) acknowledged that low-density housing occurred in high-density housing zones, and that more density was needed to accommodate Sherwood's share of the Metro-region housing burden. The project proposed is consistent with the Plan's policies of providing a specialized housing need.

OAR 660-012-0060 (Statewide Goal 12 (Transportation))

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

Sherwood Planning Commission
October 14, 2005
Page 13 of 18

* * *

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Staff (Sept. 1 memo from DKS):

The baseline traffic counts were taken during the summer months, and these do not reflect typical weekday conditions at many of the study intersections. The absence of school related traffic in the counts understates the actual conditions during peak hours during a typical weekday.

We recommend that new counts be collected on days school is in session, or adjustments made to the summer counts to account for school related traffic during peak hours.

The city identified need for evaluation at two additional locations, 1st Street at Pine Street, and Lincoln Street at Oregon Street. We expect that the first intersection is most sensitive to added traffic and recommend that it be added to the evaluation. Observations during the school year have shown significant delays during the school hours at this location.

We recommend that the analysis consider the intersection of 1st Street at Pine Street.

The potential impacts associated with the rezone is [sic] not adequately considered in this analysis. The analysis considers only the proposed use on this site, however, once the property were rezoned to High Density Residential, it could legitimately be sold and another development application made with more intense uses. State TPR requires an assessment of horizon year conditions to confirm the findings in the adopted TSP are still valid, specifically, according to

Sherwood Planning Commission
October 14, 2005
Page 14 of 18

OAR 660-012-060(IC), the proposed zone change must not "worsen the performance of an existing or planned otherwise projected to perform below the minimum identified in the TSP or comprehensive plan." The analysis submitted should be amended in several ways to fully respond to this criteria:

- The assumed worst case use of the existing zoning, General Light Industrial, seems appropriate, but the size of the assumed development is quite aggressive and should be modified. According to our review of GIS data for this property, the total area is about 209,400 square feet which is 4.81 acres. The suggested 110,000 square feet of Light Industrial building would be equivalent to a 53 percent floor area ratio. A more typical industrial development would have 30 to 35 percent floor area ratio, which is equivalent to 73,000 square foot of building space at most. The existing zoning analysis should consider this lower level of building potential.*
- The proposed new zoning, High Density Residential, allows up to 24 units per acre, accordingly to city staff. On 4.81 acres, that is equivalent to 115 apartments or condominium units. Our calculation shows that the trip generation associated with this level of development is far higher than the proposed development, and higher than the allowed under the existing zoning with the revised General Light Industrial uses noted above. Therefore, this is the proper benchmark test for assessing the proposed rezone action. We recommend that the 'reasonable worst case' analysis of the proposed rezoning account for this higher level of development.*
- Given the above to changes, the analysis for the rezone action should consider horizon year 2020 conditions in the TSP. The 2008 analysis submitted with the report is not sufficient for the purposes of assuring compliance with the above cited section of the TPR. The 2020 analysis should add the net increase in traffic between the reasonable worst case generation with existing zoning (General Light Industrial) and reasonable worst case generation with the proposed zoning (High Density Residential) conditions to the TSP volume forecasts as a part of this evaluation.*

The mitigation recommended for Oregon Street at Tonquin Road does not consider the proximity of the roundabout at Murdock Road and the related operational and safety impacts. It is not recommended to install a new traffic signal that close to the existing roundabout. Any vehicle queues on Oregon

Sherwood Planning Commission
October 14, 2005
Page 15 of 18

Street could spillback and impede circulation through the roundabout. As noted in the TSP, a better solution would be a second roundabout at Oregon Street and Tonquin Road to maintain efficient circulation and moderate speeds through both locations.

- We recommended that the proposed mitigation for Oregon Street at Tonquin Road be changed from a new traffic signal to a new roundabout at that location.*

The left-turn lane warrant analysis showed that the low turning volumes into the site do not exceed the thresholds for separate turn lanes. However, the more significant consideration for this portion of Oregon Street is the ultimate roadway cross section. The TSP designates this street as a collector, and several combinations of 2 or 3 lane cross-section are allowed for a collector street. We submit that given the close block spacing on the south side of the roadway (Hall Street, Roy Street, Orland Street and G&T Drive) that left-turning pockets are recommended to maintain safety conditions. Also, since the existing and planned development generally do not have direct access onto Oregon Street through this area (5 lots do have private driveways), on-street parking is generally is not necessary. Therefore, this portion of Oregon Street should be designed for a 3-lane cross section with bike lane facilities and no on-street parking as recommended in the TSP. Depending on the sidewalk and street landscaping amenities, the right-of-way required would range from 72 to 76 feet, and the half-street dedication requested from the applicant would be 36 to 38 feet. If parking is provided along the fronting homes, then an additional 8 feet of right-of-way will be required, for a total ranging from 80 to 94 feet.

- We recommend that the ultimate cross-section on this portion of Oregon Street provide for 3-lanes with bike lanes, and sufficient right-of-way be dedicated along the project frontage to comply with the adopted street standards.*

Staff correctly explains the analysis required under the TPR, viz., to compare traffic impacts that would result from "reasonable worst case" development of the site under (1) the proposed HDR zone and (2) under existing LI zone. The TPR effectively precludes development where the former impacts are greater than the latter.

The Applicant's traffic engineer concluded that "reasonable worst case" development of the site under the proposed zoning would effect lesser traffic impacts than would such development under existing zoning. As such, the TPR is satisfied without further analysis or need for mitigation.

Staff rejects the Applicant's conclusion. It argues that the Applicant's assumptions of what constitutes "reasonable worst case development" are wrong. Staff asserts that "reasonable worst

Sherwood Planning Commission
October 14, 2005
Page 16 of 18

case development" under the existing LI zone will be substantially below the allowed density. Staff then turns around and asks the Applicant to assume reasonable worst case development under the proposed HDR zone will be substantially. Staff simply cannot have it both ways.

Nothing supports staff's assertion that "a more typical industrial development would have 30 to 35 percent floor area ratio." To the contrary, with reference to developed industrial-zoned sites in the City,³ the .53 FAR build out of the site assumed by Charbonneau is reasonable.

Furthermore, analysis of existing densities in the City's HDR zone bear out that it is unreasonable to assume that the subject property would build out to its maximum density. Assuming overdevelopment of the site under the proposed zoning is similarly unreasonable.

Staff is correct that the TPR requires comparison of "reasonable worst case development" under the existing and proposed zones. However, staff's suggestion as to what constitutes such development of this Site is simply not reasonable.

As Charbonneau demonstrates, the simple fact is that reasonable worst case development under the proposed HDR zone would generate less traffic than would such development under the existing LI zone. As such, the Proposal actually decreases traffic impacts and complies with the TPR without need for mitigation.

Applicable Criteria from the Metro Urban Growth Management Functional Plan

Title 1

Staff (at page 11 of its Sept. 20 report):

"This Title requires that cities provide, and continue to provide, at least the capacity specified in Table 3.01-7. Table 3.01-7 indicates that Sherwood's dwelling unit capacity is 5,216 and the job capacity is 9,518.

"[T]he applicant has not provided any discussion regarding the compliance with the employment capacity impacts that such an amendment would have. The applicant has indicated that the existing vacant industrial land in the City demonstrates that there is surplus. However, the required capacity for employment remains the same regardless of whether it develops quickly or over time. The applicant must demonstrate that the employment capacity on the remaining industrially vacant land meets or exceeds the required employment capacity. The argument that additional land on the eastern boundary of Sherwood was brought in for industrial use does not address the issue. The act of bringing additional land into the UGB is a reflection of a regional need for a

³ E.g., 13985, 13939, and 13565 SW Tualatin-Sherwood Road and 20707 and 20551 SW Wildrose Place.

Sherwood Planning Commission
October 14, 2005
Page 17 of 18

20 year supply and does not decrease the local jurisdiction's capacity requirements."

The Applicant agrees with staff that the employment capacity requirement of UGMFP Title 1 is a standard relevant to the Application. We further agree that (1) Title 1 presently requires the City to maintain a certain job capacity and (2) redesignation of the subject 5-acre parcel from industrial to residential will decrease the City's job capacity.

However, "Area 48" (the area that Metro recently brought into the UGB for Sherwood industrial development) will more than double the size of Sherwood's industrial area in the Planning period of 20 years. This more than offsets removal of the subject 5-acre piece.

UGMFP Title 4

"This site is identified as an 'industrial area' on the Metro 2040 Growth Concept map. Section 3.07.430 of the Functional Plan requires that "No city or county shall amend its land use regulations that apply to lands shown as Industrial Area on the Employment and Industrial Areas Map" to authorize retail commercial uses—such as stores and restaurants—and retail and professional services that cater to daily customers—such as financial, insurance, real estate, legal, medical and dental offices—in order to ensure that they serve primarily the needs of workers in the area.

By allowing this Plan Amendment, the City would be changing the land use regulation for a site designated as industrial. Without an amendment to the 2040 Growth Concept Map, such amendment would not be consistent with the Metro Functional Plan."

The Applicant agrees with staff that UGMFP Title 4 is a standard relevant to the Application. We further agree that Metro has, in Title 4, designated the site "Industrial." However, staff again overreads the effect of what the City is mandated to do.

As I testified at the hearing, the purpose of Title 4 is to protect industrial lands from conversion to retail uses. Metro Code 3.07.430 effects this purpose by prohibiting cities and counties from rezoning a designated Industrial Area to allow any of the following uses:

Cities and counties shall review their land use regulations and revise them, if necessary, to include measures to limit new buildings for retail commercial uses - such as stores and restaurants - and retail and professional services that cater to daily customers - such as financial, insurance, real estate, legal, medical and dental offices - in order to ensure that they serve primarily the needs of workers in the area. One such measure shall be that new buildings for stores, branches, agencies or other outlets for these retail uses and services shall not occupy more than 5,000 square feet of sales or service area in a single outlet, or multiple

Sherwood Planning Commission
October 14, 2005
Page 18 of 18

outlets that occupy more than 20,000 square feet of sales or service area in a single building or in multiple buildings that are part of the same development project, with the following exceptions:

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

Thus, Metro does not preclude either an assisted living facility or townhomes in an Industrial area. To the extent that the HDR zone allows

Conclusion

The Applicant can see that staff is passionate about protecting the values set forth in the Comp Plan, as well as the state and regional planning guidelines that govern it. The Applicant, however, is equally passionate that, notwithstanding "the fog of OAR's and UGMFP's" discussed above, the Proposal advances the values set forth in that Plan and merits approval.

TO: PLANNING COMMISSION

App. Submitted: 10-3-05
App. Complete: 10-19-05
Hearing Date: 11-08-05
120-Day Deadline: 2-16-02

FROM: PLANNING DEPARTMENT


Julia Hajduk, Senior Planner

I. APPLICATION INFORMATION

Owner:

J. Patrick Lucas
Sherwood Crossing LLC
17400 SW Boones Ferry Rd
Durham, OR 97224

Applicant:

Pete White
EA White Construction
18965 SW 84th Ave.
Tualatin, OR 97062

- A. Location: 20510 SW Roy Rogers Road, Tax Map 2S129BC-S2, Tax Lot 90450 (formerly tax lot 300 on 2S129BC)
- B. Proposal: The applicant is requesting a modification to an approved Site Plan to provide for the development of a fourth floor. The request involves Hunter's Ridge, Building B and would allow 8 bedrooms, 6 bathrooms and 2 office space areas for a total square footage of 4,356 square feet in attic space previously proposed to be undeveloped. In order to accommodate these additional bedrooms, the building on the east elevation will be dormered which results in a change to the building elevation. In addition, since parking calculations are based on the number of bedrooms in multi-family projects, the proposal alters the required parking.
- C. Background: Section 5.102.03.A of the SZCDC requires that any proposed changes to approved plans shall be submitted for review to the City. Changes that are found to be substantial, as defined by 5.102.01, shall be submitted for supplemental review together with a fee equal to one-half (1/2) the original site plan review fee. The review is required to be in accordance with Section 3.200. In addition, because this constitutes a change to a plan originally approved by the Planning Commission, the modification must also be reviewed by the Planning Commission.

The applicant has already begun construction of the proposed modification. When the City became aware of the changes to Building B without prior approval, a stop work order was issued by the Community Development Division representing various issues from the Building, Planning, and Engineering Department. The applicant was permitted to conduct weatherization work, on the outside only, in order to protect the structure from rain. Other than the weatherization work permitted to occur on October 14, 2005, no other work has occurred inside or outside of the building. The applicant is aware that if this modification is not approved, he will have to de-construct improvements that have been built to date.

- D. Parcel Size: Building B is listed on a separate tax lot (90450) from Building A and Building C and represents approximately .49 acres.
- E. Existing Development and Site Characteristics: The Hunter's Ridge project is currently under development. Building A is fully complete and has received occupancy. Building C is visible from SW Roy Rogers Road and is currently under construction. Building B is behind Building A and generally not visible from the right of way. This building is constructed and interior improvements were in process until the City became aware that the fourth floor was being improved and the eastern building elevations were changed without City knowledge or approval.
- F. Zoning: The site is zoned General Commercial (GC). Commercial uses are allowed per Section 2.110.02, and residential units are a conditional use per Section 2.110.03(J).
- G. Adjacent Zoning and Land Use: The site is bounded to the north by vacant land approved for the Future Urban Growth Area. To the east is a residence also in GC zoning, and to the west is the Conzelmann Farm Estates (SUB 03-03), a 57-lot single-family subdivision zoned Medium Density Residential High. The site is bordered by SW Roy Rogers Road to the south.
- H. Review Process and Type:
Section 5.102.01 states that Site Plan review is required for the substantial alteration of an existing structure and further identifies substantial alteration if:
- A. The activity alters the exterior appearance of a structure, building or property.
 - B. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial.
 - C. The activity involves non-conforming uses as defined in Section 2.206.
 - D. The activity constitutes a change in a City approved plan, as per Section 5.102.03.
 - E. The activity is subject to site plan review by other requirements of this Code.
 - F. Review of any proposed activity indicates that the project does not meet the standards of Section 5.102.04.

The proposed modification meets "A", "D", and "F", therefore full site plan review is required. The original plan was reviewed by the Planning Commission. Therefore, the Planning Commission must review this modification via a Type IV review process.

- I. Public Notice and Hearing: Notice of the November 8, 2005 public hearing on this application was published in the Tigard/Tualatin Times, posted and mailed to property owners within 100 feet of the site in accordance with Section 3.202 and 3.203 of the Sherwood Zoning and Community Development Code.
- J. Review Criteria: Required findings for site plan approval are found in Section 5.102.04 and required findings for conditional use approval are found in Section 4.302.03 of the Sherwood Zoning and Community Development Code. Because this is a modification of an approved site plan, the only applicable development code sections are parking (5.300) and height (2.110.05). In addition, staff will review the original notice of decision, staff report and PC minutes for discussion on the conditional use and building elevation requirements.

II. PUBLIC COMMENTS

Public notice was mailed on October 19, 2005. No public comments were received as of the date of this report.

III. AGENCY COMMENTS

Agency notice was not provided because of the nature of the request. However, staff consulted with the Building Department who indicated the review of the revised plans is in process. A condition of approval shall be the issuance of approved building plans.

IV. SITE PLAN REVIEW – REQUIRED FINDINGS (SECTION 5.102.04)

- A. The proposed development meets applicable zoning district standards and all provisions of Chapters 5, 6, 8 and 9.**

The proposal is a modification to allow development of space originally planned for attic space, therefore, the only applicable review criteria is that found in Chapter 2 (dimensional standards) and Chapter 5 (Community Design). Chapter 6, 8 and 9 are not applicable to this modification. Compliance with the applicant standards is addressed further in this report under Section V.

- B. 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.**

The site has already been reviewed for compliance with this standard with the prior Land Use approval, Engineering Plan approvals and Building Permits. The modification to increase the number of bedrooms does not alter the demand for public services, therefore, this standard has been satisfied.

- C. 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.**

A joint parking agreement was a requirement of Building A, however staff could not find verification in the Building A file that the condition had been met. The applicant should be required to submit verification that a joint parking agreement has been recorded.

- D. The proposed development preserves significant natural features to the maximum feasible extent, including but not limited to natural drainageways, wetlands, trees, vegetation, scenic views and topographical features, and conforms to the applicable provisions of Chapters 5 and 8 of this Code.**

The modification does not increase the building footprint or impervious surface area. Therefore, there is no impact to natural areas as a result of this modification.

- E. 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 6.307 Highway 99W Capacity Allocation Program, unless excluded herein.**

The original site plan approval was required to submit verification that the CAP had been addressed. The Engineering Department has not yet issued a trip certification, but it had been agreed that the applicant may defer compliance with the CAP until occupancy. The trips

generated for residential uses are generally based on the number of dwelling units, not bedrooms, therefore the proposed modification will not impact the applicant's ability to comply with the CAP.

- F. 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 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 required to mitigate for impacts attributable to the project. The determination of impact or effect and the scope of the impact study shall be coordinated with the provider of the affected transportation facility.**

The proposed modification does not result in an increase in the number of dwelling units, therefore additional ADT is not anticipated above and beyond that already reviewed. Therefore, this standard does not apply.

- G. The proposed commercial, multi-family development, and mixed-use development is oriented to the pedestrian and bicycle, and to existing and planned transit facilities. Urban design standards shall include the following:**
- 1. Primary, front entrances shall be located and oriented to the street, and have significant articulation and treatment, via facades, porticos, arcades, porches, Zoning & Development Code 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.**
 - 2. Buildings shall be located adjacent to and flush to the street, subject to landscape corridor and setback standards of the underlying zone.**
 - 3. The architecture of buildings shall be oriented to the pedestrian and designed for the long term and be adaptable to other uses. Aluminum, vinyl, and T-111 siding, metal roofs, and artificial stucco material shall be 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 installed unless other architectural elements are provided for similar protection, such as an arcade.**
 - 4. As an alternative to the above standards G.1-3, the Old Town Design Standards (Section 9.202) may be applied to achieve this performance measure.**

The proposed modification does not change the location of the building or exterior, street-facing elevations. Therefore, this standard does not apply.

FINDING: Based on the analysis above, the Site Plan review criteria will be satisfied if the applicant submits documentation verifying that the joint parking agreement has been recorded.

CONDITION: Prior to final occupancy, submit a copy of the recorded shared parking agreement required as a condition of occupancy for Building A.

V. CONDITIONAL USES

4.301.02 - Changes in Conditional Uses

Changes in use or expansion of a legal non-conforming use, structure or site, or alteration of structures or uses classified as conditional uses, that either existed prior

to the effective date of this Code or were established pursuant to Section 4.300 shall require the filing of a new application for review conforming to the requirements of Section 4.300 if the proposed changes would increase the size, square footage, seating capacity or parking of existing permitted improvements by twenty percent (20%) or more.

The residential component required a conditional use. The height of the building was not increased and, while the number of rooms increased, the number of units did not increase. The building square footage is increased by 4,356 square feet which is only a 10% increase from the original square footage of 41,870 square feet. Therefore, the modification does not increase the approved conditional use by more than 20% and a new conditional use review is not required.

VI. APPLICABLE STANDARDS

A. Chapter 2 - Land Use and Development

The applicable zoning district standards are 2.110 (General Commercial). No other standards in Chapter 2 apply to the proposed modification.

2.110 – General Commercial (GC) Zoning District

The applicable standards for the proposed modification in Section 2.110 are 2.110.05 A-C. Compliance with these standards is discussed below:

Dimensional Standards (2.110.05)

Section 2.110.05 has the following dimensional standards in LI zones:

Lot area	10,000 sq ft
Lot width at front property line	70 feet
Lot width at building line	70 feet
Front yard setback	None, except when abutting a residential zone then the front yard shall be that required in the residential zone.
Side yard setback	None, except when abutting a residential zone or public park, then there shall be a minimum of twenty (20) feet.
Rear yard setback	None, except when abutting a residential zone, then there shall be a minimum of twenty (20) feet
Height	Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one-hundred (100) feet of a residential zone shall be limited to the height requirements of that residential zone

The modification does not impact the required setbacks. While the proposal includes adding a fourth floor for living space, it involves improving space originally planned to be storage or attic space, and adding a dormer to one side of the building to provide more usable space. The actual height of the building remains the same (46 feet, 6 inches).

FINDING: Based on the discussion above, the proposal complies with the dimensional standards.

B. Chapter 5 – Community Design

Because the proposal involves no change in the site other than adding a fourth floor of living space, the majority of the Community Design criteria are not applicable. The modification does require compliance with 5.300 (Off-street parking and maintenance) which is addressed below:

5.302.02 Off-Street Parking and Loading - Minimum Standards

<u>Commercial Uses</u>	<u>Spaces Required (per 1,000 sf)</u>
General Office	2.7
General Retail/Personal Service	4.1

<u>Multi-family Uses</u>	<u>Spaces Required</u>
Less than 500sf	1
1 bedroom	1.25
2 bedroom	1.5
3 bedroom	1.75

The change to add additional 3 bedroom units increased the required parking by 8 spaces. Because Building B shares parking with Building A and C, staff had to look at the required and provided parking for all three buildings to ensure that the proposed modification continued to provide adequate parking. Based upon review of the building plans and information provided by Mr. Patrick Lucas, the total number of parking spaces required with the modification is 191 spaces. The site currently provides 193 parking spaces with the underground parking structures and 97 surface spaces. The following table details the assumptions used to determine the required parking:

Building	Square foot office	Square retail or personal service	total commercial parking required	1 bedroom units	2 bedroom units	3 bedroom units	required residential parking	Total parking required	Total parking provided
A	5260	4874	34	14	5	0	25	59	
B	6202	0	17	11	5	9	37	54	
C	7200	7200	49	4	16	0	29	78	
TOTAL	18,662	12,074	100	29	26	9	91	191	193

FINDING: Based on the analysis above, the modification does not increase the required parking beyond that provided in the approved plans.

5.302.03 Off-Street Parking and Loading - Miscellaneous Standards

- A. **Dimensions** - For the purpose of Section 5.300, a “parking space” generally means a minimum stall nine (9) feet in width and twenty (20) feet in length. Up to twenty-five percent (25%) of required parking spaces may have a minimum dimension of eight (8) feet in width and eighteen (18) feet in length so long as they are signed as compact car stalls.
- B. **Layout** – Parking space configuration, stall and access aisle size shall be of sufficient width for all vehicle turning and maneuvering. Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an

alley, will be required. All parking areas shall meet the minimum standards shown in Appendix G.

- C. Wheel Stops – Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four (4) inches high, located three (3) feet back from the front of the parking stall as shown in Appendix G.
- D. Bicycle Parking Facilities - Bicycle parking must be located within fifty (50) feet of an entrance to the building. With the permission of the City, bicycle parking may be located in public right-of-way. The recommended minimum number of bicycle parking spaces for each use is found in subsection “E.”

The proposal does not modify the dimensions of parking spaces and all parking spaces comply with the dimensional standards listed above per the prior approvals. Any deviation from the dimensional standards shall be approved by the Planning Department before final occupancy will be approved.

FINDING: Based on the analysis above, the revised plans do not modify the dimensional standards previously reviewed and approved. If the dimensions are modified, they must be approved by the Planning Department before construction and will be verified during site inspections for final occupancy.

VII. RECOMMENDATION

Based on a review of the applicable code provisions, staff recommends **APPROVAL with conditions** of the proposed modification to SP 04-09 - Hunters Ridge Building B.

VIII. CONDITION

All conditions imposed by the September 7, 2004 Notice of Decision for Hunter’s Ridge Building B and C (SP04-08/CUP 04-03) continue to govern this decision. In addition, the following conditions are recommended subject to Planning Commission review and approval:

1. Prior to commencement of any construction on the fourth floor, the Building Department shall approve the plans.
2. Prior to commencement of any construction on the fourth floor, submit to the Planning Department a copy of the recorded shared parking agreement required as a condition of Building A.

IX. ATACHMENTS

1. Plan set and narrative from EA White submitted 10-3-04

Sherry Oeser - RE: Annual Capacity Report

*Submitted into record
By Ty
11-8-05*

From: "Kevin Cronin" <cronink@ci.sherwood.or.us>
To: <oesers@metro.dst.or.us>
Date: 3/21/2005 2:15 PM
Subject: RE: Annual Capacity Report
CC: <weberm@metro.dst.or.us>

Ms. Oeser:

I received your letter dated March 10, 2005 with regard to reporting annual changes in capacity for housing and employment per Metro Code 3.07.120(D).

I did not see any forms attached to the letter so I am e-mailing the requested information.

In 2004 we processed one zone change request from Medium Density Residential High (MDRH) to Office Commercial (OC).

This city owned property contained two lots totaling less than an acre.

Attached is the implementing Ordinance and Notice of Decision that contains findings for the zone change and refers specifically to capacity changes.

No other changes to the Sherwood Plan & Zone Map or zoning code have been adopted that affect capacity for housing or employment.

If you have any questions or need more specific information, please contact me.

Thanks

Kevin A. Cronin, AICP
Planning Supervisor, Planning Department
City of Sherwood - Community Development Division
20 NW Washington Street
Sherwood, OR 97140

PH: 503-625-4242 FX: 503-625-5524
E-mail: cronink@ci.sherwood.or.us
Web: www.ci.sherwood.or.us

RECEIVED
SEP 30 2005
DUNN, CARNEY

**City of Sherwood
Ordinance 2005-001**

AN ORDINANCE APPROVING A PLAN MAP AMENDMENT, ESTABLISHING THE OFFICE COMMERCIAL ZONING DISTRICT FOR TAX LOT 7500 & 7700 WASHINGTON COUNTY ASSESSORS MAP 2S 1 29CC CONSISTING OF 0.83 ACRES MORE OR LESS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the subject property was reviewed in response to a request for a plan map amendment, changing the zoning district of the parcel to Office Commercial; and

WHEREAS, the Sherwood Planning Commission conducted a public hearing on the proposed Plan Map Amendment on December 7, 2004, and made findings granting approval of the plan map amendment with conditions to the City Council; and

WHEREAS, the Community Development and Zoning Code Section 4.203.02 specifies the criteria to approve a change in the Comprehensive Plan Map, and that the Sherwood City Council finds that the subject proposal complies based on the findings of the Planning Commission; and

WHEREAS, the Sherwood City Council has received the application materials, the City's Planning Staff report, the Planning Commission findings, and the Council reviewed the materials submitted and the facts of the proposal and conducted a public hearing on February 22, 2005.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Commission Review & Public Hearings. That the application for a Plan Map Amendment (city file No. PA 04-04) to establish the Office Commercial District for Tax Lot 7500 & 7700 of WASHINGTON COUNTY ASSESSORS MAP 2S 1 29CC was subject to full and proper review, and public hearings were held before the Planning Commission on December 7, 2004, continued to January 18, 2005, and the City Council on February 22, 2005.

Section 2. Findings. That after full and due consideration of the application, the City Staff report, the record, findings, and of the evidence presented at the public hearing, the Council finds that the subject property is appropriate to rezone to Office Commercial subject to conditions, and therefore, the Council adopts the findings of fact contained in the staff report dated February 15, 2005.

Section 3. Approval. That a request for a Plan Map Amendment is hereby **APPROVED** as stipulated in the Notice of Decision dated February 22, 2005; labeled "Exhibit A" and attached to this ordinance.

Section 4. Manager Authorized. The Planning Director is hereby directed to take such action as may be necessary to document this amendment, including preparation of a

certified modification of the Official Zoning Map, at such time as all conditions of the approval have been fully satisfied in accordance with City ordinances and regulations.

Section 5. Effective Date. This ordinance shall become effective immediately after adoption of the Transportation System Plan (PA 04-03) by the City Council.

Duly passed by the City Council this 22nd day of February, 2005.

Approved by the Mayor this 22nd day of February, 2005.



Keith S. Mays, Mayor

Attest:



C.L. Wiley, City Recorder

	AYE	NAY
Luman	✓	—
King	✓	—
Henderson	✓	—
Heironimus	absent	—
Grant	✓	—
Durell	✓	—
Mays	✓	—

Exhibit A: City Council Notice of Decision dated February 22, 2005.

**EXHIBIT A
ORDINANCE 2005-001**

**CITY COUNCIL
NOTICE OF DECISION**

**CITY OF SHERWOOD
Staff Report**

Date: 02-15-05

File No: PA 04-04 Plan Map Amendment

TO: CITY COUNCIL

App. Submitted: 10-21-2004

App. Complete: 11-29-2004

PC Hearing Date: 12-07-2004

Continued: 01-18-2005

CC Hearing Date: 02-22-2005

120 Day Deadline: 03-29-2005

(Plan Amendment application not subject to 120-day

rule)

FROM: PLANNING DEPARTMENT

(Report prepared by Kevin A. Cronin, Planning Supervisor)

Kevin A. Cronin, Planning Supervisor

I. BACKGROUND

A. Applicant/Owner:
City of Sherwood
ATTN: Jim Patterson
20 NW Washington
Sherwood, OR 97140

Applicant's Representative:
Dave Wechner, AICP
Planning Consultant
10975 SW Garden Park Pl. #B
Tigard, OR 97223

B. Address/Location: The subject property is located at 995 North Sherwood Boulevard, south of Sherwood Boulevard and due northwest of the Sherwood Library. Assessor map locates the property within Township 2 South; Range 1 West; Section 29CC; Tax Lots 7700&7500.

C. Parcel Size: Two tax lots; 0.83 acres. (A third tax lot, adjacent to Cedar Creek, will remain city-owned open space and is planned for a future multi-use path.)

D. Existing Development/Conditions: The parcel located on Sherwood Boulevard is vacant and the flag lot has a single-family detached unit and garage built in 1956 with a driveway access to Sherwood Boulevard. The house is not listed on the Sherwood Cultural Resource Inventory. All remaining land is open space containing moderate slopes to the rear and includes trees, lawn areas and other landscaping. The Hite House (named after the former property owner) was approved and used by the city for a satellite office (CUP 00-05). It is currently

vacant. The topography slopes towards Cedar Creek. The applicant submitted an Existing Conditions Map dated December 3, 2004.

- E. Zoning: Medium Density Residential High (MDRH)
- F. Adjacent Zoning and Land Use: Land to the north and east is zoned HDR with multi-family housing. Another parcel, not part of the rezone request is located to the southwest and within the floodplain of Cedar Creek. To the south is IP and NC zoned land and is developed with a library and offices, respectively. Finally, Sherwood Boulevard borders the parcel along the northeast and Cedar Creek frames the southwest.
- G. Request: The applicant is requesting approval of a Rezone and Plan Map Amendment to change Tax Lots 7700 & 7500, from Medium Density Residential High (MDRH) to Office Commercial (OC). As of the date of this report, no other associated land use applications have been submitted.
- H. Criteria: Approval or denial of this application shall be based on Section 4.203.01 of the Sherwood Zoning and Community Development Code.

II. AGENCY COMMENTS

The City requested comments from affected agencies as it does with all land use applications. All original documents are contained in the planning file and are a part of the official record on this case. The following information briefly summarizes those comments:

- A. Lee Harrington, Senior Project Manager in the Engineering Department, reviewed the proposal and stated that water, sanitary sewer and drainage utilities are available adjacent or in close proximity to the site. The site fronts on a publicly owned street. A concern with internal access and circulation was expressed.
- B. The Oregon Department of Transportation (ODOT) did not comment. However, City staff suggested that the review would address OAR 660-012-060, Plan and Land Use Regulation Amendments.
- C. In a response from Terry Keyes, PE of Clean Water Services he stated no issue with the proposed zone change. However, any partitioning, subdividing, or development of the site will need to meet current Clean Water Services standards. The key standards that impact development of the site include:
 - 1. Sensitive area protection – I suspect the wooded slope area behind the Hite House will need to be left undeveloped.
 - 2. Stormwater treatment – Any development on the site will need to treat all runoff from the site.

3. Sanitary sewer – Commercial development of these lots will likely require a gravity connection to the sanitary sewer system. Since I believe the sewer in N. Sherwood Blvd. is too shallow to serve this site a new public sewer from the Cedar Creek trunk line may be required when the site is developed.
- D. Lydia Neill, Principal Planner with Metro requested findings to support Functional Plan requirements for meeting housing targets in an e-mail dated January 5, 2005.
- E. Rob Saxton, Superintendent of Sherwood School District, spoke with staff and did not have any comment on the proposal.

III. SECTION 4.203.02, REVIEW CRITERIA – MAP AMENDMENT

- A. *The proposed amendment is consistent with the goals and policies of the Comprehensive Plan.*

1. **Commercial Land Use - Policy 1**

Commercial activities will be located so as to most conveniently service customers.

Response:

The site is located adjacent to Sherwood Boulevard, designated as a minor arterial in the Transportation Plan. Sherwood Boulevard connects Old Town and Six Corners and provides convenient access between these two major destinations. In addition, a multi-use path is proposed along Cedar Creek adjacent to the subject properties on a tax lot owned by the City of Sherwood, which will provide additional access for pedestrians and bicyclists. Future development of the site under the proposed zoning would allow for mixed-use: commercial and residential uses in the neighborhood. BY allowing additional offices with existing office uses adjacent to the site help group the uses in a concentrated location, which also improves convenience.

2. **Commercial Land Use - Policy 2**

Commercial uses will be developed so as to complement rather than detract from adjoining uses.

Response:

Offices generally operate from 8:00 AM to 5:00 PM, Monday through Friday. Office uses are quiet and do not generate a high amount of traffic volume and associated noise. Office buildings and associated landscaping at this location would help to muffle some of the traffic noise from Sherwood Boulevard. The compatible hours of operation and noise

reduction would provide a buffer between Sherwood Boulevard and the multi-family neighborhood to the north. It is important to note, however, that restaurants, taverns and lounges are a permitted use in the OC zone and would be less compatible with the adjoining neighborhood than office use, due to the extended hours of operation and frequent vehicle trips.

3. Commercial Planning Designation Objectives - Office Commercial (OC)

This designation is intended to provide for business and professional offices and related uses in locations where they can be closely accommodated with residential areas and adequate major streets. This designation is applicable in the following general areas:

- *Where access onto major streets can be safely provided and where there is adequate off-street parking.*
- *Where a full range of urban facilities and services are available or can be provided in conjunction with development.*
- *Where impacts on residential areas can be minimized.*

Response:

As stated earlier, the site has access onto Sherwood Boulevard via a driveway access. Internal circulation needs to be improved and can be adequately addressed if and when the Sherwood Library is sold and redeveloped. A connection between the subject property and the library parking area will improve emergency response and allow the new owners to make arrangements for shared off-street parking. Since both sites are owned by the City redevelopment is likely given the financial need to liquidate these assets to fund other city projects. Otherwise, access and off-street parking will be limited to the subject site. Generally, professional offices operate from 8:00 AM to 5:00 PM making offices a compatible neighbor to residential; however, restaurants are also permitted in the zone, and could create a conflict. No development is proposed with this rezone. Any future proposal would be required to meet the applicable zoning and development standards for setbacks, landscaping, and off-street parking. The proposed zone allows mixed-use, which can be a compatible arrangement for parking, noise, convenience, livability, and reduce vehicle trips. A multi-family residential area is located to the north, which could be impacted by a more intense commercial use. Buffering and landscaping along impact areas for any future development could alleviate those concerns.

In response to testimony provided at the December 7, 2005 hearing the applicant submitted a deed restriction limiting the types of uses on the subject properties. As a result, taverns and restaurants would not be permitted with this deed restriction.

- B. *There is an existing and demonstrable need for the particular uses and zoning proposed, taking into account the importance of such uses to the economy of the City, the existing market demand for any goods or services which such uses will provide, the presence or absence and location of other such uses or similar uses in the area, and the general public good.*

Response:

When evaluating the existing development along Sherwood Boulevard and Old Town, there is limited office space available and very little Class A office space. A majority of office space along Sherwood Boulevard and in downtown Sherwood is from converted occupancy (residential to commercial) when the zoning either changed from residential or zoning was implemented to encourage employment in the central business district. The economy of the City is largely dependent on real estate development and service sector industries, such as retail trade. Additional office space is needed to attract more professional (architects, medical office, etc.) users to Sherwood. Professional offices tend to require less service from the City and have minimal impacts to the adjoining properties. The demand for office use in Sherwood is difficult to ascertain since the trade area is limited to a small area and data is not readily available to staff to determine vacancy rates and lease terms. However, based on the inventory of Office Commercial (OC) in Sherwood, there is a demonstrated need. According to the most recent data regarding vacant and buildable lands, there is a total of 21 acres of existing Office Commercial-zoned land. Of the OC land, almost 78 percent is developed. There is a total of 252 acres of MDRH zoned land with 99 percent developed. The following table illustrates the amount of available OC and MDRH land:

Table 1: Buildable Land Inventory (acres)

Plan Designation and Zone	Built	Vacant	Total
Office Commercial (OC)	16.56*	4.73	21.3
Medium Density Residential High (MDRH)	247.52	4.48	252

Source: City of Sherwood, RLIS.

*Woodhaven Crossing, a mixed-use development approved in June 2004, is 8.97 acres of OC land that was accounted as built, but will primarily consist of attached condominium units.

Clearly, there is a need for additional OC land given the amount that is vacant. Consequently, the amount of MDRH land is also severely short. The proposed amount for the rezone is less than an acre, but would take out 7-11 units of land capacity for higher density dwellings. *The City needs to address the shortage of MDRH land.* Land that was recently brought into the urban growth boundary (UGB) i.e. Area 59, 54-55, is expected to be zoned for higher density residential to meet Metro's Outer Neighborhood designation (10 units/acre) and may offset this loss.

The subject area predominantly consists of senior citizens and students. This demographic uses medical services at a higher rate than other age groups.

Providing these services within walking distance achieves a City goal towards creating a multi-modal system through complimentary land use. Cedar Creek Assisted Living Center on Oregon Street, Providence Medical Office Building (SP 04-04), and Davida Kidney Center (Walgreens) all help achieve the city to become a self sufficient and reduce the need to travel to other cities (Newberg, Tualatin) for medical services. In addition to seniors, Hopkins Elementary and Sherwood Middle School students and faculty would benefit as well with more choices.

Furthermore, in response to an inquiry from the Planning Commission on December 7, 2004, a letter dated December 9, 2004 from Tony Reser of GVA Kidder Matthews, was submitted into the record on January 18, 2005. The letter addresses the market value of the property, within the context of Sherwood's demand for office space (outright permitted use in the proposed zone) as opposed to high density residential, which is still permitted above commercial space or through a planned unit development. The conclusion from this market analysis was the OC zone provides more flexibility.

- C. *The proposed amendment is timely, considering the pattern of development in the area, surrounding land uses, any changes which may have occurred in the neighborhood or community to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district.*

Response:

The existing development pattern along Sherwood Boulevard warrants the rezone. Medical offices, Sherwood Senior Center, and the Sherwood Library are all office commercial uses, but are located on neighborhood commercial (NC) and institutional public (IP) zoned land, respectively. Historically, this corridor had single-family residences, but over the last ten years the area has transitioned to office. Staff believes the increases in traffic on Sherwood Boulevard and the build out of school facilities across the street influenced the land use pattern. The proposal is following this pattern, but would still allow residential under certain conditions.

Metro requires that the City supply a specific amount of dwelling units within the Urban Growth Boundary in order for the City to take on its share of housing density within the regional urban area. Title 1 of the Functional Plan requires the City of Sherwood to adopt a minimum housing density. The City amended the Comprehensive Plan to require minimum densities in each of its zones. The majority of Sherwood's development has occurred since 1989. As a result of market forces, much of the High Density and Medium Density zoned land has developed as single family resulting in fewer housing units per acre than what was projected through the Comprehensive Plan. The development of multi-family land as single family has placed pressure on the remaining vacant or underutilized high and medium density lands available to develop at higher densities and provide the required dwelling units. The city has not evaluated the effectiveness

of the current code to determine the number of dwelling units built compared to the allowed capacity in the underlying zone. The planning department expects to perform a capacity analysis as part of periodic review. As part of this evaluation the city needs to determine the number of units built as part of PUDs on land zoned commercial that offsets the compromised capacity of higher density residential units.

Rezoning the subject site from residential to commercial reduces the amount of medium density residential land, making it difficult for the City to meet Metro's dwelling unit requirement. Essentially, the MDRH is built-out and occupied with subdivisions or manufactured home parks, which cannot be redeveloped to a higher intensity use. On the other hand, the existing OC is also built out at 78 percent. The overriding factor is the OC designation improves the market conditions for a mixed-use redevelopment, which would serve a need for both uses.

The subject property gradually slopes down towards Cedar Creek. Water, sewer and transportation access is available to the site from Sherwood Boulevard. A new gravity fed sanitary sewer connection to the main trunk line along Cedar Creek is likely given the higher and better use expected. Tri-Met provides bus service along Sherwood Boulevard as well, which serves daytime office employment uses.

In response to a Planning Commission inquiry regarding the practice of concomitant zone changes and development proposals, the applicant submitted two scenarios that address circulation patterns and connectivity of the subject property and the Library site. Each site plan illustrates a plausible circulation pattern for future redevelopment. To facilitate the orderly redevelopment of the property a reciprocal access agreement is dedeed to the subject property.

- D. *Other lands in the City already zoned for the proposed uses are either unavailable or unsuitable for immediate development due to location, size or other factors.*

Response:

The existing area that is zoned Office Commercial is located along 99W, northeast of the YMCA. The applicant stated that the existing OC land is not ripe for development because access is lacking from 99W. Although these parcels and are not easily accessed by an arterial, all of them do have one access and have frontage to the highway. As previously stated, the existing Office Commercial is presently underutilized with single family and low-intensity retail development. One of the parcels will be developed with higher density units and some commercial. This site (Woodhaven Crossing) is contiguous to four OC parcels that could be acquired and developed together to make the site large enough for development. However, the more land acquisition involved in the real estate development process the more difficult a site is to redevelop. Furthermore, a the

proposed TSP requires a frontage road along 99W to service these properties, which adds additional capital (hard) costs to redevelopment.

Additionally, office space is not limited solely to the OC zoning district, professional services are permitted outright in the Retail Commercial (RC) and General Commercial (GC) zoning districts. However, the OC zoning district was established to limit the intensity of uses permitted in the zone, allow mixed-use, and thereby making the district compatible with residential use. Because residential uses and offices are permitted in the OC zone, and it's adjacent to existing residential uses, the proposed zone is suitable.

IV. OTHER REVIEW CRITERIA

A. Oregon Administrative Rule (OAR) 660-12-060 Plan and Land Use Regulation Amendments

Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

Response:

The subject site has access from Sherwood Boulevard. No new access points that directly access this street should occur. A development proposal has not been submitted with the rezone request. A potential trip generation projection was performed by staff using five scenarios: single-family development (allowed under the current zoning), general office building, medical office building, and a restaurant (allowed in the OC zone). The following table summarizes the trips generated from each type of potential development.

Table 2: Trip Generation of Allowed Uses in OC Zone

Land Use	Daily Trips
Scenario 1: Single-Family Homes (7 units x 10)	70
Scenario 2: Townhouse/Condominium (9 units X 7)	63
Scenario 3: General Office Building (5,000 GSF X 11)	55
Scenario 4: Medical Office Building (5,000 GSF X 9)	45
Scenario 5: Sit-Down Restaurant (5,000 GSF X 130)	650

Source: Institute of Transportation Engineers Trip Generation Manual, 5th Edition

As indicated in Table 2, the change in zoning will not be impacted by the change in the number of trips generated. The current functional classification of minor arterial will not require a change because of an increase in traffic volume or need for additional capacity. The current peak hour model volume for 2000 is 900 trips and the projected for 2020 is 750 because planned capital improvements will reduce the trips. The proposed TSP has designated Sherwood Boulevard an

arterial, which is focused on connectivity instead of traffic volume and capacity (v/c ratio). The Level of Service (LOS) at nearby intersections include: Third Street operating at a LOS "D" and Century Drive operating LOS "F". The proposed TSP has planned mitigation improvements to address the intersection at Century Drive with a signalized intersection or roundabout slated within the 20-year planning horizon. In order to comply with the TPR the effective date of the zone change will be pending on the adoption of a new TSP scheduled for March 2005. Standard is met.

V. DISCUSSION

The City of Sherwood has not thoroughly inventoried and evaluated its land needs, which would inform the decision-makers in a much more deliberate manner compared to spot rezoning that the City has experienced since at least the last periodic review. For example, if staff knew the number of actual versus allowed dwelling units per zone within the UGB, then rezoning would be a much easier process. Without current data, the evaluation process is less informed. The proposed rezone would reduce 7-11 potential dwelling units from the City's higher density land inventory. The City needs to address this shortage in a deliberate long range planning process to offset the loss.

When viewed within a smaller context office space would provide a better buffer between an arterial and the predominant office uses. The OC zone is not solely limited to general office use and allows restaurants and medical offices, which would have an impact on the neighborhood. Residential above commercial is more likely if it's located towards the back of the property away from the traffic and closer to Cedar Creek. Redevelopment of the property serves the public good because it provides a better tax base to serve Sherwood citizens. Redevelopment potential depends on the allowed uses of the property. The OC zone creates better conditions for redevelopment because it provides more options to a developer. Therefore, staff believes the proposed rezone meets the applicable criteria. Moreover, it is in the best interest of the City to encourage infill and redevelopment of existing lots that have easy access to public facilities, especially those located between Old Town and Six Corners.

Given the applicant has addressed concerns related to access management, circulation, marketability, and potential impacts of future uses, staff believes the standard are met, subject to conditions for mitigating planned transportation operation and capacity.

VI. RECOMMENDATION

Based on the staff review, findings of fact, and agency comments, staff recommends **APPROVAL** of PA 04-04, Hite House Property Plan Map Amendment, subject to the following conditions.

1. The effective date of the rezone shall be subject to the adoption of the Transportation System Plan (PA 04-03).

2. As part of the UGB concept planning process, evaluate areas to receive higher density dwellings to offset the loss of 7-11 dwelling units.
3. Amend the Comprehensive Plan and Zone Map and clearly mark with the implementing ordinance and effective date.
4. Provide a "Notice of Decision" to all those parties who provided testimony or requested such, and send a "Notice of Adoption" to DLCD within five days of adoption by the City Council.
5. A deed restriction, as written in a memo from the City Attorney's office dated January 6, 2005, which includes a reciprocal access agreement and limits on the types of allowable uses, shall be recorded with Washington County and said copy of deed shall be submitted to the Planning Department prior to any development application being accepted for future redevelopment.

Attachments

- A. Letter of Request - Jim Patterson, City of Sherwood – November 22, 2004
- B. Applicant's Narrative – Dave Wechner, Wechner Consulting
- C. Existing Conditions Map - AKS Engineering & Forestry, LLC – December 3, 2004
- D. Vicinity Map – November 29, 2004
- E. Letter – Tony Reser of GVA Kidder Matthews – December 9, 2004
- F. Memorandum – City Attorney's Office – January 6, 2005
- G. Applicant's Follow Up Narrative – Dave Wechner, Wechner Consulting – January 7, 2005
- H. Conceptual Plan 1 and Conceptual Plan 2 – AKS Engineering & Forestry, LLC
- I. Memorandum – Addendum Staff Report – January 11, 2005



MEMORANDUM

TO: City Council

FROM: Adrian Emery, Chair
Sherwood Planning Commission

DATE: June 5, 2001

RE: Continuances in land use hearings

At the June 5, 2001 Planning Commission meeting, the Commission reviewed the following policy regarding request for continuances from applicants for land use applications.

Both the Planning Commission and Council have identified the need for such a policy, as the number of continuance requests have escalated, and several applicants have made repeated requests; the result of which is: a considerable duplication of effort by staff; an inefficient process dominated by those applicants repeatedly requesting continuances; undermining the intent of the procedural elements of our code and state law, designed to provide the applicant a fair and timely hearing; and, greater monetary expense to the City as well as greater demand on the time of our volunteer citizen boards.

Planning Commission Policy for Granting Continuances

First request: Applicant(s) shall show good cause, by stipulating reasons for continuance that are reasonable and related to the original application.

Subsequent requests: *Applicant(s) must identify circumstances or hardship beyond their control* that justify the request, including but not limited to: Medical condition; changes to proposal requested by the Planning Commission or staff as a result of the application process (e.g. re-design); substantial changes to requirements or recommendations by staff or outside agency without sufficient time to respond.

my copy
cc: to Dana Carnoy
11/23

MEMORANDUM



November 8, 2005 **Planning Commission Audio Record**

The original audio recording of this hearing (Sherwood Oaks - PA 05-03 / SP 05-09) is impaired by an echo inherent in the sound system equipment. Consequently, any copies of the original are also affected. Efforts to repair the problem have been unsuccessful to date. Although with some level of difficulty the majority of the recording is audible, minutes have been intermittently transcribed from notes taken by the recording secretary where necessary, and will be noted as such on the final document.

Additional damage to tape noted:

During transcription of the November 8, 2005 audio record for this project, it was discovered that portions of the proceeding became out of sequence in addition to the audibility problems noted above. It is believed this malfunction occurred either during the recording process, or when the original was copied for the applicant.

Where required, minutes were transcribed from handwritten notes. In some cases the actual record was recaptured at random locations in the tape and placed in proper sequence within the transcribed minutes.

Due to the multiple challenges listed above, a hard copy of the transcribed minutes is also being provided. The City Recorder is aware of sound equipment problems that appear about 5% of the time, but affirms that our new sound system at the Civic Building beginning in December 2005, will negate these issues and the need to spend resources on repair of the old system.

Cynthia Butler
Planning Department

MEMORANDUM



TO: Planning Commissioners

FROM: Cynthia Butler cc: Julia Hajduk

DATE: November 1, 2005

RE: Sherwood Oaks Materials – PA 05-03; SP 05-09; LLA 05-02

Just a reminder to bring to the next PC meeting on Nov. 8th all of the Sherwood Oaks materials that you took home with you from the last meeting, which includes:

- Original staff report dated Sept. 20, 2005
- All items listed on attachment #2 of the applicant's application packet that you received on 9/27/05:
 - Application form
 - Copy of tax map
 - Sherwood zoning map (2003)
 - Letter from ODHS dated 5/7/04
 - DSL wetland fill permit
 - Copy of figure 8-4 from the Sherwood TSP
 - CSW pre-screen letter (no sensitive areas)
 - Aerial photo of the site
 - Plan amendment narrative
 - Site plan narrative
 - Independent market study for license of Alzheimer facility
 - Site plans: see table on attachment #2 for list of ten site plans

✕ Packet materials received today include:

- Agenda for 11/8/05 session
- Chapter 6 Plan Text Amendment – Fiber Optics Conduit (PA 05-05)
- Sherwood Oaks materials:
 - Supplemental staff report dated Oct. 31, 2005 with attachment #1
 - Hunter's Ridge Bldg. B Modification staff report dated Oct. 24, 2005
 - Memo to City Council from Adrian Emery dated June 5, 2001

Walk-on Fiber Optics Standards Drawing - Gene Thomas

If you are missing any of the above materials please send me an email or give me a call. See you 11/8.

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
November 8, 2005

(Note: Tapes beginning in September 2005 have intermittently been affected by recording equipment echo problems that have not successfully been corrected. Where there is significant audible difficulty, minutes have been keyed from recording secretary's handwritten notes).

Commission Members Present:

Chair Adrian Emery
Vice Chair Patrick Allen
Jean Lafayette
Dan Balza
Matt Nolan
Todd Skelton

Staff:

Kevin Cronin, Planning Supervisor
Julia Hajduk, Senior Planner
Cynthia Butler, Administrative Assistant
Brad Crawford, Systems Administrator

1. **Call to Order/Roll Call** – Chair Adrian Emery called the meeting to order at 7 PM.
2. **Consent Agenda** – None.
3. **Agenda Review**
4. **Brief Announcements** – Kevin Cronin said the next workshop for the Southeast Sherwood Master Plan project is November 30th. Kevin stated that the Parks Master Plan committee will be again the second week of January 2006. The next and final Area 59 CAC meeting is scheduled on December 1st at the YMCA. Kevin also stated that the City Council has requested that a Planning Commission member attend the November 15th Council meeting to discuss the Planning goal setting item on the agenda.
5. **Community Comments** (not on the agenda) – None.
6. **Public Hearings:** Vice Chair Allen read the Hearings Rules and Disclosure statement.

A. Chapter 6 – Plan Text Amendment – Public Fiber Conduit (PA 05-05) –
Julia Hajduk [audible difficulty] said that the Commission is being asked to consider and approve a plan text amendment to the Code that would add public improvement standards for the Sherwood Broadband utility. Julia referred the Commission to design standards for the proposal provided by the City Engineer, Gene Thomas, and stated that he was present this evening if the Commission had any questions.

Chair Emery asked if there were any questions of Staff or public testimony. There was none.

The public hearing for PA 05-05, Fiber Optics Conduit Plan Text Amendment, was closed.

Vice Chair Allen moved that the Commission recommend to Council the approval of PA 05-05, Plan Text Amendment for the Public Fiber Optics Conduit, and adopt the Staff recommendation including findings.

Jean Lafayette seconded.

Chair Emery asked if there was any further discussion. There was none.

Vote: Yes-6 No-0 Abstain-0

Motion carried.

**B. Sherwood Oaks – Zone Change/Site Plan Review Continued Hearing
PA 05-03; SP 05-09; LLA 05-02**

Chair Emery recused himself from participating on the continued hearing for Sherwood Oaks, due to his absence at the initial hearing and that there were no minutes completed for review.

Vice Chair Allen asked if any Commissioners had any exparté contact, conflict of interest or bias regarding this application.

Jean Lafayette said that she had brief exparté contact with the applicant in the form of a comment made to her by Mr. Lucas, who stated that the site location had been cleaned to standards. Jean stated that the comments made by Mr. Lucas do not affect or interfere with her ability to render a decision on the application.

Vice Chair Allen opened the continued hearing on PA 05-03, SP 05-09; LLA 05-02 and asked Staff to review.

Julia Hajduk [audible difficulty] said that the applicant submitted an additional narrative disputing findings of Part 2 of the original Staff Report. Julia stated that Staff coordinated with Metro and the City Attorney while preparing findings to clarify issues. Julia also stated that the applicant had not submitted any new data, but rather the applicant's narrative disputed findings without providing the information requested in the original Staff Report. Julia recapped some specific areas that were not addressed and materials that were not submitted :

- HDR housing needs & requirements
- Issue of timeliness
- An alternatives analysis regarding other available lands not submitted
- Transportation issues (TPR) not met
- Economic development policy not addressed
- Collector Street issues not addressed
- Metro Titles 1 & 4 not met
- Goals 9 & 12 not met

Julia stated that it was Staff's recommendation to begin the hearing addressing the plan amendment first and separately from the site plan portion of the application.

Vice Chair Allen confirmed and recapped the three parts of the application including the proposed plan amendment to change the zone from LI to HDR; the site plan for the Alzheimer's care facility; and the proposed site plan for the townhomes. Vice Chair Allen reiterated the public hearing encompasses all three parts, but that each would be discussed separately.

Vice Chair Allen asked if there were questions for Staff regarding the plan amendment. The Commission deferred to questions or comments from the public.

Ty Wyman, Dunn, Carney et all, attorney for applicant; 851 SW 6th Ave., Ste. 1500, Portland, OR 97204 – [audible difficulty]

> microphones were adjusted for better audibility <

Mr. Wyman asked Vice Chair Allen to clarify the rules for the meeting process and said he and the applicant want to answer any questions that arise, and would like the opportunity to respond to discussion between the Commission and Staff after the hearing is closed.

Vice Chair Allen stated that the rules of order that have been adopted by resolution require that once a hearing is closed no additional comments are allowed.

Ty Wyman said that he has recommended Mr. Lucas review the details of the original site plan to clarify the history of the application.

Patrick Lucas, 23861 Dewberry Place, Sherwood OR 97140 (applicants signed testimony card with business address; 17400 Upper Boones Ferry Rd., Durham, OR 97224 – Mr. Lucas said that NFA gave an approval letter for the clean-up at the mini-storage site north of the current application site.

Jean Lafayette asked if the approval was conditioned that the area be capped with asphalt.

Patrick Lucas confirmed.

Jean Lafayette asked if the approval was based on the current zoning or for residential.

Patrick Lucas said that it was based on residential. Mr. Lucas reviewed the various toxic areas on the site that had been cleaned up to the standards.

Jean Lafayette asked Mr. Lucas if there was a letter from the DEQ confirming the clean-up was completed to residential quality.

Patrick Lucas said no, but that the letter indicated no further action was needed. Patrick also said that DEQ will need to sign of on anything they do.

Jean Lafayette asked if potential homeowners would receive information about the site.

Patrick Lucas stated that each homeowner would receive this information on the title report. Patrick referred to the site map and said the remaining debris on the site includes metal, wood and concrete, and that they are waiting for a grading permit to remove these. Patrick stated that the State has a moratorium until 2009 on building any new assisted living facilities, but that the State approved was received for building the Alzheimer's care facility. Mr. Lucas also said that he has not had luck marking the site as industrial property.

Ty Wyman stated that he believes there are eleven different points of criteria cited by Staff that they would like to address point by point. Mr. Wyman stated two of the cited criteria are similar and that these address the need for the proposed use, and the suitability or unsuitability of the existing zoned land.

Patrick Lucas referred to the site map and addressed the possible other available lands for the proposed use that was cited by Staff:

Murdock Road - too remote for this project

Between Oregon St. & Sunset – zoned Very Low Density Residential (VLDR)

Old Town (2 parcels; Public Works Dept./Field House & Old Cannery) – does not understand why these are indicated.

Cedar Creek – flood plain issues

Sherwood Blvd. – wetland issues reduce buildable area

Elks Lodge area – zoned VLDR

Sherwood Antique Mall – zoned General Commercial, possible for the Alzheimer facility, but not the townhomes.

Cedar Brook Way – has an existing application at this site for a retirement center and retail, but does not believe an Alzheimer facility would be suitable next to a retirement center.

Providence Health Center area – too close to Hwy. 99

Ice Arena area – also too close to Hwy. 99

Mr. Lucas stated that of these possibly two would work, but that he believes the proposed site on Oregon St. is the best location.

Vice Chair Allen asked Staff to clarify permitted uses in zones VLDR.

Julia Hajduk stated that care facilities are permitted outright in VLDR.

Vice Chair Allen asked for clarification on the Elks Lodge area and the two Old Town locations and asked why they were included.

Julia Hajduk stated that another Planning staff member was asked to provide a GIS analysis based on size and allowable zones for this permitted use, and may have added or missed a couple of sites. Julia reiterated there remains numerous properties for this permitted use.

Vice Chair Allen requested that the applicant come back at some point and address why the applicant does not feel that the VLDR zoned areas that were indicated as possible locations for this project, would not be appropriate.

Patrick Lucas confirmed that he would.

Jean Lafayette asked Staff how the units per acre is calculated in VLDR.

Julia Hajduk said that a room without a full kitchen and bath is not considered a dwelling unit and become a density issue.

Ty Wyman addressed Page 2 of 12 in the Staff Report regarding timeliness, and –

[Tape stopped and recording equipment did not automatically switch to reverse side of tape. Recording resumed later after 5 minute break. Minutes between this entry and the break are from handwritten notes.]

Ty Wyman continued, regarding timeliness, and made reference to another site-specific zone change, PA 04-04, the Hite House property that changed from MDRH zoning to OC. Mr. Wyman referred to the proposed site as part of Old Town, and said that the Comprehensive Plan suggests moving industrial zoning away from Old Town. Mr. Wyman discussed issues regarding street reclassification differences between arterials and collectors in industrial and residential zones.

Patrick Lucas stated that if the site were to remain industrial, traffic at the roundabout at Oregon St. and Murdock would be difficult for trucks. Patrick said that Oregon St. is becoming part of Old Town and less accessible to truck traffic. Mr. Lucas cited changes occurring in Old Town including the old Cannery site changing zone from LI to HDR, and reiterated that industrial zoning is not wanted in Old Town. Patrick further discussed the current failing of the intersection at Tonquin and Murdock roads.

Ty Wyman stated that another issue for Staff was spot zoning, and disagreed by stating that the applicant's proposal is not inconsistent with residential policies.

Jean Lafayette stated that the proposal couples HDR with a care facility in the same application, and makes it difficult to consider the care facility with the proposed HDR zone change.

Vice Chair Allen asked the applicant to reiterate the benefit of the townhomes.

Ty Wyman stated the townhomes were compatible with the area.

Jean Lafayette stated that the density across the street from the proposal is zoned MDRL.

Matt Nolan stated that he recalls the applicant stating at the initial hearing that he admits he is going for the long shot for HDR to see if it was a possibility.

Patrick Lucas confirmed.

Ty Wyman stated that the applicant believes HDR is the best use.

Patrick Lucas confirmed that he believes it is the highest and best use for the property and financially as a business application.

Jean Lafayette said the care facility would enhance the neighborhood, but that the view of the backs of townhomes would not.

Patrick Lucas asserted that the front doors of the townhomes would be facing the street.

Jean Lafayette stated that if the townhomes have rear-loaded alley access it does not appear in the conditions.

Patrick Lucas referenced other new housing development in Old Town including the old Cannery site.

Vice Chair Allen stated that the applicant's site is not in Old Town.

Frank Charbonneau, Charbonneau Engineering, 9370 SW Greenburg Rd., Ste. 411, Portland, OR 97223 – Mr. Charbonneau completed a traffic study for the applicant and stated that last summer when the study was done, there were the components that were addressed included 35 units or homes in combination with a care facility with approximately 48 occupied units, generating trips shown in Table 1A of his traffic report. [inaudible difficulty].

Jean Lafayette asked Mr. Charbonneau about the roundabout and referred to the DKS traffic study.

Frank Charbonneau stated the traffic signal will not solve all issues, but that the roundabouts would be too close together, use extensive right-of-way, and be expensive.

Jean Lafayette asked if other than cost and right-of-way if a 2nd roundabout cause traffic to fail.

Frank Charbonneau stated that it would be adequate.

Patrick Lucas asked the Commission if the reluctance to the townhome portion of the application was primarily density.

Jean Lafayette confirmed, and said that the HDR zoning removes the quality of the project.

Patrick Lucas disagreed.

Jean Lafayette said that the care facility works as an outrighted use in MDRL zoning with lower density.

Vice Chair Allen asked to have a 5 minute break at 9:05 PM.

> 5 minute break <

Vice Chair Allen reconvened the session at 9:10 PM. Patrick stated that the applicant could potentially propose the application in any other zone except industrial, and it would be permitted outright or permitted as a conditional use. Patrick said that the applicant has chosen to apply for HDR with the argument that it is the highest and best use. Patrick also said that LI zoning is protected because it is the lowest use, and these standards cause him hesitation.

Patrick Lucas stated that using the Hite House rezone from MDRH to OC as a successful example, he chose HDR because there was more leeway with the property, and that the care facility also brings jobs. Patrick acknowledged that the townhome portion of the application appears to be the greatest issue, and suggested a rezone of the care facility portion of the site on Tax Lot 900 to HDR, and denying the townhome portion of the site plan leaving it as LI.

Vice Chair Allen [inaudible] asked Staff to clarify the property line located.

Julia Hajduk confirmed the location of the lot line.

Vice Chair Allen asked the applicants if there was anything further they would like to add before the applicant's portion of the hearing is closed.

Ty Wyman submitted into the record the copy of an email from Sherry Oeser from Metro to Kevin Cronin regarding the Annual Capacity Report and capacity for housing and employment in relation to the Hite House Plan Amendment, PA 04-04.

Vice Chair Allen asked if there was any public testimony.

Mike Cook, 20510 SW Roy Rogers Rd., Ste. 120, Sherwood, OR 97140 - Mr. Cook stated he has been a local realtor for 24 years and is the manager of a Prudential office in Sherwood. Mr. Cook agrees that HDR would be a good idea for this site, and this would accommodate for more affordable housing. Mr. Cook stated that single family housing does not provide affordable housing.

Vice Chair Allen asked if there was any further public testimony. There was none. Vice Chair Allen referred to Staff for rebuttal.

Julia Hajduk stated that the applicant had still not met the criteria.

Vice Chair Allen asked Julia if the criteria applied to Mr. Lucas' revised proposal.

Julia Hajduk confirmed that some additional criteria would be met, but the application still does not meet the criteria. Julia also stated that other areas could still be developed. Julia said if the Commission accepts the applicant's argument of proximity to Old Town as criteria, then it follows that there are other areas within ¼ mile from Old Town that could be considered for a zone change to accommodate the proposal.

Vice Chair Allen if there was any applicant rebuttal regarding the site plan conditions portion of the application.

Julia Hajduk asked for discussion about the plan amendment.

Vice Chair Allen stated that since the applicant has proposed a change that may impact the decision process, that he intended to be certain the applicant had no questions about the site plan conditions.

Julia Hajduk stated that there were no conditions in the Staff Report for the townhome development, as Staff recommended denial.

Vice Chair Allen stated that he meant conditions for the care facility.

Vice Chair Allen closed the public hearing at 8:45 PM, and deferred to Staff for final comments.

Jean Lafayette asked if there was consensus with the Commission that a decision could be arrived at tonight, and was uncertain if she would be able to make a determination. Jean said of the eleven criteria Mr. Wyman said the applicant would address, she noted five.

Matt Nolan agreed with Commissioner Lafayette.

Vice Chair Allen read from the revised Staff Report, section 12B, regarding the existing and demonstrable need criteria [multiple interruptions – inaudible] location dependent as other criteria –

Jean Lafayette referred to the outer areas of the Cannery site and said that cottages were approved as a buffer for the existing residential located immediately across Railroad St., to meet the lowest density in the surrounding area. Jean stated that the application before the Commission is not the same situation as the Cannery site.

Vice Chair Allen said this site is not in Old Town. Patrick suggested that maybe the argument is that the southwestern extent of the industrial zone is incorporating further than is current demarked, but discussion for uses in this application in relation to an Old Town standard does not apply.

Kevin Cronin reiterated that the applicant has not met the criteria.

Julia Hajduk said the applicant may have demonstrated a need for a care facility, but not for the HDR zone in any quantitative way.

Jean Lafayette asked Staff about Metro standards for industrial lands and stated that Metro does allow for [inaudible] commercial –

Julia Hajduk stated that Metro has concurred that the industrial designation protects industrial zones from anything, not just commercial. Julia also said she discussed the information in the Staff Report with Metro and received feedback that it was accurate.

Vice Chair Allen stated that in reference to 12B in the Staff Report, the revised application may now be more closely met. Patrick stated he is uncertain if the timeliness criteria is an issue, or if the proximity for walking to Old Town is an issue.

Julia Hajduk confirmed that most of the criteria had not been met, and that the revision still does not meet the criteria, but that it is closer. Julia said the TPR needs to be reviewed.

Jean Lafayette asked for clarification on TPR and why the traffic issues require such specifics.

Kevin Cronin stated that this is a Type V legislative amendment to the Comprehensive Plan and Zone Map, requiring that TPR criteria met - requirements established in 1992.

Julia Hajduk said that the TPR requires that criteria is reviewed for a possible worse case scenario, information confirmed by Tom Pessimier, P.E. for the City of Sherwood, and the City Attorney, Pam Beery.

Jean Lafayette asked Staff if it was allowed to declare that a project would not ever go to a worst case scenario after review.

Julia Hajduk stated that she was uncertain, but that she did not believe that technically or possibly legally that it would be allowed.

Vice Chair Allen stated that the Commission is looking at a different footprint now.

Kevin Cronin confirmed that if the townhome portion of the application was removed the impacts would need to be re-evaluated.

[various simultaneous discussions between Commission and Staff ensued theorizing the TPR requirement changes depending on a revised application or an approved lower zone change].

Matt Nolan stated that what the applicant has proposed is very different than what was reviewed by Staff and is reflected in the Staff Report, that a possible solution could be to deny the application before them and that the applicant submit a new proposal.

Dan Balza agreed with Commissioner Nolan and stated that the fundamental issue before the Commission is that the proposal has changed, and that findings cannot be rewritten this evening.

Jean Lafayette agreed.

Vice Chair Allen asked Commissioners if there was any consensus that even with the proposed change that it is unclear.

Dan Balza asked if Vice Chair Allen was asking if Commissioners believe an Alzheimer's facility would work on this site without any townhome or residential element.

Vice Chair Allen confirmed. Patrick also asked if based on the collective understanding available now after review of criteria, do any Commissioners believe it is not possible to find criteria met solely regarding the Alzheimer's care facility.

Matt Nolan said he is still struggling with the availability of additional properties within the community.

Jean Lafayette stated that if the care facility portion of the application were to stand alone it is uncertain what would be required for the TPR.

Vice Chair Allen asked Staff to clarify if he understood earlier that it was possible if requirements for the underlying zones for the care facility were met, that it is likely they would comply with the TPR.

Julia Hajduk confirmed it may be possible depending on the submitted information. Julia also said that industrial lands have not been well addressed from the Metro standpoint in the Comprehensive Plan, specifically Industrial Plan designations, Policies 1 & 2, which include issues on sound industrial development and economic stability to the community.

Jean Lafayette how many acres is represented in the entire site.

Julia Hajduk said just over five acres.

Matt Nolan said that the job creation generated by a care facility may meet the economic standard.

Vice Chair Allen said an example in Josephine County reflects industrial area in highly sloped areas, and stated that land zoned industrial does not mean that it is the best use. Patrick also noted that the site has been unused for a number of years and there may be merit in deciding how long it is appropriate to wait to evaluate why it is vacant.

Julia Hajduk stated that because it hasn't been developed does not mean it is not developable industrial land. Julia also said that in order to have industrial land it needs to be saved.

Vice Chair Allen said that elements in this particular site may be site-specific and be a matter of making a decision one is comfortable with based on the information.

Vice Chair Allen asked if there was a motion to deny the application with a recommendation to the applicant to submit a new application.

Dan Balza motioned to deny PA 05-03; SP 05-09; LLA 05-02 based on findings in the Staff Report, testimony, and discussions of the Planning Commission.

Matt Nolan seconded.

Julia Hajduk stated that the Commission is required to make two separate actions; one, a recommendation on the plan amendment and two, a decision on the site plan.

Jean Lafayette asked to clarify if the City Council will still have to vote on the application.

Julia Hajduk clarified by stating that if the Planning Commission recommends denial and the applicant would like to resubmit, the City Council will still make a final determination on the plan amendment.

Vice Chair Allen stated the Commission would be refusing to recommend a change to the City Council.

Jean Lafayette stated that the City Council can take their own action opposite the Commission action. Jean asked Staff if the City Council takes an action on the zone change what would happen to the remainder of the application.

Julia Hajduk stated that it is Staff's recommendation that the Planning Commission make a decision on the care facility separately from the townhome site plan.

Matt Nolan asked when City Council would hear the plan amendment.

Julia Hajduk stated December 6, 2005.

Matt Nolan asked if findings on the townhome site plan would not have to be made until after the first of the year.

Julia Hajduk stated that the 120 day rule has extended the application to January 18, 2006.

Vice Chair Allen asked why they would take that action.

Matt Nolan asked how they could deny the application any other way.

Julia Hajduk explained that the recommended denial would be conditioned upon the plan amendment occurring.

Vice Chair Allen recapped the discussion, and said that Staff suggested a modification to recommend denial of the plan amendment to City Council and a denial of the site plan.

Julia Hajduk stated that what was meant by Staff's comments was that the Commission must first make a decision on the plan amendment.

Dan Balza withdrew the existing motion.

Vice Chair Allen asked if there was a new motion.

Jean Lafayette moved to recommend denial to the City Council on application PA 05-03.

Matt Nolan seconded.

Vice Chair Allen asked if there was further discussion. There was none.

Vote: Yes-6 No-0 Abstain-0

Motion carried.

Julia Hajduk asserted that the site plan needs be addressed and feedback from the applicant is needed to proceed.

Jean Lafayette asked if it was required to open the hearing on SP 05-09 as a separate hearing.

Julia Hajduk confirmed.

Vice Chair Allen asked the applicants that based on their revised proposal and the action taken on the plan amendment, if they wanted to proceed with discussion on the site plan.

Patrick Lucas said no.

Julia Hajduk asked if the Planning Commission was going to delay making a decision on the site plan until after the Council hearing, or accepting Staff's recommendations.

Vice Chair Allen officially reopened the hearing for SP 05-09 and asked the applicant if he wanted to withdraw the application.

Patrick Lucas said no.

Julia Hajduk stated that if the Council takes action on the plan amendment, there were not be approval for any of the remainder of the application. Julia restated that the condition of approval for the care facility would require the condition of approval for the plan amendment. Julia said that Staff recommends denial of the townhome site plan due to unmet criteria, and that Staff does not feel could be met. Julia also stated that the care facility is relatively clean including the lot line, and that none of the conditions for the care facility were insurmountable.

Vice Chair Allen referenced page 42 of 45 in the Staff Report, and asked to clarify that Staff is recommending denial of the townhome portion of the application, and approve with conditions the Alzheimer's care facility.

Julia Hajduk confirmed.

Jean Lafayette said she agreed with Commissioner Nolan's earlier suggestion to allow City Council to take action and continue the remainder of the application to the Commissions 2nd meeting in December.

Kevin Cronin gave a brief overview of what is scheduled for future sessions.

Jean Lafayette moved for continuance for SP 05-09 to the December meeting.

Vice Chair Allen stated he believed that the Planning Commission should go ahead and deal the issue tonight.

Vice Chair Allen asked if there was a 2nd to Commissioner Lafayette's motion. There was none.

Julia Hajduk reiterated that Staff recommends denial of the townhome site plan, and that if Council approves the plan amendment, Staff would recommend approval with conditions.

Patrick Lucas stated that they did not see anything in the Staff Report regarding the townhome site plan that they would disagree with at this point.

Vice Chair Allen asked if there were any questions for the applicant.

Jean Lafayette asked for clarification on the lot line adjustment.

Julia Hajduk stated that the site plan assumes a lot line adjustment will be done.

Kevin Cronin stated that it is a minor process.

Julia Hajduk reiterated that a lot line adjustment is not required.

Vice Chair Allen stated that by approval of the lot line adjustment, the applicant can still change the lot line at a later date, but that including it in the process as submitted is reason for its review.

Matt Nolan asked Staff for clarification about condition A1 in the Staff Report, and said that traffic issues could not be met under HDR and that a lesser zone may need to be in the conditions.

Vice Chair Allen asked Commissioner Nolan if what was being asked was to modify the conditions to say it is contingent on the City Council changing LI zoning to a residential zone.

Julia Hajduk confirmed.

Commissioners agreed.

Patrick Lucas referenced condition C7 regarding the driveway and said it would need to change.

Julia Hajduk agreed with a slight change, but stated that it is adjacent and relatively lined up and that the driveway location would not need to change.

Vice Chair Allen clarified that by denying the townhome site plan there is no townhome driveway.

Julia Hajduk confirmed, but stated it is desired to have a shared access easement in case of future development and alignment.

Vice Chair Allen asked if it could be phrased better.

Julia Hajduk agreed, and suggested the wording to read that the applicant shall grant an access easement to the eastern-most property.

Patrick Lucas stated he would be okay with this except for truck traffic if industrial use applies.

Gene Thomas stated that there is a problem when two accesses to Oregon St. are adjacent to one another. Gene said that if this is the only [inaudible], then the east property would be limited to access further down the street.

Vice Chair Allen suggested the deletion of C7 based on the application presented this evening, but then said by doing so it may cause a problem for any subsequent applications to the east.

Jean Lafayette disagreed, and stated that it is not creating a hardship because the access to the east has street access that directly aligns with Roy St.

Vice Chair Allen agreed with Commissioner Lafayette.

Patrick Lucas asked for clarification on street trees and clear vision.

Julia Hajduk stated that there are not any issues presently, but that a landscape plan would require confirmation that there are no clear vision issues – or that landscaping might need trimming.

Vice Chair Allen asked if there was any further discussion for the applicant. There was none.

Vice Chair Allen asked if there was any public testimony regarding SP 05-09. There was none.

Vice Chair Allen closed the public hearing on SP 05-09 at 9:40 PM

Vice Chair Allen asked if there were any Staff comments.

Julia Hajduk reiterated that when the Commission presents the final motion, to include changes to A1 and the deletion of condition 7.

Jean Lafayette asked for a 5 minute break.

Vice Chair Allen adjourned for a 5 minute break.

> 5 minute break <

Vice Chair Allen reconvened the session at 9:45 PM.

Jean Lafayette asked to clarify that prior to grading, the applicant will submit a letter of confirmation of approval from DEQ.

Julia Hajduk stated that the DEQ confirmation is really necessary prior to the issue of building permits.

Vice Chair Allen reiterated that the DEQ condition would be under condition D.

Julia Hajduk confirmed.

Jean Lafayette motioned to approve SP 05-09, specifically the Alzheimer's care facility portion of the application, based on the Staff Report, applicant testimony, Commission's modification of A1 to reflect residential zone, the addition of a letter of approval from the DEQ required under condition D, and deletion of C7; and denial of the townhome portion of the application.

Matt Nolan seconded.

Vice Chair Allen asked if there was further discussion. There was none.

Vote: Yes-5 No-0 Abstain-0

Motion carried.

C. Hunter's Ridge Building B – Site Plan Modification (SP 04-09/CUP 04-03-A)

Chair Emery opened the hearing on the Hunter's Ridge Site Plan Modification and asked for a report from Staff.

Julia Hajduk stated the applicant originally obtained approval for a three-story condominium mixed-use project, and that the attic space was converted to a fourth floor including living space. Julia also stated that the resulting issues of height and parking have been addressed and comply, and that Staff recommends approval of the modification with two conditions; the applicant receive Building Department approval prior to commencing any construction on the fourth floor, and that they submit a copy of the recorded shared parking agreement that was required by as a condition of Building A. Julia presented a copy of the modification for Commission review.

Chair Emery asked if the applicant had any comments.

Patrick Lucas stated that he was basically present to answer questions.

Jean Lafayette asked what steps the applicant was taking to shield light from the wildlife refuge in the area.

Patrick Lucas they received complaints that there is not enough light there at night.

Chair Emery asked if there were any further questions of the applicant. There was none.

Chair Emery asked if there were any questions from Staff.

Kevin Cronin stated that in the future the applicant needs to consult the Planning Department prior to making site plan changes.

Patrick Allen moved to approve SP 04-09 / CUP 04-03-A, Hunter's Ridge Modification based on the Staff Report, findings and discussion.

Jean Lafayette seconded.

Chair Emery asked if there was any further discussion. There was none.

Vote: Yes-6 No-0 Abstain-0

Motion carried.

7. **Comments from Commission** - None.
8. **Next Meeting** – November 22, 2005 – Site Plan Modification Standards; Area 59 Work Session.
9. **Adjournment** – Chair Emery adjourned at 10:10 PM.

End of Minutes