



## ORDINANCE 2008-015

### **AN ORDINANCE AMENDING THE CITY OF SHERWOOD MUNICIPAL CODE, CHAPTER 16.40, PLANNED UNIT DEVELOPMENT**

**WHEREAS**, The City Council initiated an amendment to the development code to consider allowing planned unit developments to be considered; and

**WHEREAS**, the current code only allows PUD's to be considered in the City on sites that are unusually constrained or limited in development potential because of natural features, or man-made features such as parcel configuration and surrounding development; and

**WHEREAS**, analysis of the Comprehensive Plan demonstrates that allowing PUD's to be considered elsewhere in the City is actually more consistent than the existing development code language because it provides the use of a PUD without restrictions on site composition. Specifically:

Chapter 4 of the Comprehensive Plan (Land Use), subsection E (Residential Land Use), 2 (Residential Planning Designation), Policy 1, 5<sup>th</sup> bullet states "The City will encourage the use of the Planned Unit Development (PUD) on parcels of five acres or more in all residential land use categories in order to allow flexibility and innovation in site development and land use compatibility."

Chapter 4 of the Comprehensive Plan (Land Use), subsection O (Community Design), 4 (Policies and Strategies), Policy 4 states "Promote creativity, innovation and flexibility in structural and site design. The 1<sup>st</sup> bullet strategy of this Policy states: "encourage the use of PUD techniques for larger residential, commercial and industrial sites.

Chapter 5, F (Energy resources), Policy 4, 5<sup>th</sup> bullet states: "Housing, shopping, and employment will be located to reduce the amount of energy needed for transportation between them. Multi-use planned developments will be encouraged."; and

**WHEREAS**, the proposed amendment to clarify how density is calculated on a PUD site where there are multiple zones and/or multiple parcels would allow for flexibility without increasing the overall density permitted on the subject site; and

**WHEREAS**, the proposed amendment to allow a reduction in the amount of open space dedication required would allow flexibility for projects that are in close proximity to existing public spaces to demonstrate how the proposed development combined with the existing public spaces better meet the community needs; and

**WHEREAS**, The proposed amendments were subject to full and proper review and a public hearing was held before the Planning Commission on September 9, 2008; and

**WHEREAS**, the Planning Commission voted to forward a recommendation of approval to the City Council based on the analysis and findings of the staff report contained in Exhibit 1 including additional, planning Commission recommended modifications included as Exhibit 1-F; and

**WHEREAS**, the City Council held a public hearing on October 7, 2008 and determined that the proposed changes to the Development Code met the applicable Comprehensive Plan criteria and continued to be consistent with regional and state standards.

**NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1. Findings.** After full and due consideration of the application, the Planning Commission recommendation ("Exhibit 1"), the record, findings, and of the evidence presented at the public hearing, the Council finds that the text of the SZCDC shall be amended as documented in Exhibit 1-F to allow PUD's to be considered in portions of the city that they are not currently allowed, to clarify how density is calculated on a multi-zoned or multi-parcel project and to allow a reduction in the amount of open space dedication requirements in certain circumstances; therefore, the Council adopts the findings of fact contained in the Planning Commission recommendation attached as Exhibit 1.

**Section 2. Approval.** The proposed amendments for Plan Text Amendments (PA 08-02) identified in Exhibit 1-F, are hereby **APPROVED**.

**Section 2 - Manager Authorized.** The Planning Department is hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to DLCD and necessary updates to Chapter 16 of the municipal code in accordance with City ordinances and regulations.

**Section 3 - Effective Date.** This ordinance shall become effective the 30<sup>th</sup> day after its enactment by the City Council and approval by the Mayor.

**Duly passed by the City Council this 7<sup>th</sup> day of October 2008.**

  
\_\_\_\_\_  
Keith S. Mays, Mayor

ATTEST:

  
\_\_\_\_\_  
Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Weislogel	<input checked="" type="checkbox"/>	_____
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"/>	_____
Mays	<input checked="" type="checkbox"/>	_____

**City of Sherwood**  
**Planning Commission Recommendation:**

**September 2, 2008**  
**File No: PA 08-02**  
**PUD text amendment**

Signed:

  
\_\_\_\_\_  
**Julia Hajduk, Planning Manger**

**Proposal:** Currently Planned Unit Developments (PUDs) are only allowed to be considered in the City on sites that are unusually constrained or limited in development potential because of natural features, or man-made features such as parcel configuration and surrounding development. The City has initiated an amendment to the development code to allow Planned Unit Developments (PUDs) to be utilized in areas not currently eligible for PUDs because natural resources or man-made features do not exist in the vicinity of the potential project. The proposed amendment would also clarify how the density is calculated over a PUD project site and would provide flexibility in the amount of required open space when there are already adequate public spaces in close proximity to the proposed PUD site. The Planning Commission held a hearing on September 9, 2008 to consider the staff proposed amendments. At the close of the hearing and after much discussion, the Commission recommended forwarding the proposed changes with modifications as shown in Exhibit F (the original staff recommended changes are included as Exhibit A) to the City Council with a recommendation for approval.

**I. BACKGROUND**

- A. Applicant:** This is a City-initiated text amendment, therefore the applicant is the City of Sherwood.
- B. Location:** The proposed amendment is to the text of the development code and, therefore does not apply to a specific location.
- C. Review Type:** The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission has made a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision would go directly to the Land Use Board of Appeals.
- D. Public Notice and Hearing:** Notice of the September 9, 2008 Planning Commission hearing on the proposed amendment was published in *The Times* on August 28<sup>th</sup> and September 4<sup>th</sup>. Agency notice was provided and notice was posted in 5 public locations around town on August 19, 2008.
- E. Review Criteria:** The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).
- F. Planning Commission discussion/legislative history:** As noted above, the Planning Commission gave careful and extensive discussion to the proposed amendments. The proposed text before the Council reflects amendments from the Commission. At the Planning Commission hearing, Commissioners were concerned about the presumption that a PUD request must be approved if the applicant demonstrated the criteria were met. Pam Beery from the City Attorney's office prepared a memo for the Commission (attached as Exhibit C to this report) which demonstrates that a PUD conceptual approval does allow a certain amount of discretion. Even if an applicant provides documentation that, for example, "the PUD will have a beneficial effect on the area...", the Commission and/or Council have the ability to develop contrary findings if they do not agree with the applicant's argument. This is true because the criteria are subjective and lend themselves to interpretation by the Commission and Council.

In addition, the Commission was concerned about the impacts on nearby properties of the provision allowing the blending of density across a whole site containing multiple zones, since this could result in clustering of density near existing developments. To address this concern, the Commission revised the proposed code language and their proposal is now reflected in the attached draft at Section 16.40.040.C.

Third, the Commission felt that the availability of public spaces described in Section 16.40.010.C (i.e., those public spaces in close proximity to the proposed development coupled with those proposed by the development) needs to "equally or better meet" community needs rather than simply "adequately serving" the subject project. The Commission's revised standard is reflected in the attached draft.

Finally, the Commission wanted to be sure that their discussion and the purpose of the changes they suggested were clearly preserved in the future when the new provisions are interpreted in the course of review of an application. Based on advice from the City Attorney, the detailed information in this staff report, together with the Commission's minutes and the modified version of the proposed text amendment, provide that legislative history and will be available to guide future interpretations of the code.

## II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

### Agencies:

Formal agency comments are included in the record (Exhibit B-1 through B-3). The following is a summary of agency and public comments received at the time of this writing:

The following agencies responded that they have no comments: **Sherwood Broadband, Tualatin Valley Water District.**

**Raindrops2Refuge** responded that as long as the proposed amendment can be demonstrated as consistent with the Statewide Planning Goals, they have no further comments or concerns at this time.

**Clean Water Services** provided comments prior to the Planning Commission meeting which was distributed as Exhibit D. The comments are attached to this report.

The City also sent request for comments to the standard agency notification list and received no response from the following: Metro, ODOT, Tri-met, NW Natural Gas, DLCD, DEQ, BPA, Sherwood Public Works, Sherwood Engineering, TVF&R, Pride Disposal, PGE, Washington County, and Kinder-Morgan.

### Public:

As of the time of this staff report, no written comments have been submitted.

## III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3

### **16.80.030.1 - Text Amendment Review**

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

Analysis of compliance with this standard is divided into 4 parts: need, consistency with the comprehensive plan, consistency with Metro regulations, and consistency with State regulations.

### Need

The Council initiated the consideration of an amendment to the PUD text because it was recognized that the current text limited developments that did not include a natural resource from utilizing the process. Further, staff has recognized the need to clarify within the code how the density is calculated when there are multiple parcels of varying zones and densities. The analysis is divided into the three areas proposed for modification: 1. Allowing PUDs to be considered even when there is not a natural resource; 2. Clarification of how density is calculated throughout the PUD site; and 3. Potential reduction of the open space requirement when there are other public amenities in close proximity.

### Consistency with the Comprehensive Plan

The proposed development code text amendment is fully consistent with the Comprehensive Plan. In fact, the amendment to expand the ability to use a PUD is more consistent than the existing development code language because it provides the use of a PUD without restrictions on site composition. Specifically:

Chapter 4 of the Comprehensive Plan (Land Use), subsection E (Residential Land Use), 2 (Residential Planning Designation), Policy 1, 5<sup>th</sup> bullet states "The City will encourage the use of the Planned Unit Development (PUD) on parcels of five acres or more in all residential land use categories in order to allow flexibility and innovation in site development and land use compatibility."

Chapter 4 of the Comprehensive Plan (Land Use), subsection O (Community Design), 4 (Policies and Strategies), Policy 4 states "Promote creativity, innovation and flexibility in structural and site design. The 1<sup>st</sup> bullet strategy of this Policy states: "encourage the use of PUD techniques for larger residential, commercial and industrial sites.

Chapter 5, F (Energy resources), Policy 4, 5<sup>th</sup> bullet states: "Housing, shopping, and employment will be located to reduce the amount of energy needed for transportation between them. Multi-use planned developments will be encouraged."

While the clarification could potentially result in greater density in one portion of a multi-property and/or multi-zoned site than strict adherence to the underlying zoning would allow, the overall density that would otherwise be permitted over the whole site would not be exceeded. Further, this flexibility in where and how the land uses are applied within a larger PUD is one of the reasons a PUD would be considered in the first place.

Staff has reviewed the codes/talked to staff at six neighboring jurisdictions (Beaverton, Tigard, Newberg, Wilsonville, Tualatin and Lake Oswego). Tualatin has no PUD process and Wilsonville indicates that practically every development requires a PUD. Beaverton, Tigard and Newberg allow the density to be calculated over the entire project site. Wilsonville does not specifically state this but they indicated that the PUD process allows the Development Review Board the opportunity to waive provisions that would make it easier for a development to meet the minimum density. Lake Oswego indicates that they would not consider the overall project area for determining density.

It is important to note that this clarification of how density is calculated within the site is not the same as a density transfer and does not result in an overall increase in density. The density transfer within a PUD allows density to be transferred from a natural resource area that otherwise would not have counted towards the density (floodplain, wetland, buffers, steep slopes) in exchange for better protection through public dedication. In those instances up to 20% of the overall density may be added. This density transfer concept is envisioned in the Comprehensive Plan (O.4.Policy 4, 2<sup>nd</sup> bullet). Because the clarification does not increase the otherwise permissible density within the development site, but rather allows flexibility regarding where the density can be located within the project area, there are no conflicts with the comprehensive plan, regional or state standards.

Staff is aware that there are concerns that making this clarification could result in unacceptable density transitions between PUD sites and neighboring properties. The existing (and proposed) regulations ensure that is not the

case. Specifically, the proposed language requires that the Commission and Council find the project is compatible with the adjacent and nearby uses in terms of, location of proposed uses, building height, design and access. In addition, 16.40.060 already requires that setbacks and heights around the perimeter of a project be consistent with the underlying zone.

The Comprehensive Plan is silent in regards to the open space requirement; however there is a lot of discussion regarding the density transfer in exchange for dedication as compensation for the dedication. It could be easily argued that the 15% requirement in the development code for all PUDs was intended for areas with natural resources because that was the original limitation. By opening up the ability to apply the PUD process for sites that do not involve a natural resource, there may not be the same need to preserve 15% open space. There is also support for opening up the definition to include a greater mix than park and open space in Chapter 5, E (Recreational Resources), 4 (Park and Open Space Standards) as it lists not only parks and open spaces but also cultural facilities and community centers.

#### Applicable Regional (Metro) standards

There are no known Metro standards that this proposed PUD amendment would conflict with. As stated previously, the amendment would, in fact, better support existing Metro goals by allowing for innovative commercial and mixed use projects within the Urban Renewal District.

#### Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comp plan has been acknowledged by the State, there are no conflicts with this text change that better implements the existing comp plan.

While there are no known state goals or standards that the proposed PUD amendment would conflict with and the applicability of the Statewide Land use goals are generally reviewed when comprehensive plan amendments are proposed, staff has briefly analyzed how the proposed amendments are fully consistent with the Planning Goals immediately below:

Goal 1 (Citizen Involvement) – The proposed amendment has been processed in accordance with the development code procedures outlined in 16.72.010. Because the development code implements the Comp plan and both have been acknowledged by DLCD as complying with Statewide Planning Goal 1, the proposed amendment is consistent with this goal.

Goal 2 (Land Use Planning) – As demonstrates previously, the proposed amendments are actually more consistent with the Comprehensive Plan which was developed in accordance with the requirements for Goal 2 compliance and acknowledged by DLCD.

Goal 3 and 4 (Agricultural and Forest Lands) - These goals do not apply.

Goal 5 (Open Space, Scenic and Historic Areas, Natural Resources) – The amendments do not reduce the ability to use the PUD process in areas with natural resources in an effort to protect the resources, therefore the comp plan continues to fully comply with this goal with the amendment.

Goal 6 (Air, Water and Land Resource Quality) - : This goal does not apply.

Goal 7 (Areas Subject to Natural Disasters and Hazards) - This goal does not apply.

Goal 8 (Recreational Needs) - The amendments do not reduce the ability to use the PUD process to acquire open space dedication, or dedication of public spaces more consistent with the Comp Plan. The comp plan and Park Master Plan continues to fully comply with this goal with the amendment.

Goal 9 (Economy of the State) – The ability to use the PUD process in more circumstances provides additional opportunities and flexibility for businesses considering locations in the City of Sherwood. The text amendment does not alter the projections or identified need for employers and continues to be fully consistent with the comp plan especially as it relates to the recently adopted economic opportunities analysis.

Goal 10 (Housing) – The proposed amendment does not alter the permissible density but rather provides for greater flexibility and innovation which could provide greater variety in housing types and styles.

Goal 11 (Public Facilities and Services) - This goal does not apply.

Goal 12 (Transportation) - The amendment will not result in a change of uses otherwise permitted or increase in density compared to the overall density permitted within a project area, therefore the proposed text amendment will not affect transportation facilities in any way.

Goal 13 (Energy Conservation) – As demonstrated previously, the amendment actually better implements the energy policies and strategies of the comprehensive plan which were intended to comply with Goal 13.

Goal 14 (Urbanization) - This goal does not apply.

Goals 15-19 (Willamette River Greenway, Estuarine Resources, Coastal Shorelands, Beaches and Dunes and Ocean Resources) are not applicable to the City of Sherwood.

**FINDING:** As demonstrated in the above analysis, there is a need for the proposed amendments to the PUD section of the development code and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

#### **16.80.030.2 – Transportation Planning Rule Consistency**

##### **A. Review of plan and text amendment applications for effect on transportation facilities.**

**Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.**

The amendment will not result in a change of uses otherwise permitted or increase in density compared to the overall density permitted within a project area, therefore the proposed text amendment will not affect transportation facilities in any way. When a specific proposal for PUD approval is granted, full transportation analysis would be required and mitigation and improvements made to the transportation system to ensure that the specific project does not have negative impacts on the transportation system.

**FINDING:** The proposed text amendment does not trigger TPR requirements.

#### **IV. RECOMMENDATION**

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, the Planning Commission recommends approval of PA 08-02 with the updated changes proposed by the Commission and included in Exhibit F.

#### **V. EXHIBITS**

- A. Proposed development code changes
- B. Exhibit B-1 through B-3 agency comments
- C. Map of urban renewal district
- D. Comments from CWS distributed at the PC hearing on 9/9/08
- E. Memo from Pam Beery dated 9/3/08 and distributed at the PC hearing on 9/9/08
- F. Planning Commission recommended changes to the PUD text dated 9/9/09

Exhibit A - Staff proposed amendments 8/19/08

A. Generally

A PUD Preliminary Development Plan shall be submitted for the review and approval in accordance with Chapter 16.72. PUDs shall be considered: a.) on sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of: natural features such as floodplains, wetlands, and extreme topography, or man-made features, such as parcel configuration and surrounding development; b.) on parcels of land within the Urban Renewal District where flexibility and creativity in design may result in greater public benefit than strict adherence to the code; and c.) in other areas deemed appropriate by Council through concept planning due to the conceptual layout or nature of the concept plan, (Ord. 2001-1119 § 1; 86-851)

Deleted: only

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B. Content

The Preliminary Development Plan application shall include the following documentation:

1. Existing conditions map(s) showing: All properties, existing uses, and zoning districts within three hundred (300) feet, topography at five (5) foot intervals, floodplain, significant natural vegetation and features, private and public facilities including but not limited to utilities, streets, parks, and buildings, historic and cultural resources, property boundaries, lot lines, and lot dimensions and area.
2. Listing of all property owners adjacent to the PUD as per Section 16.72.020, including names and addresses, and a listing of all persons, including names and addresses, with an interest in the property subject to the PUD application.
3. Proposal map(s) showing: Alterations to topography, floodplain, natural vegetation, trees and woodlands, and other natural features, all streets, utility alignments and easements, parks and open space, historic and cultural resources, other public and utility structures, and any other dedicated land features or structures, the parceling, lot consolidation, adjustments, or subdivision of land including basic parcel dimensions and areas, the phasing of the PUD, siting and orientation of proposed new structures, including an identification of their intended use.
4. Narrative describing: the intent of the PUD and how general PUD standards as per this Chapter are met, details of the particular uses, densities, building types and architectural controls proposed, form of ownership, occupancy and responsibility for maintenance for all uses and facilities, trees and woodlands, public facilities to be provided, specific variations from the standards of any underlying zoning district or other provisions of this Code, and a schedule of development.
5. If the PUD involves the subdivision of land, the proposal shall also include a preliminary subdivision plat and meet all requirements of Chapter 16.122. The preliminary subdivision shall be processed concurrently with the PUD. (Ord. 2001-1119 § 1; 86-851)
6. Architectural Pattern Book: A compendium of architectural elevations, details, and colors of each building type shall be submitted with any PUD application. The designs shall conform to the site plan urban design criteria in Section 16.90.020(G) or any other applicable standards in this Code. A pattern book shall act as the architectural control for the homeowner's association or the commercial owner. An Architectural Pattern Book shall address the following:
  - a. Illustrative areas within the development application covered by the pattern book.
  - b. An explanation of how the pattern book is organized, and how it is to be used.
  - c. Define specific standards for architecture, color, texture, materials, and other design elements.
  - d. Include a measurement or checklist system to facilitate review of the development for conformity with the pattern book.
  - e. Include the following information for each building type permitted outright or conditionally proposed in the PUD:
    - i. Massing, facades, elevations, roof forms, proportions, materials, and color palette.
    - ii. Architectural relevance or vernacular to the Pacific Northwest.
    - iii. Doors, windows, siding, and entrances, including sash and trim details.
    - iv. Porches, chimneys, light fixtures, and any other unique details, ornamentation, or accents.
    - v. A fencing plan with details that addresses the relationship between public space and maintaining individual privacy subject to Section 16.58.030.

C. Commission Review

The Commission shall review the application pursuant to Chapter 16.72 and may act to recommend to the Council approval, approval with conditions or denial. The Commission shall make their decision based on the following criteria:



1. The proposed development is in substantial conformance with the Comprehensive Plan and is eligible for PUD consideration per 16.40.020.A.
2. The preliminary development plans include dedication of at least 15 percent of the buildable portion of the site to the public in the form of usable open space, park or other public space, subject to the review of the Parks & Recreation Board or to a private entity managed by a homeowners association. Alternatively, if the project is located within close proximity to existing public spaces such as parks, libraries or plazas, the development plans may propose no less than 5% on-site public space with a detailed explanation of how the existing public spaces will adequately serve this subject project.
3. That exceptions from the standards of the underlying zoning district are warranted by the unique design and amenities incorporated in the development plan.
4. That the proposal is in harmony with the surrounding area or its potential future use, and incorporates unified or internally compatible architectural treatments, vernacular, and scale subject to review and approval in Subsection (B)(6).
5. That the system of ownership and the means of developing, preserving and maintaining parks and open spaces are acceptable.
6. That the PUD will have a beneficial effect on the area which could not be achieved using the underlying zoning district.
7. That the proposed development, or an independent phase of the development, can be substantially completed within one (1) year from date of approval.
8. That adequate public facilities and services are available or are made available by the construction of the project.
9. That the general objectives of the PUD concept and the specific objectives of the various categories of the PUDs described in this Chapter have been met. (Ord. 2001-1119 § 1; 98-1053; 86-851)
10. The minimum area for a Residential PUD shall be five (5) acres, unless the Commission finds that a specific property of lesser area is suitable as a PUD because it is unusually constrained by topography, landscape features, location, or surrounding development, or qualifies as "infill" as defined in Section 16.40.050(C)(3). (Ord. 2001-1119 § 1)

**Deleted:** is sited in an area that is unusually constrained due to existing natural or man-made features, while protecting the environmental resources of the site and adjacent properties as identified in the Comprehensive Plan,

**Deleted:** and

**Deleted:** or

#### D. Council Action

Upon receipt of the findings and recommendations of the Commission, the Council shall conduct a public hearing pursuant to Chapter 16.72. The Council may approve, conditionally approve, or deny the Preliminary Development Plan. A Council decision to approve the Preliminary Development Plan shall be by ordinance establishing a PUD overlay zoning district. The ordinance shall contain findings of fact as per this Section, state all conditions of approval, and set an effective date subject to approval of the Final Development Plan as per Section 16.40.030. (Ord. 2001-1119 § 1; 86-851)

#### E. Effect of Decision

Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals. (Ord. 86-851 § 3)

### 16.40.030 Final Development Plan

#### A. Generally

Upon approval of the PUD overlay zoning district and preliminary development plan by the Council, the applicant shall prepare a detailed Final Development Plan as per this Chapter and Section 16.78.010, for review and approval of the Commission. The Final Development Plan shall comply with all conditions of approval as per Section 16.40.020. In addition, the applicant shall prepare and submit a detailed site plan for any non-single-family structure or use not addressed under Section 16.40.020(B)(6), for review and approval, pursuant to the provisions of Chapter 16.90. The site plan shall be processed concurrently with the Final Development Plan. (Ord. 86-851 § 3)

#### B. Final Subdivision Plat

If the PUD involves the subdivision of land, a final plat shall be prepared and submitted for final approval, pursuant to Chapter 16.124.

**Deleted:** The final plat shall be processed concurrently with the Final Development Plan. (Ord. 86-851 § 3)

#### 16.40.040 General Provisions

##### A. 1. Phasing

a. The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.

b. Any PUD which requires more than twenty four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.

##### 2. Failure to Complete

a. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.

b. If continuation is found not to be in the public interest, the Commission shall recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.

##### B. Changes in Approved Plans

##### 1. Major Changes

Proposed major changes in a Final Development Plan shall be considered the same as a new application, and shall be made in accordance with the procedures specified in this Chapter.

##### 2. Minor Changes

Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses. (Ord. 86-851 § 3)

#### 16.40.050 Residential PUD

##### A. Permitted Uses

The following uses are permitted outright in Residential PUD when approved as part of a Final Development Plan:

1. Varied housing types, including but not limited to single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multi-family dwellings.

2. Related NC uses which are designed and located so as to serve the PUD district and neighborhood.

3. All other uses permitted within the underlying zoning district in which the PUD is located. (Ord. 86-851 § 3)

##### B. Conditional Uses

A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission as per Chapter 16.82. (Ord. 86-851 § 3)

##### C. Development Standards

##### 1. Density

The number of dwelling units permitted in a Residential PUD shall be the same as that allowed in the underlying zoning district, except as provided in Subsection (C)(2) or C(4), below.

##### 2. Density Transfer

Where the proposed PUD site includes lands within the base floodplain, wetlands and buffers, or steeply sloped areas which are proposed for public dedication, and such dedication is approved as a part of the preliminary development plan, then a density transfer may be allowed adding a maximum of 20% to the overall density of the land to be developed.

##### 3. Minimum Lot Size

The minimum lot size required for single-family, detached dwellings is 5,000 square feet, unless the subject property qualifies as infill, defined as: parent parcel of 1.5 acres or less proposed for land division, where a maximum 15% reduction in lot size may be allowed from the minimum lot size. (Ord. 2001-1119 § 3; 86-851)

4. When a proposed PUD includes multiple zones, the density may be calculated based on the total permitted density for the entire project and clustered in one or more portions of the project, provided that the project demonstrates compatibility with the surrounding neighborhood in terms of building height, design and access.

#### **16.40.060 Non-Residential (Commercial or Industrial) PUD**

##### **A. Permitted Uses**

Any commercial, industrial or related use permitted outright in the underlying zoning district in which the PUD is located, may be permitted in a Non-Residential PUD, subject to Division VIII. (Ord. 91-922 § 3; 86-851)

##### **B. Conditional Uses**

Conditional use permitted in the underlying zoning district in which the PUD is located may be allowed as part of the PUD upon payment of required application fee and approval by Commission. (Ord. 86-851 § 3)

##### **C. Development Standards**

###### **1. Floor Area**

The gross ground floor area of principal buildings, accessory buildings, and future additions shall not exceed sixty percent (60%) of the buildable portion of the PUD.

###### **2. Site and Structural Standards**

Yard setback, type of dwelling unit, lot frontage and width and use restrictions contained in this Code may be waived for the Non-Residential PUD, provided that the intent and objectives of this Chapter are complied with in the Final Development Plan. Building separations shall be maintained in accordance with the minimum requirements of the Fire District.

###### **3. Perimeter Requirements**

Unless topographical or other barriers within the PUD provide reasonable privacy for existing uses adjacent to the PUD, the Commission shall require that structures located on the perimeter of the PUD be:

a. Setback in accordance with provisions of the underlying zoning district within which the PUD is located and/or:

b. Screened so as to obscure the view of structures in the PUD from other uses.

###### **4. Height**

Maximum building height is unlimited, provided a sprinkler system is installed in all buildings over two (2) stories, as approved by the Fire District, excepting that where structures are within one hundred (100) feet of a residential zone, the maximum height shall be limited to that of the residential zone.

###### **5. Community Design Standards**

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

###### **6. Density Transfer**

Where the proposed PUD includes lands within the base floodplain, a density transfer may be allowed in accordance with Section 16.142.040.

###### **7. Minimum Site Area**

###### **a. Commercial PUD**

Minimum area for a Commercial PUD shall be five (5) acres. Development of a Commercial PUD of less than five (5) acres may be allowed if the PUD can be developed consistent with the intent and standards of this Chapter, as determined by the Commission.

###### **b. Industrial PUD**

The minimum site area for an Industrial PUD shall be twenty (20) acres.  
(Ord. 91-922 § 3; 86-851)

**Julia Hajduk**

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**From:** Zoe Monahan  
**Sent:** Tuesday, August 19, 2008 4:27 PM  
**To:** Julia Hajduk  
**Subject:** FW: Sherwood Request for Comments

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**From:** Tyler Wubbena [mailto:Tyler@tvwd.org]  
**Sent:** Tuesday, August 19, 2008 3:35 PM  
**To:** Zoe Monahan  
**Subject:** RE: Sherwood Request for Comments

TVWD has no comment on this.

Please address all future planning comments to Stu Davis, [stu@tvwd.org](mailto:stu@tvwd.org)

August 28 is my final day at TVWD. Stu will be address future comments.

Thanks, Tyler

*Tyler Wubbena, P.E.*

**Tualatin Valley Water District**



*Ph: 503-848-3054 direct  
503-969-1229 cell*

*Fax: 503-591-0986  
503-356-3154 direct to email*

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**From:** Zoe Monahan [mailto:monahanz@ci.sherwood.or.us]  
**Sent:** Tuesday, August 19, 2008 2:50 PM  
**To:** amy.B.JOYCE@odot.state.or.us; baldwinb@trimet.org; rmk@nwnatural.com; Brad Crawford; Carrie.Landrum@state.or.us; crbelt@bpa.gov; Craig Sheldon; SchweitzerD@cleanwaterservices.org; dmdostert@bpa.gov; ehays@sherwood.k12.or.us; Ellen.R.DENNIS@odot.state.or.us; karen.mohling@tvfr.com; kristinl@pridedisposal.com; kurt.A.MOHS@odot.state.or.us; Lee Harrington; raindrops2refuge@verizon.net; mwerner@gwrr.com; mike.livingston@pgn.com; Naomi\_Vogel-Beattie@co.washington.or.us; ralph.reisbeck@pgn.com; metcalfr@kindermorgan.com; Sam.H.HUNDAIDI@odot.state.or.us; Seth.A.BRUMLEY@odot.state.or.us; oesers@metro.dst.or.us; stephen\_roberts@co.washington.or.us; steven.b.schalk@odot.state.or.us; Tyler Wubbena; mike.hieb@pgn.com  
**Cc:** Julia Hajduk  
**Subject:** Sherwood Request for Comments

Agencies,

The City of Sherwood is proposing to amend the PUD section of our community development code. Your comments are greatly appreciated and they can be returned to Julia Hajduk, Planning Manager at [hajdukj@ci.sherwood.or.us](mailto:hajdukj@ci.sherwood.or.us). Please see the attached notice for information regarding this project. You may contact Julia with any questions or comments. Have a great week.

Zoe Monahan  
Assistant Planner

**Julia Hajduk**

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**From:** Raindrops to Refuge [raindrops2refuge@verizon.net]  
**Sent:** Wednesday, August 20, 2008 10:18 AM  
**To:** Julia Hajduk  
**Subject:** comments from R2R on the PA 08 02 amendment to PUDs

Hello Julia,

So long as the proposed amendment can be demonstrated as consistent with the Statewide Planning Goals, I think Raindrops to Refuge has no further comments or concerns at this time.

Thank you for the opportunity to comment.  
Lisa Jo

Lisa Jo Frech, Director  
Raindrops to Refuge  
22461 SW Pine St.  
Sherwood, OR 97140  
503-925-9105  
[raindrops2refuge@verizon.net](mailto:raindrops2refuge@verizon.net)

## Julia Hajduk

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**From:** Zoe Monahan  
**Sent:** Thursday, August 21, 2008 8:10 AM  
**To:** Julia Hajduk  
**Subject:** FW: Sherwood Request for Comments

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**From:** Brad Crawford  
**Sent:** Thursday, August 21, 2008 6:43 AM  
**To:** Zoe Monahan  
**Subject:** RE: Sherwood Request for Comments

Zoe,

I don't have any comments on this PUD amendment.

Thanks,  
Brad

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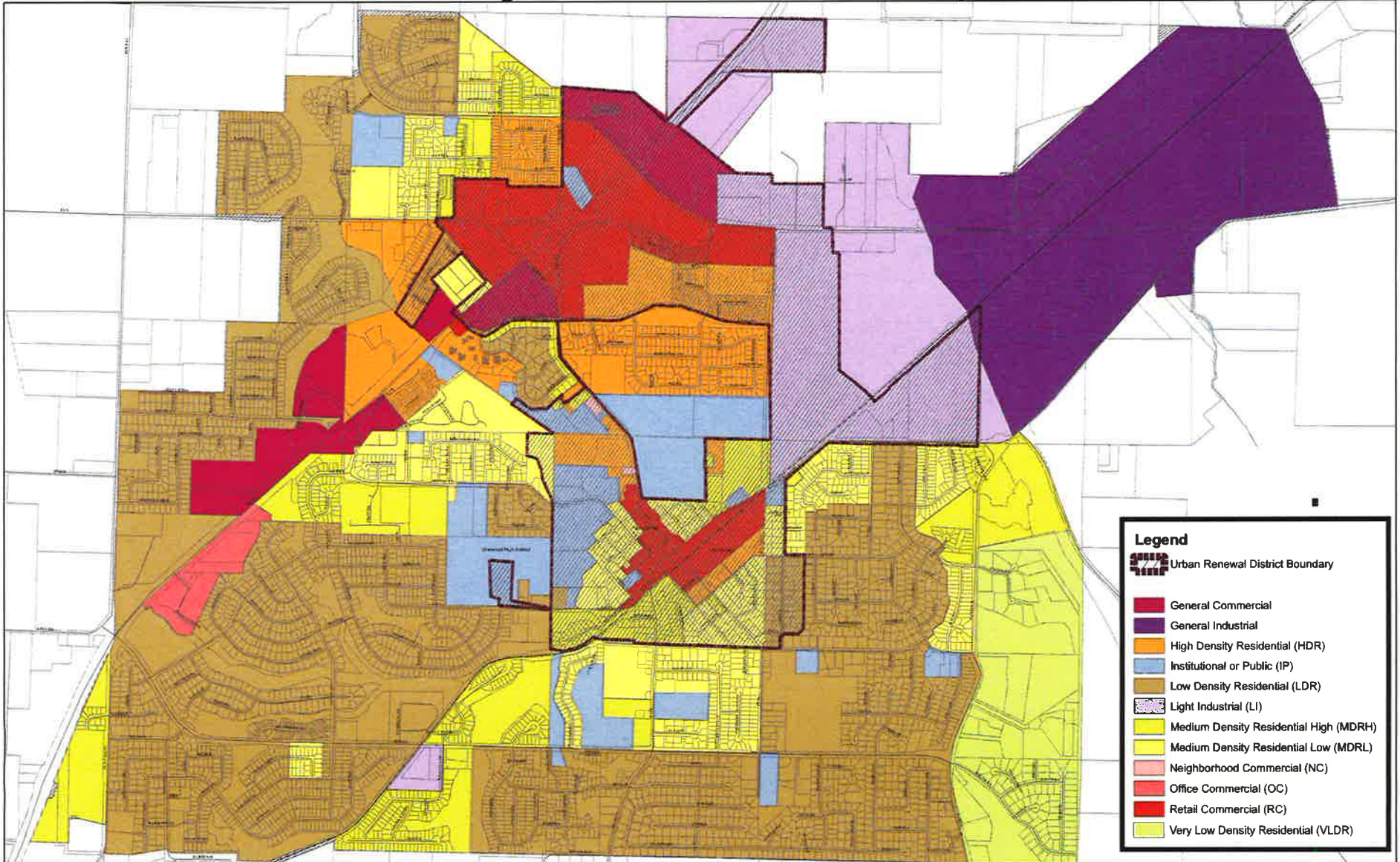
**From:** Zoe Monahan  
**Sent:** Tuesday, August 19, 2008 2:50 PM  
**To:** 'amy.B.JOYCE@odot.state.or.us'; 'baldwinb@trimet.org'; 'rmk@nwnatural.com'; Brad Crawford; 'Carrie.Landrum@state.or.us'; 'crbelt@bpa.gov'; Craig Sheldon; 'SchweitzerD@cleanwaterservices.org'; 'dmdostert@bpa.gov'; 'ehays@sherwood.k12.or.us'; 'Ellen.R.DENNIS@odot.state.or.us'; 'karen.mohling@tvfr.com'; 'kristinl@pridedisposal.com'; 'kurt.A.MOHS@odot.state.or.us'; Lee Harrington; 'raindrops2refuge@verizon.net'; 'mwerner@gwrr.com'; 'mike.livingston@pgn.com'; 'Naomi\_Vogel-Beattie@co.washington.or.us'; 'ralph.reisbeck@pgn.com'; 'metcalfr@kindermorgan.com'; 'Sam.H.HUNAI@odot.state.or.us'; 'Seth.A.BRUMLEY@odot.state.or.us'; 'oesers@metro.dst.or.us'; 'stephen\_roberts@co.washington.or.us'; 'steven.b.schalk@odot.state.or.us'; 'tyler@tvwd.org'; 'mike.hieb@pgn.com'  
**Cc:** Julia Hajduk  
**Subject:** Sherwood Request for Comments

Agencies,

The City of Sherwood is proposing to amend the PUD section of our community development code. Your comments are greatly appreciated and they can be returned to Julia Hajduk, Planning Manager at [hajdukj@ci.sherwood.or.us](mailto:hajdukj@ci.sherwood.or.us). Please see the attached notice for information regarding this project. You may contact Julia with any questions or comments. Have a great week.

*Zoe Monahan*  
Assistant Planner  
503-625-4202  
[monahanz@ci.sherwood.or.us](mailto:monahanz@ci.sherwood.or.us)

### SHERWOOD ZONING AND URBAN RENEWAL DISTRICT MAP



**Legend**

- Urban Renewal District Boundary
- General Commercial
- General Industrial
- High Density Residential (HDR)
- Institutional or Public (IP)
- Low Density Residential (LDR)
- Light Industrial (LI)
- Medium Density Residential High (MDRH)
- Medium Density Residential Low (MDRL)
- Neighborhood Commercial (NC)
- Office Commercial (OC)
- Retail Commercial (RC)
- Very Low Density Residential (VLDR)



## MEMORANDUM

DATE: August 28, 2008  
FROM: David Schweitzer, Clean Water Services  
TO: Julia Hajduk Planning Manager, City of Sherwood  
SUBJECT: Review Comments – PA 08-02 Amendment to Section 16.40

### GENERAL COMMENTS

- We recommend following any and all relevant provisions of the current Intergovernmental Agreement (IGA) between the City of Sherwood and Clean Water Services and the relevant provisions of the current Design and Construction Standards (currently R&O 07-20, available on line at: <http://cleanwaterservices.org/PermitCenter/DesignandConstruction/Update/default.aspx> ) for all issues relating to development, vegetated corridors, erosion control, and preservation of wetlands, natural drainage ways, and enhancements thereof.





## MEMORANDUM

TO: Sherwood Planning Commission

FROM: Pamela J. Beery and Heather R. Martin, Office of the City Attorney

SUBJECT: Cannery Planned Unit Development Issues

DATE: September 3, 2008

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\*\*\*\*\**Confidential Attorney-Client Privileged Communication*\*\*\*\*\*

### INTRODUCTION

Capstone and the Sherwood Urban Renewal Agency have entered into a Memorandum of Understanding (MOU) for sale and development of the Cannery site in a manner generally consistent with the Cannery Master Plan. The Cannery site includes a combination of parcels including High Density Residential (HDR) and Retail Commercial (RC) zoning in the Old Town Overlay district.

Because there is no clear process to allow the clustering of density across zone lines within a larger project area as needed to implement the Capstone vision for the Cannery project, the Planning Commission will need to decide on potential changes to address the proposed project. These options include (1) whether a new zone should be created, (2) whether modifications to the existing zones should occur, or (3) whether a planned unit development application should be the mechanism to implement the proposed development.

The PUD approach is not currently permitted in this location. As such, if this is the selected option, the City's Zoning and Development Code would need to be amended to allow consideration of a PUD on parcels of land within the urban renewal district. The objective would be to allow flexibility and creativity in design that would result in greater public benefit than strict adherence to the Code would otherwise produce, subject to approval of a PUD application that meets the applicable approval criteria.

The Planning Commission expressed some concerns over the PUD process in this context. This memorandum is intended to address those concerns.

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Page 2

## ANALYSIS

### 1. What type of decision is a Planned Unit Development?

Under chapter 16.72 of the Sherwood Zoning and Community Development Code (SZC), PUDs are classified as legislative actions that are subject to different review processes depending on the specific stage the applicant is in. PUD preliminary development plans and overlay districts are subject to Type V review procedures as designated by SZC 16.72.010(1)(E)(3) and set forth under SZC 16.72.010(2)(E). In the Type V hearing process, the decision is made by the City Council upon recommendation from the Planning Commission. Upon approval of the PUD preliminary development plan and overlay district by the Council, the final development plan is submitted for review and approval of the Planning Commission.

It is important to note that Type V actions are specifically delineated as legislative land use actions. Type V actions are reviewed at a public hearing conducted by the Planning Commission with a recommendation made to the City Council, followed by the City Council conducting another public hearing and making the City's final decision. SZC 16.72.010(2). This type of decision is different from the quasi-judicial development permit applications which are subject to more stringent levels of review as detailed under 16.72.010(2). There are also several other portions of the SZC where the differences between Type I through IV are detailed as quasi-judicial whereas Type V actions are specifically legislative.

Overall, this distinction gives the Planning Commission and subsequently the Council more discretion in determining whether a PUD for the Cannery site is approved and how it is implemented. This does not abdicate the Commission's requirements that the application meet the criteria for a PUD set forth under Chapter 16.40, but it does allow the Planning Commission discretion in determining whether the development is in the public interest and is in keeping with the purpose of a PUD which is to allow creativity and flexibility in the development process.

### 2. Does the Planning Commission have the ability to decline a PUD application?

The Planning Commission specifically has the ability to approve, approve with conditions or deny a PUD preliminary development plan under SZC 16.40.020(C) taking into consideration the criteria set forth therein. While some of those criteria are specific many are general and are designed to take into account the purposes of the PUD - to allow creativity and flexibility in site design that cannot be achieved through a strict adherence to zoning and subdivision standards. For example, under SZC 16.40.020(C)(5) the PUD should have a beneficial effect on the area which could not be achieved under the underlying zoning district.

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There is nothing in the SZC to limit the Commission's exercise of discretion nor is there an automatic approval for an application that meets all of the proposed criteria; this is true because of the subjective nature of some of the criteria. These kinds of criteria are specifically designed to allow the exercise of discretion by the Planning Commission and Council

### CONCLUSION

The Planning Commission has the ability to either approve, approve with conditions, or deny a PUD which is a legislative decision. There is no requirement that the Planning Commission take any particular course of action, only that the Commission follow the requirements set forth under SZC 16.40 et seq.

Please let us know if you have any additional questions.

**Exhibit F - Planning Commission proposed  
amendments 9/9/08**

**16.40.010 Purpose**

A. PUDs integrate buildings, land use, transportation facilities, utility systems and open space through an overall site design on a single parcel of land or multiple properties under one or more ownerships. The PUD process allows creativity and flexibility in site design and review which cannot be achieved through a strict adherence to existing zoning and subdivision standards.

B. The PUD district is intended to achieve the following objectives:

1. Encourage efficient use of land and resources that can result in savings to the community, consumers and developers.
2. Preserve valuable landscape, terrain and other environmental features and amenities as described in the Comprehensive Plan or through site investigations.
3. Provide diversified and innovative living, working or neighborhood shopping environments that take into consideration community needs and activity patterns.
4. Achieve maximum energy efficiency in land uses. (Ord. 86-851 § 3)
5. Promote innovative, pedestrian-friendly, and human scale design in architecture and/or other site features that enhance the community or natural environment. (Ord. 2001-1119 § 1)

A. Generally

A PUD Preliminary Development Plan shall be submitted for the review and approval in accordance with Chapter 16.72. PUDs shall be considered: a.) on sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of: natural features such as floodplains, wetlands, and extreme topography, or man-made features, such as parcel configuration and surrounding development; b.) on parcels of land within the Urban Renewal District where flexibility and creativity in design may result in greater public benefit than strict adherence to the code; or c.) in other areas deemed appropriate by Council during the adoption of a concept plan required by a Metro UGB expansion, (Ord. 2001-1119 § 1; 86-851)

Deleted: only

B. Content

The Preliminary Development Plan application shall include the following documentation:

1. Existing conditions map(s) showing: All properties, existing uses, and zoning districts within three hundred (300) feet, topography at five (5) foot intervals, floodplain, significant natural vegetation and features, private and public facilities including but not limited to utilities, streets, parks, and buildings, historic and cultural resources, property boundaries, lot lines, and lot dimensions and area.
2. Listing of all property owners adjacent to the PUD as per Section 16.72.020, including names and addresses, and a listing of all persons, including names and addresses, with an interest in the property subject to the PUD application.
3. Proposal map(s) showing: Alterations to topography, floodplain, natural vegetation, trees and woodlands, and other natural features, all streets, utility alignments and easements, parks and open space, historic and cultural resources, other public and utility structures, and any other dedicated land features or structures, the parceling, lot consolidation, adjustments, or subdivision of land including basic parcel dimensions and areas, the phasing of the PUD, siting and orientation of proposed new structures, including an identification of their intended use.
4. Narrative describing: the intent of the PUD and how general PUD standards as per this Chapter are met, details of the particular uses, densities, building types and architectural controls proposed, form of ownership, occupancy and responsibility for maintenance for all uses and facilities, trees and woodlands, public facilities to be provided, specific variations from the standards of any underlying zoning district or other provisions of this Code, and a schedule of development.
5. If the PUD involves the subdivision of land, the proposal shall also include a preliminary subdivision plat and meet all requirements of Chapter 16.122. The preliminary subdivision shall be processed concurrently with the PUD. (Ord. 2001-1119 § 1; 86-851)
6. Architectural Pattern Book: A compendium of architectural elevations, details, and colors of each building type shall be submitted with any PUD application. The designs shall conform to the site plan

Deleted: --The applicant shall describe the unusual conditions qualifying the site for PUD consideration, and the Commission shall cite findings of fact validating these conditions

urban design criteria in Section 16.90.020(G) or any other applicable standards in this Code. A pattern book shall act as the architectural control for the homeowner's association or the commercial owner. An Architectural Pattern Book shall address the following:

- a. Illustrative areas within the development application covered by the pattern book.
- b. An explanation of how the pattern book is organized, and how it is to be used.
- c. Define specific standards for architecture, color, texture, materials, and other design elements.
- d. Include a measurement or checklist system to facilitate review of the development for conformity with the pattern book.
- e. Include the following information for each building type permitted outright or conditionally proposed in the PUD:
  - i. Massing, facades, elevations, roof forms, proportions, materials, and color palette.
  - ii. Architectural relevance or vernacular to the Pacific Northwest.
  - iii. Doors, windows, siding, and entrances, including sash and trim details.
  - iv. Porches, chimneys, light fixtures, and any other unique details, ornamentation, or accents.
  - v. A fencing plan with details that addresses the relationship between public space and maintaining individual privacy subject to Section 16.58.030.

C. Commission Review

The Commission shall review the application pursuant to Chapter 16.72 and may act to recommend to the Council approval, approval with conditions or denial. The Commission shall make their decision based on the following criteria:

- 1. The proposed development is in substantial conformance with the Comprehensive Plan and is eligible for PUD consideration per 16.40.020.A.
- 2. The preliminary development plans include dedication of at least 15 percent of the buildable portion of the site to the public in the form of usable open space, park or other public space, (subject to the review of the Parks & Recreation Board) or to a private entity managed by a homeowners association. Alternatively, if the project is located within close proximity to existing public spaces such as parks, libraries or plazas the development plan may propose no less than 5% on-site public space with a detailed explanation of how the proposed development and existing public spaces will together equally or better meet community needs.
- 3. That exceptions from the standards of the underlying zoning district are warranted by the unique design and amenities incorporated in the development plan.
- 4. That the proposal is in harmony with the surrounding area or its potential future use, and incorporates unified or internally compatible architectural treatments, vernacular, and scale subject to review and approval in Subsection (B)(6).
- 5. That the system of ownership and the means of developing, preserving and maintaining parks and open spaces are acceptable.
- 6. That the PUD will have a beneficial effect on the area which could not be achieved using the underlying zoning district.
- 7. That the proposed development, or an independent phase of the development, can be substantially completed within one (1) year from date of approval.
- 8. That adequate public facilities and services are available or are made available by the construction of the project.
- 9. That the general objectives of the PUD concept and the specific objectives of the various categories of the PUDs described in this Chapter have been met. (Ord. 2001-1119 § 1; 98-1053; 86-851)
- 10. The minimum area for a Residential PUD shall be five (5) acres, unless the Commission finds that a specific property of lesser area is suitable as a PUD because it is unusually constrained by topography, landscape features, location, or surrounding development, or qualifies as "infill" as defined in Section 16.40.050(C)(3). (Ord. 2001-1119 § 1)

Deleted: is sited in an area that is unusually constrained due to existing natural or man-made features, while protecting the environmental resources of the site and adjacent properties as identified in the Comprehensive Plan,

Deleted: and

Deleted: or

Deleted:

D. Council Action

Upon receipt of the findings and recommendations of the Commission, the Council shall conduct a public hearing pursuant to Chapter 16.72. The Council may approve, conditionally approve, or deny the Preliminary Development Plan. A Council decision to approve the Preliminary Development Plan shall be by ordinance establishing a PUD overlay zoning district. The ordinance shall contain findings of fact as

per this Section, state all conditions of approval, and set an effective date subject to approval of the Final Development Plan as per Section 16.40.030. (Ord. 2001-1119 § 1; 86-851)

E. Effect of Decision

Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals. (Ord. 86-851 § 3)

### 16.40.030 Final Development Plan

A. Generally

Upon approval of the PUD overlay zoning district and preliminary development plan by the Council, the applicant shall prepare a detailed Final Development Plan as per this Chapter and Section 16.78.010, for review and approval of the Commission. The Final Development Plan shall comply with all conditions of approval as per Section 16.40.020. In addition, the applicant shall prepare and submit a detailed site plan for any non-single-family structure or use not addressed under Section 16.40.020(B)(6), for review and approval, pursuant to the provisions of Chapter 16.90. The site plan shall be processed concurrently with the Final Development Plan. (Ord. 86-851 § 3)

B. Final Subdivision Plat

If the PUD involves the subdivision of land, a final plat shall be prepared and submitted for final approval, pursuant to Chapter 16.124.

**Deleted:** The final plat shall be processed concurrently with the Final Development Plan. (Ord. 86-851 § 3)

### 16.40.040 General Provisions

A. 1. Phasing

a. The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.

b. Any PUD which requires more than twenty four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.

2. Failure to Complete

a. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.

b. If continuation is found not to be in the public interest, the Commission shall recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.

B. Changes in Approved Plans

1. Major Changes

Proposed major changes in a Final Development Plan shall be considered the same as a new application, and shall be made in accordance with the procedures specified in this Chapter.

2. Minor Changes

Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses. (Ord. 86-851 § 3)

C. Multiple Zone Density Calculation

When a proposed PUD includes multiple zones, the density may be calculated based on the total permitted density for the entire project and clustered in one or more portions of the project, provided that the project demonstrates compatibility with the adjacent and nearby neighborhood(s) in terms of location of uses, building height, design and access.

### 16.40.050 Residential PUD

**A. Permitted Uses**

The following uses are permitted outright in Residential PUD when approved as part of a Final Development Plan:

1. Varied housing types, including but not limited to single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multi-family dwellings.
2. Related NC uses which are designed and located so as to serve the PUD district and neighborhood.
3. All other uses permitted within the underlying zoning district in which the PUD is located. (Ord. 86-851 § 3)

**B. Conditional Uses**

A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission as per Chapter 16.82. (Ord. 86-851 § 3)

**C. Development Standards**

**1. Density**

The number of dwelling units permitted in a Residential PUD shall be the same as that allowed in the underlying zoning district, except as provided in Subsection (C)(2) below or 16.40.040.C above.

**2. Density Transfer**

Where the proposed PUD site includes lands within the base floodplain, wetlands and buffers, or steeply sloped areas which are proposed for public dedication, and such dedication is approved as a part of the preliminary development plan, then a density transfer may be allowed adding a maximum of 20% to the overall density of the land to be developed.

**3. Minimum Lot Size**

The minimum lot size required for single-family, detached dwellings is 5,000 square feet, unless the subject property qualifies as infill, defined as: parent parcel of 1.5 acres or less proposed for land division, where a maximum 15% reduction in lot size may be allowed from the minimum lot size. (Ord. 2001-1119 § 3; 86-851)

**16.40.060 Non-Residential (Commercial or Industrial) PUD**

**A. Permitted Uses**

Any commercial, industrial or related use permitted outright in the underlying zoning district in which the PUD is located, may be permitted in a Non-Residential PUD, subject to Division VIII. (Ord. 91-922 § 3; 86-851)

**B. Conditional Uses**

Conditional use permitted in the underlying zoning district in which the PUD is located may be allowed as part of the PUD upon payment of required application fee and approval by Commission. (Ord. 86-851 § 3)

**C. Development Standards**

**1. Floor Area**

The gross ground floor area of principal buildings, accessory buildings, and future additions shall not exceed sixty percent (60%) of the buildable portion of the PUD.

**2. Site and Structural Standards**

Yard setback, type of dwelling unit, lot frontage and width and use restrictions contained in this Code may be waived for the Non-Residential PUD, provided that the intent and objectives of this Chapter are complied with in the Final Development Plan. Building separations shall be maintained in accordance with the minimum requirements of the Fire District.

**3. Perimeter Requirements**

Unless topographical or other barriers within the PUD provide reasonable privacy for existing uses adjacent to the PUD, the Commission shall require that structures located on the perimeter of the PUD be:

- a. Setback in accordance with provisions of the underlying zoning district within which the PUD is located and/or:
  - b. Screened so as to obscure the view of structures in the PUD from other uses.
- 4. Height**

Maximum building height is unlimited, provided a sprinkler system is installed in all buildings over two (2) stories, as approved by the Fire District, excepting that where structures are within one hundred (100) feet of a residential zone, the maximum height shall be limited to that of the residential zone.

**5. Community Design Standards**

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

**6. Density Transfer**

Where the proposed PUD includes lands within the base floodplain, a density transfer may be allowed in accordance with Section 16.142.040.

**7. Minimum Site Area**

**a. Commercial PUD**

Minimum area for a Commercial PUD shall be five (5) acres. Development of a Commercial PUD of less than five (5) acres may be allowed if the PUD can be developed consistent with the intent and standards of this Chapter, as determined by the Commission.

**b. Industrial PUD**

The minimum site area for an Industrial PUD shall be twenty (20) acres.  
(Ord. 91-922 § 3; 86-851)