



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, March 6, 2012

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

6:00pm City Council Work Session

7:00pm Regular City Council Meeting



AGENDA

SHERWOOD CITY COUNCIL March 6, 2012

6:00 City Council Work session

7:00pm Regular City Council Meeting

Sherwood City Hall
22560 Pine Street
Sherwood, OR 97140

CITY COUNCIL WORK SESSION 6:00PM

REGULAR CITY COUNCIL MEETING

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. CONSENT:
 - A. Approval of February 21, 2012 City Council Minutes
5. CITIZEN COMMENTS
6. PUBLIC HEARINGS
 - A. Ordinance 2012-004 Approving A Planned Unit Development (PUD) to be known as Denali Planned Unit Development including application of a Planned Unit Development Overlay on The Comprehensive Plan and Zone Map and approving the Six-Lot Subdivision (Michelle Miller, Associate Planner)
(Business Carried forward from the February 21, 2012 City Council meeting)
 - B. Ordinance 2012-006 Amending multiple sections of the Zoning and Community Development Code relating to Amateur Radio Towers in Residential Zones
(Michelle Miller, Associate Planner)
7. CITY MANAGER REPORT
8. COUNCIL ANNOUNCEMENTS
9. ADJOURN

How to Find Out What's on the Council Schedule:

City Council meeting materials and agenda are posted to the City web page at www.sherwoodoregon.gov, by the Friday prior to a Council meeting. Council agendas are also posted at the Sherwood Library/City Hall, the YMCA, the Senior Center, and the City's bulletin board at Albertson's. Council meeting materials are available to the public at the Library.

To Schedule a Presentation before Council:

If you would like to appear before Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder Sylvia Murphy by calling 503-625-4246 or by e-mail to: murphys@sherwoodoregon.gov



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
February 21, 2012

CITY COUNCIL WORK SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 5:05 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Councilors Bill Butterfield, Matt Langer, Krisanna Clark and Linda Henderson. Councilor Robyn Folsom arrived at 5:10 pm and Council President Dave Grant was absent.
3. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Economic Development Manager Tom Nelson, Finance Director Craig Gibons, Human Resource Manager Anna Lee, Accounting Supervisor Julie Blums, IT Director Brad Crawford, City Engineer Bob Galati, Public Works Director Craig Sheldon, Planning Manager Julia Hajduk, Police Chief Jeff Groth and City Recorder Sylvia Murphy.
4. **OTHERS PRESENT:** Sally Ho with the Oregonian, Murray Jenkins and Jason Fifield with Ankrom Moisan Architects, Dan Cook and Mark Simpson with R&H Construction, Chris Nelson with Capstone Partners LLC.

5. TOPICS DISCUSSED:

- A. Community Center:** Murray Jenkins presented information on the Community Center and reviewed drawings. Murray informed the Council that information would be coming before the Planning Commission in March. Murray briefed the Council on Community Center amenities including; Theatrical features, telescoping seating, sprung floors, concrete floors, electrical, lighting and lighting controls, lighting preset features, universal control panel with 521 data points. Discussion followed.

Discussion occurred regarding the RFP process and cost estimates.

Murray briefed the Council on the Center's acoustics, curtain track system, scenery tracks, winged walls, no fly space, storage space, back stage access with rollup doors and no dock.

Dan Cook with R&H Construction briefed the Council on cost estimates and the RFP process and how the estimates were in line with the design documents. Dan stated the current facility estimate is \$3 million in comparison to the original \$2.3 million. Discussion followed and Council asked for an explanation of where and how estimate changed.

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Dan Cook explained some of the areas of increases in cost were electrical, lighting and consultants. Dan explained options to reduce cost, including; scope, value engineering options, scope reductions regarding brick, amount of brick and design, scope elimination such as lighting, future infrastructure and future add-ons. Dan informed the Council the electrical was costly and they were doing above the minimum code requirements and said cost saving opportunities existed in this area. Dan explained HVAC was also an area that was costly and this could also be looked at. Discussion followed.

Dan Cook explained cost savings in the bid process and briefed the Council on other areas of cost increases such as: the roof core and discovery of asbestos, foundation and rock and structural. Discussion followed.

Discussion occurred regarding scheduling a meeting to further discuss reductions in cost.

B. Metro Presentation: Metro Councilor Carl Hosticka and Kim Ellis Principle Transportation Planner distributed a packet of documents (See record, Exhibit A) and briefed the Council on the information provided, specifically page 15 and 16 of the materials provided. Discussion followed.

Mayor Mays expressed concern regarding transportation and reductions of public transportation in the Sherwood area. Discussion followed.

6. ADJOURN: Mayor Mays adjourned the work session at 6:50 pm and convened to a City Council Executive Session.

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:52 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Councilors Bill Butterfield, Matt Langer, Krisanna Clark, Linda Henderson and Robyn Folsom. Council President Dave Grant was absent.
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Pro Tem Tom Pessemier, City Recorder Sylvia Murphy and City Attorney Paul Elsner.
4. **OTHERS PRESENT:** Sally Ho with the Oregonian.
5. **TOPICS DISCUSSED:**
 - A. **Pursuant to ORS 192.660(2)(f) Litigation and 192.660(2)(h) Exempt Public Records, City v. Blakeslee case.**
6. **ADJOURN:** Mayor Mays adjourned the Executive Session at 7:07 pm and convened to the regular Council Session.

REGULAR CITY COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:15 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **ROLL CALL:**
4. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant (via conference call), Councilors Bill Butterfield, Matt Langer, Krisanna Clark, Linda Henderson and Robyn Folsom.
5. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Finance Director Craig Gibons, Economic Development Manager Tom Nelson, IT Director Brad Crawford, Planning Manager Julia Hajduk, Associate Planner Michelle Miller, Assistant Planner Zoe Monahan, Senior Planner Brad Kilby, Human Resource Manager Anna Lee, Administrative Assistant Kirsten Allen and City Recorder Sylvia Murphy. City Attorney Paul Elsner.

Prior to addressing the Consent Agenda, Mayor Mays proposed an amendment to the Agenda under Public Hearings to alternate Item A. Ordinance 2012-003 and Item C. Ordinance 2012-005 as there were several attendees in the audience wanting to present testimony for Item C. Mayor Mays also changed the testimony time from four minutes to two minutes to allow everyone an opportunity to speak. No objections from Council were received to amend the agenda.

Mayor Mays addressed the Consent Agenda and asked for a motion.

6. CONSENT AGENDA

- A. **Approval of February 7, 2012 City Council Minutes**
- B. **Resolution 2012-006 Appointing the Budget Officer for Fiscal Year 2012-13**
- C. **Resolution 2012-007 Reappointing Kim Rocha-Pearson to the Budget Committee**
- D. **Resolution 2012-008 Reappointing Lynette Waller to the Budget Committee**
- E. **Resolution 2012-009 Reappointing Steve Munsterman to the Budget Committee**
- F. **Resolution 2012-010 Appointing Neil Shannon to the Budget Committee**
- G. **Resolution 2012-011 Appointing Brian Stecher to the Budget Committee**
- H. **Resolution 2012-012 a Resolution Approving Settlement in City of Sherwood v. Blakeslee Properties, LLC.**

MOTION: FROM COUNCILOR LINDA HENDERSON TO ADOPT THE CONSENT AGENDA, SECONDED BY COUNCILOR ROBYN FOLSOM, ALL COUNCIL MEMBERS VOTED IN FAVOR.

7. PRESENTATION

- A. **Eagle Scout Recognition**, no Scouts were present.

8. CITIZEN COMMENTS

Robert James Claus, 22211 SW Pacific Hwy, Sherwood came forward and informed Council that he has been gathering evidence and has spoken with the FBI and wanted to enter information into the record, regarding Langer Property viewed values in tax court, commented regarding this

property within an urban renewal area, commented regarding issuing gag orders, commented regarding name calling in public meetings and suppressing first and fourteenth amendment rights concerning the City Attorney. Mr. Claus provided documents to the City Recorder and requested they be entered into the record (See record, Exhibit B).

Eugene Stewart, 22595 SW Pine Street, Sherwood came forward and commented regarding a fundraiser held at the Sherwood Senior Center the previous Saturday evening. Mr. Stewart informed the Council that roughly \$6800 was raised to be shared by the Senior Center and Faith in Action. Mr. Stewart stated that he believes there is a lot of support in the community for the Senior Center and thanked everyone who supported the event.

With no other citizen comments received, Mayor Mays addressed the next agenda item, Public Hearings, Item C. Ordinance 2012-005 and the City Recorder read the public hearing statement.

9. PUBLIC HEARINGS

C. Ordinance 2012-005 Making certain determinations and findings relating to and approving the Fifteenth Amendment (Substantial) to the Sherwood Urban Renewal Plan

Economic Development Manager Tom Nelson and Elaine Howard with Elaine Howard Consulting came forward. Tom stated that the Urban Renewal Plan and report was adopted in August of 2000 and presented a power point presentation regarding the URA activity (See record, Exhibit C).

Tom reminded Council that the implementation of the plan was to remove blight in Sherwood and provide opportunity for investment in the community. Tom commented that the anchor investment of City Hall and the Library has perpetuated interest and investment in Old Town. Tom commented on the new streetscapes stating that residents, former residents and visitors have complemented the improvements and the investments have added value to Old Town.

Tom stated the City purchased the Old Cannery site in mid-2000 and a feasibility study was conducted, and said the City has partnered with Capstone Partners LLC on the project and the Urban Renewal Agency to develop the Cannery project. Tom referenced the presentation and a photo of the old machine shop and said the machine shop wasn't part of the cannery plan at the time. Tom stated that Capstone inquired about the machine shop and if it would detract from the project if left as is. Tom stated the Urban Renewal Agency was able to purchase the property and do some visioning on the property and partner with Capstone to convert the old machine shop into retail space and a Community Center. Tom stated the hope is to have the project completed by October 2012.

Tom referenced the presentation and explained a comprehensive map showing the proposed private development that has resulted from the public improvements made.

Tom explained other improvements made by the URA including transportation improvements, such as the railroad intersection at the corner of SW Langer Farms Parkway and SW Oregon Street, investments in school turf fields, and a contribution to the new Sherwood High School Stadium, and assisted in funding the Sherwood Field House. Tom stated the URA purchased blighted property adjacent to the Senior Center to be developed in partnership with Washington County Non-Profit Accessible Living Inc. that will also provide right-of-way property for the extension of the Cedar Creek Trail. Tom recounted other blighted property purchased by the URA

such as the Old School House property, the Robin Hood Theater property, and properties on SW 1st Street, Main Street and Sherwood Blvd. Tom explained that most of the acquired property will be able to be redeveloped and sold with additional revenues of up to \$4 million that can be used for future designated projects or to pay down the URA debt. Tom explained that another URA project was Façade Grants that allowed up to \$15,000 in a matching grant per façade improvements with over \$200,000 worth of grants paid out to assist in the Old Town area.

Tom referenced the presentation and a list of “proposed projects in the amendment” and said the last time this information was presented, he discovered a mistake he made and said the figure for “Complete Community Center Construction” was not included in the table of information and this was his miscalculation of the maximum indebtedness based on an earlier figure we had from a report we received and informed the Council we had just made two large payments for the plaza that were not included in that figure. The difference in the figure was \$1.9 million due to these two large payments.

Tom referenced the presentation showing a list of proposed projects in the amendment and stated at any time the Urban Renewal Agency can readjust, add or remove projects and said the list shows a list of projects you have indicated were important to you, the Council as well as the Urban Renewal Board and SURPAC.

Tom turned the time over to the urban renewal consultant Elaine Howard.

Ms. Howard said for the benefit of the audience she wanted to explain what Urban Renewal is and how it works. Ms. Howard explained Urban Renewal is a process for financing projects and programs within a specified area as designated by the City and it is through an Urban Renewal Agency that urban renewal boundaries are established. Ms. Howard stated the assessor does something called “freeze the base” in that area. Ms. Howard said all the taxes that are coming from the assessed value at the time the property is frozen, this was done in 2000 with the Plan, and continued to go to all the different taxing jurisdictions in the area. Ms. Howard said any increase in value in the area, the taxes off of that increase in value goes to the urban renewal agency for programs and projects within an urban renewal area. Ms. Howard said the constraining factor of urban renewal by statute is maximum indebtedness and this is what was set when the Urban Renewal Plan was adopted and what you (the Council) are proposing to increase. Ms. Howard stated that most urban renewal plans do not have a time limit other than when maximum indebtedness is reached. Ms. Howard stated maximum indebtedness means the amount of money spent from tax increment revenues on projects and programs within an urban renewal area and does not increase property taxes for properties within an urban renewal, but instead divides those taxes differently than if there wasn’t an urban renewal area. Ms. Howard stated this is one of the things that people get confused about, thinking that property taxes go up and they do not, it just means that the amount on the frozen base goes to the taxing jurisdictions and the amount above that goes to the urban renewal agency.

Ms. Howard explained that a substantial amendment is one of two different types of amendments that have to be approved by the same process as an Urban Renewal Plan. Ms. Howard reviewed the process and what has been done to date:

- The Urban Renewal Agency has to review and approve the amendment to begin that process of approval, as was done on January 3rd
- The taxing jurisdictions have to be notified, as done on January 6th

- The Planning Commission reviewed the proposed amendment and made a recommendation on January 24th
- The Washington County Board of Commissioners were presented to on January 24th, they did not need to take any action, but gave comment
- Notices to all citizens was provided in the Sherwood Archer
- Notice of the public hearing was provided in the Sherwood Archer and on the City website
- Open Public Hearing by City Council
- Ordinance has to be a non-emergency ordinance and is effect 30 days after adoption

Ms. Howard stated since this is an amendment to increase maximum indebtedness and to add or refine your projects, the main analysis that is done is a “financial analysis” to determine how much maximum indebtedness you can increase. Ms. Howard said in 2009 there was a change to urban renewal statutes that spoke of what happens with changes in maximum indebtedness and it required two things; revenue sharing at certain key indicators in time when you reach target amounts in receiving tax revenue and said revenue sharing isn’t something that the taxing jurisdictions get, other than through a maximum indebtedness change on an existing urban renewal plan. Ms. Howard said it also spoke of setting limits for increasing the maximum indebtedness and one of those limits is that you may increase your maximum indebtedness by 20% indexed over an inflation factor, over each year for the time period from when your first plan was adopted. Ms. Howard said that 20% is the amount being proposed for the amendment. Ms. Howard said if the Council wanted to increase above the 20%, they would have to get concurrent, an actual written approval from the taxing jurisdictions and as long as you stay at 20% or below you may do that without written concurrence.

Ms. Howard commented that the revenue sharing is actually a positive thing for taxing jurisdictions because at this point, (Ms. Howard referenced a chart in the presentation), and said if it weren’t for the proposed amendment all the listed funds would be going to the urban renewal agency and with the proposed amendment the funds that are shown in the red go to the taxing jurisdictions.

Ms. Howard stated there’s a chart in the report that speaks of what the impacts on the taxing jurisdictions are. Ms. Howard stated in 2014-2018 there’s the positive impact on taxing jurisdictions and the amendment that you’re considering goes into effect between the years 2019-2021, that is when the increased amount of maximum indebtedness will actually be taken from the tax receipts, so there is a negative impact on those taxing jurisdictions during that time frame and they still will receive their share of revenue sharing but they also will be impacted by the total tax receipts being divided to the agency. Ms. Howard said the other impact they were asked to look at, because you are a standard rate urban renewal plan, and there are only a few of these in the state of Oregon, you not only get tax receipts from real property but you gain the tax receipts in urban renewal from local option levies and from bond levies. Ms. Howard explained on the bond levies, because they’re outstanding bonds and the debt service on the bond has to be paid, that impact is not on the issuers of bonds, ie Washington County or TVFR, that impact is on the actual property owner through their property taxes. Ms. Howard stated that analysis of impact on the individual tax payer is in your packet and for the time period of 2014-2018 there is a reduction in their property tax bill and because of the revenue sharing between 2019-2021 it would be an increase of net \$85.34 for a \$200,000 house over the life of the plan.

Ms. Howard explained that the substantial amendment will lengthen the time period of the Urban Renewal Plan by an estimated three years and reminded Council that the financial projections are all best estimates based upon tax assessor’s information. Ms. Howard stated that most urban

renewal areas are a minimum of twenty years and your plan was adopted in 2000 and said many plans go 20-30 years or sometimes longer and pointed out that even with the amendment, Sherwood's Urban Renewal Plan would only be in effect for twenty one years which is conservative and well within what might be expected by taxing jurisdictions for urban renewal.

Mayor Mays thanked Tom Nelson and Ms. Howard and said when the error was communicated three weeks ago, he was disappointed that the two payments were not in the figures and was not clearly reviewed by the Finance Director. Mayor Mays asked City Manager Pro Tem Tom Pessemier going forward what would be done to ensure the reports are provided to both SURPAC and the Urban Renewal Board.

Tom Pessemier, City Manager Pro Tem, answered that the Finance Department will take over the maximum indebtedness calculations from here forward and will be working with the project team and proposed that three reports be created. One report will do a cumulative tally of all of the expenditures to maximum indebtedness, including everything done in the previous month; the second report will take all the maximum indebtedness that we've spent on any projects and once a project is closed out we'll insert the exact figure of what we've spent on that project and it will also put the projected maximum allocations for any current project. Tom explained when we start a project we do an analysis to see what it's going to cost to design the project, cost to construct the project, cost for construction administration, contingency, legal and any fees, this allows us to have a very good estimate for the project and once the project kicks-off we will put that total amount into that report so we can see at the end of the project where we expect to be or how much money we actually allocated on the indebtedness, we will use this report to calculate how much maximum indebtedness is left. The third report would show how much maximum indebtedness is left, based on previous reports, to show a list of possible projects to be reviewed by SURPAC and the Urban Renewal Board.

Mayor Mays opened the public hearing to receive testimony.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood came forward and stated you've violated your own notice provisions and said he would be placing these on file. Mr. Claus stated he did not know what the Council was doing in borrowing \$10 million and giving away \$20 million and at a minimum if this IRS document is accurate and in addition to that you are going to extensive states to restrain trade. Mr. Claus commented regarding Councilor Langer and zoning, Opus and their property. Mr. Claus said this is a matter of record as it's filed with the Clerk. Mr. Claus commented regarding suing for restraint of trade and having to make a number of administrative steps and gave examples of Councilor Langer being on the Urban Renewal Committee and sending this to Standards and Practice as he should not be there. Mr. Claus said there is nothing Mr. Langer can do without having a conflict of interest as everywhere he turns he's reaching a relative or himself. Mr. Claus stated the real issue is not with you and what you are doing with Urban Renewal if you weren't restraining trade, you've ruined the ridge, you've ruined the people that bought that property, you've shut down every single person. Mr. Claus stated Mayor Mays and Patrick Allen were directly involved with filing about Opus and closing him down. Mr. Claus stated staff cannot operate without urban renewal money and they also have a conflict of interest. Mr. Claus provided the City Recorder with documents and requested they be entered into the record (See record, Exhibit D).

Neil Shannon, 23997 SW Redfern Drive, Sherwood stated that he believes the major amendment does not need to pass, stating that a more honest form of funding should be found. Mr. Shannon

stated that twelve years ago a \$10 million dream is now \$35 million reality now adding another \$12 million on top of that. Mr. Shannon commented that the Urban Renewal area has been renewed and it was time to proceed honestly.

Eugene Stewart, 22595 SW Pine Street, Sherwood came forward and referenced the audit reports for Urban Renewal that are created by staff and approved by Council and stated that the Urban Renewal District started with \$0 and to June 30, 2012 is expected to have collected \$38,307,108 and to have spent \$40,494,508. Mr. Stewart stated that part of the Urban Renewal funding, in the amount of \$17,110,708, was paid for through the general fund and never recorded on the Urban Renewal accounts and cited other amounts spent for urban renewal including \$3 million for the water pipeline. Mr. Stewart stated that he was on the original committee which had more citizen input and requested the Council reject the ordinance. Mr. Stewart provided the City Recorder with a document (see record, Exhibit E).

Lee Weislogel, 22566 SW Washington Street, Sherwood stated that he was part of the Sherwood Main Street program which is involved in implementing the National and Statewide Main Street Program that Council is familiar with and has supported by resolution. Mr. Weislogel stated that the challenge is to rejuvenate Old Town and build on its history. Mr. Weislogel commented that the completion of Railroad Street, Washington Street, and alleyways, that are on deck for Urban Renewal work, are important to complete the upgrade of Old Town. Mr. Weislogel requested Council approval on behalf of the Sherwood Main Street Program.

Kevin Bates, 22461 SW Pine Street, Sherwood stated that he is owner of Symposium Coffee, a business with eight new employees because of Urban Renewal. Mr. Bates stated he supported the extension of the Urban Renewal fund because of the economic development that will be created and commented that putting an end to urban renewal funding would be devastating to the current plan in regards to Main Street and other projects like the Cannery Project. Mr. Bates asked Council to approve the amendment to the Plan.

Mark Christie, 23395 SW Starlight Drive, Sherwood commented that as a member of the Sherwood School Board he wanted to thank Council on an Urban Renewal standpoint for the \$380,000 that was invested in the High School Football Field, stating it was an unbelievable partnership and that as a team, the City and the School District have looked for ways to maximize taxpayer dollars that are unique and a model for other cities and school districts to follow. Mr. Christie stated that there may be more partnering with the City in regards to streets and that transportation and safety between schools is extremely important to the School District.

Nancy Bruton, 22566 SW Washington Street, #101, Sherwood stated that she was the Executive Director to the Sherwood Chamber of Commerce and that the Chamber believes that investment in strong business communities supports the community as a whole. Ms. Bruton stated that the Chamber testifies in favor of the expanded Urban Renewal funding to finish the proposed and ongoing infrastructure improvements including fixing the historical Old Town streets, completing the Community Center, and fixing Oregon Street. Ms. Bruton noted that the URA is an economic engine that can lay the foundation for building a strong tax base and create jobs. Ms. Bruton stated that Urban Renewal is a public investment that leverages private investment which creates a positive quantifiable return for the community as a whole. Ms. Bruton asked Council to consider the perspective of the business community when making their decision and thanked the community for their input.

Jim Haynes, 22300 SW Schmeltzer Road, Sherwood and current member of the Chamber Board stated that he has served on several of Sherwood's committees for decades, but comes before Council as an average citizen. Mr. Haynes stated that the urban renewal efforts have been very positive and Sherwood is on the right track and Council should not derail the great things that the Urban Renewal authority has done. Mr. Haynes suggested that Council not look at funding as an expense but an investment in Sherwood's future. Mr. Haynes stated that he would like to have a great place to visit, great people to do business with, and great businesses to enjoy and Sherwood is giving that to its residents and visitors more and more. Mr. Haynes encouraged Council to support the extension.

Allen Bower, 16066 SW 1st Street, Sherwood from Clancy's Restaurant and Pub stated that as a business owner of twenty four years he supports the extension of the URA and stated that the improvements to Old Town are a positive step, more unified and directed in comparison to the prior 20 years and believes this is a move in the right direction, stating that to pull the plug on it would be a shame at this point and time. Mr. Bower commented that he is also involved with the Sherwood Main Street Program and sits on their Board he feels that as a citizen or business owner in Sherwood it is important for all to be involved and was happy to see everybody here this evening.

With no other testimony received, Mayor Mays closed the public hearing and asked for questions from Council.

Councilor Robyn Folsom thanked the citizens for their comments, stating that their input is really important for her to hear and she appreciated them taking the time to come.

Ms. Folsom asked Tom Nelson regarding a previous Council resolution to move forward with the Community Center project. Ms. Folsom stated that Council was informed that there was enough money to complete the Community Center in the existing maximum indebtedness and inquired if that was accurate and asked for an explanation.

Tom Nelson stated it was accurate at that time and a report from Tashman Consulting on maximum indebtedness indicated where we were, but there were expenses that had not been accounted for from the Plaza construction and these figures were not included in the numbers provided. Ms. Folsom stated that it was really important for citizens to realize that decisions were made based on the numbers presented to Council, including buying additional property in November, when Council again asked if there was enough money in Urban Renewal and staff confirmed yes there was enough money.

Tom answered that we do have the money to do those projects but not enough money to complete the Community Center to the level in maximum indebtedness. Tom stated that we have plenty of revenue and plenty of budget authority, but we don't have the room in the maximum indebtedness calculation and the parallel track that is not contained in the financial report but must be calculated by hand every time.

Ms. Folsom inquired about the reports suggested by Tom Pessemier. Mr. Pessemier confirmed that the reports would track funds to prevent this from happening again. Ms. Folsom asked what figure was given to the URA Board a month ago and what was the actual number. Tom Nelson answered that the Board was given \$3.4 million a month ago and the actual amount is \$2.1 million. Ms. Folsom stated that numbers need to be trustworthy and expressed her disappointment that the numbers were incorrect.

Ms. Folsom stated that she believes that the Urban Renewal investments have helped our citizens. Ms. Folsom explained that the Urban Renewal District will not be dissolved if the ordinance does not pass and asked for clarification that the proposed increase is not the \$12 million listed in the projects so all of those projects will not be done.

Tom Nelson verified that the increase is \$9.7 million and that all of the projects could be done if property was sold in order to do the projects.

Ms. Folsom stated that she believes that the increase in maximum indebtedness should only include those things that we have promised to our citizens which included the streets and said we have to finish the streets and not leave the patch work we have as this was a promise that was made when we spent \$8.2 million. Ms. Folsom stated she believes we have to finish the Community Center to make it a viable product for the community and not just a shell. Ms. Folsom said testimony was received that mentioned alley improvements and some other things and she came up with a figure of about \$6.3 million and she would be willing to put out there what she thinks was promised. Ms. Folsom stated she is not supportive of passing the ordinance without specific projects tied to them and is not comfortable having a blank check out there. Ms. Folsom commented regarding being responsible to the citizen and having a specific list that doesn't change with political winds or political will.

Councilor Linda Henderson expressed her frustration with the incorrect figures and asked regarding the property on Railroad as she doesn't see it on the list. Tom Nelson replied it's in the Community Center figure, the remaining \$2.1 million.

Councilor Henderson asked to have the project list placed on the screen (see Ordinance 2012-005, Exhibit C, Pg 17). Ms. Henderson stated that currently as it stands, we could not complete the Community Center without passage of the maximum indebtedness because of our other obligations and without selling property. Tom Nelson confirmed this was correct. Ms. Henderson stated the Council held a work session this evening prior to this meeting and the Council received an update from the construction manager and staff that there were cost over-runs in the Community Center that they were working on to bring down but we are already behind schedule on the project. Ms. Henderson stated she believes the project is crucial to the Cannery development and getting it completed as soon as possible and at a level we feel is meaningful. Ms. Henderson stated she feels like she is backed into a corner where she has to make a decision to incur, to extend the length of the District for a longer period of time because we can't finish a project we've been working on for three years. Ms. Henderson referred to the project list and said she understands it's just an estimate and expressed frustration that the list can be changed and projects can change and stated she has great distress over this as there's no accountability.

Ms. Henderson expressed concerns that the list of projects generated by SURPAC, can be changed and items not on the list can rise to the top and a future Council can spend millions of dollars on a project that is currently not on the list. Ms. Henderson stated that, even with the increase, after the community center is completed only \$7.8 million will remain and something on the list will have to go or not get done without selling property. Ms. Henderson stated that no property has been sold since she has been on Council.

Tom Nelson stated we have a contract with Capstone Partners to purchase property by 2017.

Mayor Mays commented that the City could sell additional property, but that in this economy it was best to hold onto it.

Ms. Henderson stated that we have generated a list and have not prioritized it and her concern with approving this is if she doesn't approve it we don't finish the Community Center and if I do approve it, there's no accountability, no Council member is tied to spending funds on any of these projects. Ms. Henderson stated she would like to see in the legislation, if we were to dramatically change the project list, there would be some accountability, with either having to come back to SURPAC and regenerate a list to come back to the Council and have a public hearing to receive public comment on whether or not citizens agree with the direction of the Agency. Ms. Henderson commented regarding the current project list and not having a public hearing to vet the listed projects and have the opportunity to understand the projects and why they are important.

Tom Nelson commented that the ordinance just gives the URA the authority to spend an additional \$9.7 million in the future and would not have to be for any of these projects, but a future Urban Renewal Agency Board would prioritize the projects and said the list can change at the Council's direction based on input from SURPAC.

Mayor Mays stated like any law, and an ordinance is a law, the City Council has the authority, as long as it's not violating a state or federal law, they have the authority to change the law.

Ms. Henderson stated that none of the items on the current list were on the original list when the District was enacted on and that most of the projects have come from Council changes, in her opinion. Ms. Henderson stated that her concern is for accountability to stay with a plan that is being voted on.

Tom stated that the original plan that was enacted in 2000 changed because of direction from Council because opportunities arose and priorities changed. Tom stated that the cannery development project was originally allocated only \$2.5 million but the opportunity to do more was taken and the accountability is the decision to make those changes.

Tom replied that the improvements on the top of the list are important and mentioned that the alley improvements, the downtown streetscape, and the community center are important. Tom stated that some of the other items on the list could be argued, commenting that the parking study has been wanted for a long time, and the façade grants may have been maxed out and maybe we don't do those. Tom reminded Council that project costs are all estimates and said if Council doesn't give themselves the authority to spend the money in the future and these projects come in costing more, then you've put yourself in a box. Tom reminded the Council if they don't take the entire maximum indebtedness now there is only a one time opportunity.

Councilor Henderson thanked the citizens for their comments and made reference to the momentum to get projects completed.

Mayor Mays thanked everyone who gave testimony on the proposed ordinance and stated that Sherwood has a very successful, thriving Urban Renewal District that is the envy of many cities in Oregon. Mayor Mays commented regarding shutting down the Urban Renewal District in only 18-21 years not being seen in Oregon and is a very quick return and payback. Mayor Mays stated he disagreed with Councilor Henderson in that a Community Center theater was on the original list as well as downtown streets and streets in general, such as Washington Hill, stating that those projects are important and we haven't addressed them and believes we need to. Mayor Mays stated that the vast majority of what we've done with urban renewal has been in Old Town, which was at the heart of the plan, and our Old Town is getting more and more active and successful. Mayor Mays stated that it is a fairly large district and there is value in making improvements

beyond Old Town such as the hill on Washington Street, which is an atrocious road that has been ignored for a long time. Mayor Mays stated that it would be difficult to find funds any time soon for such a project but with the increase this could be done in the next 24-36 months.

Mayor Mays stated that the prospect of improving Oregon has a big price tag that the City is unable to get County money for and if development occurred, there would not be enough requirements on those developers to fix it to an appropriate standard. Mayor Mays stated that he believes there is a lot of value in that project as it not only improves the road for the community it improves the road for public safety. Mayor Mays stated that safe pedestrian and bike paths for that part of our community to get to school and Old Town does not exist and that the pedestrian and bike path element of the Oregon Street project also would count toward the local matching required for the \$5.2 million Cedar Creek Tonquin Trail Grant received through Metro from the federal government. Mayor Mays commented that Oregon Street is the last gateway into our community that is blighted and believes it is a significant project for consideration.

Mayor Mays stated from his perspective regardless of what's passed this evening, the list needs to go back to SURPAC to be prioritized and vetted, such as the Cedar Creek Trail line item on the list he believes it folds into the Oregon Street dollars but not adding to those dollars. Mayor Mays stated the opportunity for Sherwood is tremendous with this change and he was fully supportive.

Councilor Bill Butterfield stated that he too felt pushed into a corner with a couple of ways out and neither one of them a good choice. Councilor Butterfield stated that he agreed with the community that we need to continue on this path and take advantage of the dollars we have especially in these economic time and get the most out of the funds. Councilor Butterfield stated that he is in support of the amendment and agrees with the Mayor that the list needs to go back to SURPAC to reorganize.

Councilor Krisanna Clark stated that she was very conflicted with the vote for a lot of the reasons that have already been addressed. Ms. Clark stated that she does not like that she received bad numbers and made decisions on numbers that were inaccurate. Ms. Clark disclosed that she had ex parte discussions with Eugene Stewart regarding the auditing and the increase indebtedness and therefore has concerns. Ms. Clark stated that she feels that our community has been made promises in regards to the Community Center and the street improvements that would in turn support the business community and be instrumental in continuing the momentum and would not want to see this momentum stopped because of the accounting process. Ms. Clark stated she liked the ideas from Mr. Pessemier about receiving more reliable numbers and a better accounting process that the community and Council can rely on to make good decisions. Ms. Clark stated that she agreed that before we make any final decisions, if this is passed, on how projects rise to the top or fall to the bottom of the list that we hear public input so we can hear from our citizens about what they feel will be the best use of the money because it is their money. Ms. Clark expressed that she wanted to see Sherwood move forward in the right direction.

Councilor Matt Langer asked staff regarding URA owned property if it mattered when the property was sold, whether it was before or after the 2021 or 2018 deadline.

Tom Nelson answered that if the district folds the property would be deeded to the City and it could be sold at that time.

Ms. Howard added that the City can still have an Urban Renewal Agency after it stops taking tax increment revenue and could continue to do work off of program income or close down the agency. Program income comes from property sales.

Councilor Langer asked regarding being able to increase the maximum indebtedness only once and asked if Council extended tonight would there be another opportunity to extend or increase in 2021.

Ms. Howard answered that as she understood the statute there is one opportunity to increase maximum indebtedness by 20% without taxing jurisdiction approval and if Council decided at some point in the future to increase maximum indebtedness again two things happen; Council wouldn't be able to index that original \$35 million, and the 20% couldn't be exceeded without taxing jurisdictions approval. Ms. Howard stated that Council could not raise the maximum indebtedness again unless there is a change in the statute on how urban renewal works. Ms. Howard informed the Council that the statute is new and has not been tested on the "what if's" and that the intent was to allow for a one time opportunity to index a plan at 20% from the original plan.

Councilor Langer asked for further clarification that if the ordinance did not pass tonight if the increase in maximum indebtedness could be reconsidered before the district is extinguished in 2018.

Ms. Howard answered yes because Council will not have used its one time opportunity and further explained that the indexing could keep going and could actually increase next year from the \$9.7 million because it would index the \$35 million plus an additional year.

Councilor Langer asked why the timing was critical that the substantial amendment was done now.

Tom Nelson answered the City has used up its capacity to continue doing projects.

Councilor Langer repeated that the City has committed the funds it has accumulated in the past and if more projects are to be done, now is the time to make the increase, otherwise only the projects in process will be done. Tom confirmed. Mr. Langer asked regarding the original amount of \$35 million when the URA was formed and \$10 million attached to an original list of projects and asked Tom to clarify for the public what the original amount was as we have been criticized for \$10 million and wants the public to know the original amount of the district.

Tom answered the original plan has a maximum indebtedness of approximately \$35.7 million and that there was a list of projects with a lot of the projects done or are being worked on right now.

Councilor Langer stated he hears criticism over the fact that we had a list of commitments that we were going to build and should have built and then we deviated from that and changed and said often times government and legislation is too ridged and sets a course for doing something that isn't flexible enough to change with weather and climate and current economic picture. Mr. Langer stated he sees the ability to be flexible with any of our URA as a benefit. Mr. Langer stated he finds it interesting that he has been seated on Council for one year and a lot of the changes and deviations have been made by currently seated Councilors and said we need to keep in mind who's making the decisions.

Councilor Langer stated as a whole he believes it's clear that the URA has benefited our City based on the pictures shown in Mr. Nelson's presentation and said there are several other pictures and examples and there were several business owners present who are direct beneficiaries of the program who have generated jobs in a poor economy and this is a direct result of the dollars spent on this program. Mr. Langer stated that he believes the community needs to take a step back and realize how blessed of a community we are and a lot of this is attributed to the system in the URA program. Mr. Langer stated he is in support of extending the maximum indebtedness and understands the concerns for a commitment to a certain list and whether we complete the projects or not. Mr. Langer stated if we don't do it and keep Sherwood property taxes in Sherwood to build projects the money goes to other agencies, ie Metro, PCC and Washington County. Mr. Langer stated this is a very short timeframe in the history of Sherwood, 18 to 21 years, where we get to take a fraction of our property tax dollars and spend them on projects that are important to our community. Mr. Langer stated after this passes, unless there's a large act by Salem to do something else of this nature, it's over. Mr. Langer stated he is in support of spending his property tax bill in town as long as we can, reasonably and feasibly until it ends.

Council President Grant stated that he wanted to point out that the URA was a good idea at the start when it was adopted and believes everyone has been in favor all along up to this time and it has been incredibly successful. Mr. Grant commented that the discussion is about incrementing inflation for all the years gone by and he thinks it is a good idea now just as he did then. Mr. Grant stated that the URA has proved itself to be great for Old Town and jobs, has been positive for schools, and good for everyone and for the community. Mr. Grant stated that the projects are our responsibility that we are going to pay for some day and this mechanism for funding will complete the projects with the least impact on the City budget and no direct impact on property taxes. Mr. Grant stated that he believed this is what Council is expected to be doing by the citizens and he supports the amendment.

With no other Council comments received, the following motion was made.

MOTION: FROM MAYOR MAYS TO READ CAPTION AND ADOPT ORDINANCE 2012-005, SECONDED BY COUNCILOR MATT LANGER, ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays recessed the meeting at 8:40pm.

City Recorder's note: Council President Grant discontinued the conference call and exited the meeting at 8:40pm.

City Recorder's Note: Copies of Exhibit D to Ordinance 2012-005, Planning Commission record, Commission Draft minutes from January 24, 2012 meeting, were provided to Council members via email and copies were made available at the meeting.

Mayor Mays reconvened the meeting at 8:47 pm. and addressed the next item on the agenda.

B. Ordinance 2012-004 approving a Planned Unit Development (PUD) to be known as Denali Planned Unit Development including application of a Planned Unit Development Overlay on the Comprehensive Plan and Zone Map, and approving the seven-lot subdivision

The City Recorder read the public hearing statement which asked for disclosure of ex parte contact, bias or conflict of interest from the Council.

Mayor Mays disclosed that he had spoken with staff and watched part of the Planning Commission meeting on cable access and he intends to fully participate and has no bias.

Councilor Langer stated that he had attended a Planning Commission meeting for a different purpose and this happened to be one of the topics discussed and he did not speak with anybody and just listened to the meeting.

Councilor Henderson stated that she had attended the same Planning Commission meeting and briefly spoke with Commissioner Walker who recused herself because she lives adjacent to the property, but only spoke about the testimony she submitted.

Councilor Clark stated that she is the Planning Commission liaison and she also had an ex parte discussion with Ms. Walker about the PUD itself, but she feels no bias towards the discussion.

With no other Council declarations received, Mayor Mays addressed the Ordinance and asked staff for the staff report.

Michelle Miller, Associate Planner, presented a power point presentation regarding the PUD application (see record, Exhibit F) and pronounced that the City had received an application for an eight lot planned unit development residential subdivision called the Denali PUD located in southeast Sherwood, east of SW Murdock Road, and north of Sherwood View Estates. Ms. Miller stated that the lot is irregularly shaped and approximately 3 ¾ acres with areas of steep slopes and a vegetative corridor buffer to the east. Ms. Miller stated that the PUD will connect with the existing Sherwood View Estates with an extension of SW Denali Court and SW Ironwood Lane on the northeast corner. Ms. Miller explained that the site is part of the SE Sherwood Area which is a special area zoned Very Low Density Residential which allows for limited development due to the topography and sensitive natural resources in the area.

Ms. Miller explained that the applicant held several neighborhood meetings prior to submitting their application to get input on the proposal and staff reviewed the application and prepared a staff report for the Planning Commission recommending approval with conditions for the Planned Unit Development. Ms. Miller stated the Planning Commission held a hearing on December 13, 2011 took testimony, reconvened on January 11, 2012 to deliberate with their final recommendation of approval with conditions on January 24, 2012.

Ms. Miller explained the Council has before them Exhibit 1, which is the final Planning Commission recommendation, all the applicant materials, agency comments, and citizen comments attached as Exhibits 1-A thru 1-P. Michelle stated since the Planning Commission hearing last month Council has received additional citizen comments in the form of emails, which are included in the materials this evening. Michelle stated today staff received additional comments from Mike Pugh with the Department of Environmental Quality (see record, Exhibit G).

City Recorder's Note: Copies of this document were distributed to the Council members and made available at the meeting.

Ms. Miller stated that in the Very Low Density Residential zone the minimum lot size is at least 40,000 square feet with a density of one unit per acre. Michelle explained that in this zone only there is a special density allowance that provides for 2 units per acre if the applicant applies for a Planned Unit Development and a minimum lot size of 10,000 square feet is then granted. Michelle explained this proposal is designed with eight lots ranging in size from 10,000 square feet to

12,616 square feet and there are five tracts totaling a little over an acre that serve as open space, vegetated corridor buffer, and storm and sanitary sewer connections leaving approx. 2.38 acres of buildable area. Michelle stated the applicant proposes to extend SW Denali through the center of the site to SW Ironwood Lane a partially completed local street. Michelle stated the applicant will dedicate one foot of right-of-way on their portion of the street, install sidewalks, curbs and planter strips with street trees the length of SW Ironwood Lane, approximately 700 feet and make full street improvements to SW Denali Court. Michelle explained Tract D will serve as usable open space with a pathway circling nearly 16,000 square feet area and connecting to the sidewalk on SW Denali.

Michelle stated the Planning Commission found the proposal would meet the code requirements with the general conditions of approval and said three issues were reviewed and discussed in more detail at the hearing based on citizen comments and the applicant's proposal. Michelle stated these include evaluating the planned unit development in relation to the SE Sherwood Master Plan, the soil contamination on the site and the method of calculating density for the site.

Michelle stated the City received a grant in 2005 to help to facilitate future development of the 55 acre area known as the SE Sherwood Area. Development had been limited and piecemealed due to the typography and environmental constraints in the area. Michelle said because of these constraints it was difficult to get the necessary infrastructure in place in order to get the area to develop. Michelle stated the grant funding provided an opportunity for collaboration between the City, developers, neighbors and property owners in the SE Sherwood area to develop the Master Plan. Neighborhood meetings and workshops were held and the area was studied by transportation consultants, planning consultants and other urban service providers in order to develop a plan that would meet the needs of the existing community, preservation of natural resources and provide an opportunity for developing this constraint area. The result of which was a master planning effort adopted via resolution by the Planning Commission in 2006. Michelle explained the Planning Commission resolved that they would evaluate land use application in keeping with the principles adopted in the Master Plan concerning the layout, density and roadway connections.

Michelle showed the design of the SE Sherwood Master Plan with the Denali site highlighted in the map. Michelle explained the Denali PUD is similar in number of lots, gross density and roadway connections and general configuration as the Master Plan layout.

Michelle stated the contaminated soil on the site was another issue raised in the process, it came to light shortly after the Master Plan developed in early 2006, that this area and part of the Ken Foster Farm site, a place for discarding tannery waste from Frontier Leather Facility. Michelle explained hides were buried over the entire area during the 1960's and 1970's and later revealed to contain hexavalent chromium. DEQ entered the area into the environmental clean-up database in 2006 and began monitoring and cleanup of the site. Michelle stated the applicant was aware of the contaminated soils at the beginning of the process and has met with DEQ and has done some limited soil samples', also finding contaminates. The applicant is prepared to undertake significant expense to cleanup in order to develop the property with the community receiving the benefit of the cleaned up site and developed lots.

Michelle stated staff received this afternoon additional information from Mark Pugh with DEQ (see record, Exhibit G) on the new standards that will be in place when the applicant begins cleanup efforts. Michelle stated regardless of these standards the same conditions will apply that the

applicant will be required to comply with the DEQ requirements before construction on the site begins.

Michelle informed the Council Bruce Giles with DEQ was in the audience and was available to answer questions.

Michelle explained that staff evaluated the site in a manner that is generally followed for subdivisions using net buildable density definitions found in the code. Michelle stated unique to this zone is a special density allowance providing for up to 2 units per acre planned unit development. Using this formula it would allow for 4.6 or rounding up to 5 units. Additionally the site is considered environmentally constrained. An additional 20% special density transfer is available to bring 6 units to the site overall.

Michelle stated that the applicant proposed an eight lot PUD and staff recommended six lots based on a standard density calculation for PUDs with a special density transfer. Michelle stated that the Planning Commission weighed multiple factors in determining their recommendation and found that they would recommend 7 lots to best achieve the objective described for under the planned unit development section allowing for flexibility following standards in the development code.

Michelle stated the Commission felt strongly that they should follow the direction of the SE Sherwood Master Plan. By allowing additional lots for this development that meets the minimum lot size required and meets the gross density for the site, the site will be cleaned up and be a better use of the land. Michelle stated it can best encourage efficient use of the land and resources under these particular circumstances that will result in savings to the community, consumers and developers.

Michelle explained that the Planning Commission made specific findings for meeting the objectives and criteria for a Planned Unit Development as outlined in the Planning Commission recommendation to the City Council marked as Exhibit 1. The Planning Commission recommended that the Council approve the 7 lot residential subdivision with the conditions of approval as described in their recommendation.

Michelle stated the next steps in the process would be to hold a public hearing to consider the Planning Commission recommendation of approval with conditions, adopt, or specify any changes to the Ordinance and approve the PUD overlay to the site. Michelle stated if approved the applicant will prepare final development plan that will require further planning commission review and approval.

Michelle asked for questions from the Council.

Mayor Mays asked if staff suggested routes for development to the applicant other than a PUD.

Michelle answered that in this circumstance if they were not requesting a PUD the site is 3.71 acres so that would generally be a minimum lot size of 40,000 square feet, meaning roughly 2-3 lots maximum and stated that this is an alternative foreseeable with the specific zoning for very low density which allows for the special density of up to two units and then also with the special density transfer to allow for even more dense development in the area.

Mayor Mays stated that there were other tools or mechanisms that the applicant could have taken to get a higher density on the property like a zone change request or a plan text amendment.

Michelle answered that there could have been a zone change, but other zones have some very specific requirements that are really difficult to achieve as all the surrounding property is all zoned Very Low Density Residential (VLDR).

Councilor Folsom asked for further explanation on how seven lots was allowed explaining that she understood how six was allowed, based on the code, but not seven.

Michelle responded that the objectives within a Planned Unit Development allow for some flexibility of the development standards which the Planning Commission utilized along with allowing for an evaluation of some other components that would look at all community standards combined. Michelle stated that staff looks at objective standards and what would be traditionally used and that one of the reasons for using a Planned Unit Development is the flexibility it offers developers and the Planning Commission to achieve a product that is weighed and balanced with the community benefits that can be done on the site.

Ms. Folsom stated that in order to make the site economically feasible for the developer they need to have that many lots to sell. Michelle replied that it was a better question for the applicant, but the question did arise and it was getting quite tenuous with the expense of the contaminated soil, the steep slopes and the different environmental constraints on the site.

With no other Council questions of staff, Mayor Mays asked to hear from the applicant.

The applicant's representative, Kirsten Van Loo, a land use planner with Emerio Design, 6900 SW 105th Beaverton, came forward and stated in answering Councilor's Folsom' question, the reason the Planning Commission determined that seven lots were feasible was because of a Planning Commission resolution adopted in 2006 which specifically states that the gross density, which is the number of lots divided by the number of acres, is equal to 2.2 units per acre. Ms. Van Loo stated that the density on this site calculated at 2.2 units per acre would allow 8.2 units, however through the review of the design and the public hearing process the consensus was that seven lots was the appropriate size based on the amount of open space and based on dedication of right-of-way and the best design for the project.

Ms. Van Loo commented that staff has done a fabulous job for the last year and a half working on this project and stated that this piece of property is incredibly complex and challenging. Ms. Van Loo described the site as having Sherwood View Estates to the south, which was developed by JC Reeves as a PUD, and Ironwood Acres to the north, which was developed under VLDR standards where the hearings officer allowed a substandard street. Ms. Van Loo stated this is when the citizens of the SE Sherwood Master Plan area realized that they needed to take a harder look at these constraints and also when Pat Huske discovered the contamination. Ms. Van Loo stated there were environmental concerns on the site and the land is very hard Tonquin scab lands with only 8-12 inches of topsoil over basalt rock. Ms. Van Loo explained that it will be very difficult to install urban services because blasting will be necessary, in addition the land has slopes and some incredible views.

Ms. Van Loo commented on the rise and fall of development in Sherwood and stated that she thought that the Planning Commission adopted their resolution and until just recently there was no development. Ms. Van Loo stated that the property was owned by a financial institution and she

first met with staff eighteen months ago. Ms. Van Loo commented on working with Clean Water services because of the wetland to the east, to do soils analysis, and geotechnical analysis to determine the wetland buffer. Ms. Van Loo has worked with geotech engineers, environmental engineers and with DEQ to address the issues of contamination and how to mitigate and ameliorate the impacts of hexavalent chromium. Ms. Van Loo stated she has worked with City Engineer Bob Galati at length in order to connect Denali to Ironwood and he has preliminarily granted horizontal and vertical curve adjustment to the standards so the road can go in. Ms. Van Loo commented that all this work costs a lot of money it is very challenging and that a lot of land will be set aside for infrastructure and for the mitigation and amelioration. Ms. Van Loo stated that she believes the applicant has met the intent and purpose of the SE Sherwood Master Plan which was very extensive in its evaluation of the site and stated if you look at all of the concept plans for this particular piece of property there were eight lots considered in roughly the same area, but on evaluation and public testimony seven lots is the right number of lots. Ms. Van Loo stated they have worked with the neighbor to the west, who is a planning commission member who has some very strong concerns, and they will be working with the property owner to the north for improvements on Ironwood Lane.

Ms. Van Loo offered to answer Council's questions and stated she would reserve any further testimony about specific questions for after the public testimony.

Mayor Mays opened the public hearing to hear testimony.

Kurt Kristensen, 22520 SW Fair Oaks Court, Sherwood stated that he was involved in the conceptual development of the SE Sherwood Master Plan for the past six years and said he is glad to hear we are making a positive step in the right direction with the adoption of the PUD. Mr. Kristensen commented that the developer is willing and able to work with the neighbors and the SE Sherwood Master Plan to accomplish what were the original neighborhood concerns. Mr. Kristensen stated that there was very strong testimony from the residents of SE Sherwood View that Denali remain a cul-de-sac and not made a thru street and encouraged the Council to adhere to that testimony. Mr. Kristensen stated that the street could be a plaza with a gate for fire department access. Mr. Kristensen commented in regards to the new revisions of contamination data and stated he is very concerned because the testimony was incredibly passionate that the contaminates not be allowed to stay on the site, subsequent research and calculations has proven that it is impossible without the City creating a financial tax area to remove it. Mr. Kristensen encourage the Council to stipulate the contaminates, if they stay on the site it has to be encapsulated. Mr. Kristensen stated he believes the Council can make this work if they instruct staff to collaborate in the spirit they have done to date and said this will be a good start to the SE Sherwood Master Plan.

Gary DeBoer, 14166 SW Whitney Lane, Sherwood stated he agreed with Mr. Kristensen's recommendation on keeping Denali a cul-de-sac and commented on the steep slope of the lot and asked if anyone could relay the percentage of grade that the new road would incur. Mr. DeBoer stated his reasons were that in an emergency during heavy snows in the winter of 2008 the emergency responders could not get up to his street using McKinley due to snow and ice. Mr. DeBoer commented that if the emergency had been life threatening or a fire the results would have been worse. Mr. DeBoer clarified that he would like to know if the adjusted standards for the new street were more or less than McKinley and that if they were more the new residents might not have emergency services due to our inclement weather from time to time.

Jack Hoffbuhr, 14280 SW Whitney Lane, Sherwood stated he is a recent resident and thanked the Council for the Urban Renewal. Mr. Hoffbuhr said he was a professional engineer and a board certified environmental engineer and when he saw that the site was being considered for development he became interested. Mr. Hoffbuhr stated that he has also submitted written comments and that he opposes it from the standpoint that it is not a suitable site for a subdivision because the slope will make it difficult to prevent water quality contamination from entering the wetlands. (Note: Written comments are included in the Council meeting packet). Mr. Hoffbuhr commented that the reports showed lead on the site and that there is no safe level of lead established for children and that lead mobilizes easily in soil particularly during the construction process. Mr. Hoffbuhr concluded by stating that air and water quality would be difficult to maintain due to the steep slopes and stated that if Council does approve he feels the soil should be removed, that a cap system is not effective and sometimes fails.

Susan Hart, 14300 SW Whitney Lane, Sherwood stated that she agrees with Mr. Kristensen's comments and asked if the contaminated soil were to remain on the site what would it look like as she would like to make sure the site that has been designated can fit it all.

Patrick Huske, 23352 SW Murdock Rd, Sherwood informed Council that DEQ has been engaged for a very long time, and he has done extensive work on the contamination. Mr. Huske stated that he lives in the neighborhood and wanted to make sure decisions were based on the facts. Mr. Huske commented that he totally supported the PUD for a number of reasons; to get rid of the contamination, it adheres to the transportation plan, and in 2005 the neighborhood went through a yearlong rezoning process with the Planning Commission that approved eight lots for that neighborhood. Mr. Huske stated that the applicant came here tonight after a year and a half worth of work and is only asking for seven lots. Mr. Huske suggested that Council look at the City as a whole on how to get rid of properties with issues, that this property is just the first of forty acres that may have similar situations.

Mayor Mays asked to receive other public testimony, with none received he asked Bruce Giles from the Department of Environmental Quality to come forward.

Mr. Giles stated he was a manager for DEQs NW Region where he manages cleanup programs, emergency response and tank cleanups and has a lot of experience dealing with cleanups on residential property. Mr. Giles stated he has been working in Sherwood on the tannery site since 2002 and on the Ken Foster property since about 2004. Mr. Giles stated that DEQ and the EPA studied the site and in 2008 and DEQ concluded that there were not any substantial human health risks remaining at the site. Mr. Giles stated that DEQ primarily wanted to deal with the wetland which was heavily impacted from the run off from these properties and that as the gateway to the wildlife refuge it was the one viable ecological habitat that they wanted restored. Mr. Giles stated that there are similar wetland problems at the tannery that remain to be repaired and DEQ has been working on a settlement with the former owner of the Frontier Leather facility which closed down in 1988 and transferred to another company. Mr. Giles stated that the settlement will bring some funds to the site to clean up the wetlands and will also commit resources in that settlement to assist property owners to safely manage the conditions of their properties for development into a more productive use.

Mayor Mays asked Mr. Giles regarding contaminated sites and what roll does DEQ take and what is the City's roll in dealing with the contamination when it approves a site for development.

Mr. Giles answered that the City sets the blueprint as far as the code as to what can be built on that property, within that, DEQ can work with the City to design and make sure that those soils are managed in a manner that prevents exposure, because risk occurs through exposure. Mr. Giles stated often site would be capped with soil as a usual solution and other solutions have been brought forth, full removal of all the contaminated soil is cost prohibited and DEQ estimates this cost being close to \$10 million. Mr. Giles stated the soil will have to be managed on site for the most part and believes they have the tools to work with the City to make sure the site is developed properly and controls are put in place so that residents can live there safely.

Mayor Mays asked if the DEQ offers solutions on how to fix the problem and if the City or the property owner makes that determination on which method to use.

Mr. Giles answered that in the case of Ironwood Homes, Patrick Huske entered into an agreement with the DEQ and DEQ provided the oversight of the cleanup of four lots, clarifying that Mr. Huske was largely in charge and DEQ provided the framework for Mr. Huske's decisions. Mr. Giles stated that the DEQ tries to lay out options for the party and facilitate their decision making by explaining the limitations with each decision.

Mayor Mays stated that while a City may give a land use approval it is between the property owner and DEQ to decide the method of management. Mr. Giles confirmed. Mayor Mays stated he wanted confirmation from DEQ that the City could not set the constraints.

Mr. Giles stated that this matter came up at the Planning Commission meeting and he had indicated that the City has the options of writing the code and DEQ is obligated to comply with that code. Mr. Giles stated that if the City adopted code that prohibited development on contaminated land then that would be a constraint the DEQ would have to follow, but he was unaware of such a code anywhere in Oregon.

Mayor Mays asked to receive other public testimony before closing the public hearing, with none received he invited the applicant to provide rebuttal.

Kirsten Van Loo, the applicant's representative came forward and stated she would like to answer some of the questions that were asked. Ms. Van Loo indicated that she thought staff would also address some of the questions asked.

Ms. Van Loo answered that the vertical slope of the proposed new road, the extension of Denali, the maximum allowed by City code and County code is 12%. Ms. Van Loo stated that Tualatin Valley Fire and Rescue has a different code that stated if the road is over a 10% slope it requires homes to have residential sprinkler systems.

Ms. Van Loo addressed questions about site contamination by stating that the site has a grading plan showing how the applicant proposes to re-contour the site and stated that the plan has a worst case scenario that up to 1 foot of soil from the entire property has to be removed from the entire property being developed and redistributed and capped. Ms. Van Loo stated that staff has been very clear that no contaminated soil can be stored or maintained under the public right-of-way because of the possibility of having to excavate the road for utility repairs.

Ms. Van Loo referred to the map attached to the DEQ letter received by Council from Michelle Miller and stated that there are four red dots indicating where they have detected any chromium and three of the four dots are in vegetative corridor required by Clean Water Services that we can't touch, so the majority of the chromium on the site is on area that the developer can't alter. Ms. Van Loo stated that the hope is that very little of the site contains contamination at a level where they have to do very nominal mitigation.

Ms. Van Loo stated that she understands the concerns about the street connection but there is no latitude given by staff, the Planning Commission or Council to ask or mandate non-through connections. Ms. Van Loo stated that the City transportation plan clearly identifies the connection of Sherwood View Estates with Ironwood Lane as does the state Transportation Planning Rule.

Ms. Van Loo stated that the rest of the testimony was about contamination and stated that Mr. Giles and Mr. Pugh from DEQ know the site far better than anyone and read a portion of the letter submitted as Exhibit G; "The risk-based concentration for residential exposure is calculated under the assumption that exposure through incidental ingestion and direct contact with soil would occur daily, 350 days a year, for 30 years".

Ms. Van Loo stated that the soil will be graded and tested for Chromium, the contaminated soil will be removed, the streets and sidewalks will be paved, and the yards will be landscaped with turf so all of DEQ standards will be met and all of the underlying soil will be covered with something else so there is no contact with the soil and little to no concern of exposure.

Ms. Van Loo stated that the owner of the property, a financial institution, has stayed with the process as this applicant has and indicated that the Planning Commission asked some tough questions and she believes that their recommendation was honest and straight forward and takes into consideration all of the work done with the SE Sherwood Master Plan. Ms. Van Loo stated she hopes Council agrees with the Planning Commission and adopts the ordinance for seven lots so that within a year there is a subdivision with lots available.

Mayor Mays asked for questions from Council.

Councilor Butterfield asked if this was a JC Reeves development. Ms. Van Loo answered no, that JC Reeves was no longer involved in this property nor has financial interest in the property.

Councilor Langer asked what explanation the City had given as to why the 2006 PUD density calculation was no longer any good. Ms. Van Loo asked for clarification. Mr. Langer clarified and said that Ms. Van Loo previously stated that in 2006 there was a density calculation that would yield 8.2 lots.

Ms. Van Loo stated that the resolution adopted by the Planning Commission very clearly delineated that the gross density should be 2.2 units per acre of gross density which would yield on this particular site a maximum of 8.4 lots. Ms. Van Loo asked Mr. Langer if he was asking why the applicant backed down from 8 lots to 7. Mr. Langer stated this is what he meant in his original question and asked Ms. Van Loo what explanation the City gave as to why that calculation was no longer useful, even though it was in the resolution.

Ms. Van Loo stated she did not believe that it was no longer useful, she believes that through the Planning Commission and public hearing process the seven lots seemed to be the best compromise to reach consensus.

Councilor Folsom asked for an explanation on how contaminated soil is capped.

Ms. Van Loo answered that they anticipate testing the soil very well within financial reason, determining the levels and meeting DEQ requirements, removing as much as a foot, re-contouring that dirt and clean dirt is then placed on top. Ms. Van Loo stated that it is very similar, but opposite, to digging a pond where the hole is lined with an impervious surface like clay or a rubber surface, in this case instead of digging a hole a lump on the ground is formed, capped with clean dirt and with plants and turf over it so there is no possibility for the average person to ever come in contact with the contaminated soil.

Ms. Folsom asked what happens to the water when it runs down through the plants and soil into the wetlands.

Ms. Van Loo stated that for the last forty years the rain has washed the contaminants into the wetland and by capping it the water doesn't run through the deep soil and travel horizontally to the wetlands. Ms. Van Loo added that between this project and the wetland there is a sewer line that was blasted into solid rock and that acts like a French drain that catches all the water before it gets to the wetlands and carries it to the water quality facility at Sherwood View Estates.

Mayor Mays closed the public hearing.

Mayor Mays commented that it was great to hear from the community and to have a development application, but from his perspective the challenge and a learning moment for the Planning Commission is when you get an application and you have the code, you need to follow the code. Mayor Mays stated in the record and a reference made by the applicant, there's a resolution regarding a SE Master Plan Study which was never adopted by the City, therefore it needs to be set aside and ignored, it's not code or law or what guides projects at this point. Mayor Mays stated the reason it did not advance, for a variety of reasons, doesn't matter at this point, when you apply you have to follow the rules that are in place, if there's flexibility in the rules when you apply then you get to use that flexibility.

Mayor Mays commented regarding concerns raised of contamination and said hopefully there's not much to be dealt with and said there are ways to address this. He commented regarding connectivity and said this is state law and City law and commented regarding the testimony regarding the slope and with the amount of slope, and said if approved, people will not be taking this route. Mayor Mays commented regarding the TVFR residential sprinkler requirements due to the slope.

Mayor Mays stated from his perspective, it comes down to the density calculation and what the code says. Mayor Mays asked for comments from City Attorney Paul Elsner regarding the Planning Commissions findings on the calculation.

Mr. Elsner stated that the calculation is not supported by City code and doesn't know how they reached that decision or were trying to and said the Planning Commission could not get to seven

lots using the criteria they were supposed to use. Mr. Elsner stated that the City Attorney who worked with staff, Chris Crean, took a look at this and tried to provide some ambiguity in the code requirements that could be interpreted to grant a level of deference. Mr. Elsner stated that it would be difficult to get that deference granted and upheld if this decision were ever challenged at the Land Use Board of Appeals (LUBA).

Mayor Mays stated with the code, it states six lots, not seven and not eight.

Michelle Miller answered that based on the definition section and from a strict construction perspective for the development code the area comes to six lots. Michelle stated the Planning Commission wanted to follow the intention of the SE Sherwood Master Plan and used the objectives of the Planned Unit Development which allows flexibility, but from a strict construction perspective for the actual development code, it's not there. Michelle stated, whether you find it in the interpretation in the PUD, that's the flexibility that's granted through the PUD process and this is the manner in which the recommendation moved forward to the Council.

Mayor Mays stated that with land use you have rules that provide certainty that you apply and move in that direction. Mayor Mays commented regarding having an unusual interpretation and said he appreciates the work done by the Planning Commission and said they have been spending much of the past few years making our code better for the community from a public process standpoint, which means they can be creative and think about scenarios and options, but when you get an application, you're no longer creating code, you're enforcing the code.

Mayor Mays asked staff, from staff perspective and legal counsel perspective, are the other conditions of the recommended approval sound, if we were to change the condition of the number of lots from seven to six.

Michelle responded yes, she believes it addresses the other conditions of approval and will address the issues and recommends approval based on the six lots, which was the initial recommendation from staff.

Mayor Mays asked for any addition questions from Council.

Ms. Folsom asked for clarification on how we got from six lots to seven lots and staff said it can be done in a PUD and said now she has heard it can't be done because of our code.

Michelle answered that the Planning Commission through the PUD process, they made a finding that through a planned unit development, they had flexibility to recommend to Council a seven lot subdivision.

Mr. Elsner stated that the Commission tried to elevate one criteria, which is the first criteria to "encourage efficient use of land and resources that can result in savings to community and consumers and developers", which is 16.4.400.10, it's the purpose of the PUD portion of the development code. What they did is they said, what we will do is, that has some primacy, or it should have, they have accorded it some primacy, and it should play over the net language on the net developable land language and elevate that above other standards so you are therefore going to a gross development standard as opposed to a net development standard. Mr. Elsner said based on that, he assumes there thought, that the Master Plan had some weight and should carry

some weight even though it had not been adopted by the Council, they felt that they could bring this forward to the Council. Mr. Elsner stated he believes what the Council is hearing from staff and from legal counsel is, if you rely on, in terms of the gross versus net issue, there is no way to avoid that conflict, that you have historically applied net standards as opposed to a gross standard. Mr. Elsner stated if the Council wanted to try and do that you would then have to find some leeway in one of the other criteria's that you would apply when you're looking at a PUD. Mr. Elsner said his office looked at the criteria, and the only one they felt offered some flexibility was the first one. Mr. Elsner said, however what Council heard from him earlier was it's a tough road to hoe if this decision to move ahead with seven was advanced by Council and someone would thereafter challenge it, we believe it might be difficult to sustain that decision and not have it ultimately get reversed or remanded from LUBA. Mr. Elsner stated it wasn't as if the Planning Commission had a valiant effort and goal, the fact is regardless of the effort or the goal, the standards drive the direction away from the decision they made.

Councilor Langer said he understands six lots and seven lots sounds like a compromise between six and eight and asked why the resolution that states 2.2 lots per acre was no good.

Mr. Elsner answered that the resolution was not passed by Council, but it was a recommendation from the Planning Commission that for some reason never made it to Council and was never acted upon by the Council.

Ms. Miller stated that the Planning Commission acknowledged that through the master planning process that it would require some zoning changes in order to achieve that level of density.

Mayor Mays stated that he has had conversations in the past year about the SE Sherwood Master Plan and with Mr. Kristensen and its potential value of revisiting it, but the reality is that the law is the law when you apply.

Councilor Henderson referenced page 103 of the Council packet and the original land use application which came in on 2-9-11, where they clearly asked for an 8 lot subdivision and asked why have 12 months gone by where we have pursued, trying to apply that rule that Mr. Elsner explained. Ms. Henderson commented that a great deal of time has been spent by staff, legal, consultant and it has come down to one issue and she would feel very frustrated if it were her in those positions. Ms. Henderson commented regarding understanding the planning commission, understanding the need to have more development, pursuing a subdivision for months that was not applicable under our code and our code hasn't changed in the last 12 months with respect to density calculations.

Michelle Miller explained that the application came in February 2011 after a pre-application conference where staff reviewed a preliminary plan showing 7 lots and it was said at that time that they might be able and looking at the layout it would be difficult to show you could achieve that density. Michelle stated we don't have those numbers at hand in the review process to know what is going to be done for a buildable lot, how much area will be right of way, those numbers are not part of the calculations until you conduct a thorough review. Michelle explained during the course between February and the summer the applicant was required to get a service provider letter from Clean Water Services and this took time and evaluation. Michelle explained that the applicant had to go onto adjacent property and do an evaluation and find out where the vegetation corridor

buffer was going to be and this took time and took away from the density calculation that we had in the preliminary evaluation of the site during the pre-application process.

Michelle commented that often time developers will look to stretch what can be achieved on a site and once Planning had all of the information available staff recommended six lots to the Planning Commission. Michelle noted that she had evaluated the SE Sherwood Master Plan, but knew it was more of an intention of the Planning Commission to follow those guidelines. Michelle stated that she did not know how strongly the Planning Commission would feel about the higher density and the work they did with the SE Sherwood Master Plan.

Councilor Butterfield asked if staff was recommending approval of the development.

Michelle answered that she was recommending approval, and said it's the Planning Commission's recommendation that she is presenting, she provided a staff report recommending that the Planning Commission would recommend approval to the Council.

Mayor Mays asked staff and legal counsel if we need to remove the additional findings language that was added by the Planning Commission, the interpretation to get from seven to six lots, and asked for a suggestion on a motion he can make to modify the recommendation to make it an enforceable PUD. Mayor Mays asked staff if this was the only section amended by the Planning Commission.

Michelle explained that there were several areas where she added a discussion of where they were making the findings and that could continue to be in the document with a change to the introduction along with the condition of approval.

Tom Pessemier, City Manager Pro Tem added that the language in blue was added after the Planning Commission's recommendation after consultation with legal counsel to approve the findings.

Planning Manager Julia Hajduk came forward and said she did not know exactly where we were at on the 120 day.

Mayor Mays stated that Council has three choices; approval, denial, or modification, stating that if we can't change it tonight we can ask for an extension to get it changed and or come back.

Discussion occurred regarding an extension and it being extended twice already and the deadline being March 9, 2012. City Attorney Elsner said it wasn't doable to extend.

Julia Hajduk said that staff could look at the materials and see what could be modified tonight and said her recommendation, if the 120 day wasn't an issue, would be for Council to give staff a general direction and come back with revisions to the ordinance and findings based on where the Council wants to go. Julia stated the Council doesn't have the time to extend and needs to make a decision this evening and said she doesn't feel Council wants to approve the Planning Commission recommendation.

Mayor Mays stated he would prefer to approve it rather than deny it and asked staff to ask the applicant if they would be willing to extend the 120 day rule.

Planning Director Julia Hajduk stated the next Council meeting is March 6, 2012 and we would need an appropriate appeal period after that. It was asked if re-noticing was needed and Julia responded it was not needed if continuing to a date certain.

Julia spoke with the applicant, Kirsten Van Loo who was in the audience and the applicant agreed to extend.

Julia stated the 120 day would be extended to March 20 and the hearing would be continued to March 6, 2012.

Mayor Mays asked City Attorney Elsner if the City had an adequate authorization for the 120 day rule extension.

City Attorney Elsner stated he would like to have the approval to extend in writing and requested it be provided to staff by tomorrow.

Ms. Van Loo asked why the 2 week extension. Mr. Elsner said so staff can come back as the Council is in a difficult position, they would like to be able and give this consideration but in light of the fact that, the Council doesn't believe based on our advice, that there is a legitimate basis to alter the density calculation from net to gross and we will have to make changes in the findings. Mr. Elsner said the Council will need to do this unless.... rather than deny and they would rather not deny.

Mr. Elsner confirmed with Ms. Van Loo that the written approval would be provided to staff in writing on February 22 and informed the Council he was satisfied with this decision.

With no other discussion, the following motion was received.

MOTION: FROM MAYOR MAYS TO CONTINUE ORDINANCE 2012-004 UNTIL THE MARCH 6, 2012 CITY COUNCIL MEETING, THE APPLICANT HAS AGREED TO EXTEND THE 120 DAY DEADLINE BY 14 DAYS AND COUNCIL WILL DIRECT STAFF TO BRING BACK AN UPDATED ORDINANCE AND SET OF FINDINGS TO SUPPORT SIX LOTS FOR THIS PROJECT, SECONDED BY COUNCILOR LINDA HENDERSON. ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR. (COUNCIL PRESIDENT GRANT WAS ABSENT).

Prior to Mayor Mays addressing the next agenda item, he stated per Council Rules, Council would consider the current time as it was getting late. Mayor Mays asked City Manager Pro Tem Tom Pessemier if Ordinance 2012-003 can be continued to March 6th. Tom replied it can be continued and staff preferred to continue to March 20th.

A. Ordinance 2012-003 amending multiple sections of the Zoning and Community Development Code including Divisions I, V and VIII

Due to the duration of the meeting and the Urban Renewal meeting still to follow, Council concluded to continue this business item to the March 20, 2012 meeting.

MOTION: FROM MAYOR MAYS TO CONTINUE ORDINANCE 2012-003 TO THE MARCH 20, 2012 CITY COUNCIL MEETING, SECONDED BY COUNCILOR KRISANNA CLARK. ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR. (COUNCIL PRESIDENT GRANT WAS ABSENT).

Mayor Mays addressed the next agenda item.

10. CITY MANAGER REPORT

City Manager Pro Tem Tom Pessemier had no report.

11. COUNCIL ANNOUNCEMENTS

No announcements were received.

12. ADJOURN

Councilor Folsom suggested to staff that in the future we not schedule 3 public hearings in one night.

Mayor Mays adjourned the Council meeting at 10:10 pm and convened to a URA Board of Directors meeting.

Submitted by:

Sylvia Murphy, CMC, City Recorder

Keith S. Mays, Mayor

TO: Sherwood City Council
FROM: Michelle Miller, AICP Associate Planner
Through: Julia Hajduk, Planning Manager
Subject: Denali Planned Unit Development (PUD 11-01, SUB 11-01)

EXECUTIVE SUMMARY

Summary: The applicant has requested approval for a planned unit development and subdivision for an eight-lot subdivision.

Previous Council Action: The Council held a public hearing on February 21, 2012 and directed staff to prepare an Ordinance and revised findings and conditions based on the testimony, discussion and information received at that hearing.

Background/Problem Discussion: The applicant, Emerio Design, requested Planned Unit Development and subdivision approval for an eight-lot subdivision. The subdivision would dedicate right of way and five tracts for areas of open space area, vegetated corridor, and storm and sanitary sewer easements. The applicant's submittal, written comments received by staff on the proposal were included in the February 21st Council packet.

At the February 21, 2012 meeting, Council deliberated on the Planning Commission recommendation, applicant testimony, and public testimony and provided direction to staff to prepare an Ordinance for Council consideration with revised findings to reflect the changes from the Planning Commission recommendation. The Planning Commission recommended to Council for approval of a seven-lot subdivision based on the intention of the SE Sherwood Master Plan and the flexibility allowed through a Planned Unit Development. The Council determined that the Code did not allow for flexibility when determining the density for a site and directed staff to prepare findings that calculated the net density based on specific Code language to result in approval of a six lot subdivision.

The draft Ordinance is attached, along with Exhibit 1 documenting the findings and conditions Council indicated support for at the February 21, 2012 Council meeting.

Alternatives: The Council could approve the Ordinance and Exhibit as drafted, direct further changes to the findings and conditions prior to adopting the Ordinance, direct changes to the Ordinance itself or direct staff to prepare an Order denying the requested PUD.

Financial Implications: none

Recommendation: Staff recommends that the City Council adopt the attached Ordinance approving the requested Planning Unit Development and Subdivision.

Attachments:

Ordinance
Exhibit 1 – City Council Decision



ORDINANCE 2012-004

AN ORDINANCE APPROVING A PLANNED UNIT DEVELOPMENT (PUD) TO BE KNOWN AS DENALI PLANNED UNIT DEVELOPMENT INCLUDING APPLICATION OF A PLANNED UNIT DEVELOPMENT OVERLAY ON THE COMPREHENSIVE PLAN AND ZONE MAP AND APPROVING THE SIX-LOT SUBDIVISION

WHEREAS, the applicant, Emerio Design, requested a planned unit development and subdivision approval with the ultimate goal of developing an eight-lot residential development in the southeast area of Sherwood; and

WHEREAS, after full consideration of the Sherwood Zoning and Development Code, the City has determined that the maximum number of lots permitted is six; and

WHEREAS, the subdivision would dedicate right of way and five tracts (an open space area, two vegetated corridors and a strip of land adjacent to the right of way); and

WHEREAS, the planned unit development approval would allow the applicant to utilize the special density allowance in the very low density residential zone, allow some flexibility in standards, an area of common usable open space, and ensure a unified development to occur over time; and

WHEREAS, the decision is a quasi-judicial land use decision subject to the following criteria: Zoning and Community Development Code Sections: 16.10 (VLDR), 16.40 (PUD), 16.96 (On-site Circulation), Division VI (Public Improvements), 16.122 (Subdivision Preliminary Plat), 16.126 (Subdivision Design Standards), 16.142 (Parks and Open Space) 16.144 (Wetland, Habitat and Natural Areas); and

WHEREAS, the Planning Commission held two public hearings on December 13, 2011 and January 10, 2012 to take testimony and consider the proposed planned unit development and subdivision and made a recommendation of approval with conditions on January 24, 2012; and

WHEREAS, the City Council held a public hearing on February 21, 2012 to take public testimony and deliberate; and

WHEREAS, the Sherwood City Council has received the proposal materials, the Planning Commission recommendation including all exhibits entered into the record (PUD 11-01/SUB 11-01), and after considering the applicable criteria, the Planning Commission recommendation, applicant testimony, public testimony and all documents in the land use record, the City Council determined that the PUD as conditioned meets the applicable criteria.

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

Section 1. Commission Review & Public Hearings. The application for a planned unit development and subdivision of one parcel specifically identified as Tax Map 2S133CB Tax Lot 1000 was subject to full and proper review and public hearings were held before the Planning Commission on December 13, 2011 and January 10, 2012 and the City Council on February 21, 2012.

Section 2. Findings. After full and due consideration of the proposal, the Planning Commission recommendation, applicant testimony, public testimony, applicant rebuttal and all documents included in the land use record, the City Council finds that the proposed PUD as conditioned meets the applicable criteria including all local, regional and state requirements. The findings of fact relied upon by the City are attached to this Ordinance as Exhibit 1. The full and complete record, including Exhibits A-P is attached by reference.

Section 3. Approval.

- A. The Planned Unit Development and subdivision is approved as described and conditioned in the City Council Findings attached as Exhibit 1.
- B. The Plan and Zone Map shall be updated to reflect the approved PUD overlay applied to the parcels identified as Tax Map 2S133CB Tax Lot 1000.

Section 4. Manager Authorized. The Planning Manager is hereby directed to take such action as may be necessary to document and implement this ordinance.

Section 5. Effective Date. This ordinance shall become effective the 30th day after its final adoption by the City Council and signature of the Mayor. Duly approved by the City Council and signed by the Mayor this 6th day of March 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	_____	_____
Butterfield	_____	_____
Langer	_____	_____
Folsom	_____	_____
Henderson	_____	_____
Grant	_____	_____
Mays	_____	_____

CITY OF SHERWOOD

City Council Decision - Findings

Date: February 24, 2012

Denali Planned Unit Development

Pre App. Meeting: November 2, 2010
App. Submitted: February 9, 2011
App. Complete: October 13, 2011
120 Day Deadline: March 23, 2012
(Extended by applicant)

Planning Commission Public Hearing: December 13, 2011
City Council Public Hearing: February 21, 2012

Proposal: The applicant proposes to subdivide a 3.71 acre parcel into eight lots just east of SW Murdock Road and north of SW Denali Lane in the Very Low Density Residential (VLDR) zone. The lots range in size from 10,004 to 12,616 square feet. The applicant proposes a planned unit development (PUD) in this zone order to utilize the special density allowance of 10,000 square foot minimum lot size. The applicant proposes areas of open space in order to comply with the planned unit development requirements. The applicant proposes construction of a local street through the center of the site to connect SW Ironwood Lane to the north and SW Denali Lane to the south.

NOTE: The plan set that the applicant provided identifies Tracts A-E. However, the labeling of the tracts is inconsistently represented on the nine page plan set. In order to clarify which tract is identified in this staff report, please refer to the applicant's materials, sheet 1, "Preliminary Plat" to determine the tract being discussed in this report.

I. APPLICATION INFORMATION

Applicant
and Owner

John Satterberg
Community Financial
PO Box 1969
Lake Oswego, OR
97035

Applicant's
Representative

Emerio Design
6900 SW 105th Avenue
Beaverton OR 97008
Contact: Kirsten Van Loo 503-956-4180

Tax Lot: 2S133CB01000

Property Description: The parcel is 3.71 acres in size and rectangular in shape with the exception of a narrow strip that extends to SW Murdock at the northwest corner of the site approximately 710 feet long and 25 feet wide. There also is a narrow strip of land on the southeast corner of the site, approximately 210 feet long and 40 feet wide that is proposed to include the sanitary sewer easement.

Existing Development and Site Characteristics: The site slopes steeply upward from north to the south. There is no development on the site. There are eight fir trees approximately 8-10" in diameter on the site that will remain in the southwest corner of the site. There are blackberry bushes in several places on the site that will be removed. A I segment of the site, approximately 710 feet long and 25 feet wide follows along SW Ironwood Lane and has a line of trees bordering the street.

Comprehensive Plan Land Use Designation and Zoning Classification: Very Low Density Residential (VLDR) for residential use and single family homes.

Adjacent Zoning and Land Use: The surrounding properties to the north and south are zoned VLDR and the properties to west and across SW Murdock Road are zoned Low Density Residential. The land use is residential.

Land Use Review: The Planned Unit Development Conceptual Plan is a Type V decision with the City Council as the approval authority after recommendation by the Planning Commission. An eight-lot subdivision is generally a Type III review; however it is being processed concurrent with the PUD. An appeal of the City Council decision would go to the Land Use Board of Appeals (LUBA).

After PUD conceptual plan approval, the development or individual phases must receive detailed final development plan approval. The detailed final development plan requires Planning Commission review and approval and ensures compliance with any conditions of conceptual approval as well as applicable community design standards, etc. The code is not clear regarding the process and fee but it is determined that the final plan and site plan are processed concurrently and heard by the Planning Commission (regardless of development size) with no additional fee beyond the site plan fee.

Neighborhood Meeting: The applicant held two neighborhood meetings over the past year: one on November 23, 2010 and the other on September 19 2011 on the site. The second meeting was attended by approximately 12 people. Some of the issues concerned an increase in traffic, concern about privacy and character of the development. The comments are part of the applicant's materials. (Exhibit A)

Public Notice: Notice of this land use application was posted at two locations at the site and five public locations throughout the city. Notice was also mailed to property owners within 1000 feet of the site and any other party who expressed an interest in receiving mailed notice on November 22, 2011 in accordance with § 16.72.020 of the Sherwood Zoning and Community Development Code. Notice was also published in The Times and Sherwood Gazette newspaper on December 1, 2011.

Review Criteria: Zoning and Community Development Code Sections 16.12 (VLDR), 16.40 (PUD), 16.92 (Landscaping) 16.94 (Off-Street Parking), 16.96 (On-Site Circulation), Division VI (Public Improvements), 16.122 (Subdivision Preliminary Plat), 16.126 (Subdivision Design Standards), 16.142 (Parks and Open Space), 16.144 (Wetland, Habitat and Natural Areas)

For the Planned Unit Development - 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, by ordinance, establish a PUD overlay zoning district. The ordinance shall contain findings of fact per this Section, state all conditions of approval, and set an effective date subject to approval of the Final Development Plan per Section 16.40.030.

Site History: The site was part of the "Ken Foster Farm" site, originally about 40 acres and was used for farming. It was subdivided approximately twenty years ago a portion of which is this 3.71 acre

parcel. The site has remained vacant with no buildings. It is known that portions of the larger Ken Foster Farm site had been used for discarding animal hides and carcasses that were remnants from the local tannery operation in the city. As part of the Department of Environmental Quality (DEQ) investigation of the Tannery site on SW Oregon Street, it was discovered that the soil on the Ken Foster Farm site was contaminated. The property to the northeast, Ironwood Subdivision, was in development when the issue became known which required significant soil removal and oversight from the Department of Environmental Quality (DEQ).

An excerpt from the Department of Environmental Quality Technical Memorandum dated July 13, 2005 describes that from 1962 to 1971, tannery wastes from the Frontier Leather Company were applied by Mr. Foster to several areas of pasture land. Liquid sludge from tannery's primary wastewater settling tanks was also distributed on the site.

DEQ entered the Ken Foster Farm site into the Environmental Cleanup Site Information Database in 2000, and completed a Preliminary Assessment (PA) in 2004, funded by cooperative grant funds from the Environmental Protection Agency (EPA) Region 10. (DEQ Technical Memorandum) The results of the soil sampling completed for this site listed concentrations of antimony, chromium, lead and mercury above expected background concentrations. In addition sediment samples from the wetland areas on the site were found to contain elevated concentrations of chromium copper, mercury and zinc on a nearby parcel. They found that the human health risk based upon the soil results from the EPA Impervious Area results and data from property-owner site investigations on two of the properties within the former Farm acreage was relatively low, according to the report. Since valid soil sample tests of the subject site indicate that hexavalent chromium was not present in soils, and that the prevalent form of chromium in soils is trivalent chromium. The other concentrations do not present an unacceptable human health risk on an individual contaminant basis. The DEQ concluded that the chance of significant exposure to residents living around these areas is low under current conditions.

The applicant's representatives met with the DEQ on January 6, 2011 where Mark Pugh of DEQ indicated that the cleanup on this site would be based on the site specific ecological risk based concentration (RBC) s for exposure to chromium in soil. DEQ indicated that a site specific RBC was specifically developed to protect terrestrial birds due to the potential for bioaccumulation and because avian receptors are considered to be the most sensitive to the effects of chromium.

The soil samples that were collected by the applicant's representative on the subject site indicate that in five of the six samples taken, concentrations of chromium exceeded the "hot spot" criteria of 1,300 mg/kg, requiring removal. (Applicant's Materials Exhibit A, page 5 of BB & A Environmental report). The applicant proposed a method of how they will address the soil contamination in their in their application materials. They plan on capping the soil and adding clean soil on top of the capped soil. This will be subject to the approval of the DEQ and prior to development of the site.

The site is also part of the SE Sherwood Master Plan, which was approved in concept by the Planning Commission via resolution in 2006. Although not formally adopted and incorporated into the Comprehensive Plan nor adopted by the City Council, it does provide guidance for development and the intention of the community and surrounding property owners for the area. Had it been formally adopted, it would have required amendments to the SZDC regarding the density requirements in this particular zone as the density shown in the plan is much higher than the existing special density allowance currently allowed in the VLDR.

II. PUBLIC COMMENTS

Public comments were received by the Planning Commission at the hearing in December, as well as in writing. Exhibits C through P are written comments received by the Commission. The City Council received the full Planning Commission record as well as additional oral and written testimony prior to

the hearing and part of the land use record. Written and oral testimony was received by the Council at the hearing on February 21, 2012.

III. AGENCY/DEPARTMENTAL COMMENTS

The City requested comments from affected agencies. 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:

Sherwood Engineering Department has reviewed the proposal and provided comments which have been incorporated into this report and decision. The City Engineer provided a letter of concurrence with the proposed street design modifications which is included as Exhibit B.

The City Engineer wanted the applicant to be aware that the preliminary plat drawings were inadequate for the purposes of the Engineering submittal. The basic development plan layout does not meet the requirements of Section 115.2.1 of the Engineering Design and Standard Details Manual (Manual). The plans do not show topographic items a distance of 200 feet outside the site boundary. The existing topographic information ends at the site boundary. The applicant should read and conform to the requirements of the Manual when developing the project drawings.

CONDITION: Prior to approval of the public improvement plans, comply with the requirements delineated in the City's Engineering Design and Standard Details Manual.

Clean Water Services provided comments and conditions which are included as Exhibit C to this report.

Tualatin Valley Fire and Rescue (TVF&R) provided comments which are included as Exhibit D to this report.

Department of Environmental Quality

The applicant met with the Department of Environmental Quality (DEQ) in January 2011 as they prepared their land use application submittal. Mark Pugh of the DEQ provided the applicant with some preliminary guidance on possible alternatives for the soil cleanup on the site. Since the land use application was submitted, staff discussed the proposal with Mark Pugh who plans on providing specific written comments by the date of the hearing that will be available at the hearing.

Preliminary comments include a requirement that the applicant follow DEQ recommendations for the cleanup of the site before issuance of any City permits for the development. This will be discussed further within this report. Staff provided a DEQ Fact Sheet on the Former Ken Foster Farm Site that is attached as Exhibit E.

IV. PLANNED UNIT DEVELOPMENT

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 recommendation based on the following criteria:

Chapter 16.40

PLANNED UNIT DEVELOPMENT (PUD)

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.

This area of the City has remained relatively undeveloped for a lengthy period of time. The PUD development will preserve significant open space and connect two existing streets together in keeping with the intention of the SE Sherwood Master Plan. Additionally, the site will be easily accessible to infrastructure connections due to its proximity to existing development. Currently, there are under 40 vacant “shovel-ready” buildable lots remaining within the City and a limited number of lots at this particular size, thus providing a unique lot size for residential development within the City boundaries.

Additionally, this site has several constraints that have made it difficult to develop within the confines of the VLDR zone. A PUD will allow a limited increase in density that will make the project more feasible rather than the primary zoning.

FINDING: Based on the above discussion, the applicant meets this objective.

2. Preserve valuable landscape, terrain and other environmental features and amenities as described in the Comprehensive Plan or through site investigations.

The special density allowance within the VLDR provides for a limited amount of increased density and therefore helps preserve the unique landscape and environmental features and amenities of the site. The applicant was required to obtain a Clean Water Service Provider Letter. Clean Water Services (CWS) required a geotechnical report as part of the service provider letter (SPL). A geotechnical report has been submitted as part of the application. The buffer impact and mitigation areas delineated in the SPL exhibits and the related requirements noted in the SPL have not been incorporated into the planning submittal plan sheets. These items will need to be incorporated into the engineering plan sets prior to any approval being granted.

The landscaping plans shall incorporate the requirements of the SPL. Requirements 21 through 24 of the SPL specifically relate to the information that is required to be included in the plan set. The applicant will be required to meet several conditions. The applicant proposes to create Tract B and C to serve as part of the vegetative corridor buffer.

FINDING: Based on the above discussion, the applicant appears to meet the PUD objective but cannot fully comply without the following conditions in regard to the preservation of environmental features.

CONDITION: Prior to recording the final plat, comply with the conditions as set forth in the Service Provider Letter No. 10-002401, dated July 14, 2011.

CONDITION: Prior to recording the final plat, provide an easement over the vegetated corridor conveying storm and surface water management to CWS that would prevent the owner of the vegetated corridor from activities and uses inconsistent with the purpose of the corridor and any easements therein.

CONDITION: Prior to recording the final plat, provide detailed plans showing the sensitive area and corridor delineated, along with restoration and enhancement of the corridor.

CONDITION: Prior to issuance of a grading or erosion control permit, provide DSL and Corps of Engineers permits for any work in the wetlands or creek.

CONDITION: Prior to approval of the public improvements, a note shall be added to the construction plan set that states that the project shall comply with the recommendations outlined in the geotechnical report prepared by GeoPacific Engineering, Inc., dated August 26, 2011.

CONDITION: Prior to approval of the public improvements, submit plans that identify the buffer and mitigation areas and related mitigation measures and notes delineated in the SPL shall be incorporated into the grading and ESC plan sheets of the planning and construction plans submittals.

3. Provide diversified and innovative living, working or neighborhood shopping environments that take into consideration community needs and activity patterns.

The proposed lots are similar to the surrounding lots within the VLDR zone. The site design connects with the other surrounding to both SW Denali Lane and SW Ironwood Lane, creating a more walkable neighborhood throughout. The development will have access to a usable open space that is somewhat limited in this area. Murdock Park is the nearest public park and Sherwood View Estates subdivision does not have any usable open space. The area designated open space within this neighborhood can improve the other neighborhoods with improved connection to usable opens space and an improved street grid.

FINDING: Based on the above discussion the applicant meets this objective.

4. Achieve maximum energy efficiency in land uses.

The applicant proposes to connect with the existing main lines and utilize the existing services such as roadway infrastructure and water, sanitary and sewer lines. This promotes energy efficiency in land uses as it is nearby already developed properties.

FINDING: Based on the above discussion, the applicant meets this objective.

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)

The applicant has proposed a development that connects with the surrounding neighborhood. The applicant chose a type of architecture from the architectural pattern book that will be compatible with the existing neighborhood as the surrounding properties have Pacific Northwest style architecture and are all larger single family homes. The applicant shows that the neighborhood will connect on a human scale by connecting the sidewalk on SW Murdock Road and SW Denali Lane with the surrounding Sherwood View Estates neighborhood. Additionally, the applicant proposes that the area of open space be accessed with a pathway surrounding the open space area. This will enhance the neighborhood feel in the area, provided that the applicant identify amenities such as lighting, signage and street furniture such as park benches or tables that will make the open space inviting for pedestrians. This will allow the open space to serve as an outdoor gathering place for the area.

FINDING: Based on the above discussion, the applicant meets this objective.

16.40.020 Preliminary Development Plan

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 appropriated by Council during the adoption of a concept plan required by a Metro UGB expansion.

The applicant proposes a PUD in order to capitalize on the special density allowance allocated for this zone. The site contains contaminated soils and is constrained due to the wetland nearby and the steep slope of the site. The developer will remediate the soil and provide the community with the added benefit of provide a connection to SW Denali Lane and improved connection on SW Ironwood Lane.

FINDING: Based on the above discussion, the applicant meets this criterion.

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.**

The applicant proposes a development that is conformance with the Comprehensive Plan as it meets or can meet with conditions the criteria of the adopted SZDC. It is capable of consideration for a PUD as it is within the VLDR zone, which based on its zoning, is classified as an environmentally sensitive area.

The applicant contends and staff agrees that that in its present zoning category has limited development potential due to the cost of cleaning up the contaminated soils and topography of the site. Cleaning up the contaminated soils will satisfy the public benefit of making the site useable and safe for the surrounding area.

FINDING: Based on the above discussion the applicant can meet this criterion or is able to meet the criterion as conditioned further within this report based on the applicable code provisions.

- 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.**

The buildable portion of the site is approximately 2.36 acres which includes the designated open space of Tract D and the eight proposed lots. Fifteen percent of the buildable portion is 15,420 square feet. The applicant proposes that Tract 'D', approximately 15,864 sq. feet would serve as the usable open space to meet this requirement. The applicant proposes a bark dust path to circumvent the tract and connect with the sidewalk at the northeastern corner of SW Ironwood Lane and at the southeastern corner of SW Denali Lane.

This open space area will be accessible to all of the surrounding area and preserve the views of the region. The applicant shows that the open space will be accessed via a 10 ft. wide pathway from SW Denali Lane onto the southern edge of the site along Lot 8 and the adjacent property, 23524 SW Denali Lane. The pathway from the street will be approximately 156 feet before reaching the larger open space and the applicant will need to have signage in order to make sure the area is available and welcoming to all properties, and not just used by Lots 7 and 8. Other amenities should be considered such as benches, tables, or other structures either for play or for exercise in order to make this a truly inviting and public space. The applicant has provided the square footage and pathway, but further details are in order to fully comply with this section.

The applicant proposes that the Home Owner's Association will maintain Tract D and this will be conditioned further within this report. This will provide a long term solution to the ongoing maintenance of the site.

Due to the proposed composition of the pathway and the steepness of the slope, the City Engineer determined that the alignment proposed and comprised of woodchips relative to the grades do not appear to make a walkable path because grades would approach 22%.

The applicant makes the argument that Tract 'A', consisting of a long strip approximately 25 feet wide and 710 feet long, is also considered open space because it will provide a meandering pathway from SW Murdock Road to the subject property along SW Ironwood Lane.

However, the City Engineer indicates that this strip is part of the public improvements required to provide SW Ironwood Lane with sidewalks and a planter strip, making it in compliance with a local street design. When the Ken Foster Farm site was divided, it created three large parcels with three 25 foot strips accessing SW Murdock Road. With the development of Ironwood Acres, the center portion of the road was dedicated and paved, but without curb or sidewalks. As part of this development, the City Engineer recommends improvement of this strip and dedication to the public for a sidewalk, curb, paved roadway portion and treatment of the storm water runoff. This will be discussed further under the public improvement section of this report. For the purpose of this criterion, it will not be considered as part of the open space requirement.

FINDING: Based on the above discussion, the applicant meets this criterion on the concept of open space. However, the following conditions are required to ensure that Tract D be a usable open space by all of the property owners within the development.

CONDITION: Prior to approval of the public improvements, provide a pathway alignment that does not exceed a 15% grade for the open space area known as Tract D.

CONDITION: Prior to final development plan approval, submit a detailed plan for Tract D, the open space area that describes a cross section detail and includes the type of materials that will be used for the pathway, landscaping, signage, street furniture and other pedestrian and neighborhood amenities on site to satisfy the open space requirements.

3. That exceptions from the standards of the underlying zoning district are warranted by the unique design and amenities incorporated in the development plan.

The VLDR is unique from the other residential zones in that it specifically identifies a special density allowance for a PUD because of distinctiveness of the area and the community's desire to preserve the natural resource and landscape with limited development. The applicant provides for the required open space and also connects the roadways of SW Ironwood and SW Denali Lane. Additionally, the applicant proposes to clean up the soil contamination that has been present for at least 30 years. These amenities and improvements unique to the site warrant consideration of a planned unit development. By creating a PUD in this area, it ensures that open space will be incorporated into the development rather than larger privately held lots. The amenities will be part of the PUD and unique to this development.

FINDING: Based on the above discussion the applicant meets this criterion.

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).

The larger lot sizes are compatible with the surrounding developments as Sherwood View Estates are also zoned VLDR along with the properties to the west and north of the site that have not been developed to their full potential. The applicant has identified in the architectural pattern book that they will use Pacific Northwest design that is compatible with the surrounding development.

FINDING: Based on the above discussion, the applicant meets this criterion.

5. That the system of ownership and the means of developing, preserving and maintaining parks and open spaces are acceptable.

The applicant proposes that the open space be monitored through a home owner's association and developed as conditions within the CC & R's. This is a suitable resolution, but a condition is required in order to fully comply.

FINDING: Based on the above discussion, the applicant does not meet this criterion, but can do so with the following criterion.

CONDITION: Prior to the final development plan approval, provide CC & R's that document how the open space will be maintained by the neighborhood association.

6. That the PUD will have a beneficial effect on the area which could not be achieved using the underlying zoning district.

The underlying zoning district allows for a density of up to one unit per acre. Because development is very limited on the site coupled with the known soil contamination and environmental constraints, the site would likely continue to remain undeveloped for many years to come if the developer was required to adhere to the regular density standard of one dwelling unit per acre. The applicant argues that the special density allowance of the VLDR zone allows for the site to be developed in a more financially feasible manner in order to install the appropriate infrastructure and remediate the soil. The applicant believed that they could not recoup the cost of the cleanup if the larger lot size was required through the standard zoning.

The proposed development also will have a beneficial effect on the area by extending several stub streets that may not have been able to be connected if the site did not develop into a PUD. The idea for the street connection follows the intention of the SE Sherwood Master Plan.

The applicant submitted an environmental assessment report prepared by BB&A Environmental, January 13, 2011. The report is unsigned and does not document the authorship. The report does contain a statement regarding a discussion with DEQ about capping soils disturbed during overall site development and prior to residential individual site development; however, the report provides no statements of actions on which to hold the applicant accountable. In the applicant's materials, the applicant is considering that environmental cleanup of the site is adequate enough to call the site developed and not include construction of the public infrastructure. The City requires a standard Compliance Agreement that includes construction of the public infrastructure, not just the planning of it. Cleanup and remediation of the site should be viewed as a part of the construction process.

The City Engineer is also concerned that stormwater runoff from the site must be free of contamination during and post construction. The City Engineer recommends that a written protocol plan be developed and included as part of the engineering submittal and complied with by the contractor.

Additionally, as discussed above, the applicant proposes a large open space area that will be a beneficial amenity for the surrounding neighborhood.

FINDING: Based on the above discussion, the applicant does not meet the criterion, but can do so with the following conditions.

CONDITION: Prior to approval of the public improvement plans, provide the appropriate recommendations from a registered professional civil/environmental engineer or geotechnical engineer regarding how the soils are to be handled to prevent contaminated material from leaving the site. These recommendations are to be complied with in the development of the construction drawings and may require full review and approval from DEQ as part of the City approval process.

CONDITION: Prior to approval of the public improvement plans, comply with the requirements of the DEQ pertaining to the cleanup of the contaminated soils on site.

CONDITION: Prior to approval of the final plat, construct all public improvements in the delineated timeline as required by the City's Compliance Agreement.

CONDITION: Prior to obtaining the Certificate of Final Occupancy, construct and install the pathway and other Tract D open space amenities described in the final development plan.

7. That the proposed development, or an independent phase of the development, can be substantially completed within one (1) year from date of approval.

The applicant proposes to complete the development within one year and thus is able to satisfy this condition. In the alternative, if the applicant is unable to complete the project, safeguards are in place including creating a phasing plan or lapsing of the land use approval in order to meet this criterion.

FINDING: Based on the above discussion, the applicant meets this criterion.

8. That adequate public facilities and services are available or are made available by the construction of the project.

The City Engineer has reviewed the preliminary plat and determined that the site is serviceable or able to be served with conditions outlined further within this report.

FINDING: Based on the above discussion, the applicant meets this criterion or may be conditioned to meet this criterion further within this report.

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)

FINDING: Based on the above discussion earlier within this report, the applicant meets this criterion.

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)

The site is 3.71 gross acres which does not qualify it for a PUD outright. However, because the site is zoned VLDR zone, it is considered to be within "natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development," according to the purpose statement of this zone. The subject site in particular is steeply sloped and the surrounding development contains a wetland area as well as another planned unit development to the south of the property making it unusually constrained. The applicant is not able to add adjacent parcels to the proposal as the surrounding property is already developed and is under separate ownership. Even if the site was a bit larger and satisfied the five acre minimum of a PUD with this particular zoning, it would still only be a maximum of two units added to the proposal in order for it to comply with the special density allowance granted for VLDR PUDs.

FINDING: Based on the above discussion, the applicant meets this criterion.

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.

FINDING: The applicant is aware that a final development plan will be required upon approval of the preliminary development plan. This criterion cannot be met at this time, but can be met with the final development phase submittal that is in substantial compliance with the approval of the PUD.

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.**

FINDING: The applicant proposes residential uses and all lots will be for single family homes, the only permitted housing type within this zone.

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)

FINDING: The applicant does not propose a conditional use, and thus this criterion is not applicable.

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.

The SZDC § 16.10 defines density as “(t)he intensity of residential land uses per acre, stated as the number of dwelling units per net buildable acre. Net acre means an area measuring 43,560 square feet after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses.” The VLDR zone is unique that there is a special density allowance permitting a greater density (two units) than what would be allowed in the underlying zoning designation (one unit) if the applicant requests a planned unit development. No other residential zoning has a special density zoning allowance within a PUD or other zoning classification. The effect of the special density allowance grants two units per acre rather than the underlying zoning density of up to one unit per acre.

In this case, there are approximately 1.99 net buildable acres because environmentally constrained lands, right of way, as well as the open space area are all excluded in the overall calculation of net buildable acreage. Calculating net density under the special density allowance of two units per acre provides for up to four units (1.99 net acres x 2 units). Tract A, B, C, D and E are not developable for a number of reasons either due to the irregular shape of the subject parcel, the steep slopes of the site, used for the public or the required vegetated corridor buffer, the requirement of the open space or the location of the utilities.

In order to make the site financially feasible, the applicant proposes to subdivide the site into eight lots. Contrary to the standard definition of density, the applicant proposes to use a gross density calculation rather than the net density described above because the site is unusually constrained. Additionally, the applicant contends that calculating gross density rather than net

provides for better preservation of the natural resources in the area and allows for recoupment of the costs of cleanup of the contaminated soils. Calculating under the gross density calculation provides for 7.42 units and the applicant requests that the decision maker round up to get 8 units. The applicant proposes eight units because each lot meets the minimum lot size and the applicant satisfies the required 15 % of open space. According to the applicant, development at any lower density would not make the site financially viable and the site would remain undeveloped.

Staff would argue that the using net density has been the standard means of calculating density in subdivision projects within the City and based on the definition. However, this project is indeed unique with special environmental constraints and costly contaminated soils and the VLDR allows for a special density allowance of two. The provisions in that section do not specifically call out whether gross density could be used instead of net density as the applicant contends. However, common math practices would dictate that the number 7.42 is not able to be “rounded up” to 8 as it is below .5.

FINDING: Based on the above discussion the applicant does not meet this criterion, but can do so with the condition under the specific density transfer section.

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.

The proposed special density for the site has been discussed above. The following table describes the five tracts and purpose for each tract to determine whether the density transfer allowance should be allowed in this circumstance.

Name	Size of Tract	Purpose of Tract
Tract A	17,932 sq. ft. 701 sq. feet of dedicated row	Roadway extension adj. SW Ironwood
Tract B	2360 sq. ft.	Water quality bio-swale
Tract C	5148 sq. ft.	Steep slope and vegetated buffer
Tract D	15,864 sq. ft.	Open Space
Tract E	8365 sq. ft.	Sanitary sewer easement

This site in particular is constrained with steep slopes and wetland buffers. The applicant proposes to dedicate steeply sloped areas and wetland buffers in order to comply with Clean Water Services requirements. (Tract B and C). These tracts are available for a density transfer per this section.

The maximum special density allowed in the VLDR is 2 units per net buildable acre and thus an increase of 20 % would be 2.4 units per net buildable acre. Based on the net buildable acreage of 2.36 (the proposed eight buildable lots plus a portion of Tract A which could be considered buildable) multiplied by 2.4 units, would allow a total of 5.66 units or rounding up, 6 lots on the site. This allows for one additional unit with the 20 % density transfer.

As discussed earlier, the applicant proposes eight lots because the applicant uses gross density 3.72 acres x 2 units (Special Density Allowance) to calculate the density and number of lots available for this site. Based on that calculation the applicant gets 7.42 units and then rounds up a lot because of the special constraints on the site. Staff cannot agree that gross acreage is the appropriate multiplier to use because there is no precedent as to the methodology used in the VLDR zone. The special density allowance for gross acreage that the applicant proposes would exceed the density transfer allowance by a total of at least two lots.

The Planning Commission recommended to Council that because it was a Planned Unit Development and designed similarly to the SE Sherwood Master Plan, Council should apply gross versus net density to the site and recommended that seven lots be approved for this PUD. Council disagreed with the Planning Commission's analysis and relied on the definition section of the Code for applying net density to the site.

FINDING: Based on the above discussion, the applicant does not meet this criterion. This criterion could be met with the following condition.

CONDITION: Prior to final development approval, redesign the preliminary plat to identify six lots with a minimum lot size of 10,000 square feet.

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) (Ord. No. 2008-015, § 1, 10-7-2008)

FINDING: The applicant proposes lots sizes of over 10,000 square feet, thus satisfying this criterion.

V. PRELIMINARY PLAT – REQUIRED FINDINGS

16.122 Required Findings

No preliminary plat shall be approved unless:

A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.

The applicant proposes to construct a public street through the development to connect with the existing street to the north at SW Ironwood Lane and to the south at SW Denali Lane. The applicant requested a street modification in order to address the slope of the street and corresponding speed due to the lot configuration. This will be discussed under the relevant criterion.

FINDING: Based on the above discussion, the applicant meets this criterion or can be conditioned further within this report under the public improvement section.

B. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.

FINDING: No private streets are proposed; therefore, this standard is not applicable.

C. The plat complies with Comprehensive Plan and applicable zoning district regulations.

FINDING: This standard is satisfied through compliance with the applicable criteria discussed throughout this report. If necessary, conditions are imposed to ensure compliance.

D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.

FINDING: As discussed further within this report, (Public Improvements), adequate water, sanitary sewer and other public facilities exist or will be constructed to support the lots proposed in this plat. In addition, the applicant will be required to come in for detailed PUD approval at which time additional review can and will be provided.

E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.

FINDING: While there are no adjacent properties under the same ownership, the applicant proposes to connect with SW Ironwood Lane and SW Denali Lane, which allows development on adjoining properties. Thus, the applicant meets this criterion.

F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.

FINDING: All adjoining properties have existing access to public streets. Approval of this subdivision and PUD will not prohibit any adjoining properties from being developed. In fact, with the dedication of the 1 foot strip of land adjacent to Ironwood Lane, properties to the south of Ironwood Lane will have access to this public street.

G. Tree and Woodland inventories have been submitted and approved per Section 16.142.060.

A partial tree inventory has been submitted with this application that described the trees that will not be removed. The applicant did not identify the trees located within Tract A that will need to be removed. Compliance with this standard is discussed and conditioned as necessary further in this report.

FINDING: Based on the above discussion, the applicant meets this criterion or will be conditioned further within this report.

16.126 – Subdivision/Partition Design Standards

16.126 Design Standards- Blocks- Connectivity

A. Block Size. The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

FINDING: According to the submitted preliminary plat and conceptual PUD plan, the sizes of the lots are adequate for building residential single family homes.

B. Block Length. Blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet.

FINDING: The site is irregularly shaped and the street network is a continuation of already designed and constructed roadways. The extension of Denali will complete a block by connecting Ironwood Lane to Denali Lane. While this results in a block length greater than 530 feet, the topography and existing site constraints and development to the east and west prohibits an additional east/west street connection in this area. Additionally, the applicant is also constrained by the large lot size and the limited density allowed in this zone.

C. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401.

FINDING: There are no unusually long blocks or dead end streets that warrant the need for off-street pedestrian or bicycle accessways, therefore this standard is not applicable.

16.126.020 Easements-Utilities

Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

The location of the existing sanitary sewer mainline at the southeast corner of the site, and the location of the related sanitary sewer easement is at issue on the plan set provided by the applicant, noted as Tract E. The sanitary sewer was not constructed within the easement, or the easement recorded was not adjusted to match the as-built sewer line alignment. The applicant has not provided an easement that extends over the actual sanitary sewer line. This must be resolved as part of the plat process.

FINDING: As discussed above, this standard has not been fully met but can be as conditioned below.

CONDITION: Prior to approval of the public improvements, provide a 15-foot wide sanitary sewer easement over the portion of the existing sanitary sewer alignment which falls outside the existing sanitary sewer easement or is otherwise located within Tract E.

16.126.030 Pedestrian and Bicycle Ways

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

FINDING: There are no cul-de-sacs provided and the applicant proposes to connect two roadways through the site, thus this criterion is not applicable.

16.126.040 Lots

16.126.040.1 - Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision, and shall comply with applicable zoning district requirement.

As discussed further in this report, the lot sizes are appropriate for the zoning district except as modified for the PUD. The shape and orientation are appropriate when considering the conceptual development and building locations and orientations.

FINDING: As discussed above, this standard is satisfied.

16.126.040.2 - Access - All lots in a subdivision shall abut a public street.

FINDING: All of the lots will take access onto SW Denali Lane, which extends through the center of the site, thus meeting this criterion.

16.126.040.05 Grading -Grading of building sites shall conform to the following standards, except when topography of physical conditions warrant special exceptions:

- A. Cut slopes shall not exceed one and one-half (1 1/2) feet horizontally to one (1) foot vertically.**
- B. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.**

The submitted Environmental Sediment Control (ESC) plan is inadequate for the proposed grading plan. The two fill sections identified on the plans show a measured distance of 45 and 54 feet respectively. CWS ESC requirements indicate the need for more than ESC fencing at the site boundary

FINDING: Based on the discussion the applicant has not met this criterion, but can do so with the following condition:

CONDITION: Prior to approval of the ESC plans, include the following ESC measures:

- a. Sediment fencing at the project boundaries, filter fabric catch basin inserts, and rockered construction entrances.
- b. Straw wattle ESC measures shall be provided across fill slopes faces, spaced at 25 foot intervals maximum down the face of fill slopes.
- c. The street section grading shall include temporary drainage ditches with check dams until the finished street surface and related open space sidewalk improvements are installed.

VI. APPLICABLE ADDITIONAL CODE PROVISIONS

A. Division II - Land Use and Development

The subject site is zoned Very Low Density Residential (VLDR). Compliance with this section is discussed below.

16.12.010 Purpose

The VLDR zoning district provides for low density, larger of single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density of .7 to 1 dwelling unit per acre. If developed through the PUD process, as per Chapter 16.40 and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, a density not to exceed two dwelling units per acre and a density not less than 1.4 dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirements.

The applicant proposes low density housing by subdividing the property into a maximum of eight lots. The applicant proposes to protect the environmentally sensitive areas with tracts. A portion of Tract A is the extension from SW Murdock Road to the subject site where the applicant proposes a meandering pathway. Tract B and C are considered within the wetland buffer that extends along the rear of the properties on the east side of SW Denali Lane. Tract D will be the open space and Tract E will serve as the connection for the sanitary sewer line. As discussed in several sections, the applicant exceeds two dwelling units per net buildable acre, by over three lots.

FINDING: Based on the above discussion, the applicant does not meet this criterion due to the density; however this is addressed in other portions of this report.

16.12.040 Dimensional Standards

a. Lot dimensions

1.	Lot areas:	
	a. Single-Family Detached (conventional):	40,000 sq. ft.
	b. Single-Family Detached (PUD)	10,000 sq. ft
2.	Lot width at front property line:	25 feet
3.	Lot width at building line:	No minimum
4.	Lot depth:	No minimum

The applicant proposes lots for single family detached dwelling units ranging in size from 10,004 to 12,616 square feet meeting the requirements of the PUD standard.

FINDING: Based on the above discussion, the applicant meets this criterion.

b. Setbacks

1.	Front yard:	20 feet
2.	Side yard:	
	a. Single-Family Detached:	5 feet
	Corner Lot (street side):	20 feet
	b. Single-Family Attached (one side):	5 feet
	Corner Lot (street side):	20 feet
3.	Rear yard:	20 feet
4.	Height	2 stories or thirty (30) feet

FINDING: The applicant has shown that the building footprint can easily be placed within the required setbacks due to the large lot sizes. This will be confirmed at the time of the plot plan review for each specific house. Therefore the applicant meets this criterion.

16.12.070 Special Density Allowances

Housing Densities up to two (2) units per acre, and minimum lot sizes of 10,000 square feet, may be allowed in the VLDR zone when:

- A. The housing development is approved as a PUD as per Chapter 16.40; and**
- B. The following areas are dedicated to the public or preserved as common open space: floodplains, as per § 16.134.020 (Special Resource Zones); natural resources areas, per the Natural Resources and Recreation Plan Map, attached as Appendix C. or as specified in Chapter 5 of the Community development Plan; and wetlands defined and regulated as per current Federal regulations and Division VIII of this Code; and**
- C. The Review Authority determines that the higher density development would better preserve natural resources as compared to a one (1) unit per acre design.**

FINDING: The applicant does not meet this criterion; however this has been discussed earlier in this report.

B. Division IV - Public Improvements

16.108.030 Required improvements

16.108.030.1 states that 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.

SW Ironwood Lane is not fully developed to City standards because, while it includes pavement, neither side of Ironwood Lane includes curb, gutters and sidewalks to meet City Standards. In addition, the pavement width is approximately 14 feet, whereas the Code requires at least 28 feet of pavement for a full residential street. The applicant will need to expand the existing Ironwood Lane street section to provide a street section that meets City standards along the south side of SW Ironwood Lane. The expansion of the public infrastructure dedicated with this development should fit within this existing right-of-way with the exception of the one-foot dedication of Tract A

The development abuts SW Denali to the south and the applicant proposes to extend the existing SW Denali Lane through the development to connect with SW Ironwood Lane. The applicant proposes a street modification due to the steep slopes on the site that will be discussed further within this report.

FINDING: It appears that the required improvement standards could be met, however the applicant must receive Engineering approval of the public improvement plans in order to ensure the streets will be improved as planned. If the applicant complies with the conditions below, this standard will be met.

CONDITION: Prior to the approval of the public improvement plans:

1. The applicant shall submit plans that include the expansion of the existing Ironwood Lane road section to meet current City road section standards for a residential street. This expansion shall include: additional asphalt pavement section to bring the pavement width to 22 feet, concrete curb and gutter, planter strip, and concrete sidewalk.
2. A storm drainage system will be required to provide adequate collection and conveyance of storm water runoff from SW Ironwood Lane to the water quality treatment facility.

3. The applicant shall dedicate on the plat the one foot of necessary right-of-way to conform to City requirements along the existing SW Ironwood Lane.
4. The applicant shall submit plans that include the extension SW Denali Lane to meet current City road section standards for a residential street.

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

The development abuts SW Ironwood Lane which has not been developed to City standards as discussed above. The applicant will be required to improve the portion of right of way to allow for twenty-two feet of pavement, curb, planter strip and sidewalks along the flag portion of the parcel, a portion of which is Tract A.

FINDING: The applicant has not met the standard with respect to the improvements to SW Ironwood Lane, on the plan set as Tract A, however this was conditioned previously in this report.

4. Extent of Improvements

Streets required pursuant to this Chapter 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 City of Sherwood Construction Standards, 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.
(Ord. 2005-009 § 5; 91-922)**

The subject parcel abuts SW Ironwood Lane, a partial street that is a paved hard surface, but not to full City street design standards. A portion of SW Ironwood Lane was installed with the development Ironwood Acres. As this road will be utilized by the Denali Lane development as a primary access to SW Murdock Road, street improvements are required. The street is partially complete with one lane of asphalt but there is no means currently to treat the storm runoff from the roadway. The applicant has called out this portion as Tract A to be used as a pedestrian connection to SW Murdock Road. However, based on street design standards the applicant will be required to dedicate a foot of right of way that extends the length from SW Murdock Road to the development or a one-foot wide dedication approximately 710.72' feet long as public right of way.

This dedication is roughly proportional to the exaction as this will be the primary vehicular access to the development and will provide a critical pedestrian accessway. Also, it will serve an important mechanism of treating the impervious roadway surface. Thus, the applicant is required to complete the portion of the Ironwood Lane roadway to bring it to 22 ft. of pavement width. Because this roadway is partially completed to City standards, the applicant will be required to treat the

stormwater and provide a sidewalk, planter strip and curve for the roadway on this portion. The northern street segment of SW Ironwood Lane will be completed with the development of that property.

CONDITION: Prior to approval of the public improvement plans, provide a storm drainage system along SW Ironwood Lane to handle storm runoff from the expanded road section.

CONDITION: Prior to approval of the public improvement plans, expand the proposed water quality facility to handle the treatment of the additional runoff as necessary to meet the Clean Water Services treatment requirements.

CONDITION: Prior to approval of the public improvement plans, dedicate at least 710 feet of the right-of way, known on the plan set as part of Tract A to conform to the City's design for a local street.

5. Street Modifications

A. Modifications to standards contained within this Chapter and Section 16.58.010 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 this Chapter, Section 16.58.010 City of Sherwood Construction Standards or Chapter 8 contained in the adopted Transportation System Plan:

d. Exceeding the maximum street grade.

The plans have two street design components that do not meet City design standards. A design variation request has been submitted to the City Engineer for each non-compliant design element. Both design variation requests have been submitted by a registered civil engineer. All supporting calculations must be submitted as part of the modification. The applicant requests a modification to allow a street grade of 12% for the entire length of the street alignment (approx. 340'). City standard (Section 210.4 of the Design Manual) is a maximum street grade of 10% for unlimited length, and up to 12% maximum for a distance of not more than 200'.

Approval of the modification will be based on two main considerations; 1) that the physical constraints of the site prevent the design from meeting the design requirements of the City; and 2) that the proposed street grade falls within the limitations established by TVF&R for requiring building sprinkler systems on streets with grades between 10% and 15%. Both constraints have been proved and satisfied.

FINDING: Based on the above discussion, the applicant meets the criterion for a street modification however; the applicant cannot fully comply without the following condition.

CONDITION: Prior to approval of the public improvement plans, receive approval from TVF&R to allow this modified street grade.

CONDITION: Prior to building permit approval, provide building plans that show the buildings having an adequate fire sprinkler system per Tualatin Valley Fire and Rescue standards.

2. Design Modifications. Design modifications deal with the vertical and horizontal geometrics and safety related issues and include the following when deviating from this Chapter, Section 16.58.010 or Chapter 8 cross sections in the adopted Transportation System Plan:

e. Design speed.

- a. Variation Request #2 – Variation request to allow a reduction of the local speed limit from 25 mph to 20 mph due to horizontal curve restrictions.**

The applicant needs to reduce the local speed limit in order to comply with the horizontal curve restrictions. The City's standard speed limit for residential streets is 25 mph. With this speed, the Engineering Design Manual delineates a minimum centerline radius requirement of 185' with a cross slope of 2.5%. The physical limitations of the site prevent the ability to provide a road design which meets both the vertical and horizontal design requirements based on street grade and horizontal curve requirements. As a result of these tight curves, the applicant proposes a reduction in the speed 20 mph in order to provide safe turning movements on the curves. To develop a usable road design, the horizontal centerline radius needed to be reduced to 100', which is based on a maximum speed limit of 20 mph. This will provide a means of achieving the grade and design of SW Denali Lane as it extends down the hill.

FINDING: Based on the above discussion, the City Engineer approves the street modification with the following condition.

CONDITION: Prior to approval of the public improvement plans, show that the speed limit signage of 20 mph is posted at either end of the street section where this speed limit is in effect.

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.
(Ord. 2005-009 § 5)**

FINDING: Based on the above discussion the City Engineer has reviewed the request with consideration of these criteria and the letter of concurrency demonstrates that this criteria are met. (See Exhibit B).

16.108.040 LOCATION AND DESIGN

1. 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 Chapter 16.156, and topographical considerations. (2005-009 § 5; 91-922)

2. 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. Street Connectivity and Future Street Systems**
 - 1. 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).
 - 2. Connectivity Map Required.** New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that implements, responds to and expands on the Local Street Connectivity map contained in the TSP. A project is deemed to be consistent with the Local Street Connectivity map when it provides a street connection in the general vicinity of the connection(s) shown on the map, or where such connection is not practicable due to topography or other physical constraints; it shall provide an alternate connection approved by the Review Authority. Where a developer does not control all of the land that is necessary to complete a planned street connection, the development shall provide for as much of the designated connection as practicable and not prevent the street from continuing in the future. Where a development is disproportionately impacted by a required street connection, or it provides more than its proportionate share of street improvements along property line (i.e., by building more than 3/4 width street), the developer shall be entitled to System Development charge credits, as determined by the City Engineer.
 - 3. Block Length.** For new streets except arterials, block length shall not exceed 530 feet. The length of blocks adjacent to arterials shall not exceed 1,800 feet.

FINDING: As discussed earlier in this report the applicant plans on connecting SW Denali Lane through the center of the site to SW Ironwood Lane in compliance with the adopted Transportation System Plan and therefore meets this criterion.

- 6. 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.**

The applicant proposes to connect the open space area (Tract D) with a pedestrian pathway to SW Denali Lane at the southern edge of the property, approximately 10 feet wide. This would allow for a foot wide landscaped area on each side of the paved access way. This will not allow enough of a buffer to the adjacent properties and would create a "tunnel" effect along the entire 155 ft. to the open space. Additionally, the fence standards require a 3 foot landscape buffer between pathways and the fence, if a six foot high fence is proposed. Otherwise the fence could only be 42 inches. (SZDC § 16.58.020.D. 2) The applicant has not provided a cross section or landscape to determine whether they have complied with this standard.

FINDING: Based on the above discussion, the applicant does not meet this standard, but could do so with the following condition.

CONDITION: Prior to approval of the public improvement plans, provide a pedestrian accessway for Tract D that shows the pavement, landscaped area and height of the fence along the southern portion of Lot 8 in compliance with the SZDC.

16.108.060 SIDEWALKS

1. 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. Local Streets

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

FINDING: As discussed and conditioned earlier within this report, the applicant will be required to provide sidewalks along both sides of the street on SW Denali Lane. as well as the sidewalk along one side of SW Ironwood Lane, approximately five feet in width.

16.110 Sanitary Sewers - Required Improvements

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. . Sanitary sewers shall be constructed, located, sized and installed at standards consistent with the Code, applicable Clean Water Services standards and City standards to adequately serve the proposed development and allow for future extensions.

Sanitary sewer is proposed to extend throughout the site. The City Engineer has indicated that it appears the sanitary sewer proposal will be feasible. However the existing location of the sanitary sewer mainline at the southeast corner of the site does not provide for a related sanitary sewer easement. The sanitary sewer was not actually constructed within easement or the easement recorded was not adjusted to match the as-built sewer line alignment. This must be resolved prior to final subdivision plat.

FINDING: While it appears feasible to provide sanitary sewer service to all proposed lots, this cannot be confirmed until the public improvement plans are reviewed and approved and the final plat submitted. The following condition is needed.

CONDITION: The sanitary sewer system design and installation shall be in conformance with City design and construction standards, and must receive City Engineer review and approval to be accepted by the City.

CONDITION: Prior to approval of the public improvement plans, provide a 15-foot wide sanitary sewer easement on the plat over the portion of the existing sanitary sewer alignment which falls outside the existing sanitary sewer easement, and located within "Tract E."

16.112 Water Supply - 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.

The applicant proposes to provide a public water distribution system within the public right-of-way to service the development. This design is acceptable to the City, however full compliance will need to be reviewed and approved as part of the public improvement plan review process.

FINDING: The applicant proposes to install water lines; however, staff cannot confirm the proposed lines fully conform to the standards until public improvement plans are approved. This standard will be fully met when Engineering reviews and approves the public improvement plans, which has been conditioned previously in this report.

CONDITION: The public water distribution system design and installation shall be in conformance with City design and construction standards, and must receive City Engineer review and approval to be accepted by the City.

16.114 Storm Water - 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 Clean Water Services water quality regulations contained in their Design and Construction Standards R&O 04-9 or its replacement.

Clean Water Services has reviewed this proposal and provided comments that include requiring a CWS Storm Water Connection Permit be obtained prior to plat approval and recordation. As part of that Permit the applicant will be required to submit the materials outlined in the CWS Memo dated November 14, 2011(Exhibit C). The memo outlines conditions that will need to be followed in order to fully comply with this criterion.

The CWS Service Provider Letter, provided in the applicant's materials indicates that Tract "C" have a "STORM SEWER, SURFACE WATER, DRAINAGE AND DETENTION EASEMENT OVER IT'S ENTIRETY" denoted on the plans.

FINDING: As discussed above, staff cannot confirm at this time that the standard has been met. If the applicant submits a revised plan that complies with the following conditions, this standard will be met.

CONDITION: Prior to approval of the final plat, receive a Clean Water Services Storm Water Connection Permit Authorization that meets the requirements of the CWS Memorandum dated November 14, 2011.

CONDITION: Prior to approval of the public improvements, Tract "C" shall show and denote that a "STORM SEWER, SURFACE WATER, DRAINAGE AND DETENTION EASEMENT OVER ITS ENTIRETY" be granted to the City or CWS in compliance with Item 19 of the SPL.

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

John Wolff of Tualatin Valley Fire and Rescue provided general comments on November 18, 2001 (Exhibit D). Compliance with TVF&R will be required at time of detailed development plan review. Because of the slope of the site, it is necessary to install sprinklers within all residences in the subdivision. The applicant concurs. This has been conditioned earlier within this report.

FINDING: This standard is satisfied for this stage of the development. However the applicant cannot fully comply without the following condition.

CONDITON: Prior to approval of the public improvement plans, submit revised plans that provide adequate turning radius, hydrant location, fire flow, and adherence in compliance with TVF&R standards as verified by an acceptance letter from TVF&R.

16.118 Public And Private Utilities

A. requires that installation of utilities 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. Requires that public utility easements shall be a minimum of eight feet in width unless a reduced width is specifically exempted by the City Engineer. An eight (8) foot wide public utility easement (PUE) shall be provided on private property along all public street frontages. This standard does not apply to developments within the Old Town Overlay.

C. Indicates that 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).

D. Requires franchise utility conduits to be installed per the utility design and specification standards of the utility agency.

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

The City of Sherwood Broadband manager has submitted comments that conduit is not necessary as part of this development. As part of the public improvement plan review and approval, the applicant will be required to show conduits for all public and private utilities.

FINDING: As discussed above, this standard is not applicable.

16.118.030 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.

FINDING: All existing and proposed utilities are underground therefore this standard is met.

16.142.030 Visual Corridors

New developments located outside of the Old Town Overlay with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section VI of the Community Development Plan, shall be required to establish a landscaped visual corridor. The required width along a collector is 10 feet and 15 feet along an arterial. In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk.

The streets proposed with this development are local and thus no visual corridor is necessary.

FINDING: As discussed above, this standard is not applicable.

16.142.050 Trees Along Public Streets or on Other Public Property

Trees are required to be planted by the land use applicant to the specifications identified in 16.142.050 along public streets abutting or within any new development. Planting of such trees shall be a condition of development approval.

FINDING: As discussed above, the plans do not indicate the standard is met. If the applicant submits public improvement plans for review and approval that includes street trees in compliance with this provision.

CONDITION: Prior to approval of the public improvement plans, submit plans for review and approval that include the appropriate number of street trees along the frontage of SW Ironwood Lane and SW Denali Court.

16.142.060 Trees on Property Subject to Certain Land Use Applications

Required site grading necessary to construct the development as approved.

D. Mitigation

1. The City may require mitigation for the removal of any trees and woodlands identified as per Section 8.304.07C if, in the City's determination, retention is not feasible or practical within the context of the proposed land use plan or relative to other policies and standards of the City Comprehensive Plan. Such mitigation shall not be required of the applicant when removal is necessitated by the installation of City utilities, streets and other infrastructure in accordance with adopted City standards and plans. Provided, however, that the City may grant exceptions to established City street utility and other infrastructure standards in order to retain trees or woodlands, if, in the City's determination, such exceptions will not significantly compromise the functioning of the street, utility or other infrastructure being considered. Mitigation shall be in the form of replacement by the planting of new trees.

There are eight inventoried trees on the property ranging in size from 8 inches to 10 inches diameter at breast height (DBH). The applicant has indicated that all will be retained. However the

applicant has not shown street trees along SW Ironwood Lane that will need to be removed or relocated in order to construct SW Ironwood Lane to City standards.

FINDING: Based on the above discussion the applicant meets this criterion.

CONDITION: Prior to final plat approval, submit a tree mitigation plan to the City Planning Department. Complete mitigation or bond for the completion of the mitigation prior to signature by the City of the Mylar.

CONDITION: Prior to any grading on site, submit a tree protection plan showing how the trees to be retained will be protected throughout the construction of the site.

CONDITION: Prior to any grading on site, install tree protection fencing around trees to be retained. The tree protection fencing shall be inspected and deemed appropriate by the arborist to be reviewed by the Planning Department.

VII. RECOMMENDATION

Based on a review of the applicable code provisions, agency comments and staff review, staff finds that the Planned Unit Development and Subdivision do not fully meet the applicable review criteria. However, the applicable criteria can be satisfied if specific conditions are met. Therefore, staff **recommends that the Planning Commission forward a recommendation of APPROVAL with conditions** of Denali PUD (PUD 11-01, and SUB 11-01). Required conditions are as follows:

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. Approval of this Preliminary PUD does not constitute approval of a final development plan for the PUD or approved phases of the PUD.
3. Final Development plans for the PUD or phases of the PUD shall substantially comply with the preliminary plan dated September 13, 2011 and prepared by Emerio Design, and must comply with the conditions in this approval in addition to any other conditioned deemed necessary to ensure compliance with the development code and this approval.
4. Development and construction on the site shall conform substantially to the preliminary plat development plans submitted by Emerio Design and dated September 21, 2011 except as modified in the conditions below, (and shall conform specifically to final construction plans reviewed and approved by the City Engineer, the Building Official, Clean Water Services, Tualatin Valley Fire and Rescue, Tualatin Valley Water District and Washington County). All plans shall comply with the applicable building, planning, engineering and fire protection codes of the City of Sherwood.
5. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and adjacent to the plat as required by these conditions of approval, to the plans, standards, and specifications of the City of Sherwood. The developer shall also provide to the City financial guarantees for construction of all public streets and utilities within and adjacent to the plat, as required by the engineering compliance agreement.

6. This approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
7. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
8. Placement of construction trailers on the subject property shall require a Temporary Use Permit per Section 16.86 of the SZCDC.
9. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies, even if not specifically required by this decision.
10. Retaining walls within public easements or the public right-of-way shall require engineering approval. Retaining walls with a height of 4 feet or higher located on private property will require a permit from the building department.
11. Retaining walls great than four (4) feet in height shall have a geotechnical engineer provide stamped design calculations and details drawings required for retaining wall construction. The retaining wall details shall include at a minimum; wall profile, wall cross section at highest point of wall, wall reinforcing geotextile requirements, wall drainage system, and wall backfill requirements. Retaining wall drainage systems shall either discharge to a public storm drainage system, or discharge on-site in such a manner as to not negatively impact adjacent downslope properties.

B. General and Specific PUD Detailed Final Development Plan requirements:

1. A Detailed final development plan shall be submitted for review and approval within 1 year of the preliminary PUD approval.
2. Submit a detailed plan for Tract D, the open space area that describes a cross section detail and includes the type of materials that will be used for the pathway, landscaping, signage, street furniture and other pedestrian and neighborhood amenities on site to satisfy the open space requirements.
3. Provide the CC & Rs that document how the open space of Tract D will be maintained by the neighborhood association.
4. Redesign the preliminary plat to identify six lots with a minimum lot size of 10,000 square feet.

C. Prior to issuance of grading or erosion control permits from the Building Department:

1. Obtain Building Department permits and approval for erosion control and grading on private property and Engineering Department permits and approval for all grading in the public right of way.
2. The Developer's engineer is required to provide a site specific drainage plan to temporarily collect, route, and treat surface water and ground water during each construction phase. The construction plans shall specifically identify how the storm drainage system and erosion sediment control measures will be phased during construction, such that at any time during construction the approved plans shall be capable of providing full erosion and sediment control, collection, routing and treatment of storm water runoff and ground water. No site construction will be allowed to take place if the storm drainage system and erosion sediment control measures are not installed per plan and functioning properly.

3. Obtain a 1200C Erosion Control Permit through the Building Department for all the disturbed ground, both on and off site that is in excess of one acre in addition to meeting all CWS Design and Construction Standards. The applicant shall follow the latest requirements from DEQ and CWS for NPDES 1200-C Permit submittals. A copy of the approved and signed permit shall be provided to the City prior to holding a pre-construction meeting or commencing any construction activity.
4. Provide DSL and Corps of Engineers permits for any work in the wetlands or creek.
5. Include the following ESC measures in the submitted plans:
 - a. Sediment fencing at the project boundaries, filter fabric catch basin inserts, and rocked construction entrances.
 - b. Straw wattle ESC measures shall be provided across fill slopes faces, spaced at 25 foot intervals maximum down the face of fill slopes.
 - c. The street section grading shall include temporary drainage ditches with check dams until the finished street surface and related open space sidewalk improvements are installed.
6. Submit a tree protection plan showing how the trees to be retained will be protected throughout the construction of the site.
7. Install tree protection fencing around trees to be retained on site. The tree protection fencing shall be inspected and deemed appropriate by the arborist to be reviewed by the Planning Department.
8. Any existing wells, septic systems and underground storage tanks shall be abandoned in accordance with Oregon state law, inspected by the City Plumbing Inspector and provide verification of such to the City Engineer.
9. A demolition permit shall be obtained from the Sherwood Building Department prior to demolishing or moving any structures.
10. The applicant shall comply with Geotechnical Engineering Report prepared by GeoPacific Engineering, Inc. dated August 26, 2011, which outlines the specific conditions within the right-of-way limits with the exception that the minimum asphalt concrete pavement thickness shall be 4" per Section 210.2.2. of the Engineering Design Manual. Along with the general construction recommendations, delineating the extent of spring and groundwater activity shall be researched and reported. The report shall detail a plan for dewatering these areas and shall further identify those lots which require specific foundation design.
11. In the event there is engineered fill on any public roads or lots, the applicants' soils engineer and testing lab shall obtain and record compaction tests and submit results for the review and approval of the City Engineer.

D. Prior to approval of the public improvement plans:

1. Submit engineering plans for all public improvements and/or connections to public utilities (water, sewer, storm water, and streets) to the Sherwood Engineering Department. The engineering plans shall conform to the design standards of the City of Sherwood's Engineering Department, Clean Water Services, Tualatin Valley Water District, Tualatin Valley Fire & Rescue and other applicable requirements and standards. The plans shall be in substantial

conformance with the utility plans dated September 21, 2011 and prepared by Emerio Design with the following modifications:

- a. The applicant shall submit plans that include the expansion of the existing Ironwood Lane road section to meet current City road section standards for a residential street. This expansion shall include: additional asphalt pavement section, concrete curb and gutter, planter strip, and concrete sidewalk.
 - b. A storm drainage system will be required to provide adequate collection and conveyance of storm water runoff from SW Ironwood Lane to the water quality treatment facility.
 - c. The area bounded by these improvements must be within a dedicated right-of-way. If the area is not already dedicated right-of-way, the applicant shall dedicate on the plat the necessary right-of-way to conform to City requirements.
 - d. The applicant shall submit plans that include the extension and dedication of SW Denali Lane to meet current City road section standards for a residential street. This expansion shall include: additional asphalt pavement section, concrete curb and gutter, planter strip, and concrete sidewalk.
 - e. Provide a pathway alignment that does not exceed a 15% grade for the open space area known as Tract D.
 - f. Provide a pedestrian accessway for Tract D that shows the pavement, landscaped area and height of the fence along the southern portion of Lot 8 in compliance with the SZDC.
 - g. Tract "C" shall show and denote that a "STORM SEWER, SURFACE WATER, DRAINAGE AND DETENTION EASEMENT OVER ITS ENTIRETY" be granted to the City or CWS in compliance with Item 19 of the SPL.
 - h. Submit plans for review and approval that include the appropriate number of street trees along the frontage of SW Ironwood Lane and SW Denali Court.
2. Submit to the Engineering Department for review and approval a stormwater report meeting design standards of both the City of Sherwood and Clean Water Services and the Clean Water Service Provider letter dated July 14, 2011 and the following condition found therein:
 - a. Provide a note to the construction plan set that states that the project shall comply with the recommendations outlined in the geotechnical report prepared by GeoPacific Engineering, Inc. dated August 26, 2011.
 - b. Submit plans that identify the buffer and mitigation areas and related mitigation measures and notes delineated in the SPL shall be incorporated into the grading and ESC plan sheets of the planning and construction plan submittal.
 3. Private site developments incorporating Low Impact Development (LID) storm systems must submit technical design data and calculations showing how the system complies with City and CWS standards. Approval of such LID systems by City is on a case by case basis. The Developer shall sign an "Access and Maintenance Agreement" authorizing the City rights to access the site and to maintain the LID storm system should the Developer fail to do so. If enforced the Developer will be responsible for all City costs associated with this maintenance.

4. Typical street sections shall conform to the City's *"Engineering Design and Standard Details Manual"* and the City's Transportation System Plan, and shall include an 8-foot wide public utility easement.
5. A cross section for each type of street improvement shall be prepared that illustrates utility locations, street improvements including grade and elevation, and sidewalk location including grade and elevation per current construction standards. Cross sections shall be included in the plan set and submitted to the City Engineer for review and approval.
6. Submit public improvement plans that demonstrate the placement of all existing and proposed utilities underground.
7. Submit public improvement plans to the Engineering Department, with a copy of the landscaping plan to the Planning Department, for review and approval.
8. All public easement dedication documents must be submitted to the City for review, signed by the City and the applicant, and recorded by the applicant with the original or a certified copy of the recorded easements on file at the City prior to release of the public improvement plans.
9. Submit the final plat for review to the Planning Department.
10. Provide the appropriate recommendations from a registered professional civil/environmental engineer or geotechnical engineer regarding how the soils are to be handled to prevent contaminated material from leaving the site. These recommendations are to be complied with in the development of the construction drawings and may require full review and approval from DEQ as part of the City approval process.
11. Comply with the DEQ requirements pertaining to the cleanup of the contaminated soils onsite.
12. Receive approval from TVF&R to allow this modified street grade.
13. Show on the plan set that the speed limit signage of 20 mph is posted at either end of the street section where this speed limit is in effect.
14. Provide a 15-foot wide sanitary sewer easement on the plat over the portion of the existing sanitary sewer alignment which falls outside the existing sanitary sewer easement, and located within "Tract E."
15. Submit revised plans that provide adequate turning radius, hydrant location, fire flow, and adherence in compliance with TVF&R standards as verified by an acceptance letter from TVF&R.

E. Prior to Approval of the Final Plat:

1. The submittal by the applicant for final plat review and approval shall include but not be limited to the following: a final plat application; final plat review fee; narrative identifying how the required conditions of approval have or will be met; three copies of the final plat; and any other materials required to demonstrate compliance with the conditions of approval.
2. Approval of the public improvement plans by the Engineering Department, and signature of a compliance agreement must be complete prior to release of the plat to the County for review.

In addition, prior to final plat approval, either all on-site work must be complete or the improvements bonded or guaranteed with a cash deposit.

3. Comply with the conditions as set forth in the Service Provider Letter No. 10-002401, dated July 14, 2011.
4. Provide an easement over the vegetated corridor conveying storm and surface water management to CWS that would prevent the owner of the vegetated corridor from activities and uses inconsistent with the purpose of the corridor and any easements therein.
5. Provide detailed plans showing the sensitive area and corridor delineated, along with restoration and enhancement of the corridor.
6. Receive a Clean Water Connection Permit Authorization that meets the requirements of the CWS Memorandum dated November 14, 2011.
7. The final plat shall show the following:
 - a. The Community Development Director as the City's approving authority within the signature block of the final plat.
 - b. A 15-foot wide public utility easement for any areas where a single public utility line is located outside a public right-of-way with an increase of five (5) feet for each additional utility line.
 - c. Private access easements, utility easements and/or special use easements as required for the development of the site. A plat note shall reference an easement and maintenance agreement or similar document, to be recorded with the plat, for the joint maintenance of any common private utility lines, common driveway improvements, or other common amenity or perimeter fencing. The language of such plat note and associated document shall be reviewed and approved by the Planning Department.
8. Submit revised plans that provide adequate turning radius, hydrant location, fire flow, and adherence in compliance with TVF&R standards as verified by an acceptance letter from TVF&R.
9. The public improvement plans must be approved and bonded for prior to the City's approval of the final plat.
10. Design the public street intersections to meet sight distance requirements. Provide certification by a registered Oregon Professional Engineer that the constructed public street intersections meet sight distance requirements.
11. Submit a tree mitigation plan to the City Planning Department. Complete mitigation or bond for the completion of the mitigation prior to signature by the City of the Mylar.

F. Prior to Issuance of a Building Permit:

1. Prior to issuance of any building permits, the public improvements must be complete and accepted by the City Engineer, and the final plat(s) must be recorded. An approval letter from the Engineering Department, accepting all public improvements, shall be issued prior to issuance of building permits.

2. Prior to issuance of any building permits, the developer shall provide a geotechnical investigation report if required by the Building Official.
3. Prior to issuance of building permits, an electronic version of the final plat must be submitted to the Planning Department.
4. Submit a recorded copy of the CC & Rs.

G. Prior to Final Occupancy of the Subdivision:

1. All public improvements shall be competed, inspected and approved, as applicable, by the City, CWS, TVF & R, TVWD and other applicable agencies.
2. All agreements required as conditions of this approval must be signed and recorded.
3. Plant the required street trees for each lot prior to a certificate of occupancy for the home on the lot.
4. Install the landscaping according to the landscape plan prior to the issuance of the occupancy permits or pay a security bond for 125% of the cost of the landscaping payable to the City. If the landscaping is not completed within six months, the security may be used by the City to complete the installation.
5. Construct and install the pathway and other Tract D open space amenities described in the final development plan.

H. On-going Conditions

1. All homes exceeding 3,600 square feet of living space must have available hydrant flow approved.
2. All rain, storm, and other surface water runoff from roofs, exposed stairways, light wells, courts, courtyards, and exterior paved areas shall be disposed of in compliance with local ordinances and state rules and regulations, in a manner that will not increase runoff to adjacent properties. The approved points of disposal include storm sewer laterals to a public system or other storm sewer system as approved by the City Engineer.
3. Joint mailbox facilities shall be installed prior to the City signing the Letter of Acceptance for the development. Joint mailbox facilities must be installed per U.S. Postal Service's "*Developers' Guide to Centralized Box Units*". The Developer shall provide a signed copy of the U.S. Postal Services "*Mode of Delivery Agreement*". Submittal of this agreement shall be required prior to a pre-construction meeting taking place.
4. The developer shall coordinate location of garbage and recycling receptacles with Pride Disposal.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code.
6. Decks, fences, sheds, building additions and other site improvements shall not be located within any easement unless otherwise authorized in writing by the City Engineer.

7. Fences separating lots from adjacent pedestrian access way may not exceed 42" in height unless the fences are setback with at least three (3) feet of landscaping from the pedestrian easement.
8. Comply with the Clean Water Services Service Provider Letter throughout the development of the site.
9. Restrict and maintain on-site landscaping, utilities, and any other obstructions in the sight distance triangles to provide adequate sight distance at access locations to SW Denali Lane and SW Ironwood Lane.
10. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
11. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working in the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
12. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through proper disposal containers or construction fencing enclosures. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the Community Development

VIII. EXHIBITS (Included in the Planning Commission Recommendation to Council for the hearing on February 21, 2012 and part of the land use record)

Exhibit A- Applicant's Materials submitted February 9, and September 23, 2011
Exhibit B- City of Sherwood Engineering Comments dated November 2, 2011
Exhibit C- Clean Water Services letter submitted November 14, 2011
Exhibit D-Tualatin Valley Fire and Rescue letter submitted November 18, 2011
Exhibit E- DEQ Fact Sheet Ken Foster Farm
Exhibit F- Citizen Comments from Mrs. Beverly Baugus, dated November 29, 2011
Exhibit G-DEQ Comments from Mark Pugh, dated December 6, 2011
Exhibit H- Citizen Comments from Dennis and Paula Yuzon, dated December 6, 2011
Exhibit I- Citizen Comments from Kurt Kristensen, dated December 7, 2011
Exhibit J- Citizen Comments from Patrick Huske, dated December 12, 2011
Exhibit K- Proposed Amendments to Staff Report, dated December 13, 2011
Exhibit L- Citizen Comments from Lisa and Roger Walker, dated December 13, 2011
Exhibit M- Applicant's Exhibit presented at December 13, 2011 hearing
Exhibit N- Citizen Comments from Lisa and Roger Walker, dated December 27, 2011
Exhibit O- City of Sherwood Planning Memo regarding density calculation dated January 3, 2012
Exhibit P- Planning Commission Resolution 2006-01, including the Southeast Sherwood Master Plan

End of Report

TO: Sherwood City Council
FROM: Michelle Miller, AICP, Associate Planner
Through: Tom Pessemier, City Manager Pro Tem and Community Development Director
Subject: Code Clean-Up Proposed Amateur Radio Tower Amendments

EXECUTIVE SUMMARY

Summary: The proposed changes will ensure the Code is consistent with state and federal laws relating to amateur radio towers. The Planning Commission held a public hearing on February 22, 2011 and forwarded a recommendation of approval to the Council on issues pertaining to residential uses that included amateur radio towers. At the April 5, 2011 public hearing, the Council approved amendments to the residential use section without the proposed amateur radio tower amendments in order to consider the issue at a later date. The Planning Commission's recommended changes relating to amateur radio towers are attached as Exhibit 1-A.

Previous Council Action: Work session in March 2011 related to amateur radio towers.

Background/Problem Discussion: The City began the multi-phase code update in April 2010. Multiple amendments to the Development Code have been approved since that time. Back in the spring, Council directed staff to separate out amateur radio towers from the original Planning Commission recommendations concerning residential uses in order to consider more information on the issues surrounding to amateur radio towers in the residential zone and ensure compliance with the state statutes. Exhibit 1-A reflects the Commission's recommendation on the following:

- Adding amateur radio tower to the permitted residential uses table
- Adding height restrictions in the residential land use dimensional table for amateur radio towers
- Providing a definition for amateur radio towers
- Adding language to comply with federal and state regulations concerning amateur radio towers
- Adding language that local City Building Code and other local regulations apply

Alternatives: Approve, approve with modifications or deny the Planning Commission recommendation.

Financial Implications: It is likely that there will be a minimal cost associated with making the Code updates available online and also updates to forms and providing informational materials to the public.

Recommendation: Staff recommends that the City Council hold a public hearing and determine whether to adopt the attached Ordinance or direct staff to make additional modifications to the proposed text changes based on additional information submitted.

Attachments:

Ordinance

Exhibit 1: Staff Report following PC Recommendation

Exhibit 1-A: Proposed Development Code Amendments with "Track Changes"



ORDINANCE 2012-006

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE RELATING TO AMATEUR RADIO TOWERS IN RESIDENTIAL ZONES

WHEREAS, The Sherwood Zoning and Community Development Code has not been comprehensively updated in many years; and

WHEREAS, the City has undertaken a multi-phase, multi-year program to comprehensively update the development code to ensure that it is clear, consistent, and current; and

WHEREAS, the Planning Commission helped guide the development of proposed amendments after extensive public outreach and opportunity for public input; and

WHEREAS, the proposed amendments to Division II related to the requirements for amateur radio towers in the residential zones and were reviewed for compliance and consistency with the Comprehensive Plan, regional and state regulations and found to be fully compliant; and

WHEREAS, the proposed amendments were subject to full and proper notice and review and a public hearing was held before the Planning Commission on February 22, 2011; and

WHEREAS, the Planning Commission voted to forward a recommendation of approval on residential uses including amateur radio towers to the City Council for the proposed Development Code modifications; and

WHEREAS, the City Council approved modifications to the Development Code regarding residential uses on April 5, 2011, but requested more information on amateur radio towers and delayed action on the proposed changes until the March 6, 2012 hearing; and

WHEREAS, the analysis and findings to support the Planning Commission recommendation are identified in the attached Exhibit 1; and

WHEREAS, attached Exhibit 1-A reflects the code amendments pertaining to amateur radio towers; and

WHEREAS, the City Council held a public hearing on March 6, 2012 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, the record, findings, and evidence presented at the public hearing, the

Council adopts the findings of fact contained in the Planning Commission recommendation attached as Exhibit 1 finding that the text of the SZCDC shall be amended as documented in Exhibit 1-A.

Section 2. Approval. The proposed amendments for Plan Text Amendment (PA) 11-01A identified in Exhibits 1-A is hereby **APPROVED**.

Section 3 - 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 4 - Applicability. The amendments to the City of Sherwood Zoning and Community Development Code by Sections 1 to 3 of this Ordinance apply to all land use applications submitted after the effective date of this Ordinance.

Section 5 - Effective Date. This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

Duly passed by the City Council this 6th day of March 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	_____	_____
Langer	_____	_____
Butterfield	_____	_____
Folsom	_____	_____
Henderson	_____	_____
Grant	_____	_____
Mays	_____	_____

City of Sherwood
Staff Report to City Council
File No: PA 11-01A Code Clean-Up-Amateur Radio Towers

February 24, 2012

Proposal: Amendments to the Development Code on this phase of the Code Clean-Up project include adding code language to allow amateur radio towers in the residential zone. Exhibit 1-A is a copy of the proposed text amendments with all of the changes incorporated in the “track changes” version for help in identifying what text is new or modified.

The Planning Commission held a hearing on February 22, 2011. After discussion of the various topics within the residential use sections, the Commission recommended several minor alterations to the proposed language. After consideration of the public testimony and staff recommended changes, the Commission voted to forward the proposed amendments to residential uses. During a work session briefing on the updates, Council directed staff to separate the amateur radio towers amendments to allow more time to consider those specific changes. Exhibit A contains the proposed amendments to the development code concerning Amateur Radio Towers. The following represents the analysis and findings the Planning Commission based their recommendation upon with modifications to reflect that only the amateur radio tower standards are being considered at this time.

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 applies citywide.
- C. Review Type: The proposed text amendment requires a Type V review that involves public hearings before the Planning Commission and also the City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision relating to Chapter 16 updates would go directly to the Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the March 6, 2012 City Council hearing on the proposed amendment was published in *The Times* on February 23 and March 1, 2012. In addition, as a courtesy notice was placed in the March edition of the Gazette. Notice was posted in five public locations around town and on the web site on February 24, 2012. Regular updates were provided in the City newsletter.

While this does apply citywide, it does not affect the permissible uses of any property; therefore “Measure 56” notice was not required or provided. DLCDC notice was sent January 5, 2011.

- E. Review Criteria:
The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).
- F. Background:

The City underwent periodic review in 1989-1991 and the Zoning and Community Development Code was comprehensively reviewed and updated as part of that process. Since that time, there have been a number of updates to comply with regional and state laws, address local issues and in response to applications. Overtime, the disjointed modifications resulted in the need to conduct a comprehensive audit and update of the Code to ensure cross references are correct, standards are clear, and typographical errors are fixed. In addition, over time the trends and values have changed to the extent that it became important to evaluate the standards to ensure they address the needs of the community. To that end, the Council, Planning Commission and staff identified the importance of a comprehensive update of the Development Code. The Code Update project has been broken into phases to allow manageable portions to be reviewed and adopted prior to moving on to another phase. The proposed amendments concerning amateur radio towers were initially forwarded by the Planning Commission in March of 2011 along with other issues surrounding residential uses.

Amateur radio towers are currently considered a conditional use in any zone under § 16.68, "Chimneys, Spires, Antennas, and Similar Structures" with a height limitation of 200 feet. Over the last few years, staff has been contacted by citizens requesting information on installing an amateur radio tower on their residential property. The conditional use permit fee was often stated as a deterrent for erecting a tower, especially for a hobbyist or amateur radio enthusiast.

During the Code Clean Up process, it was brought the attention of staff and the Planning Commission that Oregon statutes were in place to exempt amateur radio towers in the residential zone from local regulations to a height limitation of 70 feet or less. Exhibit 1-A reflects the proposed language that will be in compliance with the state regulatory language.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent an e-mail request for comments to agencies on January 28, 2011. DLCD received notice on January 5, 2011 and had no specific comments on the proposed regulations. The City received the following response.

Sherry Oeser, at Metro, inquired whether the change in residential uses would result in any reduction in housing capacity in the city of Sherwood. (Metro Code 3.07 Urban Growth Management Functional Plan Title 1 Housing Capacity).

Staff response: The density will remain the same for each residential designation and there is no impact to the housing capacity.

Public:

The City and Commission has received input from the public during informal listening sessions and via public surveys which helped guide the proposed amendments under review.

Neil Shannon testified at the February 22, 2011 hearing. He described his support of the proposed Code amendments regarding chickens and amateur radio towers. He proposed removing "ham" from the reference to amateur radio towers and the Commission concurred.

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.

As discussed briefly above, the proposed Code amendments were identified to clarify and create greater flexibility for the sections that residential property owners use most frequently. The Planning Commission held a series of work sessions to discuss the proposed changes and considered public input before the modifications were recommended. The following is a summary of the amateur radio changes:

Division II. Chapter 16.12-16.20 Very Low Density to High Density Residential

The update occurs in *Division II.*, Chapters 16.12.-Residential Land Uses and specifically the addition of § 16.12.070-Amateur Radio Tower. This includes replacing the existing language that had previously been divided into separate land use designations by chapter into a table with the permitted and conditional uses. Another table describes the dimensional standards with the specific zones.

Based on citizens' comments and inquiries and revised Oregon statutory regulations, the recommended changes include new permitted uses amateur radio towers within residential land use zones.

The proposed changes are consistent with applicable Comprehensive Plan policies. Specifically, **Chapter 4, Section E, Residential Planning Designations:**

General Objectives:

- *See to provide housing which meets local needs with regard to style, price, density, quality and energy efficiency.*
- *Specify the purpose and density requirements for residential land use classifications used in the Comprehensive Plan.*

Policy 1:

- *Residential areas will be developed in a manner which will insure that the integrity of the community is preserved and strengthened.*
- *Buffering Techniques shall be used to prevent adverse effects of one use upon another. These techniques may include varying densities and types of residential use, design features and special construction standards.*

Policy 1 of the Comprehensive Plan identifies buffering techniques to prevent adverse effects of uses. Overall, the proposed code updates reflect the community design standards for the residential planning designations by recognizing the changing needs of the community and balancing the privacy needs of individual property owners within neighborhoods. The proposed code amendments satisfy the Comprehensive Plan policies and objectives listed above. The proposed language also reflects regulatory compliance and provides height limitations for the amateur radio antennas and towers.

Applicable Regional (Metro) standards

There are no known Metro standards that this proposed amendment would conflict with.

Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comprehensive plan has been acknowledged by the State, there are no conflicts with this text change. Further, there are no known state goals or standards that the proposed amendment would conflict with.

As a whole, the amendments are consistent with and support **Statewide Planning Goal 2** (land use planning) by providing clearer standards. The Code language is in conformance with state and federal plans. The proposed language will continue to be used city wide.

The process used to develop and review the proposed amendment is consistent with the Goal 2 requirements (and the Development Code):

- The Commission held multiple work sessions on residential uses and variances;
- The web site was updated regularly to provide opportunity for people to get information and provide feedback on the project as a whole as well as input on specific topics;
- Non-scientific surveys were solicited and forty-seven surveys from individuals helped inform the process;
- Staff attended community events and home owner association meetings in order to get feedback about the proposed changes;
- Flyers announcing the project were developed and made available throughout the City; and
- The Planning Commission held a “Listening Session” to hear comments from interested citizens on issues of residential livability.

In addition to the public outreach provided before the proposed changes were developed and the public hearing set, formal notice was also published in the newspaper for two weeks prior to the hearing, published in the February issue of the Gazette, posted around town, placed in the library and on the web site. Courtesy notices were also provided on the web site, in the City Newsletter (the Archer), to the interested parties list and the most current list of HOA contacts.

FINDING: As discussed above in the analysis, there is a need for the proposed amendments and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.3 – Transportation Planning Rule Consistency

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

FINDING: The amendment will not result in a change of uses otherwise permitted and will have no impact on the amount of traffic on the transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the Planning Commission recommendation, above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends the City Council approve PA 11-01A.

V. EXHIBITS

- A. Proposed Development Code changes Track Changes Version

16.12.020. Allowed Residential Land Uses-(Table shows where the amendment to the Code would be inserted.)

A. Residential Land Uses

The table below identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and defined in Chapter 16.10.

USES	VLDR	LDR	MDRL	MDRH	HDR
ACCESSORY USES					
•Home Occupations-subject to Chapter 16.42	P	P	P	P	P
•Temporary Uses-subject to Chapter 16.86	P	P	P	P	P
• Amateur Radio Tower -subject to § 16.12.060	P	P	P	P	P
•Family Daycare Providers	P	P	P	P	P
COMMERCIAL					
•Agricultural Uses ³	P	P	P	P	P
•Residential Care Facilities	P	P	P	P	P
•Special Care Facilities (such as hospitals, sanitariums, and specialized living facilities)	C	C	C	C	P
•Plant Nurseries ⁴	C	C	C	C	C
•Public and Private Schools	C	C	C	C	C
•Daycare Facilities	C	C	C	C	C
•Any business, service, processing, storage, or display not conducted entirely within an enclosed building that is essential or incidental to any permitted or conditional use	C	C	C	C	C
•Raising of Animals other than Household Pets	C	C	C	C	C
CIVIC					
•Public Recreational Facilities ⁵	P	P	P	P	P
•Religious Institutions, Private Fraternal Organizations and Lodges, Country clubs or other similar clubs	C	C	C	C	C

•Cemeteries and crematory mausoleums	C	C	C	N	N
•Civic Buildings-(such as police and fire stations, post office)	C	C	C	C	C
•Public Use Buildings-(such as libraries, and community centers)	C	C	C	C	C

Whereas P=Permitted, C=Conditional, N=Not Allowed

³ Includes truck farming and horticulture, but excludes commercial building or structures or the raising of animals except as otherwise permitted by this code.

⁴ Includes other agricultural uses and associated commercial buildings and structures

⁵ Includes, but is not limited to parks, playfields, sports and racquet courts, but excludes golf courses

USES	VLDR	LDR	MDRL	MDRH	HDR
•Golf Courses	C	C	C	C	C
•Basic Utilities (such as electric substations, public works yard)	C	C	C	C	C
•Radio and communications stations, on lots with a minimum width and depth equal to the height of any tower in conformance	C	C	C	C	C

Whereas P=Permitted, C=Conditional, N=Not Allowed

B. Any use not otherwise listed that can be shown to be consistent or associated with the permitted uses or conditionally permitted uses identified in the residential zones or contribute to the achievement of the objectives of the residential zones will be allowed or conditionally permitted using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

C. Any use that is not permitted or conditionally permitted under this zone that cannot be found to be consistent with the allowed or conditional uses identified as in B. is prohibited in the residential zone using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

(Ord. No. 2011-003, § 2, 4-5-2011)

16.12.030 Residential Land Use Development Standards

A. Generally

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84. (Variance and Adjustments)

B. Development Standards

Except as modified under Chapter 16.68 (Infill Development), Section 16.144.030 (Wetland, Habitat and Natural Areas) Chapter 16.44 (Townhomes), or as otherwise provided, required minimum lot areas, dimensions and setbacks shall be provided in the following table.

C. Development Standards per Residential Zone

Development Standard by Residential Zone-	VLDR	VLDR- PUD	LDR	MDRL	MDRH	HDR
Minimum Lot areas:(in square ft.)						
•Single-Family Detached	40,000	10,000	7,000	5,000	5,000	5,000
•Single Family Attached	40,000	10,000	7,000	5,000	4,000	4,000
•Two or Multi-Family: for the first 2 units	X	X	X	10,000	8,000	8,000
•Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line ⁶ : (in feet)						
•Single-Family	None	None	60	50	50	50
•Two-Family	X	X	X	60	60	60
•Multi-family	X	X	X	X	60	60
Lot Depth	None	None	80	80	80	80
Maximum Height⁷ (in feet)	30 or 2 stories	35 or 2.5 stories	40 or 3 stories			
• Amateur Radio Towers	70	70	70	70	70	70
•Chimneys, Solar or Wind Devices, Radio and TV aerials ⁸	50	50	50	50	55	60
Setbacks (in feet)						
•Front yard	20	20	20	20	20	20
•Interior side yard						
•Single-Family Detached	5	5	5	5	5	5
•Single-Family Attached	20	20	20	10	5	5
•Two Family	X	X	X	5	5	5
•Multi-Family						
•18 ft. or less in height	X	X	X	X	5	5
•Between 18-24 ft. in height	X	X	X	X	7	7

	•If over 24 ft. in height	X	X	X	X	§ 16.68 Infill	§ 16.68 Infill
•Corner lot street side							
	•Single Family or Two Family	20	20	20	15	15	15
	•Multi-Family	X	X	X	X	20	30
•Rear yard		20	20	20	20	20	20

⁶ Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard.

⁷ Maximum height is the lesser of feet or stories

⁸ Some accessory structures, such as chimneys, stacks, water towers, radio or television antennas, etc. may exceed these height limits with a conditional use permit, per Chapter 16.62 (Chimneys, Spires, Antennas and Similar Structures).

NO CHANGES TO 16.12.040 AND 16.12.050

16.12.060 Amateur Radio Towers/Facilities

A. All of the following are exempt from the regulations contained in this section of the Code:

1. Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS § 221.295.
2. This includes antennas attached to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. This exemption applies only to the Sherwood Development Code and does not apply to the City of Sherwood Building Code or other applicable City, state, and federal regulations. Amateur radio facilities not meeting the requirements of this section are considered permitted, and must comply with Chapter 16.12.030.C.

B. Definitions

1. Amateur Radio Services: Radio communication services, including amateur-satellite service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.
2. Amateur Radio Facilities: The external, outdoor structures associated with an operator's amateur radio service. This includes antennae, masts, towers, and other antenna support structures.