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**City of Sherwood, Oregon  
Planning Commission  
Meeting Minutes  
December 18, 2013**

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**Planning Commission Members Present:**

Chair Jean Simson  
Vice Chair James Copfer  
Commissioner Beth Cooke  
Commissioner Michael Cary  
Commissioner John Clifford  
Commissioner Russell Griffin

**Staff Present:**

Julia Hajduk, Community Development Director  
Brad Kilby, Planning Manager  
Michelle Miller, Senior Planner  
Kirsten Allen, Planning Dept. Program Coordinator

**Planning Commission Members Absent:**

Commissioner Lisa Walker

**Council Members Present:**

Mayor Bill Middleton

**Legal Counsel:**

Chris Crean

**1. Call to Order/Roll Call**

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

**2. Agenda Review**

The agenda consisted of a public hearing, PA 13-02 Brownstone Text Amendment and Zone Change

**3. Consent Agenda:** None

Note: Commissioner Cooke arrived at 7:03 pm

**4. Council Liaison Announcements**

Mayor Middleton informed the Commission that City Council approved the contract for the Community Center at the previous City Council meeting. He commented on the process and thanked the Planning Commission for reviewing the project.

Chair Simson remarked on the recognition of Captain Dan Atkisson's retirement from Tualatin Valley Fire and Rescue at the City Council meeting.

**5. Staff Announcements**

Brad Kilby, Planning Manager, announced that the City was accepting applications for the Budget Committee, reminded the Commission of an Open House by Tri-Met regarding Southwest Service

Enhancements to the area on January 16, 2014, and said the next Planning Commission meeting on January 14, 2014 would be a work session with legal counsel at starting 6:00 pm.

## **6. Community Comments**

**Robert James Claus**, Sherwood resident, commented about direct and representative democracy and spoke about testimony. He commented regarding content analysis and the Citizen Comment form, saying its purpose was to gather data about what a commission was making a decision on; such as if the speaker was a business owner or registered voter. Mr. Claus commented that Sherwood had forgotten that the town is controlled by the voter and enabled by the State. He spoke of businesses trying to get voting rights and the term “stakeholder.” Mr. Claus commented regarding request to speak form where it states that the “individuals may not impugn the character of anyone else” and suggested that by analyzing a planner’s work you are talking about professional character. Mr. Claus commented that the form was a control document about controlling the input of information the Planning Commission receives. He commented regarding control and earning money. Mr. Claus said the voters control this town and lying to them will result in the elected officials, the City Manager and then the Commissions being replaced. He commented about what kind of town environment the people wanted and regarding staff not living in Sherwood. Mr. Claus compared home ownership to lifestyle and said that shifting to more tenants reduces the voting percentage. He reminded the Planning Commission that they were the first line of guarding our lifestyle and said that he had seen a positive change in direction since Mayor Middleton.

With no other citizen comments, Chair Simson moved to the next item on the agenda.

## **7. New Business**

### **a. Public Hearing - PA 13-02 Brownstone Text Amendment and Zone Change**

Chair Simson read the public hearing statement for a legislative hearing and said the Planning Commission would forward a recommendation for the two parts of the application to the City Council. She asked for any ex parte contact, bias, or conflict of interest. Commissioner Beth Cooke disclosed that she had visited the site.

Chair Simson asked for the staff report.

Senior Planner Michelle Miller gave a presentation (see record, Exhibit 1) and said the application was for a zone change and a text amendment with two issues before the Planning Commission. She explained that the zone change was to change from General Commercial Zone to High Density Residential zone and the text amendment was to change language regarding a Planned Unit Development (PUD). Michelle said the PUD standards generally require a 5000 square foot lot minimum for single family homes in all zones. The applicant is requesting that this provision be removed under the PUD standards. She informed the commission that it was a Type V review process and the Planning Commission would forward recommendations to the City Council and the Council would hold a public hearing to consider the recommendations. Michelle indicated that appeals would go to the Land Use Board of Appeals.

Michelle showed an aerial view of the 5.77 acres site (TL#2S130CD13400) located at the northeastern intersection of SW Cedar Brook Way and Meinecke Parkway. She said the site was vacant and

relatively flat with a nearby vegetative corridor. Michelle pointed out that the site was part of a three-lot minor land partition in 2005 when the Oregon Department of Transportation constructed the SW Meinecke intersection and roundabout.

Michelle showed a portion of the current zoning map highlighting High Density Residential, Commercial and Institutional /Public zones. She explained that the subject property was currently General Commercial and gave examples of what could be built there. Michelle said the applicant requested that it be changed to High Density Residential which is the highest zoning designation at 16.8-24 dwelling units per acre or about 46-66 units for this parcel of land. It would allow for a variety of housing types ranging from single-family homes to multi-family homes. Michelle compared that to Vintner Townhomes on the other side of Hwy 99W at approximately five acres and 71 units. She gave other examples of High Density Residential zones in the community.

Michelle went over some criteria for a zone change ~~and a text amendment~~:

- Complies with the Local Plans such as the Transportation System Plan, the Development Code standards and the Comprehensive Plan requirements
- There is an existing need for the uses and zoning proposed
- The application is timely and considers the pattern of development
- Other lands are not available for the use proposed

Michelle informed the Commission that there are 128 existing acres of General Commercial in the City with 28 vacant acres and 121 existing acres of High Density Residential (HDR) with 10 acres or 8% vacant in the City. She related that there are no parcels five acres or more available for HDR. Michelle indicated that there are about nine vacant General Commercial properties that size within the City.

Michelle went over additional criteria for a zone change ~~and text amendment~~:

- Transportation Planning Rule (TPR) consistency that says the number of trips cannot negatively impact existing highway transportation system. The Engineering Department determined that a residential use would have less impact than a commercial use. ODOT also concluded that the change would not significantly affect the transportation system.
- Comprehensive Plan policies
  - Growth Management
  - Residential Land Use
  - Economic Development

Michelle summarized that residential areas need to be developed in a manner which ensures that the integrity of the community is preserved and strengthened and that there is an adequate distribution of housing styles available. She said affordable housing and locational choice for all income groups should be available as well as housing provided for the elderly, disadvantaged or government-assisted.

Michelle informed the Commission that the applicant's economic advisor was present to review the economic analysis.

Michelle said the purpose of a PUD was to integrate the land use, buildings, and transportation facilities through site design to allow creativity and flexibility in site design /review which cannot be achieved through strict adherence to existing zoning and subdivision standards. She explained that the applicant is proposing to remove the minimum lot size and add Code language that, *"lots created through the PUD shall not be subject to the minimum lot sizes and shall supersede the standards within the base zone provided that the applicant demonstrates that the proposal meets the purpose and intent of the Zoning and Development Code and the Comprehensive Plan."*

Michelle expanded that the objectives of the PUD are intended to encourage the efficient use of land and resources that can result in savings to the community, consumers, and developers; preserve the valuable landscape and environmental features of the site and provide innovative living, working, and neighborhood shopping environments. She related that it takes into account the community's need for activity patterns and promotes innovative pedestrian design that enhances the community. Michelle said residential PUDs include a variety of housing types: single-family, attached zero lot line housing, row houses, duplexes, clustering units and multifamily. She explained that the standards require that the density be preserved as the underlying zone and density transfers are allowed, but the minimum lot size has to be 5,000 square feet. Michelle spoke of the dichotomy between the purposes of what a PUD is supposed to be and the requirement of 5,000 square feet minimum lot size.

Michelle said that staff had made findings in support of the zone change and text amendment and the zone change meets the criteria based on the identified need, timeliness of the application, and that there are no other suitable lands available for the use proposed.

Michelle communicated that the text amendment supports the objectives of Planned Unit Development and provides oversight through the Planning Commission and City Council by the public hearing process. She commented that the Planned Unit Development process reviews an application, receives a Planning Commission recommendation, goes to the City Council for an overlay approval and then comes back to the Planning Commission for the final development plan. Michelle stated that there is an extreme amount of oversight on each development to provide flexibility for developers and the community. Michelle asked for questions from the Commission.

Chair Simson asked regarding two distinct questions before the commission and ask about process if the Commission wished to recommend them separately. Discussion followed. Staff indicated that the two matters would have separate ordinances before City Council.

Commissioner Michael Cary asked about vacant HDR land. Michelle showed four small parcels of land zoned HDR and said there was nothing comparable to the proposed site at five acres. She said the zone change would change the Sherwood Plan and Zone Map.

Commissioner John Clifford asked about the zoning for Creekview and was informed that they were originally zoned HDR and built under that zoning.

Commissioner Coper asked regarding the zoning for retirement community and was told it would depend on the type of facility, but that the zoning for a retirement community is generally looked at differently and treated differently under state law.

Commissioner Clifford asked regarding storm water management. Michelle said that Engineering staff briefly reviewed the subject and said it would be about the same as the existing zoning, but that it would be reviewed in depth when a land use application was received.

Chair Simson asked for testimony from the applicant.

**Michael Cerbone**, Cardno Land Use Planner from Portland, said the zone change is more straight forward than the text amendment. He said a zone change has set criteria that demonstrate a need why it is appropriate for the community and a text amendment it is a judgment call that is decided by the community if it is right. Mr. Cerbone stated the application addressed the state wide planning goals and the applicable components of the comprehensive plan to demonstrate that the proposed language changes kept with the values of the community.

Mr. Cerbone said that Transportation Planning Rule requires that the site be examined from a worst case traffic impact scenario from the existing Commercial zone to the High Density Residential (HDR) for a zone change. He stated that a typical retail development for commercial zoning would be a flex retail space with a restaurant and they looked at a .25 Floor Area Ratio with a fast food restaurant by Hwy 99W. Mr. Cerbone indicated that there was a significant traffic reduction. He said they also evaluated if there was a need for additional High Density Residential and asked his economic advisor to address the question.

**Bill Reid**, PNW Economics, Portland said he helped Mr. Cerbone with the residential market analysis that looked at what Sherwood has for HDR, what is available for development to meet the needs of the community, and if there was a benefit to changing the zone. Mr. Reid said he was asked to look at the market need for housing within an income range for people wanting to buy a home who generally earn from \$35,000 - \$99,000 per year; the first time home buyer or later in life smaller homeowner. He said the findings spoke to owning a smaller home without a lot of maintenance at a certain price point, not renting. Mr. Reid said that there was very little gross acreage of High Density Residential land available, particularly when factoring the impediments of the land being physically undevelopable, publicly owned or having potential plans already on it. He concluded that there were about two to ten acres of HDR land available for the next twenty years for homeowners at a moderate price point. Mr. Reid affirmed that adding to the existing inventory of higher density residential land would allow the City to welcome households who were looking to buy, which would contribute to the policies cited earlier by staff. Mr. Reid spoke specifically to the site and said that as a commercial site (current zoning) it was buried and was not a true commercial site with access and visibility. He said if commercial were built on the site, it would be boxed in by residential uses and there were consistency issues regarding quality of living for households nearby because of the noise created by the commercial site.

Mr. Cerbone commented that there are not many options for living in Sherwood for a first time homeowner other than rentals, apartments, or attached units, but not the newer homes that are coming on the market. He showed some examples of floor plans with a three bedroom, two bath, homes

approximately 1500 square feet (see record, Exhibit 2). Mr. Cerbone said he lived in Portland in a home similar to one shown and the lots could be 30-36 feet wide. He gave an example of townhomes that could be developed on the property and showed a conceptual development plan that illustrated the extension of Cedar Brook Way, open space areas and locations of the units. Mr. Cerbone indicated that the Zoning and Development Code precludes using the smaller lots. He commented that they considered asking for a change in the minimum lot size in the High Density Residential zone, but that would change the minimum lot size for every piece of property in that zone throughout the city. Mr. Cerbone said he spoke with City staff and considered setting up a specific lot size within the PUD options, but as proposed it gives the Planning Commission the most discretion by putting the burden on the developer to demonstrate that it meets the density, PUD standards, and the intent of the Comprehensive Plan. He said it would allow the Planning Commission to review each project and impose conditions of approval to make the project meet what the Commission deems appropriate.

Mr. Cerbone commented that by changing the minimum lot size there is no review by the Planning Commission. He said he knew there was concern about minimum lot size and is something that has been part of Sherwood's strong residential community in the Portland area. Mr. Cerbone claimed the removal of the minimum lot size gave the city more flexibility in home ownership, more flexibility regarding how high density residential would develop, and allowed for individual home ownership. He said currently the only way for ownership in the HDR zone was through condominiums, but the condominium development was not doing well. Mr. Cerbone asked for questions from the Commission.

Commissioner Cary asked regarding fire and safety with one way streets and if there was parking along one side of the street. Brad Kilby responded that the City would not allow parking on one side and one challenge found at a recent pre-application conference was the one way in/ one way out. Brad reminded that the Planning Commission was not approving the layout and the applicant would have to return with a proposal.

Chair Simson asked what average lot size they were looking for conceptually. Mr. Cerbone said that some lots had attached units and some were detached with an average around 2,000 square feet.

Chair Simson indicated that changing from commercial to residential created a parking issue and asked if the applicant had considered this. Mr. Cerbone answered that under a PUD the Planning Commission would have discretion over how parking occurs on site. Parking is something that would be determined at the time of Development Review. Discussion followed regarding existing parking issues.

Commissioner Clifford asked about storm water management. Mr. Cerbone answered that there were a number of ways to implement storm water management on the site and gave examples.

Vice Chair Copfer asked received confirmation from Staff that the area north of Cedar Brook Way was a natural resource area.

Commissioner Clifford asked if the area would be a community with a homeowner's association and maintenance agreements. Mr. Cerbone answered that this kind of development would typically have private streets and open space that would require a homeowners association.

Chair Simson reminded that the Commission's decision would determine how the site would develop and there was no guarantee from what the applicant says that it will develop the way shown to them at tonight's meeting.

With no other questions for the applicant, Chair Simson asked for public testimony. Brad inserted that the applicant had 17:25 minutes remaining for rebuttal.

**R. Claus**, Sherwood resident said that the matter should be broken into two parts to allow for four minutes testimony for each matter. He said he did not agree with the data and spoke about the history of Sherwood when the land was zoned to commercial by then owner Howard Hadley and said the SW Meinecke interchange was built across the corner of his land. Mr. Claus commented that retail properties need parking, accessibility and visibility and that the site did not have visibility. He alluded to a time when he made money building homes in California and criticized the designs from the applicant. Mr. Claus said he thought the rezoning was a good idea, but that the design should come back to the Planning Commission for review with more information regarding the profile of who would live there. He commented on using system development credits and creating a village theme for older or retired people looking for housing. Mr. Claus said similar units were being built in Hillsboro and suggested getting input from the Sherwood School District.

**David Emami**, Sherwood property owner said he owned the two unoccupied medical buildings across the street from this property sited on the corner of Meinecke and Handley. He indicated that he has been doing business for over 40 years, has built over 5,000 homes, and owns commercial property. Mr. Emami explained that the trend has changed from forty years ago where people live in apartments and have a car or commute by bicycle or bus. He said in the last six years he has had to inspect tenant's garages because people have lost their houses, have too much stuff, and use the garages to store their things. Mr. Emami spoke about a similar problem at Creekview apartments that requires him to chain his property closed so people do not park in the parking lot and cause problems with litter or vandalism. He said he has a new tenant for his building that has concerns about opening up the parking lot. Mr. Emami commented regarding the delay in Dr. Doyel's proposal to build extra parking. He said if the Planning Commission allows a PUD, they should not allow apartments and he agreed with 5000 square foot lots for single dwelling. He expanded by saying that a 2000 square foot means the garage is full and the average house has 2.5 cars. Mr. Emami gave a letter to the Planning Commission (see Planning file PA 13-02, Exhibit F) and commented that a 5000 square foot lot could create a village atmosphere with green areas. He expressed his dislike for the layout presented, advised not to allow for more than thirty or forty homes, and commented that there has to be enough parking because there is no room for overflow.

**Andy Tiemann**, project manager for DR Horton (homebuilder) indicated that his company was currently building a subdivision in the Sherwood. He gave exhibits to the Planning Commission (see Planning file PA 13-02, Exhibit G). Mr. Tiemann said he was in support of the application and his company would like to purchase the property and build single family detached and single family attached houses similar to what was shown. He said [Exhibit G] was an improved site plan with a better central park and renderings of homes that can be built on this site. Mr. Tiemann said the intent was to have a range of attached and detached homes with front or alley loaded garages and his

company has built them in communities all over the Portland area with great success. He asserted that it provides a variety of housing and is achievable on the site. Mr. Tiemann said the text amendment would allow flexibility in lot size and endorses housing diversity. He added that it does not make sense for the site to be commercial, but was a good site for residential. Mr. Tiemann described the design as to fading the density heading west from Hwy 99; attached homes adjacent to the apartments and detached homes on the west side of the site. Mr. Tiemann stated that there was a lot of flexibility with a PUD where open space, parking with enforcement through a homeowner's association, and flexibility using private streets can be incorporated. Mr. Tiemann said his company would like to move forward with development plans and build a PUD this summer.

Chair Simson commented that many years ago the Planning Commission had a Code Amendment that had a "sunset clause" because it was unsure how it would fit in the community. She said [Arbor Terrace Subdivision] was the result and asked if that was what his company wanted to do. Mr. Tiemann said he was not familiar with the subdivision, but said it would be pedestrian oriented, with porches in the front for those with rear garages or parking on the street and/or the more traditional house with a driveway with garage for parking. He commented that with a mixture of both creates a likable design that could be reviewed as a PUD by the Planning Commission. Mr. Tiemann stated that allowing flexibility in lot sizes endorses design options.

Chair Simson recounted that there was a code in place that put together a product similar to what the applicant is presenting where the code provided flexibility but gave the Planning Commission guidelines to work within and said the Commission would approach the applicant with the idea.

**Jennifer Harris**, Sherwood resident said she lived close the site. She indicated that she did not have a problem with the zoning change but would prefer a medium density (zoning). Ms. Harris described Edy Ridge Elementary as packed to overflowing and expressed her concerns about the number of children that would be added to the school. She explained about two other subdivisions near the school currently being constructed that would add about 220 kids to the school and said she did not know how to fix that except for school boundary changes. Ms. Harris summarized parking issues from the nearby apartments and spoke about the dangers of the parking problem. She encouraged using double car driveways and garages. Ms. Harris advocated for the 5,000 square foot lots because of parking issues and expectation for better neighbors.

With no other public testimony, Chair Simson called for a recess at 8:20 pm and reconvened at 8:25 pm. Vice Chair Copfer indicated, he spoke with Ms. Harris during the recess regarding parking at Creekview Apartments.

Chair Simson asked for rebuttal from the applicant.

Mark Person asked Bill Reid to address the question about the intended occupant. Mr. Reid described the occupant as having households who work and earn about \$40-50k per year individually with a combined income of \$40-100k annually. He said that attached and higher density housing is building built throughout the metropolitan area and those households have a choice about where to live. Mr. Reid explained that if they are looking to buy in Sherwood they are working locally and the housing would fill the need for Sherwood's employment base. He said the occupants could be married couples,

households with families and households looking to downsize later in life (with a home in Oregon for the nice part of the year and perhaps travel about or live elsewhere).

Mr. Person said he did not hear a lot of concern about the requested zone change but of the lot size. He said they were requesting High Density Residential, which was needed in the community based on study of the City's development pattern and existing land base. Mr. Person said the change would provide an opportunity for home ownership and commented regarding pride of ownership. He agreed that parking was a concern and said the developer was present and hearing those concerns.

Mr. Person offered to answer questions about a "sunset clause" and put forth that the proposed path for how development occurs gives a lot of discretion to the Planning Commission so they can control how development happened. He said this was a good fit for the community, met an unmet need, and provided the Planning Commission with the flexibility to develop High Density Residential in the community with home ownership. Mr. Person commented regarding the lower parking requirements with apartment development in HDR and stated that the parking would have to be addressed at time of development. He said that the burden of proof would fall on the developer to demonstrate that they met parking through the Planned Unit Development process and the Commission would have the discretion of how that happens.

Chair Simson explained that she was not suggesting using a sunset clause, but explained that there was a development near Target, similar to what is being proposed, and asked if the applicant was familiar with it. Mr. Person was not. Chair Simson explained that the development she spoke of had 2500 square foot lots with zero lot lines back to back, mixed with multi-family. She said the applicant at that time brought forward a Code amendment that was placed in the code with a "sunset clause," because the Commission was unsure how it would look and fit in the community. Chair Simson said that process contained Code language that protected the community through the design criteria and homeowner's association requirements.

Brad Kilby indicated that he had the language with him (see record, Exhibit H, Ordinance 2004-007) and clarified that it allowed 2,000 square foot lots in the HDR zone.

Vice Chair Copfer confirmed that DR Horton had a purchase and sell agreement with the current owner of the property and asked if the proposed zoning would allow apartments if the land was sold to someone else. He was told that it would.

Vice Chair Copfer commented on the parking problem and asked if the applicant had a solution for it. Mr. Person answered that they did not have a solution, but it could be addressed through private streets and by homeowner's association enforcement through posting and towing.

Vice Chair Copfer asked if some of the units would be rentals. Mr. Person responded that it had not been discussed. Vice Chair Copfer indicated that his larger issue was parking.

Commissioner Cooke added that she was familiar with a similar development in Hillsboro that also had parking problems and asserted that most owners would have two cars and may be commuting outside of Sherwood to work. Discussion followed.

Chair Simson closed the public hearing. She asked for deliberation regarding the zone change only.

Vice Chair Copfer commented that he agreed that it was not a great commercial or retail site and was not opposed to changing the zone to allow residential.

Commissioner Cary stated that as a business owner, he would not consider such a site and I would be tough location for a commercial use.

Commissioner Clifford also agreed and said it was a more ideal property for residential.

Chair Simson and Michelle Miller pointed to the clear and objective standards in the code that ask if there is a need for the zoning, if it is timely, and whether there is other property available. Chair Simson asked the Commission if High Density Residential was a fit for this part of the community.

Vice Chair Copfer asked for clarification of what high density is per the current code. Michelle explained that high density allows single family and multi-family, the zoning density is 16.8 to 24 dwelling units per acre and the minimum lot size for single family on standard zoning is 5000 square feet.

The Commission reached a consensus to recommend the zone change.

Chair Simson asked regarding removing the 5,000 square foot lot size minimum and changing the language for the Planned Unit Development (PUD) as proposed by the applicant.

Vice Chair Copfer said he did not agree with the change and that he did not think making an overall change to the Code was a good idea. He said that he might be willing to consider making an exception for this property if a solid application was before him.

Commissioner Cary expressed that he also had concerns with the change particularly if it was permanent.

Chair Simson commented that a PUD would apply to any residential zoning from Very Low Density Residential to High Density Residential. Michelle confirmed and further explained that the overall density requirements would have to be met per each zone rather than being focused on the lot size and there could be a variety of lot sizes within the development. The Planning Commission and City Council would review any applications.

Michelle explained that the map in the presentation had highlighted all of the residential properties over 2 acres and said that a Planned Unit Development can only be used for five acres or more unless it is considered infill. She said that the change would be limited to [this site] and areas not currently in our city limits and the area east of Murdock which already has a density of four units per acre. Michelle informed that the number of lots allowed would be reviewed by the Planning Commission in each instance and if the Commission could not find a rationale to change it, it would not be approved. She reiterated that the change would only be for Planned Unit Developments and not include Subdivisions at a staff level or Hearing Officer decision.

Vice Chair Copfer asserted that if there is so little of land available for a PUD then not changing the Code would make little difference if the Planning Commission reviewed the development specifically for this particular site.

Michelle responded that adopting a specific ordinance would be an option and questioned if it was necessary because the Commission has the same review process with a Planning Unit Development.

Commissioner Cooke commented about consistency, Land Use Board of Appeals (LUBA) concerns, having consistent standards and having the same answer for each developer.

Chair Simson summarized that the Commission was making a recommendation to the City Council and if the Commission did not feel comfortable with removing the 5,000 square foot minimum it should convey to Council that it was in agreement with the zone change but was not comfortable with removing the minimum square footage completely.

Vice Chair Copfer asked regarding implementing an ordinance similar to the one alluded to earlier.

Julia cautioned the Commission to be clear what it is recommending saying that the staff report outlines the reason why staff was recommending approval. She said if the Planning Commission was not recommending approval of removing the 5,000 square foot lot minimum it should be really clear so the Council understands why, so that when the applicant tries to convince the Council to modify the recommendation the Council has a clear understanding that it is because of the parking. If the applicant can address the parking issues in such a way as to make the Council comfortable then maybe it is ok. Julia added that if the Commission was proposing to add sunset language it should be clear as to what the concerns were.

Chair Simson commented that the minimum lot size was policy decision for the Council to make as to what is important within the community and she has heard many times over that a 5,000 square foot lot minimum was important to the community. She referred to Ordinance 2004-007 and said the Planning Commission used a sunset clause because they did not know what the development would look like and nine years later she thought the City ended up with a very good product. Chair Simson commented that the text amendment language says that it “meets the community needs and development patterns” but she didn’t believe that removing the 5000 square foot minimum requirement meets the community patterns based on what the Commission has experienced previously. She said she would like to provide the Council an opportunity to see language that worked in the community and if they like it, they might want to go against our denial with another recommendation. Chair Simson communicated that the 5,000 square foot minimum lot size needs to be replaced with something that provides flexibility and opportunity and the ordinance from 2004 seemed to fit that, but that is not what the Planning Commission was presented, so they wanted to deny the proposed language. Chair Simson asked for direction from staff.

Brad Kilby advised that the Commission had the option to recommend approval, approval with conditions, denial, or modify the proposal. He specified that the Commission could recommend approval of the zone change but did not want recommend removal of the 5,000 square foot minimum lot size without a clear plan in place and then list specific concerns. Brad noted that if the Planning Commission approved the zone change to HDR up to sixty-six apartments could be developed on the

site. He stated that the reason the development that utilized Ordinance 2004-007 turned out well is not because the 5,000 square foot minimum lot size was removed, but because it was a Planned Unit Development and the Planning Commission negotiated design standards with those developers like setbacks and home appearance. Brad concluded that there would be the same number of units, but a higher quality product could be achieved through a PUD than through a straight subdivision development.

Commissioner Russell Griffin said he was uncomfortable removing the minimum lot size completely, however he would be interested if a developer came with a more concrete plan and perhaps a sunset clause with a 2,000 minimum lot size for this particularly PUD. He expressed that the houses by Target fit and he liked the idea of individual home ownership, but he thought parking was going to be an issue.

Discussion followed regarding how the Planning Commission could word a recommendation with the understanding that the City Council could choose to approve, approve with conditions, deny or modify the proposal but that the Commission was required to make a recommendation based on what the applicant had proposed. The Commission members, James Copfer and Beth Cooke, expressed their concerns about changing the zone to HDR and having apartments be built. Julia informed the Commission that there was no guarantee, but that a plan could not be approved without the zone change first.

Commissioner Cooke commented on the burden on the schools if apartments were put in. Chris Crean, City legal counsel, stated that State statute prohibits using school capacity as a reason to deny a land use action, but it may be possible to condition the zone change to prohibit apartments. Julia added that staff would have to research if that was possible, but the recommendation could include that the Commission supported the condition. Discussion followed.

Commissioner Griffin suggested that to stop crowding in schools America should stop recommending Sherwood as the fifth best place to live in the country. Jean Simson suggested the state legislature should allow System Development Charges for schools. Julia informed the Commission that there was a Construction Excise Tax for all new development that benefits the construction of schools.

Chair Simson called for a recess at 9:02 pm so staff could craft language for the Planning Commission's recommendation to the City Council and reconvened at 9:15 pm.

Brad had drafted a motion and read it to the Commission recommending approval of the zone change and denial of the text amendment.

Commissioner Cary asked if, assuming the zone change was made, a variance for the minimum lot size could be requested for a PUD in the future. Julia answered that the Code does allow changes to the minimum lot size but they would have to meet the variance criteria. She said it would be unlikely and would probably not be done through a PUD process.

Chair Simson commented that the applicant would have [Ordinance 2004-007] and by the time it gets to Council there may be something new to review, but based on what the Commission had they were making a recommendation.

**Motion: From Vice Chair James Copfer to recommend approving the rezone request with the condition that the site will not be developed with multi-family uses and denying the text amendment PA 13-02. This recommendation is based on the file, staff report, and public testimony. The recommended condition is related to the market analysis which demonstrates the community's need for 670 units of single family detached and attached units over the next twenty years and that is currently a demonstrated need for this housing type and not a demonstrated need for multi-family. Therefore, the condition would be imposed to support the demonstrated need for the housing type that was proposed in the market analysis, Exhibit J of the applicant's submittal. Seconded by Commissioner Michael Cary. All present Planning Commissioners voted in favor (Commissioner Walker was absent).**

Chair Simson announced that the public hearing date before the City Council would be on February 4, 2014 and public testimony would be taken.

### **8. Planning Commissioner Announcements**

Chair Simson commented that Washington County had begun their Transportation System Plan (TSP) update process and said it would potentially impact Sherwood in a big way. Michelle responded that the County separated their meetings into quadrants and the meeting for the Sherwood area would be held in Tigard in January. The best time to make comment is early in the process.

Chair Simson said she had attended the City's TSP open house and it was very engaging.

Vice Chair Copfer wanted to ensure that the Old Town Overlay would be part of the Code update process in particular he was interested in the portion allowing a drive thru for banks in Old Town. Brad confirmed that this was on the list of goals.

### **9. Adjourn**

Chair Simson adjourned the meeting at 9:24 pm.

Submitted by:

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Kirsten Allen

Planning Department Program Coordinator

Approval Date: February 11, 2014