



Home of the Tualatin River National Wildlife Refuge

Planning Commission Meeting Packet

FOR

**February 11, 2013
At 7 PM**

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



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
February 11, 2014 – 7 PM**

AGENDA

- 1. Call to Order/Roll Call**
- 2. Agenda Review**
- 3. Consent Agenda**
 - a. December 18, 2013 Planning Commission Minutes**
- 4. Council Liaison Announcements (Mayor Middleton)**
- 5. Staff Announcements (Brad Kilby)**
- 6. Community Comments**
- 7. New Business**
 - a. Public Hearing - PA 13-05 Front Yard Setbacks**

The applicant proposes to amend the Sherwood Zoning and Community Development Code, specifically, Section 16.12.030. The request is to change the front yard setbacks within the Medium Density Residential Low, Medium Density Residential High, and High Density Residential zones. The current code minimum is twenty feet to the front of the house.

If approved, the front yard setback requirements will change for new construction and additions within the City limits and different setback minimums for the front porch and the front of the house will be created.

- The front porch setback would become 10 feet to the property line
- The front of the house setback would become 14 feet.
- The garage setback minimum would remain 20 feet to the property line and continue to allow room for car or truck parking in the driveway.

Examples of houses with these setbacks can be found in the staff report, and on the City website at <http://www.sherwoodoregon.gov/planning/project/front-yard-setback-text-amendment-0>

8. Planning Commission Announcements

9. Adjourn

Consent Agenda

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

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 Copfer 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:

Kirsten Allen

Planning Department Program Coordinator

Approval Date: _____

New Business Agenda

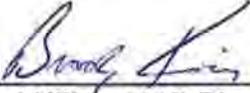
Item A

City of Sherwood
STAFF REPORT:

February 3, 2014

File No: PA 13-05 Front Yard Setbacks Amendment

Signed:


Brad Kilby, AICP Planning Manager

Proposal: A proposal to amend the front yard setback requirements within the Medium Density Residential Low, Medium Density Residential High, and High Density Residential zones. Currently, all residential zones within the City of Sherwood require a minimum front yard setback of 20-feet. As proposed, the setback to the garage entrance would remain 20-feet, but the setback, to the front of the primary structure would be 14 feet, and the setback to the porch would be 10-feet.

I. BACKGROUND

- A. Applicant: DR Horton, Inc.
Attn: Andy Tiemann or Kati Gault
4380 SW Macadam Avenue, Suite 100
Portland, OR 97209
- B. Location: The proposed amendment is to the text of Chapter 16.12 Residential Zoning Districts of the Sherwood Zoning and Community Development Code (SZCDC) and would apply to all properties zoned Medium Density Residential Low, Medium Density Residential High, and High Density Residential.
- C. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission is scheduled to consider the matter on February 11, 2014. At the close of their hearing, they will forward a recommendation to the City Council who will consider the proposal, and make the final decision whether to approve, modify, or deny the proposed language. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the February 11, 2014 Planning Commission hearing on the proposed amendment was published in *The Times* on January 8th, January 16th, and published in the January and February editions of the Gazette. Notice was also posted in five public locations around town on January 21, 2014 and has been on the City's website since December 10, 2013. In addition, an article discussing the proposal was provided in the January edition of the *Sherwood Archer*.

DLCD notice was mailed on December 10, 2013.

- 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 SZCDC provides the dimensional requirements for the individual zoning districts. Among setbacks, the dimensional requirements speak to minimum lot sizes, lot dimensions, frontage requirements and building heights. All of the residential zones within the City of Sherwood require a minimum front yard setback of 20-feet. There are provisions within the development code that allow encroachments such as eaves, uncovered porches and decks,

and other architectural features of a building to encroach into the front yard setback. If the Planning Commission is inclined to reduce the setbacks as requested some consideration should also be given to the language in Section 16.50.050 which allows, "Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to five (5) feet into a front or rear required yard..." The Planning Commission may want to consider adding a foot note within table 16.12.030 that states, "Reductions in front yard setbacks for architectural features as described in 16.50.050 is allowed only when the feature is constructed no closer than 10 feet from the front property line."

In November of 2013, DR Horton, a developer who had recently obtained preliminary approval of the Daybreak Subdivision, a 34-lot single-family development in northwest Sherwood, approached the City about reducing the front yard setbacks within the development. Instead of seeking numerous adjustments or variances to which there were no underlying circumstances to justify such an action, staff advised the applicant to seek a code amendment.

Within the communities of Tualatin, Tigard, Beaverton, and Newberg, the front yard setbacks vary anywhere from 10 all the way up to 35 feet. Front yard setbacks are generally determined based on aesthetic desires of a community. In many cases, the garages are required to be setback a minimum of 20-feet from the front property line to provide enough room in front of the garage to allow a car to be parked in the driveway. Front yards for all other portions of the structure vary as discussed above.

Within the City of Sherwood, every new lot is required to provide an eight-foot public utility easement within the front yard, so it would not be prudent to reduce the front yard setback below the requested ten foot setback proposed for the porch. Also, within Sherwood, there are already homes that have setbacks that vary between 10 and 20 feet. Varied setbacks provide for a variety of benefits to the homeowner. If the setbacks are varied within the development itself, the front yard variations provide visual interest, and bring the main focus of the streetscape to the main entrance of the home. Examples of existing homes in Sherwood along with the approved setbacks are provided as Exhibit 5 to this report.

By reducing the front yard setbacks the community will inevitably see one of two results. First, with no maximum lot coverage standard, the homes could be made larger. If a larger home is not desired, then the reduced setbacks on the front would result in larger rear yards. Setbacks are traditionally required to provide space between buildings to allow air and light into a development. Setbacks also create buffers between homes and the adjoining streets. This is not a question of whether or not a setback is needed, but rather, what the appropriate setback is.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent a request for comments to potentially affected agencies on December 20, 2013. DLCDC notice was also sent on December 20, 2013. The City has not received any agency comments to date on the proposed amendments.

Public:

There has been extensive outreach to the community on behalf of this proposal, including an article in the City newsletter, announcements at public meetings, as well as being promoted several times on the City's website to a headline, but despite our efforts, announcements, or notices, there simply does not seem to be any interest in this proposal from the public.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.A and C

16.80.030.A - 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.

The City's Development Code is an integral part of the Comprehensive Plan, and while this specific proposal does not include changes to the goals and policies of the Comprehensive Plan, it is a proposal that would amend language of the Development Code. There are no specific standards other than ensuring that the language is consistent with the existing Comprehensive Plan and any applicable State or City Statutes and regulations. The proposed changes would amend the language within the development code for three residential zones. (The MDRL, the MDRH, and the HDR zone.)

Upon review of the Comprehensive Plan, the only policy that specifically relates to this proposal would be Policy 3 in Community Design. That policy states, "The natural beauty and unique visual character of Sherwood will be conserved." There is not an associated goal that would correspond to this request. Setbacks are intended to provide plenty of light, air, and fire separation. Within the residential land use policies, there is a discussion of quality, variety, and flexibility which arguably, a flexible dimensional standard can provide. There do not appear to be any comprehensive plan requirements that would conflict with the proposed code language. It is important to note that the existing rear, side, and corner side yard setbacks would not be amended as part of this proposal, and was not requested by the applicant.

Applicable Regional (Metro) Standards

There are no known Metro standards that would conflict with the proposed language. Metro discusses densities and efficiency, but does not speak to setbacks.

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 known conflicts with this text change. Staff is not aware of any other state or local regulations that the proposed amendment would conflict with. The minimum separation requirements are typically associated with the Building and Fire Codes. In both instances, the minimum separation is less than what would be required.

As discussed previously, the public has been provided with a variety of avenues to provide input, and staff has always been available to discuss the proposed changes. As a whole, the proposed amendments are consistent with Goal 1 (Citizen Participation) and Goal 2 (land use planning).

Formal notice was also published in the Tigard Times, the Sherwood Gazette, the City's website, and the Archer newsletter. Notice of the proposal has been posted around town in several conspicuous places, and is provided on the City's website.

FINDING: This issue is primarily a question of aesthetics since there is usually not a structure immediately adjacent to a front yard. As discussed above, there is not necessarily a need for the proposed amendments, but they would provide some additional benefit to the individual landowner. To the extent that they are applicable, the proposed 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 proposed amendments are not tied to any one development application and do not affect the functional classification of any street. The proposed amendments will not result in a change of uses otherwise permitted and will have no measurable impacts on the amount of traffic on the existing transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends Planning Commission forward a recommendation of approval of PA 13-05 to the City Council.

V. EXHIBITS

1. Applicant's Materials
2. Proposed development code changes – Clean format
3. Proposed development code changes – Track changes format
4. Existing code language
5. Examples of current homes in Sherwood with traditional and nontraditional setbacks.

**NARRATIVE & COMPLIANCE REPORT
TEXT AMENDMENT TO MDRL, MDRH & HDR SETBACKS
(SECTION 16.12.030 C)**

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LIST OF EXHIBITS

- A COPIES OF APPLICATION FORM AND CHECK FOR FEE
- B COPY OF LETTER TO PLANNING COMMISSION

I. PROPOSAL SUMMARY

GENERAL INFORMATION

Applicant/Property Owner:

D.R. Horton, Inc.
4380 SW Macadam Avenue, Suite 100
Portland, OR 97239
Contact: Andy Tiemann / Kati Gault

Design Team:

Process Planner/Civil
Engineer/Surveyor:

Pacific Community Design, Inc.
12564 SW Main Street
Tigard, OR 97223
Tel: 503.941.9484
Fax: 503.941.9485
Contact: Stacy Connery, AICP
Amber Shasky-Bell

Proposal:

Text Amendment to Municipal Code -
Section 16.12.030(C) Development
Standards per Residential Zone to Modify
Front Yard Setbacks of MDRL, MDRH & HDR
Zones

REQUEST & PROJECT DESCRIPTION

The Applicant proposes text amendment to the City of Sherwood Zoning and Community Development Code, Section 16.12.030(C) Development Standards per Residential Zone to modify front yard setbacks of MDRL, MDRH & HDR Zones. The proposed amendment consists of replacing the front yard setback requirements of 20 feet for Medium Density Residential (MDRL), Medium Density Residential High (MDRH), and High Density Residential (HDR) Districts with the proposed setbacks shown in the table below.

Proposed Text Amendment

Development Standard by Residential Zone	MDRL	MDRH	HDR
Setbacks (in feet)			
Front yard	20	20	20
<i>Front Porch</i>	<i>10</i>	<i>10</i>	<i>10</i>
<i>Garage Entrance</i>	<i>20</i>	<i>20</i>	<i>20</i>
<i>Front Building</i>	<i>14</i>	<i>14</i>	<i>14</i>

The proposed amendment is intended to create setbacks that allow buildings and porches to project in front of garages. This will allow for greater diversity in front elevations and more appealing street frontages by lessening the predominance of garages. In some cases, the reduced front porch and front building setbacks will allow residential units to have a larger rear yard area through the adjustment of building footprint towards the lot front.

The Applicant, a property owner in Sherwood, submitted a letter to the Planning Commission on September 20, 2013 (see Exhibit B) and attended the Planning Commission Meeting held October 8, 2013 to receive initial feedback from the Planning Commission. The Applicant discussed the need for this proposed text amendment with the Planning Commission. The Planning Commission explained that the City accepts and reviews such applications to allow developers to provide a high quality product and encouraged the Applicant to submit a formal text amendment request. The Applicant is now doing so with this application.

Section II of this report addresses compliance with the City of Sherwood Comprehensive Plan. Section III of this report addresses compliance with the applicable sections of the Zoning and Community Development Code and with the Transportation Planning Rule.

II. COMPLIANCE WITH CITY OF SHERWOOD COMPREHENSIVE PLAN

CHAPTER 4 - LAND USE

E. RESIDENTIAL LAND USE

Policy 6 (C): RESIDENTIAL ZONES OBJECTIVES

The following subsection defines the five residential land use classifications to be used in the land use element giving the purpose and standards of each. All density ranges are for minimum lot sizes and shall not restrict larger lots within that residential designation. For each residential designation on the Plan/Zone Map, maximum density has been indicated. The maximum density represents the upper limit which may be allowed - it is not a commitment that all land in that area can or should develop to that density. The implementing ordinances contained in the City Zoning Code define the circumstances under which the maximum density is permissible. Density transfers are applied in instances where appropriate to achieve the purposes of the Plan such as the encouragement of quality planned unit developments, flood plain protection, greenway and park acquisition, and the use of efficient energy systems. Unless these circumstances pertain, the maximum density allowable will be specific in the zoning standards for each designation.

3) Medium Density Residential Low (MDRL)

Minimum Site Standards:

8 DU/Acre, 5,000 sq. ft. lot minimum

This designation is intended to provide for dwellings on smaller lots, duplexes, manufactured homes on individual lots, and manufactured home parks. The designation is applicable in the following general areas:

- Where there is easy access to shopping.
- Where a full range of urban facilities and services are provided in conjunction with development.
- Where major streets are adequate or can be provided in conjunction with development.

4) Medium Density Residential High (MDRH)

Minimum Site Standards:

11 DU/Acre, 3,200-5,000 sf lot minimum

This designation is intended to provide for a variety of medium density housing styles, designs, and amenities in keeping with sound site planning. Included in this designation are, low density apartments and condominiums, manufactured homes on individual lots, and row housing. This designation is applicable in the following general areas:

- Where related institutional, public and commercial uses may be appropriately mixed or are in close proximity to compatible medium density residential uses.
- Where a full range of urban facilities and services are provided in conjunction with development.
- Where medium urban densities can be maintained and supported without significant adverse impacts on neighborhood character or environmental quality.

5) High Density Residential (HDR)

Minimum Site Standards:

16 DU/Acre, 2,000-5,000 sf lot minimum

This designation is intended to provide for high density multi-family urban housing with a diversity in style, design and amenities in keeping with sound site planning principles in the following general areas:

- Where related public, institutional and commercial uses may be mixed with or are in close proximity to compatible high density residential uses.
- Where a full range of urban facilities and services are available at adequate levels to support high density residential development.
- Where direct access to major fully improved streets is available.

- Where high density development will not exceed land, air or water carrying capacities.

Response: No amendment is proposed to the minimum lot area development standards or residential density standards of the MDRL, MDRH, and HDR zones. The proposed amendment will not result in a change in the residential density of the MDRL, MDRH, and HDR zones. The garage entrance setback will remain 20 feet. The reduced front building and front porch setbacks may allow future site development to provide larger rear yards by locating the building footprint closer towards the front lot line. Therefore, the proposed setbacks are consistent with minimum site standards for each of the subject residential zones.

The proposed setbacks are consistent with the intent of the MDRL, MDRH, and HDR zones as no changes are proposed to the Zoning Map and no changes are proposed to Section 16.12.020 Allowed Residential Land Uses. In addition, the proposed text amendment encourages a greater variety of medium and high density housing designs while keeping with sound site planning. Allowing the building and porch to extend past the garage lessens the predominance of garages along street frontage, creating a more appealing and pedestrian oriented street frontage. In addition, the front building entrance will be located closer to the street frontage, encouraging pedestrian activity. Adequate driveway parking continues to be provided by maintaining a 20 foot garage setback.

O. COMMUNITY DESIGN

3. GENERAL OBJECTIVES

Policy 4: Promote creativity, innovation and flexibility in structural and site design.

- **Strategy: Encourage visual variety in structural design.**

Response: The proposed modifications to front setbacks will allow for greater diversity in front elevations and allow for more appealing street frontages by lessening the predominance of garages along street frontages. By allowing a greater diversity in elevations, the proposed text amendment encourages greater visual variety in structural design.

III. COMPLIANCE WITH CITY OF SHERWOOD MUNICIPAL CODE

CHAPTER 16.12. RESIDENTIAL LAND USE DISTRICTS

16.12.010 Purpose and Density Requirements

C. Medium Density Residential (MDRL)

The MDRL zoning district provides for single-family and two-family housing, manufactured housing and other related uses with a density of 5.6 to 8 dwelling units per acre.

D. Medium Density Residential High (MDRH)

The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing, multi-

family housing, and other related uses with a density of 5.5 to 11 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

E. High Density Residential (HDR)

The HDR zoning district provides for higher density multi-family housing and other related uses with density of 16.8 to 24 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

Response: As described above, residential density standards are not affected by the proposed text amendment. No amendment is proposed to the minimum lot area development standards or residential density standards of the MDRL, MDRH, and HDR zones. The garage entrance setback will remain 20 feet. Adequate driveway parking continues to be provided by maintaining a 20 foot garage setback. The reduced front building and front porch setbacks may allow future site development to provide larger rear yards by locating the building footprint closer towards the lot front line. The primary result to the community is the affect on street frontage. Allowing the building and porch to extend past the garage lessens the presence of the garage, making for a more appealing and pedestrian-oriented street frontage. In addition, the front building entrance will be located closer to the street frontage, encouraging pedestrian activity. Therefore, the proposed setbacks are consistent with the purpose and density requirements of each of the residential districts.

16.12.030 Residential Land Use Development Standards

C. Development Standards per Residential Zone

Existing Text

Development Standard by Residential Zone	MDRL	MDRH	HDR
Setbacks (in feet)			
Front yard	20	20	20

Response: This application is a request for a text amendment to Section 16.12.030(C) to amend front setback standards for MDRL, MDRH, and HDR Districts. The existing front yard setback is 20 feet for each of the MDRL, MDRH, and HDR Districts. Setbacks illustrated in the table below are proposed to modify the front yard setbacks in each of these three (3) districts to allow for greater diversity of front elevations.

Proposed Text

Proposed Development Standards	MDRL	MDRH	HDR
Setbacks (in feet)			
Front Porch	10	10	10
Garage entrance	20	20	20
Front building	14	14	14

CHAPTER 16.72. PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

16.72.010 Generally

A. Classifications

Except for Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

5. Type V

The following legislative actions shall be subject to a Type V review process:

b. Plan Text Amendments

B. Hearing and Appeal Authority

1. Each Type V legislative land use action shall be reviewed at a public hearing by the Planning Commission with a recommendation made to the City Council. The City Council shall conduct a public hearing and make the City's final decision.

3. The quasi-judicial Hearing and Appeal Authorities shall be as follows:

e. The Type V Hearing Authority is the City Council, upon recommendation from the Planning Commission and the Appeal Authority is the Land Use Board of Appeals (LUBA).

Response: Compliant with Section 16.72.010(A)(5)(b), the proposed application is submitted as a Type V legislative application, subject to a public hearing before the Planning Commission and before the City Council.

CHAPTER 16.80. PLAN AMENDMENTS

16.80.010 Initiation of Amendments

An amendment to the City Zoning Map or text of the Comprehensive Plan may be initiated by the Council, Commission, or an owner of property within the City.

Response: The Applicant is also an owner of property within the City. Compliant with this Section, the Applicant has initiated the proposed text amendment.

16.80.020 Amendment Procedures

Zoning Map or Text Amendment

C. Application - An application for a Zoning Map or text amendment shall be on forms provided by the City and shall be accompanied by a fee pursuant to Section 16.74.010

D. Public Notice - Public notice shall be given pursuant to Chapter 16.72

- E. **Commission Review** - The Commission shall conduct a public hearing on the proposed amendment and provide a report and recommendation to the Council. The decision of the Commission shall include findings as required in Section 16.80.030
- F. **Council Review** - Upon receipt of a report and recommendation from the Commission, the Council shall conduct a public hearing. The Council's decision shall include findings as required in Section 16.80.030. Approval of the request shall be in the form of an ordinance.

Response: A copy of the application form and check for fee is provided as Exhibit A. The City will provide for Public Notice for a Type V Text Amendment in accordance with Chapter 16.72. This application is subject to a public hearing before the Planning Commission and a public hearing before the City Council. The Applicant understands that the Planning Commission will make a recommendation to City Council and that City Council will make the final decision.

16.80.030 Review Criteria

A. Text Amendment

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

Response: The Applicant, a property owner in Sherwood, submitted a letter to the Planning Commission on September 20, 2013 (see Exhibit B) and attended the Planning Commission Meeting held October 8, 2013 to receive initial feedback from the Planning Commission. The Applicant discussed the need for this proposed text amendment with the Planning Commission. The Planning Commission explained that the City accepts and reviews such applications to allow developers to provide a high quality product and encouraged the Applicant to submit a formal text amendment request. The Applicant is doing so with this application.

Section II of this report demonstrates compliance with the Comprehensive Plan. Section III of this report demonstrates compliance with the Zoning and Community Development Code. Per Section 16.80.010, the Applicant has initiated the text amendment.

B. Map Amendment

An amendment to the City Zoning Map may be granted, provided that the proposal satisfies all applicable requirements of the adopted Sherwood Comprehensive Plan, the Transportation System Plan and this Code, and that:

1. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan and the Transportation System Plan.
2. There is an existing and demonstrable need for the particular uses and zoning proposed, taking into account the importance of such uses to the economy of

the City, the existing market demand for any goods or services which such uses will provide, the presence or absence and location of other such uses or similar uses in the area, and the general public good.

3. The proposed amendment is timely, considering the pattern of development in the area, surrounding land uses, any changes which may have occurred in the neighborhood or community to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district.
4. Other lands in the City already zoned for the proposed uses are either unavailable or unsuitable for immediate development due to location, size or other factors.

Response: No amendment to the Zoning Map is proposed. Therefore, the standards of this Section are not applicable.

C. Transportation Planning Rule Consistency

1. 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.
2. "Significant" means that the transportation facility would change the functional classification of an existing or planned transportation facility, change the standards implementing a functional classification, allow types of land use, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility, or would reduce the level of service of the facility below the minimum level identified on the Transportation System Plan.
3. Per OAR 660-12-0060, Amendments to the Comprehensive Plan or changes to land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:
 - a. Limiting allowed uses to be consistent with the planned function of the transportation facility.
 - b. Amending the Transportation System Plan to ensure that existing, improved, or new transportation facilities are adequate to support the proposed land uses.
 - c. Altering land use designations, densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

Response: The Text Amendment is only proposed to amend front setbacks of the MDRL, MDRH, and HDR Districts to allow buildings and porches to extend in front of garages. The proposed amendment will have no affect on residential density within the MDRL, MDRH, and HDR Districts. The 20 foot setback is maintained for garage entrances, continuing to provide

for adequate driveway parking. No changes are proposed to the Zoning Map. The proposed amendment to modify front setbacks will not result in a development standard that independently results in the creation of more or less residential lots than allowed by current standards. Given that the proposed amendment does not directly impact density standards, the proposed amendment will not result in an increase of trips. The current types and levels of land use within the subject zones are maintained with the proposed text amendment. The proposed amendment will not change the functional classification of an existing or planned transportation facility. In addition, the proposed amendment does not change any standard implementing a functional classification. Therefore, the proposed amendment will not significantly affect existing or planned transportation facilities.

IV. PROPOSAL SUMMARY & CONCLUSION

This Narrative & Compliance Report describes the proposed text amendment and demonstrates compliance with the applicable standards of the City of Sherwood Comprehensive Plan and Zoning and Community Development Code. Therefore, the Applicant respectfully requests approval of the proposed text amendment to City of Sherwood Zoning and Community Development Code, Section 16.12.030(C) Development Standards per Residential Zone.



Case No. PA 13-05
Fee 5330
Receipt # 972153
Date 11-21-13
TYPE V

City of Sherwood
Application for Land Use Action

Type of Land Use Action Requested: (check all that apply)

- Annexation
- Plan Amendment (Proposed Zone _____)
- Variance (list standard(s) to be varied in description)
- Site Plan (Sq. footage of building and parking area)
- Planned Unit Development
- Conditional Use
- Partition (# of lots _____)
- Subdivision (# of lots _____)
- Other: Text Amendment

By submitting this form the Owner, or Owner's authorized agent/ representative, acknowledges and agrees that City of Sherwood employees, and appointed or elected City Officials, have authority to enter the project site at all reasonable times for the purpose of inspecting project site conditions and gathering information related specifically to the project site.

Note: See City of Sherwood current Fee Schedule, which includes the "Publication/Distribution of Notice" fee, at www.sherwoodoregon.gov. Click on Departments/Planning/Fee Schedule.

Owner/Applicant Information:

Applicant: D.R. Horton - Portland Division Phone: 503-222-4151 ext. 1104
 Applicant Address: 4380 SW Macadam Ave #100 Email: AETiemann@drhorton.com
 Owner: D.R. Horton - Portland Division Phone: 503-222-4151 ext. 1104
 Owner Address: 4380 SW Macadam Ave #100 Email: AETiemann@drhorton.com
 Contact for Additional Information: Andy Tiemann, Project Manager

Property Information:

Street Location: n/a
 Tax Lot and Map No: n/a
 Existing Structures/Use: n/a
 Existing Plan/Zone Designation: n/a
 Size of Property(ies) n/a

Proposed Action:

Purpose and Description of Proposed Action: Text amendment to Zoning and Community Development Code
Division II, Section 16.12.30 Residential Land Use Development Standards to amend front yard setbacks with MDRL, MDRH and HDR
zones.

Proposed Use: n/a

Proposed No. of Phases (one year each): n/a

LAND USE APPLICATION FORM

Authorizing Signatures:

I am the owner/authorized agent of the owner empowered to submit this application and affirm that the information submitted with this application is correct to the best of my knowledge.

I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request.


Applicant's Signature

11-21-13
Date


Owner's Signature

11-21-13
Date

The following materials must be submitted with your application or it will not be accepted at the counter. Once taken at the counter, the City has up to 30 days to review the materials submitted to determine if we have everything we need to complete the review.

- 3 * copies of Application Form** completely filled out and signed by the property owner (or person with authority to make decisions on the property).
- Copy of Deed** to verify ownership, easements, etc. - *Not Applicable*
- At least 3 * folded** sets of plans - *Not Applicable*
- At least 3 * sets** of narrative addressing application criteria
- Fee** (along with calculations utilized to determine fee if applicable)
- Neighborhood Meeting Verification** including affidavit, sign-in sheet and meeting summary (required for Type III, IV and V projects) - *Not Applicable*
- Signed checklist** verifying submittal includes specific materials necessary for the application process - *Not applicable*

* **Note** that the required numbers of copies identified on the checklist are required for completeness; however, upon initial submittal applicants are encouraged to submit only 3 copies for completeness review. Prior to completeness, the required number of copies identified on the checklist and one full electronic copy will be required to be submitted.



DATE: 9-20-13

TO: City of Sherwood Planning Commission

FROM: Ryan O'Brien, DR Horton Entitlement Manager
office: 503-222-4151, ex. 1115 cell: 503-502-7546
fax: 1-866-640-0447
RMObrien@drhorton.com

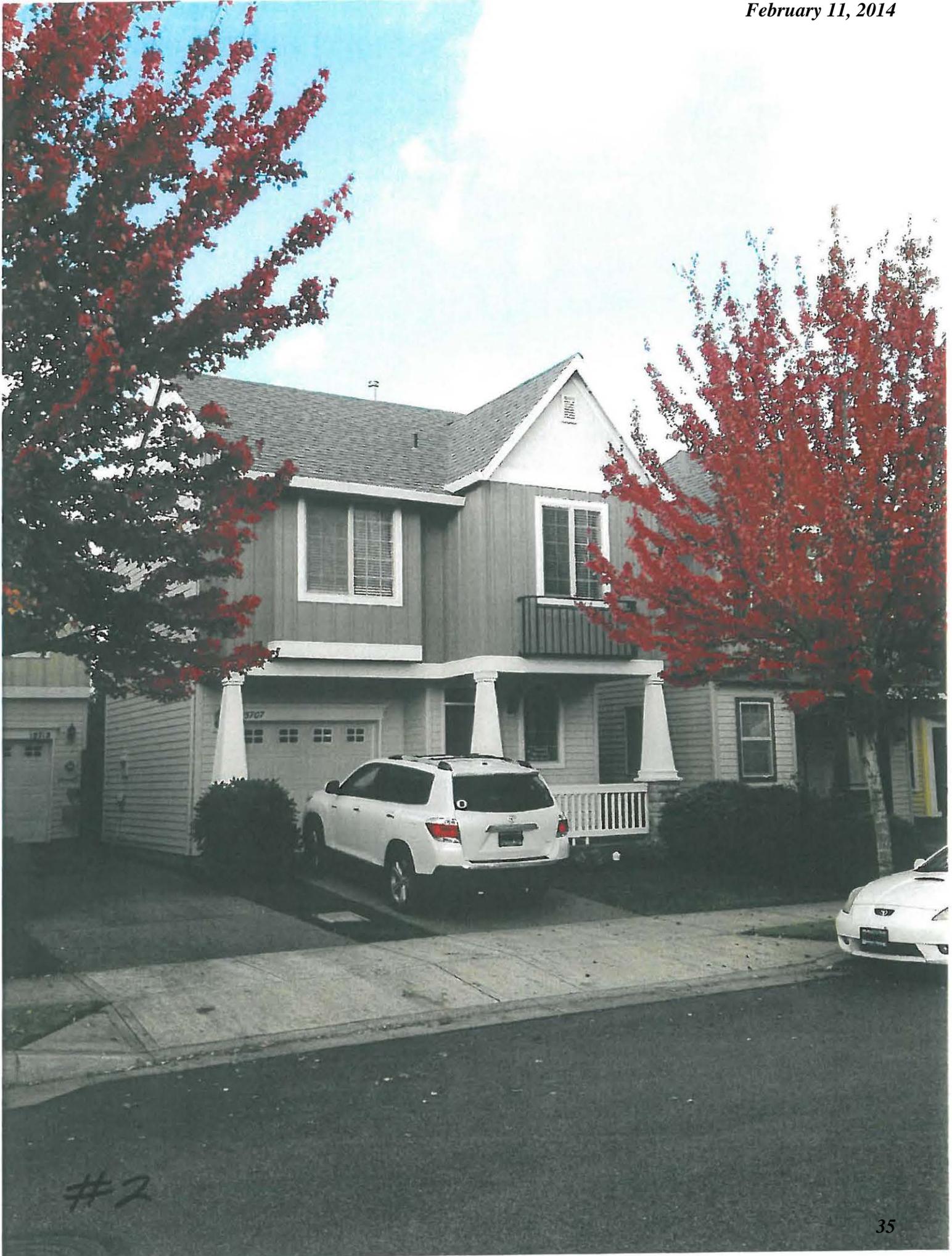
SUBJECT: Requested Comments on Proposed Changes to the Development Code

We are requesting comments from the Sherwood Planning Commission regarding changes to the front yard setbacks in the MDRL, MDRH and HDR zones. The current code requirement is 20 feet. We would like the following changes:

- 10 feet - Porch
- 14 feet - Dwelling Unit
- 20 feet - Garage

We would appreciate Planning Commission comments before we and the city staff spend the time and money to process a code amendment. Attached are 19 photos that represent proposed changes. Many of the city and counties have changed their ordinances to allow these setbacks. Variable setbacks create interesting front elevations for houses. It also eliminates the straight 20 foot line of houses along the street scape. This variety also increases the size of the rear yards. Most of the DR Horton houses have front porches that extend 5 to 8 feet past the garage door which required a 25 to 28 foot setback for the house. This additional 5 to 6 feet is directly removed from the rear yard. In some cases, the living area extends over the garage to create additional living area and house elevation variety. The DR Horton house plans were prepared to comply with the newer codes of other cities and counties that encourage this type of housing. We are currently constructing a 34 lot subdivision called Daybreak with 5,000 square foot lots in the city of Sherwood. The subdivision is located between Cooper Terrace and Elwert Road, and south of Edy Road. We would like to utilize variable setbacks in this subdivision. Thank you in advance for your consideration of this matter.

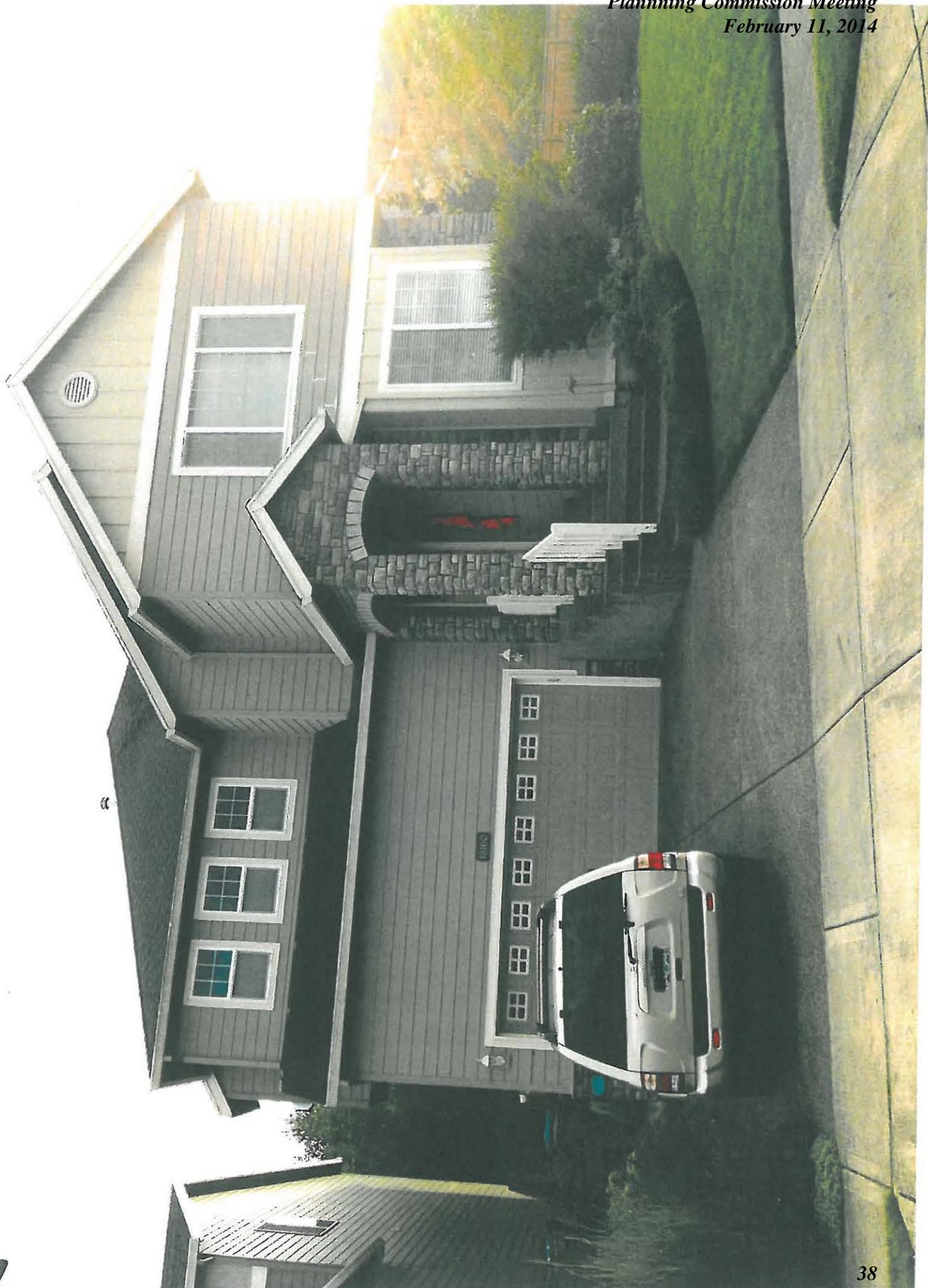




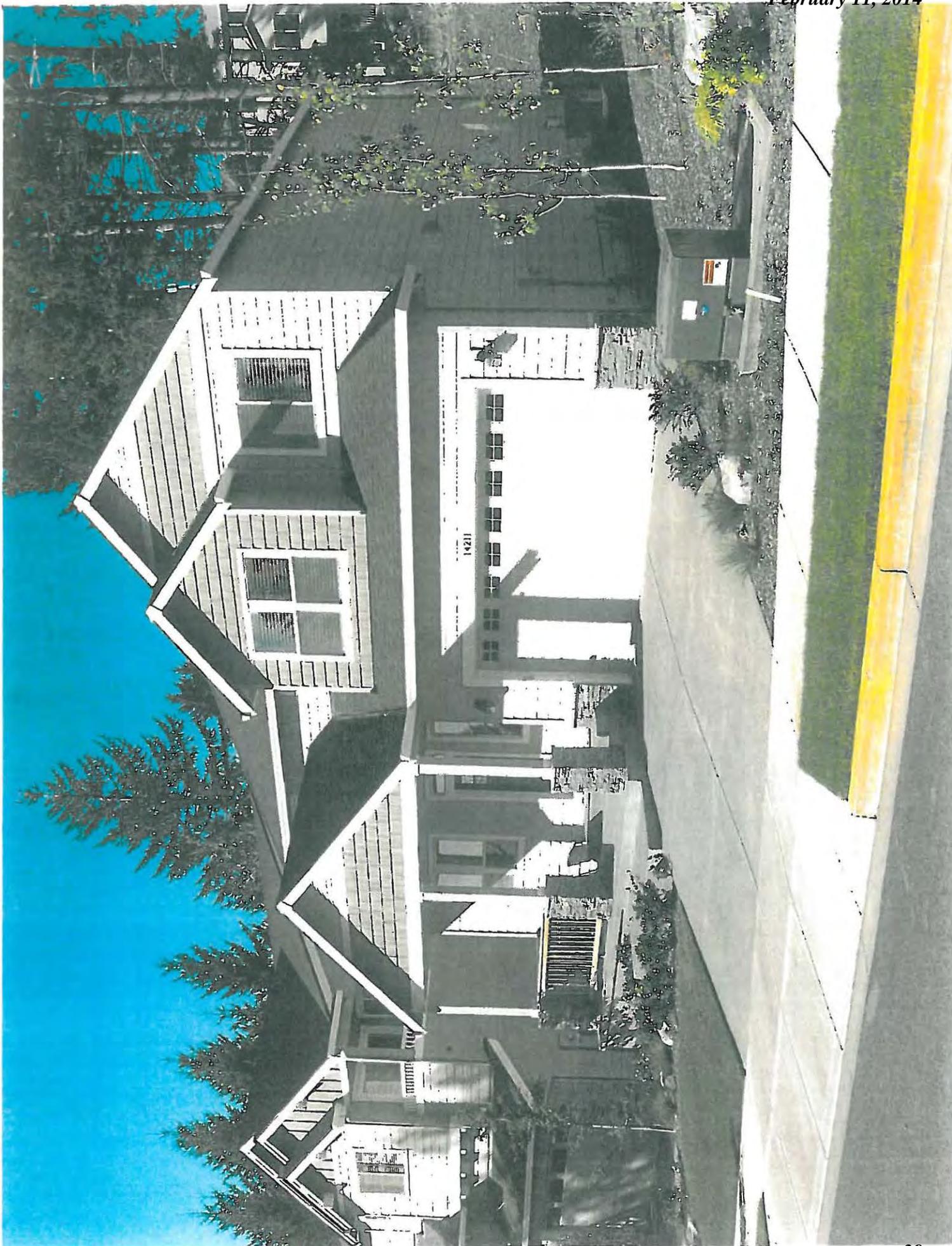


#3





#9



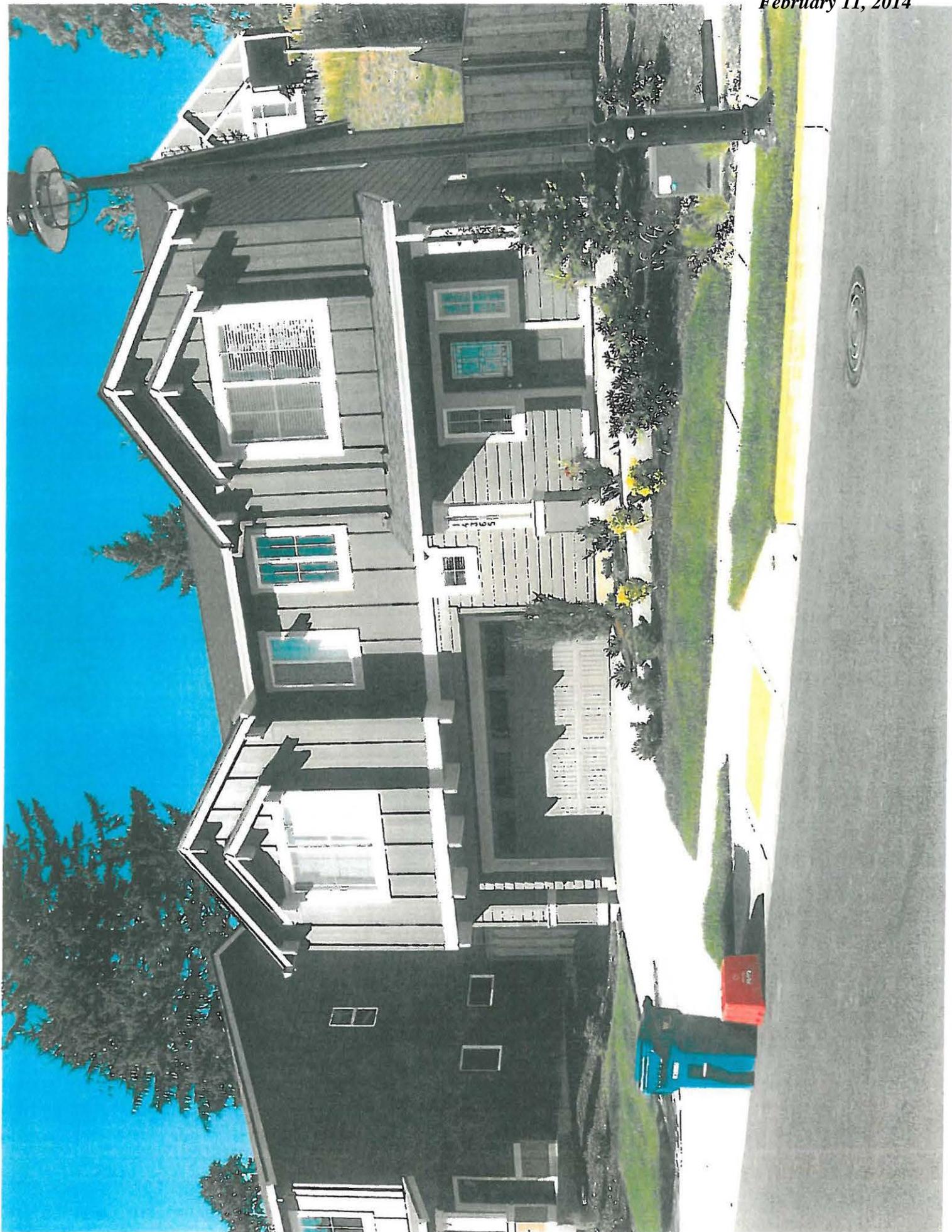


Exhibit 2 Clean version of the dimensional table of Chapter 16.12 (Residential Land Use Districts)

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)	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>
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 Height ^[7] (in feet)	<u>30</u> or 2 stories	<u>35</u> or 2.5 stories	40 or 3 stories			
• Amateur Radio Tower	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	<u>20</u>	<u>20</u>	<u>20</u>	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	<u>\$ 16.68</u> Infill	<u>\$ 16.68</u> Infill
• Corner lot street side						
• Single Family or Two Family	<u>20</u>	<u>20</u>	<u>20</u>	15	15	15
• Multi-Family	X	X	X	X	<u>20</u>	<u>30</u>
• Rear yard	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>

Exhibit 3 Proposed Amendments to the dimensional table of Chapter 16.12 (Residential Land Use Districts)

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)	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>
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 Height ^[7] (in feet)	<u>30</u> or 2 stories	<u>35</u> or 2.5 stories	40 or 3 stories			
• Amateur Radio Tower	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
• <u>Front Porch</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>10</u>	<u>10</u>	<u>10</u>
• <u>Garage Entrance</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>
• <u>Front Building</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>14</u>	<u>14</u>	<u>14</u>
• Interior side yard						
• Single-Family Detached	5	5	5	5	5	5
• Single-Family Attached	<u>20</u>	<u>20</u>	<u>20</u>	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	<u>\$ 16.68</u> Infill	<u>\$ 16.68</u> Infill
• Corner lot street side						
• Single Family or Two Family	<u>20</u>	<u>20</u>	<u>20</u>	15	15	15
• Multi-Family	X	X	X	X	<u>20</u>	<u>30</u>
• Rear yard	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>

~~Deleted Language~~

Added Language

16.12.020

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. 2012-006, § 2, 3-6-2012; 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

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
• 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 Height ⁷ (in feet)	30 or 2 stories	35 or 2.5 stories	40 or 3 stories			
• Amateur Radio Tower	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

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).

16.12.030

Development Standard by Residential Zone-	VLDR-					
	VLDR	PUD	LDR	MDRL	MDRH	HDR
• 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

(Ord. No. 2012-006, § 2, 3-6-2012; Ord. No. 2011-003, § 2, 4-5-2011)

16.12.040 Community Design

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

(Ord. No. 2011-003, § 2, 4-5-2011)

16.12.050 Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.

(Ord. No. 2011-003, § 2, 4-5-2011)

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 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.

(Ord. No. 2012-006, § 2, 3-6-2012)

Exhibit 5 – Examples of existing homes in Sherwood that have smaller front-yard setbacks.

10 Foot Front Yard Setback



15 Foot Front Yard Setback



20 Foot Front Yard Setback

