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**City of Sherwood, Oregon**  
**Planning Commission Meeting**  
**Sherwood Arts Center**  
**October 25, 2016**

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**Planning Commissioners Present:**

Chair Jean Simson  
Vice Chair Russell Griffin  
Commissioner Chris Flores  
Commissioner Alan Pearson  
Commissioner Michael Meyer  
Commissioner Lisa Walker

**Staff Present:**

Josh Soper, City Attorney  
Bob Galati, City Engineer  
Brad Kilby, Planning Manager  
Kirsten Allen, Planning Dept. Program Coordinator

**Planning Commission Members Absent:**

Commissioner Rob Rettig

**Council Members Present:**

None

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

Chair Jean Simson convened the meeting at 7:15 pm.

**2. Consent Agenda**

- a. September 13, 2016 Planning Commission Minutes approval
- b. September 27, 2016 Planning Commission Minutes approval

**Motion: From Commissioner Alan Pearson to approve the consent agenda, Seconded by Vice Chair Russell Griffin. All Commissioners voted in favor.**

**3. Council Liaison Announcements**

None.

**4. Staff Announcements**

Brad Kilby, Planning Manager, said the Federal Emergency Management Agency (FEMA) regulations were passed at the City Council meeting on October 18, 2016 by emergency and effective immediately. The Sanitary and Stormwater Master Plans were also approved and still in their appeal period. Mr. Kilby provided the Planning Commission flyer for the Home Builders Association 2017 Housing Forecast breakfast on November 4, 2016 regarding Metro's housing needs for the upcoming year.

**5. Community Comments**

None were received

## 6. New Business

### a. Public Hearing – PA 15-06 Claus Property Plan Amendment and Zone Change (Brad Kilby)

Chair Simson read the public hearing statement. She did not ask for ex parte, bias or conflicts of interest because the land use application was legislative.

Brad Kilby gave a presentation of the staff report (see record, Exhibit 1). He said the proposal was to rezone approximately 2.66 acres of a 5.86 acre site from General Commercial (GC) to Medium Density Residential High (MDRH). He said MDRH allowed for a variety of housing types with densities ranging from 5.5 to 11 dwelling units per acre. Mr. Kilby showed the location of the site and stated there was general commercial on either side of the property with a Low Density Residential Planned Unit Development (LDR PUD) to the north. Across Hwy 99W was Medium Density Residential Low (MDRL) and Medium Density Residential High, a majority of which was already developed with single family housing. He said to the west SW Swanstrom met the site and stated there would be a future extension of Cedar Brook Way east of the site or from Hwy 99W. He noted a PUD might have reduced setbacks or increased heights.

Mr. Kilby explained a zone change was a legislative process through a public hearing before the Planning Commission and the City Council which had to meet five required findings.

- Demonstrated need for the proposed use and zoning
- The proposed amendment is timely
- Other MDRH-zoned properties are unavailable or unsuitable for immediate development
- Does not significantly affect the functional classification of a local, county, regional or state transportation facility
- Consistent with the Comprehensive Plan and Transportation System Plan Policies and Metro and State Standards.

Mr. Kilby said need could be demonstrated by the City's economic health, current market demand, availability and location of residential land in the area. The Housing Needs Analysis initial findings, completed with the Sherwood West Preliminary Concept Plan and the applicant's narrative demonstrated that there were ninety-six acres of buildable residential land within the city. Mr. Kilby said twenty-one of those acres were zoned MDRH and there were seventy-nine buildable acres of residentially zoned land outside of city limits in the Brookman Concept Plan Area which was within the Urban Growth Boundary, but had not been annexed into the city; eleven acres in the Brookman area were zoned MDRH. Based on the housing needs analysis and what was known from the City's twenty year land supply there is not a lot of available land in the city zoned for MDRH, even if the Brookman Area was included, and constructed at the high end of the density range (11 units/acre), there would be a deficit of MDRH of about 10-11 acres.

Mr. Kilby explained the finding to be timely by stating there was an immediate need for residential land within the City and the market demand was high. He said the properties within this corridor had remained underdeveloped for a long time and there was an indication that properties within the area would begin developing as land supply continued to dwindle. He disclosed that the Elks property was put on the market for development, there were sixty-five units being developed off of Meinecke Parkway, and there was a high demand for residential in Sherwood; as fast as houses were built, people were buying them. Mr. Kilby said there was not a lot of vacant or available property in the City of Sherwood and commercial development activity was limited to a few properties. He reported utility services were available to the property and with development there would be added opportunities for future development within the corridor.

Mr. Kilby said there was a demonstrated lack of land zoned Medium Density Residential High to meet the projected need and it did not appear there was other MDRH zoned land on the market. Vacant or underdeveloped properties

were in challenging areas. He communicated there had been an incomplete application submitted for the properties in the Brookman Area that would need to be considered by the City Council. He explained a recent State House Bill that would take annexation out of the hands of the voters and into the Council's realm. He cautioned that there were a lot of people that did not want to see the Brookman Area annexed into the city, but three times the Council had found a reason to put the matter before the voters on the ballot and he saw nothing to suggest that the City Council would find the land should not come into the city.

Mr. Kilby said the proposed zone change could not affect the functional classification of a local, county, regional or state transportation facility; known as the Transportation Planning Rule. He explained the applicant had provided a traffic report indicating that 2.66 acres, developed to the highest and best use possible, would generate 2,546 more average daily trips with a commercial use than with a residential use. As demonstrated in the staff report the proposed amendments were not inconsistent with the goals of the Comprehensive Plan, Transportation System Plan (TSP) or Metro and State policies

Mr. Kilby specified the City must demonstrate that the request was consistent with statewide planning Goal 9, Economic Development which states commercially zoned land could not be taken out if there was a projected deficit. He said in 2007 the City put together an Economic Development Strategy which evaluated the amount of vacant land (See Exhibit D, Staff report,) and since then some of the property off of Langer Farms Parkway had developed commercially with an additional twenty-one acres with the potential to develop commercially, because of that PUD. The Economic Development Strategy demonstrates a need for ninety three acres in the twenty year planning horizon. The proposal does not reduce the amount of commercially available properties below the need identified as all of our Retail, Office Commercial, and General Commercial adds to approximately 165.24 acres; a surplus of over the projected need.

Mr. Kilby explained that based on staff's analysis the applicant had provided adequate information to make findings in support of the proposed amendment. Staff recommended the Planning Commission forward a recommendation of approval of the proposed Comprehensive Plan and Zoning Map Amendment to the City Council as proposed.

Mr. Kilby showed the Planning Commission the city zoning map (see record, Exhibit 2) and showed locations within the city zoned MDRH and stated much of the land zoned MDRH was either already developed or not buildable. The MDRH zone allowed for a variety of housing types; single family homes on a 5000 square foot lot, single family attached rowhomes or townhomes on a 4000 square foot lot, duplexes on a 8000 square foot lot or multi-family on a 3200 square foot lot for every unit after the first two or about five units for a ten thousand square foot lot. Mr. Kilby asked for questions from the Commission. There were none.

Chair Simson asked for applicant testimony.

Nathan Claus, 22211 SW Pacific Hwy on behalf of Robert James and Susan Claus gave a presentation (see record, Exhibit 3). He said the applicant agreed with most of the staff report and stated the zone change was being pursued because of Cedar Brook Way.

Mr. Claus gave a history of the property saying it had been a prime property in Sherwood and a hub of activity. He said there had been a restaurant, a book depository, residential, office, and a publishing center and the property had had a long productive life. He showed the draft plot plan for developing the site with twenty three lots off of SW Swanstrom Drive. Mr. Claus said the proposed Cedar Brook Way extension negatively impacted the property which was self-sufficient in its current state with utilities within the property. He stated there were two deeded ingress/egresses onto 99W and Cedar Brook Way was not needed to develop the property, however since Cedar Brook Way had been mandated by the city, the city must pay compensation for the road, if and when, it is installed. He said the road had not been planned, but was on the TSP, and split the property in two. Because the applicant wanted to develop the property this was the proposed solution with the expectation that there would be further discussions about Cedar Brook Way in the future.

Mr. Claus spoke of the required neighborhood meeting for all development where four people showed up at the first meeting who said they were in favor of a residential development instead of commercial because it was a lot nicer to have a houses instead of an office complex. Due to a revised application a second meeting was held where participants continued to be on board.

Mr. Claus stated the reason for the zoning change was because of the collector street, Cedar Brook Way. The applicant wanted to be clear that the road provided no benefit, but harmed the value of the property, and they wanted to make it clear it was a takings and they wanted to work within the takings situation. He pointed out the development would lay the ground work for Cedar Brook Way and said the Elks Club was looking to develop with Cedar Brook Way going through the property. Mr. Claus explained other development plans for the property was for a warehouse in the back of the property to be moved to the front of the property; a simple building permit process, and the house in the back of the property would be updated. He said the deeded highway ingress/egresses had been retained and, assuming everything went through, in the next six to nine months development of the subdivision would begin.

Mr. Claus said the electronic outdoor advertising sign would remain and was not part of the application. He commented there were five properties along the highway that were directly impacted by Cedar Brook Way. The applicant said they felt it had been a political decision to go through with the road and for fifteen years the road had been on the Transportation System Plan without headway. He said they were looking for resolution to the process, there were problems that the City had designated Cedar Brook Way, but did not have the money to pay for it, and the City may ultimately decide it was not needed. Mr. Claus said that presented a problem and the applicant would not have gone through the zone change if the City decided the road was not needed. Until the City made the ultimate decision on Cedar Brook Way it remained the elephant in the room. End of presentation.

The applicant had 23:41 remaining.

Chair Simson asked for questions of the applicant. None were received. She asked for public testimony.

Kevin Finck, resident of Sherwood provided a map showing the proposed zone change location and surrounding streets along with a letter from Pride Disposal (see record, Exhibit 3). He said the apartment complex off of 99W was full of renters and the highlighted streets near his home represented locations where parking had become a problem. He noted the newly constructed road near the housing development next to the apartment complex was filled with cars. Mr. Finck stated his opposition was for high density zoning that would make the parking problem worse. The letter from Pride Disposal, received by all of his neighbors, informed residents that garbage pickup would not take place if there were cars parked in his cul-de-sac. He explained that the cars parking in his cul-de-sac were from people not living on his street and it was irritating not to have his garbage picked up. He strongly opposed the application if it would allow apartments with parking problems; single family housing was acceptable. He noted parking permissions in his neighborhood made it difficult for a fire engine to get through and expressed concern for cars parked along both sides of the street. He asked the Commission to consider what it would be like not to have parking near their homes because of overflow parking from apartments built nearby. He said he was worried the application was for a high density to pack in the apartments.

Chair Simson asked for rebuttal.

Nathan and Susan Claus came forward. Ms. Claus stated the zoning was not the highest zoning and would not be the same zoning as the apartment complex and the density would not be anything like that. Chair Simson confirmed that MDRH allowed 5.5-11 units per acre and the highest density was High Density Residential (HDR) which was 16.8- 24 units per acre. Ms. Claus said the parking rules had been changed to require more parking since the apartment complex had been built and it was an anomaly in the town. Ms. Claus pointed out the letter from Pride Disposal was five years old and the problem continued. She suggested if there was a car with an unknown owner to call the police who would put a tag on it for removal. She said the neighborhood had some control in that manner.

Ms. Claus said they were trying to respond to restrictions that had been put on them. It would be better if it could all be commercial, but when you split a property in two, take away the highway zoning and view with a road in the middle of it, the back part property became dead zoned. She said they were trying to make the best of a bad situation. Ms. Claus mentioned the Doyels, Shannons, Broadhursts and Elks and said in particular the property between their property and the Doyel's property was a ravine which was expensive to cross and the City did not want to spend funds. The Claus's could not and the road would not benefit them. She commented it was one of those odd situations where, because of the expense, it was going to be unusual if the City ever built it. Ms. Claus commented the City allowed the Doyel's development as a partial development and Cedar Brook Way did not extend to the Claus property where the ravine is.

Ms. Claus said it was a pretty simple thing and they were talking about twenty-three lots.

Chair Simson asked for questions of the applicant. Receiving none, she closed the public hearing and asked for final comments from staff.

Mr. Kilby reminded the Commission that the plot plan showed was a draft plan and the applicant would be able to develop under the zoning approved by the Commission; approval of the application was not an approval of the subdivision plan. The applicant would have to obtain subdivision approval and have to meet minimum densities, but would not have to achieve maximum density. He said the Cedar Brook Way alignment would be set by development and because it was a collector street it would have reimbursable System Development Charges (SDC). Mr. Kilby pointed out that whoever started Cedar Brook Way, whether it was the Elks, the Clauses, or City initiated, the development that initially paid for the road would be partially reimbursed for it. To respond to Mr. Finck's concerns, he said permit parking was controlled by the Police Department and there were parking issues in the area, the public was allowed to park on a public street, and it was unfortunate in cases like the Creekview Crossing Apartments that people have abused the parking and parked all over the place. He said his experience was that, in the suburbs, if you have a three bedroom apartment you are going to have three cars, however Metro does not allow cities to require more parking.

Chair Simson received confirmation that the minimum density requirement was 5.5 units per acres. Mr. Kilby reminded the commission that land would be used for roads, stormwater quality facilities, 5% open space which would allow between eleven to twenty-three units. Chair Simson clarified that the approval of the zone change would not dictate what would be developed, but would designate the use as residential instead of commercial. Mr. Kilby noted that multi-family could be built in the commercial zone provided it was above, behind and clearly secondary or incidental to the commercial use so the applicant could have put residential units on the back of the property without a zone change.

Chair Simson asked for questions for staff.

Commissioner Lisa Walker asked if the parking issues from the apartments were from a higher density and if there had been a change to the code to the parking standards since the development of the apartments.

Mr. Kilby explained that after the development of the Creekview Crossing Apartments garages in multi-family developments were not allowed to be counted towards the parking requirement. In a single family development the garages are allowed to be counted. If the property was developed as multi-family (which the zoning would allow) it could not go above the twenty three units. Mr. Kilby said the parking requirements for apartments were based on the type of housing unit; 1 bedroom unit= 1 space, two bedroom unit= 1.50 space per bedroom and a three bedroom unit = 1.75 spaces. Metro does not allow requiring more.

Commissioner Walker asked what the public could do about parking concerns and regarding special parking permits. Mr. Kilby said there was permitted parking around Sherwood High School and at Snyder Park. Permitted parking was initiated by the Police Department and adopted by the City Council. The police would begin by monitoring the parking complaints and the city council would hear requests for a parking overlay.

The following motion was received.

**Motion: From Vice Chair Griffin to forward a recommendation of approval to the City Council for PA 15-06 Claus Property Plan Amendment and Zone Change based on the applicant testimony, public testimony received, and the analysis, findings and conditions in the staff report. Seconded by Commissioner Lisa Walker.**

Chair Simson commented that by putting Cedar Brook Way in the TSP it divided the property and the MDRH created a transition from residential to commercial. She stated the zone change seemed to make sense in that it would be a good transition for the neighbors that were already there. A business office or another highly active commercial development would have a greater impact on the neighbors. She commented that it was the second or third zone change the Planning Commission had heard, because the Comprehensive Plan needed to be updated. She expressed concern that if the city continued to chip away at the existing Comprehensive Plan, it would fail to have a Comprehensive Plan. Chair Simson

reminded the Commission of the schedule to update the full Comprehensive Plan and said she would like the City Council to direct the Commission to put a moratorium on zone changes until the updated Comprehensive Plan was in place. She wanted a moratorium to prevent more zone changes until the update was complete. Chair Simson stated she was normally against piecemeal zone changes unless they made sense. With no other comments from the Commission she asked for a vote.

**All present Planning Commissioners voted in favor.**

The City Council public hearing was scheduled for November 29, 2016. Chair Simson moved that the Planning Commission express concern to the City Council that this was a slippery slope and until the Comprehensive Plan the Planning Commission should not hear zone change applications.

Mr. Kilby disclosed the Comprehensive Plan update would be a two or three year long process and staff was developing the work program which would be presented to the Council in early 2017. He shared that the Comprehensive Plan had not been updated since 1991 and based on today's population only about 2% of the population of Sherwood would have participated in the process which included visioning and objectives for the long range future of Sherwood. The Comprehensive Plan update was a desperately needed piece of legislation and it would have to be carefully thought out with the community; the hard questions of goals, policies and objectives could take months. Discussion followed.

Vice Chair Griffin suggested asking the Council their position as the last two zone changes made sense in those specific situations. He did not want to force a hardship because of a zone change moratorium.

Chair Simson commented it was staff's job to get an application approved. Mr. Kilby responded that staff did inform the applicant if the objectives for a rezone had been met, but the criteria was subjective. The commission agreed that the criteria was subjective and could be different with each application.

Commissioner Walker suggested if a moratorium was imposed there should be exceptions with stringent criteria or the existing criteria should be used and every application considered.

Mr. Kilby commented there was more of a need for multi-family housing than single family housing and there would need to be a discussion of the goals and policies related to housing in the comprehensive plan. He said the state would hold the city to the requirement to make sure there was land available for multi-family housing. He noted that cheap multi-family housing was not built in Sherwood, because it was an upscale community and higher design guidelines could be imposed on multi-family housing. He noted because of the value and the cost of land, developers have to put as many dwelling units as possible in order to make a return.

Chair Simson commented that high density residential, without residential design standards, could end up with apartments with blank walls at the face of the community, because of lack of standards in a twenty five year old Comprehensive Plan. She acknowledged a three year moratorium was a long time and asked the city attorney for comment. He said the Planning Commission was evaluating proposed zone changes on a case by case basis that had a considerable amount of discretion in the process.

Chair Simson asked if the Planning Commission felt an application did not meet the criteria or felt the timing was wrong and staff could make findings the city attorney could defend it through LUBA. He said he could on the basis of not meeting the criteria.

Commissioner Pearson commented the problem with a moratorium was prohibiting a property owner from doing something with their land that they had a legal right to do. He pointed out that tonight's applicant revised the submission to come up with a better plan. He spoke about Mandel Farms subdivision that was building one story homes, as he wanted, but the starting prices were at \$500,000 and not what he had in mind for a starter home. He said it points out the fact that there was a need for housing and a market that would support it in Sherwood.

Chair Simson said the Planning commission needed better direction from Council; what was the general thought for re-zoning and what should the ratio be between commercial, industrial, and residential.

Mr. Kilby told the commission that if they wanted to deny an application, staff would help with crafting findings. He hoped the commission did not feel they had to rubber stamp everything staff brought before the Commission. The Planning Commission could make a case that it was not the right timing or that it did not support the Comprehensive Plan.

Chair Simson asked commission members to provide comment about the goals, changes and accomplishments of the Planning Commission to Mr. Kilby via email. So far they included updating the Comprehensive Plan, a work session with the City Council regarding the Tannery Site, discussion of Council's vision for the entrance to our community, and economic development in the Tonquin Employment Area (TEA).

Mr. Kilby commented on an old adage in planning and development that says development follows pipe and pavement. He said that SW 124<sup>th</sup> Avenue was almost complete and he expected that when one of the properties started to develop the others would follow. He reminded the Planning Commission it had recently approved code changes for industrial properties to help facilitate development in the TEA.

### **7. Planning Commissioner Announcements**

Vice Chair Griffin stated that he wrote a recommendation for a political candidate which ended up in the Voter's Pamphlet incorrectly. He said it was an error and he was not professing to be on the City Council.

### **8. Adjourn**

Chair Simson adjourned the meeting at 8:28 pm.

Submitted by:



Kirsten Allen, Planning Department Program Coordinator

Approval Date: November 22, 2016