



ORDINANCE 2008-003

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN AND ZONING MAP TO REDESIGNATE A PARCEL FROM MEDIUM DENSITY RESIDENTIAL LOW TO RETAIL COMMERCIAL.

WHEREAS, the owners of a certain parcel of land, located at 21305 SW Pacific Highway (tax lot 2S130D001200) (the "Property"), applied for a comprehensive plan amendment and zone change on the parcel; and

WHEREAS, the owners of the Property seek a plan amendment and zone change from Medium Density Residential Low ("MDRL") to Retail Commercial ("RC"); and

WHEREAS, the Planning Commission and City Council held duly noticed public hearings to consider the application.


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

Section 1. The City Council approves the application and changes the Property's comprehensive plan and zoning designations from MDRL to RC.

Section 2. This approval is supported by the findings and subject to the conditions contained in Exhibit A, attached and incorporated by reference.

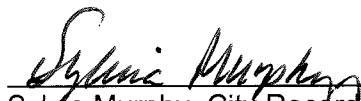
Section 3. Effective Date. This Ordinance shall become effective 30 days from its adoption.

Duly passed by the City Council this 4th day of March 2008.



Keith S. Mays, Mayor

ATTEST:



Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Weislogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Luman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
King	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heironimus	<u>Absent</u>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**SHERWOOD CITY COUNCIL FINDINGS
FOR COMPREHENSIVE PLAN AMENDMENT AND ZONE CHANGE**

Nature of the Proposal:

The applicant requested a comprehensive plan and zone map amendment to change the designations from Medium Density Residential Low (MDRL) to Retail Commercial (RC) (hereinafter referred to as the "redesignation." The property was a former mobile home park which has since been vacated. Based on the findings below, the Council concludes that the application has satisfied all applicable criteria and approves the requested redesignation with conditions.

I. BACKGROUND

A. Applicant/Owner:
Donald and Virginia Pfeifer
2011 NE 164th Place
Portland, OR 97230

Representatives:
Ed Sullivan, Esq.
Garvey, Schubert Barer
121 SW Morrison, Suite 1100
Portland, OR 97204

Leslie Ann Hauer, AICP
6100 Collins Road
West Richland, WA 99353

Todd Mobley
Lancaster Engineering
321 SW 5th Avenue, Suite 400
Portland, OR 97204

Eric Hovee
E. D. Hovee & Company, LLC
2408 Main St.
P.O. Box 225
Vancouver, WA 98666

B. Location: The site is located at 21305 SW Pacific Highway; tax lot 1200 on Washington County Tax Assessor's map 2S130D0.

C. Parcel Size: The parcel is 5.74 acres.

D. Existing Development and Site Characteristics: The site was originally developed in 1964 as a mobile home park with 41 single-wide spaces. Currently there are no mobile homes on site; a single family home exists on the site that was used as a residence and office for the park manager, which remains vacant.

E. Zoning Classification and Comprehensive Plan Designation: The existing plan and zone designation is Medium Density Residential Low (MDRL). Section 16.16 of the Sherwood Zoning and Community Development Code (SZCDC) lists the permitted uses in this zone. The proposed designation is Retail Commercial (RC). Compliance with the permitted uses in the RC zone is identified in Section 16.28 of the SZCDC.

F. Adjacent Zoning and Land Use: Properties to the northeast along Pacific Highway are zoned predominantly Retail Commercial (RC) to the intersection of Tualatin-Sherwood Road/Edy Road. The adjacent property to the southwest is General Commercial (GC) for another ¾ mile,

with a sizeable High Density Residential (HDR) parcel further down Pacific Highway and to the northwest. Across Pacific Highway, properties are a mix of GC, RC, and HDR.

Property immediately adjacent to the northeast is zoned RC, currently used as a retail and storage. The abutting property to the southwest is zoned GC and is approved to be built with a hotel. The property to the northwest is zoned HDR and is currently developed with attached housing units.

- G. Review Type: The proposed Plan Amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. On November 13 and December 11, 2007, the Planning Commission held public hearings to consider this matter and recommended denial of the proposed redesignation to the City Council. On February 5 and February 19, 2008, the City Council held a public hearing and voted to approve the application with conditions. Any appeal of this decision would go directly to the Land Use Board of Appeals.
- H. Public Notice and Hearing: Notice of the November 13, 2007 Planning Commission hearing on the proposed application was published in the *Tigard-Tualatin Times* on November 1st and 8th and posted on-site and mailed to property owners within 100 feet of the site on October 17th in accordance with Section 16.72.020 and 16.72.030 of the SZCDC. The notice was a revised notice from a previously scheduled hearing, therefore notice was provided more than 20 days in advance of the November 13th hearing to ensure the revised notice was received before the first originally scheduled meeting date. Notice of the February 5th hearing was also duly published in accordance with state law and City requirements.
- I. Review Criteria:
The required findings for the Plan Amendment are identified in Section 4.203.02 of the Sherwood Zoning and Community Development Code (SZCDC); Applicable standards are: Comprehensive Plan, Part II, Chapter 4, Section E (residential), Section H (Economic Development Policies and Strategies), and Section I (Commercial); Metro Functional Plan Title 1; and Statewide Planning Goal 9, 10 and Goal 12.

II. PUBLIC COMMENTS

Public comments were received at the Planning Commission hearing and are identified as Exhibits G and H in the record. In addition to the two written comments, public testimony was received at the first Planning Commission meeting from Susan Claus. No other verbal or written public testimony was received by anyone not associated with the applicant at the Planning Commission or City Council hearings.

III. AGENCY COMMENTS

Staff e-mailed notice to affected agencies on September 6, 2007. The following is a summary of comments received.

The Sherwood City Manager has provided comments recommending denial because he believed a more appropriate use would be for office commercial as opposed to retail commercial.

Kinder Morgan Energy indicated that they have no concerns with the proposal.

Pride Disposal Co. has reviewed the request and had no comment.

Washington County Department of Land Use and Transportation Planning reviewed the request and offered the following comment:

For all of the major intersections which will have potential traffic impacts from this request, ODOT has jurisdiction. The county therefore will rely on ODOT's review of the traffic impacts on these intersections, some of which involve county facilities.

For the other intersections that are considered in the report which involve county/county roadways, these are stop-controlled rather than signalized intersections and do not have associated performance criteria in the county's Transportation Plan. The county therefore does not have any specific comments regarding the proposal.

Metro has reviewed the request and offered the following comments:

Title 1 of the Urban Growth Management Functional Plan (Metro Code 3.07.140) allows a local jurisdiction to rezone an area as long as the jurisdiction continues to provide at least the overall capacity for housing specified in Table 3.07-1. In reviewing the application, it appears that the City of Sherwood can maintain its current dwelling unit capacity even with the reduction of 41-63 dwelling units.

The analysis provided by the applicant indicates that previous subdivisions approved by the City are developing at close to maximum density, which is higher than the capacity assumed in Table 3.07-1. If the City agrees with the applicant's analysis, the City has capacity available to rezone the former Driftwood Mobile Home Park without reducing its overall dwelling unit capacity. In addition, residential development is permitted in the RC zone, giving the City another way to meet required dwelling unit capacity.

Portland General Electric had no objection to this proposal. They have indicated that they do have both distribution line (12,500V) and sub-transmission line (115,00V) on the same side of the HWY 99W as the proposed change to Retail Commercial. PGE can underground the distribution, but under grounding the sub-Transmission is not economical or physically feasible to underground.

Tualatin Valley Fire and Rescue did not endorse or disapprove of this proposal.

ODOT Outdoor Advertising Sign Program reviewed the proposal and indicated that zone changes from residential to commercial, for the sake of qualifying for an outdoor advertising sign, is not recognized as legitimate commercial zoning. No plan for an outdoor advertising sign is indicated. Otherwise, no comment.

ODOT Rail Division indicated that they have no concerns with the proposal.

ODOT Region 1 provided comments. In summary, they have concerns with the applicant's transportation analysis in relation to Transportation Planning Rule (TPR) compliance and recommend either denial the zone change be limited in a way that caps the number of trips on site to the maximum trips under the current zoning at "worst-case" build-out. The ODOT comments are included as Attachment 1, Exhibit F and Attachment 4 of the record.

DLCD was notified of the request on August 10, 2007 and provided no comments or objections.

IV. PLAN AMENDMENT REQUIRED FINDINGS

16.80.030 - Map Amendment

This section states that 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 A-D below.

The applicable Comprehensive Plan policies are discussed under Section V. below. Section 16.02.080 requires that all development adhere to all applicable regional, State and Federal regulations. Applicable Regional regulations are discussed under Section VI. and applicable State regulations are discussed under Section VII.

FINDING: This is discussed in detail below.

A. The proposed amendment is consistent with the goals and policies of the Comprehensive Plan and the Transportation System Plan.

FINDING: This is discussed in detail below under Section V.

B. 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.

The applicant analyzed need in two ways: (1) by looking at the City's Economic Opportunities Analysis ("EOA") and (2) by providing an analysis of those findings by E.D. Hovee, a professional economist. According to the EOA the City of Sherwood has only 13 acres of vacant commercial land left, including just 6 lots designated RC. The EOA concluded that Sherwood would need to add 27 additional acres to its UGB for new commercial development, under the preferred "medium growth scenario."

E. D. Hovee reviewed the inclusion of the Pfeifer site in the City's retail commercial inventory. They found, and this Council agrees, that, under any methodology, there is a need to include the Pfeifer site from the following perspectives:

- The City's Economic Opportunities Analysis
- A review of loss of retail commercial sales from Sherwood consumers to other areas because of insufficient retail commercial sites (i.e., sales leakage)
- A demographic forecasting of retail commercial space demands compared with existing available retail commercial lands
- Whether Sherwood growth justifies use of a high growth figure in the Economic Opportunities Analysis
- The suitability of the Pfeifer property for retail commercial development, given other potential sites

The Council agrees with the conclusion of the Hovee analysis, that the proposal is consistent under Goal 9, Economy of the State, and the City's Plan. Given both the City's EOA and the additional information available, redesignation of this 5.74 acre parcel to retail commercial, with the conditions provided below, the same designation as those properties to the north and south of this site, is justified.

Regarding the commercial policies identified in the EOA, this Council agrees with the applicant's proposed findings, as follows:

- **Policy 1. Commercial activities will be located so as to most conveniently service customers.**

Finding: *The subject site is associated with the large, established: Six Corners commercial area, making it very convenient to the customers who already use the area, as well as the large volume of traffic that passes through this area.*

- **Policy 2. Commercial uses will be developed so as to complement rather than detract from adjoining uses.**

Finding: *Development of a commercial use on this site would better complement the adjacent commercial land and uses than a mobile home park or the single-family / duplex uses allowed under the current MDRL zoning.*

- **Policy 3. Highway 99W is an appropriate location for commercial development at the highway's intersections with City arterial and major collector roadways.**

Finding: *The site is located along Highway 99W, near several major intersections.*

- **Policy 4. The 1983 "Sherwood Old Town Revitalization Plan" and its guidelines and strategies are adopted as a part of the Sherwood Comprehensive Plan.**

Finding: *The site is not part of Old Town, and the Revitalization Plan is not applicable.*

Conclusion: Based on the analysis above, the Council finds that the City's EOA in combination with the supplemental information provided in the Hovee reports (Attachment 1, Exhibit J and Attachment 3) has demonstrated a need for the requested redesignation in order to accomplish the City's goal of providing "Economic Opportunities". By addressing the policies of the EOA, the applicant further solidifies compliance of the above standard. In addition, the redesignation of property within the City potentially lessens the need for UGB expansions. This standard has been satisfied.

C. 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.

The Council agrees with the applicant that the mobile home park use was originally developed before Sherwood's Comprehensive Plan was adopted, at a time when there was comparatively very little commercial development in the Six Corners area, and no development on adjacent properties. Now, the site is an unused former mobile home park redesignated for medium density residential, between two commercial parcels. Because the mobile home park has been closed, it is timely to consider a redesignation before the property develops inconsistent with locational criteria in the comprehensive plan (discussed further in this report). The proposed amendment is both timely and consistent with the area's land use pattern.

FINDING: Based on the information provided and considering the pattern of development along SW Pacific Highway, this Council believes that the Retail Commercial designation is the most suitable designation for the area. Therefore, this standard has been satisfied.

D. 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.

The applicant refers back to the City of Sherwood's EOA which indicates a demonstrated need for additional commercial land. The subject site is the only property designated MDRL along Pacific Highway between Tualatin-Sherwood Road and Meineke Parkway. Staff questioned why the applicant chose to request a redesignation to retail commercial as opposed to another commercial designation that was also supported by the EOA. The applicant responded that the RC designation was requested after considering the existing land use designations surrounding the subject site. RC was chosen because it was less "permissive" than the general commercial designation.

FINDING: Based on the applicant's analysis and City's EOA, the Council finds that this standard is satisfied.

16.80.030 - Transportation Planning Rule (TPR) 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.**
- B. "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**
- C. 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.**

Chris Maciejewski of DKS has reviewed the traffic impact study material submitted for the proposed zone change. The reviewed materials included the original submission from July 2007 as well as addendums dated September 28, 2007 and October 19, 2007 that were in response to comments and request for additional information dated September 13, 2007. This review focused on determining if the City of Sherwood and OAR 660-012-0060 requirements were met.

The memo from Mr. Maciejewski was submitted to the City on October 29, 2007. The memo identifies that "The traffic impact study concludes that the proposed mitigation measures are adequate to mitigate the impacts of the proposed rezone. The mitigation measures listed in the October 19, 2007 addendum to the report include:

- Add a left turn lane to the Sunset Boulevard approach at Highway 99W/Elwert Road
- Add a left turn lane to the Sherwood Boulevard approach at Highway 99W/Edy Road and implement protected phasing.

- Add a southbound right turn lane on Highway 99W at Highway 99W/Tualatin Sherwood Road
- Add an eastbound right turn lane on Roy Rogers Road at Roy Rogers Road/Borchers Drive.

The following mitigation measures were not listed in the report but may be needed:

- A southbound right turn lane on Highway 99W at the site access was assumed in the capacity analysis but was not indicated in the list of improvements. This improvement may not be feasible due to the lane drop on Highway 99W in the access vicinity.
- Additional or revised mitigation may be required based on updating the analysis to address the items mentioned in the Capacity Analysis and Queuing Analysis section.”

After extensive consideration by the City’s traffic consultant, ODOT, and the applicant’s traffic consultant, a condition of approval that would limit trip generation from the site under the RC Zone to the maximum number of trips permissible under the MDLR Zone without additional review. The Planning Commission and ODOT provided specific recommendations on the wording of potential conditions. The Council considered the recommended conditions as well as analysis by staff demonstrating that it is possible to develop some uses on the site even with the trip limit.

FINDING: Based on the traffic analysis of a professional traffic engineer the City consulted, the proposed redesignation, if allowed without conditions, is not consistent with the Transportation Planning Rule. However, Staff met with the applicant to discuss the findings of the traffic engineer, considered ODOT recommendations, Planning Commission recommendations and staff analysis and Council concludes that it is possible to place conditions on the property to ensure compliance with the TPR. Therefore, if the applicant satisfies the following condition of approval, this section will be met.

CONDITION:

1. A condition of this zone change is that the site is limited to 460 trips per day. If the applicant or future property owners wish to allow for more trips, a Plan Amendment with TPR analysis will be necessary to remove the trip limit.

2. Prior to this redesignation becoming final, the applicant shall provide a written agreement, recorded with the property and binding on all future owners that all development on this parcel shall be subject to the City’s site plan approval process and that requires the site plan approval shall not be granted for uses that, taken cumulatively, exceed the trip generation of 460 trips per day unless and until:

- 1) Transportation improvements to allow for the additional trips have been funded and installed; or
- 2) The City’s Plan is amended consistent with the Statewide Planning Goals to provide otherwise.

V. APPLICABLE COMPREHENSIVE PLAN POLICIES

The applicable portions of the Comprehensive Plan include Chapter 4, Land Use, Section E – Residential; and Section H - Economic Development, Section I - Commercial.

Chapter 4, Section E - Residential Land Use

Policy 1 Residential areas will be developed in a manner which will insure that the integrity of the community is preserved and strengthened.

Policy 2 The City will insure that an adequate distribution of housing styles and tenures are available.

Policy 3 The City will insure the availability of affordable housing and locational choice for all income groups.

Policy 4 The City shall provide housing and special care opportunities for the elderly, disadvantaged and children.

Policy 5 The City shall encourage government assisted housing for low to moderate income families.

Policy 6 The City will create, designate and administer five residential zones specifying the purpose and standards of each consistent with the need for a balance in housing densities, styles, prices and tenures.

The proposed redesignation is from Medium Density Residential (MDRL) to Retail Commercial (RC). There is no residential component associated with this request. However, the RC designation does allow for mixed use projects, which could include a residential element.

FINDING: Based on the analysis above, the Council finds that while residential is a potential component of an RC development, the proposed change does not include a residential element.

Chapter 4, Section H – applicable Economic Development Policies and Strategies

Policy 2 The City will encourage economic growth that is consistent with the management and use of its environmental resources.

Policy 5 The City will seek to diversify and expand commercial and industrial development in order to provide nearby job opportunities, and expand the tax base.

The subject site was developed in 1964 as a mobile home park and has never been identified with environmental resources. Changing the designation to Retail Commercial, the site will be able to provide job opportunities to the community while increasing the tax base of the City.

FINDING: The Council believes that the proposed redesignation is consistent with the above policies and supports economic development within the City.

Chapter 4, Section I – applicable Commercial Policies

FINDING: The Council notes that the commercial policies have been addressed earlier in this document, under section 16.80.030 of the Map Amendment criteria.

VI. APPLICABLE REGIONAL (METRO) STANDARDS

The only applicable Urban Growth Management Functional Plan criteria are found in Title 1 – Housing. The City of Sherwood is currently in compliance with the Functional Plan and any amendment to the Sherwood Plan & Zone Map must show that the community continues to comply. Table 3.01-7 of this Title indicates that Sherwood’s dwelling unit capacity is 5,216 and the job capacity is 9,518. The proposed amendment will provide greater job opportunity while allowing mixed use projects which would allow residential and will not result in the loss of jobs. The applicant has provided adequate documentation that enabled Metro to provide comments confirming that “The City of Sherwood can maintain its current dwelling unit capacity even with the reduction of 41-63 dwelling units.”

FINDING: Based on staff’s analysis, applicant’s submission, and comments from Metro, the Council finds that the proposed redesignation is consistent with the Metro Functional Plan criteria and the City would continue to be in compliance if the redesignation were approved.

VII. APPLICABLE STATE STANDARDS

The applicable Statewide Planning Goals include: Goal 9, 10 and Goal 12.

Goal 9 – ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Oregon Administrative Rule 660-009 (Economic Development) implements Goal 9. OAR 660-009 requires that Cities and Counties prepare Economic Opportunities Analysis in accordance with the directions in the Rule. It also requires that Cities provide an adequate supply of land to meet identified employment needs.

As discussed above, Sherwood adopted an EOA earlier this year which was implemented through amendments to the goals and policies of the comprehensive plan. The proposed plan amendment helps meet some of the commercial land needs identified in the EOA, as shown by the Hovee testimony. The proposed redesignation meets economic goals and policies found in the EOA, the City’s Comprehensive Plan, and the City’s Economic Development Strategy.

FINDING: The Council finds that the proposed plan amendment is consistent with the requirements of Goal 9 and its Administrative Rule.

Goal 10 - HOUSING

This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Statewide Planning Goal 10 is implemented by the comprehensive plan and in the Metro region by OAR 660-007 (Metropolitan Housing). OAR 660-007 provides density standards and methodology for land need and supply comparisons. Metro Title 1 responds to the requirements of the Metropolitan Housing Rule. By complying with Metro Title 1, Sherwood complies with OAR 660-007 as well as Statewide Planning Goal 10. The Council concurs with Metro’s analysis.

FINDING: Based on the analysis above, Council believes that this Goal has been satisfied.

Goal 12 - TRANSPORTATION

The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."

Goal 12 is implemented by OAR 660-012-0000. Compliance with this Goal and the OAR was discussed above.

FINDING: The Council believes that the proposed redesignation is generally consistent with State standards, which have been met as conditioned previously.

VIII. CONDITION OF APPROVAL

1. A condition of this zone change is that the site is limited to 460 trips per day. If the applicant or future property owners wish to allow for more trips, a Plan Amendment with TPR analysis will be necessary to remove the trip limit.

2. Prior to this redesignation becoming final, the applicant shall provide a written agreement, recorded with the property and binding on all future owners that all development on this parcel shall be subject to the City's site plan approval process and that requires the site plan approval shall not be granted for uses that, taken cumulatively, exceed the trip generation of 460 trips per day unless and until:

1) Transportation improvements to allow for the additional trips have been funded and installed; or

2) The City's Plan is amended consistent with the Statewide Planning Goals to provide otherwise.

3. Prior to this redesignation becoming final, the applicant shall provide a written agreement, recorded with the property and binding on all future owners that all development on this parcel shall be additionally restricted as follows:

a. Any new use shall not involve outdoor storage or outdoor sales of products or outdoor display of products for sale, except that an outdoor seating area for a restaurant or café or small scale seasonal display is permitted and

b. No "fast food" type restaurant with drive through window shall be allowed.

IX. ATTACHMENTS incorporated by reference

Attachment 1 – November 6, 2007 staff report (with Exhibits A-I)

Attachment 2 – December 4, 2007 addendum staff report with Exhibit J

Attachment 3 – applicant additional submittal dated 1/25/08 including: letter from Ed Sullivan (3 pgs), Memo from Todd Mobley (4 pgs) and letter from Eric Hovee.(7 pgs)

Attachment 4 – February 4, 2008 memo from ODOT distributed at 2-5-08 hearing

Attachment 5 – Staff Executive Summary to Council dated 2-19-08 with Attachment 1