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Sherwood Planning Commission
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Sherwood City Hall

RE: Comments for Record on Cannery PUD 09-01, PA 09-05, SUB 09-02)

Dear Commission--

It is no secret that the Sherwood Development Code (SDC) has a bunch of discrepancies.

With the discrepancies come interpretations.
Sherwood's existing Old Town is in the midst of redevelopment and infill.

Why is this important?

We have Chapter 4 of the Comprehensive Plan II, that ***requires that there be an expanded notification for projects that are redevelopment and infill.***

This information was brought to the staff's and city attorney's attention during the December 8, 2009 hearing!

Undoubtedly, the official response will be some technicality about how the proposed Cannery PUD isn't an "infill" project.

Let's talk about that for a minute. We do not have a definition in our Sherwood code for "infill." That is not too surprising as our code has many deficiencies.

Look at the definition and discussion of land use "infill" in the text box on page 2. After reading through this information, there is no doubt that the Sherwood Cannery PUD is not only a redevelopment project but also an "infill" project. As such, the expanded notification of the adjoining neighborhoods should be legally made prior to the next hearing. (Maybe, we call foul now, and just start the whole hearing thingie over..what ya think, humm, what might the courts say?)

I want to reiterate something that happens when we get an interpretation from the city attorneys. They invariably tell staff, council and the various commissions that something is "technically" ok—such as in this case, a 100 ft. notice requirement to adjoining properties.

My question to the Planning Commission and to City Council in this case is “Even if the attorney says that technically you are covered on the notice requirement (an interpretation subject to objection), is that the ethical way to treat the adjoining properties in this district? Why would we not notify the properties within the expanded notification map?”

If we don't utilize the expanded notification, we look as if we are trying to slip something by the citizens. If we are not proud of this proposed development and do not want all the input and comments that citizens may have, then maybe this is not the right land use for our Old Town.

After all, some of the justification that staff and the applicant have made is that this project was in the Sherwood Gazette and Oregonian papers a few different times—I do not believe that is accurate as the actual detail of what is being proposed is NOT the same as the other earlier iterations of this project.

**PLEASE EXPAND THE NOTIFICATION TO PROPERTIES
and adjoining NEIGHBORHOODS designated on the Infill Map**

These are excerpts from Sherwood Comprehensive Plan II, Chapter 4, Land Use:

POLICIES AND STRATEGIES

To meet the objectives of Chapter 4 Land Use of the Sherwood Comprehensive Plan the following policies shall be established.

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

Strategy: New housing will be located so as to be compatible with existing housing.

Infill and redevelopment projects will not adversely affect established neighborhoods, and additional public notice will be required for infill projects, as depicted on the “Infill Notification Area” map, Map IV-1.

Infill Definitions: from Wikipedia

Urban infill

In the urban planning and development industries, infill is the use of land within a built-up area for further construction, especially as part of a community redevelopment or growth management program or as part of smart growth. It focuses on the reuse and repositioning of obsolete or underutilized buildings and sites. This type of development is essential to renewing blighted neighborhoods and knitting them back together with more prosperous communities.^[1]

Suburban infill

Suburban infill describes the development of land in existing suburban areas that was left vacant during the development of the suburb. It is one of the tenets of the New Urbanism and smart growth trends of urging densification to reduce the need for automobiles, encourage walking, and ultimately save energy. One exception to this is the practice of urban agriculture, in which land in the urban or suburban area is retained to grow food for local consumption.

The Village of Ponderosa^[2] in West Des Moines, Iowa is a good example of suburban infill. It was formerly a 9-hole golf course surrounded by suburban West Des Moines businesses and tract homes, but starting in 2006 it was redeveloped into a higher-density mixed-use community with a pedestrian friendly retail center.

<http://en.wikipedia.org/wiki/Infill>

Chapter 16.68 INFILL DEVELOPMENT STANDARDS*

Sections:

16.68.010 Purpose and Intent

16.68.020 Lot Sizes and Dimensions for Infill

16.68.030 Building Design on Infill Lots

16.68.040 Height

16.68.050 Yard Requirements for Infill Development

16.68.060 Public Notice

* Editor's Note: Some sections may not contain a history.

16.68.010 Purpose and Intent

This chapter provides standards for infill development, or the development of properties that have been skipped over by larger subdivisions and, due to their proximity to established residential neighborhoods, require special design controls and flexibility in the City's zoning and land division standards. This Chapter is intended to:

- A. Promote housing choice, transportation efficiency and compatibility between existing residential areas and new development;
- B. Allow for greater flexibility in lot size, dimensions and setbacks; and
- C. Control the type, height, size and scale of new buildings on infill properties.

16.68.020 Lot Sizes and Dimensions for Infill

The Approval Authority may approve modifications to the minimum lot size and/or lot dimensions of this Code for residential developments containing less than five (5) acres (i.e., is not otherwise eligible for a Planned Unit Development), subject to all of the following requirements:

- A. Lot area may be reduced below the minimum standard of the applicable zoning district through the land division or lot line adjustment process when the Approval Authority finds:

1. The resulting lot size(s) and dimensions are not less than eighty-five percent (85%) of the standard minimum lot area of the zone; and

2. The resulting average lot size of the development (partition or subdivision) shall be no less than the minimum lot size of the zone in which it is located; the resulting density shall be no more than the allowable density of the zone. Areas reserved as open space, such as central greens, plaza, and other common open space may be counted toward the average lot size and density of the development when such areas are centrally located and accessible to every lot in the development; and;

3. The reduction in lot size and/or dimensions shall not be detrimental to any designated natural feature; the Approval Authority may require mitigation to protect and enhance such features, as applicable; and

4. All required local street connections, pedestrian access ways, utility easements, emergency access, and other Code requirements are met; the Approval Authority may require shared driveways (i.e., for two dwellings) for paired lots that individually have less than 40 feet of street frontage, except where driveway access is provided from an alley; and

5. The land division shall be conditioned, and a deed restriction recorded on each lot that contains less than the minimum lot size of the zone, requiring that building elevations and floor plans be submitted to the Planning Department for review and approval prior to issuance of a building permit on such lot, and such plans be binding on future building. Building plans required under this section shall meet the following standards as provided in Section 16.68.040;

- a. Floor area ratio
- b. Side setback plane; and
- c. Garage orientation and design standards

6. The land division shall be conditioned, and a deed restriction shall be recorded on each lot that contains less than the minimum lot size of the zone, requiring that a landscape plan be submitted to the Planning Department for review and approval prior to issuance of a building permit on such lot. Landscape plans required under this section shall provide plant materials and irrigation that are equal to or better than those existing residential landscapes in the vicinity. The Approval Authority may consider plant species, quantity/volume of plant material, irrigation, slope, aspect, soil, and other relevant factors in determining the adequacy of landscape plans and in requiring additional landscaping.

B. Lot dimension(s) may be reduced below the minimum standards of the applicable zoning district through the land division or lot line adjustment process provided that the development conforms to Section 16.68.030A, above, and all other applicable Code requirements are met.

C. Lot width and frontage standards may be waived for rear lots created through partitioning where an access easement or tract of not less than twenty (20) feet in width connects the subject lot to a public street with a driveway meeting City standards and the yard requirements for rear lots, as provided in Section 16.68.050, are met. The Approval Authority may require that such driveway be dedicated as a public alley and extended in accordance with local street network plans and connectivity requirements.

16.68.030 Building Design on Infill Lots

Structures exceeding twenty four (24) feet in height shall conform to the following standards:

A. Floor Area: Floor area in any dwelling with a height greater than twenty four (24) feet shall not exceed the following floor area ratios, except that the first 200 square feet of floor area in a detached garage or other accessory structure shall be exempt, when the accessory structure is located behind a single family dwelling (dwelling is between accessory structure and abutting street), the lot is not a through lot, and the accessory structure does not exceed a height of eighteen (18) feet. Floor area shall not exceed:

1. Low Density Residential (LDR): 50% of lot area
2. Medium Density Residential Low (MDRL): 55% of lot area
3. Medium Density Residential High (MDRH): 60% of lot area
4. High Density Residential (HDR): 65% of lot area

B. Interior Side Setback and Side Yard Plane. When a structure exceed twenty four (24) feet in height:

1. The minimum interior side setback is five (5) feet, provided that elevations or portions of elevations exceeding twenty four (24) feet in height shall be setback from interior property

line(s) an additional one-half (1/2) foot for every one (1) foot in height over twenty four (24) feet (see example below); and

2. All interior side elevations exceeding twenty four (24) feet in height shall be divided into smaller areas or planes to minimize the appearance of bulk to properties abutting the side elevation: When the side elevation of such a structure is more than 750 square feet in area, the elevation shall be divided into distinct planes of 750 square feet or less. For the purposes of this standard, a distinct plane is an elevation or a portion of an elevation that is separated from other wall planes, resulting in a recessed or projecting section of the structure that projects or recedes at least two (2) feet from the adjacent plane, for a length of at least six (6) feet. The maximum side yard plane may be increased by ten percent (10%) for every additional five (5) feet of side yard setback provided beyond the five (5) foot minimum.

A. Garage Orientation. On lots with a minimum width of sixty (60) feet or less, the garage shall meet the following orientation and design standards:

1. The garage shall not be located closer to the street than the dwelling, unless the combined width of garage opening(s) does not exceed fifty percent (50%) of the total width of the front (street-facing) elevation. For the purpose of meeting this standard, the exterior wall of at least one room of habitable space, which may include habitable space above the garage, shall be located closer to the street than the garage door. Any garage opening width beyond fifty percent (50%) standard shall be set back at least (2) feet further from the front property line than the facade of the other garage volume. Alternatively, and subject to the Approval Authority's approval, the front elevation may incorporate a decorative trellis, pergola or other architectural feature that provides a shadow line giving the perception that the garage opening is recessed;

2. The standard in subsection c.1. above, does not apply where the average slope of a parcel of a lot exceeds twenty percent (20%) where the garage is proposed to be set back at least forty (40) feet from the public right-of-way, or where the garage is to be accessed from an alley;

3. When the side or rear elevation of a front-loading garage is exposed to the street or an abutting property, such elevation(s) shall have more than one plane (offset or projection of 2 feet or more) or shall have window area equal to at least ten percent (10%) of the exposed garage wall.

16.68.040 Height

The maximum heights specified in the underlying zone shall be the maximum height for any infill development.

16.68.050 Yard Requirements for Infill Development

The Approval Authority may approve modifications to the minimum yard dimensions of this Code for residential developments containing less than five (5) acres (i.e., is not otherwise eligible for a Planned Unit Development), subject to all of the following requirements:

A. Side and/or rear yard(s) may be reduced below the minimum standard of the applicable zoning district when the Approval Authority finds:

1. The resulting yard(s) is/are not less than eighty-five percent (85%) of the standard of the zone; and

2. Where a side or rear yard abuts another residential property outside the subject development, it shall not be reduced to less than eighty five percent (85%) of the abutting yard dimension, except where the yard of the abutting property is less than the minimum standard of the zone, in which case a reduction equal to the yard of the abutting property may be permitted. In no case shall a yard of less than five (5) feet be permitted unless the structure is approved as a zero-lot line or common wall dwelling; and

3. The reduction in yard dimension shall not be detrimental to any designated natural feature; the Approval Authority may require mitigation to protect and enhance such features, as applicable; and

4. All required local street connections, pedestrian access ways, utility easements, emergency access, and other Code requirements are met.

B. Front yards may be reduced below the minimum standard of the applicable zoning district when the Approval Authority finds:

1. The front yard is reduced by nor more than six (6) feet; and

2. All garage openings are setback twenty (20) feet or more from all street rights-of-way.

3. The reduction is to accommodate an unenclosed front porch; or

4. The reduction is necessary to protect natural features on or adjacent to the subject lot; or

5. The reduction allows for greater separation or buffering between infill development and existing residential uses(s) at lower densities (or larger lot sizes).

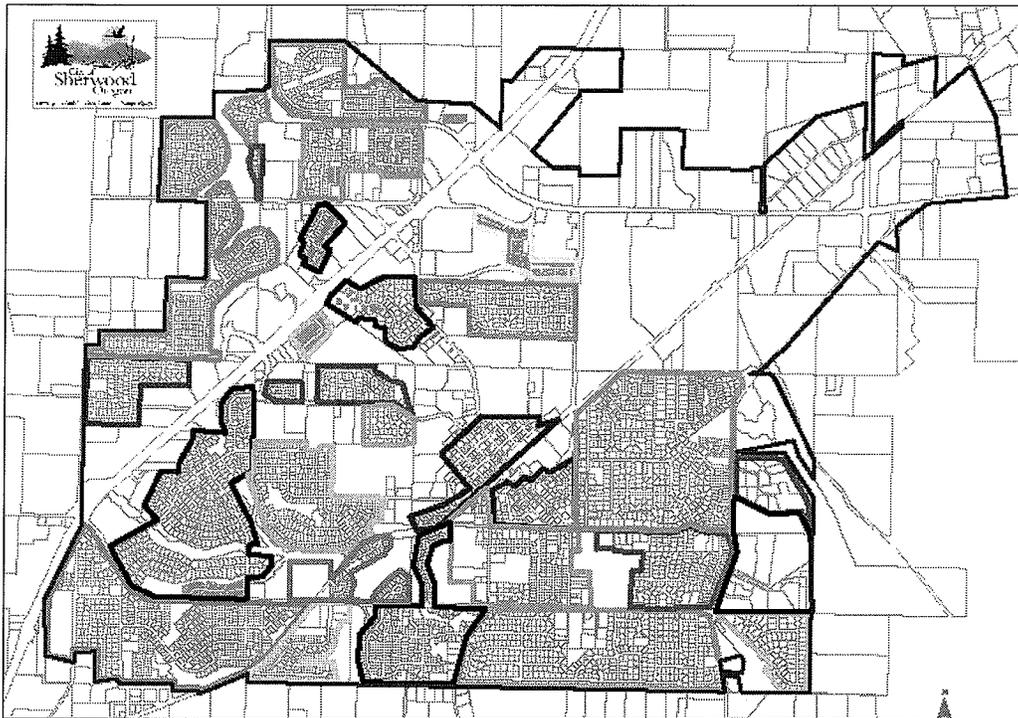
C. Rear lots, also known as flag lots, are those that have less than twenty five (25) feet of street frontage, are oriented with their buildable area (flag) behind another lot that has standard street frontage, and receives access from a narrow strip of land (flag pole). The Approval Authority may approve a rear lot only upon finding that it has sufficient lot area after excluding the access drive (easement, tract, or flag pole), it meets emergency access and circulation requirements, and side lot lines adjacent to the access drive have adequate landscape buffering in accordance with Section 16.58.030D. Where two rear lots are proposed contiguous to one another, the Approval Authority may require the two lots share a common access and driveway to reduce the number of curb cuts and turning movement conflicts and to minimize impervious surfaces.

D. In approving reductions to yard dimensions, the Approval Authority must find that the provisions of Sections 16.68.030 through 16.68.050, and all other applicable Code requirements, are met.

16.68.060 Public Notice

The public shall be notified of pending land use applications for projects that are subject to Chapter 16.68, consistent with the provisions of Section 16.72.020, Mailed Notice.
(Ord. 2006-021)

Sherwood Infill Notification Areas
September 27, 2006



Note: Color coding not significant.
Used to visually distinguish notification areas.

Sherwood's Development Code requires that Chapter 4 of the Comp Plan II be followed:

SDC Section 16.02.090 Community Development Plan

This Code shall be administered in conjunction with, and in a manner that is consistent with, the policies and strategies adopted in the City of Sherwood, Oregon, Community Development Plan, Part 2 of the City Comprehensive Plan. The City Zoning Map, the Transportation Plan Map, the Natural Resources and Recreation Plan Map, the Water Service Plan Map, the Storm Drainage Plan Map, and the Sanitary Sewer Service Plan Map are extracted from the Community Development Plan, and attached to this Code as appendices. References to these maps shall be deemed to include all applicable policies, standards and strategies contained in Chapters 4, 5, 6, and 7 of the Community Development Plan.

Here is the issue again stated in light of the above code Section :

ISSUE: PUBLIC NOTICE per Sherwood Comprehensive Plan II, Chapter 4

I am quoting from the Comp Plan II, Chapter 4:

POLICIES AND STRATEGIES

To meet the objectives of Chapter 4 Land Use of the Sherwood Comprehensive Plan the following policies **shall** be established.

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

Strategy: New housing will be located so as to be compatible with existing housing. Infill and redevelopment projects will not adversely affect established neighborhoods, and additional public notice will be required for infill projects, as depicted on the “Infill Notification Area” map, Map IV-1.

I am asking that the Planning Commission direct the staff to notice the neighborhoods that surround the Cannery PUD proposal per the Map contained in Chapter 4 of Comp Plan II. Not only is it authorized and directed per the code, it is the RIGHT action to take to notify the impacted neighborhoods. *According to the map, established neighborhood areas are to be notified—not just the 100 ft typical code notification. The Sherwood Cannery PUD proposal is a redevelopment and infill proposal in the established areas of Old Town.*

PLEASE DIRECT STAFF to make the proper expanded notifications as part of this Sherwood Cannery PUD land use proposal. Continue this hearing with public testimony after everyone has been properly and legally notified.

Thank you all again for your time on the Planning Commission and City Council.

Sincerely,

Sanford Rome