
City of Sherwood, Oregon
Planning Commission Minutes
January 8, 2013

Commission Members Present:

Chair Patrick Allen
Vice Chair Brad Albert
Commissioner John Clifford
Commissioner Russell Griffin
Commissioner Lisa Walker

Staff Present:

Julia Hajduk, Community Development Director
Bob Galati, City Engineer
Michelle Miller, Associate Planner
Kirsten Allen, Planning Dept. Program Coordinator

Commission Members Absent:

Commissioner Michael Cary
Commissioner James Copfer

Council Liaison

Councilor Krisanna Clark

Legal Counsel Present:

None

1. Call to Order/Roll Call

Vice Chair Brad Albert called the meeting to order at 7:09 pm.

2. Agenda Review

The agenda consisted of the Consent Agenda and a Public Hearing for PA 12-04, VLDR PUD Text Amendment.

3. Consent Agenda

- a. June 26, 2012 Planning Commission Corrected Minutes
- b. November 27, 2012 Planning Commission Minutes

Motion: From Commissioner Lisa Walker to accept the Consent Agenda as written, Seconded By Commissioner John Clifford. All Commission Members Present Voted In Favor (Chair Allen and Commissioners Cary and Copfer were absent)

4. Council Liaison Announcements

Councilor Krisanna Clark invited City staff and the public to the next City Council meeting for the swearing in of Mayor-elect Middleton and re-elected members of Council. Ms. Clark stated that the building intended for the Community Center was a loss and would be demolished after the EPA approves the asbestos removal. Ms. Clark asked City Engineer Bob Galati to explain about the project and the upcoming Downtown Streetscapes Project.

Bob explained the City will take about three months to take care of environmental concerns prior to demolition, get demolition permits, and prep the lot. Parallel to the demolition, the Streetscapes project will begin, the bids came in lower than expected, and K & E Excavating out of Eugene will be doing the work. Bob said there will be meet and greets between the contractor and the public before construction begins with the next week or two.

Recorder's note: Chair Allen arrived at 7:09pm and took over conducting the meeting.

5. Staff Announcements

Community Development Director Julia Hajduk informed the Commission that although the building was declared dangerous the City is planning on moving forward with the Community Center Project and any changes to the project will come before the Planning Commission as part of the Cannery Planned Unit Development (PUD). Commissioner Griffin asked if the committees or the Community Center Project will be reformed. Councilor Clark confirmed that it was planned to do so.

Julia notified the Commission that there will be a Town Center Open House on January 17, 2013 from 5:30-7:30pm at City Hall and that the LUBA appeal to the Langer Farms Phase 7 had been withdrawn, but there is still no word on the anchor tenant.

Michelle Miller, Associate Planner, reminded the Commission that the City had received a grant for the Cedar Creek Trail and gave an update of the project stating that a kick off meeting had been held in December and a Local Trail Advisory Committee was being formed to help advise the Parks Commission regarding the development of the trail. Advisory members may be appointed by Council in February. Michelle asked if any members from the Planning Commission would be willing to serve on the committee with John Clifford expressing his interest.

6. Community Comments

There were no community comments.

7. New Business

a. Election of new Chair and Vice Chair (per SZCDC 16.06.020)

Julia informed the Commission that, per code, a new chair and vice chair were to be elected in odd calendar years and opened the floor for nominations. Nominations were received and seconded with Commissioner Patrick Allen being re-elected as Planning Commission Chair and Commissioner James Copfer conditionally elected as Vice Chair, should he accept the position.

b. Public Hearing – PA 12-04 VLDR PUD Text Amendment

Chair Allen read the public hearing statement for a legislative hearing and stated the Planning Commission's role in the amendment was to make a recommendation to City Council. Chair Allen explained that because it was legislative there was no need to disclose ex parte contact and asked if there were any conflicts of interest. Commissioner Walker recused herself as a Commissioner in order to give testimony on the matter and would not be part of the deliberation or forward recommendation to Council.

Julia commented that she was questioned regarding any conflict of interest by Planning Commissioner members who were involved in the SE Sherwood Master Plan process and stated that because the amendment was legislative there is no conflict of interest.

Michelle Miller gave a presentation for PA 12-04 VLDR PUD Text Amendment (see record, Exhibit 1) and said that last year an application for an 8 lot subdivision known as the Denali PUD was forwarded by the Planning Commission and approved by Council as a 6 lot Subdivision based on the density standard or two units per acre. Michelle explained that the applicant was requesting several changes to the Development Code and the standards applied to a PUD for the Very Low Density Residential (VLDR) zone and not just the Denali site.

Michelle showed the City Zoning map and identified the VLDR zoning that includes the Fair Oaks subdivision to the north and Sherwood View Estates subdivision to the south, with undeveloped land in between. VLDR lots are for single residential lots only and are about 10,000 square feet in size if developed as a PUD, or have a 40,000 minimum lot size as a stand-alone subdivision.

Michelle explained that the amendments to the code for a PUD, in the VLDR zone proposed by the applicant are

- To change the net density requirements, from 2 units per acre to 4 units per net acre;
- To reduce the minimum lot size from 10,000 square feet to 8,000 square feet; and
- To specify that the minimum size for developing a PUD is 3 acres.

Michelle explained that the proposal stems from the work done with the SE Sherwood Master Plan, a collaborative effort between the city, neighbors, property owners, and developers, to address some of the environmental and topographical constraints that had been limiting development. The master planning included goals to preserve natural resources and to create a walkable neighborhood that increased density buffered by the larger lots on the perimeter of the area.

Chair Allen asked regarding the legal status of the plan and its adoption.

Michelle answered that the in 2006 Planning Commission adopted a resolution for the SE Sherwood Master Plan acknowledging the efforts of the group and set the principles in the plan would be applied when developments came in.

Julia added that the SE Sherwood Master Plan does not have the teeth of law; it was accepted by the Planning Commission that if people came forward to submit applications consistent with the plan, the Planning Commission was encouraging it.

Michelle said that another challenge with the area is the contaminated soils from the Ken Foster Farm site and explained that soil samples showed contamination. The contamination came from tannery waste from Frontier Leather dumped on the farm and Hexavalent Chromium was in the soil at levels that required clean up. Michelle said that the DEQ did a preliminary assessment in 2006 and required that cleanup of the site must be done before development or construction could occur on the site and a letter of no further action from DEQ must be received.

Michelle showed a comparison of the current code density requirements and the proposed code density language and explained that 20% of the acreage is taken out for roads and land that would not be part of a final lot to make the net acreage. That net acreage is multiplied by the number of dwelling units allowed. In the example given the current code would allow for 8 units; under the proposed language, 16 units would be allowed. Michelle described that another 20% added density allowance can be given for environmentally constrained sites and showed examples of those calculations.

Michelle showed an aerial view of lots off of Murdock road that compared 7,000-9,000 square foot lots to 10,000-12,000 square foot lots to show what the density change might look like. Michelle explained that the next steps are to hold a public hearing to consider the applicant's proposal, recommend or specify any changes to the Code Language, and to forward a recommendation to the

City Council. The Planning Commission was provided with the staff report containing Exhibit A, the proposed changes; Exhibit B, the applicant's supporting materials; Exhibit C, the SE Sherwood Master Plan; Exhibit D, the Resolution acknowledged by the Planning Commission; and Exhibit E, citizen comments from Kurt Kristensen. Exhibit F is a letter from Patrick Huske, was received by the Commission at the meeting (see PA 12-04 record, Exhibit F).

Chair Allen asked if there were any questions for staff.

Commissioner Griffin asked for the current density for Low Density Residential (LDR). Michelle answered that LDR ranges from 3.5 to 5 dwelling units per acre with a 7,000 square foot lot minimum and all calculations are by net density.

With no other questions from the Commission, Chair Allen asked to receive public testimony.

Kirsten Van Loo, representing the applicant, 30495 SW Buckhaven Road, Hillsboro. Ms. Van Loo reminded the Commission that she was before them about a year ago for the Denali PUD that was zoned VLDR.

Due to some misunderstanding regarding the time allotted to Ms. Van Loo, Chair Allen called for a short recess at 7:32 pm.

Chair Allen reconvened the meeting at 7:41 pm and explained that script that was read was for a legislative hearing that is appropriate for a City initiated code change. The code provides for an applicant initiated code change. Chair Allen said that the hearing would be treated as a Quasi-judicial hearing and the applicant would be allowed to give testimony and rebuttal, public testimony would be received, and the end result would be a recommendation to Council by the Planning Commission. Chair Allen asked if there was any ex parte contact, bias, or conflict of interest that needed disclosed by any of the seated commissioners and confirmed with the audience that there were no concerns regarding their participation in the hearing. The applicant was given thirty minutes to divide between testimony and rebuttal.

Ms. Van Loo continued her testimony and said that the City Council determined that there was no legal basis to approve a PUD in the VLDR considering any of the goals or policies of Planning Commission Resolution regarding the SE Sherwood Master Plan, because the resolution had not been carried forward to City Council. Ms. Van Loo said that City Council had encouraged the applicant to come back to the City and apply for a PUD text amendment to amend the code language for the density calculations, and other policies listed in the SE Sherwood Master plan. Ms. Van Loo explained that the text amendment before the Commission builds off of the resolution, makes changes to the development code, and provides a legal mechanism to allow the owner to come back to the Planning Commission with a new subdivision.

Ms. Van Loo commented regarding the gross density and referred to the Alternatives Comparison chart found in the SE Sherwood Master Plan on page 56 of the Planning Commission packet. Ms. Van Loo described the chart as showing the four different concept plans put forth during the SE Sherwood Master planning process and pointed out that the net density is the number of lots divided by the net acres of developable land. Ms. Van Loo suggested that the right net density to support the concepts in the SE Sherwood Master Plan was about 4 units per net acre; a lower number than three of the four proposed alternatives. Ms. Van Loo said that the Planning Commission Resolution was looking for a total of approximately 72 lots and by using a net density

of four units per acre and the proposed language achieves a density that is less than what most of the alternatives proposed and is comparable to the resolution adopted in 2006 by the Planning Commission.

Ms. Van Loo commented that there are only about six or seven parcels of VLDR land in the City of Sherwood that are developable. Five parcels are vacant or have only a single house on the land. Of the other parcels, one of them has access to Murdock Road which would make redevelopment challenging; another parcel is not likely to be able to be re-developed based on the value and location of the house along with parcel access. This owner has indicated on public record that they may want to redevelop with at least a minor partition. Ms. Van Loo explained that the five parcels total about 36 acres of potentially developable land and are adjacent to each other; the land to the south, Sherwood View Estates has been developed as a PUD and has some vacant lots; and the land north, Fair Oaks Subdivision, was developed as a PUD, and is fully built out.

Ms. Van Loo commented on a portion of the resolution which states that *the City has approved recent subdivisions and partitions in the proposed study area without adequate public improvements because the City cannot require urban levels of service in proportion to the impact of the projects* and referred to the Nollan case and Dolan case. Ms. Van Loo said that if land is developed at one or two units per acre and developers are required to build full urban services, as required by the City Engineer and the Transportation Plan, the City will run into a Dolan conflict. At one or two units per acre the impacts of that development are too small to justify the expensive public infrastructure mandated; full streets, sidewalks, curbs, street trees, planter strips, sewer, storm, electricity, gas, etc. Ms. Van Loo said the SE Sherwood area was studied because Ironwood Estates subdivision was developed in the area and the hearings officer made findings and set conditions for the project to build infrastructure that was less than current urban service standards.

Ms. Van Loo said that the application allows the five parcels to develop at a standard that supports urban services and infrastructure, is in compliance with the findings and conclusions of the adopted Planning Commission, and allows development that is similar to the existing development in the area. Ms. Van Loo commented that it will not create something that is incompatible, but will allow these five property owners to build and contribute to the city's vitality.

Chair Allen asked regarding the other elements of the resolution.

Ms. Van Loo answered that the proposal for the text amendment addresses two numerical standards; the number of units per net developable acre, and the minimum lot size. Every other requirement in the PUD language is the same and it does not change. The proposed language changes the numerical standards to facilitate denser development. Any PUD would have to be a minimum of three acres and still go through the same PUD, Type V process, which requires two public hearings in front of the Planning Commission and one in front of City Council.

Chair Allen asked how much time the applicant had for rebuttal and was told 11 minutes.

Patrick Huske, 23352 SW Murdock Road, Sherwood. Mr. Huske said he was a business owner and he owns property in this neighborhood in the form of his personal home, a 4.88 acre piece that has been through the land use process, and two lots remaining in the Iron Acres subdivision. Mr. Huske said that this code amendment will benefit the public with streets, trails, sidewalks, and additional trees. The other thing it will do is to bring that raw land into productive use. It will bring dollars to the City to deal with DEQ issues, have tax benefits, and benefit the schools.

Kurt Kristensen, 22520 SW Fair Oaks Court, Sherwood. Mr. Kristensen said he lived directly north of the proposed land use change and commented regarding the two to three years it took to develop a consensus on what to do about the land in question. Mr. Kristensen said that Chair Allen was on the Planning Commission at that time and Commissioner Walker was part of the community group. Mr. Kristensen said the community did not get everything that they wanted, but instead something that was a productive and good east side for the City of Sherwood and was a design that respected the challenges of the geological formations in the area. Mr. Kristensen said he had submitted an extensive written testimony (See PA 12-04, Exhibit E) that he hoped the Commission would wait until the DEQ rules on the increased standards for Chromium and the City Council has a hearing on the SE Sherwood Master Plan. Mr. Kristensen commented that Denali represents a small portion of the land and is an example of front loading the density and the open land proposed by the applicant was the portion used as a non-fenced dump for DEQ pollution material right in front of the current development.

Mr. Kristensen stated that in 2006 there was a collaborative effort by the community and the text amendment proposal was not a collaborative effort, but a developer push, partly engineered by City staff to accomplish something that they did not want to accomplish through the formal process of having a hearing on the SE Sherwood Master plan.

Mr. Kristensen expressed his concern for the hybrid format of the public hearing saying that Ms. Van Loo had an extended amount of time to state her views and he may be the single person with the most historical knowledge and involvement in the process and asked that the record would reflect that the community was not afforded a balanced ability to represent itself under this format.

Lisa Walker, 23500 SW Murdock Road, Sherwood. Ms. Walker informed the Commission that she had submitted written testimony (see PA 12-04, Exhibit G) that was a basis for her comments and stated that she and her husband, Roger, were property owners in the VLDR zone. Ms. Walker acknowledged that the Planning Commission had many projects that came before them and suggested that this decision may be one of the bigger decisions made. Ms. Walker said that a lot of decisions by the Commission require research on the impacts and gave the example of the code clean up that has taken over two years. This decision is affecting fundamental code language that will require more due diligence and is a continuation of the SE Sherwood Master plan discussion that began seven years ago. Ms. Walker commented that nothing was adopted and the resolution has no teeth as it is not legislative; it was a huge endeavor that involved a lot of people with no consensus reached. Ms. Walker asked that more citizen testimony be received and considered, and additional time be given for further investigation.

Ms. Walker referred to the staff report, on page 24 of the packet, under 16.80.030.1 and said the applicant claims that the need for the proposed amendment is found in the resolution, but the applicant is relying almost solely on a resolution that had no consensus. Ms. Walker commented that Alternatives Comparison chart consisted of proposals nobody liked and the citizens were not informed enough to know that a decision did not have to be made. Neither the citizens nor the Planning Commission felt strongly about the Plan and that is why it did not move on to Council. Ms. Walker said that the Planning Commission had not used the resolution process before or since which negates its strength; the resolution was a way move on. Ms. Walker said the resolution was done seven years ago, it was prudent to look into the intent to determine the current validity of the issues, and it should not be accepted at face value.

Roger Walker, 23500 SW Murdock Road, Sherwood. Mr. Walker commented that the Moser property has been logged and could no longer have the park that was planned. Mr. Walker said that the resolution supported a plan that could not be legally done and supports the position of a process that was stopped prematurely, prior to due diligence. Mr. Walker stated that the proposed text amendment did not satisfy all issues identified in the SE Sherwood Master plan which included the hilltop viewpoint and was to have density buffering with high density in the middle and lower density on the outskirts.

Mr. Walker referred to Citizen Involvement, as noted on page 25 of the packet, and said that seven years ago there were approximately 120 people that participated in 5 months of discussions regarding the plan. Mr. Walker commented regarding the need to have more input and perhaps more plans of what wants to be done to this site, because this is the last low density land in Sherwood. Mr. Walker said that the DEQ has changed the specifications of their findings and have loosened the requirements regarding the Chromium that was found. They have not come back to the land owners to let them know if the land is less or more contaminated. Mr. Walker commented that this change should be reflected in the Commission's decision as the money needed to clean up, may be less than anticipated and money may be a reason for proposing an increase in density. Mr. Walker said that the packet contained citizen comments received during the SE Sherwood Master Plan discussion and suggested that time should be spent to review and obtain new comments in a similar manner. Mr. Walker explained that the B/C plan in the Alternative Comparisons chart was the last plan that was decided on and it was the "least worst" plan, not the most liked.

Jean Simson, 22466 SW Nottingham Court, Sherwood. Ms. Simson submitted written testimony (see PA 12-04, Exhibit H) then referred to the proposed language in Section 16.12.01A.2 that states *Minor land partitions shall be exempt from the minimum density requirement*, and asked what the purpose and the impact of the statement was and if land partitions would be subject to the minimum lot size.

Ms. Simson said she participated in the 2006 SE Sherwood Master Plan process and was a proponent to updating the code, however she was concerned that increasing the density may have a negative impact on the area. Ms. Simson asked the Commission to pursue implementing the Master Plan or to incorporate the intent of it in the PUD text as the applicant relies on the master plan in proposing the changes for the text. Ms. Simson explained that the SE Sherwood Master Plan was the result of a study done by a consulting firm called OTAK, through multiple public meetings, work sessions, and public hearings, and many factors were considered and integrated into this comprehensive plan. The final preferred alternative was an 82 lot design with significant open space amenities including a one acre neighborhood park with pedestrian paths. Ms. Simson said that consideration was made for preserving the natural environment on the site that included a buffer with larger lots planned for the southwest area and smaller lots were located to the north. Ms. Simson commented that the proposed text amendment keeps one acre, but allows four units per acre on a PUD; this is twice the density without any safeguards provided in the master plan. The final 2006 resolution was for 72 lots and twelve and half acres of open spaces, the text amendment does not have that safeguard. Ms. Simson observed that the text amendment does not reference or incorporate the master plan and encouraged the Commission to move the actual master plan document forward to the Council or at a minimum reference the purpose and intend of the plan into the PUD text language as suggested in the staff report. Ms. Simson commented that the Commission did not have to move forward because the action was legislative.

Roni Craigmiles, 23500 SW Murdock Road, Sherwood. Ms. Craigmiles reminded the Commission that the application concerned all the property, not just the property at the end of Denali Lane, and the decision will affect the whole area. Ms. Craigmiles said that if the zoning is changed the density for her property would increase to support twelve houses and in combination with the adjoining neighbor's land, there could be twenty-four houses backing up to Sherwood View Estates. Ms. Craigmiles stated that this would not happen while she lived there, and said we should be responsible stewards. Ms. Craigmiles commented that the SE Sherwood Master Plan was developed under a time constraint that is no longer present and there had been a push to come up with something that was agreeable to multiple property owners that was environmentally responsible, legal, and compatible with the City's hope for the future. Ms. Craigmiles said that what was developed made no one happy and consequently, nothing became of the recommendations. This is a legislative action and does not require swift movement or any change at all. The SE Sherwood Master Plan should be revisited, considering changes that have taken place since it was adopted. Ms. Craigmiles suggested a review of what has changed in seven years, taking into account that ideas, people, and concerns may be different. Ms. Craigmiles commented regarding the different lot sizes and zoning available throughout Sherwood and each filling a need. Metro has always touted diversity in housing we should protect this unique part of Sherwood. Ms. Craigmiles said Sherwood has one area zoned VLDR and the initial intent was to recognize the uniqueness of it; the wetlands, the topography, and natural habitat. There will never be an area like this again.

Tony Britton, 23559 SW McLoughlin Court, Sherwood. Mr. Britton said that it seems the applicant did not need to double the density to get through the hurdles specified and compared the density changes to doubling the number of students per classroom, stating it would have a major effect on the quality of their experience. Mr. Britton commented on other high density areas available in the City and said no new feeder streets to deal with the traffic increases would be added to the existing high traffic on Murdock Road going up to the different neighborhoods near Sunset Blvd. Mr. Britton said he did not think it will have a very positive impact and could be done well with 54-60 houses; which is a lot better than 82.

Beth Cook, 23598 SW McLoughlin Court, Sherwood. Ms. Cook commented that it was important to maintain a variety of lot sizes and there are very few parcels that remain within the City of Sherwood that can accommodate the need for larger lots. The VLDR zone includes environmentally sensitive areas the Commission should take that into consideration. Ms. Cook requested that the Planning Commission consider changing the net density for the VLDR zone to 3 units per acre while maintaining the required minimum lot size of 10,000 square feet. Ms. Cook commented that the SE Sherwood Master Plan was not adopted and should be reviewed again consider carefully what these changes mean for the city as a whole and to consider other options that can be explored.

John Satterberg, 3437 Cascade Terrace, West Linn. Mr. Satterberg said he was the banker who foreclosed the property [Denali] and had been charged with finding solutions to dispose of properties. Mr. Satterberg explained that he was led to believe that the property could be approved for an 8 lot subdivision and at 2 units per acre and any man would have said 3.91 acres would be 7 units, but that City Council approved it for a 6 lot plat. Mr. Satterberg commented that the off-site improvements on Ironwood Road would bring the cost of the project up to \$550,000 to develop, which would not work. Mr. Satterberg said the only intent was to get [Denali] approved for an eight lot subdivision, not to increase the density too much, but to have a conformity with Sherwood View Estates with lot sizes at 8,000 to 12,000 square feet. Mr. Satterberg explained that the

Chromium has to be cleaned up and a circular loop would be created to come out through Sherwood View for fire truck access.

Before going back to the applicant for rebuttal, Chair Allen asked Councilor Krisanna Clark to characterize the instructions given to the applicant from City Council regarding the way to fix the unenforceable Master Plan.

Councilor Clark said she believed that legal counsel gave the applicant a few options because Council could not approve the recommendation by the Planning Commission as it did not fit the code.

With no other public testimony Chair Allen gave the applicant 11 minutes for rebuttal and was informed that the applicant has used 11 minutes and had 19 minutes of remaining time.

The applicant's representative, Ms. Van Loo, began by clarifying that a minor partition in VLDR is currently exempt from minimum density requirements and would continue to be exempt.

Ms. Van Loo said she appreciated the suggestions from community members to bring the entire SE Sherwood Master Plan back to the Planning Commission for adoption as it was not something that an individual property owner could do; financially or legally. Ms. Van Loo commented that the Planning Commission had spent significant time talking about the Sherwood Master Plan and the resolution did adopt it. Ms. Van Loo commented that staff could give stories as to why the master plan was not carried through to City Council, but could only propose a text amendment that embodies the precepts of the master plan. The master plan was a vision developed by about 120 people who participated in a process. Ms. Van Loo stated that she mailed out 114 invitations on bright yellow paper to households who had VLDR zoning in the City and invited them to an open house that was held on January 2, 2013 but because of lack of interest less than 20 people showed. Ms. Van Loo said she held a meeting last fall inviting all the property owners who had vacant land and not many attended the meeting, but she received feedback from several owners. Ms. Van Loo spoke of the comfort and lifestyle enjoyed by homeowners in Sherwood View Estates and Fairoaks subdivision and said property owners who live in a developed PUD enjoy.

Ms. Van Loo commented on testimony regarding the need to come up with an affordable methodology appropriate for the undeveloped land and said that staff had made it clear that they did not have it in the work plan to take the SE Sherwood Master Plan through to City Council for ratification. Ms. Van Loo said that staff strongly encouraged her to make an application because they said were looking for members of the community, who have a vested interest in the property, to carry forth with the precepts that are in the SE Sherwood Master Plan.

Ms. Van Loo agreed that the SE Sherwood Master Plan is not a consensus plan; every community plan was a compromise, because of varied ideals, beliefs and perceptions of what is appropriate for their land and for their neighbors land. The B/C plan in the SE Sherwood Master Plan is a compromise based on a lot of work that is reasonable and practicable, and possible through the PUD process.

Ms. Van Loo commented that the current PUD process provides for open space and design options and would provide the citizens and members of the VLDR community opportunity to participate in the design of any piece of property proposed for development. Ms. Van Loo conceded that some things have changed, on the Moser property specifically, but the concepts, circulation plan and

some of the vision accomplished with the plan can go forward. Regardless of adoption, each property owner will hire their own consultants with their own vision for the property based on the needs and desires of the property owners, clients and community.

Ms. Van Loo described the VLDR land, prior to its annexation by the City of Sherwood as urban, unincorporated Washington County, zoned R5, or five units per acre and commented that when property is annexed from a county to a city there is normally a provision of urban services and an urban scale of development but the property was down zoned to one unit per acre. Ms. Van Loo commented that she could not propose 5 units per acre on the land for a variety of reasons, including that there is a master plan that dictates 4- 5 units per acre.

Ms. Van Loo commented regarding the compromise between vacant and developable land and the phrase “Paralysis by Analysis” where concepts are analyzed to where nothing happens. Ms. Van Loo said she did not believe that the Planning Commission and the City Council wanted to do nothing with the land and encouraged the Commission to remember the section of the resolution that states that the City cannot require urban levels of impact and improvements if they cannot make the connection between quantity of the development and the cost of the infrastructure.

Chair Allen asked for questions for the applicant. Seeing none, Chair Allen closed the public hearing and moved to staff comments.

Julia Hajduk reminded the public that the Planning Commission would provide a recommendation to Council and there would be further opportunities for the public to add comments at a Council meeting. Julia asked if the Commission had any questions regarding the SE Sherwood Master Plan or the process.

Chair Allen said he remembered working on the master plan and asked if the Commission had options to try to address the issues other than changing all VLDR in the City. There are sets of issues that apply to all of VLDR and there are sets of issues that apply more narrowly to the Denali PUD that went to Council previously.

Julia explained that the Commission could apply rules under certain circumstances and there might be other zoning or map changes available. Discussion followed.

Commissioner Clifford inquired about the area being the last VLDR in the city and asked if there were annexations that might include the zoning.

Michelle answered that VLDR zoning is unique to the metropolitan area and as the City annexes new area there are Metro guidelines requiring average density for the entire city that would rule out a similar density of this size. It is the last VLDR zone in the city.

Chair Allen commented that the challenge is to take this unique density, put it on top of our most geographically and topographically challenged properties with a zoning that is very difficult to actually apply. Chair Allen commented regarding the difficulty for staff to direct Denali as to what can be done and the applicant’s aim to increase density without the rest of the package stating that he was not sure this is how to fix the problem.

Julia stated that staff was looking for questions or requests for information needed by the Commission for making a recommendation and said she was hearing concerns about the impacts.

Commissioner Clifford asked regarding how it works when a property owner gives up land for public use; what land becomes dedicated and what becomes preserved; who maintains it; and whether it is open space for the City of Sherwood or just for that community.

Michelle answered that a PUD requires 15% open space that would be dedicated to the general public, but it would be localized to some extent giving an example of the walking trails in the Woodhaven neighborhood that are used for open space and maintained by the City, but most appealing to Woodhaven and nearby neighborhoods. Michelle explained that with the SE Sherwood Master Plan, there was a specific property that had been identified as a park and the difficulty may be if the area is not proportional to the development and how to get the specific area for the City's benefit.

Julia indicated that staff does not have recommendation for the Commission. A proposal has been submitted that has been analyzed and is consistent with the Comprehensive Plan and the SE Sherwood Master Plan and ultimately it is the Planning Commission's decision regarding a recommendation to Council.

Michelle submitted that an issue might be to pull out of the SE Sherwood Master Plan the meatier issues and be able to get the walkability, connections, and open space from the Plan out of a Planned Unit Development.

Chair Allen added that it might be through a series of Planned Unit Developments, but with the leverage of an adopted master plan there is an assurance that the various puzzle pieces of multiple ownerships fit together as they individually come forward to develop. If the density increase and adjustment to the PUD size is done we end up with each land owner bringing forward their five or six acres to do a PUD and making their individual Nollan and Dolan cases. Chair Allen went on that the master plan was an exchange of a higher density for a "set of stuff" and we never really got to the place where we could get very much agreement that the "stuff" was worth the higher density.

Julia said that the Commission could consider the suggestion to reference the SE Sherwood Master Plan as something to weigh against the PUDs that get the bonus density. If the commission would like to go that direction then staff can bring back recommendations. Julia explained that it would be comparable to what the resolution tried to do which stated that the City would accept something consistent with the SE Sherwood Master plan. In the case of the Denali PUD, it may be consistent with the SE Sherwood Master Plan without any other property, but other property owners may need to work with their neighbors to develop a portion that is consistent with the plan. Julia stated that the Commission would need to make sure that the criteria was very clear and reminded the Commission that a PUD is a quasi-judicial legislative action and does not have to be approved because you are applying an overlay through the PUD process that allows some flexibility if criteria is met and is a benefit to the community.

Chair Allen commented that it would make the leap that was not made because the master plan was not recommended to or considered by Council.

Julia suggested that through the PUD process it does not happen as wholly as envisioned, but there could be language and criteria that could reference the plan to help get there. Julia explained that it

would still be a vision and could not have the teeth of the code and said staff could come back with proposed language and run the idea past our attorneys.

Chair Allen said he thought the right thing to do was to revisit the Master Plan in this area, but it is not in the work plan so Council should direct staff as to what work should be done. Chair Allen expressed his preference to attach something as a hook when for individual PUDs come forward that allows the Commission to point toward the master plan as well as his discomfort because so much has changed, particularly the removal of the trees on the Moser property which has had a big impact on the viability of the rest of the plan. Discussion followed.

Commissioner Griffin acknowledged that the Commission should act in a timely manner, which the area is developable land with constraints, and the SE Sherwood Master Plan was a compromise that did not go to Council.

Chair Allen commented that it did not go to Council because Commission members did not think it was a final work product that it could recommend and the Planning Director had said there were no more resources to do any more work.

Chair Allen posed that there were two ideas; a map amendment to change a portion of the VLDR or to put some language in the PUD in the VLDR language that ties to the SE Sherwood Master Plan.

Julia intimated that the first option would be more challenging.

Chair Allen suggested that the Commission task staff to bring forward refinement to the language, that attaches the SE Sherwood Master Plan to the use of the PUD tool in VLDR, and deliberate further at that point.

After a discussion of what staff has been tasked to do and possible meeting dates, the following motion was received.

Motion: From Vice Chair Brad Albert for The Planning Commission to Continue The Hearing (PA 12-04) to the February 12, 2013 Planning Commission Meeting. Seconded By Commissioner Russell Griffin. All Seated Commissioners Voted In Favor (Commissioner Walker had stepped down; Commissioners Cary and Copfer were absent).

Adjourn

Chair Allen adjourned the meeting at 9:07 pm.

Submitted by:



Kirsten Allen

Planning Department Program Coordinator

Approval Date: February 12, 2013