

## Memorandum

Date: February 28, 2014

To: Planning Commission

From: Sara Javoronok, Associate Planner

Subject: Briefing on PUD and infill code amendments (CDC 10-02)

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### **Purpose**

The primary purpose of the work session on March 5, 2014 is to brief the Planning Commission on the attached, draft CDC amendments related to infill development. The purpose of these amendments is reflected in the City Council resolution creating the task force that helped to develop these amendments. The resolution included the following:

WHEREAS, the City Council has directed the Planning Department, as part of its authorized planning strategy, to prepare amendments to the Community Development Code to provide the opportunity for infill housing development that is more compatible with the immediately surrounding property; and

WHEREAS, the Planning Commission and Planning Staff have determined that it would be advantageous and efficient to establish an ad hoc subcommittee that could provide a greater range of relevant expertise on the subject to assist with the drafting of these code amendments; and

This briefing will explain the proposed amendments relating to infill housing, including development on flag lots, properties with natural resources/constrained lands, and planned unit developments. Staff is seeking the Planning Commission's suggestions for changes before the public review draft is released.

### **Background**

Staff previously briefed the Planning Commission in October 2013, and earlier in the project, in September 2011. The City began this project in 2010. The goal was to amend the planned unit development (PUD) regulations to no longer require a PUD to develop natural resources/constrained areas, better coordinate with other applicable regulations, remove obsolete and ineffective provisions, clarify confusing and contradictory provisions, and facilitate appropriate development. It also sought to identify and implement ways to improve the design and minimize the adverse impacts of flag lots.

Chris Kerr, then the City's Senior Planner, led the project in 2010 and 2011. A Task Force, whose membership included Commissioner Steel and former Commissioner Babbitt, met over 20 times in 2010 and 2011. The Planning Commission reviewed a draft of the proposed amendments on September 7, 2011. The project was delayed due to Chris Kerr's reassignment and subsequent promotion. Staff resumed work on the project in 2013 and has subsequently revised the proposed

amendments and added some additional provisions for the Planning Commission to consider. The proposed changes to the original proposal are explained in staff comments in the draft and, when appropriate, two options (the Task Force and an alternative staff proposal) are presented with the underlying rationale.

Concurrently, the Planning Commission and staff worked on Water Resource Area (WRA) regulations. Currently, the draft of the WRA regulations that will be reviewed by the Council address land division and density transfer of properties with water resources; however, staff proposes to ultimately consolidate all land division and transfer of density provisions that involve partitions and subdivisions with WRAs, steep slopes, habitat conservation areas, and flood hazard areas in the attached, proposed new chapter or the planned residential development chapter.

At the October briefing, the Planning Commission recommended reconvening the task force that was instrumental in drafting the regulations to discuss staff's proposed meetings. This meeting was held in November 2013. However, only the Planning Commission members that were part of the task force attended.

The Planning Commission raised several issues at the October 2013 briefing. They related to the following issues:

- Flag lot setbacks and heights - The Planning Commission questioned staff's draft that removed the setback and height requirements from flag lots.
- Minimum size of PUD - The Planning Commission wanted to maintain a minimum size for PUD developments as reflected in the Task Force draft.
- Development on steep slopes - The Planning Commission was concerned with the changes to the transfer of density from steep slopes in the staff proposal.
- Small lots created by PUDs - The Planning Commission expressed concern with the smaller lots that are allowed under the current PUD language. The proposed PUD language retains much of this ability, provided the development meets the criteria.

## **Discussion**

### *Draft Amendments*

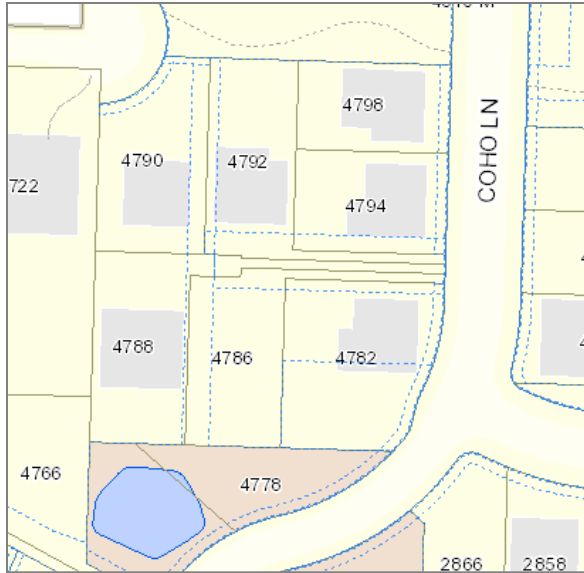
There are three main components to the draft amendments:

- Flag Lots
- Planned Unit/Residential Development
- Alternative Development Standards, including natural resources/constrained areas

### *Flag Lots*

Flag lot development is common throughout the City, typically on lots where there is an existing house and enough land to partition the property and, most often, add one or two additional houses. There are numerous examples around the City, including on Mapleton and Kenthorpe, which are shown below. When these areas were originally platted, they were developed with large lots, many close to an acre. The area is now zoned R-10, which sets a minimum lot size of 10,000 square feet. As a result, many of them have been partitioned into smaller lots. Often, new residences are built either in front of or behind existing residences. In some cases, this has created conflict with adjacent properties because of the proximity of driveways, windows, and situations where visually the properties clash with the surrounding development due to height, style, or other aesthetic issues.





Rosemont Pointe - map and aerial view of flag lots



Rosemont Pointe - Examples of flag lots

Particularly on infill sites, there can be tight access and differences in scale and style between residences and neighboring properties. In addition to the Task Force recommendations, staff recommends provisions directing flag lot development, when possible, to mid block lanes, which would increase connectivity, and, as possible, orient houses to the lanes (see page 5 of the proposed amendments). Staff also recommends screening of the flag portion of the lot when it is near

adjacent residences. However, staff does not recommend decreasing the permitted height, increasing the required yard setbacks, and other regulations. This is likely to severely restrict the use of many lots, particularly in new subdivisions. It seems that in many cases, the requirement for mid-block lanes and an additional requirement requiring landscaping or other screening would be sufficient to address the majority of the issues.

The Task Force and staff differ on recommendations for front yard setbacks and building height on flag lots. The Task Force recommends lowering the front yard setback to 10 feet, and requiring a 20 foot yard setback for garages. Staff recommends retaining the existing 20 foot front yard setback. Staff and the Task Force are in agreement on side and rear yard setbacks. In addition, the Task Force recommends balconies and patios would generally be limited to nine feet in height within 20 of the side and rear property line. There would also be height limitations of 18 feet within 20 feet of interior side yards, and buildings could only be 28 feet in height or the average height of the abutting properties that are not part of the petition site. (See page 5 of the proposed amendments.) Staff recommends retaining the same yard and height requirements as the underlying zone. Staff's position is that this is better addressed by retaining the greater front yard setback and by requiring additional screening. In addition, staff recommends that the homes face the mid-block lanes or access drives that are created as part of the land division. See below for a comparison between the existing/staff draft and the proposal by the task force:

<b>Yards/setbacks</b>		
<b>Yard</b>	<b>Existing/Staff draft</b>	<b>Proposed by Task Force</b>
Front	20' (CDC 38.040 also lets you average with abutting properties)	10', 20' between garage and access easement
Rear	20'	20'
Side	7.5'	10' for up to 18' height, 20' for higher
Side street	15'	15'
Balconies/patios	> 30" height = 7.5' side, 20' rear	> 9' height = 20' (side or rear)

<b>Height</b>	
<b>Existing/Staff draft</b>	<b>Proposed by Task Force</b>
35'	28' or the average height of the of the dwelling units on any two abutting properties that are not part of the partition site, except if contiguous land was a park, open space, unbuildable by plat or other instrument, or there was not a dwelling unit within 50'

*Planned Unit/Residential Development and Cluster Development*

Generally, planned unit developments (PUDs) or planned residential developments (PRDs) are larger developments, often with a variety of uses or housing types. One definition of a PUD is as follows:

*A planned unit development (PUD) is a large, integrated development, developed under unified control according to a master plan, and located on a single (or contiguous) tract of land. Local PUD development regulations provide more planning flexibility than traditional zoning, and contain a mix of complementary uses. Some jurisdictions provide for planned residential*

*developments (PRDs) which also are master-planned, and typically clustered development. As the name implies, PRD's are primarily residential developments, but some contain limited convenience commercial uses or other accessory uses and services.  
(<http://www.mrsc.org/subjects/planning/pud.aspx>)*

There are many existing PUD developments in the City. More recent developments include Rosemont Crossing (near the intersection of Santa Anita and Rosemont), Douglas Park (between Salamo and Tannler), Maxfield (off of Rosemont), Rosemont Pointe (off of Rosemont), Chinook Terrace (off of Parker), and Fern Creek Place (off of Suncrest).

The City's current PUD language is most often applied to small infill subdivisions with natural resources/constrained areas, which was not its original intent. Some communities have separate provisions for the development of these areas, often called "cluster development". Cluster development can be defined as follows:

*Cluster development is a development arrangement in which all buildings allowable on a site are concentrated on a portion of the site, leaving the remainder of the site undeveloped. This contrasts with the conventional land development and subdivision approach, which is to divide an entire site into lots, each of which meets minimum zoning lot size requirements and may be used for building construction.*

*By clustering buildings together on smaller lots rather than spreading development throughout the site, a developer has greater flexibility to design around environmental and other constraints, without having to reduce the total number of developable lots. As a result, cluster development can provide a win-win approach for communities and developers to protect and buffer environmentally sensitive areas, to preserve important site features, or to provide recreation areas or natural open space. It also provides the flexibility to conserve or buffer natural resource lands, such as farmlands. Maintaining the undeveloped lands in productive uses, such as orchards or pastures, can contribute economic value to the project.  
(<http://www.mrsc.org/subjects/planning/lu/cluster.aspx>)*

Examples of existing PUD developments that may have been developed under cluster provisions, had they been in place, are Chinook Terrace and Fern Creek Place. Staff and the task force are both proposing adding language to no longer require properties with natural resources/constrained lands to develop as PUDs. There are a few differences between the two proposals, and both are shown in their entirety in the draft.

An additional recommendation, in both the staff and Task Force drafts, is to no longer allow PUDs on commercial or industrial properties. The existing provisions are geared to residential properties and are difficult to apply in non-residential situations. There are also few locations in the City where a PUD is appropriate for a commercial site. Based on this, staff and the Task Force recommend adding the cluster development language to address the small infill sites and modifying the PUD language to more effectively address larger residential developments. Both allow for flexibility in lot area and size, and the staff draft allows for density transfer.

The staff recommendation differs in several ways from the Task Force recommendation. It allows properties with natural resources/constrained areas to develop under a PUD, but does not require them to do so (they may also develop using proposed the cluster development, which is discussed further below). As mentioned above, it provides for density bonuses for affordable housing, open space, and parks. The existing PUD chapter provides for such density bonuses, but the version

recommended by the Task Force does not. Staff's recommendation allows for a density bonus up to 40%, but requires it to be split among the various options, while the current bonus in the existing chapter is limited to 29%, and split among the various options. (See page 14 of the draft amendments). Staff's option also modifies the approval criteria for PUDs from the Task Force recommendation, but it retains the same general characteristics and categories.

#### *Alternative Development Standards*

Staff recommends consolidating provisions located in several chapters in a new Chapter 17 rather than the Task Force recommendation to include the natural resources/constrained areas provisions in Chapter 85, which addresses land division. Staff proposes placing the natural resources/constrained areas provisions in a subsection with other "Alternative Development Standards" and including two additional sections recommended by staff providing for cottage housing and zero lot line housing.

The staff and Task Force recommendations for natural resources/constrained areas both appear in the draft. Substantively, the two are similar, but there are several differences. Staff has renamed the section "cluster development" to reflect the type of development that is encouraged and located it in a new chapter that will include other standards that modify the underlying zoning districts. Staff has also increased the amount that the applicant can reduce the lot sizes, lot dimensions, and yards from 20% to 30%. This is closer to the amounts that were requested on more recent PUDs, including Suncrest/Fern Creek Place. Staff also recommends making dedication to the City optional since dedication can often be expensive and a conservation or similar easement is effective.

In addition, staff recommends adding language that permits cottage housing. This type of housing is becoming more common and there are a number of successful developments in the Northwest. (See page 30 of the draft amendments). Cottage housing is typically smaller than other new construction – the proposal is for residences not to exceed 1,200 square feet – and constructed in groups of four to 12 houses. Common open space and a courtyard are required and there is often a community building or other space available for group use. Staff recommends providing off street parking at the same rate as for other single family homes and that it may be accommodated on site rather than at each residence. Homes typically have one to two residents and are occupied by young professionals, single parents, or those downsizing to a smaller home. More information about these developments is available online in "Cottage Housing in Your Community," (<http://www.mrsc.org/govdocs/s42cottagehousingguide.pdf>), Metro's Case Study on cottage housing in Wood Village ([http://library.oregonmetro.gov/files//wood\\_village\\_case\\_study.pdf](http://library.oregonmetro.gov/files//wood_village_case_study.pdf)). In preparing the draft, staff also referred to regulations in various communities including Oregon City, Wood Village, Seattle, Battle Ground, WA, and Kirkland, WA.

Staff also recommends adding language to permit zero lot line residences (see page 34 of the draft amendments). This type of development allows for greater use of side yards by placing a double side yard on one side of the property and the house on the side lot line on the other side. Staff recommends language allowing eaves to extend over the property line, providing for maintenance easements on the adjacent property, and regulating building and window location to provide for privacy. This is similar to zero lot line regulations in Portland.

#### *Proposed Citizen Involvement*

This project began in 2010 with the appointment of a seven member Task Force comprised of residents from around the City, two representatives from the Planning Commission, two current or former neighborhood association officers, two representatives employed in the real estate or development industry and one citizen-at-large. This Task Force held over 20 noticed meetings in

2010 and 2011. Staff plans to build on this involvement by discussing the draft, in an open house, with the Homebuilders Association (HBA), updating the project page on the City website, posting notice of the draft amendments in a prominent position on the City's web page, and notifying residents of it through the City's weekly email blast, neighborhood association listing, utility bill insert, Facebook News Feed posts, and Twitter messages. Staff will also send notice of the amendments to those that frequently develop and/or build in the community. These steps are in addition to the official notification process that will be undertaken as required in Chapter 99 which will include a Measure 56 notification that will be sent to every property owner directly impacted by the proposal.

*Next Steps*

Staff suggests that the Planning Commission have a work session to reconsider/refine the draft amendments in light of public comments prior to releasing the formal public hearing draft.

**Attachments:**

1. March 2014 Discussion Draft