

## STAFF REPORT

**File No.:** DCA-04-03     *Land Development Code* Amendment

**Applicant:** City of Medford

**Request:** Consideration of amendments to Sections 10.230, 10.235, 10.240, 10.703, and 10.712 of the Medford *Land Development Code* (“MLDC”) in order to revise the requirements for Planned Unit Developments and Pad Lot Developments, and the addition of Section 10.229 to develop Compatibility Standards for New Developments.

### BACKGROUND:

There are several reasons for the proposed amendments. The City is interested in assuring that new development is compatible with existing development, particularly with existing residential neighborhoods. Since the most recent development considered by the Planning Commission which posed problems with respect to compatibility with an existing neighborhood involved a Planned Unit Development (PUD), the Planning Commission initially wished to consider amendments to the PUD ordinance. After several study sessions, the Planning Commission determined that the compatibility standards that they wished to apply to new PUD’s could appropriately be applied to all development that is more intense than adjacent existing residential development. They decided to create a set of standards in a section separate from the PUD ordinance so that the standards would apply to all development. Those standards are in the newly created Section 10.229.

In addition, the Planning Commission was concerned that applicant’s frequently use the PUD process to propose a development for which there is no real justification other than to allow deviations from the code standards. As a result, the Planning Commission has proposed changes to the criteria for allowing a PUD to assure that the community receives some benefits in return for allowing modifications to the code standards. The word “deviation” has been removed from the PUD section and changed to “modified application of the code, modifications, or vary” depending on the context. Requirements have also been added so that the applicant must justify their request for modifications to the code standards.

The Planning Commission has also proposed several other significant changes. First, they have proposed changing the area required for a PUD from one acre to five acres, because they do not feel that an area smaller than five acres is large enough to develop a thoughtfully planned and integrated development as provided in the purpose statement for the PUD ordinance. Second, the City wants to encourage mixed uses in PUD’s, however, not by allowing industrial land to be used for commercial purposes. Therefore, the allowance for 20% of a proposed PUD to be used for commercial purposes is now only allowed where commercial uses are combined with residential uses. Third, a requirement has been proposed that mandates that 20% of the land in a residential PUD be used for common area other than shared parking or private streets.

The other changes proposed as a result of these amendments are minor housekeeping changes required to clarify existing sections, or to make an existing section consistent with the new language. Section 10.712, Townhouse Dwellings, was modified to make it clear that when a tentative plat is proposed in conjunction with a PUD it does not have to go to Site Plan and Architectural Commission first, and Section 10.703, Pad Lot Development, has been modified to assure that the maximum size for a Pad Lot development remains at 1 acre even though the minimum size for a PUD is being changed from 1 acre to 5 acres. The Pad Lot Development is also being changed to make it clear that all pad lots, including those for single-family residential lots, must be considered by the Site Plan and Architectural Commission prior to the tentative plat being accepted for review by the Planning Commission.

**Proposed Modifications to the *LAND DEVELOPMENT CODE* LANGUAGE in Sections 10.229, 10.230, 10.235, 10.240, 10.703, and 10.712**

*The proposed changes to the text of the Medford Land Development Code are shown below. Additions are underlined and deletions are struck-out.*

**10.229 Compatibility Standards for New Development Adjacent to Existing Residential Neighborhoods**

Where a commercial, industrial, or institutional development abuts an existing residential development or where a multi-family residential or duplex development abuts an existing single-family residential neighborhood, and the Site Plan and Architectural Commission or the Planning Commission is the approving authority, the following standards shall apply:

1. Setbacks, building heights, and massing of buildings within 100 feet of the adjacent residential area shall be similar to, and/or promote a gradual visual change between the higher intensity development and the adjacent residential neighborhood.
2. Exterior construction materials used for buildings within 100 feet of the adjacent residential area shall be similar to, or compatible with, those used in the adjacent residential neighborhood.
3. Balconies and windows of the new development shall be screened with landscaping or placed to maintain the privacy and character of the adjacent residential development. This screening may be required in addition to that required by the bufferyard standards in MLDC Sections 10.790 through 10.796.
4. Window treatments and other building components within 100 feet of the adjacent residential area shall be compatible in size, scale and placement to those in the adjacent residential area, unless variation aids in transition.

5. Primary vehicular access to a new development should not access an adjacent residential street if other access to a non-residential street exists.
6. Recreation areas, parking lots, trash receptacles, heating and cooling equipment, and other noise generating components shall be accommodated in ways that reduce noise impacts to those comparable to existing adjacent single-family neighborhoods.
7. Mechanical equipment and trash enclosures shall be located and concealed to minimize unsightliness to adjoining residential properties consistent with MLDC Sections 10.781 (Concealment of Trash Receptacles) and 10.782 (Concealment of Heating, Ventilation, and Air Conditioning (HVAC) Equipment).
8. Other than street lights, exterior lights placed at higher than 6 (six) feet above finished grade shall be shrouded to prevent direct light from shining upon abutting residential dwellings consistent with MLDC Section 10.764 (Glare).

#### 10.230 Planned Unit Development (PUD) - General Provisions.

**A. Purpose and Intent:** The PUD approach permits ~~greater flexibility in~~ to allow creative and imaginative urban development that ~~it~~ would otherwise not be possible under the strict requirements of this Code. The intent is to ~~serve the following purposes:~~ promote more efficient use of urban land and urban services while protecting natural features, creating common open space, and encouraging a mixture of land uses and housing types that are thoughtfully planned and integrated.

- ~~1. To promote more creative and imaginative urban development.~~
- ~~2. To promote urban development that is more compatible with the natural topography.~~
- ~~3. To preserve important natural features and scenic qualities of the land.~~
- ~~4. To promote more economical urban development while not materially compromising the public health, safety or general welfare.~~
- ~~5. To promote a more efficient use of urbanizable land.~~
- ~~6. To promote a mixture of land uses and housing types that are thoughtfully planned and integrated.~~
- ~~7. To permit in-fill development on parcels that are otherwise difficult or impossible to develop.~~
- ~~8. To promote the development, utility and appropriate maintenance of open spaces and other elements intended for common use and ownership.~~

**B. Acreage Limitation:** PUDs must contain ~~one acre~~ five acres or more at the time of application filing, except in the Southeast Overlay District.

**C. Stepped Process; Consolidated Applications Authorized:** Approval of a PUD by the Planning Commission shall be a two step process involving approval of a Preliminary PUD Plan as the first step and approval of a Final PUD Plan as the second step. Except applications for annexations and comprehensive plan amendments, applications authorized in Article II may be consolidated with an application for a Preliminary PUD Plan.

**D. ~~Deviations from~~ Modified application of Standards Authorized. To fulfill the purpose and intents of the standards set forth in Section 10.230(A), a** Authority is herewith granted for the approval of PUDs which ~~deviate~~ vary from the strict standards of this Code. The nature and extent of potential ~~deviations~~ modifications shall be limited to the categories below described, provided that the City, in approving such ~~deviations~~ modifications, shall not violate substantive provisions of the Oregon Transportation Planning Rule:

1. Lots and Parcels: Limitations, restrictions and design standards pertaining to the size, dimension, location, position and coverage of lots, and restrictions related to through lots.

2. Yards, Setbacks and Building Height: Limitations, restrictions and design standards pertaining to the location, size, height, yards and setbacks for buildings and other structures.

3. Parking, Bicycle and Pedestrian Standards: Limitations, restrictions and design standards pertaining to off-street vehicle and bicycle parking and loading, and standards related to pedestrian access.

4. Frontage, Access, Landscaping and Signs: Limitations, restrictions and design standards pertaining to lot frontage, access, required landscaping, signs and bufferyards.

5. Streets Generally: Streets within PUDs may be either city streets dedicated for public use or private streets owned and maintained by an association of owners pursuant to Subsection 10.230(E), provided:

a. Whether adjacent to or within a PUD, collector and arterial streets shall be dedicated city streets, the existence and general location of which shall be determined by the comprehensive plan.

b. City streets shall comply fully with the strict requirements of this Code, provided that the City in approving a PUD may permit the width of parking lanes for city streets to be less than the Code otherwise requires.

c. The City may require any proposed PUD street or segment thereof to be constructed and dedicated as a city street.

6. Private Streets: Private streets may ~~deviate~~ vary from the limitations, restrictions and design standards pertaining to streets with respect to length, width, position, aspect, intersection standards, grades, curve radii, cul-de-sac turnarounds, street lights, easements, sidewalks, curbs and driveway approaches for streets within the PUD, provided:

a. With respect to the amount, quality and installation of construction materials, private streets shall be structurally equivalent to or better than city-standard streets.

b. The City Fire Marshall shall approve the design of all private streets for access by emergency vehicles before approval of the Preliminary PUD.

c. Private streets shall be posted as private streets and shall connect to the public street system. The applicant shall convey to the City and all appropriate utility companies a perpetual easement over the private street(s) for use by emergency vehicles and employees of the City and utility company(s) in the maintenance of public facilities and utilities.

~~7. Street Lights: The City may authorize the use of private or non-city standard street lights under the provisions of 10.495(B), "Non Standard and Private Street Lighting and Pedestrian Scale Street Lighting Requirements." The street lighting and pedestrian scale street lighting requirements of~~

~~the Southeast Overlay District shall be as specified in 10.378, "Street Lighting—Special Design and Development Standards, S-E".~~

78. Housing Density: The housing density for residential portions of the PUD may be increased by up to 20% over the maximum permitted density in the underlying residential zone, provided:

a. Common open space or recreation areas, when situated within an underlying residential zone, shall be considered a part of the gross area devoted to residential uses.

b. The 20% density increase shall be computed by multiplying the gross area devoted to residential uses by the density factor of the underlying zone, then multiplying that result by a factor of 1.20 and rounding the result down to the nearest whole number. The following example computes a twenty percent density increase for a 9.80 acre parcel zoned SFR-6 which is devoted entirely to residential uses:  $9.8 \times 6 = 58.80 \times 1.20 = 70.56$ .

89. Allowed Uses; Housing Types: The following uses and housing types shall be permitted as part of a PUD subject to the following:

a. In addition to permitted uses, any portion of a PUD may contain any housing type listed in Subsection 10.314(1-3), ~~or any conditional use listed for the underlying zone, without the requirement to obtain a Conditional Use Permit.~~ In approving housing types and ~~listed conditional uses~~, the Planning Commission may waive or reduce any of the special use regulations or standards contained in Sections 10.811 through 10.838 ("Special Use Regulations").

b. Any conditional use listed for the underlying zone may be permitted without addressing the Conditional Use Permit criteria except when the conditional use is within 200 feet of the perimeter of the PUD. This exemption does not apply to conditional uses within Riparian Corridors pursuant to 10.925 "Conditional uses within Riparian Corridors".

c. b. Except in industrial zones, Use(s) not permitted specifically prohibited in the underlying zone by Section 10.337 may, nevertheless be as permitted uses, be and approved to occupy up to 20% of the gross area of the PUD provided that no portion of the use(s), including its parking, is located nearer than 100-200 feet from the exterior boundary of the PUD. If any portion of the use(s) is nearer than 100-200 feet from the exterior PUD boundary, then said use(s) shall be considered to be a conditional use and may be approved subject to compliance with the conditional use permit criteria in Section 10.248. However, this provision shall not apply where the land outside the PUD which is nearer than 100-200 feet from proposed use(s) is inside a zone in which the proposed use(s) is permitted.

940. Mixed Land Uses Designations. Unless otherwise prohibited, PUDs that have more than one General Land Use Plan designation or Southeast Plan land use category shall have the flexibility to mix or relocate such designations within the boundaries of the PUD in any manner and/or location as may be approved by the Planning Commission.

**E. Common Elements:** A residential PUD must include a minimum of 20% of the land area as common area for the purpose of providing protection for natural features, common recreational space, landscaped area, or commonly enjoyed amenities other than parking areas or private streets.

Where a PUD has open spaces, private streets, parking or other elements to be owned or maintained in common by the owners or future owners of land or improvements within the PUD, the Final PUD Plan

shall not be approved and no unit shall be sold or conveyed until the PUD has been found to comply with the following requirements, as applicable:

1. If the PUD is a planned community under ORS Chapter 94, the declaration and tentative plat for the planned community shall be submitted with the Final PUD Plan for approval by the Planning Commission before recording in the official records of Jackson County.

2. If the PUD is a condominium under ORS Chapter 100, a copy of the recorded declaration and plat shall be submitted to the City after it has been approved by the Oregon Real Estate Commissioner and recorded in the official records of Jackson County. A condominium declaration and plat shall not be reviewed and approved by the Planning Commission and the Planning Commission shall have no authority under this Subsection to require changes thereto.

3. If the PUD contains elements intended for common ownership but ORS Chapters 94 and 100 do not apply, there shall be appropriate legal documents which assure that the common elements will be improved and perpetually maintained for their intended purposes. The legal documents in such instance shall be submitted to the Planning Commission for approval as part of the Final PUD Plan before recording in the official records of Jackson County.

4. When a PUD is proposed to be developed in phases, the phased provision of improved common elements shall be roughly proportional with the development of housing and other elements intended for private ownership. Unless approved by the Planning Commission as part of a phasing plan pursuant to Subsection 10.235(A)(3)(d) or which was approved by the Planning Commission prior to the adoption of this ordinance, no significant common element shall be postponed to the final phase of a PUD. Nothing in this Subsection shall prevent the provision of improved common elements at a rate that is proportionally greater than the development of housing and other elements intended for private ownership.

5. Land shown on the Final Development Plan as a common element or which is intended for public dedication shall be conveyed under one of the following options:

a. To a public entity which shall agree in writing to perpetually maintain the common element(s) being conveyed.

b. To an association of owners created pursuant to ORS Chapters 94 or 100 or as otherwise created under Subsection 10.230(E)(3) in which instance the legal document which establishes the association shall provide that the association cannot be terminated or discontinued without the City's prior consent.

6. If the PUD will have private streets, the legal document which establishes the association of owners shall provide that the City may enforce the maintenance or protection of its easements or public facilities.

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#### **10.235 Preliminary PUD Plan - Application Procedures.**

**A. Application for a Preliminary PUD Plan:** An application for Preliminary PUD Plan shall be on forms supplied by the City. A complete application shall include the materials and information listed in this Subsection. However, the Planning Director, in his/her discretion, may waive the submittal of any of the materials or information that are deemed to be excessive, repetitive or unnecessary based upon

the size and nature of the PUD. As used in this Section, the Planning Director shall mean the Director of the Medford Planning Department or his/her designee. If an application for a PUD is accepted by the City as complete under ORS 227.178 but the application does not contain all of the items listed below, the missing items shall be deemed to have been waived by the Planning Director. Unless waived by the Planning Director, the following items shall be required to constitute a complete application for a Preliminary PUD Plan:

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3. A narrative description of the PUD which shall cover:

- a. The rationale for planning this development as a PUD.
- b. The nature, planned use, future ownership and method of perpetual maintenance of land to be left in natural or developed open space or which will be held in common ownership.
- bc. A listing of all proposed modified applications of the Code that are proposed, deviations followed by a brief explanation which covers the nature of, and extent of, and reason for each the deviation modification.
- ed. If one or more signs are intended to deviate vary from the provisions of this Code, then a detailed plan for all signs which require a sign permit shall be submitted. The sign plan shall specify the size, number, type, height and location of all signs which require a sign permit and shall clearly indicate all proposed deviation modifications.
- de. A proposed development schedule. If the PUD will be constructed in phases, the development schedule for each phase shall be keyed to a plan that indicates the boundaries of each phase.
- ef. The gross acreage devoted to the various proposed land uses and housing types.
- g. An explanation of how the development within this PUD will comply with the compatibility standards in Section 10.229.

4. Written findings of fact and conclusions of law which address the approval criteria in Subsection 10.235(C), and which also may cover the narrative description required in Subsection 10.235(A)(3).

5. The names and mailing addresses of the owners of land located within 200 feet of the exterior boundary of the whole PUD. The names and mailing addresses shall be typed on mailing labels and shall include the assessor map and tax lot numbers for each property.

**B. Action on an Application for a Preliminary PUD Plan:** The Planning Commission may approve, approve with conditions or deny a Preliminary PUD Plan.

**C. Approval Criteria for Preliminary PUD Plan:** The Planning Commission shall approve a Preliminary PUD if it concludes that compliance exists with each of the following criteria:

- 1. satisfies two or more of the purpose statements in Subsection 10.230(A)(1) through 10.230(A)(8). The proposed PUD:
  - a. preserves an important natural feature of the land, or
  - b. includes a mixture of residential and commercial land uses, or
  - c. includes a mixture of housing types in residential areas, or



- d. includes open space, common areas, or other elements intended for common use and ownership, or
- e. is otherwise required by the Medford Land Development Code.

2. The proposed PUD complies with the applicable requirements of this Code, or ~~except those for which a deviation has been approved under Subsection 10.230(D).~~

a. the proposed modified applications of the Code are necessary for the project to be consistent with the criteria in Section 10.235(C)(1)(a-e), and

b. the proposed modifications enhance the development as a whole resulting in a more creative and desirable project, and

c. the proposed modifications to the limitations, restrictions, and design standards of this Code will not materially impair the function, safety, or efficiency of the circulation system or the development as a whole.

3. The proposed PUD complies with the Compatibility Standards in Section 10.229.

4. The property is not subject to any of the following measures or if subject thereto the PUD can be approved under the standards and criteria thereunder:

a. Moratorium on Construction or Land Development pursuant to ORS 197.505 through 197.540, as amended.

b. Public Facilities Strategy pursuant to ORS 197.768 as amended.

c. Limited Service Area adopted as part of the Medford Comprehensive Plan.

~~3. The PUD is consistent with goals and policies of the Comprehensive Plan, if any, which by their language or context were intended to function as approval criteria for planned unit developments.~~

~~4. Deviations from the limitations, restrictions, and design standards of this Code will not materially impair the function, safety or efficiency of the circulation system or the development as a whole.~~

5. The location, size, shape and character of all common elements in the PUD are appropriate for their intended use and function.

6. If the Preliminary PUD Plan includes uses not allowed in the underlying zone pursuant to Subsection 10.230(D)(9)(b) (8)(c), the applicant shall alternatively demonstrate that either: 1) demands for the Category "A" public facilities listed below are equivalent to or less than for one or more permitted uses listed for the underlying zone, or 2) the property can be supplied by the time of development with the following Category "A" public facilities which can be supplied in sufficient condition and capacity to support development of the proposed use:

a. Public sanitary sewerage collection and treatment facilities.

b. Public domestic water distribution and treatment facilities.

c. Storm drainage facilities.

d. Public streets.

Determinations of compliance with this criterion shall be based upon standards of public facility adequacy as set forth in this Code and in goals and policies of the comprehensive plan which by their language and context function as approval criteria for comprehensive plan amendments, zone changes or new development. In instances where the Planning Commission determines that there is insufficient public facility capacity to support the development of a particular use, nothing in this criterion shall



prevent the approval of early phases of a phased PUD which can be supplied with adequate public facilities.

7. If the Preliminary PUD Plan includes uses proposed under Subsection 10.230(D)(9)(b) ~~(8)(c)~~, approval of the PUD shall also be subject to compliance with the conditional use permit criteria in Section 10.248.

8. If approval of the PUD application includes the division of land or the approval of other concurrent development permits applications as authorized in Subsection 10.230(C), approval of the PUD shall also be subject to compliance with the substantive approval criteria in Article II for each of the additional development applications.

**D. Conditions:** If the Planning Commission approves a Preliminary PUD Plan, in addition to conditions authorized under Section 10.291, it may attach conditions to the approval which are determined to be reasonably necessary to ensure:

1. The Final PUD Plan will be consistent with the approved Preliminary PUD Plan and specifications related thereto. An applicant may seek written clarification from the Planning Director regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being substantially consistent.

2. Development of the PUD will be consistent with the approved Final PUD Plan and specifications related thereto. To ensure satisfactory completion of a PUD in compliance with the approved plans, the Planning Commission may require the developer to enter into an agreement with the City as specified under Section 10.296.

3. The PUD will comply with the Comprehensive Plan, the Medford Municipal Code and all provisions of this Code except the specific provisions for which there are approved ~~deviation~~ modifications.

4. There are appropriate safeguards to protect the public health, safety and general welfare.

5. There will be ongoing compliance with the standards and criteria in this Section.

6. To guarantee that streets, public facilities and utilities can be appropriately extended from one PUD phase to each successive future phase in accordance with the approved Preliminary PUD Plan, the City may require the conveyance of easements or other assurances.

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## **10.240 Final PUD Plan - Application Procedures.**

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**G. Approval Criteria for Final PUD Plan:** A Final PUD Plan shall be approved by the Planning Commission if it concludes that compliance exists with each of the following criteria:

1. Provisions for the establishment and maintenance of elements to be held in common ownership, if any, have or will comply with the standards in Subsection 10.230(E).

2. The Final PUD Plan is substantially consistent with the Preliminary PUD Plan and the conditions, if any, which were attached to the approval of the Preliminary PUD Plan. ~~An applicant may seek written clarification from the Planning Director or Planning Commission regarding whether any anticipated differences between the Preliminary and Final PUD Plans meet the test of being~~

~~substantially consistent.~~ In no instance shall a Final PUD Plan be approved if any of the below described inconsistencies with the approved Preliminary PUD Plan are found to exist, ~~and if~~ If such inconsistencies are ~~found to occur~~ identified, these shall result in the need to approve a revision to the Preliminary PUD Plan.

a. The exterior boundaries of the PUD shall not change except for slight deviations which result from the resolution of boundary errors or inconsistencies discovered when the PUD property was surveyed.

b. The number of housing units shall not be increased.

~~c. and in no instance shall~~ The number of housing units shall not be decreased by more than 5%.

~~d.e.~~ There shall be no ~~new deviation~~ modifications to the provisions of this Code which were not approved as part of the Preliminary PUD Plan under Section 10.230(D).

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**10.703 Pad Lot Development.** When a land division creates tax lots within a common area, the following standards shall apply:

(1) A residential pad lot development shall be permitted only when the area of the project site is one acre or less ~~less than the minimum area required for a planned unit development~~; a nonresidential pad lot development is not subject to this restriction.

(2) All lot-lines created within the common area shall be located along a common or exterior building wall, or within four (4) feet of an exterior building wall, unless the approving authority (Planning Commission) allows a greater distance for special purposes, such as incorporating adjacent private outdoor yard space.

(3) The parent parcel shall meet the minimum lot area and dimensions for the zoning district and proposed use.

(4) ~~For~~ All pad lot developments, including single-family residential pad lots, shall be approved by the ~~subject to Site Plan and Architectural Commission review,~~ prior to the tentative plat ~~shall be being~~ accepted for review by the Planning Commission. ~~only after the project has received approval from the Site Plan and Architectural Commission.~~

(5) A pad lot development shall be identified as such on both the tentative and final plats for the project. At the time of recording of the final plat, Covenants, Conditions, and Restrictions (CC&Rs) shall be approved by the city and recorded. The recorded CC&Rs shall provide:

(a) That the owners are jointly and severally responsible for the continued maintenance and repair of the common elements of the development, such as common portions of buildings, parking areas, access, landscaping, etc., and share equitably in the cost of such upkeep.

(b) An association for the purpose of governing the operation of the common interests.

(c) Maintenance access easements on individual lots where necessary for the purpose of property maintenance and repair.

(d) The specific rights of, or limitations on, individual lot owners to modify any portion of a building or lot, including the provision that no common elements be modified without the consent of the association.

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**10.712 Townhouse Dwellings.**

The following standards apply to the development of townhouse (rowhouse) dwellings within various residential districts. See Article III, Sections 10.308 through 10.312 for detailed descriptions of each residential zoning district and density factors, and Section 10.314 for conditional, special, and permitted uses.

In addition to the site development standards specified herein, townhouse development shall be identified as such on both the tentative and final plats for the project. [Except when the tentative plat is in conjunction with a PUD,](#) the tentative plat shall be accepted for review only after the project has received approval from the Site Plan and Architectural Commission. At the time of recording of the final plat, Covenants, Conditions, and Restrictions (CC&R's) shall be approved by the city and recorded.

**RECOMMENDED ACTION:**

Forward a recommendation to the City Council for approval of DCA-04-03 per staff report dated May 4, 2004, including Exhibit "A" Findings of Fact dated May 6, 2004.

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Bianca Petrou, Associate Planner, AICP

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Mark Gallagher, Principal Planner, AICP

**PLANNING COMMISSION AGENDA: May 27, 2004**