



**BUSINESS OF THE CITY COUNCIL**  
**AGENDA STATEMENT**

Item No. 7 & 8  
For Meeting of 05.05.16

**REQUEST:** Public hearing regarding an amendment to the master plan and rules, regulation and guidelines for the Orchard View Planned Unit Development to change the setbacks, buffer requirements, and ownership requirement of Parcel 3 of the Orchard View Planned Unit Development

Consideration first and possible second and third reading of an ordinance amending the Orchard View Planned Unit Development

**STAFF CONTACT:** Luke Parris, AICP  
City Planner

**APPLICANT(S):** Norwalk Land Co. LLC  
PO Box 267  
Johnston, Iowa 50263

**LOCATION:** Northeast on the intersection of Wright Road and Orchard Hills Drive.

**CURRENT USE:** The site is currently vacant development ground.

**PROPOSED USE:** The proposal does not change the uses but requests the following:

- Setbacks from private roadways are identified on the attached Master Plan for Parcel 3.
- Change the required setback for the complex from 30' to 35' and to allow for a 15' buffer to overlap the 35' setback.
- The requirement for "owner occupied units" be deleted.

The Master Plan is included as Attachment A.

**ZONING HISTORY:** The site was previously part of the Orchard Hills PUD and was zoned as single-family residential. A new PUD was developed and the site was zoned as Parcel 3 of the Orchard View PUD in 2012 (Ordinance 12-09). At the time of the PUD development there was a lot of involvement of the surrounding neighborhood regarding the uses that would be allowed in Orchard View. Ultimately a PUD was adopted that included single family uses and the R-3 Parcel 3, which included a restriction that any units be owner-occupied. Since approval of the PUD, ownership of the property has changed hands multiple times. Included as an attachment are the minutes from the previous public hearing for the original Orchard View PUD.

<b>LAND USE PLAN:</b>	The future land use plan identifies the area as High Density Residential. This land use classification identifies multi-family dwellings as a typical use.
<b>SURROUNDING LAND USE PLAN AND ZONING:</b>	<p>Surrounding land use planned for the area is:</p> <ul style="list-style-type: none"> <li>• North, East, and West – Medium Density Residential.</li> <li>• South – Park/Recreation</li> </ul> <p>Surrounding zoning for the area is:</p> <ul style="list-style-type: none"> <li>• North, East, and West – R-1 Residential in the Orchard View and Orchard Hills PUD.</li> <li>• South – unincorporated ground not zoned.</li> </ul>
<b>FLOOD INFORMATION:</b>	The proposed development is not located in a floodplain.
<b>MAJOR STREET PLAN/TRAFFIC:</b>	The request to amend the Orchard View Planned Unit Development does not change the expected impact on traffic in the area from a townhome development.
<b>DEVELOPMENT SECTOR ANALYSIS:</b>	Parcel 3 is located on the west side of the proposed Orchard Hills Drive connection to Wright Road. Surrounding development ground is owned by Norwalk Land Co and each piece is in varying stages of the development process.
<b>STAFF ANALYSIS:</b>	<p>The future land use plan for the area is identified as High Density Residential. The PUD currently calls for R-3 zoning in this area. The proposed amendment does not request a change in zoning district. The proposal requests:</p> <ol style="list-style-type: none"> <li>1. Setbacks from private roadways are identified on the attached Master Plan for Parcel 3.</li> <li>2. Change the required setback for the complex from 30' to 35' and to allow for a 15' buffer to overlap the 35' setback.</li> <li>3. The requirement for "owner occupied units" be deleted.</li> </ol> <p>For request #1, the PUD currently states that buildings shall be setback 25' from any private roadway. This is mainly to provide for adequate driveway length to avoid a car parked in a driveway from hanging out into the roadway. When siting the buildings, the developer found that most buildings could be setback 25' from the street. However, at some intersections, it was not feasible to maintain the 25' separation on the side of a unit. To give assurances that the majority of buildings would maintain a 25' separation, the developer has requested that the setback from private roadways be identified on the attached site plan for the development. This would lock in the building layout and assures the City that the driveways for each unit will be of appropriate length.</p> <p>For request #2, the PUD currently requires a 30' setback and a landscaped buffer. The City Subdivision Ordinance requires that a buffer be in addition to a required setback. The developer had proposed a 15' wide buffer with appropriate trees and shrubs. The combination of the 15' buffer and the 30' setback meant that the true building setback was 45' from the external lot lines of the complex. The developer requests that they increase the setback to 35' and allow the 15' landscaped buffer to overlap the setback. The developer's other option would be to construct a masonry</p>

buffer wall and adhere to the 30' setback. The developer and staff both agreed a buffer wall would not be the best option for a residential setting. Staff contacted other metropolitan area communities to learn if they allowed buffers to overlap. Below are the results:

- Ankeny – no current buffer requirement, negotiated with each development, when provided they are allowed to overlap
- Ames – allowed to overlap
- Des Moines – allowed to overlap
- Johnston – allowed to overlap
- Pleasant Hill – allowed to overlap
- Waukee – allowed to overlap
- West Des Moines – allowed to overlap except for double frontage lots

For request #3, the current PUD requires that only owner occupied lots be developed on Parcel 3. The developer requests that this requirement be deleted from the PUD as they would like the option to rent some of the units. Staff is concerned about the legality of the current PUD language. Additionally, standard R-3 zoning would not preclude a developer from renting units. Staff also contacted the planning departments of other metro communities and inquired if they regulate the occupancy type of a development or zoning district. The response was that regulating occupancy type was not land use and should not be regulated by zoning. Included as an attachment to this report are the direct responses that staff received from other communities.

Norwalk Land Co. currently owns the majority of the surrounding ground that they are developing into single family lots. This townhome project should be completed before any adjacent lots are developed. This would mean that future owners of any adjacent single-family homes would be aware of the development.

**STAFF  
RECOMMENDATION:**

Staff recommends approval of the amendment to Parcel 3 of the Orchard View Planned Unit Development. The proposed amendments are relatively minor and do not alter the intent of that the original PUD had for Parcel 3. The proposal further locks in the layout of the townhome development through the inclusion of the Master Plan, providing further assurances on the type of development to occur on Parcel 3.

**PLANNING AND ZONING  
ACTION:**

The Planning and Zoning Commission recommends approval of the proposed amendment as it was presented:

- Setbacks from private roadways are identified on the attached Master Plan for Parcel 3.
- Change the required setback for the complex from 30' to 35' and to allow for a 15' buffer to overlap the 35' setback.
- The requirement for "owner occupied units" be deleted.

**ATTACHMENTS:**

- Attachment "A" – Orchard View PUD Parcel 3 Norwalk Orchard View Townhomes Master Plan
- Attachment "B" – Norwalk Orchard View Townhomes Vicinity Map
- Attachment "C" – Responses to Regulating Occupancy Type
- Attachment "D" – Planning & Zoning Commission Minutes – 8-8-2012
- Attachment "E" – Planning & Zoning Commission Minutes – 8-22-2012
- Attachment "F" – Comprehensive Plan Map

<p>____ Resolution <input checked="" type="checkbox"/> Ordinance ____ Contract ____ Other (Specify) _____</p> <p>Funding Source: _____ NA _____</p> <p style="text-align: center;"></p> <p>APPROVED FOR SUBMITTAL:</p> <p style="text-align: center;">Planning &amp; Economic Development Director</p>
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ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE MASTER PLAN AND RULES, REGULATION, AND GUIDELINES FOR THE ORCHARD VIEW PLANNED UNIT DEVELOPMENT AS CONTAINED IN ORDINANCE NO. 12-09

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NORWALK, IOWA:

**SECTION 1. PURPOSE.** The purpose of this ordinance is to amend the master plan and rules, regulation, and guidelines for Orchard View Planned Unit Development as contained in Ordinance No. 12-09.

**SECTION 2. AMENDMENT.** The Orchard View Planned Unit Development is hereby amended with the following Master Plan, additional language (highlighted), and deleted language (red strike-through):

Orchard View Planned Unit Development Parcel 3 Norwalk Orchard View Townhomes Master Plan Map: The Master Plan included as Attachment "A" is hereby amended into the Orchard View Planned Unit Development for Parcel 3.

\*Townhouses - a townhouse, wherein the owner of the dwelling unit owns the lot beneath the dwelling unit, shall be permitted in Parcel 3 provided the lot for one dwelling has a minimum area of six thousand two hundred fifty (6,250) square feet, minimum width of fifty (50) feet and minimum side yard setback of zero (0) feet at the side lot line where the dwellings are attached. Public street frontage shall not be required for townhouse lots which are part of a complex which does not require a public street as part of the City's transportation network and is master planned with a private common roadway serving the townhouse lots and maintained by an association of townhouse homeowners. A private, common roadway serving a complex of townhouse dwellings shall not be greater than 660 feet in length for a cul-de-sac and 1,320 feet for a through street, which shall be intended to serve only dwellings within the complex. Individual townhouse lots shall not have minimum setback, lot width and area requirements, provided the tract of land encompassing the townhouse lots and common areas has public street frontage; a minimum width of one hundred (100) feet; a minimum area of forty thousand (40,000) square feet; maximum density of five (8) dwelling units per acre, minimum separation of fifteen (15) feet between residential buildings; ~~minimum separation of twenty five (25) feet between a residential building and common private roadways; and a minimum building setback of thirty (30) feet from all boundaries of the complex, including public streets.~~ The residential buildings shall maintain a separation from the common private roadway as identified on the attached Master Plan for Parcel 3 (Attachment "A"). The minimum building setback shall be 35' from all boundaries of the complex, including public streets. The development of a townhouse complex shall require the approval of a site plan in accordance with the provisions of Chapter 17.80, Site Plans, and approval of Homeowners Association documents by the City which establishes provisions for maintenance of common areas.

SPECIFIC INFORMATION NOT IN TABLES

PARCEL 3. This Parcel may be no greater than 10 acres MIL. Proposed multi -family structures along all the perimeters shall be no taller than two (2) stories. ~~A 30' landscape buffer shall be provided in addition to the required setback on any portion bordering single family residential zoning.~~ A 15' landscaped buffer shall be provided in accordance with the buffer regulations for a 15' Buffer 1 in section 17.50.030 of the Zoning Ordinance, including the 1.4 plant multiplier. The 15' landscaped buffer shall be allowed to overlap with the 35' minimum building setback. ~~In addition, the development of this parcel may only include owner occupied units.~~

**SECTION 3. SEVERABILITY CLAUSE.** In any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council of the City of Norwalk, Iowa on the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Tom Phillips, Mayor

ATTEST:

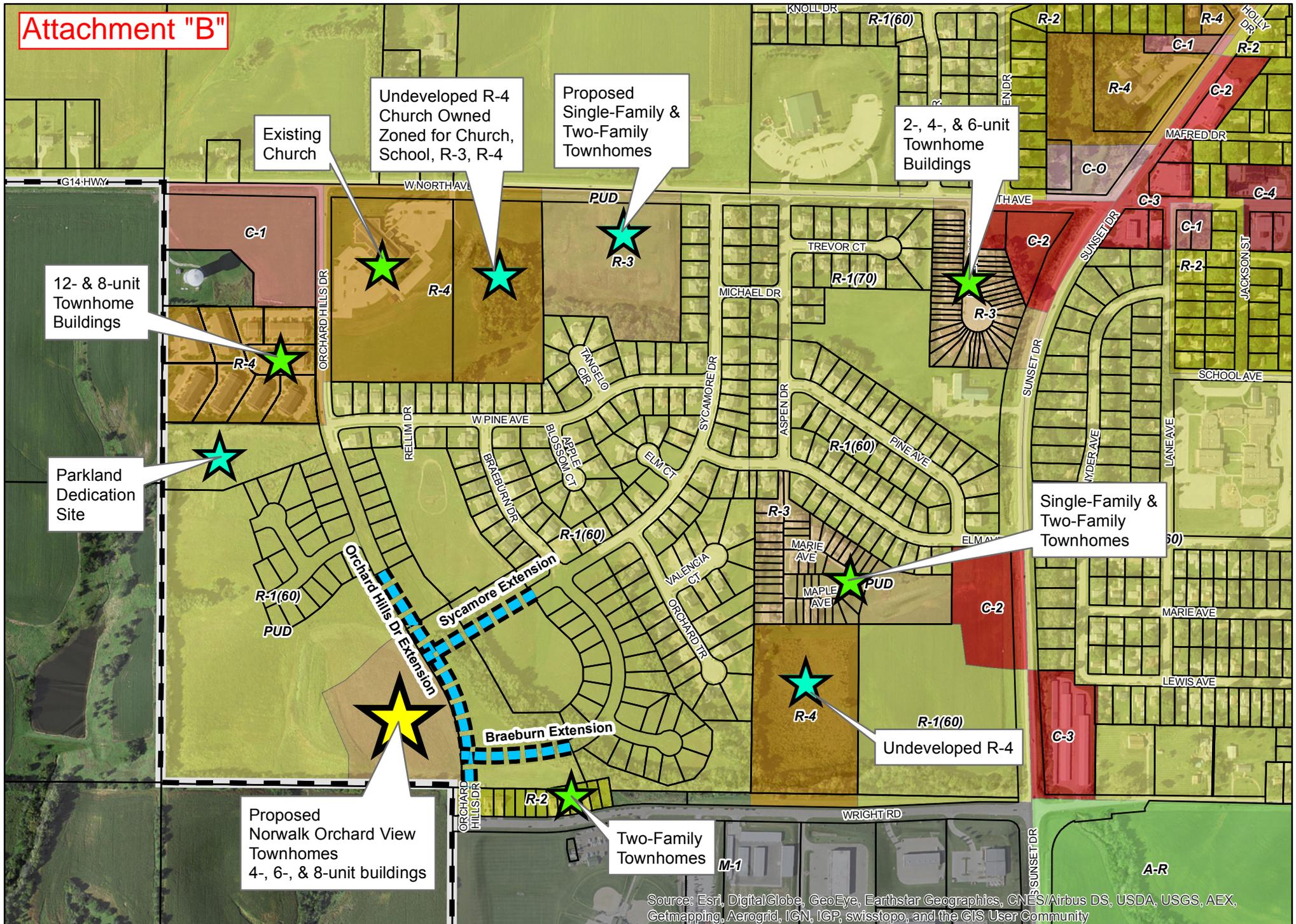
\_\_\_\_\_  
Jodi Eddleman, Deputy City Clerk

PREPARED BY: Luke Parris, City Planner

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>
Isley	___	___
Kuhl	___	___
Lester	___	___
Livingston	___	___
Riva	___	___



**Attachment "B"**



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



**Norwalk Orchard View Townhomes Location**



## Attachment "C"

### RESPONSES TO REGULATING OCCUPANCY TYPE (OWNER VS RENTAL)

Luke-

Believe it or not we actually have a separate zoning districts for owner-occupied multi-family (presumably condos) and rental multi-family (apartments). I have always questioned this though because of all the reasons others have raised. We are currently re-writing our Zoning Code and I am removing one district and not restricting the occupancy type in the other.

Thanks,

Brad Deets, Development Services Director City of Waukee  
230 W. Hickman Road, Waukee, IA 50263  
O: 515-978-7899 | M: 515-250-7986  
[bdeets@Waukee.org](mailto:bdeets@Waukee.org) | [Waukee.org](http://Waukee.org)

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Luke,

The city does not regulate type of occupancy.

Kara Tragesser  
City of West Des Moines

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I believe it could result in a Fair Housing Act claim and should be avoided especially if you are receiving federal funds from HUD or other agencies. Des Moines has been very clear that the method of tenancy/occupancy is not a land use.

Mike Ludwig  
Planning Administrator  
City of Des Moines

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Urbandale has dealt with this recently. Our position is that the City cannot require development to be owner occupied, and therefore no such language in any code or master plan.

Steven S. Franklin, APA, PLA  
Community Development Director  
City of Urbandale  
3600 86<sup>th</sup> Street  
Urbandale, Iowa 50322  
515-331-6720  
[sfranklin@urbandale.org](mailto:sfranklin@urbandale.org)

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Ankeny does not regulate rental vs owner occupied.

Eric Jensen  
Planning & Building Director  
City of Ankeny

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I'll let your city attorney put the final stamp on that. My two cents is that putting it in a PUD is problematic, possibly giving rise to Equal Protection claims.

Gary Taylor, J.D., AICP  
Interim Director, Community & Economic Development Program  
Iowa State University Extension & Outreach  
Associate Professor, Community & Regional Planning  
2321 North Loop Drive, Suite 121  
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Ph: 515.294.8397

## Attachment "D"

### REGULAR NORWALK PLANNING & ZONING MEETING 08-08-2012

A regular meeting of the Norwalk Planning and Zoning Commission was held at the Norwalk City Hall, 705 North Avenue, Wednesday, August 8, 2012. The meeting was called to order at 5:45 P.M. by Chairperson Stephanie Riva. Those present at roll call were John Fraser, Melissa Hill, Dan Schulz, Rodney Martinez, Kim Leonhardt and Stephanie Riva. Absent: Jim Huse.

Staff present: Mike Johnson, City Planner/Interim Development Services Director and Shelley Heisdorffer, Development Services Assistant. Frank Curtis, City Council was also present.

Huse arrived at 5:46 P.M.

**12-40** Motion by Schulz and seconded by Martinez to approve the agenda with the addition of New Business Item C: Resolution Establishing A Temporary Moratorium on the Consideration and Approval of Any Rezoning Hearings or Comprehensive Land Use Plan Amendments Pending the Completion of the New Comprehensive Plan. Approved 7-0.

**12-41** Motion by Huse and seconded by Leonhardt to approve the minutes from the July 25, 2012 regular meeting. Approved 7-0.

Chairperson Riva welcomed the guests present and asked if anyone wished to speak on a topic that was not on the agenda. With no guests wishing to speak, the business portion of the meeting was opened.

The first item on the Agenda was Proposed Land Use Amendment – Orchard Hills Drive (R-1 to PUD). Mr. Johnson informed the Commission that he received a letter from a resident who wanted it to be entered into record that they were in opposition of the proposed land use amendment. Mr. Johnson gave each of the Commission members a copy of that letter. Mr. Johnson informed the Commission that he and Marketa Oliver, City Manager have met with Mr. Gillotti who is representing Road Contractors (the applicant). They informed him of the issues that many of the residents have with the R-3 portion of his request. Mr. Gillotti agreed to modify the PUD to require the 10 acre R-3 parcel to the far southeaster corner of the property. Staff thought that would be a more suitable location for the higher density and will provide a good buffer to the sports complex. All of the previously included conditions still apply to the development of the R-3 parcel if approved.

Steve Gillotti, Road Contractors, explained that they have owned this land for over 30 years. The land was optioned to a developer who didn't move on it and they now have the land back. Road Contractors now desires a PUD that stands on its own. They have no intentions of changing the land use, they would just like to be able to control their own destiny. They would like to see the zoning through and then will sell to a developer who will have to abide by the PUD. Mr. Gillotti has a long history with Norwalk and just wanted to make sure the zoning process was handled appropriately with the City.

Chad Ross, 518 West Pine Avenue spoke in opposition of the proposed land use amendment. He was informed by the City that the area around his home would be single family. He also has a concern that it looks like the park has shrunk from the original plans.

William Brown, 605 West Pine Avenue also spoke in opposition of the proposed land use amendment. He called City Hall prior to moving into his home and was informed that the areas around his home were zoned R-1.

Craig King who is a representative of Mr. Gillotti and Road Contractors spoke to the audience. He explained there are different kinds of medium density and what they are looking at would be a detached cottage with a home owners association. Older people and young professionals are very attracted to these types of homes due to the association taking care of some maintenance.

These areas keep a residential feel but the developer is able to make the most of their land. This adds variety along with quality homes to the area.

Mr. King also explained that because they would be removing this land from a current PUD and would be creating their own, that also changes the park requirements. The park in the old PUD would not have to be quite as large, but there would also be a requirement for a park in the new PUD.

Mr. King suggested that the Commission put requirements on the new PUD to restrict the homes built there to be association homes only.

Richard White, 619 West Pine Avenue questioned our master plan and which one is currently being used. Mr. Johnson informed him that we are currently using the 2005 Comprehensive Plan but that even though things are set, there is always a chance that through a process such as this, things can be changed.

Mr. Gillotti informed the Commission that he would be fine with them putting density restrictions on the PUD. Mr. Gillotti requested that they at least divide the land off into its own PUD tonight and then work out the details and restrictions of the PUD at the next meeting.

Mr. Johnson informed Mr. Gillotti and the Commission that he was not comfortable doing that and that he would prefer to do it all at one time so as not to create more of a mess. The Commission discussed holding a special meeting to take care of the PUD request.

**12-42** Motion by Hill and seconded by Schulz to table Proposed Land Use Amendment – Orchard Hills Drive (R-1 to PUD). Approved 7-0.

The next item on the Agenda was Rezoning Petition 38.38 Acre – Orchard Hills Planned Unit Development to Orchard View Planned Unit Development.

**12-43** Motion by Martinez and seconded by Fraser to retable Rezoning Petition 38.38 Acre – Orchard Hills Planned Unit Development to Orchard View Planned Unit Development. Approved 7-0.

The next item on the Agenda was Resolution Establishing a Temporary Moratorium on the Consideration and Approval of Any Rezoning Hearings or Comprehensive Land Use Plan Amendments Pending the Completion of the New Comprehensive Plan. Mr. Johnson explained that due to the items that have been on the Agenda recently, he and Ms. Oliver feel it would be a good idea to put a moratorium on any rezoning or land use amendment until the new Comprehensive Plan is complete.

**12-44** Motion by Leonhardt and seconded by Martinez to approve Resolution Establishing a Temporary Moratorium on the Consideration and Approval of Any Rezoning Hearings or Comprehensive Land Use Plan Amendments Pending the Completion of the New Comprehensive Plan. Approved 7-0.

The next item on the Agenda was a study session of Comprehensive Plan review. Mr. Johnson asked the Commission to study the materials for the work session that is scheduled for August 13, 2012.

**12-45** Motion by Huse and seconded by Hill to adjourn meeting at 6:51 p.m. Approved 7-0.

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Stephanie Riva, Chairperson

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Mike Johnson, City Planner/Interim  
Development Services Director

## Attachment "E"

### REGULAR NORWALK PLANNING & ZONING MEETING 08-22-2012

A regular meeting of the Norwalk Planning and Zoning Commission was held at the Norwalk City Hall, 705 North Avenue, Wednesday, August 22, 2012. The meeting was called to order at 5:45 P.M. by Chairperson Stephanie Riva. Those present at roll call were John Fraser, Melissa Hill, Dan Schulz, Rodney Martinez and Stephanie Riva. Absent: Jim Huse and Kim Leonhardt.

Staff present: Mike Johnson, City Planner/Interim Development Services Director and Shelley Heisdorffer, Development Services Assistant.

**12-46** Motion by Martinez and seconded by Fraser to approve the agenda as presented. Approved 5-0.

**12-47** Motion by Hill and seconded by Schulz to approve the minutes from the August 8, 2012 regular meeting. Approved 5-0.

Chairperson Riva welcomed the guests present and asked if anyone wished to speak on a topic that was not on the agenda. With no guests wishing to speak, the business portion of the meeting was opened.

The first item on the Agenda was Proposed Land Use Amendment – Orchard Hills Drive (R-1 to PUD).

**12-48** Motion by Martinez and seconded by Fraser to untable Proposed Land Use Plan – Orchard Hills Drive (R-1 to PUD). Approved 5-0.

Mr. Johnson informed the Commission that after the last Planning and Zoning meeting, staff revised the proposed Orchard View PUD to accommodate the concerns discussed during the hearing. The new PUD decreases the density per acre from 10 dwelling units per acre to 8 dwelling units per acre. The revised PUD also provides for regulations which encourage detached patio townhomes. All of the previously included conditions still apply. Mr. Johnson noted that this provides a nice transition from the sports complex.

**12-49** Motion by Hill and seconded by Martinez to approve Proposed Land Use Amendment – Orchard Hills Drive (R-1 to PUD). Approved 5-0.

The next item on the Agenda was Rezoning Petition 38.38 Acre – Orchard Hills Planned Unit Development to Orchard View Planned Unit Development.

**12-50** Motion by Hill and seconded by Schulz to untable Rezoning Petition 38.38 Acre – Orchard Hills Planned Unit Development to Orchard View Planned Unit Development. Approved 5-0.

Mr. Johnson explained to the Commission that although this would change the zoning, a master plan would still have to come before the Commission by the developer and at that time the Commission would be able to put conditions on the plan.

Chad Ross, 518 West Pine Ave., explained that staff had addressed his concerns from the last meeting and he is no longer opposing the rezoning. He would, however, like the neighborhood to be notified when the developer brings plans in to develop the area.

**12-51** Motion by Martinez and seconded by Schulz to approve Rezoning Petition 38.38 Acre – Orchard Hills Planned Unit Development to Orchard View Planned Unit Development. Approved 5-0.

The next item on the Agenda was new business item Proposed Accessory Structure (27' x 26') – St. John's Catholic Church, 720 Orchard Hills Drive. Mr. Johnson reported that St. John's

requested approval of an accessory structure to be built on its property at 720 Orchard Hills Drive. The structure as proposed would be 27' x 26' and be located immediately adjacent to the existing dumpster enclosure on the south side of the parking lot. The structure with approval would provide for additional storage space and be used for storage of grounds maintenance equipment.

Code requires that accessory structures be at least 3 feet from side property lines and at least 5 feet from rear property lines. The proposed structure is consistent with all setback requirements. Architecturally, the structure will be consistent with the design of existing church.

Mr. Johnson explained that staff would recommend approval of the structure with the condition that it be constructed of similar materials and be similar architecturally to the principal structure.

Roger Joanning, 521 West Pine Ave., asked where the garage would be located on the property. Mr. Johnson showed him a map.

**12-52** Motion by Fraser and seconded by Hill to approve Proposed Accessory Structure (27' x 26') – St. John's Catholic Church, 720 Orchard Hills Drive with the condition that it be constructed of similar materials and be similar architecturally to the principal structure. Approved 5-0.

The next item on the Agenda was a study session on Comprehensive Plan progress update and disbursement of second half of first draft. Mr. Johnson asked the Commission to study the materials and a work session would be scheduled for the next week or two.

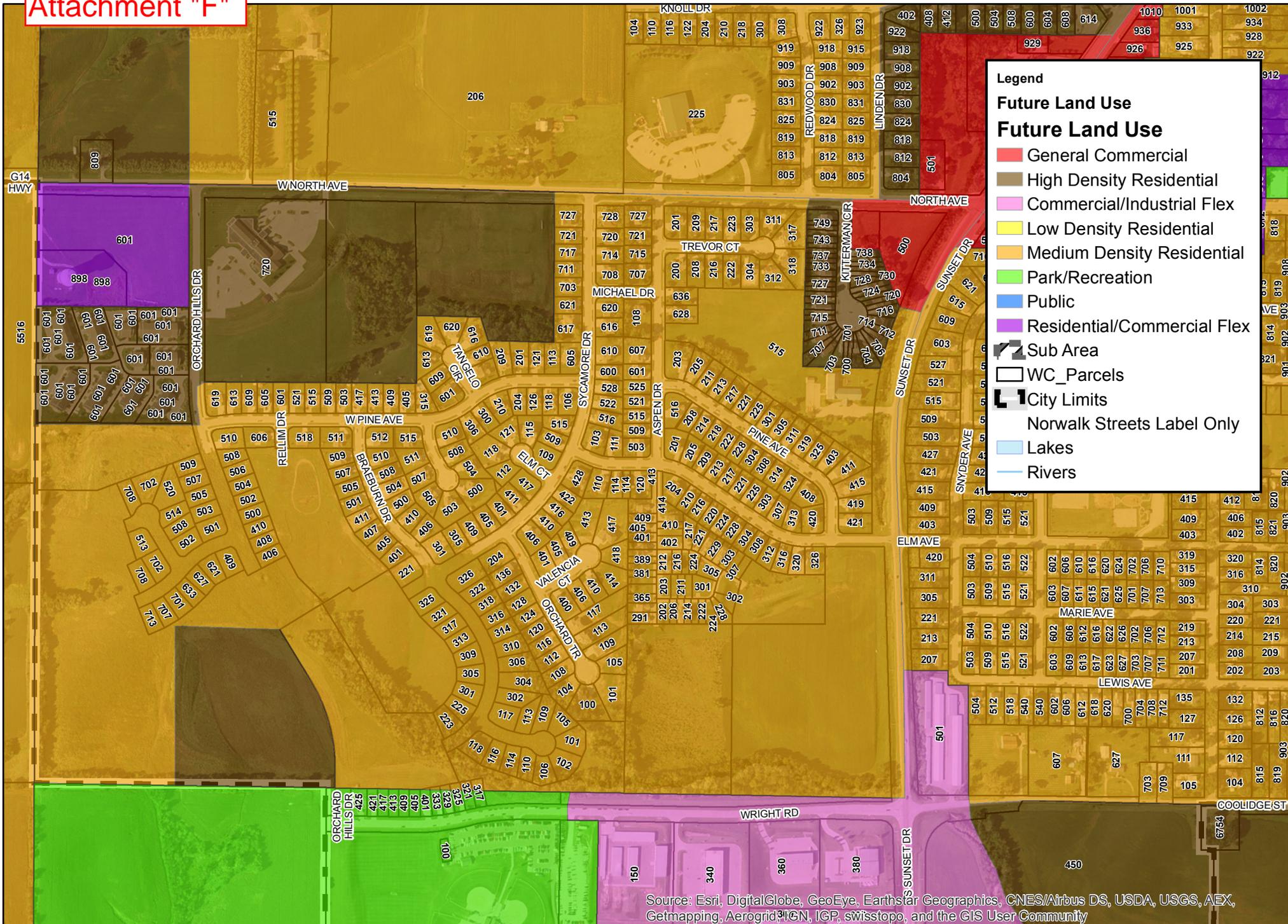
**12-53** Motion by Martinez and seconded by Fraser to adjourn meeting at 6:05 p.m. Approved 5-0.

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Stephanie Riva, Chairperson

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Mike Johnson, City Planner/Interim  
Development Services Director



**Legend**

**Future Land Use**

- General Commercial
- High Density Residential
- Commercial/Industrial Flex
- Low Density Residential
- Medium Density Residential
- Park/Recreation
- Public
- Residential/Commercial Flex
- Sub Area
- WC\_Parcels
- City Limits
- Norwalk Streets Label Only
- Lakes
- Rivers

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community



**Comprehensive Plan Future Land Use**

