

**APC Review Comments on Symphony PUD**  
**Community Development Department | City of Westfield**  
**September 3, 2010**

**GENERAL PUD COMMENTS:**

1. These comments are provided by the Community Development Department in response to the revised PUD proposal received on May 26, 2010. We have attempted to be as thorough as possible. Additional issues likely exist with other City departments (e.g., Public Works and Fire Department). The Community Development Department is actively working to obtain and incorporate those items for the APC's consideration. These comments also incorporate any comments received from plan commission members prior to the time of this report.

*Petitioner response: Their comments have been integrated into our responses. We would be glad to answer any additional comments from City departments.*

2. Westfield's corporate counsel will eventually need to sign off on the WHEREAS language included in the beginning of the proposal and other components of the document before the PUD text is finalized.

*Petitioner response: We are willing to change the WHEREAS language as recommended by Westfield's corporate counsel.*

3. The City will need a revised legal description reflecting the removal of any portions of the PUD since the May PUD submission. Additionally, it would be helpful if the petitioner would provide a graphic exhibit that illustrates the boundaries of the various geographic areas included in the PUD's legal description. This should probably be included as an exhibit to the PUD ordinance.

*Petitioner response: An updated legal description and graphic exhibit to reflect the removal of the Lauffer property is incorporated into the revised Symphony PUD ordinance. All other participating properties have valid letters of consent from the property owners.*

4. All exhibits will need to be revised to accurately depict the parcels included in the Symphony PUD proposal.

*Petitioner response: The exhibits have been corrected in the revised Symphony PUD ordinance.*

**PUD COMMENTS BY SECTION:**

**1.2.B.i.** It would appear that this standard limits the number of "primary dwelling units" on all the property located within the area defined by the legal description in Exhibit A. It may make sense to clarify this definition. There is no accompanying development-wide limitation on the number of "accessory dwelling units." Should there be?

*Petitioner response: The wording of this section will be changed to read, "The total maximum number of dwelling units (primary and accessory) shall be 4,112 units. The maximum number of attached dwelling units (e.g. duplexes, triplexes, quadplexes, townhomes, and apartments) shall be 1,440 units. Of these, the maximum number of apartment units shall be 600 units.*

**1.2.B.ii.** It may make sense to delete the text "including lodging, office, retail, civic, civic support, education and agriculture use gross floor area" from this standard to avoid possible conflicts. The way the remaining standards are set forth would seem to address all possible non-residential uses. "Retail" is a defined term so it should be italicized here. To the extent that the PUD Ordinance is unclear on what is and what is not a retail use, the Director will make the determination. As long as this approach is acceptable to everyone, these standards may be workable. The APC should determine if the extent of what is being proposed in the way of non-residential uses is compliant with the recommendations of the comprehensive plan. If the APC determines that the extent of non-residential components of the proposal is consistent with the comprehensive plan, then there is no issue to discuss. If the APC determines that the extent of non-residential components of the proposal is not consistent with the comprehensive plan, then the APC should discuss whether adequate information has been provided to the APC to support a departure from the comprehensive plan.

*Petitioner response: The text "including lodging, office, retail, civic, civic support, education and agriculture use gross floor area" has been deleted. The word Retail will be italicized.*

**1.2.C.** The Community Development Department has not received proof of consent from the property owner to include this property within the Symphony PUD zoning request. If this property is removed, this section should be removed from the PUD Ordinance. If consent is received, then this paragraph should be discussed. This section of the PUD sets forth a maximum for the amount of open space to be provided. A more meaningful standard would probably involve establishing a minimum amount of open space to be provided. The APC may wish to discuss this possible change with the petitioner. Also, the APC may wish to review the way the petitioner has defined "open space." This definition significantly modifies the way the term is defined in the Zoning Ordinance (see definition of "Open/Green Space").

*Petitioner response: As addressed in the August 2, 2010, Area Plan Commission (APC) meeting, the issue of the letters of consent have been resolved. In working with the owner of the property identified in this section, we have agreed to delete 1.2.C and add a new section at 3.3.C that states the following:*

- viii. Approximately 129 acres of land located west of Towne Road and north of 159th Street owned by Towne Road Development, Inc. and shown as Village 5 on Exhibit 2: Village Plan (the "Towne Road Development Property") shall meet the following development requirements:*
  - a. No less than 168 primary dwelling units shall be permitted on the Towne Road Development Property;*

- b. *The maximum amount of open space on the Towne Road Development Property shall be no more than 50%; and*
- c. *The requirements set forth in (a) and (b) above shall not be modified by the Master Developer without the prior written consent of the owner of the Towne Road Development Property.*

*The City of Westfield defines Open/Green Space as “Unimproved, commonly owned areas of a subdivision, multi-family, commercial or industrial development such as: parks, public pathways, railroad rights-of-way, water retention areas, screening buffers, etc. This term does not include road medians, swimming pools, tennis courts, golf courses, or any active recreational facilities.”*

*The Symphony PUD defines Open Space as “That portion of land that is set aside for parks, pathways and trails, natural areas, wetlands, open areas or landscaped areas. Wet stormwater retention areas or dry stormwater detention areas shall be included as open space, as well as community recreational facilities. Open space may also include hardscaped areas that are intended for public use, such as plazas and courtyards. Open areas surrounding multi-family dwelling housing that occur within the lot shall also be included as open space.”*

*Please note that the minimum amount of open space required in Symphony is governed by Section 1.2.B.iii that uses the City standard measurement (and definition) of Green Belt Space.*

**1.3.** This section refers to an Exhibit 9 that is not included in the May PUD submission packet. The petitioner should provide this exhibit. In addition, the City understands that PUD phasing plans are not generally used as hard standards to compel petitioners to act at scheduled times. However, some best estimate as to the order and timeline of development that will occur on the property is required (see the City’s PUD Ordinance – requires petitioner to provide phases in which project will be built, including area, density, use, public facilities, and open space to be developed in each phase; each phase to be described and mapped; projected dates for beginning and completion of each phase).

*Petitioner response: Exhibit 9 (now Exhibit 4) is complete and was inadvertently missed in the submission of the May 26, 2010, version of the Symphony PUD ordinance. Exhibit 9 was shown to the APC at the August 2, 2010, meeting and is included in the revised Symphony PUD ordinance.*

**1.4.B.i.** This section would appear fine as written. However, the term “Zoning Ordinance” is defined in a way that freezes the underlying zoning standards in place at the time the Symphony PUD is adopted. Assuming that this project will take 15 years or more to develop and that the City is likely to learn a few things about zoning regulation over that time which may precipitate important zoning ordinance changes that should govern future sections of this project, it is suggested that the term “Zoning Ordinance” should simply be defined as “The Comprehensive

Zoning Ordinance of Westfield-Washington Township, 1977 as amended from time to time” (or something to that effect).

*Petitioner response: The language has been changed to the recommended wording above.*

**1.4.C.i** This section refers to the defined term “Subdivision Regulations”. As defined, the term does not include WC 16.04.210. Unless there is a good reason to omit this part of the Zoning Ordinance, it should probably be included. Also, the subdivision regulations are frozen in the same manner as mentioned in the previous paragraph due to the reference to the term “Zoning Ordinance” as defined by the petitioner.

*Petitioner response: The text was modified to include WC 16.04.210. The language has been changed to the recommended wording above.*

**1.4.C.iii.** The term “Director” should be a defined term, such as: “The Director of the City of Westfield’s Community Development Department.”

*Petitioner response: The language above has been incorporated into the revised PUD ordinance.*

**1.5.A.** Exhibit 3 should be revised to exclude any property that has been removed from the Symphony proposal. The accompanying acreage calculations for the various Districts should also be revised to reflect any changes.

*Petitioner response: The exhibits have been updated as noted in the comments.*

**1.5.B.** Just so everything is clear when administering this PUD ordinance, the 15% flexibility set forth in this section should be measured from the acreage numbers set forth in section 1.5.A. A sentence acknowledging this concept should be added. Section 1.5.A. sets forth approximate acreages. It is difficult if not impossible to know if you are increasing or decreasing more than 15% from an “approximate” number.

*Petitioner response: Firm acreage for each district is incorporated in the revised Symphony PUD ordinance.*

**1.7** The development plan review process is a ministerial review process. In other words, all that should be involved is an administrative review of whether a proposal complies with the standards applicable to the development or not. In concept, the Community Development staff supports the idea of allowing this function to happen at the department level. This would significantly increase department efficiencies by eliminating the unnecessary time, energy and expense associated with preparing such petitions for plan commission meetings. The same review and compliance is still required even though such petitions would not appear at an APC meeting. Additionally, the APC hearing process for development plans probably creates some expectation on behalf of affected parties that they will have some meaningful opportunity to be heard. In the case of the City’s development plan review process, this is probably not the case. Plans either comply with the applicable standards or they do not. This staff-level review concept is one that the Community Development Department would support addressing globally, not

just for the Symphony proposal. For this reason, it may make sense to simply remove section 1.7. from this PUD.

*Petitioner response: While we applaud the City's efforts, we kept the language regarding the approval process in the Symphony PUD ordinance to allow such a review process to commence. We believe the predictability of the review process is very important.*

**2.1.D.** It is suggested that the “and at the discretion or option of the Master Developer” text be removed. This provision should probably apply to whomever the owner or developer ends up being, not just the Master Developer.

*Petitioner response: The text “and at the discretion or option of the Master Developer,” has been deleted.*

**2.2** The Community Development Department has identified several suggested changes related to the definitions section of this PUD. Those suggested changes are discussed throughout this report as they are referred to in the various sections of the PUD document.

*Petitioner response: The requested definition changes have been made.*

**3.1.A.ii.** The text in this section should be cleaned up. None of the precise terms that appear in italics are actually defined. It would appear that the petitioner is attempting to refer to the following defined terms: “attached single-family dwellings,” “detached single-family dwellings” and “multi-family housing.” This should be confirmed and revised accordingly. Additionally, the term “primary building” is referenced or referenced by a reference within these definitions. This definition probably needs a little work. It appears to be a little vague due to the use of the word “main” in the definition.

*Petitioner response: We clarified the wording as noted. Additionally, we replaced the first sentence of the definition of Primary Building with the following language from the City's definition of Principal Building, “A building in which is conducted the main or principal use of the lot on which said building is situated.”*

**3.1.C.i.** Section 3.4 as referenced in this section is titled “Permitted Uses”, not “Permitted Use Table.” This should be appropriately corrected. Please review the proposed permitted uses for discussion among the APC members. This District permits “community recreational facilities.” As defined, this use may include a sports stadium and other sports-related improvements that could potentially conflict with the City's Family Sports Capital of America initiative. The City has requested that all proposed zoning entitlements in the Symphony PUD that potentially conflict with this initiative be removed until such time as a determination on the location of the sports campus improvements has been made. Any facilities that are simply designed to provide recreational opportunities for Symphony residents would certainly be acceptable. This District also permits “sustainable energy facilities” and various types of schools and other non-residential uses. For these uses, the development standards set forth in section 3.2.G. apply. These standards include few restrictions. This regulatory approach is uncommon in Westfield and worthy of further discussion.

*Petitioner response: We changed “Permitted Use Table” to “Permitted Uses.” Community Recreational Facilities remains a permitted use in the Symphony PUD ordinance. The sports facilities in Symphony will not occur at an intensity near what the City is seeking in their initiative. It is important to note that the all events stadium is not a part of the Family Sports Capital of America initiative.  
All Non-residential uses located within the Residential District have been made Permitted Conditional Uses and must adhere to the conditions set forth in Article 3.5.*

**3.1.C.ii.** The last sentence of this section is confusing. This sentence should be clarified and revised to avoid any confusion. Additionally, it would seem at that this section would prohibit live-work type of units from being created in the Residential District. If you dig into the definitions of the terms used in this section, this may not be the actual result. However, there is probably a clearer way to state this so as to avoid possible misinterpretation.

*Petitioner response: We removed “Attached and” from the beginning of the last sentence in the paragraph to eliminate any confusion about this section. Live Work Units have been removed.*

**3.1.C.iv.** If the term “garages” is appropriately added to the definition of “gross floor area,” the text “exclusive of open porches, terraces and garages” can be removed from this section. The APC may wish to discuss the petitioner’s minimum square footage proposed in this section. The 600 SF minimum is somewhat unconventional in Westfield.

*Petitioner response: The wording is as intended. Gross Floor Area is the enclosed area of a building not including parking areas. As committed at the August 2, 2010, APC meeting, the minimum home square footages shall correspond to the lot types shown on Table 3-1 as follows:*

<i>Cottage Lot</i>	<i>600 s.f.</i>
<i>Narrow Lot</i>	<i>1,000 s.f.</i>
<i>Small Lot</i>	<i>1,400 s.f.</i>
<i>House Lot</i>	<i>1,800 s.f.</i>
<i>Estate Lot</i>	<i>2,400 s.f.</i>

**3.1.C.v.** If the term “garages” is appropriately added to the definition of “gross floor area,” the text “exclusive of open porches, terraces and garages” can be removed from this section. The APC may wish to discuss the petitioner’s minimum square footage proposed in this section. The 350 SF minimum is somewhat unconventional in Westfield. Additionally, the concept of accessory dwelling units is also somewhat unconventional and may be worthy of further discussion.

*Petitioner response: The wording is as intended. Gross Floor Area is the enclosed area of a building not including parking areas.*

**3.1.E.i.** The term “additional” probably means “in addition to the occupations already permitted in the Zoning Ordinance.” This should be confirmed and clarified in the PUD ordinance.

*Petitioner response: We changed the wording in this section as recommended.*

**3.1.E.iv.** The APC may wish to discuss with the petitioner the 30% rule in this section. The Zoning Ordinance does not govern such uses in this manner today. The APC may wish to discuss this approach in further detail with the petitioner.

*Petitioner response: The 30% requirement was removed.*

**3.1.F.i.** The APC may wish to discuss the development standards referenced in this section (Table 3-1). Some of the standards are significantly lower requirements than those traditionally approved in Westfield. The petitioner does not identify specifically where in the project these various lot standards would apply. As written today, the developer of any portion of the Residential District would appear to be able to unilaterally determine what lot standards apply to the given portion of the project by simply identifying the lot type at the time of filing (up to the maximum number of lots per lot type set forth in the table). This regulatory approach provides a great deal of flexibility for the developer and less predictability for the City and surrounding community than traditional methods of regulating lot standards. This is an item that the APC may wish to discuss in more detail with the petitioner.

*Petitioner response: Table 3-1 will be modified to identify the following minimum and maximum number of units by type within Symphony:*

<u>Lot Type</u>	<u>Minimum # of Units</u>	<u>Maximum # of Units</u>
<i>Cottage Lot</i>	<i>100</i>	<i>400</i>
<i>Narrow Lot</i>	<i>200</i>	<i>600</i>
<i>Small Lot</i>	<i>600</i>	<i>No Limit</i>
<i>House Lot</i>	<i>400</i>	<i>No Limit</i>
<i>Estate Lot</i>	<i>200</i>	<i>No Limit</i>
<i>Townhomes</i>	<i>0</i>	<i>600</i>
<i>Duplex</i>	<i>0</i>	<i>300</i>
<i>Triplex</i>	<i>0</i>	<i>300</i>
<i>Quadplex</i>	<i>0</i>	<i>300</i>
<i>Multifamily Housing</i>	<i>0</i>	<i>600</i>

*In addition, the maximum number of dwelling units, attached homes, and apartments is limited as noted in the comments for Section 1.2.B.i above.*

**3.1.F.ii.** Same basic comments as the previous section.

*Petitioner response: See comments for Section 3.1.F.i. above.*

**3.1.F.iii.** Same basic comments as the previous section. Additionally, this section includes the defined term “open space.” Although the APC may find it acceptable for lots to front on public or private open spaces if they are alley-accessed lots (as currently proposed), keep in mind that the petitioner has modified the City’s definition of “open space” in the PUD. The petitioner’s

definition may include improvements that have not traditionally been contemplated as open space in Westfield (see Zoning Ordinance definition), such as: potentially privately owned property (the Zoning Ordinance contemplates open space as being commonly owned), swimming pools, tennis courts, golf courses, active recreational facilities, developer or HOA offices, community buildings (public or private), assembly halls, outdoor auditoriums, sports fields, sports stadiums and “other community amenities.” This item may be worthy of additional discussion.

*Petitioner response: The intent is to allow homes to front directly upon open space areas rather than be located across the street from open space areas. For comments on Community Sports Facilities, see the comments on Section 3.1.C.1. above.*

**3.1.F.iv.** Same basic comments about the developer being able to unilaterally select standards. Additionally, this section establishes front setbacks for the various lot types. These standards permit front yard setbacks that are much lower than traditional requirements in the Zoning Ordinance. Although these standards may be acceptable to the APC, it would be wise to confirm that such reduced standards do not create a problem for the various infrastructure agencies that serve this location. These reduced setbacks restrict the amount of “wiggle room” available for infrastructure improvements. This section also permits encroachments into the required front yard setbacks. Rather than establishing a setback requirement and then permitting encroachments within that area, an alternative approach would be to establish a hard front setback line and then (if the developer chooses to further restrict how close structures, balconies, porches and stoops can be constructed to that setback line) this objective can be accomplished through the private covenants of the subdivision or neighborhood. The APC may wish to discuss this item in further detail.

*Petitioner response: The proposed setbacks are not uncommon in Traditional Neighborhood Developments and downtown areas. In developments with short front yard setbacks, the utilities are typically routed through the alley at the back of the lot. The front setbacks have been adjusted so the relationship of the building to the street can be achieved without any encroachments.*

**3.1.F.v.** Same basic comments about the developer being able to unilaterally select standards.

*Petitioner response: See responses to comments above.*

**3.1.F.vi.** Same basic comments about the developer being able to unilaterally select standards.

*Petitioner response: See responses to comments above.*

**3.1.F.vii.** Same basic comments about the developer being able to unilaterally select standards. Additionally, the City does not prefer to regulate building height by limiting the number of stories in a building. Instead a simple measurement in feet based on the way “building height” is defined in the Zoning Ordinance is preferred. If the developer wishes to regulate building height in this manner through its private covenants, it is free to do so (as long as the height does not exceed the maximum number of feet permitted in the PUD).

*Petitioner response: We changed the building height measurements to be only in feet.*

**3.1.F.viii.** Please note the petitioner’s modified definition of “open space.” The petitioner’s definition may include improvements that have not traditionally been contemplated as open space in Westfield (see Zoning Ordinance definition), such as: potentially privately owned property (the Zoning Ordinance contemplates open space as being commonly owned), swimming pools, tennis courts, golf courses, active recreational facilities, developer or HOA offices, community buildings (public or private), assembly halls, outdoor auditoriums, sports fields, sports stadiums and “other community amenities.” This item may be worthy of additional discussion.

*Petitioner response: See response to the open space comments in Section 1.2.C above.*

**3.1.G.** There are very few non-residential development standard restrictions applicable to this district. This item is worthy of further discussion.

*Petitioner response: All Non-residential uses located within the Residential District have been made Permitted Conditional Uses and must adhere to the conditions set forth in Article 3.5.*

**3.2.C.i.** It would appear that the petitioner intended to reference Section 3.4, not Section 3.2. This should be corrected. Please review the proposed permitted uses for discussion among the APC members. This District permits a wide variety of uses. Among them, the term “community recreational facilities” is included. As defined, this use may include a sports stadium and other sports-related improvements that could potentially conflict with the City’s Family Sports Capital of America initiative. The City has requested that all proposed zoning entitlements in the PUD that potentially conflict with this initiative be removed until such time as a determination on the location of the sports campus improvements has been made. Any facilities that are simply designed to provide recreational opportunities for Symphony residents would certainly be acceptable. The non-residential development standards set forth in section 3.2.G. apply to the non-residential uses. These standards are not very significant. This regulatory approach is uncommon in Westfield and worthy of further discussion.

*Petitioner response: We will correct the reference to Section 3.4. For comments on Community Sports Facilities, see the comments on Section 3.1.C.1. above. The Non-Residential Development Standards are typical for a Traditional Neighborhood Design Village.*

**3.2.C.ii.** The last sentence of this section is confusing. This sentence should be clarified and revised to avoid any confusion. Additionally, it would seem that this section would prohibit live-work type of units. If you dig into the definitions of the terms used in this section, this may not be the actual result. However, there is probably a clearer way to state this so as avoid possible misinterpretation. Additionally, it would appear that the petitioner intended to refer to Section 3.2.E. in this paragraph instead of Section 3.3.E. This should be corrected.

*Petitioner response: We removed "Attached and" from the beginning of the last sentence in the paragraph to eliminate any confusion about this section. Live Work Units have been removed. We corrected the reference to Section 3.2.E.*

**3.2.C.iv.** If the term "garages" is appropriately added to the definition of "gross floor area," the text "exclusive of open porches, terraces and garages" can be removed from this section. The APC may wish to discuss the petitioner's minimum square footage proposed in this section. The 600 SF minimum is somewhat unconventional in Westfield.

*Petitioner response: See response to comments for Section 3.1.C.iv. above.*

**3.2.C.v.** If the term "garages" is appropriately added to the definition of "gross floor area," the text "exclusive of open porches, terraces and garages" can be removed from this section. The APC may wish to discuss the petitioner's minimum square footage proposed in this section. The 350 SF minimum is somewhat unconventional in Westfield. Additionally, the concept of accessory dwelling units is also somewhat unconventional and may be worthy of further discussion.

*Petitioner response: See response to comments for Section 3.1.C.v. above.*

**3.2.E.i.** This section is a little confusing because "live-work unit" is identified as a land use in the permitted use table. It would seem that a "live-work unit" is more like a type of structure than a type of land use. It is unclear what type of work (or land use) is permitted in a live-work unit. This should be clarified and appropriate changes to the PUD should be made.

*Petitioner response: Live-work unit has been deleted from the ordinance. Through our discussions, it made sense that it was a building type. As a use, live-work units are permitted as a Mixed Use Building.*

**3.2.E.ii.** The term "additional" means "in addition to the occupations already permitted in the Zoning Ordinance." This should be confirmed and clarified in the PUD ordinance.

*Petitioner response: We changed the wording in this section as recommended.*

**3.2.E.v.** The APC may wish to discuss with the petitioner the 30% rule established in this section. The Zoning Ordinance does not govern such uses in this manner today. Further discussion may be desired.

*Petitioner response: The 30% requirement was removed.*

**3.2.F.** The roman number "i" can be deleted (there is no following roman number "ii"). Please see all previous comments above pertaining to Section 3.1.F.

*Petitioner response: The Roman numeral "i" was deleted. See responses above regarding the comments about Section 3.1.F.*

**3.2.G.** Generally, this entire section provides very few development standard restrictions in the Mixed Use District. The APC may support this approach, but this is not a common practice in Westfield. This item is worthy of further discussion.

*Petitioner response: The Non-Residential Development Standards are typical for a Traditional Neighborhood Design Village.*

**3.2.G.iv.b.** This paragraph should be deleted. If the Public Works Department wishes to issue an encroachment permit, it can do so. This is not a zoning matter.

*Petitioner response: We kept the language regarding front setbacks and removed all language regarding encroachments into the right-of-way.*

**3.2.G.vii.** The City does not prefer to regulate building height by limiting the number of stories in a building. Instead a simple measurement in feet based on the way “building height” is defined in the Zoning Ordinance is preferred. If the developer wishes to regulate building height in this manner through its private covenants, it is free to do so (as long as the height does not exceed the maximum number of feet permitted).

*Petitioner response: We changed the building height measurements to be only in feet.*

**2.1.** See the definition for “decorative period lighting.” This does not sound like the traditional light fixtures we previously discussed.

*Petitioner response: True. Decorative Period Lighting refers to decorative lights or strands of lights in place for no longer than 60 days. We are seeking to exempt such lighting to allow lights to be placed to give character to an area even though Decorative Period Lighting may not be explicitly tied to a specific festival or carnival.*

**2.1.** What is the purpose of identifying “important neighborhood intersections?”

*Petitioner response: The “important neighborhood intersections” are to identify the locations within the Residential District where the office and retail node could be located. These are the areas we identified as trail head retail nodes at the APC meetings. In the revised PUD ordinance we have specified the two locations for these nodes and removed the “important neighborhood intersections” language.*

**Table 3-2:** Our comments on the Permitted Use Table are as follows:

Is “Dwelling-Over-Commercial” a land use or building type?

*Petitioner response: We determined it is a building type and as such has been removed from the Permitted Use Table. The use is still permitted as a Mixed Use Building Retail.*

“Home Occupation” is probably not a land use.

*Petitioner response: We removed "Home Occupations" as a land use on the Permitted Use Table.*

We talked about "live-work" unit not being a land use, but rather a type of building.

*Petitioner response: Live-work unit has been deleted from the ordinance. Through our discussions, it made sense that it was a building type. As a use, live-work units are permitted as a Mixed Use Building.*

The term "Multi-Use Building, Office" is not a defined term. Did you mean "Mixed-Use"?

*Petitioner response: We corrected the name to Mixed Use Building, Office.*

I think you are removing liquor sales.

*Petitioner response: "Liquor Selling Establishment" has been removed from the Permitted Uses table. The use is permitted as a Retail use.*

Not sure you need to mention "Temporary Seasonal Sales." We have regulations for such uses that were recently adopted.

*Petitioner response: We have reviewed the Temporary Uses and Events regulations the City recently passed and will defer to them. "Temporary Seasonal Sales" has been removed from the Permitted Uses Table.*

How do you address adult uses or sexually oriented businesses? We are covered in the zoning ordinance, but your use regulations are designed differently which may leave the door open.

*Petitioner response: We added a new section – 3.4.D. – that explicitly states uses that are not permitted within Symphony. Among the uses are Sexually Oriented Business.*

"Shopping Center" is not a defined term, but "Shopping Mall" is. Is that what you meant? It seems to contemplate a closed in area, not an open outdoor mall. Was this intentional?

*Petitioner response: We have provided a definition for "Shopping Center" and removed the definition for Shopping Mall.*

Consider extracting "sports stadium" from "Community Recreational Facilities" to be transparent about the stadium use. A stadium is not exactly the kind of use that comes to mind when you think of a community recreational facility. This is your call, but you may want to list Sports Stadium separately for this reason.

*Petitioner response: We listed "Sports Stadium" on the Permitted Uses Table and removed it from the Community Recreational Facility.*

We talked about “Convention Center” being too large for the scale of Symphony. Is this the kind of use I think you intend in the Mixed Use District?

*Petitioner response: We removed “Convention Center” from the Permitted Uses Table. Conference Centers are more in line with the scale of Symphony.*

Isn't a “parking structure” just a kind of “commercial parking lot”?

*Petitioner response: Yes, because “Parking Structure” is a type of Commercial Parking Lot, we removed it from the Permitted Uses Table.*

**2.1.** Please provide more detail to the definition of “sustainable energy facility.”

*Petitioner response: We enhanced the definition of “Sustainable Energy Facility” to address the nature and scale of what is intended for these facilities (e.g. a small cluster of wind turbines, not a large wind farm).*

**3.5.** You refer to “gross leasable area” in several locations. This seems to not contemplate a scenario where an owner might be the occupant. How will you regulate such a situation?

*Petitioner response: We have replaced “gross leasable area” with “gross floor area” throughout the ordinance. This allows for a consistent unit of measurement regardless of the type of occupancy.*

**3.5.** You can probably omit all references to districts as it appears that the only conditional uses are located in the Residential District.

*Petitioner response: The references to districts have been removed.*

**3.6.** We are fine reducing parking space size, but would like you to consider defaulting to the zoning standards for parking. Please explain why change from the zoning standards are needed.

*Petitioner response: We have defaulted to the Zoning Ordinance for calculating the required number of parking spaces. Due to the integrated nature of Symphony, there will be many opportunities for shared parking. To better address the calculations for shared parking, we have modified the language to provide the Director the authority to reduce the required number of spaces. When we submit a primary plat for a village, the uses and their corresponding parking patterns will be known. With this information a more accurate calculation for shared parking can be performed.*

**3.6.C.** The on-street parking allowance or parking garage allowance is OK in concept, but how would you propose that we track this so the spaces are not double-counted as additional projects materialize.

*Petitioner response: We can track the quantities and locations of the park spaces on the primary plat. This will prevent the double-counting of parking spaces.*

**3.6.D.ii.** Needs rewording. What does “architecturally treated” mean?

*Petitioner response:* This section has been modified to clarify that parking structures will be compatible with and use the same material finish as the other buildings on the property. We also clarified that parking structure facades that permanently face a public street will need to be architecturally treated to match the buildings around it.

**Table 3-3.** Need to discuss the organization of this table. It seems to just speak to the Residential District, but maybe not. Several terms are not defined.

*Petitioner response:* Table 3.3 and 3.4 have been deleted from the revised PUD ordinance. We have defaulted to the Zoning Ordinance for calculating the required number of spaces.

**General comment on parking regulations.** Our parking ordinance works pretty well. You are going to have to do some work to explain an alternative method for calculating required spaces. It would be helpful to understand how your standards would compare to calculation for other uses in the area that we are all familiar with.

*Petitioner response:* The PUD ordinance has been changed to default to the Zoning Ordinance.

**3.6.G.** You can probably remove this paragraph as everything listed is already permitted.

*Petitioner response:* This paragraph has been removed.

**3.6.I.** Why can't you default to the City's parking lot landscaping standards? They are fairly workable and not the source of a lot of conflict, historically.

*Petitioner response:* We have revised the PUD ordinance to default to the Zoning Ordinance for calculating the amount of interior lot landscaping and details of the parking lot islands. The language remaining in the Symphony PUD ordinance permits the use of tree wells in the Mixed Used District and specifies how they will be planted. It also allows the islands to be used as bioswales by allowing the islands to be flush with the surface of the parking lot. In this situation, wheel stops may be used instead of curbs.

**3.7.** We talked about the need to establish more definite and restrictive architectural requirements. This applies as a general comment throughout the PUD. Article 3.7 is inadequate.

*Petitioner response:* This section has been greatly expanded to address detailed design principles and specific standards for buildings.

**4.1.** Insert text identifying this section as (1) a vision for development in Symphony; (2) not committing the DPW to any change in construction standards; but, (3) delegating authority to

DPW to approve alternative designs (as done in Kalorama Park PUD example provided at our last meeting).

*Petitioner response: We made the changes noted above.*

**5.1.** How do you propose to buffer from Laughter? Why can't you comply with the City's buffer yard standards?

*Petitioner response: We default to the Zoning Ordinance for the buffer yard standards except for the following:*

- 1. No buffer is required where the use internal to Symphony that is immediately adjacent to the perimeter boundary is a wooded area, public park, golf course, lake, pond or other detention or retention stormwater facility.*
- 2. No buffer is required when the adjacent property to be buffered is located across the street from a Mixed Use District. Property sharing a common property line with the perimeter boundary of Symphony and abutting a Mixed Use District shall be buffered.*
- 3. Buffer yard widths shall be determined per the Zoning Ordinance except that abutting land used solely for agricultural uses shall have a minimum buffer width of 20 feet. Existing buffer yards on the abutting property shall count toward the required buffer yard.*

**5.2.** Why can't you comply with the City's parking lot landscaping standards?

*Petitioner response: We have revised the PUD ordinance to default to the Zoning Ordinance for calculating the amount of interior lot landscaping and details of the parking lot islands. The language remaining in the Symphony PUD ordinance permits the use of tree wells in the Mixed Used District and specifies how they will be planted. It also allows the islands to be used as bioswales by allowing the islands to be flush with the surface of the parking lot. In this situation, wheel stops may be used instead of curbs. Also the PUD ordinance allows for the use of a street-screen in lieu of perimeter planting.*

**Article 6.** Why can't you comply with the City's lighting standards?

*Petitioner response: The PUD ordinance has been revised to default to the Zoning Ordinance except:*

- 1. Decorative Period Lighting is exempt from the sign regulations.*
- 2. In the Mixed Use District, light emitting surfaces may be visible for a residential lot.*
- 3. Decorative Period Lighting is exempt from the shielding requirement.*

**Article 7.** Let's go through the signage standards during our meeting today. I see a few things you are wanting to do that may not be permitted today, but our signage standards have been fairly workable, I just need to understand why the City's standards do not work for you.

*Petitioner response: Many of the signage standards in the Symphony PUD ordinance have been removed in order to default to the City's Zoning Ordinance.*

**Exhibit 1.** This exhibit is not required to be in the PUD ordinance. If you want to keep it in the PUD ordinance, please add the labels shown on the mark-up of the exhibit and refer to the exhibit in the PUD ordinance.

*Petitioner response: This exhibit has been removed from the Symphony PUD ordinance.*

**Exhibit 2.** This exhibit is not required to be in the PUD ordinance. If you want to keep it in the PUD ordinance, please add the labels shown on the mark-up of the exhibit and refer to the exhibit in the PUD ordinance.

*Petitioner response: This exhibit has been removed from the Symphony PUD ordinance.*

**Exhibit 3.** Change the name to District Plan.

*Petitioner response: The title has been changed to read, "Exhibit 1: District Plan" and the Symphony boundaries were added to exclude the Laufter property.*

**Exhibit 4.** Add the labels shown on the mark-up of the exhibit.

*Petitioner response: The symbol for the Village Boundary was added to the legend, labels were added for Shelbourne Road and 166<sup>th</sup> Street, and the underlying image of the map was updated.*

**Exhibit 5.** This exhibit is not required to be in the PUD ordinance. If you want to keep it in the PUD ordinance, please add the labels shown on the mark-up of the exhibit and refer to the exhibit in the PUD ordinance.

*Petitioner response: This exhibit has been removed from the Symphony PUD ordinance.*

**Exhibit 6.** This exhibit is not required to be in the PUD ordinance. If you want to keep it in the PUD ordinance, please add the labels shown on the mark-up of the exhibit and refer to the exhibit in the PUD ordinance.

*Petitioner response: This exhibit has been removed from the Symphony PUD ordinance.*

**Exhibit 7.** Adjust the labels shown on the mark-up of the street sections.

*Petitioner response: On Sections A and C labels were added for the travel lanes and parking areas. On Sections D through K labels were added for the travel lanes and planter areas. The exhibit was renamed "Exhibit 4: Street Sections."*

**Exhibit 8.** This exhibit is not required to be in the PUD ordinance.

*Petitioner response: This exhibit has been removed from the Symphony PUD ordinance.*

**Exhibit 9.** Add the Phasing Plan to the PUD ordinance.

*Petitioner response: The exhibit was renamed "Exhibit 4: Phasing Plan."*

**Attachment 1.** Change the title to Illustrative Concept Plan and add a legend addressing the color codes used in the drawing.

*Petitioner response: The attachment was renamed "Exhibit 3: Illustrative Concept Plan," and changes were made to update the land plan.*

**Attachment 2.** Reference this attachment in the PUD ordinance. Add language identifying that the buildings within Symphony will have equivalent quality to those shown.

*Petitioner response: The attachment name was changed to Attachment 1.*

**Attachment 3.** Reference this attachment in the PUD ordinance. Add language identifying that the buildings within Symphony will have equivalent quality to those shown.

*Petitioner response: The attachment name was changed to Attachment 2.*