



City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
August 28, 2012 – 7PM

AGENDA

1. Call to Order/Roll Call

2. Agenda Review

- 3. Consent Agenda:** Work session minutes 3/13/12,
Business meeting minutes 3/27/12,
Work session minutes 4/24/12,
Business meeting minutes 5/22/12
Work session minutes 7/10/12

4. Council Liaison Announcements

5. Staff Announcements

6. Community Comments

7. Old Business

a. Public Hearing – Sentinel Self- Storage Annex (SP 12-03) (Continued from 8/14 mtg)

The applicant proposes to build a 430 unit storage facility which will include open, covered, partially enclosed and fully enclosed units. The site is a part of the Langer PUD (PUD 95-01). This site is located on SW Langer Farms Parkway. The properties are zoned PUD- LI.

b. Public Hearing – Residences at Cannery Square (SP 12-04) (Continued from 8/14 mtg)

The applicant proposes to construct two multi-family buildings with a total of 101 units. The east building will be 3-stories with a total of 50,802 square feet and the west building will be 3-stories with a total of 53,227 square feet. The proposal will also provide for off-street parking and landscaping. This is part of the Cannery Planned Unit Development.

8. New Business

a. Public Hearing –Langer Farms Subdivision Appeal (SUB 12-02)

The applicant has requested preliminary subdivision approval to divide \pm 55.09 acres into five individual lots and two tracts for future development consistent with the Sherwood Village PUD 95-1. The Planned Unit Development was approved in 1995 without a preliminary plat. This proposal constitutes a separate application under the provisions of the Sherwood Zoning and Community Development Code (SZCDC).

9. Adjourn

Next Meeting: September 11, 2012

Consent Agenda



**SHERWOOD PLANNING COMMISSION MINUTES
March 13, 2012 - WORK SESSION**

WORK SESSION

- 1. CALL TO ORDER:** Chair Allen opened the meeting at 8:00 p. m.
- 2. COMMISSION MEMBERS PRESENT:** Chair Allen, Commissioner Walker, Commissioner Carey, Commissioner Copfer
- 3. STAFF AND LEGAL COUNSEL PRESENT:** Julia Hajduk, Brad Kilby, Councilor Clark
- 4. TOPICS DISCUSSED: Land Use Review (2 handouts provided)**
 - A. Land use decisions**
 - B. LCDC & LUBA**
 - C. Quasi-judicial**
 - D. Bias, conflict of interest & ex parte'**
- 5. ADJOURNED:** Chair Allen adjourned the Work Session at 9:00 p. m.

City of Sherwood, Oregon
Draft Planning Commission Minutes
March 27, 2012

Commission Members Present:

Chair Allen
Vice Chair Albert
Commissioner Copfer
Commissioner Albert
Commissioner Clifford
Commissioner Cary

Staff:

Julia Hajduk, Planning Manager
Brad Kilby, Senior Planner
Zoe Monahan, Assistant Planner

Commission Members Absent:

Commissioner Walker
Commissioner Griffin

Council Liaison – Councilor Clark

1. **Call to Order/Roll Call** – Zoe called roll
2. **Agenda Review** – No changes were made to the meeting agenda.
3. **Consent Agenda** – Contained February Work Session. Commissioner Copfer made a motion to approve the consent agenda item. Commissioner Albert seconded the motion. A vote was taken and all present were in favor. The motion passed.
4. **Staff Announcement** – Julia announced that this year’s Arbor Day celebration would be held April 20th at 2:00 pm. The location is a wetland area near the corner of Handley and Cedar Brook Way. The public is invited. There will be a Tonquin Trail Master Plan open house, May 23rd. The Planning Commission held a work session on legal issues. Julia felt it was very informative for those that attended and feels it could be beneficial to have a few more. Julia also announced and congratulated Zoe for completing her Master’s Degree program in Public Policy and Administration.
5. **City Council Comments** – Councilor Clark reported that at the previous City Council meeting there was a continuance on the tree canopy discussion and it has been given back to staff to make revisions. Julia added that the revisions would be brought back to Council May 1st, 2012.
6. **Community Comments** – No community comments were given.
7. **Old Business** – There was no old business on the agenda.
8. **New Business** –
 - a. **Sherwood Community Center SP 12-01, CUP 12-01, VAR 12-01 and VAR 12-02**

Chair Allen opened the public hearing on the Sherwood Community Center SP 12-01, CUP 12-01, VAR 12-01 and VAR 12-02. Chair Allen asked for any Ex Parte contact declarations or conflicts of interest. None were given. Chair Allen also reminded everyone that the job of the Planning Commission in this process is to determine if the application meets the zoning and development code criteria. While there may be other interesting factors in the proposal, making a decision about them is not the responsibility of the Planning Commission.

Brad Kilby started his staff report by explaining that the project proposed is remodeling the Machine Works Building (13,050 sf building) and parking lot #1, currently owned by the Urban Renewal Agency, into a mixed use community center. He noted that parking lot #2 was in the process of being purchased from the railroad.

The proposed use includes 28% as commercial space rented to private tenants (not exceeding the 40% permitted through the PUD). The public portion will include a 400 seat auditorium, prep kitchen, dressing rooms, lobby, and rest rooms. The applicant is proposing 2 associated parking lots – 1) on the site, 2) Rail Road right-of-way.

The application requires that the applicant obtain a Site Plan review approval, final development plan approval for PUD 09-01, a conditional use approval for the public use building within a retail commercial zone and accessory parking within the high density residential zone. A variance for the parking lot dimension and parking lot landscaping for the Rail Road parking lot will be discussed in the future.

Brad explained the plan views of potential parking lots 1 and 2. Lot 1 has two proposed layouts: 23 spaces with a drive through or 29 spaces without a drive through. Lot 2 includes 41 spaces and approx. 14,944 sq ft.

Building space is a total of 43,787 sf. Total off street parking spaces between lot #1 and lot #2 range between 64 – 70 spaces depending on which option is used for lot 1. The site is located in the Cannery portion of Old Town overlay. Based on code they will need to provide a minimum of 98 parking spaces. 64 on street parking spaces will be counted within 500 feet. The applicant maintains that they will provide a minimum of 128 and a maximum of 134. Brad noted that future phases of the PUD will also be required to provide 65% of minimum parking as they are developed.

Brad reviewed the proposed two variances. The first variance is a request to modify the dimensional standards of the parking lot. They want to reduce the depth of the stalls from 20' to 17' and the width from 9' to 8'11" which would allow them to maintain the required drive aisle width of 23'. The second variance would be to the minimum buffer standards. It would allow the buffer along Washington St. to be reduced from 10' to 7'.

Staff recommends approval of the proposal with the conditions noted in the staff report, but noted a few proposed revisions to conditions. Brad proposed modifying condition C6 to read: "The applicant shall provide plans showing a cross walk from parking lot 1 and 2 unless the City Engineer determines that it is not be feasible due to grading and ADA requirements." The applicant was required to make improvements to Washington Street and feel that they have done so. Related to the lighting plan, there was some fugitive lighting that was shining on residential property to the south. The applicant is proposing to shield the lights which will illuminate the light exiting the site, so Staff is comfortable removing the condition.

Jason Waters – Civil Engineering with the City of Sherwood spoke to the Commission and referred to condition C-6 which states that the applicant must provide half street improvements for the East side of Washington Street. Staff maintains that the conditions for the improvements will need to be kept.

Brad Kilby continued by saying the applicant has proposed changes to the façades and had given the changes to Staff on March 26, 2012. Staff has reviewed the proposed changes and their recommendations remain the same. Staff is not requiring that the entire building be bricked.

Chair Allen asked about clarification on parking. A discussion continued between Chair Allen, Julia and Brad. It was determined that on street parking within 500' is allowed to be counted as parking in this PUD. Parking within 500' counts, but the on street parking is generally adjacent to the development.

With no more questions of staff at this time Chair Allen opened the public hearing and asked the applicant to come forward for their testimony.

Jeff Sackett introduced himself as the applicant, with Capstone Partners LLC. He was in attendance with Keith Jones of HHPR the planner who prepared the application, Scott Wagner of Ankrom Moison who is the designer on the community center project and Jason Phifild of Ankrom Moison the project manager. Their team has a 4 year history with the City of Sherwood and its growth. The community center has been on everyone's mind for a great many years. This is a part of the Cannery Square PUD. Jeff extended many thanks to all who have participated in the planning. They are delighted to show you an actual real building that is almost funded and almost ready to build.

They were ready to discuss objections or concerns on some of the conditions but staff has worked with them cooperatively on adjusting some of the conditions that were appropriate and they agreed. They would like to waive their objection to C6 which had been voiced earlier. Our concern and confusion came from the PUD and sub-division process which had a long series of conditions attached to those approvals. They included constructing all the streets that have not been built, Columbia E & W, some work on Washington Street, some work on Willamette Street and Highland Drive. All of those were conditioned as a PUD. This also includes the Machine Works Building (Sherwood Community Center) frontage improvement on the East side of Washington Street but nothing beyond 3 foot of the gutter and curb line. The city wanted to recommend these conditions and therefore we wanted to waive our objections.

Mr. Sackett discussed that there is a "clash between vision and reality" and that the vision may be bigger than the URA has funds for. While the proposal for brick on the North and East sides is the vision, they have gotten a general contractor involved in the last couple of months to 1) flush out the design, 2) flush the true estimate of cost, (that has not been bid yet but will be soon), and 3) make a first class community center that works on the inside. He noted that the purpose of this building is on the inside where everything will be going on for the community so they were looking at places to trim the budget without diminishing the operations of the facility. What we asked our architects to do is to come up with options to reduce cost without hurting the functions of the inside of the building. We wanted to meet

both the letter and the spirit of the code and the architectural pattern book which was approved by this board as part of the PUD.

Scott Wagner, provided additional details on the building design and options for reducing the budget without diminishing the product

He referred to several illustrations which could reduce costs. He noted that use of these ideas could reduce the budget, but we have to keep in mind the codes; as an example, the number of windows is taken into account in the code.

- Option A (drawing) - existing north façade: lots of brick
- Option B (drawing) – removes or reduces several windows
- Option C (drawing)- entries are reduced in heights
- Option D (drawing)- do all of them

Other things to reduce costs: (pointing to illustration) planting and drainage with a less expensive idea. A tree and bench?, or a potted planter? Adding a 2nd story windows or storage? A corner entry?

Chair Allen asked for confirmation that Option D would have the least amount of brick and the least amount of window and so if we (the Planning Commission) find that this meets the code then all of the other options would meet the code. He also asked if the removal of the ticket kiosk, planter/drainage system would continue to meet the conditions of the original approval of the PUD. Mr Sackett indicated “yes” to both questions

Commissioner Clifford member asked if there would be anything for the roofline/rooftops (referring to the drawings). Mr. Wagner indicated “No”

Commissioner Carey asked how the different designs, would affect the design for future buildings and phases? Will the South and West side remain the same in design or are there any plans for “re-design”? Mr Wagner responded by stating that anything they build or remodel will blend in and not get in the way of the community vision.

With the applicant’s initial testimony over, Chair Allen asked for testimony on the issue.

Eugene Stewart, PO Box 534, Sherwood OR, testified that he owns the building across the railroad tracks from the building in question. He has 7 tenants but with visitors, that equates to 14 cars. He is concerned about the 400 seat auditorium. He would like to see a parking study completed to make sure that there is enough parking for this project and would not encroach on his tenants or any other resident or shop owner. As for Fire Department, he asked if fire hydrants would be located strategically so that hoses are not going across the railroad tracks. He also asked about where light rail would go if it came to town. He questioned how a drive thru for a bank would affect parking for this project. He is concerned that it is going to look like a “hodgepodge” if we approve this now and looking back on it later.

Frank Dorn 17427 SW Arbutus Drive, Beaverton OR, indicated that he owns multiple properties in Sherwood; 2 4-plexes on Washington street. He feels that Sherwood should stay in its Robin Hood type town and questions how this building is going to be part of old town if

there is a fence going all away across the rail road tracks that people can't get across unless you go down Pine street and go down Main street. He also raised questions about parking on Washington Street and whether this project would overload one side of the downtown community with parking, or 1 hour parking on Washington Street. His main concern is between Pine and Washington and how it will be connected to Old Town.

With no one else signed up to testify, Chair Allen asked for staff comments

Brad responded to the comments from Mr. Stewart and Mr. Dorn stating that there was no plan to provide a parking study. Parking was based on the 65% allowed in the Cannery portion of Old Town and approved through the PUD. If parking becomes an issue, then implementing timed parking with 15 minute to 1 hour in some areas might be reviewed but based on the proposal, it does not warrant a parking study.

As the SW Corridor planning is some way out we would not know where a light rail station would go.

ODOT would likely not allow putting separate pedestrian crossings crossing the Rail road crossing. People must cross where vehicles cross. At this time it is at Pine Street and Main Street connecting Old Town to the South Side.

Regarding the building design, the PUD has an approved architectural pattern book which stated specifically called out that this building was not going to be able to meet a lot of the Old Town design standards but try to bring it into compliance with the spirit of the code.

Jason Waters provided clarification on the Washington Street improvement conditions. He referred to Staff Report page 11 and 12, Condition E12, item A, stating that it does not affect this phase of the development.

Chair Allen asked how many parking spaces are there in Old Town Sherwood and if you don't know, what data is known on the supply of parking? What are the patterns of usage; time of day, day of week, that sort of thing? He indicated that he was persuaded by the public testimony to be concerned about the parking issue and given that there was no parking standard in Old Town, we should look into this issue. What would the spill over impact be? Should there be a condition to have a parking study performed as part of approval process?

Brad indicated that he was not sure if a parking study has ever been done and explained what a parking study would entail. He cautioned that the 65% parking requirement is in the code and was imposed at the time of the PUD and he was not sure if findings support a study as 65% meets the standards old cannery portion.

Julia agreed with Brad and added that there are no parking standards in the Smockville portion of Old Town and was not sure how to make a condition without findings since they are already meeting the standards.

Chair Allen noted that the general principle of 500 people accessing the facility raises concern if they don't know the impacts that would go outside the Cannery area. Could have a concern with an impact on parking beyond the boundaries of PUD and the Cannery overlay for Old Town and they do not know what those impacts would be and what the supply and demand

would be.

Brad recommended against imposing as a condition but considering a recommendation to council as an action item to discuss before other phases of the PUD are considered.

Commissioner Clifford questioned whether there had been any studies on the traffic and parking on Music on the Green since that is also a community event that somewhat replicates what we have going on here.

Julia indicated that no formal study had been done. Brad pointed out a memo from DKS (Exhibit C in packet), which summarized the land use and vehicle trip generation that was soon to develop west of Pine Street. The Cannery PUD traffic analysis included a conceptual site plan with 8100 sq foot of retail space and 8700 sq foot of community center west of Pine Street. Traffic studies are usually based on an event or an am vs. pm peak traffic time.

Commission Carey questioned future phases and whether allowances had been made for completely off street parking and no on street parking.

Brad indicated that the applicants will need to address this in future phases. The applicant can make the joint parking argument. The west phase would be a catalyst to create a need for parking.

Commissioner Carey asked "Where it says 30 on there in the West Phase, are we including parking lot for that potential commercial site?"

Brad replied yes, the applicant can make a joint parking argument as the community center is not in continued use

Commissioner Copfer asked for staff to put up the slide that shows the three conditions they were proposing to revise. It was confirmed that C-6 would stand as proposed, C-4 would be amended as written in the slide and C-10 would be removed.

Chair Allen proposed to add a parking study condition: C13 prior to final site plan approval completion of a parking study, identify supply and demand for parking in Old Town and projecting parking impact of the proposed development in Old Town outside the cannery overlay. He commented that there should be more study on the parking situation.

Commissioner Carey and Clifford agreed with Chair Allen

Commissioner Albert commented that he would have a hard time conditioning that. It is going against the code and putting more burden on the requirements.

Julia questioned what the study would mean to the project; after a study, what then, what happens then? She reiterated that she recommends against conditioning a parking study as it already meets standards.

Commission Copfer commented that it is better to get a study done now then find out down the road that there is a major impact after its implemented.

Chair Allen called a Break

After calling the Commission back into session, Chair Allen made a motion to amend the conditions of approval to add condition C13 – :Completion of a Parking Study Identifying Supply and Demand for Parking in Old Town, Projecting Impact of the Proposed Development in Old Town outside the Cannery Overlay.” He stated that this is needed to be able to identify impact outside the overlay. Seconded by Commissioner Copfer. If the parking study is negative, then we would know what the patterns of demands are and this would inform us for the future.

Commissioner Carey asked what the action would be as a result of the study. And what if it’s a negative result?

Chair Allen responded that it would be informative for future phases.

Commissioner Albert commented that this project is already meeting the requirements and we are going overboard with this condition. He asked if the applicant doesn’t like this, they can appeal it to the City Council? Julia confirmed this was correct.

Chair Allen called for the vote and the motion passed 3 to 2

Chair Allen asked if there were any other changes to the conditions, after first confirming there were no fundamental concerns with the project:

- Commissioner Clifford commented that he would like to see enhanced landscaping due to the limited landscaping. He would like to see it enhanced more, adding shrubs, landscape boulders, shading, etc. Commissioner Carey asked for classification on the lots. After discussion of whether there was a specific condition he proposed to amend, he stated that he did not proposed changes to the conditions.
- Chair Allen reviewed the issue of which elevation option they needed to review. The Commissioners discussed that if they can find Option D meets the standards, that meant the other options would also meet the standards. After discussion of whether Option D would require a variance. Brad read from the pattern book that addressed the Commission’s questions. If the Commission does not feel they meet the standards in the pattern book, the Commission should impose a condition for the north façade. Brad noted that, as proposed, they met the standards, so if the applicant wants other options to be considered, they should be conditioned to demonstrate compliance with the pattern book. After much discussion, Chair Allen summarized that they could be supportive of options up to and including Option B. Leaving the application as-is but if they determined to change the materials it would have to comply with the pattern book
- The Commission discussed whether they had to make a decision on the drive thru option. Brad reviewed that parking lot – 1A – without drive thru had 29 spaces and 1B with drive thru with 23 spaces. Both options meet the standards. Chair Allen asked if they need to approve one option or could they approve both since they both meet the standards. Brad confirmed that they could approve both and reminded the Commission that they would still need to go through final site review. Commissioner Clifford asked how Pride Disposal is effected with the options. Brad noted that they could have the roll out bins for pick-up but they would need to meet Pride Disposal standards.
- The Commission reviewed the slide with the conditions and confirmed:

- Elevation, no need to deal with elevation options as part of approval process
- Amends condition C4
- Removes condition C10
- Addition of condition C13 as discussed

Commission Copfer made a motion that the Sherwood Planning Commission approve the application for the Sherwood Community Center and Rail Road parking lot upgrade. Site Plan 12-01, Conditional Use Permit 12-01, Variance 12-01, and Variance 12-02, based on the applicant testimony, public testimony received and the analysis, findings and conditions in the staff report with the following modifications: Amendment to condition C4, removal of condition C10 and addition of condition C13 as discussed at the hearing. Commissioner Clifford seconded

The motion passed 3 to 2

Chair Allen asked if there was any other business to discuss. With none, **Chair Allen closed the meeting.**



**SHERWOOD PLANNING COMMISSION MINUTES
April 24, 2012 - WORK SESSION**

WORK SESSION

1. **CALL TO ORDER:** Chair Allen opened the meeting at 7:10 p. m.
2. **COMMISSION MEMBERS PRESENT:** Chair Allen, Commissioner Albert, Commissioner Griffin
3. **STAFF AND LEGAL COUNSEL PRESENT:** Julia Hajduk, Brad Kilby
4. **TOPICS DISCUSSED:**
 - A. **Commercial, Industrial and Public & Institutional Zones:**

Brad Kilby discussed proposed changes to the commercial, industrial, and public & institutional zones regarding the use tables and consolidation of charters. Discussion followed.

 - Reviewed packet materials dated 4/6/12
 - Power point presentation provided
 - B. **Code Clean-Up:**

Brad Kilby discussed the code clean-up progress and discussed upcoming development activity with the commission.
5. **ADJOURNED:** Chair Allen adjourned the Work Session at 8:30 p. m.

City of Sherwood, Oregon
DRAFT - Planning Commission Minutes
May 22, 2012

Commission Members Present:

Chair Allen
Vice Chair Albert
Commissioner Griffin
Commissioner Clifford
Commissioner Copfer
Commission Albert
Commissioner Walker
Commissioner Cary

Staff:

Julia Hajduk, Planning Manager
Michelle Miller, Associate Planner
Brad Kilby, Senior Planner

Council Liaison: Not present

1. **Call to Order/Roll Call** – Vice Chair Albert called the meeting to order. Roll call taken.

Absentees:

Chair Allen – will be ½ hour late

2. **Agenda Review** – No changes were made to the agenda
3. **Consent Agenda** – n/a
4. **City Council Comments** – none given
5. **Staff Announcements** – Julia provided staff announcements including:
 - The Grand opening of the Cannery Plaza will be June 2nd.
 - Open house of the Tonka Trail - Wednesday – 5:00 pm - 8:00 pm at Fire and Rescue Training Facility on Tonkin Road.
 - TSP Connectivity Refinement open house – May 31 at Police community room 5:00 pm - 6:30 pm regarding the Cedar Brook Way to Elway and Mienike and the Hwy. Property owners immediately affected have been notified but are open to the general public. Flyers are available.
 - Town Center Plan – Transportation Growth Management Grant received. The IGA has been sign and the project is ready to go and starting to form committees. Looking for a liaison from the Planning Commission for the stake holder advisory committee. Old town, six corners, 5 meetings in the course of the year, looking for a volunteer.
 - On May 2nd, council approved trees on private property clean up modification.
 - In 2008, the planning commission acting as land mark advisory board approved the demolition of red house off of 1st street. Sur-Pak is interested in moving forward with this. It has already gone through the landmark alteration review and the approval is still valid. The house may be demolished soon.
6. **Community Comments** –
 - **Susan Claus**, 22211 SW Pacific Hwy, Sherwood OR – It was her understanding that the meeting this evening was canceled. Would like a continuance as there will be a

number of people who are not here this evening that would be interested in participating. There are quite a few people who would be interested in attending.

7. Old Business – n/a

- 8. New Business – PA12-01 Commercial, Industrial, Public and Institutional Uses –**
This is a Public Hearing on those items; the purpose of this hearing is to provide the public an opportunity to submit testimony concerning this Code Clean-Up portion.

Staff Report – Brad Kilby – In response to public testimony – it was brought to his attention by another citizen calling to say that the city calendar showed that the meeting for this evening was canceled. The City website showed on the 8th that 57 people visited the website, not exclusively the calendar. It was in error that the calendar was not updated correctly. The meeting was still on the planning commission website, packet material was still there.

Julia Hajduk – There is a calendar page on the website that gives all the dates to events; council meetings, park board meetings, public notices, etc. We also sent out notices to 418 property owners in addition to the website. It was in error that the calendar was not updated correctly. Staff misunderstood which meeting was to be canceled.

Brad continued with his staff report by giving a recap of how the Code Clean-Up process has progressed. Including 3 work sessions, an open house and sending out a measure 56 notice. Measure 56 notices are sent out basically anytime you touch the zoning in any way that may or may not affect property value. We sent a notice to every commercial, industrial, public and industrial zoned property. We mailed over 418 notices with only around 20 returned. This proposal does not change anyone's zoning. The project goals are: 1) consolidate chapters, 2) ensure the nomenclature is the same across all similar districts, 3) proposing eliminating Chapter 16-24 - Office Retail Zone, 4) clarification how multi-family uses are permitted within commercially zone properties and 5) establish a use classification system. Brad gave detailed explanation on each goal.

1. Consolidate the chapters for simplicity – we have 3 chapters in the industrial zone, 5 in the commercial zone and 1 in public/institutional zone. Each zone has “allowed”, “conditional” and “prohibited” uses. They also have dimensional standards and possibly have additional guidelines or standards that apply specifically to that zone. What staff has done is consolidated the 4 commercial chapters and are proposing to eliminate the office/retail into a single commercial chapter and put all of the uses into a table with the same with the dimensional standards of the codes. The use table format is where you will see the most changes. Dimensions would be consolidated down to a single table to “allow”, “conditional” and “prohibited” per each zone.
2. As you go through the code, it's listed in alphabetically listed in allowed uses, conditional uses then prohibited uses. In some zones you see hospital and other areas you see hospital with emergency care facility. This should be consolidated to a general term of Hospital.
3. Proposing to eliminate Chapter 16.24 - office/retail - There are currently no properties deemed office/retail in Sherwood.
4. Proposing multi-family in a commercially zoned area. There are currently two ways to build multi-family structures on commercial properties 1) conditional use permit and 2) planned use development permit. There are design guidelines in some chapters and not in

others. We are proposing to allow multi-family housing out-right, not through a conditional use or planned unit development, but require it to be secondary to the commercial uses on site and subject to high density residential standards for density. This would just go across the board. It eliminates processes, could lead to more development that is much more attractive and provide housing for those people working in the community.

5. Proposing creating a classification system. A guidepost for staff with definitions broken down by zone; residential, industrial, commercial, etc. This will not to be used to make decisions but rather help make an interpretation, as an addition to code 16.88.

Brad summarized by saying the overall objective was not to create any non-conforming uses. In a study Brad looked at 127 businesses in different parts of the city and only found 8 non-conforming uses. Proposal would apply to Commercial, Industrial, Public and Institutional Use zones and amend to 16.88 the interpretation of similar uses. In some cases the uses were expanded, for example, the industrial zones we have included some limited commercial and personal service uses that were not previously allowed consistent with what metro allows now.

Discussion ensued between Commissioners and Staff clarifying possible changes and definitions on items like: large scale and small scale power generation, household pets vs. agriculture and recreational vehicle parks and trailer parks with overnight stays.

Vice Chair Albert mentioned that he had not asked in the beginning of the meeting if there were any potential conflicts of interest. Julia expanded on the definition of a conflict of interest vs. a potential conflict of interest.

Commissioner Cary stated that he could have a potential conflict of interest as he owns a business in Sherwood but does not own any land in the commercial or industrial zones.

With that, Vice Chair Albert moved to the public testimony portion of the meeting.

Tim Voorhees, PO Box 908, Sherwood OR – Owner of Steel Tek Industries. One of his concerns was how many other commercial/ industrial property owners did not attend this meeting and voice their opinions because they looked at the calendar and thought the meeting was cancelled. He deals with cities and their codes all the time. He has difficult time with interpretation of zoning laws with the City of Sherwood. His example was from the Industrial/Commercial: he read “General retail use **may** include but are not limited to..” Why not be direct and say what we can do or not do on our properties. See Industrial page 4 of 8. Under Industrial: “Mini warehouse, housing and self-storage, light industrial – not permitted”. He believes if you refer back to the interpretations under industrials and it says “maybe”. He would prefer wording such as will or will not, rather than “may”. He also had concerns over the inconsistency of non-numbered pages.

Eugene Stewart, 22595 SW Pine Street, Sherwood, OR – His main concern is the process that is followed during the hearing. He feel that the City does not allow the involvement of the citizens enough and that they would like to have some input and an opportunity to voice their opinions. He received a measure 56 notice with the wording “may affect you property value”, and was frustrated about not having details whether his value would be effected or not.

He stated that the in the old process he was involved in there was more public involvement and he felt it worked better.

Commissioner Walker responded to Mr. Stewart's testimony by listing the many ways notice is posted and mailed to let people know that there will be meetings held on different issues and that they would love more citizen involvement. She invited him to write some suggestions he may have on how to reach more citizens.

Tim Voorhees, PO Box 908, Sherwood OR – Owner of Steel Tek added additional testimony: Something he would like the City to take a look at is if someone comes in for a conditional use permit or asks for permission to do something on their land and they have to go back through and read all the material. He believes the staff gets paid to do the work to go make decisions against the applicant. All the research he has to do takes away from the profit of his business. He sees that if a property owner comes in and brings up a point; the city has attorneys and staff pitted against the property owner.

Susan Claus, 22211 SW Pacific Hwy, Sherwood OR – she asked if before the clock be started if she could ask a couple of questions: 1) the staff made mention of a survey they did of existing commercial property and found that these changes did not increase the non-conformity. She asked if that is part of the record. 2) She stated that the proposal would apply to all commercial, industrial and institutional of public use zones but that it is not mentioned the Langer PUD. She continued by saying that none of this applies to the Langer PUD. They have "grandfathered" zoning that goes back to 1995. They have 57 acres of industrial land that they use as commercial uses. She feels that when the codes are put together people act like they are just amorphous changes, but that they do have very serious impacts. At this point Susan asked for a continuance since she thought the meeting was cancelled she does not have all of her material together and believes two of their properties will be highly impacted by changes suggested in this code. She would like for this to be heard by the Planning Commission. Directing a comment to Commissioner Walker about comments she made earlier about public involvement Mrs. Claus voiced her concern about lack of time for the public to respond, since the staff report does not come out until 7 days before the formal hearing. When written materials are submitted by the public there is no verification that any Commissioners or City Council members have read the material. Citizens only receive 5 minutes to speak but are not given a chance to make a counter point after other testimony has been given. There are only 2 pieces of property on the highway that are impacted. Most of the general commercial that is left to be built is on the highway. She does not feel this is addressing the whole town but just the properties on the highway. there is now another Transportation System Plan amendment that will drive a road through those remaining properties on the highway. She would like to have an opportunity to speak in front of the citizens. She believes people do not show up because they are afraid or disgusted or they don't want to speak up. She feels that even if you try to sell your property, you have no idea what the staff is telling a potential buyer. Since the Planning Commission decision is only a recommendation she does not know if a language change will do any good.

Discussed was held regarding the request for a continuance. Julia updated Chair Allen on the calendar issue that showed this meeting had been cancelled. The meeting is legislative and a recommendation to the City Council. There were 418 notices to property owners as well as posting the notices around town. The Commissions considered the ramifications of continuing the hearing.

An additional blue card was submitted for public testimony and was allowed.

Susan Russell, 22852 SW Forest Creek Drive #101, Sherwood OR – she has been in communication with Brad as she was one of the 418 notices sent out that did not get delivered due to a bad address. She currently lives in the Woodhaven Crossing community which includes commercial and residential property. People there consider her the manager and seek her out if they don't understand issues within the community as she is in contact with the HOA frequently. She tried to understand if the changes would affect the property values of any of the homeowner in that community. She would like to request a continuance and allow one more public hearing that is put on the calendar and allow the homeowner's time to read the documents available.

The commission discussed the requests for continuation. Julie reiterated her staff recommendation which is that it would not hurt to continue the hearing.

Commissioner Cary asked what the pros and cons would be for taking out the conditional uses and only having permitted and non-permitted uses.

Brad's response was that generally conditional uses are uses that would not be permitted outright in a zone because they may or may not be compatible. Until something is submitted there is no way to know what would be proposed and how the property would be used and how it could affect neighboring properties.

Brad continued by saying he feels his job is not to put obstacles in front of people that want to develop, but rather to help facilitate development and if it is a permitted use he will try to help set it up so it can move through the process simply, if it is a conditional use he will try to help understand what the citizen's concerns are going to be, so they can be adequately addressed. If it is not a permitted use he will convey that at the counter so that time and money are not wasted pursuing something that is not allowed.

Chair Allen: Move to continue PA12-01 Commercial and Industrial and Public uses code update to the meeting of June 12 and return to the order of public testimony.

Commissioner Cary seconded the motion. A vote was taken and all present were in favor. The motion passed.

Chair Allen commented that he feels that the Planning Commission has made some great steps to try to broaden public input. As Commissioner Walked mention the Commission has expanded the public notice to 1000' which is one of the largest notice ranges in the entire state. That was changed after receiving public input. The public notice signs have been changed to make it easier to see that something is going on and figure out how to engage in the process. He does agree that the Commission needs to do more, but that it is a body and a process that is geared to encourage public testimony and takes it into consideration.

Vice Chair Albert closed the meeting



Home of the Tualatin River National Wildlife Refuge

**SHERWOOD PLANNING COMMISSION MINUTES
July 10, 2012 - WORK SESSION**

WORK SESSION

1. **CALL TO ORDER:** Chair Allen opened the meeting at 8:00 p.m.
2. **COMMISSION MEMBERS PRESENT:** Commissioner Griffin, Commissioner Clifford, Commissioner Allen, Commissioner Walker, Commissioner Carey, Commissioner Copfer (pending re-appointment)
3. **STAFF AND LEGAL COUNSEL PRESENT:** Julia Hajduk, Chris Crean, James Copfer – pending re-appointment.
4. **TOPICS DISCUSSED: Legal Training**
 - A. Chris Crean reviewed the materials Pam Beery handed out 3/13/12 at the first of a series of legal trainings with the commission. He reviewed the difference between quasi-judgment and legislative actions. He also focused on quasi-judicial criteria, findings and evidence in the record.
5. **ADJOURNED:** Chair Allen adjourned the Work Session at 9:30 p. m.

Old Business Agenda Item

7.a

MEMORANDUM

City of Sherwood
22560 SW Pine St
Sherwood, OR 97140
Tel: 503-625-5522
Fax: 503-625-5524
www.sherwoodoregon.gov

Mayor
Keith Mays

Council President
Dave Grant

Councillors
Linda Henderson
Robyn Folsom
Bill Butterfield
Matt Langer
Krisanna Clark

City Manager
Joseph Gail

DATE: August 20, 2012
TO: Sherwood City Planning Commission
FROM: Brad Kilby, AICP Senior Planner
SUBJECT: Sentinel Storage Facility

The purpose of this memorandum is to answer some of your questions as they pertain to the public hearing that was continued on August 14th to the meeting on August 28th regarding the proposed Sentinel Storage Facility SP12-03.

Specifically, the Planning Commission requested additional information regarding the following items:

- Secondary Fire Access
- Question of ownership
- National Fish and Wildlife comments
- ADA Access to the bathroom
- Fueling station regulations and licensing
- Turn Around
- Permanent communication line
- Video Surveillance

Some of the items listed deal with the specific operations of the facility, and the applicant has submitted a memorandum that is included within your packet that will speak to the operational issues. Staff specifically contacted several agencies to discuss the items that are more directly concerned with the land use itself. The findings of that research are discussed below.

Secondary Fire Access/Turn around – The SZCDC requires on-site circulation, but does not require a turn-around or secondary access to the facility. In speaking with Deputy Fire Marshal John Wolff, the Fire District recommended to the owner that they provide a secondary access but their code does not require a secondary access. Mr. Wolff indicated that a secondary access is always recommended as a proven benefit to safety and firefighting operations; however, it is not required in this instance. From an emergency access standpoint, fire trucks



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2006
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would be able to get on the site and turn around; therefore, an additional turn around on the access drive is not necessary. The applicant has proposed additional signage within their testimony that staff supports.

Question of Ownership – The SZCDC only requires that the owner, or a legal representative sign the application prior to the application being accepted for review. The City does not mandate ownership of businesses or land, and it is not clear what the concern raised by one of the opponents is, or has to do with this application. Even though the applicant/owner is referring to the operation as an annex, it is clear in staff's mind that the business could function on its own, and the question of who owns the business is not germane to the review of the application provided it meets all of the local, state and federal requirements as they pertain to the use of the land. Specifically, an office is not required for this use. Although an office may be customarily associated with the use, and may someday be necessary if the site were to be operated independent of the main facility on Tualatin-Sherwood road, modifications to site plans are permitted pending additional review, and an office could be added separately.

National Fish and Wildlife Comments – A representative of the National Fish and Wildlife Service from the Tualatin River Wildlife Refuge, specifically, Erin Holmes, the Manager of the Refuge, was contacted regarding the proposal. She indicated that they would typically not comment unless the project was in their acquisition area which is adjacent to Rock Creek and includes the Onion Flats. Staff mentioned that the resource that runs adjacent to the project may be a tributary of Rock Creek to which she replied that their concern would be storm water and invasive species management. Erin mentioned that they would defer comment regarding those items to Clean Water Services and the City for those items given the project location.

ADA access to the bathroom – The City Building Official, Scott McKie indicated that the bathroom would be required to be ADA compliant. He said that it would not be likely that a 6-foot by 6-foot space would be large enough for an ADA bathroom given that there would be a requirement for a five foot clear turning radius within the restroom and the need for a setback of the toilets and cabinets, but he has not reviewed the design. He didn't think that the bathroom would have to be significantly larger to be ADA accessible, but that he has not evaluated a specific design for the bathroom. The Commission might consider adding a condition that requires the applicant to modify the site plan to reflect an ADA compliant bathroom that still meets setbacks and circulation requirements.

Fueling regulations and licensing – The Oregon Department of Environmental Quality was contacted about the diesel and propane fueling station that is proposed. As mentioned at the hearing, one of the general conditions in all of our approvals is that the applicant is responsible for obtaining any required state or federal permits as we do not specifically review a proposal

against other agency regulations. To that end, the two divisions that would potentially have regulations that pertain to fueling are the air quality and underground tank facilities. In both cases, the local liason for those divisions, Johnny Baumgartner and Greg Toran have indicated that this facility would not likely require either approval unless they were dispensing gasoline (as opposed to diesel) or the tanks they were dispensing from were placed underground. The building official indicated that he would review the set up for seismic loads and attachment.

The remaining agency would be the Tualatin Valley Fire District, and they do in fact have a permit that would be required. According to John Wolff, the Deputy Fire Marshal and TVFR liason to Sherwood, the applicant has been in contact with the district regarding a permit, and that it is not uncommon for the District to review and approve such permits. They will look at such things as tank design, piping, vehicle impact protection (i.e. bollards), separation requirements, spill containment, secondary containment, venting, drainage control, and other items.

Staff continues to recommend approval of the application based on the findings in the staff report, subject to the recommended conditions of approval.

Attachment 1 –Letter sent via e-mail from Chris Goodell at AKS Engineering and Forestry dated August 20, 2012.

Attachment 2 – Letter delivered to City staff on August 16, 2012 by Gary Langer.

August 20, 2012

VIA EMAIL ONLY

Patrick Allen, Chair
City of Sherwood Planning Commission
c/o Brad Kilby, AICP - Senior Planner
City of Sherwood Planning Department
22560 SW Pine Street
Sherwood, OR 97140

RE: City of Sherwood File No. 12-03 – Sentinel Self-Storage Annex – Site Plan Review

Dear Chair Allen and Members of the Planning Commission:

Sentinel Self-Storage has a tremendous amount of experience operating a self-storage business. The owners and employees understand the details of operating a self-storage business and take great pride in the fact that they have provided excellent service to its customers over the past 15 years in the City of Sherwood. The purpose of this letter is to describe some of the basic operational characteristics of the business in order to provide the Planning Commission with an improved understanding of how the business will function and operate at the Sentinel Self-Storage Annex site.

Business Overview

The proposed Sentinel Self-Storage Annex is unlike any other facility that exists in Sherwood today. It offers a wide variety of options for safe, secure, and convenient storage that will meet the needs of local business and residents. Individual secure storage units of multiple sizes as well as climate controlled storage units will be provided. Areas for storage of recreational vehicles are also featured, with over 90 percent of the spaces being covered. Other amenities proposed for the facility include a protected RV fueling and washdown station, vacuum, air compressor, and restroom. The owners' believe that these types of amenities, as well as the level of care provided by management and employees will make the Sentinel Self-Storage Annex the premier facility of its kind in the area.

It is envisioned that the Sentinel Self-Storage Annex will operate in conjunction with the existing Sentinel Self-Storage business, capitalizing upon its management experience and knowledge as well as existing local employees' skills. However, as described herein, successful operation of the Sentinel Self-Storage Annex in no way depends upon the existing Sentinel Self-Storage site. In other words, both are perfectly capable of standing on their own, separately, without shared management or operations.

Site Entry / Turn Around

- The driveway is provided for private use for access by customers of the self-storage business and not for access by others.

- Appropriate informational signage will be provided at the entryway to notify parties that the access is not a public way and is provided solely for the use of business customers and that a turn-around is not provided.
- An electronic keypad / call box will be provided at the gated entry to permit access to the facility for authorized parties. In the event that that access is unable to be obtained from the keypad / card-swipe, customers will be able to utilize the call box (land line connection to business management) provided or their own personal mobile phone to contact a representative from the business. A business representative will be available 24 hours a day / 7 days a week to accommodate any such issues including allowing access remotely and/ or a trip to the site if necessary to address such an issue.
- It is an extremely rare occurrence that such calls are placed.

Gasoline and Propane Fueling Facility

- Many owners of larger bus type recreational vehicles (Class C motor coaches) struggle to find convenient access to fuel and propane locally. This facility will offer both.
- The fueling facility will be operated only by management and employees of the business in a manner similar to all gasoline fuel stations in Oregon. In the case of Sentinel Self-Storage Annex, customers will be able to contact the business ahead of time or at the time the service is desired and owners / employees of the business will pump gas for customers.
- The propane filling facility will operate in a comparable manner to other similar facilities that are licensed and found throughout Oregon. The customer must request propane service from the business and an appropriately licensed employee / operator of the business will perform the fueling. A liquefied petroleum gas company license will be obtained for the business and the appropriate liquefied petroleum gas fitter licenses will be obtained for the operator(s) from the Oregon State Fire Marshal (agency having permitting authority) and all applicable statutes, rules, and fire life safety codes will be implemented and adhered to.
- Even if security of these facilities was not a requirement of these licenses, they would certainly be locked to prevent unapproved use. Loss of expensive fuel by theft would be extremely detrimental to the business.

Climate Controlled Building

- The climate controlled building provides customers with the opportunity to securely store climate sensitive items that must be kept within certain temperature and/or humidity ranges. The building is not an office. Entry into the building will be obtained by customers having leased units within the building by keypad or swipe-card access. An open corridor, illuminated naturally by windows and lighting will provide access to the individual climate controlled units.

Security and Video Surveillance

- Security cameras, strategically located throughout the facility will ensure that the entire site is under surveillance. Specifically, there will be dedicated video surveillance of the washdown station to protect the many assets provided for customer use and keep vigilant watch of the sewer dump and fueling stations.

Thank you for your consideration of this information. The project and ownership team hope that this information is helpful to you while considering the merits of the application. The volunteer effort that each one of you put forward to our community is deeply appreciated.

Sincerely,

AKS Engineering & Forestry, LLC

A handwritten signature in black ink, appearing to read "Chris Goodell". The signature is fluid and cursive, with a large initial "C" and "G".

Chris Goodell, AICP, LEED^{AP}
Associate

August 16, 2012

Attention: Brad Kilby and Julia Hajduk

Attached is my rebuttal on the Planning Commission meeting of August 14, 2012, regarding Sentinel Self Storage Annex Application. This rebuttal will clarify some of the issues the Planning Commission needs to be aware of in order to sort out the facts that were led astray by one opponent and his wife. More than six community members responded with full involvement and positive remarks.

Sherwood is a growing community and because of the CC&R's in new subdivisions, this self Storage Development plan will meet the needs and provide solutions for storage in the Sherwood community.

Please include these comments in the public records for the Sentinel Self Storage Annex.

Regards,



Gary W. Langer
17384 SW Timber Crossing Lane
Sherwood, OR 97140

Home Phone: 503-625-5556

Cell Phone: 503-318-7965

City of Sherwood

Planning Commission

Open Record Submittal for Sentinel Self Storage Annex Application 8/14/12

The 8/14/12 Planning Commission hearing for Sentinel Self Storage generated several bits of intentionally misleading testimony from Opponents that need attention. I offer this information to help the Planning Commission stay on course and do their job without the fear that could sometimes be created by such misleading testimony. Following is a list of the meritless testimony that was thrown into the air with aspirations of causing doubt and distraction from making a Code based Land Use decision:

1. **Home Depot & Sentinel Self Storage were somehow illegally built against Zoning and Code language at the time.** - Both projects were built per Code and Zoning requirements. This comment is pure slander about two projects built over 10 years ago. Since most of the current Planning Commissioners were not involved in City Government during that time the opponent mentioning this, hopes the Planning Commission will believe and cast doubt on the Applicants integrity.
2. **Sentinel Self Storage ownership vs. Langer Family LLC ownership regarding the word "Annex" in the title of the application.** - This has nothing to do with a Land Use decision and is irrelevant regardless. Clearly a sign the opponent is grasping at ways to distract the Planning Commission.
3. **Sanitary Sewer Spillage** - An RV user could accidentally or intentionally dump their sewer anywhere at any time around Sherwood. This project actually offers a better solution so users have an easy place to dump their tanks conveniently located in the heart of Sherwood. The grading and concrete structures provide a safe dump station that will be an amenity for Sherwood.
4. **"They don't know what they are doing...."** - Sentinel Self Storage has been a successful Sherwood business since 1997. Anyone making a statement of this nature is clearly misinformed and simply trying to distract the Planning Commission from their job.
5. **There is "well water stored" in the farm field** - The opponent is trying to say that a City well will be short of ground water because of this project. There isn't a City well anywhere near this site. This statement completely lacks merit and is another feeble effort to distract the Planning Commission.
6. **Landscape ordinance is not met because of some creative use of the term Annex in the application title** - The opponent is clearly misinformed. This application meets all Code


requirements with conditions per the Staff report. This is another meager attempt to discredit the Applicants integrity.

7. **Fish and Wildlife have not been contacted** - This has no bearing on the Planning Commission's job in making a Land Use decision. The applicant has acquired a permit from the Army Corps of Engineers and Clean Water Services as is a standard requirement in applications of this nature and as conditioned by Staff prior to issuing building permits. This is another attempt to distract the Planning Commission from the actual pertinent facts in this application.
8. **Statement of Economic Interest for Matt Langer** - This has no merit or relevance with the Land Use decision process. This is just another desperate effort to distract the Planning Commission and degrade the Applicant's integrity.
9. **These are not covered RV parking spaces** - Over 90% of the parking spaces are covered. This is a facility unlike any other in Sherwood that offers covered parking with dump station, vacuum, air compressor, restroom, etc.

Going forward I hope the Planning Commission is able to sort through the opponents' baseless attacks and make an informed decision regarding the Application. One opponent last night actually said he wished no additional tax dollars or City resources would be wasted on decisions of this nature, but it is senseless ranting of this type that have that precise result. The reality is this project has followed all Code/Permit requirements and will generate much needed property tax revenue while providing a state-of-the-art storage facility loaded with amenities unlike any in our region including elaborate security systems and use of technology.

The same opponents that raised these concerns above will likely submit additional concerns of this nature into the record prior to 8/28/14. Please recognize such data for what it truly is and move business forward according to Code based facts.

I wish Planning Commissioners the best and thank them deeply for the volunteer effort they put forward to our community.

Sincerely,

Gary Langer



Old Business
Agenda Item
7.b

City of Sherwood
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Mayor
Keith Mays

Council President
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Councilors
Linda Henderson
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Matt Langer
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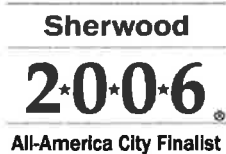
City Manager
Jason Gall



2009 Top Ten Selection



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DATE: August 20, 2012

TO: Sherwood City Planning Commission

FROM: Brad Kilby, AICP Senior Planner

SUBJECT: Residences at Cannery Square

The purpose of this memorandum is to provide you with an amended list of conditions based on your discussions at the August 14th hearing for SP 12-04.

Staff has highlighted the conditions that were changed, and continues to recommend approval of the application based on the findings in the staff report, subject to the recommended conditions of approval. The recommended conditions would be as follows:

VI. CONDITIONS OF APPROVAL

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. This land use approval shall substantially comply with the submitted preliminary site plans dated May 8, 2012 prepared by HHPRE Engineering except as indicated in the following conditions of the Notice of Decision. Additional development or change of use may require a new development application and approval.
3. The developer/owner/applicant is responsible for all costs associated with private/public facility improvements.
4. This approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. An on-going condition of the approval is that the site be maintained in accordance with the approved site plan. In the event that landscaping is not maintained, in spite of the assurances provided, this would become a code compliance issue.

6. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
7. A temporary use permit must be obtained from the Planning Department prior to placing a construction trailer on-site.
8. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies even if not specifically required by this decision.

B. Prior to issuance of grading or erosion control permits from the Building Department:

1. Obtain City of Sherwood Building Department approval of grading plans.
2. Provide an Erosion and Sediment Control Plan that is consistent with the applicable requirements of CWS and or the DEQ for the duration of construction.

C. Prior to Final Site Plan Approval:

1. Submit the required final site plan review fee along with a brief narrative and supporting documents demonstrating how each of the final site plan conditions are met.
2. Prior to final site plan approval of the east or west residential development, the developer shall provide an agreement for approval by the City that requires an on-site manager for the residential buildings. The on-site manager will be required to ensure that tenants understand the parking limits prior to entering into a lease agreement, and understand and adhere to the approved parking locations.
3. Prior to final site plan approval submit revised plans showing that the developer will install a 6-foot tall fence, wall or evergreen screen along the east property line of the east residential building site, and the west property line of the west residential building.
4. Obtain construction plan approval from the Engineering Department. If the City's schedule for construction of the regional storm water quality facility coincides with the construction schedule of this phase of the site development, the applicant may then take advantage of the regional storm water quality facility and pay a fee in-lieu-of amount of \$15,000.00 and not construct the on-site water quality treatment facilities. Otherwise the applicant shall construct on-site storm water quality treatment facilities that comply with City of Sherwood and CWS standards and.

D. Prior to Issuance of a Building Permit:

1. Prior to the issuance of building permits for the east and west residential buildings, the applicant shall submit revised drawings that illustrate an enhanced decorative treatment of the southeast portion of the buildings and/or sites facing SW Willamette St. Such architectural revisions shall involve variations of texture, materials, patterns, and color which are distinct yet complementary to the buildings, or shall include brick or stone elements which serve to add visual interest to the portion of the project visible from SW Willamette St.
2. Receive Sherwood Engineering Department approval of engineering plans for all public improvements and/or connections to public utilities (water, sewer, storm water, and streets).
3. Obtain approval from the Engineering Department for storm water treatment.
4. Obtain a Storm Water Connection Permit from Clean Water Services.
5. Obtain final site plan approval from the Planning Department.
6. Provide evidence in writing from the fire marshal that the applicant has submitted evidence demonstrating that the existing water lines will provide at least 20 psi of dedicated water service.
7. The applicant shall provide evidence in writing from the fire marshal that the requirements within his comments have been satisfied by the proposed development.
8. Provide a set of plans that clearly demonstrates compliance with the pitch of the roof as permitted by the approved architectural pattern book.

E. Prior to Final Inspection of the Building Official & Certificate of Occupancy:

1. Provide public utility easements for the water meter and the FDC vault and assembly in conformance with City standards.
2. All public improvements shall be completed, inspected and approved, as applicable, by the City, CWS, TVF&R, TVWD and other applicable agencies.
3. All agreements required as conditions of this approval must be signed and recorded.
4. All site improvements including but not limited to landscaping, parking and site lighting shall be installed per the approved final site plan and inspected and approved by the Planning Department.
5. All other appropriate department and agency conditions have been met.

F. On-going Conditions:

1. An on-going condition of the approval is that the site be maintained in accordance with the approved site plan. In the event that landscaping is not maintained, in spite of the assurances provided, this would become a code compliance issue.
3. Install all site improvements in accordance with the approved final site plan.
4. The applicant shall continue to comply with the conditions of approval. Including those which were established as a part of the PUD 09-01.

New Business
Agenda Item
8.a



MEMORANDUM

City of Sherwood
12930 SW Pine St
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Mayor
Keith Maki

City Manager
Dave Lamm

City Clerk
Linda Anderson
Public Works
Bill Griffiths
Planning
Mark Gage
Police
Rick Hays

City Council
12930 SW Pine St

DATE: August 20, 2012
TO: Sherwood City Planning Commission
FROM: Brad Kilby, AICP Senior Planner
SUBJECT: Langer Subdivision Appeal

This is a friendly reminder that the packet items for the Langer Subdivision appeal were previously sent to you on July 17th for the July 24th meeting that was rescheduled. If you need new materials, please contact staff, or refer to the online packet found at:

http://www.sherwoodoregon.gov/sites/default/files/files/city_boards/planning_commission/pc_packet/2012/7-24-12/PC%20Packet%20July%2024,%202012%20REVISED.pdf

Thank you for your time.



2009 Top Ten Selection



2007 18th Best Place to Live

Sherwood

2006

All-America City Finalist

Sherwood Planning Commission Meeting

Date: August 28, 2012

Meeting Packet

Approved Minutes

Date Approved: October 23, 2012

Request to Speak Forms

Documents submitted at meeting:

Sentinel Storage presentation - Ex 1

Residences @ Conney Square presentation - Ex 2

Lange Farms Subdivision presentation - Ex 3

Claus Written Testimony - Ex 4

In any City forum or meeting:

- Individuals may not impugn the character of anyone else, including but not limited to members of the community, the reviewing body, the staff, the applicant, or others who testify. Complaints about staff should be placed in writing and addressed to the City Manager. If requested by the complainant, they may be included as part of the public record. Complaints about the City Manager should be placed in writing and addressed to the Mayor. If requested by the complainant, they may be included as part of the public record.
- Comment time is 4 minutes with a Commission-optional 1 minute Q & A follow-up.
- The Chair of a meeting may have the ability to modify meeting procedures on a case-by-case basis when especially complicated issues arise, or when the body is involved in extraordinary dialogue, but only after receiving the advice and majority consent of the body. The Chair may also cut short debate if, in their judgment, the best interests of the City would be served.

(Note: Written comments are encouraged, and may be submitted prior to the meeting by mail, or at the meeting. There is no limit to the length of written comment that may be submitted)

Persons who violate these rules may be asked to stop their comments by any member of the body. Community Comments beyond the 4-minute limit may not be included in the record of the meeting. Persons who impugn the character of anyone will be required to stop immediately. Their comments will not be included in the record of the meeting, and they will forfeit their remaining time. Any person who fails to comply with reasonable rules of conduct or who causes a disturbance may be asked or required to leave and upon failure to do so becomes a trespasser.

I have read and understood the Rules for Meetings in the City of Sherwood.

Date: 8/28 Agenda Item: Sentinal / Langer Subdivision Appeal

Please mark your position/interest on the agenda item
Applicant: Proponent: Opponent: Other

Name: Gary Langer

Address: 17384 SW Timber Crossing

City/State/Zip: Sherwood, OR 97140

Email Address: g.langer@frontier.com

I represent: Myself Other

If you want to speak to Commission about more than one subject, please submit a separate form for each agenda item.

Please give this form to the Recording Secretary prior to you addressing Planning Commission. Thank you.

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I have read and understood the Rules for Meetings in the City of Sherwood.

Date: 8/28/12 Agenda Item: Sentinel

Please mark your position/interest on the agenda item

Applicant: Proponent: Opponent: Other

Name: Wes Freadman

Address: 21315 SW Baler Way

City/State/Zip: Sherwood, OR 97140

Email Address: Wfreadman@belcorp.com

I represent: Myself Other

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- Comment time is 4 minutes with a Commission-optional 1 minute Q & A follow-up.
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Date: 8/28 Agenda Item: 12-03 *Sentinel Storage*

Please mark your position/interest on the agenda item

Applicant: Proponent: Opponent: Other

Name: CHRIS GOODELL

Address: 13910 SW GALOREATH OR #100

City/State/Zip: SHERWOOD OR 97146

Email Address: chrisg@aks-eng.com

I represent: Myself Other

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Date: 8/29/12 Agenda Item: Sentinel Self Storage

Please mark your position/interest on the agenda item

Applicant: Proponent: Opponent: Other

Name: Leanna Knutson

Address: 17052 SW Pebble Ct.

City/State/Zip: Sherwood, OR 97140

Email Address: leanna@innovationsmgmt.com

I represent: Myself Other

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I have read and understood the Rules for Meetings in the City of Sherwood.

Date: 8/28 Agenda Item: Sentinel Store

Please mark your position/interest on the agenda item
Applicant: Proponent: Opponent: Other:

Name: Sandy Rome

Address: 14645 SW Williams

City/State/Zip: Sherwood OR 97140

Email Address: _____

I represent: Myself Other

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Date: Aug 28th Agenda Item: Community Comment (C)

Please mark your position/interest on the agenda item
Applicant: _____ Proponent: _____ Opponent: _____ Other: _____

Name: P. CRAIG

Address: Sherwood

City/State/Zip: _____

Email Address: _____

I represent: Myself _____ Other

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I have read and understood the Rules for Meetings in the City of Sherwood.

Date: 8/28 Agenda Item: Cemetery Project

Please mark your position/interest on the agenda item
 Applicant: Proponent: Opponent: Other:

Name: Sandy Rome

Address: 14645 SW Willamette

City/State/Zip: Sherwood

Email Address: _____

I represent: Myself Other

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Date: Aug 20th Agenda Item: 8(a) Langer Sub Appeal

Please mark your position/interest on the agenda item

Applicant: Proponent: Opponent: Other

Name: R. CLACKS

Address: Sherwood

City/State/Zip: _____

Email Address: _____

I represent: Myself Other

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Date: 8/28/2012 Agenda Item: 8a - Langer Farms Subdivision Appeal

Please mark your position/interest on the agenda item

Applicant: Proponent: Opponent: Other

Name: Seth King

Address: Perkins Coie LLP, 1120 NW Couch St, Tenth Floor

City/State/Zip: Portland OR 97209

Email Address: s.king@perkinscoie.com

I represent: Myself Other

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SP 12-03

Planning Commission Public Hearing

August 28, 2012 (Continued from 8/14/2012)

Sentinel Self Storage Annex

8/28/12
Date

Planning Comm
Gov. Body

7a
Agenda Item

1
Exhibit #

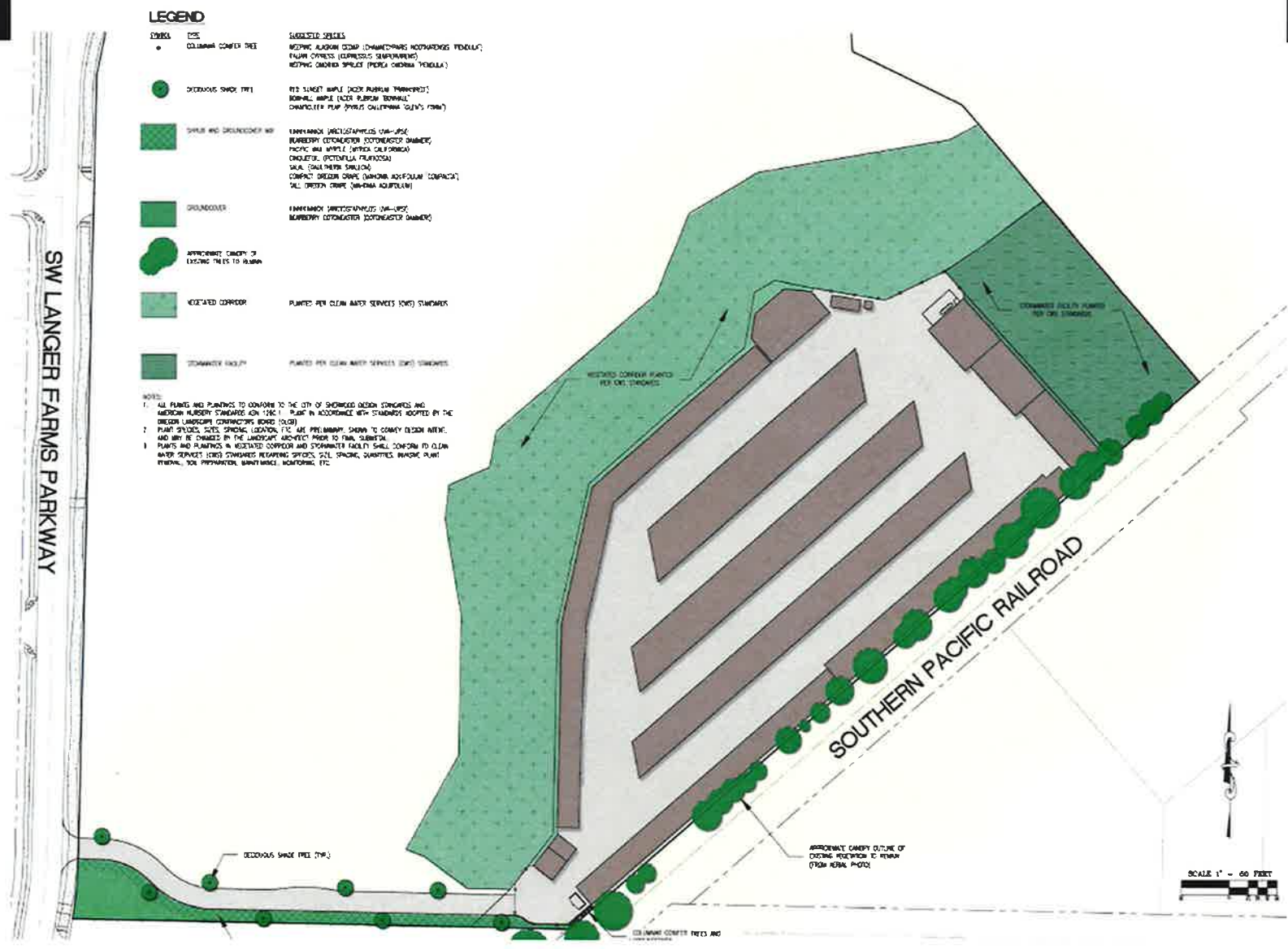
Vicinity Map



Sentinel Self Storage Proposal

- Portion of the site is Lot 5 of the approved Langer Farms Subdivision (on appeal)
- Proposal to construct 430 Storage Units on approximately 6.93 acres.

Site Plan



LEGEND

- EXISTING
 - COLUMNAR CORNER TREES
 - DECIDUOUS SHADE TREE
 - SHADE AND DECIDUOUSER WIP
 - GRASSCOVER
 - APPROXIMATE CANOPY OF EXISTING TREES TO REMAIN
 - RESEED CORRIDOR
 - STORMWATER FACILITY
- PLANTED PER CDS STANDARDS
- SMALLER SPECIES
 - WESTERN ALBION CEDAR (CHAMAEPICUS HOOPSTADTII FENDLER)
 - FLAMING OYSTER (LIMBUSUS SERRULENTUS)
 - WESTING OAKLEAF SPICE (PERSEA OBEDIA FENDLER)
 - PIS SAGEHART APPLE (LICHU RUBRUM THUNBERG)
 - ROSEHILL MAPLE (LACUS RUBRUM THUNBERG)
 - CHAMCLETTER PEAR (SYDIA CALIFORNIA GLEN'S FORM)
 - EMMENANDE (POTYDANTHUS US-195)
 - BARBERRY (LITHOCLISTON BOSTONIAE GUMBERT)
 - PROCTER AND KEMPLE (LITHO CLIFORNICA)
 - CHOLETIC (POTYDANTHUS FLORIDOSA)
 - WALA (LITHOCLISTON SERRULENTUS)
 - COMPACT BLOSSOM CRANE (LITHOCLISTON SERRULENTUS)
 - WALL STREET CRANE (LITHOCLISTON SERRULENTUS)
 - EMMENANDE (POTYDANTHUS US-195)
 - BARBERRY (LITHOCLISTON BOSTONIAE GUMBERT)

- NOTES:**
1. ALL PLANTS AND PLANTINGS TO CONFORM TO THE CITY OF SHOSHONE DESIGN STANDARDS AND AMERICAN NURSERY STANDARDS A90 (2012). PLANT IN ACCORDANCE WITH STANDARDS ADOPTED BY THE DESIGN LANDSCAPE ARCHITECTURE BOARD (DLA).
 2. PLANT SPECIES, SIZES, SPACING, LOCATION, ETC. ARE PRELIMINARY. OWNER TO CONVEY DESIGN INTENT AND WILL BE CHANGED BY THE LANDSCAPE ARCHITECT PRIOR TO FINAL SUBMITTAL.
 3. PLANTS AND PLANTINGS IN RESEED CORRIDOR AND STORMWATER FACILITY SHALL CONFORM TO CLEAN WATER SERVICES (CWS) STANDARDS RESEEDING SPECIES, SIZE, SPACING, QUANTITIES, BRUSHING, PLANT MATERIAL, SOIL PREPARATION, MAINTENANCE, SCAPING, ETC.

SW LANGER FARMS PARKWAY

SOUTHERN PACIFIC RAILROAD

SCALE 1" = 60 FEET

Staff Responses

- Secondary Fire Access – recommended but not required
- Question of ownership- issue is unclear
- National Fish and Wildlife - no comment
- ADA Access to the bathroom – require a condition

Staff Responses

- **Fueling station regulations and licensing** - Propane and Diesel – No permit required from DEQ unless underground tanks
 - TVFR will require a permit
 - AKS Letter Diesel vs. Gasoline
- **Turn Around** - Applicant has proposed additional signage
- **Permanent communication line** - Applicant is proposing a land line
- **Video Surveillance** - Applicant has proposed video surveillance

Staff Recommendation

- Approval with conditions
 - May want to add a condition requiring that the fueling be limited to patrons who have storage units rented within the facility.
 - Although not necessary, because it is required the Commission could require an ADA bathroom.
 - Enclosed RV wash required

SP 12-04

Planning Commission Public Hearing (continued)

August 28, 2012

Residences at Cannery Square

7/28/12
Date

Planning Comm
Gov. Body

7/a
Agenda Item

2
Exhibit #

Vicinity Map



Conditions of Approval (Prior to Final Site Plan)

- C.3 – Prior to final site plan approval submit revised plans showing that the developer will install a 6-foot tall fence, wall or evergreen screen along the east property line of the east residential building, and the west property line of the west residential building.
- C.4 - Obtain construction plan approval from the Engineering Department for all public improvements including the on-site water quality facility if an alternative has not been agreed upon at time of final site plan review. If the applicant, City and CWS reach an acceptable agreement to use the regional water quality facility, the applicant may submit revised plans showing how the areas for the on-site water quality facility will be otherwise landscaped or utilized consistent with the approved development plans and the engineering compliance agreement modified accordingly to eliminate the on-site water quality facility.

Conditions of Approval (Prior to Building Permits)

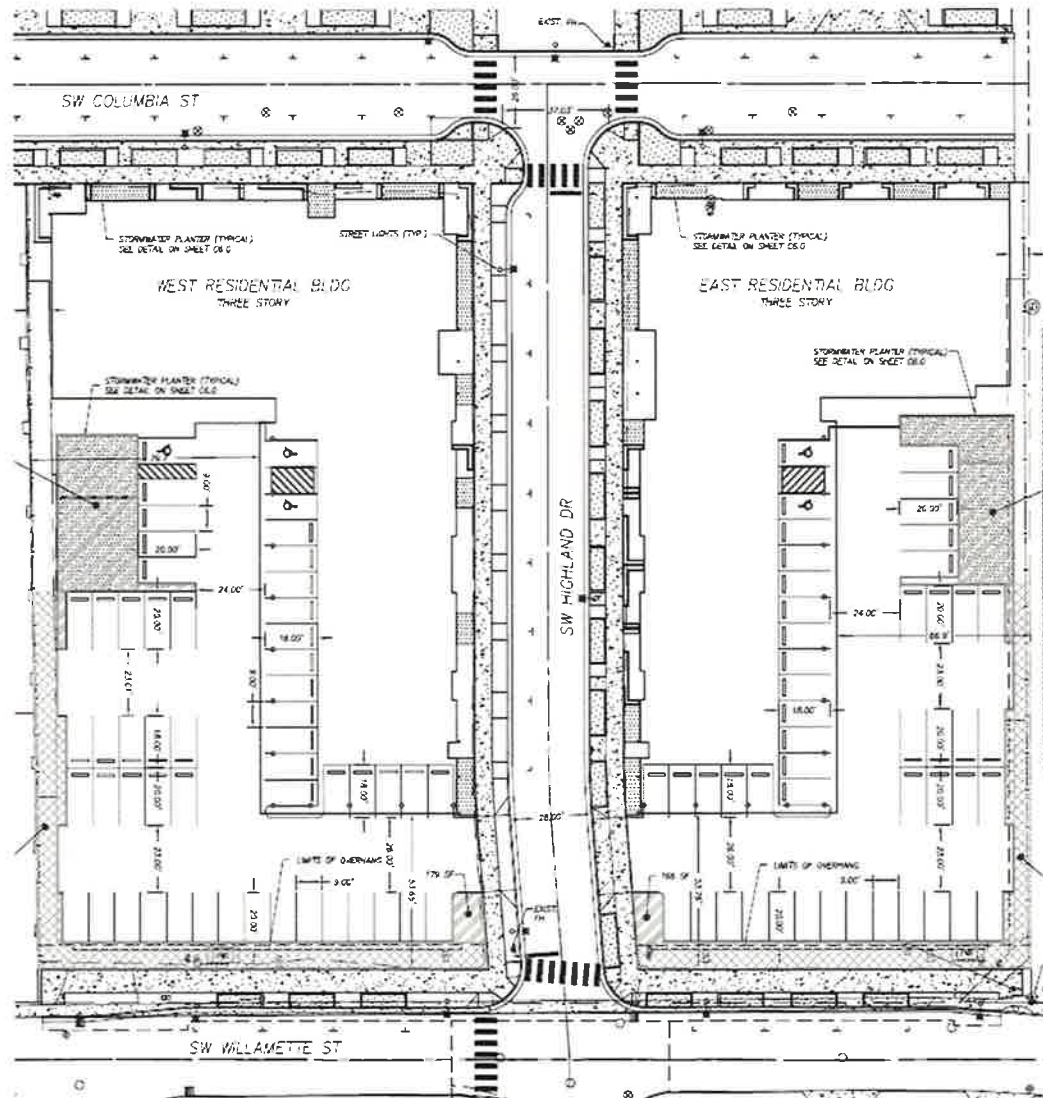
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- C.4 - Obtain construction plan approval from the Engineering Department for all public improvements including the on-site water quality facility if an alternative has not been agreed upon at time of final site plan review. If the applicant, City and CWS reach an acceptable agreement to use the regional water quality facility, the applicant may submit revised plans showing how the areas for the on-site water quality facility will be otherwise landscaped or utilized consistent with the approved development plans and the engineering compliance agreement modified accordingly to eliminate the on-site water quality facility.

Conditions of Approval (Prior to Final

Occupancy)

- E.6 - On-site or a regional storm water treatment system that complies with City of Sherwood and CWS standards shall be either in place, operational and any necessary connection fees paid or an agreement and assurances acceptable to both the City of Sherwood and CWS shall be in place.

Site Plan



Staff Recommendation

- Approval with conditions as amended

Planning Commission Appeal Hearing
August 28, 2012

Langer Farms Subdivision (SUB 12-02)

<u>Aug 28, 12</u> Date	<u>Planning Comm.</u> Gov. Body
<u>la</u> Agenda Item	<u>3</u> Exhibit #

History

- On June 21, 2012, staff issued a decision to approve a preliminary subdivision to divide + 55.09 acres into five individual lots, and two tracts for future development consistent with the Sherwood Village Planned Unit Development, File No. PUD 95-1.
- Appealed by Jim Claus on July 5, 2012.
- The staff decision and associated attachments for SUB 12-02 **Exhibit 1**
- The appeal materials provided to the City from Jim Claus **Exhibit 2**
- A letter from the applicant's attorney, Seth King, of Perkins Coie **Exhibit 3**

Assignments of Error

Flawed Original Notice of Decision containing conflicting information that staff cites as scrivener's error.

- Specifically, Mr. Claus claims that the following sentence found on page 33 warrants reissuance of the NOD and resets the appeal clock. "This approval is valid for a period of one (2) years from the date of the decision notice, per Section 16.120.050."
- **16.120.050.B, "If the final plat is not approved within two (2) years, the preliminary plat approval shall expire and a new plat must be submitted."**
- Staff maintains that this is a harmless scrivener's error and does not constitute a material error in the decision.

Assignments of Error

- *Improper Public Notice was given by staff. Staff has relied on INFILL standards for proposed Lot 5 to grant waivers for the access without properly notifying the PUBLIC per Sherwood Zoning Code Chapter 16.68.060.*
- Section 16.68.060 was not considered for approval of this development. Section 16.68.060 standards apply to **residential developments on lots that qualify as infill**. This lot does not.
- Mr. Claus contends that staff relied on section 16.68 (Infill) to allow proposed lot 5 to achieve the access standard that requires all lots in a subdivision to abut a public street.
- The finding is correct in that all lots abut a public street, or are served by an easement to a public street as allowed by the definition of a "Lot."
- Section 16.10.020 defines a **lot** as, "A parcel of land of at least sufficient size to meet the minimum zoning requirements of this Code and with frontage on a public street, or easement approved by the City..." (emphasis added).
- The precedence for allowing such a provision has been set by prior subdivision approvals, and since the Code allows for the City to determine that the frontage can be provided via an easement approved by the City, **the finding is still accurate**.
- Mr. Claus adds that the City cannot allow such a long access. He refers to the Transportation System Plan (TSP), specifically page TSP 8-22, stating that the access will be a close-end street longer than 220 feet. **The proposed access is a driveway and utility easement, not a street.**

Assignments of Error

- *Violation of the PUD – a Major Change to the Final Development Plan dated August of 1995. Staff is requiring a change in the use of the land and requiring dedication of land in this subdivision application for public roadway and right-of-way. The land was specifically proscribed from that use in the original Langer PUD. The Langer PUD must be treated as having a Major Change and thus go through the PUD approval process noted in Sherwood Code Chapter 16.40.*
- Utilizing this logic, the City would never be able to plan for future extensions of streets, utilities, or other urban services necessary for development. Within the original PUD, Century Drive was not going to be extended through the site.
 - Subsequent to that approval, the TSP was modified in a manner that called for a future collector in the location where the applicant has proposed to dedicate right-of-way for the Century Drive.
 - That dedication, and ultimately, the future construction of Century Drive was negotiated as part of a Development Agreement with the City in 2010 with the Langer Family.
- PUD approval is an overlay zone that is applied to a property
 - the boundaries of the PUD are not changing,
 - the applicant is not asking for any land use that would be inconsistent with the prior approvals,
 - and the prior approvals did not identify which land was devoted to a specific use.
 - There is not an increase in density because it is not a residential development. Therefore, this does not constitute a modification to the PUD.

Assignments of Error

- *Staff's decision is flawed. Staff is treating the PUD as if it is outside of PUD constraints for part of the logic used to grant approval to a 5-lot subdivision of the PUD. Also, staff neglected to submit pertinent information to the record as part of this application which would have direct bearing on the original staff decision – which occurred after staff closed the comment period. As such I have included some of that missing information as it is directly pertinent to this appeal. See also Exhibit 8, copy from the 1995 code Section 3.4040 for appeals showing that parties may present old evidence or any additional evidence.*
- The subdivision was not filed at the same time that the PUD was processed in 1995. Had there been a subdivision requested at the time, the City would have requested that it be reviewed concurrently.
- According to the City Attorney's office, "A PUD decision under 16.40 is a separate and distinct decision from a subdivision decision under 16.120. See, for example, 16.40.020.B.5 – "If the PUD involves the subdivision of land ... " Apparently, this one did not when it was approved in 1995 – it was a straight PUD that did not include a subdivision. Also, as you point out, that same code section goes on to say that when the PUD also involves a subdivision, the two decisions shall be processed concurrently. This affirms the interpretation that they are separate decisions, albeit when they are proposed concurrently, they need to be processed concurrently."
- According to 16.120.030.1.a, "A subdivision application for 4-10 lots will follow a Type II process." Subdivisions are processed in accordance with the administrative provisions spelled out in Section 16.72.

Assignments of Error

- *Violation of Sherwood code Section 16.40.040(A)(2): Failure to Complete. The Planning Commission must meet to decide if the PUD is still in the public's interest.*
- Section 16.40.040(A)(2) states, "When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest."
- For all intents and purposes, this PUD has been under construction in one form or another since 1995.
- The City Council made the decision that it was in the public's interest when it approved a modification of the PUD in 2007 and agreeing to execute the developers' agreement that was negotiated in 2010 by the Sherwood City Council.

Assignments of Error

- *Violation of the intent of the PUD – staff is attempting to incorrectly administratively apply Subdivision Standards to the Langer PUD Phases 6, 7, 8, which is beyond their scope and authority. The Phases are to have Site Plan Reviews with the Planning Commission/City Council. Staff essentially has made up a new process for the PUD by incorrectly trying to grant subdivision and land division approval through a Type II procedure.*
- This approval, in no way, removes the requirement that any development subject to site plan review be reviewed by the Planning Commission/City Council for this PUD. As stated earlier under the staff response to issue #4, this is a subdivision of land for 4-10 lots, which according to section 16.120.030.1.a, is administratively processed.

Staff Recommendation

- Deny the appeal and affirm the staff decision



Copy
Original Filed In

SUB 12-02

R. James Claus
22211 SW Pacific Highway
Sherwood, Oregon 97140
503-625-5265

8-28-12
Date

Planning Comm.
Gov. Body

7a+8
Agenda Item

4
Exhibit #

See Minutes

August 28, 2012

Planning Commission
City of Sherwood
Pine Street
Sherwood, Oregon 97140

RE: File: SP 12-03
Sentinel Storage Application
Comments for the Site Plan Record

Dear Planning Commission--

Thank you for leaving the record open for this application. Since the last hearing on August 14, 2012 there have been additional information submitted into the record. Also, I have additional information for the Planning Commission to consider as part of this application. In no particular order I will outline my additional concerns.

The applicant has described this application and its uses on page 2 of its application:

This project includes improvement of the subject site to be operated as a self storage business; an annex to the existing self storage facility located north of the intersection of SW Tualatin-Sherwood Road and SW Langer Farms Parkway. Proposed site improvements include 430 storage units (including enclosed, partially enclosed, covered, and open). This will include a mix of indoor climate controlled units, non-climate controlled units, outdoor covered and uncovered spaces. The storage units/spaces will be available for storage of all kinds of items including, but not limited to household or business materials, recreational vehicles, trailers, boats, etc.

The applicant knows that the site plan cannot be approved by the Commission in this Type IV process unless the application complies with ALL applicable approval criteria. Per their application, p. 2:

The City of Sherwood Zoning and Community Development Code holds that approval of this Site Plan Review Application is subject to review through a Type IV procedure. This written statement includes findings of fact demonstrating that the application complies with all applicable approval criteria.

In conjunction with a previous, currently contested subdivision application (Langer Subdivision SUB 12-02 also being heard on appeal August 28, 2012 at the Planning Commission) , the applicant is proposing to subdivide the 55 acre parcel into five separate parcels. The subdivision request was heard only by a member of the city planning staff because of a recent change in the city zoning code that allowed this part of the Langer PUD to be altered at the staff level. As a result of this requested subdivision, now the property owners of this part of the Langer PUD are requesting deviations from the Sherwood code standards. Their arbitrary subdivision lines are creating self-imposed hardships that the applicant in turn is requesting the Planning Commission approve; yet the applicant has not gone through the Variance Process or the Interpretation of Similar Uses of the city code to obtain the requested for variances or other interpretations of the code. (See attached).

The existing Langer PUD is no longer valid with approval of this application

The applicant is asking for uses and variances which are not part of the existing Langer PUD. The original PUD says that they may opt for permitted or conditionally permitted uses in the General Commercial (GC) zone in the 1995 code per Section 2.109.02 Permitted Uses and Section 2.109.03 (See attached) as well as stated from page 6 of their application:

**2007 Development Agreement
AGREEMENT**

A. PUD USES

1. Applicable Code. ZCDC 16.32.020.H, provides that "Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text at the time of final approval of the PUD." The Langer PUD was approved and Phases 4, 6, 7 and 8 were assigned the Light Industrial ("LI") base zone designation on August 3, 1995.

2. Permitted and Conditional Uses. Accordingly, Langer elects to establish uses on the LI-designated phases of the PUD that were permitted or conditionally permitted under the LI base zone text applicable on August 3, 1995, including: "Uses permitted outright in the GC zone Section 2.109.02, except for adult entertainment businesses, which are prohibited." A copy of the uses permitted in the LI and GC zones on August 3, 1995 is set forth in Attachment A, attached hereto and incorporated herein by reference.

3. Election of Uses and Acceptance. The City acknowledges and accepts Langer's decision to elect to develop Phases 4, 6, 7 and 8 under ZCDC 16.32.020.H, including the ability to develop those phases for General Retail Trade under Section 2.109.02 of the 1995 ZCDC. Accordingly, the current provisions of ZCDC 16.32.030.K, which restrict retail uses in the LI zone to a maximum of 60,000 square feet, will not apply to site plan review of the PUD.

RESPONSE: This project includes the improvement of the subject site into a Self Storage Business; an annex to the facility currently located north of the intersection of SW Tualatin-Sherwood Road and SW Langer Farms Parkway, as permitted under SDC2C 2.110.02.F

There is nothing in the 1995 code or the current LI code that allows for propane, diesel and/or gasoline fueling to the public. The applicant has said that this fueling use would operate as any other fueling station in the State of Oregon (see AKS letter put in the record after the August 14, 2012 hearing.) The applicant has not requested an Interpretation of Similar Uses per Chapter 16.88 -- which is a separate application and proceeding in front of the Planning Commission (with the ability to appeal that decision) that requires the applicant to :

Chapter 16.88.020 - Application Content

The request shall be submitted with a fee pursuant to Section 16.74.020 and shall include information on the following characteristics of the proposed use:

- A. Description of the activity to be conducted on the site.
- B. Noise and odor characteristics.
- C. Description of material or product storage requirements.
- D. Amount and type of traffic to be generated.
- E. Description of the structures required.

The code does not outright allow the gasoline, diesel and propane fueling. The PUD Development Agreements or the initial approvals did not specify any fueling uses. The applicant cannot apply for a variance for an existing PUD per Section 16.84 of the code. In short, if the Planning Commission were to approve this application, the entire PUD would be in violation and therefore cease to exist. This is not the proceeding for the Planning Commission to allow staff to generate "findings of fact" that would allow the fueling uses-- again, the applicant has not addressed the criteria for the proposed fueling uses in the context of an interpretation of similar uses. There is no request for a variance. Even if these requests were being generated by the applicant it would put the Langer PUD in jeopardy. Existing PUDs cannot change uses and obligations mid stream without a new hearing that would remove the existing PUD and make it conform to the current PUD standards and application proceedings. See Chapter 16.40.010 - 16.40-060 et.seq. for PUDs including non-residential PUDs.

This application does not explain the full nature of the proposed gasoline and propane fueling for this site or the nature of the Oregon laws and rules governing gasoline, diesel and propane fueling. It is possible that other considerations would need to be in place for this site plan. Without the full knowledge and explanation of the fueling-- as well approval from the appropriate local authority, this site plan cannot be approved by the Planning Commission.

This is also the same problem with the "mini-warehousing" that allows in the code for commercial storage, yet the applicant in the existing storage is also storing residential oriented materials (non-commercial or industrial). (See Claus materials already submitted at the August 14th meeting.) There must be an "interpretation of similar uses" to clarify (allow or disallow with right of appeal) the mini-warehousing.

Additionally, the original Langer PUD specifically excluded an extension of Century Drive. (See original conditions of approval for Langer PUD.) The extension of Century Drive is a change in USE for part of the PUD that was not there in the original PUD-- and was specifically EXCLUDED. A parking lot is not a collector Road. The city recognizes the difference in use and standard and has opted to pay for the difference of a parking lot and the specifications that they want to require for the Century Drive extension. Again-- this is a major change to the existing PUD and requires a new hearing and a new PUD (See Chapter 16.40 et.seq.) application.

Who is the BEH working for in this site plan application?

Beery, Elsner and Hammond are contract attorneys. They apparently work for the city in various capacities. They even work for the Sherwood Urban Renewal Agency. This property is located in the urban renewal district. If BEH representatives are giving advice for the record and to the staff or planning commission, or on behalf of the Sherwood Urban Renewal Agency (SURA), they need to state for the record in what capacity and for whom they are working and giving their advice. If they are working for the City Council or SURA, obviously there is a conflict of interest since one of the City Council members and one of the SURA members is part of this application and part owner of the property in question. (see BEH Contract for personal services.)

Subdivision and partition process and standards were voted on by City Councilor Matt Langer

This application presupposes that a separate, administrative decision granting the Langer Family, LLC subdivision of the 55 acres has been approved and all the appeals exhausted. That is not true. Not only is the subdivision approval on appeal with the Planning Commission, there is a question if Councilor Matt Langer should have voted on the legislation that directly allowed this part of the Langer PUD property and property that he has an actual financial interest in to then be subdivided through an administrative, staff review Type II process. This application is for a site plan of 6.93 acres-- only a portion of the 55 acre parcel. Changes to PUDs are to be heard by the Planning Commission and the City Council. The "code clean up" Ordinance 2011-011 was approved by the City Council on October 4, 2011 (with an "Aye" vote from Councilor Langer). On or about December 11, 2011, the Langer representatives for the 55 acre parcel owned in part by Matt Langer attended a pre-application process with the city for partitioning and subdividing that 55 acre parcel at the staff level.

Annex vs. Separate Business

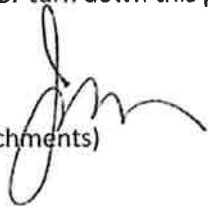
The applicant is trying to utilize the administrative offices of a separate parcel of land, owned in different legal ownership to obtain yet another variance to the standards. The applicant also stated that these two parcels (the Sentinel Storage parcel on Phase 4) can be sold separately. Why then would the Planning Commission allow a site plan for the "annex" that is associated with the Phase 4 parcel in the Site Plan application, to be allowed to be sold separately and distinctly? Also, the City Council just passed a Resolution to condemn a portion of the Sentinel Storage property (changing the boundaries of the existing PUD). Is this one business with non-contiguous lots, or are these two separate parcels that can be sold separately? There is no deed language being suggested that legally ties these two parcels together. The applicant through Uncle Gary Langer has already said that it is no one's business how

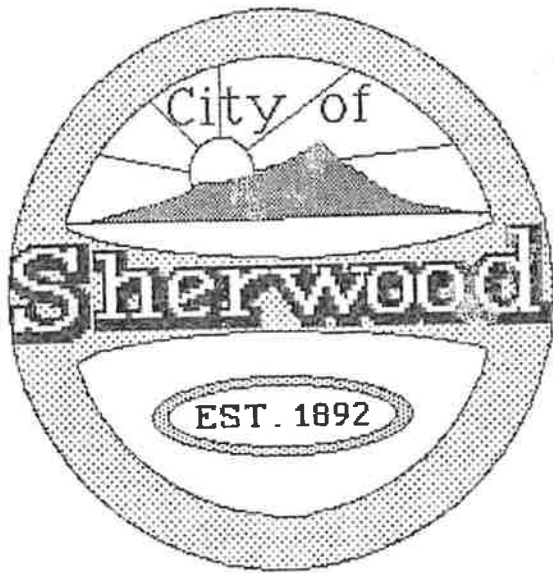
their family holds its property. How then can the Planning Commission allow this site plan without its own administrative building and office?

Please ask the applicant to further clarify what they are trying to do with this application and keep the record open for public comment on those further clarifications-- and ask them to extend the 120 day deadline, or turn down this proposal tonight.

Jim Claus

(plus attachments)

A handwritten signature in black ink, appearing to read 'Jim Claus', written over the typed name and the text '(plus attachments)'. The signature is stylized and cursive.



**SHERWOOD
COMPREHENSIVE PLAN
PART 3
ZONING AND COMMUNITY
DEVELOPMENT CODE**

Prepared by

City of Sherwood, Oregon
90 NW Park Street
Sherwood, Oregon 97140
(503) 625-5522

February 28, 1995

2.109 GENERAL COMMERCIAL (GC)

2.109.01 Purpose

The GC zoning district provides for wholesale and commercial uses which require larger parcels of land, and or uses which involve products or activities which require special attention to environmental impacts as per Chapter 8.

2.109.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8:

- A. Professional services, including but not limited to financial, medical and dental, social services, real estate, legal, artistic, and similar uses.
- B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only.
- C. Personal and business services, including day cares, preschools, and kindergartens.
- D. Postal substations when located entirely within and incidental to a use permitted outright.
- E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Section 4.500.
- F. Farm and garden supply stores, and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited.
- G. Agricultural uses such as truck farming and horticulture, excluding commercial buildings and structures, or the raising of animals other than household pets.
- H. Commercial trade schools.
- I. Motion picture and live theaters, but excluding drive-ins which are prohibited.
- J. Restaurants, taverns, and lounges.

- K. Automotive and other appliance and equipment parts sales, but excluding junkyards and salvage yards which are prohibited.
- L. Blueprinting, printing, publishing, or other reproduction services.
- M. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other equipment sales, parts sales, repairs, rentals or service.
- N. Wholesale trade, warehousing, commercial storage and mini-warehousing, except as prohibited in Sections 2.110.04E and 2.111.04E.
- O. Limited manufacturing, including only: beverage bottling plants, commercial bakeries, machine shops, and handicraft manufacturing.
- P. Building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses.
- Q. Veterinarian offices and animal hospitals.
- R. Agricultural uses including but not limited to farming, and wholesale and retail plant nurseries, with customarily associated commercial buildings and structures permitted.
- S. Medical, dental, and similar laboratories.
- T. Truck and bus yards and terminals.
- U. Adult entertainment businesses, subject to Section 2.208.

2.109.03 Conditional Uses

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Chapter 8, and are approved in accordance with Section 4.300:

- A. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, correctional institutions, and residential care facilities.
- B. Radio, television, and similar communication stations, including transmitters.
- C. Churches and parsonages.

- D. Cemeteries and crematory mausoleums.
- E. Public and private utility buildings, including but not limited to telephone exchanges, electric substation, gas regulator stations, treatment plants, water wells, and public works yards.
- F. Government offices, including but not limited to administrative office, post offices, and police and fire stations.
- G. Public use buildings including but not limited to libraries, museums, community centers and senior centers.
- H. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, and other similar clubs, but excluding golf courses which are prohibited.
- I. Motels or hotels.
- J. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building.
- K. Public recreational facilities, including but not limited to parks, playfields, and sports and racquet courts, but excluding golf courses which are prohibited.
- L. Public and private schools providing education at the elementary school level or higher.
- M. Any incidental business, service, process, storage or display, not otherwise permitted by Section 2.109, that is essential to and customarily associated with any use permitted outright.

2.109.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Junkyards and salvage yards.
- B. Industrial and manufacturing uses, except as specifically permitted by Sections 2.109.02 and 2.109.03.
- C. Any other prohibited use noted in Section 2.109.03.

2.109.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or

requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot area: 10,000 square feet
2. Lot width at front property line: 70 feet
3. Lot width at building line: 70 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: None, unless the lot abuts a residential zone, then the front yard shall be that required in the residential zone.
2. Side yards: None, unless abutting a residential zone or public park property, then there shall be a minimum of twenty (20) feet.
3. Rear yard: None, unless abutting a residential zone, then there shall be a minimum of twenty (20) feet.
4. Existing residential uses shall maintain setbacks specified in Section 2.105.04.

C. Height

Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Section 4.300.

2.109.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.109.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

2.110 LIGHT INDUSTRIAL (LI)

2.110.01 Purpose

The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.

2.110.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8.

- A. Veterinarians offices and animal hospitals.
- B. Contractor's offices, and other offices associated with a use permitted in the LI zone.
- C. Public and private utilities including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells and public works yards.
- D. Glass installation and sales.
- E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- F. Automobile, boat, trailer, and recreational vehicle storage.
- G. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 2.110.04E.
- H. Industrial hand tool and supply sales, primarily wholesaled to other industrial firms or industrial workers.
- I. Other similar light industrial uses subject to Section 4.600.
- J. Uses permitted outright in the GC zone, Section 2.109.02, except for adult entertainment businesses which are prohibited.

- K. Dwelling unit for one (1) security person employed on the premises, and their immediate family.
- L. PUDs, subject to the provisions of Section 2.202.
- M. Temporary uses, including but not limited to construction and real estate sales offices, subject to Section 4.500.

2.110.03 Conditional Uses

The following uses are permitted as Conditional Uses provided such uses meet the applicable environmental performance standards contained in Chapter 8 and are approved in accordance with Section 4.300:

- A. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:
 1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 2.110.03.
 2. Appliances, including but not limited to, refrigerators, freezers, washing machines, dryers; small electronic motors and generators; heating and cooling equipment; lawn mowers, rototillers, and chain saws; vending machines; and similar products and associated small parts.
 3. Cosmetics, drugs, pharmaceutical, toiletries, chemicals and similar products, except as prohibited by Section 2.110.04.
 4. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts.
 5. Building components and household fixtures, including but not limited to furniture, cabinets, and upholstery; ladders; mattresses, doors and windows; signs and display structures; and similar products and associated small parts.
 6. Recreational vehicles and equipment, including but not limited to bicycles, recreational watercraft, exercise equipment, and similar products and

associated small parts, but excluding motorized equipment unless otherwise permitted by Section 2.110.02 or 2.110.03.

7. Musical instruments, toys and novelties.
 8. Pottery and ceramics, limited to products using previously pulverized clay.
 9. Textiles and fiber products.
 10. Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semi-precious stones.
- B. Laundry, dry cleaning, dyeing or rug cleaning plants.
- C. Light metal fabrication, machining, welding and electroplating and casting or molding of semi-finished or finished metals.
- D. Offices associated with a use conditionally permitted in the LI Zone.
- E. Sawmills.

2.110.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Adult Entertainment Businesses.
- B. Any use permitted or conditionally permitted under Section 2.111 that is not specifically listed in this Section, and any use listed in Section 2.111.04.
- C. Auto wrecking and junk or salvage yards.
- D. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products.
- E. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products of substances, except for any incidental business, service, process, storage, or display that is essential to and customarily associated, in the City's determination, with any otherwise permitted or conditionally permitted use:

1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products.
 2. Ammonia, chlorine, sodium compounds, toxics, and similar chemicals.
 3. Celluloid or pyroxylin.
 4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances.
 5. Explosives and radioactive materials.
 6. Fertilizer, herbicides and insect poison.
- F. Metal rolling and extraction mills, forge plants, smelters and blast furnaces.
- G. Pulp mills and paper mills.
- H. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering.
- I. Leather tanneries.
- J. General purpose solid waste landfills, incinerators, and other solid waste facilities.

2.110.05 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as otherwise provided, required minimum lot area and dimensions shall be:

1. Lot area: 10,000 sq. feet
2. Lot width at front property line: 100 feet
3. Lot width at building line: 100 feet

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: Twenty (20) feet, except when abutting a residential zone or public park, then there shall be a minimum of forty (40) feet.
2. Side yards: None, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.
3. Rear yard: None, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.
4. Corner lots: Twenty (20) feet on any side facing a street, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.

C. Height

Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of the residential zone.

2.110.06 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9.

2.110.07 Flood Plain

Except as otherwise provided, Section 8.202 shall apply.

4.600 INTERPRETATION OF SIMILAR USES

4.601 GENERALLY

Where an interpretation is required as to the applicability of the provisions of this Code to a proposed land use which is not specifically listed or otherwise clearly indicated as allowed, conditionally allowed or prohibited, a written request for an interpretation may be submitted to the Commission.

4.602 APPLICATION CONTENT

The request shall be submitted with a fee pursuant to Section 3.302 and shall include information on the following characteristics of the proposed use:

- A. Description of the activity to be conducted on the site.
- B. Noise and odor characteristics.
- C. Description of material or product storage requirements.
- D. Amount and type of traffic to be generated.
- E. Description of the structures required.

4.603 APPROVALS

The Commission shall conduct a public hearing pursuant to Section 3.200 and take action to approve, approve with conditions, or deny the request for an interpretation of a similar use. The action of the Commission may be appealed to the Council in accordance with Section 3.400.

mailed to the address shown on the application.

3.403 PETITION FOR REVIEW

Every petition for review shall include the date and a description of the land use action, including adopted findings of fact, a statement of how the petitioner is aggrieved by the action, the specific grounds relied upon in requesting a review, and a fee pursuant to Section 3.301. The record of the land use action shall be considered.

3.404 COUNCIL ACTION

The review of the appealed land use action shall include a public hearing conducted by the Council at which time all parties to the action, as per Section 3.205.02, may present old evidence or any additional evidence. Public notice and hearing procedures for appeals shall be identical to the procedures used in initially taking the land use action which is being appealed. The Council may act to affirm, reverse, refer or amend the action being reviewed. The action of the Council shall be final, except insofar as further appeal to the State Land Use Board of Appeals (LUBA) may be allowed by the law of the State of Oregon.

3.400 APPEALS

3.401 GENERALLY

3.401.01 Basis of Appeal

- A. Any issue which may be the basis for appeal of a land use action to the Council or to the State Land Use Board of Appeals (LUBA) shall be raised not later than the close of the final hearing on the proposal before the City, or within seven (7) calendar days as per Section 3.205.03.
- B. Failure to raise an issue, or failure to raise an issue with sufficient specificity so as to provide the City, applicant, or other parties to the application with a reasonable opportunity to respond, will preclude appeal on said issue to the Council or to LUBA. Any aggrieved party appealing a land use action must exercise the right of petition for review to the Council prior to making any appeal to LUBA, except as provided in Section 3.401.03.

3.401.02 Appeal Eligibility

Except as otherwise permitted herein, only persons who were a party to the action being appealed, as defined by Section 3.205.02, are eligible to file for a petition for review by the Council. If the potential appellant is judged not to be a party to the action, or the issue(s) that are the basis of the appeal were not raised as per Section 3.401.01, as determined by the City, the Council shall refuse to hear the appeal and direct that the appellant be so notified in writing.

3.401.03 Exception

If the City either takes a land use action without providing a hearing as required by this Code, or takes a land use action which is substantially different than indicated in notice of the proposed action as per Section 3.203.01, an aggrieved party may, as provided by the law of the State of Oregon, appeal directly to State Land Use Board of Appeals (LUBA).

3.402 APPEAL DEADLINE

Land use actions taken pursuant to this Code shall be final unless a petition for review is filed with the City Recorder not more than twenty-one (21) calendar days after the date on which the Commission or Council took final action on the land use application. In the event the aggrieved party is the applicant, the twenty-one (21) calendar days shall be counted from the date when written notice of the action has been

Chapter 16.32 - LIGHT INDUSTRIAL (LI)*

Sections:

16.32.010 - Purpose

16.32.020 - Permitted Uses

16.32.030 - Conditional Uses

16.32.040 - Prohibited Uses

16.32.050 - Dimensional Standards

16.32.060 - Community Design

16.32.070 - Floodplain

16.32.010 - Purpose

The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission. (Ord. 93-964 § 3; Ord. 86-851)

16.32.020 - Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII. Incidental retail sales, limited to 10% of the total floor area of a business, may be permitted as a secondary function of a permitted or conditional use, subject to the review and approval of the Hearing Authority. (Ord. 2001-1119, § 1; 93-964)

- A. Contractor's offices and other offices associated with a use permitted in the LI zone.
- B. Public and private utilities, including but not limited to telephone exchanges, electric substations, data centers, gas regulator stations, sewage treatment plants, water wells and public work yards.
- C. Glass installation and sales.
- D. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 16.32.040(E).
- E. Industrial hand tool and supply sales primarily wholesaled to other industrial firms or industrial workers.
- F. Other similar light industrial uses subject to Chapter 16.88
- G. Dwelling unit for one (1) security person employed on the premises, and their immediate family.
- H. PUDs, new and existing, subject to the provisions of Chapter 16.40. New PUDs may mix uses which are permitted within the boundaries of the PUD. Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD. (Ord. 98-1051 § 1; Ord. 86-851)

I. Temporary uses, including but not limited to construction and real estate sales offices, subject to Chapter 16.86

J. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the City that the location of the antenna on City-owned property would be unfeasible.

(Ord. 97-1019 § 1)

K. Business and professional offices associated directly with another permitted use in this zone and do not cater to daily customers (such as financial, insurance, real estate, legal, medical and dental offices). *(Ord. No. 2010-05, § 2, 4-6-2010)*

L. Business and professional offices in buildings that received land use approval prior to January 1, 2010 or that are not designated "industrial" on Metro's 2008 Title 4 Map that cater to daily customers (such as financial, insurance, real estate, legal, medical and dental offices). *(Ord. No. 2010-05, § 2, 4-6-2010)*

M. Business and professional offices in buildings that received land use approval after January 1, 2010 that are designated "industrial" on Metro's 2008 Title 4 Map and that cater to daily customers (such as financial, insurance, real estate, legal, medical and dental offices) shall not occupy more than 5,000 square feet of sales or service area in a single outlet and no more than 20,000 square feet of sales or service area in multiple outlets in the same development project. *(Ord. No. 2010-05, § 2, 4-6-2010)*

N. Training facilities whose primary purpose is to provide training to meet industrial needs.

(Ord. No. 2010-05, § 2, 4-6-2010)

O. Tool and equipment rental. *(Ord. No. 2010-05, § 2, 4-6-2010)*

P. Blueprinting, printing, publishing, or other reproduction services. *(Ord. No. 2010-05, § 2, 4-6-2010)*

Q. Farm and garden supply stores and retail plant nurseries (limited in size similar to M. above), but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited. *(Ord. No. 2010-05, § 2, 4-6-2010)*

R. Medical, dental and similar laboratories. *(Ord. No. 2010-05, § 2, 4-6-2010)*

S. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:

1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 16.32.040
2. Appliances, including but not limited to refrigerators, freezers, washing machines, dryers, small electronic motors and generators, heating and cooling equipment, lawn mowers, rototillers, and chain saws, vending machines, and similar products and associated small parts.
3. Cosmetics, drugs, pharmaceuticals, toiletries, chemicals and similar products, except as prohibited by Section 16.32.040
4. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts.

5. Building components and household fixtures, including but not limited to furniture, cabinets, and upholstery, ladders, mattresses, doors and windows, signs and display structures, and similar products and associated small parts.
6. Recreational vehicles and equipment, including but not limited to bicycles, recreational watercraft, exercise equipment, and similar products and associated small parts, but excluding motorized equipment unless otherwise permitted by Section 16.32.020 or 16.32.030
7. Musical instruments, toys and novelties.
8. Pottery and ceramics, limited to products using previously pulverized clay.
9. Textiles and fiber products.
10. Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semi-precious stones.

(Ord. No. 2010-05, § 2, 4-6-2010; Ord. 2002-1136 § 3; 2001-1119; 98-1051; 93-964; 91-922; Ord. 86-851)

16.32.030 - Conditional Uses

The following uses are permitted as Conditional Uses provided such uses meet the applicable environmental performance standards contained in Division VIII and are approved in accordance with Chapter 16.82:

- A. Laundry, dry cleaning, dyeing or rug cleaning plants.
- B. Light metal fabrication, machining, welding and electroplating and casting or molding of semi-finished or finished metals.
- C. Offices associated with a use conditionally permitted in the LI zone.
- D. Sawmills.
- E. Radio, television and similar communication stations, including transmitters and wireless communication towers, except for towers located within 1,000 feet of the Old Town District which are prohibited.
- F. Restaurants without drive-thru limited in size similar to 16.32.020.M.
(Ord. No. 2010-05, § 2, 4-6-2010)
- G. Hospitals and emergency care facilities.
- H. Automotive, recreational vehicle, motorcycle, truck, manufactured home, boat, farm and other equipment repair or service.
- I. Commercial trade schools.
- J. Wholesale building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses.
- K. Retail uses for warehousing or manufacturing operations, limited to 10% of the total floor area and not to exceed 60,000 square feet of gross leaseable area per building or business. The retail area shall be physically separated by a wall or other barrier from the manufacturing or warehousing operation. Warehousing and storage areas shall not be used as showrooms. *(Ord. 2000-1092, § 3)*

- L. Power generation plants and associated facilities.
- M. Veterinarians offices and animal hospitals.
- N. Automobile, boat, trailer and recreational vehicle storage. *(Ord. 93-964 § 3)*
- O. Daycares and pre-schools, if fully integrated with and secondary to a use elsewhere permitted in Section 16.32.020 or 16.32.030
- P. Government facilities, including police, fire and vehicle testing stations.
- Q. Public recreational facilities including parks, playfields and sports and racquet courts on publicly owned property or under power line easements. *(Ord. No. 2009-009, 7-21-2009; Ord. 2002-1136 § 3; 2001-1119; 98-1051; 93-964)*

Chapter 16.88 - INTERPRETATION OF SIMILAR USES*

Sections:

16.88.010 - Generally

16.88.020 - Application Content

16.88.030 - Approvals

16.88.010 - Generally

Where an interpretation is required as to the applicability of the provisions of this Code to a proposed land use which is not specifically listed or otherwise clearly indicated as allowed, conditionally allowed or prohibited, a written request for an interpretation may be submitted to the City Manager or his/her designee. (Ord. 98-1053 § 1; Ord. 86-851)

16.88.020 - Application Content

The request shall be submitted with a fee pursuant to Section 16.74.020 and shall include information on the following characteristics of the proposed use:

- A. Description of the activity to be conducted on the site.
- B. Noise and odor characteristics.
- C. Description of material or product storage requirements.
- D. Amount and type of traffic to be generated.
- E. Description of the structures required.

(Ord. 86-851, § 3)

16.88.030 - Approvals

The City Manager or his/her designee may authorize a use to be included among the allowed uses, if the use 1) is similar to and of the same general type as the uses specifically allowed; 2) is consistent with the Comprehensive Plan; and 3) has similar intensity, density, off-site impacts and impacts on community facilities as uses permitted in the zone. The action of the City Manager or his/her designee may be appealed to the Commission in accordance with Chapter 16.76. (Ord. 98-1053 § 1; Ord. 86-851)

Chapter 16.84 - VARIANCES [24]

SECTIONS

16.84.010 - Purpose

16.84.020 - Applicability

16.84.030 - Types of Variances

16.84.010 - Purpose

This Chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this Code as exceptions to Code standards. This Chapter provides flexibility, while maintaining the purposes and intent of the Code. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, conditions may be imposed when necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of the adopted Comprehensive Plan, the Transportation System Plan, and other Code provisions.

(Ord. No. 2011-003, § 2, 4-5-2011)

16.84.020 - Applicability

A.

Exceptions and Modifications versus Variances

A code standard or approval criterion may be modified without approval of a variance if the applicable code section expressly allows exceptions or modifications. If the code provision does not expressly provide for exceptions or modifications then a variance is required to modify that code section and the provisions of Chapter 16.84 apply.

B.

Combining Variances with Other Approvals; Permit Approvals by Other Agencies.

Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site plan review, subdivision, conditional use, etc.); however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C.

Adjustments and variances cannot be applied to change any existing Planned Unit Development (PUD).

(Ord. No. 2011-003, § 2, 4-5-2011)

16.84.030 - Types of Variances

As provided in this Section, there are three types of variances: Adjustments, Class A variance and Class B variance; the type of variance required depends on the extent of the variance request and the discretion involved in the decision making process.

A.

Adjustments

1.

Applicability: The following variances are reviewed using a Type I procedure, as governed by Chapter 16.72, using the approval criteria in Subsection 2, below:

a.

Front yard setbacks Up to a 10 percent change to the front yard setback standard in the land use district.

b.

Interior setbacks Up to a 10 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district so long as the three foot setback is maintained based on Building Code requirements where applicable.

c.

Landscape area Up to a 10% reduction in landscape area (overall area or interior parking lot landscape area).

d.

A 5% reduction in other Code standards or dimensions not otherwise specifically identified in this section and not applicable at the time of the subdivision or partition approval.

2.

Approval Criteria: Adjustments shall be granted if the applicant demonstrates compliance with all of the following criteria:

a.

The adjustment requested is required due to the lot configuration, or other conditions of the site;

b.

The adjustment does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;

c.

The adjustment will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate adjustment request.

d.

An application for an adjustment is limited to one lot or parcel per application.

e.

No more than three adjustments may be approved for one lot or parcel in 12 months.

B.

Class B Variances

1.

Generally

a.

The Class B variance standards apply to individual platted and recorded lots only.

b.

A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use zoning district.

c.

Front yard setbacks: Up to a 20 percent change to the front yard setback standard in the land use district.

d.

Interior setbacks: Up to a 20 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district so long as the three foot setback is maintained if required by the Building Code requirements.

e.

A 20% or less reduction in other Code standards or dimensions not otherwise specifically identified in this section.

2.

Approval Process: Class B variances shall be reviewed using a Type II procedure. In addition to the application requirements contained in Chapter 16.72.010, the applicant shall provide a written narrative describing the reason for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 3.

3.

Approval Criteria: The City shall approve, approve with conditions, or deny an application for a Class B Variance based on the following criteria:

a.

The variance requested is required due to the lot configuration, or other conditions of the site;

b.

The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;

c.

The variance will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate variance request.

d.

An application for a Class B variance is limited to three or fewer lots per application.

e.

The variance will have minimal impact to the adjacent properties.

f.

The variance is the minimum needed to achieve the desired result and the applicant has considered alternatives.

C.

Class A Variances

1.

Generally

a.

The Class A variance procedure may be used to modify a standard for three (3) or fewer lots, including lots yet to be created through a partition process.

b.

An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class A variance procedure. Approval of a Planned Unit Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.

c.

A Class A Variance shall not be approved that would vary the "permitted, conditional or prohibited uses" of a land use district.

2.

Approval Process:

a.

Class A Variances shall be processed using a Type IV procedure, as governed by Chapter 16.84, using the approval criteria in subsection 3, below.

b.

In addition to the application requirements contained in Chapter 16.72.010, the applicant shall provide a written narrative describing the reason for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 3.

3.

Approval Criteria: The City shall approve, approve with conditions, or deny an application for a Class A Variance based on the following criteria:

a.

The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;

b.

A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);

c.

The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;

d.

Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;

e.

The hardship is not self-imposed; and

f.

The variance requested is the minimum variance that would alleviate the hardship.

(Ord. No. 2011-003, § 2, 4-5-2011)

FOOTNOTE(S):

⁽²⁴⁾ *Editor's note*—Ord. No. 2011-003, § 2, adopted April 5, 2011, amended the Code by repealing former Ch. 16.84, §§ 16.84.010 and 16.84.020, and adding a new Ch. 16.84. Former Ch. 16.84 pertained to similar subject matter, and derived from Ords. 86-851, 91-922, 92-943, and 2003-1148; and Ord. No. 2010-015, adopted October 5, 2010. ([Back](#))

Chapter 16.56 - OTHER LAND USE ACTIONS*

Sections:

16.56.010 - Other Land Use Actions

16.56.010 - Other Land Use Actions 

Proposed land use actions or activities for which specific procedures and standards for application and review are not included in this Code shall be submitted to the Commission, on a form determined by the City and with a fee pursuant to Section 16.74.010. The Commission may recommend approval, approval with conditions, or denial of the request to the Council. The Council may approve, approve with conditions, or deny the request, or may elect to refer the request to a more appropriate approving authority.

(Ord. 86-851, § 3)

Chapter 16.76 - APPEALS*

Sections:

16.76.010 - Generally

16.76.020 - Appeal Deadline

16.76.030 - Petition for Review

16.76.040 - Appeal Authority Action

16.76.010 - Generally

A. Issues on Appeal

The only issues which may be raised on appeal are those issues which were raised on the record before the Hearing Authority with sufficient specificity so as to have provided the City, the applicant, or other persons with a reasonable opportunity to respond before the Hearing Authority.

B. Persons Eligible to Appeal

Except as otherwise provided in this Code, only those persons who submitted written comments or appeared in person before the Hearing Authority may appeal the decision of the Hearing Authority.

C. Dismissal on Appeal

If the Appeal Authority determines that the appellant was not a person to the action before the Hearing Authority, or the issue(s) that are the basis of the appeal were not properly raised per this Section, then the Appeal Authority shall dismiss the appeal of that appellant or those issues, in writing.

D. Exception

If the City either takes a land use action without providing a hearing as required by this Code, or takes a land use action which is substantially different than indicated in notice of the proposed action as per Section 16.72.030, an aggrieved person may, as provided by the laws of the State of Oregon, appeal directly to the State Land Use Board of Appeals (LUBA).

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2003-1148, § 3; 2001-1119; 99-1079; 91-922)

16.76.020 - Appeal Deadline

Land use actions taken pursuant to this Code shall be final unless a petition for review is filed with the Planning Director not more than fourteen (14) calendar days after the date on which the Hearing Authority took final action on the land use application, and written notice of the action has been mailed to the address provided by the person in the record. If the person did not provide a mailing address, then the appeal must be filed within fourteen (14) calendar days after the notice has been mailed to persons who did provide a mailing address. *(Ord.*

2003-1148, § 3; 2001-1119; 91-922)

16.76.030 - Petition for Review

Every petition for review shall include the date and a description of the land use action, including adopted findings of fact, a statement of how the petitioner is aggrieved by the action, the specific grounds relied upon in requesting a review, and a fee pursuant to Section 16.74.010. The land use decision, supporting findings and conclusions, and evidence available upon the close of the record of the land use action and any City Staff review of the issues subject to the appeal shall be made a part of the record before the Appeal Authority. (Ord. 2003-1148, § 3; 2001-1119; 91-922)

16.76.040 - Appeal Authority Action

Except as otherwise provided or required by state law, the review of the appealed land use action shall include a public hearing conducted by the Appeal Authority, as determined by Section 16.72.010, at which time only those persons who testified before the Hearing Authority or submitted written comments may present evidence and argument relevant to the approval criteria. The record before the Appeal Authority shall include only the evidence and argument submitted on the record before the Hearing Authority (including all testimony, all materials submitted at any previous stage of the review, staff reports and audio tape or transcript of the minutes of the public hearing. New evidence may not be entered into the record.

Except for the hearing being on the record and no new persons being allowed, the public notice and hearing procedures for appeals shall be identical to the procedures used in initially taking the land use action which is being appealed. The Appeal Authority may act to affirm, reverse, remand, or amend the action being reviewed. The action of the Appeal Authority shall be the final City of Sherwood action on the application, unless remanded to the Hearing Authority. Upon remand, the decision of the Hearing Authority shall be the final City of Sherwood action. (Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2003-1148, § 3; 2001-1119; 99-1079; 91-922)



ORDINANCE 2011-011

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE INCLUDING DIVISIONS III, V, VI, AND VII

WHEREAS, The Sherwood Zoning and Community Development Code has not been comprehensively updated in many years; and

WHEREAS, the City has undertaken a multi-phase, multi-year program to comprehensively update the development code to ensure that it is clear, consistent, and current; and

WHEREAS, the Planning Commission helped guide the development of proposed amendments after extensive public outreach and opportunity for public input; and

WHEREAS, this phase includes amendments to Divisions III, V, VI and VII, specifically related to the public infrastructure, land divisions, site plan modifications and administrative process; and

WHEREAS, the proposed amendments were reviewed for compliance and consistency with the Comprehensive Plan, regional and state regulations and found to be fully compliant; and

WHEREAS, the proposed amendments were subject to full and proper notice and review and a public hearing was held before the Planning Commission on August 23, 2011; and

WHEREAS, the Planning Commission voted to forward a recommendation of approval to the City Council for the proposed Development Code modifications; and

WHEREAS, the analysis and findings to support the Planning Commission recommendation are identified in the attached Exhibit 1; and

WHEREAS, the City Council held a public hearing on September 20, 2011 and determined that the proposed changes to the Development Code met the applicable Comprehensive Plan criteria and continued to be consistent with regional and state standards.

NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Findings. After full and due consideration of the application, the Planning Commission recommendation, the record, findings, and evidence presented at the public hearing, the Council adopts the findings of fact contained in the Planning Commission

recommendation attached as Exhibit 1 finding that the text of the SZCDC shall be amended as documented in Exhibit 1-A.

Section 2. Approval. The proposed amendments for Plan Text Amendment (PA) 11-03 identified in Exhibits 1-A is hereby **APPROVED**.

Section 3 - Manager Authorized. The Planning Department is hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to DLCD and necessary updates to Chapter 16 of the municipal code in accordance with City ordinances and regulations.


Section 4 - Applicability. The amendments to the City of Sherwood Zoning and Community Development Code by Sections 1 to 3 of this Ordinance apply to all land use applications submitted after the effective date of this Ordinance.

Section 5 - Effective Date. This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

Duly passed by the City Council this 4th day of October 2011.


Keith S. Mays, Mayor

Attest:


Sylvia Murphy, CMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Langer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Butterfield	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Folsom	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>

City of Sherwood **September 9, 2011**
Staff Report Following Planning Commission
Recommendation to the City Council
File No: PA 11-03 Land Divisions, Public Infrastructure and Site Plan
Modifications

Proposal: Amendments to the Development Code on this phase of the "Code Clean-Up" project include updates to: 1) site plan modifications, 2) public infrastructure with added tables and figures, and the 3) the land division process including subdivisions, partitions and lot line adjustments.

The Planning Commission held a hearing on August 23, 2011. After discussion of the various topics within the sections, the Commission recommended several minor alterations to the proposed language. After consideration of the public testimony and staff recommended changes, the Commission voted to forward the proposed amendments to the Council for approval.

I. BACKGROUND

- A. Applicant: This is a City-initiated text amendment; therefore the applicant is the City of Sherwood.
- B. Location: The proposed amendment is to the text of the development code and, therefore applies citywide.
- C. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision would go directly to the Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the August 23, 2011 Planning Commission hearing on the proposed amendment was published in *The Gazette* on 8/1/11 and *The Times* on 8/18/11. Notice was posted in 5 public locations around town and on the web site on 7/22/11. Regular updates were provided in the City newsletter.

While this does apply citywide, it does not affect the permissible uses of any property; therefore Measure 56 notice was not required or provided. DLCDC notice was provided 7/1/11.

- E. Review Criteria:
The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).
- F. Background:
The city began the comprehensive code clean-up project in 2010 as a way to update all sections of the code to provide clarity to citizens and developers and to address any local, county, regional or state standards that have gone into effect and that require changes to the code. The Planning Commission has reviewed and the City Council has adopted multiple sections of the Code recently including the topics: residential uses, variances, street trees, and open space requirements for subdivisions.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent request for comments to the standard agency notification list. The City has received no responses to date.

Public:

No formal public comments have been received to date on the proposed amendments; however the City and Commission have received input from the public during informal listening sessions and via public surveys. In addition, staff held a "brown bag" lunch meeting with private consultants and developers to get feedback on these issues.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3.

16.80.030.1 - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

Need Identified

As discussed briefly above, the following proposed Code amendments were identified to clarify and create greater flexibility and organization for those that are seeking land use approval or modifications to existing site plans. The Planning Commission held a series of work sessions to discuss the proposed changes and considered public input before the changes were recommended. The following analyzes separately how the relevant chapters and divisions meet the need requirement.

Site Plan Modification § 16.90.030

Currently, the Sherwood Zoning and Community Development Code, Section 16.90.020.3.0, requires all "proposed changes" to approved site plans to be "submitted for supplemental review together with a fee equal to one-half (1/2) the original site plan review fee". This ambiguous, one-size-fits-all language has been a stumbling block to developers making changes, including improvements, to approved site plans. It has also resulted in staff reports in excess of 30 pages for a simple change to the parking layout or addition of a very small, accessory building to the site. While some proposed modifications to approved plans do warrant a full re-review, others can be processed quickly and efficiently at little cost to the developer or the community.

Division VI. Public Infrastructure

This chapter regulates and describes standards for public improvements to the City's infrastructure when development occurs. Several of the provisions included in this chapter need reorganizing, updating or removal because they are better suited in other sections of the Municipal Code or are technical design standards better addressed in the Engineering Design and Standards Detail Manual. For example, the Street Renaming procedure is Council policy design and not a land use decision. The Street Design Modifications process is arbitrary and confusing so a clearer process that is initiated at the time of land use submittal has been developed.

Other steps that have been taken to improve the clarity of the document include:

- Technical street design standards have been removed
- Language was inserted to refer to the Transportation System Plan and Engineering Design Manual instead of a specific criteria described in the development code
- Language requiring a rough proportionality finding
- New requirements for when a Transportation Study is required

Division VII. Subdivisions, Partitions and Lot Line Adjustments

The current chapters are divided between the preliminary plat approval and the final plat approval. There is also a property or lot line adjustment chapter along with a chapter on lot design standard requirements. This has led to confusion regarding which standards and criteria apply to partitions, subdivisions and lot line adjustments. The proposed Code amendments reorganize these chapters into "subdivision" "partition" and "lot line adjustment" rather than "preliminary plat," "final plat" and "partitions." Currently, there is no specific subdivision chapter and the requirements for subdivisions are intermixed among the three chapters, causing confusion and misinterpretation of the requirements and order of the process for the particular land division process. By reorganizing the chapters, it will make the submittal requirements, process and criteria easier for the applicant to locate based on the type of land division requested. It also helps to clarify the appropriate process for recording the final plat at Washington County and provides the appropriate deadlines for processing these applications. Other changes help provide greater flexibility in the development process including allowing the entire subdivision to have an overall "average lot size" rather than a minimum lot size for each individual lot. The provisions retain a maximum amount that a lot size can be "flexed" to ensure that lot sizes do not get reduced below a buildable or acceptable amount. The proposed changes also allow smaller subdivisions (4-10 lots) to follow a Type II (staff review) process. Finally, a new process was developed for re-platting and vacating plats to help make the process clear as the current code is silent on the issue.

Upon review of the Comprehensive Plan, the following policies or strategies relate to all or some of the proposed amendments:

Comprehensive Plan and Code

Chapter 6 Transportation Goal 2

Develop a transportation system that is consistent with the City's adopted comprehensive land use plans and with the adopted plans of state local and regional jurisdictions. The proposed amendments to the public infrastructure chapter were evaluated to ensure that they were consistent with the adopted local, state and regional jurisdictions. Specifically, the amendments provide for added reference to the Transportation System Plan and clearer requirements for transportation studies.

Applicable Regional (Metro) standards

There are no known Metro standards that this proposed amendment would conflict with.

Consistency with Statewide Planning Goals

Goal 1- "Citizen Involvement"

The purpose statement of Goal 1 is "to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

The proposed code changes do not include changes to the City's citizen involvement program, which is in compliance with Goal 1. Public outreach for this project includes informal listening sessions and staff held a "brown bag" lunch meeting with private consultants and developers to get feedback on these issues.

Goal 2- "Land Use Planning"

The purpose statement of Goal 2 is "to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to ensure an adequate factual base for such decisions and actions".

The proposed code changes affect the land use process by making it easier to follow and use but do not change the way the land use application Code requirements are applied or the policy framework for which they are established. The City's land use planning process and policy framework, which are in compliance with Goal 2, will not change.

16.80.030.2 – Transportation Planning Rule Consistency

A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.

FINDING: The amendments will not result in a change of uses otherwise permitted and will have no impact on the amount of traffic on the transportation system; therefore this policy is not applicable to the proposed amendment.

Added Code language to the chapters are identified with blue underline and deletions are identified with a ~~red strikethrough~~. Moving text from one section to another is identified with ~~green double strike through~~ and where the language moved to is identified with green double underline.

16.90.020 Site Plan Review_j

A. Site Plan Review Required

Site Plan review shall be required prior to any substantial change to a site or use, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use, and prior to the issuance of a sign permit for the erection or construction of a sign

For the purposes of Section 16.90.020, the term "~~substantial alteration~~change" and "~~substantial alteration~~" shall mean any development activity as defined by this Code that generally requires a building permit and may exhibit one or more of the following characteristics:

1. The activity alters the exterior appearance of a structure, building or property and is not considered a modification.
2. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial and is not considered a modification.
3. The activity involves non-conforming uses as defined in Chapter 16.48.
4. The activity constitutes a change in a City approved plan, ~~as per Section 16.90.020~~ and is not considered a modification.
5. The activity involves the cutting of more than five (5) existing mature trees per acre, per calendar year.
6. The activity is subject to site plan review by other requirements of this Code.
7. The activity increases the size of the building by more than 100% (i.e. the building more than doubles in size), regardless of whether it would be considered a major or minor modification.
- ~~7. Review of any proposed activity indicates that the project does not meet the standards of Section 16.90.020~~

B. Exemption to Site Plan Requirement

1. Single and two family uses
2. Manufactured homes located on individual residential lots per Section 16.46.010, but including manufactured home parks,
3. Major modifications
4. Minor modifications

B. Exemptions

~~The City shall make an initial determination whether a proposed project requires a site plan review or whether the project is exempt. The City Manager or his or her designee is authorized to waive site plan review when a proposed development activity clearly does not represent a substantial alteration to the building or site involved. The findings of the City Manager or his or her designee shall be made in writing to the applicant. The action of the City Manager or his or her designee may be appealed as per Chapter 16.76.~~

CB. Plan Changes 16.90.030 Site Plan Modifications and Revocation

1A. Changes Modifications to Approved Site Plans

~~Construction, site development, landscaping, tree mitigation, habitat preservation, and other development activities shall be carried out in accordance with the site development plans per Chapter 16.72. Any proposed changes to approved plans shall be submitted for review to the City. Changes that are found to be substantial, as defined by Section 16.90.020, that conflict with original approvals, or that otherwise may conflict with the standards of Section 16.90.020, shall be submitted for supplemental review together with a fee equal to one half (1/2) the original site plan review fee.~~

1. Major Modifications to Approved Site Plans

a. Defined. The review authority shall determine that a major modification(s) review is required if one or more of the changes listed below are proposed:

- (1) A change in land use (i.e. residential to commercial, commercial to industrial, etc.);
- (2) An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;
- (3) A change in setbacks or lot coverage by more than 10 percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
- (4) A change in the type and/or location of access-ways, drives or parking areas negatively affecting off-site traffic or increasing Average Daily Trips (ADT) by more than 100;
- (5) An increase in the floor area or height proposed for non-residential use by more than 10 percent;
- (6) A reduction of more than 10 percent of the area reserved for common open space; or
- (7) Change to a condition of approval that was specifically applied to this approval (i.e. not a "standard condition"), or a change similar to Items (1)-(2) as determined by the Review Authority.

b. Approval Criteria. An applicant may request a major modification as follows:

(1) Upon the review authority determining that the proposed modification is a major modification, the applicant shall submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The review authority may require other relevant information, as necessary, to evaluate the request.

(2) The application shall be subject to the same review procedure (Type II, III or IV), decision making body, and approval criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III procedure.

(3) The scope of review shall be limited to the modification request and does not open the entire site up for additional review unless impacted by the proposed modification. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping.

(4) Notice shall be provided in accordance with Chapter 16.72.020.

(5) The decision maker shall approve, deny, or approve with conditions an application for major modification based on written findings of the criteria.

2. Minor Modifications to Approved Site Plans

a. A Minor Modification is any modification to a land use decision or approved development plan that is not within the description of a major modification as provided, above.

b. Minor Modification Review Procedure. An application for approval of a minor modification shall be reviewed by the review authority using a Type I review procedure under Section 16.72.010.A. Minor modifications shall involve only clear and objective code standards.

c. Minor Modification Applications. An application for minor modification shall include an application form, filing fee and narrative, updated Clean Water Services (CWS) Service Provider Letter or equivalent acknowledgement from CWS, and a site plan using the same plan format as in the original approval if possible. The review authority may require other relevant information, as necessary, to evaluate the request.

d. Minor Modification Approval Criteria. The review authority shall approve, deny, or approve with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code and conditions of approval on the original decision, and the modification is not a major modification as above.

B. Revocation

Any departure from approved plans shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of site plan approval are not or cannot be satisfied, the site plan approval, or building and occupancy permits, shall be revoked.

Division VI.

PUBLIC IMPROVEMENTS/INFRASTRUCTURE

Chapter 16.104

GENERAL PROVISIONS*

Sections:

16.104.010 Standards Purpose

16.104.020 Future Improvements

16.104.030 Improvement Procedures

* Editor's Note: Some sections may not contain a history.

16.104.010 Standards Purpose

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require any proposed construction of buildings and or other development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. ~~The Council may establish specifications to supplement the standards of this Code and other applicable ordinances.~~ Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities, shall generally be provided and improved at to the standards established by this Code and other City regulations.

Green Street elements such as bioswales and porous pavement are encouraged where appropriate and feasible. Where a specific design standard supporting a green street concept is not included in the ~~Construction Standard Drawings~~ Engineering Design and Standard Details Manual (Engineering Design Manual), the design will be considered by the Engineering Department, provided additional documentation is provided to the Engineering Department that documents the design is appropriate, has a design life equal to a traditional paved street, and the maintenance costs to the City are comparable to traditional streets. ~~can be maintained easily in that location.~~

(Ord. 2006-021; 2005-006 § 5; Ord. 86-851)

16.104.020 Future Improvements

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in the Transportation System Plan (TSP) Chapters 4, 5, 6 and 7 of the Community Development Plan, are intended as general locations only. The precise alignments and locations of a public improvements shall be established during the actual development and use process and shall be depicted on public improvement plans submitted and approved pursuant to § 16.106 and 108 and other applicable sections of this Code.

(Ord. 2005-006 § 5; Ord. 86-851)

16.104.030 Improvement Procedures

Except as otherwise provided, all public improvements shall conform to City standards and specifications found in the Engineering Design Manual and shall be installed in accordance with Chapter 16.106.8. The Council may establish additional specifications to supplement the standards of this Code and other applicable ordinances. Except for public projects constructed consistent with an existing facility plan, ~~Non-~~ public improvements shall not be undertaken until land use approval has been granted, ~~an a~~ public improvement plan review fee has been paid, all improvement plans have been approved by the City, and an improvement permit has been issued.

(Ord. 2005-006 § 5; Ord. 86-851)

~~Chapter 16.106~~

IMPROVEMENT PLAN REVIEW*

Sections:

~~16.106.010 Preparation and Submission~~

~~16.106.020 Construction Permit~~

~~16.106.030 Construction~~

~~16.106.040 Acceptance of Improvements~~

~~* Editor's Note: Some sections may not contain a history.~~

16.106.010 Preparation and Submission

~~Required improvement plans shall be prepared and stamped by a Registered Civil Engineer certifying compliance with City specifications. Two (2) sets of said plans shall be submitted to the City for review. Improvements plans shall be accompanied by a review fee as per this Section.~~

~~_____ A. _____ Review Fee~~

~~_____ Plan review fees are calculated as a percentage of the estimated total cost of improvements and are set by the "Schedule of Development and Business Fees" adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.~~

~~_____ B. _____ Engineering Agreement~~

~~_____ A copy of an agreement or contract between the applicant and Registered Civil Engineer for:~~

~~_____ 1. _____ Surveying sufficient to prepare construction plans.~~

~~_____ 2. _____ Preparation of construction plans and specifications.~~

~~_____ 3. _____ Construction staking, and adequate inspection.~~

~~_____ 4. _____ Construction notes sufficient to develop accurate as-built plans.~~

~~5. Drawing of accurate as-built plans and submission of reproducible mylars to the City.~~

~~6. Certificate stating that construction was completed in accordance with required plans and specifications.~~

~~(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-951, § 3)~~

~~16.106.020 Construction Permit~~

~~A. Approval~~

~~The City will return one (1) set of plans to the applicant marked "approved" or "modify and resubmit." Plans marked for re-submittal must be corrected in accordance with notations or instructions. After correction and approval, additional plans shall be provided the City for office use, field inspection and submittal to affected agencies.~~

~~B. Permit and Fee~~

~~Upon approval the applicant shall obtain a construction permit. The construction permit fee is set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.~~

~~C. Easement Documents~~

~~Necessary construction and/or permanent easements shall be provided in a form acceptable to the City prior to issuance of a construction permit.~~

~~D. Improvement Guarantees~~

~~Prior to issuance of a construction permit the applicant shall file the following documents with the City:~~

~~1. Liability Insurance~~

~~Evidence of public liability and property damage insurance adequate to protect the applicant and the City from all claims for damage or personal injury.~~

~~2. Performance Bond~~

~~To assure full and faithful performance in the construction of required improvements in accordance with approved construction plans, the applicant shall provide security in an amount equal to one hundred percent (100%) of the estimated cost of the improvements. In the event the applicant fails to carry out all provisions of the approved improvements plans and the City has non-reimbursed costs or expenses resulting from such failure, the City shall call on the security for reimbursement. Security may be provided in the form of a surety bond executed by~~

~~_____ a surety company authorized to transact business in the State of Oregon, a cash deposit, or
_____ other form of security acceptable to the City.~~

~~{Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851, § 3}~~

~~16.106.030 Construction~~

~~_____ A. _____ Initiation of Construction~~

~~Actual improvements shall not begin, or after a discontinuance, be restarted until the City is notified in writing.~~

~~_____ B. _____ Inspection~~

~~All construction shall be done to the City's specifications. The City shall perform inspections to verify compliance with approved plans and shall make a final inspection of the construction at such time as the improvements are complete. The City may require changes in typical sections and details, if unusual conditions warrant the change.~~

~~_____ C. _____ As-Built Plans~~

~~A complete set of reproducible plans showing the public improvements as built shall be filed with the City upon completion of the improvements.~~

~~_____ D. _____ Suspension of Improvements Activity~~

~~The City shall have the authority to cause a suspension of improvement construction or engineering when, in the opinion of the City, work is not being done to the City's satisfaction.~~

~~{Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3}~~

~~16.106.040 Acceptance of Improvements~~

~~_____ A. _____ Final Inspection~~

~~At such time as all public improvements, except those specifically approved for later installation, have been completed, the applicant shall notify the City of the readiness for final inspection.~~

~~_____ B. _____ Notification of Acceptance~~

~~The City shall give written notification of the acceptance of the improvements upon finding that the applicant has met the requirements of this Chapter and the specifications of all approved plans.~~

~~C. Maintenance Bond~~

~~At the time of City acceptance of public improvements, the applicant shall file with the City a maintenance bond computed at ten percent (10%) of the full value of the improvements, to provide for correction of any defective work or maintenance becoming apparent or arising within one (1) year after final acceptance of the public improvements.~~

~~(Ord. No. 2010-015, 5-2, 10-5-2010; Ord. 86-851, 5-3)~~

~~Chapter 16.108~~

~~STREETS* Chapter 16.106~~

TRANSPORTATION FACILITIES

Sections:

~~16.108106.010~~ 16.106.010 Generally

~~16.108106.0230~~ 16.106.0230 Required Improvements

~~16.108106.040-030~~ 16.106.040-030 Location

~~16.108106.050-040~~ 16.106.050-040 Street Design

~~16.108106.060-050~~ 16.106.060-050 Sidewalks

~~16.108106.070-060~~ 16.106.070-060 Hwy. 99W Capacity Allocation Program (CAP)

~~16.108106.080-070~~ 16.106.080-070 Bike Paths

* Editor's Note: Some sections may not contain a history.

~~16.108106.010~~ 16.106.010 Generally

A. Creation

Public streets shall be created in accordance with provisions of this Chapter. Except as otherwise provided, all street improvements and rights-of-way shall conform to standards for the City's functional street classification of said streets, as shown on the Transportation Plan (TSP) Map and in, shown in Figure 1, of Chapter 6 of the Community Development Plan, and ~~in~~ other applicable City standards. The following table depicts the guidelines for the street characteristics.

Type of Street	Right of Way Width	Number of Lanes	Minimum Lane Width	On Street Parking Width	Bike Lane Width	Sidewalk Width	Landscape Strip (exclusive of Curb)	Median Width
Principal Arterial (99W)	122'	4-6	12'	Prohibited	6'	6'	5'	14'
Arterial	60-102'	2-5	12'	Limited	6 feet	6-8 f'	5'	14' if required
Collector	58-92'	2-3	11'	8' optional	6'	6-8'	5'	14' median turn lane
40' Commercial/Industrial Not Exceeding 3000 vehicles per day	64'	2	20'	8'	none	6'	5'	none
50' Commercial/Industrial Exceeding 3000 vehicles per day	64'	2	12'	8'	5'	6'	5'	none
Neighborhood 1,000 vehicles per day	64'	2	18'	8'	None	8'	5' with 1' buffer	none
Local	52'	2	14'	8' on one side only	None	6'	5' with 1' buffer	none
Alley	16-25'	1-2	10-12'	One side if 20'	none	none	none	none
Downtown Street Standard	60'	2	11'	7'	none	12' pedestrian zone	4' (included in pedestrian zone)	none

B. Street Naming

1. All streets created by the subdivision ~~or partition process~~ will be named prior to submission of the final plat.
2. Any street created by a public dedication shall be named prior to or upon acceptance of the deed of dedication.
3. An action to name an unnamed street in the City may be initiated by the Council or by a person filing a petition as described in this Section.

4. All streets named shall conform to the general requirements as outlined in this Section.

5. ~~Private streets, a~~At the request of the owner(s), ~~a private may be named and addresses issued with the approval of the City~~the City may approve a private street name and address. Private streets are subject to the same street name standards as are public streets. All private street signs will be provided at the owner(s) expense.

~~C. Street Renaming *Note: Move to Municipal Code Title 12 on Streets, Sidewalks and Public Places~~

~~1. An action to rename a street in the City may be initiated by the Council:~~

~~a. On its own action; or~~

~~b. If a person files a petition as described in this section accompanied by a fee reasonably related to the costs of the process.~~

~~2. A petition for naming or renaming a street shall include the following:~~

~~a. A statement of the reasons for the proposed name change.~~

~~b. The names and addresses of all persons owning any real property abutting the road proposed to be renamed.~~

~~c. Signatures of either owners of sixty percent (60%) of the land abutting the subject road or sixty percent (60%) of the owners of land abutting the subject road.~~

~~3. Notice and Hearing~~

~~a. When a proceeding has been initiated under this section, the Council shall establish a time and place for a hearing to consider whether the proposed name change is in the public interest.~~

~~b. At least ten (10) days prior to the date of hearing, notice of the proposed name change shall be provided as follows:~~

~~(1) Notice by posting in no less than two (2) conspicuous places abutting the subject road; and~~

~~(2) Notice by publication in a newspaper of general circulation in the area of the subject road.~~

~~c. During or before a hearing under this section, any person may file information with the Council that alleges any new matter relevant to the proceedings or controverts any matter presented to the Council.~~

~~d. After considering the matters presented under this section, the Council shall determine whether the name change is in the public interest and shall adopt findings and an ordinance granting or denying the request.~~

~~e. When the ordinance becomes final, the Council shall cause the ordinance to be recorded with the County Clerk who shall cause copies of the ordinance to be filed with the Department of Public Works, the Department of Assessment and Taxation and with the County Surveyor.~~

~~f. For the purposes of this section, "owner" means the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser is the owner.~~

DC. Street Name Standards

1. All streets named or renamed shall comply with the following criteria:
 - a. Major streets and highways shall maintain a common name or number for the entire alignment.
 - b. Whenever practicable, names as specified in this Section shall be utilized or retained.
 - c. Hyphenated or exceptionally long names shall be avoided.
 - d. Similar names such as Farview and Fairview or Salzman and Saltzman shall be avoided.
 - e. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the City.
2. The following classifications (suffixes) shall be utilized in the assignment of all street names:
 - a. Boulevards: North/south arterials providing through traffic movement across the community.
 - b. Roads: East/west arterials providing through traffic movement across the community.
 - c. Avenues: Continuous, north/south collectors or extensions thereof.
 - d. Streets: Continuous, east-west collectors or extensions thereof.
 - e. Drives: Curvilinear collectors (less than 180 degrees) at least 1,000 feet in length or more.
 - f. Lanes: Short east/west local streets under 1,000 feet in length.
 - g. Terraces: short north/south local streets under 1,000 feet in length.
 - h. Court: All east/west cul-de-sacs.

- i. Place: All north/south cul-de-sacs.
 - j. Ways: All looped local streets (exceeding 180 degrees).
 - k. Parkway: A broad landscaped collector or arterial.
3. Except as provided for by this section, no street shall be given a name that is the same as, similar to, or pronounced the same as any other street in the City unless that street is an extension of an already-named street.
4. All proposed street names shall be approved, prior to use, by the City.

ED. Preferred Street Names

Whenever practicable, historical names will be considered in the naming or renaming of public roads. Historical factors to be considered shall include, but not be limited to the following:

- 1. Original holders of Donation Land Claims in Sherwood.
- 2. Early homesteaders or settlers of Sherwood.
- 3. Heirs of original settlers or long-time (50 or more years) residents of Sherwood.
- 4. Explorers of or having to do with Sherwood.
- 5. Indian tribes of Washington County.
- 6. Early leaders and pioneers of eminence.
- 7. Names related to Sherwood's flora and fauna.
- 8. Names associated with the Robin Hood legend.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2005-006, § 5; Ord. 92-947, § 1; Ord. 91-922)

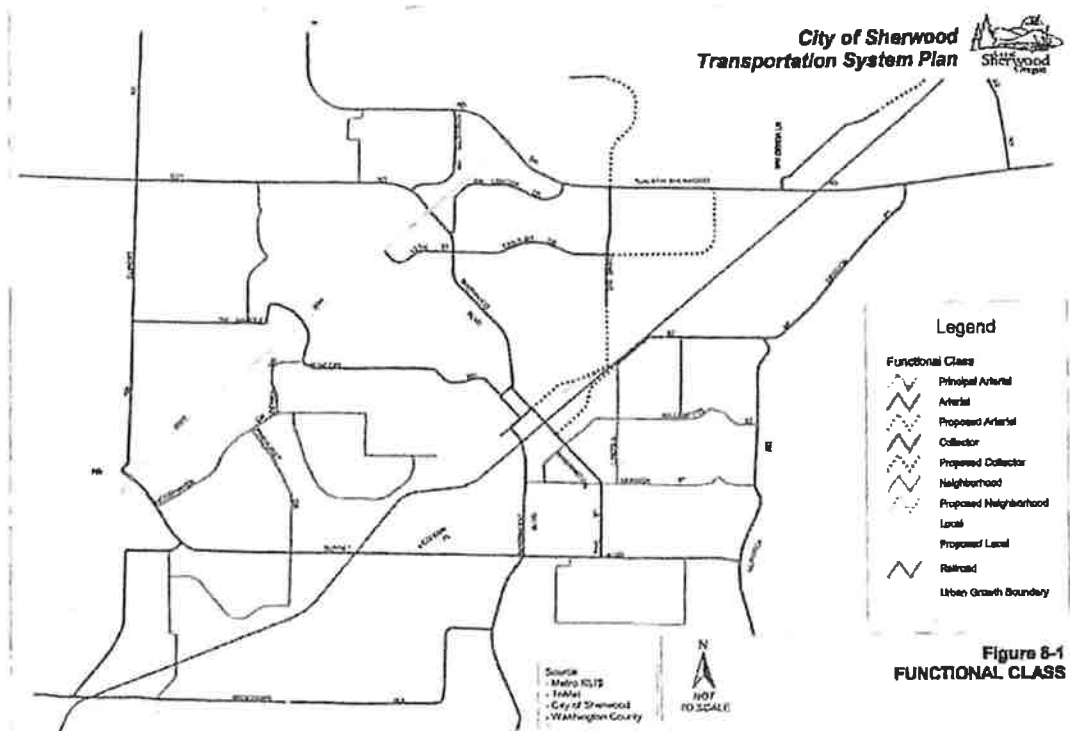
Note: Section 16.108.020, Street Systems Improvement Fees (SIF) was repealed by Ordinance 91-922 § 19) and permanently relocated in the Municipal Code).

16.108.106.030-020 Required Improvements

A. Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits. The following figure provides

the depiction of the functional classification of the street network as found in the Transportation System Plan, Figure 8-1.



B. Existing Streets

Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for development. In no event shall a required street improvement for an existing street exceed a pavement width of thirty (30) feet.

C. Proposed Streets

1. Except as otherwise provided, when a development includes or abuts a proposed street, in no event shall the required street improvement exceed a pavement width of forty (40) feet.
2. Half Streets: When a half street is created, a minimum of 22 feet of driving surface shall be provided by the developer.

D. Extent of Improvements

1. Streets required pursuant to this Chapter shall be dedicated and improved consistent with Chapter 6 of the Community Development Plan, the ~~Transportation System Plan~~ TSP and

applicable City standards and specifications included in the City of Sherwood Construction Standards, and Streets shall include curbs, sidewalks, catch basins, street lights, and street trees. Improvements shall also include any bikeways designated on the Transportation System Plan map. ~~An Applicant may be required to dedicate land and build for required public improvements only when the exaction is directly related to and roughly proportional to the impact of the development.~~

2. ~~If the City could and would otherwise require the applicant is required to provide street improvements, the City Engineer may accept a future improvements guarantee in lieu of street improvements if one or more of the following conditions exist, as determined by the City:~~
 - a. ~~A partial improvement is not feasible due to the inability to achieve proper design standards;~~
 - b. ~~A partial improvement may create a potential safety hazard to motorists or pedestrians.~~
 - c. ~~Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;~~
 - d. ~~The improvement would be in conflict with an adopted capital improvement plan;~~
 - e. ~~The improvement is associated with an approved land partition on property zoned residential use and the proposed land partition does not create any new streets; or~~
 - f. ~~Additional planning work is required to define the appropriate design standards for the street and the application is for a project which that would contribute only a minor portion of the anticipated future traffic on the street.~~

~~Catch basins shall be installed and connected to storm sewers and drainage ways. Upon completion of the improvements, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines. Street signs shall be installed at all street intersections and street lights shall be installed and served from an underground source of supply unless other electrical lines in the development are not underground.~~

E. Street Transportation Facilities Modifications

1. ~~A m~~Modifications to a standards contained within this Chapter and Section 16.58.010 and the standard cross sections contained in Chapter 8 of the adopted Sherwood Transportation System Plan (TSP) may be granted in accordance with the procedures and criteria set out in this section.
2. ~~Types of Modifications. Requests fall within the following two categories:~~
 - a. ~~Administrative Modifications. Administrative modification-A m~~Modification requests concerns a deviation from the ~~construction of facilities, rather than their general design~~

~~standards for~~ ~~of~~ ~~public facilities,~~ and are ~~limited to the following when~~ ~~a deviating~~ ~~deviation from standards~~ in this Chapter, Section ~~16.58.010,~~ ~~the~~ or ~~Chapter 8~~ contained ~~in the adopted Transportation System Plan.~~ The following standards that ~~may be modified through the following process include but are not limited to:~~

~~(1) Surfacing materials for roads or pedestrian facilities.~~

~~(2) Asphalt and/or base rock thickness less than required.~~

~~(3) Pavement marking layout.~~

~~(4) Exceeding the maximum street grade.~~

~~(5) Type and/or location of signage.~~

~~(6) Channelization.~~

~~(7) Intersection interior angles and curb radii less than required.~~

~~(8) Utilizing the current set of standards in lieu of the standards that were in place when the applicant's proposed project was vested.~~

~~(9) Access related modifications onto collectors, arterials, and state routes provided other substantive criteria such as sight distance and limited access points are met; and provided further that access to a lesser classification of road is not available.~~

~~(10) Needed changes as a result of a field investigation during construction.~~

~~(11) Similar revisions to the standards.~~

~~b. Design Modifications. Design modifications deal with the vertical and horizontal geometrics and safety related issues and include the following when deviating from this Chapter, Section 16.58.010 or Chapter 8 cross sections in the adopted Transportation System Plan:~~
~~(1)~~

~~a. Reduced sight distances.~~

~~(2)b. Vertical alignment.~~

~~(3)c. Horizontal alignment.~~

~~(4)d. Geometric design (length, width, bulb radius, etc.).~~

~~(5)e. Design speed.~~

~~(6)f. Crossroads.~~

~~(7)g. Access policy.~~

~~8)h.~~ A proposed alternative design which provides a plan superior to these standards.

~~(9)i.~~ ~~All other standards.~~ Low impact development.

i. Access Management Plans

~~3. Procedure. A modification request shall be classified as an administrative decision by the City Engineer. When a modification is requested to provide a green street element that is not included in the Construction Standards, the below process shall be followed, however no fee shall be required.~~

~~a. Administrative Modification. Administrative modifications may be requested at any time and are processed as Type II applications, unless defined under (C)(2) below. The application shall include sufficient technical analysis to enable a reasoned decision and shall include a letter of concurrency from the City Engineer.~~

~~b3.~~ Design Modification Procedure

a. Design MmA modifications shall be proposed with the submittal application for land use approval. ~~land use approval.~~

~~_____ in conjunction with the _____ application for the underlying development proposal and _____~~

b. A The modification is processed as a Type III application. Design mModification requests shall be processed in conjunction with the underlying development proposal, unless it is submitted subsequent to the decision for the underlying development proposal. The design modification application shall:

c. When a modification is requested to provide a green street element that is not included in the Engineering Design Manual, the modification process will apply, but the modification fee will be waived.

~~(1) Include a written request stating the reasons for the request and the factors which would make approval of the request reasonable.~~

~~(2) Include a letter of Concurrency from the City Engineer.~~

~~(3) Be accompanied by a map showing the applicable existing conditions and proposed construction such as contours, wetlands, significant trees, lakes, streams and rivers, utilities, property lines, existing and proposed roads and driveways, existing and projected traffic patterns, and any unusual or unique conditions not generally found in other developments.~~

~~(4) In the case of modification requests based upon alleged disproportionality, include an engineering analysis of the standard sought to be modified which contrasts relevant traffic impacts from the development with the cost of complying with the standard.~~

~~(5) For crossroad and frontage construction and right-of-way dedication, the application shall include information indicating whether there are geographic or other factors which render connection/completion of the road unfeasible.~~

4. Criteria for Modification: Street modifications Modifications may be granted when criterion 4a and any one of -criteria 4b through 4fe are met:

~~a. A letter of concurrency is obtained from the City Engineer or designee. f~~

~~a. In reviewing a modification request, c shall~~ Consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors, such as to advance the goals of the adopted Sherwood Comprehensive Plan and Transportation System Plan as a whole. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact.

b. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative which can accomplish the same design purpose is available.

c. A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship. Self-imposed hardships shall not be used as a reason to grant a modification request.

d. An alternative design is proposed which will provide a plan equal to or superior to the existing street standards.

e. Application of the standards of this chapter to the development would be grossly disproportional to the impacts created.

~~f. In reviewing a modification request, consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors, such as to advance the goals of the adopted Sherwood Comprehensive Plan and Transportation System Plan as a whole. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact. (Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 2005-009 § 5; Ord. 91-922; Ord. 86- 851, § 3)~~

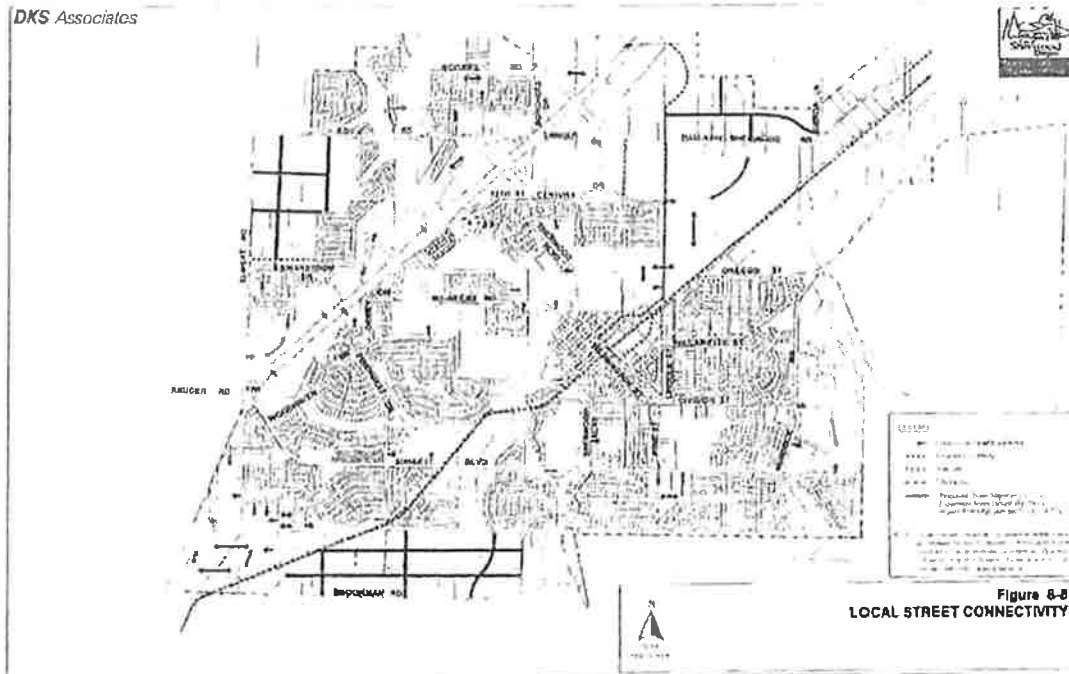
16.108106.040-030 Location

A. Generally

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic and pedestrian circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Chapter 16.156, and topographical considerations.

B. Street Connectivity and Future Street Systems

1. Future Street Systems. The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Local Street Connectivity Map contained in the adopted Transportation System Plan (Figure 8-8).



2. Connectivity Map Required. New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that implements, responds to and expands on the Local Street Connectivity map contained in the TSP.
 - a. ___ A project is deemed to be consistent with the Local Street Connectivity map when it provides a street connection in the general vicinity of the connection(s) shown on the map, or where such connection is not practicable due to topography or other physical constraints; it shall provide an alternate connection approved by the Review Authority decision-maker.
 - b. ___ Where a developer does not control all of the land that is necessary to complete a planned street connection, the development shall provide for as much of the designated connection as practicable and not prevent the street from continuing in the future.
 - c. ___ Where a development is disproportionately impacted by a required street connection, ___ or it provides more than its proportionate share of street improvements along property

line (i.e., by building more than 3/4 width street), the developer shall be entitled to System Development charge credits, as determined by the City Engineer.

3. **Block Length.** For new streets except arterials, block length shall not exceed 530 feet. The length of blocks adjacent to arterials shall not exceed 1,800 feet.
4. Where streets must cross water features identified in Title 3 of the Urban Growth Management Functional Plan (UGMFP), provide crossings at an average spacing of 800 to 1,200 feet, unless habitat quality or length of crossing prevents a full street connection.
5. Where full street connections over water features identified in Title 3 of the UGMFP cannot be constructed in centers, main streets and station communities (including direct connections from adjacent neighborhoods), or spacing of full street crossings exceeds 1,200 feet, provide bicycle and pedestrian crossings at an average spacing of 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.
6. **Pedestrian and Bicycle Connectivity.** Paved bike and pedestrian accessways consistent with cross section standards in Figure 8-6 of the TSP shall be provided on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 300 feet. Multi-use paths shall be built according to the Pedestrian and Bike Master Plans in the adopted ~~TSP Transportation System Plan~~.
7. **Exceptions.** Streets, bike, and pedestrian connections need not be constructed when any of the following conditions exists:
 - a. Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided.
 - b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
 - c. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

C. Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 2005-017 § 5; Ord. 2005-009, § 5; Ord. 91-922; Ord. 86-851)

D. Additional Setbacks

Generally ~~Additional~~ additional setbacks apply when the width of a street right-of-way abutting a development is less than the standard width under the functional classifications in Section VI of the Community Development Plan. Additional setbacks are intended to provide unobstructed area for future street right-of-way dedication and improvements, in conformance with Section VI. Additional setbacks shall be measured at right angles from the centerline of the street.

TABLE INSET:

	Classification	Additional Setback
1.	Major-Principle Arterial <u>(99W)</u>	61 feet
2.	Minor -Arterial	37 feet
3.	Collector	29 feet <u>32 feet</u>
4.	Local <u>Neighborhood Route</u>	26 feet <u>32 feet</u>
5.	<u>Local</u>	<u>26 feet</u>

16.108.106.050-040 Street Design

Standard cross sections showing street design and pavement dimensions are located in the City of Sherwood Transportation System Plan, and City of Sherwood's ~~Design~~ Engineering Design and Standard Details Construction Manual.

A. Reserve Strips

Reserve strips or street plugs controlling access or extensions to streets ~~shall are not be~~ allowed unless necessary for the protection of the public welfare or of substantial property rights. All reserve strips shall be dedicated to the City appropriate jurisdiction that maintains the street.

B. Alignment

All proposed streets shall, as far as practicable, be in alignment with existing streets. In no case shall the staggering of streets create a "T" intersection or a dangerous condition. Street offsets of less than one hundred (100) feet ~~will are not be~~ allowed.

C. Future Extension

Where necessary to access or permit future subdivision or development of adjoining land, streets shall extend to the boundary of the proposed development and provide at the required roadway width necessary for the future development. Dead-end streets less than 100' in length shall either comply with City cul-de-sac standards of Section 16.108.060, or shall provide an interim hammerhead turnaround at a location that is aligned with the future street system as shown on the local street connectivity map the Engineering Design Manual.

A durable sign shall be installed at the applicant's expense. These signs shall notify the public of the intent to construct future streets. The sign shall read as follows: "This road will be extended with future development. For more information contact the City of Sherwood at 503-625-4202."

D. Intersection Angles

~~1. Streets shall intersect as near to ninety (90) degree angles as practical, except where topography requires a lesser angle. In no all cases, the applicant shall comply with refer to the Engineering Design Manual, shall the permitted angle be less than eighty (80) degrees without an approved special intersection design. Streets which contain an acute angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway edge radius of twenty (20) feet and maintain a uniform width between the roadway and the right-of-way line.~~

~~2. Arterial, collector streets, or neighborhood routes intersecting with another street shall have at least one hundred (100) feet on tangent adjacent to intersections unless topography requires a lesser distance. Local streets, except alleys, shall have at least fifty (50) feet on tangent adjacent to intersections.~~

E. Cul-de-sacs

1. All cul-de-sacs shall ~~be no more than one hundred (100) feet in length, shall not provide access to more than 15 dwelling units and shall be used only when exceptional topographical constraints, existing development patterns, or compliance with other standards in this code preclude a street extension and circulation. A cul-de-sac and shall not be no more than two hundred (200) feet in length and shall not provide access to more than 25 dwelling units.~~

2. All cul-de-sacs shall terminate with a circular turnaround no more than 40 feet in radius (i.e. from center to edge of pavement) or hammerhead turnaround in accordance with the specifications in the Engineering Design and Construction Manual. The radius of circular turnarounds may be larger when they contain a landscaped island, parking bay in their center, Tualatin Valley Fire and Rescue submits a written request, or an industrial use requires a larger turnaround for truck access.

~~the near side of the intersecting street to the farthest point of the cu~~
4.3. Public easements, tracts, or right-of-way shall provide paved pedestrian and bicycle access ways at least 6 feet wide where a cul-de-sacs or dead-end streets are is planned, to connect the ends of the streets together, connect to other streets, and/or connect to other existing or planned developments in accordance with the standards of this Chapter, the TSP, and other the Engineering Design and Standards-Detail Manual or other provisions identified in this Code for the preservation of in order to preserve trees.

F. Grades and Curves

Grades shall be evaluated by the City Engineer and comply with the Engineering Design Manual. ~~not exceed six percent (6%) for arterials, ten percent (10%) for collector streets or neighborhood routes, and twelve percent (12%) for other streets. Center line radii of curves shall not be less than two hundred (200) feet for arterials or one hundred (100) feet for other streets. Where existing conditions, such as topography, make buildable sites impractical, steeper grades and sharper curves may be approved. Finished street grades shall have a minimum slope of one-half percent (1/2%).~~

G. Streets Adjacent to Railroads

Streets adjacent to railroads shall run approximately parallel to the railroad and be separated by a distance suitable to allow landscaping and buffering between the street and railroad. Due consideration shall be given at cross streets for the minimum distance required for future grade separations and to provide sufficient depth to allow screening of the railroad.

H. Buffering of Major Streets

Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties shall be provided and through and local traffic shall be separated and traffic conflicts minimized. In addition, visual corridors pursuant to Section 16.142.030, and all applicable access provisions of Chapter 16.96, shall be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.

I. Median Islands

As illustrated in ~~Chapter 8~~ of the adopted Transportation System Plan, Chapter 8, median islands may be required ~~used on~~ arterial or collector streets for the purpose of controlling access, providing for ~~pedestrian safety or~~ for aesthetic purposes.

~~J. Curbs~~

~~Except in the Old Town Overlay District where curbless (woonerf) streets are permitted, or as otherwise approved by the City Engineer, curbs shall be installed on both sides of public streets and shall be at least six (6) inches in height.~~

J. Transit Facilities

Developments along an existing or proposed transit routes, as illustrated in Figure 7-2 in the TSP, ~~shall be is~~ required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities to Tri-Met specifications. Transit facilities shall also meet the following requirements:

1. Locate buildings within 20 feet of or provide a pedestrian plaza at major transit stops.

2. Provide reasonably direct pedestrian connections between the transit stop and building entrances on the site.
3. Provide a transit passenger landing pad accessible to disabled persons (if not already existing to transit agency standards).
4. Provide an easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider.
5. Provide lighting at a transit stop (if not already existing to transit agency standards).

~~L~~K. Traffic Controls

1. ~~For an application for a proposed residential developments that will generate more than with over an estimated 200 average daily vehicle trips (ADT) For developments of five (5) acres or more, the City may require requires must include a traffic impact analysis to determine the number and types of traffic controls necessary to accommodate anticipated traffic flow. Such analysis will be completed according to specifications established by the City. Review and approval of the analysis by the City, and any improvements indicated, shall be required prior issuance of a constructi~~
2. For all other proposed developments including commercial, industrial or institutional uses with over an estimated 400 ADT, or as otherwise required by the City Engineer, the application must include a traffic impact analysis to determine the number and types of traffic controls necessary to accommodate anticipated traffic flow.

~~M~~L. Traffic Calming

- 1. The following roadway design features, including internal circulation drives, may be required by the City in new construction in areas where traffic calming needs are anticipated:
 - a. Curb extensions (bulb-outs).
 - b. Traffic diverters/circles.
 - c. Alternative paving and painting patterns.
 - d. Raised crosswalks, speed humps, and pedestrian refuges.
 - e. Other methods demonstrated as effective through peer reviewed engineering studies.
2. With approval of the City Engineer, traffic calming measures such as speed humps and additional stop signs can be applied to mitigate traffic operations and/or safety problems on existing streets. They should not be applied with new street construction unless approved by the City Engineer and Tualatin Valley Fire & Rescue.

M.N. Vehicular Access Management

All developments shall have legal access to a public road. Access onto public streets shall be permitted upon demonstration of compliance with the provisions of adopted street standards in the ~~City of Sherwood Transportation Technical Standards and the standards of this Division~~ Engineering Design Manual.

1. Measurement: See the following access diagram where R/W = Right-of-Way; and P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines.
 - a. Minimum right-of-way radius at intersections shall conform to city standards.
 - b. All minimum distances stated in the following sections shall be governed by sight distance requirements according to ~~the City Engineering Design and Construction~~ Manual.
 - c. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.
 - d. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.
 - e. Minimum spacing between driveways shall be measured from Point "C" to Point "C" as shown below:

GRAPHIC UNAVAILABLE: [Click here](#)

2. Roadway Access

No use will be permitted to have direct access to a street or road except as specified below. Access spacing shall be measured from existing or approved accesses on either side of a street or road. The lowest functional classification street available to the legal lot, including alleys within a public easement, shall take precedence for new access points.

a. Local Streets:

Minimum right-of-way radius is fifteen (15) feet. Access will not be permitted within ten (10) feet of Point "B," if no radius exists, access will not be permitted within twenty-five (25) feet of Point "A." Access points near an intersection with a Neighborhood Route, Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than ten (10) feet.

b. Neighborhood Routes:

Minimum spacing between driveways (Point "C" to Point "C") shall be fifty (50) feet with the exception of single family residential lots in a recorded subdivision. Such lots shall not be subject to a minimum spacing requirement between driveways (Point "C" to Point "C"). In all instances, access points near an intersection with a Neighborhood Route, Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than fifty (50) feet.

c. Collectors:

All commercial, industrial and institutional uses with one-hundred-fifty (150) feet or more of frontage will be permitted direct access to a Collector. Uses with less than one-hundred-fifty (150) feet of frontage shall not be permitted direct access to Collectors unless no other alternative exists.

~~There~~ Where joint access is available it shall be used, provided that such use is consistent with Section 16.96.040, Joint Access. No use will be permitted direct access to a Collector within one-hundred (100) feet of any present Point "A." Minimum spacing between driveways (Point "C" to Point "C") shall be one-hundred (100) feet. In all instances, access points near an intersection with a Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than one hundred (100) feet.

d. Arterials and Highway 99W - Points of ingress or egress to and from Highway 99W and arterials designated on the Transportation Plan Map, attached as Figure 1 of the Community Development Plan, Part II, shall be limited as follows:

(1) Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W or arterials. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.

(2) Other private ingress or egress from Highway 99W and arterial roadways shall be minimized. Where alternatives to Highway 99W or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress. Alternatives include shared or crossover access agreement between properties, consolidated access points, or frontage or backage roads. When alternatives do not exist, access shall comply with the following standards:

(a) Access to Highway 99W shall be consistent with ODOT standards and policies per OAR 734, Division 51, as follows: Direct access to an arterial or principal arterial will be permitted provided that Point 'A' of such access is more than six hundred (600) feet from any intersection Point 'A' or other access to that arterial (Point 'C').

(b) The access to Highway 99W will be considered temporary until an alternative access to public right-of-ways is created. When the alternative access is available the temporary access to Highway 99W shall be closed.

(3) All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local, neighborhood route or collector streets, including frontage or backage roads, consistent with the Transportation Plan Map and Chapter 6 of the Community Development Plan.

3. Exceptions to Access Criteria for City-Owned Streets

~~a. Alternate points of access may be allowed if an access management plan which _____ maintains the classified function and integrity of the applicable facility is submitted to _____ and reviewed and _____ approved by the City Engineer, after considering the applicant's compliance with this Chapter as if the access management plan must be included as part of the part of land use submittal or an application for modification as described in § 16.106.020 E. (Transportation – Facilities Modifications) and the Engineering Design - Manual.~~

~~b. An application for an Access Management Plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. References to standards or publications used to prepare the Access Management Application shall be included with the application, including citations and numbers of engineering publications used to demonstrate compliance.~~

~~c. An access management plan shall address the safety and operational problems which would be encountered should a modification to the access spacing standards be granted. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the State of Oregon. An access management plan shall at minimum contain the following:~~

~~(1) The minimum study area shall include the length of the site's frontage plus the distance of the applicable access spacing standard on each side of the subject property, as set forth in Section 16.108.050.N.2, measured from the property lines or access point(s), whichever is greater. For example, a property with 500 feet of frontage on an arterial (required 600 foot access spacing standard) shall have a minimum study area which is 1,700 (1,200 + 500) feet in length.~~

~~(2) The access management plan shall address the potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.~~

~~(3) The access management plan shall include a comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the County standard for access spacing.~~

~~Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.~~

~~(4) The access management plan shall include a list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.~~

~~(5) Notice for a proposed access management plan shall include all property owners within the study area defined above.~~

b. Access in the Old Town (OT) Overlay Zone

a. Access points in the OT Overlay Zone shown in an adopted plan such as the Transportation System Plan, are not subject to the access spacing standards and do not need a variance. However, the applicant shall submit a partial access management plan for approval by the City Engineer. The approved plan shall be implemented as a condition of development approval.

~~b.~~ Partial Access Management Plan.

~~(1) A partial access management plan shall include:~~

~~(a) Drawings identifying proposed or modified access points.~~

~~(b) A list of improvements and recommendations necessary to implement the proposed or modified access.~~

~~(c) A written statement identifying impacts to and mitigation strategies for facilities related to the proposed access points, especially considering safety impacts to all travel modes, operations, and the streetscape including on-street parking, tree spacing and pedestrian and bike facilities. The lowest functional classification street available to the lot, including alleys within a public easement, shall take precedence for new access points.~~

~~(2) Access permits shall be required even if no other land use approval is requested.~~

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 2005-009, § 5; 2005-006, § 5; Ord. 86-__851)

16.118.050 N. Private Streets

1. The construction of a new private streets, serving a single-family residential developments shall be is prohibited unless it provides principal access to two or fewer residential lots or parcels (i.e. flag lots).

2. Provisions shall be made to assure private responsibility for future access and maintenance through recorded easements. Unless otherwise specifically authorized, a private street shall comply with the same standards as a public street identified in the Community Development Code and the Transportation System Plan.

3. A private street shall be distinguished from public streets and reservations or restrictions relating to the private street shall be described in land division documents and deed records.

4. A private street shall also be signed differently from public streets and include the words "Private Street".

16.108106.060 Sidewalks

A. Required Improvements

1. Except as otherwise provided, sidewalks shall be installed on both sides of a public street and in any special pedestrian way within new development.
2. For Highway 99W, ~~major or minor~~ arterials, or in special industrial districts, the ~~Commission City Manager or designee~~ may approve a development without sidewalks if alternative pedestrian routes are available.
3. In the case of approved cul-de-sacs serving less than fifteen (15) dwelling units, sidewalks on one side only may be approved by the ~~Review Authority~~ City Manager or designee.

B. Sidewalk-Design Standards

1. **Arterial and Collector Streets**
Arterial and collector streets shall have minimum eight (8) foot wide sidewalks/multi-use path, located as required by this Code.
2. **Local Streets**
Local streets shall have minimum five (5) foot wide sidewalks, located as required by this Code.
3. **Handicapped Ramps**
Sidewalk handicapped ramps shall be provided at all intersections.

C. Pedestrian and Bicycle Paths

Provide bike and pedestrian connections on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 330 feet except where prevented by topography, barriers such as railroads or highways, or environmental constraints such as rivers and streams.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2005-009, § 5; 2000-1103; Ord. 86-851)

Chapter 16.106108-

IMPROVEMENT PLAN REVIEW*

Sections:

16.106108.010 Preparation and Submission

16.106108.020 Construction Permit

16.106108.030 Construction

16.106108.040 Acceptance of Improvements

* Editor's Note: Some sections may not contain a history.

16.106108.010 Preparation and Submission

Required An improvement plans shall be prepared and stamped by a Registered Civil Engineer certifying compliance with City specifications. Two (2) sets of said the plans shall be submitted to the City for review. An Improvements plans shall be accompanied by a review fee as per this Section.

A. Review Fee

Plan review fees are calculated as a percentage of the estimated total cost of improvements and are set by the "Schedule of Development and Business Fees" adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.

B. Engineering Agreement

A copy of an agreement or contract between the applicant and Registered Civil Engineer for:

1. Surveying sufficient to prepare construction plans.
2. Preparation of construction plans and specifications.
3. Construction staking, and adequate inspection.
4. Construction notes sufficient to develop accurate as-built plans.
5. Drawing of accurate as-built plans and submission of reproducible mylars for finals to the City.
6. Certificate stating that construction was completed in accordance with required plans and specifications.

{Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851, § 3}

16.106108.020 Construction Permit

A. Approval

The City will return one (1) set of plans to the applicant marked "approved," or "approved as noted" or "modify and resubmit." Plans marked for re-submittal must be corrected in accordance with notations or instructions. After correction and approval, additional plans shall be provided the City for office use, field inspection and submittal to affected agencies.

B. Permit and Fee

Upon approval the applicant shall obtain a construction permit. The construction permit fee is set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.

C. Easement Documents

Necessary construction and/or permanent easements shall be provided in a form acceptable to the City prior to issuance of a construction permit.

D. Improvement Guarantees

Prior to issuance of a construction permit the applicant shall file the following documents with the City:

1. Liability Insurance

Evidence of public liability and property damage insurance adequate to protect the applicant and the City from all claims for damage or personal injury.

2. Performance Bond

To assure full and faithful performance in the construction of required improvements in accordance with approved construction plans, the applicant shall provide security in an amount equal to one hundred twenty-five percent (100125%) of the estimated cost of the improvements. In the event the applicant fails to carry out all provisions of the approved improvements plans and the City has non-reimbursed costs or expenses resulting from such failure, the City shall call on the security for reimbursement. Security may be provided in the form of a surety bond executed by a surety company authorized to transact business in the State of Oregon, or a cash deposit, or irrevocable standby letter of credit, or other form of security acceptable to the City.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851, § 3)

16.106108.030 Construction

A. Initiation of Construction

Actual construction of improvements shall not begin, or after a discontinuance, be restarted until the City is notified in writing.

B. Inspection

All construction shall be done to the City's specifications. The City shall perform inspections to verify compliance with approved plans and shall make a final inspection of the construction at such time as the improvements are complete. The City may require changes in typical sections and details, if unusual conditions warrant the change.

C. As-Built Plans

A complete set of reproducible plans and an electronic copy of the base files in "AutoCad" or PDF format showing the public improvements as built shall be filed with the City upon completion of the improvements.

D. Suspension of Improvements Activity

The City ~~shall have the authority to~~ may cause a suspension of ~~improvement~~ construction or engineering when, in the opinion of the City, work is not being done to the City's satisfaction.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

16.106108.040 Acceptance of Improvements

A. Final Inspection

At such time as all public improvements, except those specifically approved for later installation, have been completed, the applicant shall notify the City of the readiness for final inspection.

B. Notification of Acceptance

The City shall give written ~~notification~~ notice of the acceptance of the improvements upon finding that the applicant has met the requirements of this Chapter and the specifications of all approved plans.

C. Maintenance Bond

Prior to ~~At the time of~~ City acceptance of public improvements, the applicant shall ~~file with~~ provide the City a maintenance bond computed at ten percent (10%) of the full value of the improvements, for the purpose of correcting ~~to provide for correction of~~ any defective work or maintenance that becomes apparent or arises within ~~one-two (1-2)~~ years after final acceptance of the public improvements.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

Division VII. LAND DIVISIONS

SUBDIVISIONS, AND PARTITIONS, LOT LINE ADJUSTMENTS AND MODIFICATIONS

Chapter 16.120

GENERAL PROVISIONS SUBDIVISIONS*

Sections:

16.120.010 Purpose

16.120.020 General Subdivision Provisions

16.120.030 Plating Authority Approval Procedure: Preliminary Plat

16.120.040 Approval Criteria: Preliminary Plat

16.120.050 Final Subdivision Plat

16.120.060 Improvement Agreement

16.120.070 Bond

16.120.080 Filing and Recording

* Editor's Note: Some sections may not contain a history.

16.120.010 Purpose

~~Subdivision and land partitioning~~ regulations are intended to promote the public health, safety and general welfare; lessen traffic congestion; provide adequate light and air; prevent overcrowding of land; and facilitate adequate water supply, sewage and drainage.

(Ord. 86-851, § 3)

16.120.020 General Subdivision Provisions

A. Approval of a subdivision occurs through a two-step process: the preliminary plat and the final plat.

1. The preliminary plat shall be approved by the Approval Authority before the final plat can be submitted for approval consideration; and

2. The final plat shall reflect all conditions of approval of the preliminary plat.

B. All subdivision proposals shall conform to all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

C. Future re-division

When subdividing tracts into large lots, the Approval Authority shall require that the lots be of such size and shape as to facilitate future re-division in accordance with the requirements of the zoning district and this Division.

D. Future Partitioning

When subdividing tracts into large lots which may be resubdivided, the City shall require that the lots be of a size and shape, and apply additional building site restrictions, to allow for the subsequent division of any parcel into lots of smaller size and the creation and extension of future streets.

E. Lot averaging

Lot size may be averaged to allow lots less than the minimum lot size allowed in the underlying zoning district subject to the following regulations:

1. The average lot area for all lots is not less than allowed by the underlying zoning district.
2. No lot created under this provision shall be less than 90 % of the minimum lot size allowed in the underlying zoning district.
3. The maximum lot size cannot be greater than 10 % of the minimum lot size.

F. Required Setbacks

All required building setback lines as established by this Code, shall be shown in the preliminary subdivision plat or included in the deed restrictions.

D.G. Property Sales

No property shall be disposed of, transferred, or sold until required subdivision approvals are obtained, pursuant to this Code.

16.120.020-030 Platting Authority Approval Procedure-Preliminary Plat

A. Approval Authority

- 1. The approving authority for preliminary and final plats of subdivisions shall be in accordance with Section 16.72.010 of this Code.**
 - a. A subdivision application for 4-10 lots will follow a Type II review process.
 - b. A subdivision application for 11-50 lots will follow a Type III review process.
 - c. A subdivision application for over 50 lots will follow a Type IV review process.
- 2. Approval of subdivisions and partitions is required in accordance with this Code before a plat for any such subdivision or partition may be filed or recorded with Washington County. Appeals to a decision may be filed pursuant to Chapter 16.76.**

B. Future Partitioning

~~When subdividing tracts into large lots which may be resubdivided, the City shall require that the lots be of a size and shape, and apply additional building site restrictions, to allow for the subsequent division of any parcel into lots of smaller size and the creation and extension of future streets.~~

~~C. Required Setbacks~~

~~All required building setback lines as established by this Code, shall be shown in the subdivision plat or included in the deed restrictions.~~

~~D. Property Sales~~

~~No property shall be disposed of, transferred, or sold until required subdivision or partition approvals are obtained, pursuant to this Code.~~

B. Phased Development

1. The Approval Authority may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period for any phase be greater than two years without reapplying for a preliminary plat.

2. The criteria for approving a phased subdivision review proposal are:

a. The public facilities shall be scheduled to be constructed in conjunction with or prior to each phase to ensure provision of public facilities prior to building occupancy;

b. The development and occupancy of any phase shall not be dependent on the use of temporary public facilities;

(1) For purposes of this subsection, a temporary public facility is an interim facility not constructed to the applicable City or district standard; and

(2) The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as a part of the approval of the preliminary plat.

3. The application for phased development approval shall be reviewed concurrently with the preliminary plat application and the decision may be appealed in the same manner as the preliminary plat.

~~C. Required Findings~~ 16.120.040 Approval Criteria: Preliminary Plat

No preliminary plat shall be approved unless:

1A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.

2B. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.

3C. The plat complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX. The subdivision complies with Chapter 16.128 (Land Division Design Standards).

4D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.

5E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.

6F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.

7G. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.

8H. The preliminary plat clearly shows the proposed lot numbers, setbacks, dedications and easements.

8J. A minimum of five percent (5%) open space has been provided per § 16.44.B.8 (Townhome-Standards) or §16.142.020(Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 98-1053, § 1; Ord. 94-991, § 1; Ord. 91-922, § 3; Ord. 86-851)

Chapter 16.122

PRELIMINARY PLATS*

Sections:

16.122.010 Generally

~~* Editor's Note: Some sections may not contain a history.~~

16.122.010 Generally

A. — Approval Required

~~All subdivisions and partitions are subject to preliminary plat approval through the Type II, Type III or Type IV review processes. Approval of the preliminary plat shall not constitute final acceptance of the plat for recording. Approval shall however, be binding upon the City for the purpose of preparation of the final plat or map, and the City may only require such changes in the plat or map as are necessary for compliance with the terms of preliminary plat approval.~~

~~B. Action~~

~~The City shall review preliminary plat applications submitted in accordance with Section 16.70 and approve, approve with conditions, or deny the application. Conditions may be imposed by the Hearing Authority if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code. The action of the City shall be noted on two (2) copies of the preliminary plat, including references to any attached documents describing any conditions or restrictions. One (1) copy shall be returned to the applicant with a notice of decision and one (1) retained by the City along with other applicable records.~~

Chapter 16.124

FINAL PLATS*

Sections:

16.124.010 Generally

16.124.020 Final Plat Review

16.124.030 Creation of Streets

* Editor's Note: Some sections may not contain a history.

16.124.010 Generally

16.120.050 Final Subdivision Plat

A. Time Limits Procedure

1. Unless otherwise noted below, Within two (2) years after approval of the preliminary plat, a final plat shall be submitted. final subdivision approval includes meeting all conditions from the land use approval, review and approval by County, and the signature of the City's designee on the mylar.
2. The subdivider shall submit ~~to the City six (6) copies of~~ the final plat, and all supplementary information required by the Planning Department or pursuant to this Code.
3. Upon approval of the final plat drawing, the applicant may submit the mylar for final signature.
4. All requirements for signature of the mylar shall be completed within two (2) years of approval of the final plat.

B. Extensions

~~After the expiration of the two (2) year period following preliminary plat approval, the plat must be resubmitted for new approval. If the final plat is not approved within two (2) years, the preliminary plat approval shall expire and a new plat must be submitted. However, ~~T~~the City may, upon written request~~

by the applicant, grant a single extension up to one (1) year upon a written finding that the facts upon which approval was based have not changed to an extent sufficient to warrant refile of the preliminary plat and that no other development approval would be affected. For preliminary plat approvals granted ~~on or after~~ between January 1, 2007 ~~through~~ and December 31, 2009, the approval shall be extended until December 31, 2013.

C. ~~Staging~~

~~The City may authorize platting and development to proceed in stages that exceed two (2) years, but in no case shall the total time period for all stages be greater than five (5) years. Each stage shall conform to the applicable requirements of this Code. Portions platted or developed after the passage of two (2) years may be required to be modified in accordance with any change to the Comprehensive Plan or this Code.~~

DC. ~~Shown on Plat~~ Approval Criteria: Final Plat

~~The following information shall be shown on the final plat:~~ By means of a Type I procedure, the City shall review the final plat based on findings regarding compliance with the following criteria:

1. The final plat is consistent in design (e.g., number and dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (e.g., road authority). Alternatively, the developer has provided a performance guarantee in accordance with § 16.120.070.
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal, storm drainage and water supply systems;
5. The applicant has provided copies of all recorded homeowners association Covenants, Conditions and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
6. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
7. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance Division VI of this Code, and the bond requirements of 16.120.070. The amount of

the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;

8. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.
1. ~~Date of approval, scale, north arrow, legend, and controlling topography such as creeks, highways, and railroads.~~
 2. ~~Legal description of the plat boundaries.~~
 3. ~~Existing surveys related to the plat by distances and bearings, and referenced as follows:~~
 - a. ~~The location and description of all stakes, monuments, and other evidence used to determine the boundaries of the subdivision.~~
 - b. ~~Adjoining corners of all contiguous subdivisions.~~
 - c. ~~Section, township, range, donation land claim lines and boundaries of any lots within previously recorded subdivision plats within or adjacent to the plat.~~
 - d. ~~Location and description of all monuments found or established in making the survey of the subdivision or required to be installed by the provisions of this Code.~~
 4. ~~Tract, block and lot boundary lines, and street rights-of-way and centerlines, with dimensions, bearings, radii, arcs, delta angles, points of curvature and tangent bearings. Normal highwater lines for any creek or other body of water shall be shown. Error of closure shall be within the limits of one (1) foot in four thousand (4,000) feet. No ditto marks shall be used. Lots containing one (1) acre or more shall be shown to the nearest 0.01 feet. Bearings shall be shown to the nearest thirty (30) seconds with basis of bearings.~~
 5. ~~The width of streets being dedicated, the width of any existing rights-of-way, and the widths on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to centerline dimensions shall indicate the radius and central angle. This data may be shown in a table.~~
 6. ~~Easements within or adjacent to the plat denoted by fine dotted lines, clearly identified, and, if already of record, a recorded reference. If any easement is not of record, a statement of the easement showing the widths of the easement and the lengths and bearings of the lines thereof, and sufficient ties thereto, shall be properly referenced in the certificate of dedication.~~
 7. ~~Lot numbers beginning with the number "1" and numbered consecutively in each block. Block numbers, if used, should begin with the number "1" and continue consecutively without omission or duplication. The numbers shall be solid, of sufficient size and thickness to stand out, and so placed as~~

~~not to obliterate any figure. Block numbers in addition to a subdivision of the same name shall be a continuation of the numbering in the plat last filed.~~

~~8. Land parcels to be dedicated for any purpose are to be distinguished from lots intended for sale, and titled to identify their intended use.~~

~~9. The following certificates, which may be combined where appropriate:~~

~~a. A certificate signed and acknowledged by all parties having any record title interest in and to the land subdivided, consenting to the preparation and recording of the map and dedicating all parcels of land shown on the final map and intended for public use.~~

~~b. An affidavit signed by the engineer or the surveyor responsible for the survey and final map, the signature of such engineer or surveyor to be accompanied by a professional seal.~~

~~c. Provisions for all other certifications required.~~

~~E. Submitted With Plat~~

~~The following information shall be submitted with the final plat:~~

~~1. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing the interest of all parties.~~

~~2. Sheets and drawings showing the following:~~

~~a. Traverse data showing the error of closure, including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners.~~

~~b. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners, and state highway stationing.~~

~~3. Copies of any deed restrictions and dedications, including building setbacks.~~

~~4. Proof that all taxes and assessments on the tract are paid for the current year.~~

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. No. 2010-06, § 2, 4-6-2010; Ord. 2003-1148, § 3; Ord. 98-1053 § 1; Ord. 86-851, § 3)

16.120.060 Improvement Agreement

16.124.020 Final Plat Review

A. Subdivision Agreement

The subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision pursuant to the Division VI, or execute and file with the City an agreement specifying the period within which all required improvements and repairs shall be completed, and providing that if such work is not completed within the period specified, the City may complete the same and recover the full cost and expense thereof from the subdivider. Such agreement may also provide for the construction of the improvements in stages.

B. Performance Security

The subdivider shall provide monetary assurance of full and faithful performance in the form of a bond, cash, or other security acceptable to the City in an amount equal to one hundred percent (100%) of the estimated cost of the improvements.

~~A. Approval~~

~~The final plat shall provide for the dedication of all streets for which approval has been given by the City. Approval of the final plat shall constitute acceptance of street dedications.~~

~~B. Exceptions~~

~~The Council, upon recommendation by the City Manager, may approve the creation and dedication of a street without full compliance with this Code. The applicant may be required to submit additional information and justification necessary to determine the proposal's acceptability. The City may attach such conditions as necessary to provide conformance to the standards of this Code. One or more of the following conditions must apply:~~

- ~~1. The street creation is required by the City and is essential to general traffic circulation.~~
- ~~2. The tract in which the road or street is to be dedicated is an isolated ownership of one (1) acre or less.~~

~~C. Easements~~

~~Any access which is created to allow partitioning for the purpose of development, or transfer of ownership shall be in the form of a dedicated street, provided however that easements may be allowed when:~~

- ~~1. The access is to a parcel exceeding five (5) acres in size, and used for agriculture, horticulture, grazing, or timber growing, or~~
- ~~2. The easement is the only reasonable method by which the rear portion of an unusually deep lot, large enough to warrant partitioning into two (2) or more parcels, may obtain access. Such easement shall conform to all other access provisions of this Code.~~

~~(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)~~

~~c. Utilities~~

~~Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines, except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.~~

~~d. Drainages~~

~~Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.~~

~~(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)~~

16.120.070 Bond

A. Performance guarantee required. As required by Section 16.120.060, the subdivider shall file with the agreement an assurance of performance supported by one of the following:

1. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated or cash.
2. Determination of sum. The assurance of performance shall be for a sum determined by the City Engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
3. Itemized improvement estimate. The subdivider shall furnish to the City Engineer an itemized improvement estimate, certified by a registered civil engineer, to assist the City Engineer in calculating the amount of the performance assurance.
4. When subdivider fails to perform. In the event the subdivider fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit for reimbursement.
5. Termination of performance guarantee. The subdivider shall not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the City.

C. Staff Review

If City review determines that the final plat is in full conformance with the preliminary plat and this Code, the final plat shall be referred to the City Manager or his/her designee for final approval. If the final plat is not in full conformance, the subdivider shall be advised of necessary changes or additions.

16.120.080 Filing and Recording of Final Subdivision Plat

~~D. Plat Approval~~

A. County Review

When the City Manager or his/her designee determines that the plat conforms to all requirements, the plat shall be authorized for review by the County. ~~approved. Approval of the plat does not constitute an acceptance by the City of the responsibility for maintenance or development of any street or other easement shown on the plat.~~

~~E.B. County Approval~~ Recording the Plat

After approval, the City shall authorize the transmittal of the final map, tracing, and other data to ~~Washington County~~ the County, to determine that there has been compliance with all provisions of State and local statutes. ~~The County may make such checks in the field as necessary to verify that the map is sufficiently correct on the ground. When the County finds the documents in full conformance and has been paid the statutory fee for such service, approval of the plat shall be given by applicable County officers.~~ Approval of the final plat shall be null and void if the plat is not recorded within sixty (60) days after the date of the last required approving signatures have been obtained.

F.C. Effective Date

Subdivision approval shall become final upon the recording with the County of the approved subdivision plat or partition map together with any required documents. Development permits may be issued only after final approval, except for activities at the preliminary plat phase, specifically authorized by this Code.

~~G. Required Findings~~

~~No final subdivision plat shall be approved unless:~~

- ~~1. All required public streets and floodplain areas are dedicated without any reservation or restriction other than easements for public utilities and facilities.~~
- ~~2. Streets and roads held for private use have been approved by the City.~~
- ~~3. The plat complies with the standards of the underlying zoning district and other applicable standards of this Code and is in conformity with the approved preliminary plat.~~
- ~~4. The plat dedicates to the public all required common improvements and areas, including but not limited to streets, floodplains, parks, sanitary sewer, storm water, and water supply systems.~~
- ~~5. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the subdivided land, as determined by the City and are in compliance with City standards. For the purposes of this section:~~

- a. ~~Adequate water service shall be deemed to be connection to the City water supply system.~~
- b. ~~Adequate sanitary sewer service shall be deemed to be connection to the City sewer system.~~
- c. ~~The adequacy of other public facilities such as storm water and streets shall be determined by the City based on applicable City policies, plans, and standards for said facilities.~~
- 6. ~~Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.~~

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 98-1053 § 1; 94-991; Ord. 86-851, § 3)

~~16.124.030 Creation of Streets~~

~~Chapter 16.126~~

~~DESIGN STANDARDS*~~

~~Sections:~~

~~16.126.010 Blocks~~

~~16.126.020 Easements~~

~~16.126.030 Pedestrian and Bicycle Ways~~

~~16.126.040 Lots~~

~~* Editor's Note: Some sections may not contain a history.~~

~~16.126.010 Blocks~~

~~A. Connectivity~~

~~1. Block Size. The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.~~

~~2. Block Length. Block length standards shall be in accordance with Section 16.108.040. Generally, blocks shall not exceed five hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan.~~

~~3. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways shall be provided on public easements or right of way consistent with Figure 7.401.~~

Figure 7.401—Block Connectivity

GRAPHIC UNAVAILABLE: [Click here](#)

~~{Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; 2005-009, § 5; 2000-1103, § 3; Ord. 86-851, § 3}~~

~~16.126.030 Easements~~

A. — Utilities

~~Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.~~

B. — Drainages

~~Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.~~

~~{Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3}~~

~~16.126.030 Pedestrian and Bicycle Ways~~

~~Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.~~

~~{Ord. 86-851, § 3}~~

~~16.126.040 Lots~~

A. — Size and Shape

~~Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision, and shall comply with applicable zoning district requirements, with the following exceptions:~~

~~1. — Lots in areas not served by public sewer or water supply, shall conform to any special Washington County Health Department standards.~~

B. — Access

~~All lots in a subdivision shall abut a public street, except as allowed for infill development under Chapter 16-68.~~

C. — Double Frontage

~~Double frontage and reversed frontage lots are prohibited except where essential to provide separation of residential development from railroads, traffic arteries, adjacent nonresidential uses, or to overcome specific topographical or orientation problems. A five (5) foot wide or greater easement for planting and screening may be required.~~

~~D. — Side Lot Lines~~

~~Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.~~

~~E. — Grading~~

~~Grading of building sites shall conform to the following standards, except when topography of physical conditions warrant special exceptions:~~

- ~~1. — Cut slopes shall not exceed one and one-half (1 1/2) feet horizontally to one (1) foot vertically.~~
- ~~2. — Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.~~

~~(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 86-851 § 3)~~

Chapter 16. ~~128~~122

LAND PARTITIONS*

Sections:

16. ~~128~~122.010 Generally

16.122.020 Approval Criteria: Preliminary Partition Plat

16.122.030 Approval Criteria: Final Plat

16. ~~128~~122. ~~030-040~~ Subdivision Partition Compliance

16. ~~128~~122. ~~030-050~~ Dedications

16. ~~128~~122. ~~040-060~~ Filing Requirements

* Editor's Note: Some sections may not contain a history.

16. ~~128~~122.010 Generally

A. Approval Required

A tract of land or contiguous tracts under a single ownership shall not be partitioned into two (2) or more parcels until a partition application has been approved by the City Manager or his/her designee.

B. City Action

The City Manager or his/her designee shall review the partition applications submitted in accordance with Section 16.70 and shall approve, approve with conditions or deny the application. ~~The action of the City Manager or his/her designee shall be noted on two (2) copies of the partition, including references to any attached documents describing any conditions or restrictions. One (1) copy shall be returned to the applicant with a notice of decision and one (1) retained by the City with other applicable records.~~

~~C.~~ 16.122.020 Required Findings Approval Criteria: Preliminary Plat

Partitions shall not be approved unless:

~~1A.~~ 1A. The partition complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX, and complies with Chapter 16.128 (Land Division Design Standards). ~~with the standards of the underlying zoning district and other applicable standards of this Code.~~

~~2B.~~ 2B. The partition dedicates to the public all required common improvements and areas including but not limited to streets, parks, floodplains, and sanitary sewer, storm water, and water supply systems.

~~3C.~~ 3C. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land, as determined by the City and are in compliance with City standards. For the purposes of this section:

~~a1.~~ a1. Connection to the City water supply system shall be deemed to be Adequate ~~adequate~~ water service shall be deemed to be connection to the City water supply system.

~~b2.~~ b2. Connection to the City sewer system shall be deemed to be adequate ~~Adequate~~ sanitary sewer service shall be deemed to be connection to the City sewer system if sewer lines are within one-hundred fifty (150) three-hundred (300) feet of the partition or if the lots created are less than 15,000 square feet in area. Installation of private sewage disposal facilities shall be deemed adequate on lots of 15,000 square feet or more if the private system is permitted by County Health and City sewer lines are not within one hundred fifty (150) three-hundred (300) feet.

~~e3.~~ e3. The adequacy of other public facilities such as storm water and streets shall be determined by the City Manager or his/her designee based on applicable City policies, plans and standards for said facilities.

~~4D.~~ 4D. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.

~~D.E.~~ D.E. Future Development Ability

In addition to the findings required by Section ~~16.128~~16.122.010, the City Manager or his/her designee must find, for any partition creating lots averaging one (1) acre or more, that the lots may be re-partitioned or resubdivided in the future in full compliance with the standards of this Code. The City

Manager or his/her designee may require the applicant to submit partition drawings or other data confirming that the property can be resubdivided. If re-partitioning or resubdividing in full compliance with this Code is determined not to be feasible, the City Manager or his/her designee shall either deny the proposed partition, require its redesign, or make a finding and condition of approval that no further partitioning or subdivision may occur, said condition to be recorded against the property.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 98-1053, § 1; 91-922, § 3; Ord. 86-851)

16.122.030: Final Partition Plat

By means of a Type I procedure, the City shall review the final plat based on findings regarding compliance with the following criteria:

- A. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
- B. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (e.g., road authority). Alternatively, the developer has provided a performance guarantee in accordance with § 16.120.070.
- C. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
- D. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;
- E. The applicant has provided copies of all recorded homeowners association Covenants, Conditions and Restrictions (CC&R's); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
- F. The plat complies with the applicable Sections of this code (i.e., there have been no changes in land use or development resulting in a code violation since preliminary plat approval);
- G. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.

16.122.040 Future Subdivision Compliance

- A. — Generally

If a partition exceeds two (2) acres and within one (1) year is re-partitioned into more than two (2) parcels, and any single parcel is less than one (1) acre in size, full compliance with the subdivision regulations of this Code may be required.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

~~16.128.030~~ Dedications

A. ~~Generally~~

~~The City's requirements for dedication of public lands as per this Code, including road rights-of-way and greenways, shall apply to partitions. Actual public improvements may not be required at the time of partition, at the discretion of the City Manager or his/her designee.~~

B. ~~Dedications Acceptance~~

~~The City Manager shall accept all public dedications by his or her signature on the partition plat prior to filing with the County.~~

C. ~~Owner Declaration~~

~~If a property is being dedicated or donated for public use, the mortgage or trust deed holder of the property shall sign a declaration to that effect on the partition plat, or file an affidavit consenting to the plat.~~

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 98-1053 § 1; Ord. 86-851, § 3)

~~16.128.122.040-050~~ Filing and Recording Requirements

A. Generally

Within twelve (12) months after City approval of a land partition, a partition plat shall be submitted to ~~Washington~~ the County in accordance with its final partition plat and recording requirements.

B. Time Limit

The applicant shall submit the copy of the recorded partition to the City within 30 days of recording, and shall be completed prior to the issuance of any building permits on the re-configured lots.

C. Extension

After expiration of the twelve (12) months period following partition approval, the partition must be resubmitted for new approval. The City Manager or his/her designee may, upon written request by the applicant, grant an extension up to twelve (12) months upon a written finding that the facts have not changed to an extent sufficient to warrant re-filing of the partition and that no other development

approval would be affected. For partitions granted ~~on or after~~ between January 1, 2007 and through December 31, 2009, the approval shall be extended until December 31, 2013.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. No. 2010-06, § 2, 4-6-2010; Ord. 86-851, § 3)

Chapter 16.120124

PROPERTY LINE ADJUSTMENTS AND LOT CONSOLIDATIONS*

Sections:

16.124.010 Approval Process

~~16.120124.010-020~~ Generally Approval Criteria

~~16.120124.020-030~~ Filing and Recording Requirements

* Editor's Note: Some sections may not contain a history.

~~16.120124.010~~ Generally Approval Process

A. The City Manager or his or her designee may approve a property line adjustment ~~without public notice or a public hearing provided that:~~ by means of a Type I procedure as governed by Chapter 16.72, using approval criteria contained in this Chapter.

B. Time Limit on Approval

The property line adjustment decision shall be effective for one year from the date of approval.

C. Extension of Approval

If the adjustment is not recorded with the County within one year, the land use approval expires and must be resubmitted. The City Manager or his/her designee may, upon written request by the applicant, grant an extension up to one year upon a written finding that the facts have not changed to an extent sufficient to warrant refileing of the property line adjustment and that no other development approval would be affected..

16.124.020 Approval Criteria

A. The City Manager or his/her designee shall approve or deny a request for a property line adjustment in writing based on findings that the following criteria are satisfied:

1. No new lots are created
 2. The adjusted lots comply with the applicable zone requirements.
 3. The adjusted lots continue to comply with other regulatory agency or department requirements.
- B. If the property line adjustment is processed with another development application, all applicable standards of the Code shall apply.

16.120.020-030 Filing and Recording Requirements

- A. Recording Requirements If a property line adjustment is approved by the City, it does not become final until reviewed and approved by Washington County in accordance with its property line adjustment recording requirements.
- B. Time Limit The applicant shall submit the copy of the recorded property line adjustment survey map to the City within 30 days of recording and shall be completed prior to the issuance of any building permits on the re-configured lots.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

16.126 REPLATTING, LOT CONSOLIDATIONS AND VACATION OF PLATS

16.126.010. Generally

16.126.020 Basis for Denial.

16.126.030. Timing of Vacations.

16.126.040 After Sale of Lots.

16.126.050 Lot Consolidations

16.126.010. Generally

- A. Any plat or portion thereof may be re-platted, consolidated or vacated upon receiving an application signed by all of the owners as appearing on the deed.
- B. All applications for a plat shall be made in accordance with the subdivision or the partition provisions within this Division and processed under the Type I procedure.

16.126.020 Basis for Denial

The application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys.

16.126.030. Timing of Vacations

All approved plat vacations shall be recorded in accordance with Section 16.122.010:

- A. Once recorded, the vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
- B. The vacation shall also divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described on the plat.

16.126.040 After Sale of Lots

When lots have been sold, the plat may be vacated in the manner herein provided by all of the owners of lots within the platted area.

16.126.050 Lot Consolidations

Upon approval of a Type I lot consolidation by the City Manager or designee, and upon demonstrating compliance with approval conditions:

- A. For the consolidation of lots or parcels of a recorded plat, the lot consolidation shall be finalized by a replat of the subdivision or partition.
- B. The County may consolidate parcels or tracts of land that are not within a recorded plat.

Chapter 16.126128 LAND DIVISION DESIGN STANDARDS #

16.126128.010 Blocks

16.126128.020 Pedestrian and Bicycle Ways

16.126128.030 Lots

* Editor's Note: Some sections may not contain a history.

16.126128.010 Blocks

A. Connectivity

1. Block Size:

The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

2. Block Length

Block length standards shall be in accordance with Section 16.108.040. Generally, blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan.

3. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401.

Figure 7.401 -- Block Connectivity

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; 2005-009, § 5; 2000-1103, § 3; Ord. 86-851, § 3)

A.B. Utilities

Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.

B.C. Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

16.126128.020 Pedestrian and Bicycle Ways

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

(Ord. 86-851, § 3)

16.126128.030 Lots

A. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision or partition, and shall comply with applicable zoning district requirements, with the following exceptions:

1. Lots in areas not served by public sewer or water supply shall conform to any special-~~Washington~~ County Health Department standards.

B. Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under Chapter 16.68.

C. Double Frontage

Double frontage and reversed frontage lots are prohibited except where essential to provide separation of residential development from railroads, traffic arteries, adjacent nonresidential uses, or to overcome specific topographical or orientation problems. A five (5) foot wide or greater easement for planting and screening may be required.

D. Side Lot Lines Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

E. Grading

Grading of building sites shall conform to the following standards, except when topography of physical conditions warrants special exceptions:

1. Cut slopes shall not exceed one and one-half (1 1/2) feet horizontally to one (1) foot vertically.

2. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.

Chapter 16.72 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS*

Sections:

- 16.72.010 Generally
- 16.72.020 Public Notice and Hearing
- 16.72.030 Content of Notice
- 16.72.040 Planning Staff Reports
- 16.72.050 Conduct of Public Hearings
- 16.72.060 Notice of Decision
- 16.72.070 Registry of Decisions
- 16.72.080 Final Action on Permit or Zone Change

16.72.010 Generally

A. Classifications

Except for Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

1. Type I

The following quasi-judicial actions shall be subject to a Type I review process:

- a. Signs
- b. Property Line Adjustments
- c. Interpretation of Similar Uses
- d. Temporary Uses
- e. Final subdivision and partition plats
- f. Final Site Plan Review
- g. Time extensions of approval, per Sections 16.90.020; 16.124.010
- h. Class A Home Occupation Permits
- i. Interpretive Decisions by the City Manager or his/her designee
- j. Tree Removal Permit - a street trees over five (5) inches DBH, per Section 16.142.050.B.2 and 3.
- k. Adjustments
- l. Replatting, Lot Consolidations and Vacations of Plats
- m. Minor Modifications to Approved Site Plans

2. Type II

The following quasi-judicial actions shall be subject to a Type II review process:

- a. Land Partitions
- b. Expedited Land Divisions - The Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community Development Code. Conditions may be imposed by the Planning Director if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code.
- c. "Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.4, below.
- d. "Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum

of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.4.G.4.

e. Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in 16.90.020.4.H.1.

f. Class B Variance

g. Street Design Modification

h. Subdivisions between 4-10 lots

3. Type III

The following quasi-judicial actions shall be subject to a Type III review process:

a. Conditional Uses

b. Site Plan Review -- between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010.4, below.

c. Subdivisions -- ~~Less than~~ between 11- 50 lots.

4. Type IV

The following quasi-judicial actions shall be subject to a Type IV review process:

a. Site Plan review and/or "Fast Track" Site Plan review of new or existing structures in the Old Town Overlay District.

b. All quasi-judicial actions not otherwise assigned to a Hearing Authority under this section.

c. Site Plans -- Greater than 40,000 square feet of floor area, parking or seating capacity.

d. Site Plans subject to Section 16.90.020.4.G.6.

e. Industrial Site Plans subject to Section 16.90.020.4.H.2.

f. Subdivisions -- ~~More than~~ over 50 lots.

g. Class A Variance

5. Type V

The following legislative actions shall be subject to a Type V review process:

a. Plan Map Amendments

b. Plan Text Amendments

c. Planned Unit Development -- Preliminary Development Plan and Overlay District.



REQUEST FOR RECORDS

City of Sherwood

City of Sherwood
 22560 SW Pine St.
 Sherwood, OR 97140
 Fax (503) 625-5524
 Phone (503) 625-5522
 Website: www.ci.sherwood.or.us

JUN - 4 2012

Recorder's Office

ORS 192.420 allows for the right "of every person" to inspect any nonexempt public record of a public body in Oregon. The City will respond to record requests within five (5) business days and will provide records within twenty (20) business days. Time required will depend upon the volume of records requested, the available staff to respond to the request, and the difficulty in determining whether the records are exempt from disclosure. The City's need to consult with other agencies may also need to be taken into account. **Submit your request to a specific department or the City Recorders office if unknown.**

Today's Date: June 4, 2012
 Name: Jim CLAUSS
Print
 Address: 22211 SW PAC HWY SHERWOOD
Street City Zip
 Phone: 503-625-5265 Email: CLAUSSJ@GOL.COM

Records Request (s):	Record (s) Description (Detail may reduce search time, attach additional page if needed)
<u>View a Record (on site)</u>	<u>e-copies of any contracts for services or letters of engagement between City of Sherwood, Sherwood Urban Renewal Agency, city council, city manager and Beery Egan & Hammond attorneys/firm including but not limited to Tim Deery, Paul Egan, Chris Keen.</u>
<u>Photocopies (.15 single/.25 double sided) (8.5x11)</u>	
<u>Audio/Video/Data Disk \$25 each</u>	

Staff time is billed in 15-minute increments according to the calculations shown on the current fee schedule, available on the City of Sherwood website listed above. An estimate of charges will be calculated and a 50% deposit required upon receipt of request. Balance will be due upon pick-up of record(s) requested.

This would cover their dealings since 2000.

Estimated Fees: 0 Deposit Amount: _____
 Date Record (s) Picked Up: mailed Customer Initials: _____

Staff Only: Records provided electronically 6-18-12

Request Received By:

Name Sylvia Murphy City Recorder
Department

Deposit Paid / Check # / Cash / Visa/MC /
 Balance Paid / Check # / Cash / Visa/MC /

CITY OF SHERWOOD
PERSONAL SERVICES CONTRACT

THIS AGREEMENT made and entered into this 21st day of May, 2003, by and between CITY OF SHERWOOD, a municipal corporation of the State of Oregon, hereinafter called CITY, and BEERY & ELSNER, LLP, hereinafter called CONTRACTOR.

W I T N E S S E T H

WHEREAS, CITY has need for the legal services of a law firm with the particular training, ability, knowledge, and experience possessed by CONTRACTOR, and

WHEREAS, CITY has determined that CONTRACTOR is qualified and capable of performing the professional services as CITY does hereinafter require, under these terms and conditions set forth,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. LEGAL SERVICES TO BE PROVIDED:

- A. CONTRACTOR will be responsible for CITY legal representation as authorized by the Mayor, City Council and/or City Manager or their designees.
- B. Unless otherwise specified by CITY, CONTRACTOR will:
 - 1. Draft and/or review ordinances, resolutions, contracts, orders, agreements, and other legal documents.
 - 2. Conduct legal research, prepare memoranda, and provide advice to the CITY.
 - 3. Be responsible for representing CITY in litigation and administrative proceedings.
 - 4. Attend meetings of the City Council on the fourth Tuesday of each month. Attend other City Council, Planning Commission, Staff and other municipal meetings on request.
 - 5. Assist in the development of legislation and administrative policies.
 - 6. Ensure that all CITY's ordinances are in compliance with state statutes.

2. COMPENSATION:

A. Payment will be made to the CONTRACTOR for the services identified based upon a detailed monthly billing showing work performed.

B. Hourly rates:

Partners	\$165.00
Senior Of Counsel	\$165.00
Associates	\$135.00
Paralegals	\$ 90.00
Legal Assistants	\$ 75.00

C. The direct cost for such items as long distance charges, mileage, messenger services, printing, copy charges and the like will be billed to CITY.

D. Payment by CITY shall release CITY from any further obligation for payment to CONTRACTOR for services performed or expenses incurred as of the date of and included in the statement of services. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein. CONTRACTOR may impose a finance charge of 1.0% on unpaid balances net 45 days.

E. CITY certifies that sufficient funds are available and authorized, or will be authorized, for expenditure to finance the cost of this Contract.

3. CONTRACTOR IDENTIFICATION:

CONTRACTOR's Employer Identification Number (EIN), as designated by the Internal Revenue Service is 93-1234801.

4. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR:

CONTRACTOR shall be an independent CONTRACTOR for all purposes and shall be entitled to no compensation other than the compensation provided for under paragraph 2 of this Contract.

5. SUBCONTRACTING:

CONTRACTOR shall not subcontract its work under this contract, in whole or in part, without the written approval of CITY.

6. TERM AND TERMINATION:

At any time with or without cause, CITY or CONTRACTOR shall have the right to terminate this Contract. If CITY terminates the Contract it shall deliver full payment to CONTRACTOR for services rendered to the date of termination. Termination by CITY must be done by resolution of the City Council. If CONTRACTOR terminates the contract, it shall provide CITY with not less than sixty (60) days' written notice.

7. INDEMNITY AND INSURANCE:

- A. Indemnity: CONTRACTOR acknowledges responsibility for any and all liability arising out of the performance of this contract and agrees to hold CITY harmless from and indemnify CITY for any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from CONTRACTOR's acts, omissions, activities or services in the course of performing this Contract.
- B. Professional Liability Insurance: CONTRACTOR shall maintain professional liability insurance which shall provide coverage as required by the Professional Liability Fund of the Oregon State Bar to protect CONTRACTOR from any and all claims, demands, actions and suits for malpractice arising from CONTRACTOR' S work performed under this contract.

8. NOTICES:

All notices shall be made in writing and may be given by personal delivery or by mail, addressed as follows:

CITY: Ross Schultz, City Manager
City of Sherwood
20 NW Washington St.
Sherwood, OR 97140

CONTRACTOR: Paul C. Elsner
Beery & Elsner, LLP
Suite 380
1750 SW Harbor Way
Portland, OR 97201

9. WORK IS PROPERTY:

All work, including, but not limited to documents, drawings, papers, electronic media, and photographs, performed or produced by CONTRACTOR under this Contract, shall be the property of the CITY.

10. COMPLIANCE WITH LAWS:

CONTRACTOR shall comply with all federal, state and local laws and ordinances applicable to public contracts as to the work to be done under this Contract.

11. INTEGRATION:

This Contract contains the entire agreement between the parties and supersedes all prior written or oral discussions or agreements regarding the same subject.

IN WITNESS THEREOF, CITY has caused this Contract to be executed in duplicate originals by its duly authorized undersigned agent and CONTRACTOR has executed this Contract on the dates below.

CITY OF SHERWOOD

DATED: 5/29/03

BY: *Ron E. Shultz*

CONTRACTOR

DATED: 6/11/03

BY: *pcmsur*

Sherwood/finance/psa01



Beery Elsner
& Hammond LLP

March 7, 2012

Tom Pessemier, Interim City Manager
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Re: Legal Counsel Services

Dear Tom:

It is our pleasure to continue to serve as legal counsel for the City of Sherwood. We are in the process of performing an annual review of all of our existing service agreements to be sure they are up-to-date. Our current contract with the City became effective in 2003 and continues until terminated under the terms of the agreement.

We write to let you know that we have decided to forgo any request for a rate increase for the fiscal year 2012-2013. However, in order for us to keep up with rising costs and inflation, a future rate adjustment is likely in 2013-2014. We hope that our deferral of a rate adjustment this fiscal year will in some small measure help the City manage its budget in the coming year.

Please feel free to call with any questions, and our sincere thanks for the opportunity to provide service to the City of Sherwood.

Sincerely,

Pamela J. Beery

PJB/sb

March 12, 2010

Jim Patterson, City Manager
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Dear Jim:

It has been our pleasure to continue to serve as legal counsel for the City of Sherwood. We are in the process of performing an annual review of all of our existing service agreements to be sure they are up-to-date.

Our current rates have been in place since 2008. In consideration of that fact, and of our valued relationship with the City, but mindful of increasing costs, we are writing to allow the City to consider a proposed hourly rate increase to be effective, if approved, on July 1, 2010, as follows:

Partners and Of Counsel:	from \$180.00 to \$200.00
Associates:	from \$165.00 to \$175.00
Paralegals:	to remain \$125.00
Legal Assistants:	to remain \$95.00

We highly value our working relationship with you and your staff, and while our costs are rising, we are still mindful of the City's budget. We will continue to monitor our billings and make efficient use of our staff. We are committed to keeping the City's costs down while maintaining quality service.

00078681.DOC

March 12, 2010

Page 2

Please feel free to call to discuss this proposal or if you have any questions. Thank you for the opportunity to provide service to the City of Sherwood.

Sincerely,



Pamela J. Beery

PJB/sb

January 21, 2009

SENT VIA US MAIL

Jim Patterson, City Manager
City of Sherwood
20 NW Washington Street
Sherwood, OR 97140-7851

Dear Ross:

It is our pleasure to continue to serve as legal counsel for the City of Sherwood. We are in the process of performing an annual review of all of our existing service agreements to be sure they are up-to-date.

With particular consideration of the current national and regional economic conditions, we are writing to let you know that we have decided to forgo any request for a rate increase for the fiscal year 2009-2010. We hope that our deferral of a rate adjustment this fiscal year will in some small measure help the City get through the coming year and provide the chance to review the City's fiscal alternatives going forward.

Please feel free to call with any questions, and thank you for the opportunity to provide service to the City of Sherwood.

Sincerely,

Paul C. Elsner

PCE/sb



Beery Elsner
& Hammond LLP

March 17, 2008

Ross Schultz, City Manager
City of Sherwood
20 NW Washington Street
Sherwood, OR 97140-7851

Dear Ross:

It has been our pleasure to continue to serve as legal counsel for the City of Sherwood. We are in the process of performing an annual review of all of our existing service agreements to be sure they are up-to-date.

The current rates have been in place since July 2006. In consideration of that fact, and of our valued relationship with the City, but mindful of increasing costs, we are writing to allow the City to consider a limited proposed hourly rate increase to be effective, if approved, on July 1, 2008, as follows:

Partners and Of Counsel:	from \$165.00 to \$180.00
Associates:	from \$145.00 to \$165.00
Paralegals:	from \$90.00 to \$125.00
Legal Assistants:	from \$75.00 to \$95.00

We highly value our working relationship with you and your staff, and while our costs are rising, we are still mindful of the City's budget. We will continue to monitor our billings, make efficient use of our staff, and are committed to keeping the City's costs down while maintaining quality service.

G:\Admin\Billing & Rates\2008\2008 Rate Letters\Sherwood rate ltr.doc

t 503.226.7191
f 503.226.2348
e info@gov-law.com

1750 SW Harbor Way Suite 380
Portland OR 97201-5106
www.gov-law.com

March 17, 2008
Page 2

Please feel free to call to discuss this proposal or if you have any questions, and thank you for the opportunity to provide service to the City.

Sincerely,



Pamela J. Beery

PJB/sb

cc: Jim Patterson

BEERY, ELSNER & HAMMOND, LLP
ATTORNEYS AT LAW

PAMELA J. BEERY*
PAUL C. ELSNER
JOHN H. HAMMOND, JR.

1750 SW HARBOR WAY, SUITE 380 PORTLAND, OREGON 97201-5164
TELEPHONE (503) 226-7191 FACSIMILE (503) 226-2348
WWW.GOV-LAW.COM

THOMAS SPONSLER †
DAVID F. DOUGHMAN
SPENCER Q. PARSONS
MATTHEW J. MICHEL

* Also admitted
in Washington
† Of Counsel

March 23, 2006

Ross Schultz, City Manager
City of Sherwood
20 NW Washington St.
Sherwood, OR 97140-7851

RE: Personal Services Agreement – Special Legal Counsel

Dear Ross:

It is our pleasure to continue to serve as special legal counsel for the City of Sherwood. We are in the process of performing an annual review of all of our existing service agreements to be sure they are up to date.

Our current contract with the City of Sherwood became effective May 29, 2003 and continues until terminated under the terms of the agreement. We have not sought a rate increase in three years (the current rates have been in place since 2003). However, our costs have increased considerably and we are writing at this time to allow the City to consider the following proposed hourly rate increases to be effective, if approved, on July 1, 2006, with any contract extension the City wishes to grant:

Partners and Of Counsel:	to remain at \$165.00
Senior Associates:	from \$135.00 to \$145.00
Junior Associates:	from \$125.00 to \$135.00
Paralegals:	to remain at \$90.00
Legal Assistants:	to remain at \$75.00

We value our working relationship with you and your staff highly, and while our costs are rising, we are still mindful of the City's budget. We will continue to monitor our billings, make efficient use of our staff, and are committed to keeping the City's costs down while maintaining quality service.

BEERY, ELSNER & HAMMOND LLP
ATTORNEYS AT LAW

March 23, 2006
Page 2

Please feel free to call to discuss this proposal or if you have any questions, and thank you for the opportunity to provide service to the City of Sherwood.

Sincerely,



Pamela J. Beery

PJB/ec

BEERY, ELSNER & HAMMOND, LLP
ATTORNEYS AT LAW

PAMELA J. BEERY*
PAUL C. ELSNER
JOHN H. HAMMOND, JR.

1750 SW HARBOR WAY, SUITE 380 PORTLAND, OREGON 97201-5164
TELEPHONE (503) 226-7191 FACSIMILE (503) 226-2348
WWW.GOV-LAW.COM

THOMAS SPONSLER †
DAVID F. DOUGHMAN
SPENCER Q. PARSONS

* Also admitted
in Washington
† Of Counsel

May 20, 2005

Ross Schultz
City Manager
City of Sherwood
20 NW Washington St.
Sherwood, OR 97140

RE: Personal Services Agreement – City Attorney Services

Dear Ross:

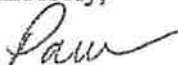
It is our pleasure to continue to serve as City Attorney for Sherwood.

We are in the process of performing an annual review of all of our existing service agreements to be sure they are up-to-date. Our contract with the City became effective May 29, 2003 and continues until terminated under the terms of the agreement.

We are writing to let you know that, based on the City's current budget situation, we have decided to forgo any request for a rate increase for the fiscal year 2005-2006. We hope this will in some small measure help the City get through the coming year and provide the chance to review the City's fiscal alternatives.

Please feel free to call with any questions, and thank you for the opportunity to provide service to Sherwood.

Sincerely,



Pamela J. Beery

PJB/ec

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
August 28, 2012

Commission Members Present:

Chair Allen
Commissioner Copfer
Commissioner Griffin
Commissioner Cary (via phone)
Commissioner Clifford (via phone)

Staff:

Julia Hajduk, Planning Manager
Brad Kilby, Senior Planner
Tom Pessemier, Community Development Director
Bob Galati, City Engineer

Commission Members Absent:

Vice Chair Albert
Commissioner Walker

Council Liaison: Councilor Clark

Legal Counsel: Chris Crean

1. Call to Order/Roll Call

Chair Allen called the meeting to order and Julia Hajduk called the roll and stated that Commissioners Cary and Clifford would vote via conference call when needed for a quorum.

2. Agenda Review

Chair Allen stated he would dispense with the consent agenda, and move directly to Council Liaison comments, staff announcements, and community comments, then get Commissioners Cary and/or Clifford on the phone for the business before the commission and finish with the consent agenda.

3. Council Liaison Comments

Councilor Clark commented that the City Council passed a resolution certifying the explanatory statement for the Tonquin Employment Area Annexation to accompany the ballot title previously passed by Council which will go on the November 2012 ballot. Council also passed a resolution declaring the need to acquire property and establish agreements for the connection of SW Langer Farms Parkway to Hwy 99.

4. Staff Announcements

Planning Manager Julia Hajduk reminded the Commission of the Sherwood Town Center Open House on October 3, 2012, commented regarding the sign code amendments that have been adopted by Council and a brochure that Senior Planner Brad Kilby is distributing, and solicited attendees for Planning Commissioner training being offered by the Oregon City Planning Director's Association to be held September 27, 2012.

5. Community Comments

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus commented regarding the rules of the Oregon Commission of Ethics, economic interest, and conflicts of interest. Mr. Claus commented regarding the value of land and zoning, transparency of City processes and the

boundaries of volunteering for public office. Mr. Claus cited law cases concerning bad tendencies and political speech and commented on first amendment rights in Oregon.

Julia Hajduk connected Commissioner Cary via conference call.

6. Old Business

a. Public Hearing- Sentinel Self Storage Annex (SP 12-03) Continued from 8/14/12 Planning Commission meeting.

Chair Allen conferred with Julia Hajduk regarding the wording for the Public Hearing statement and stated that because the public hearing had been held at the previous meeting he needed only to ask for any ex parte contact, bias or conflicts of interest. Commissioner Cary disclosed that he had ex parte contact with Wes Freadman regarding the project and that it did not have any bias on his decision.

Brad Kilby, Senior Planner stated that the hearing had been continued from August 14 to August 28 for additional public testimony. Brad showed a presentation (see record, Exhibit 1) and reminded the commission that the subject property was approximately 55 acres that was bound by Langer Farms Parkway, a railroad, Oregon Street, and farmland to the south of the site. Brad added that the property was a portion of Lot 5 from the approved Langer Farms Subdivision that was on appeal later in the evening. Brad commented that the proposal was to construct 430 storage units on approximately 6.9 acres and stated he will speak to issues from the previous hearing.

Showing the Site Plan, Brad stated there was a secondary fire access included in his memo. Brad added that a secondary access is always recommended by Tualatin Valley Fire and Rescue (TVF&R) and Deputy Fire Marshall John Wolffe stated that with this case the secondary access was not required. Regarding ownership Brad commented that the code requires the property owner to sign the application so they are aware that an application has been filed for land use on their property. Brad stated the manager Erin at the Tualatin River Wildlife Refuge was the liaison for the U.S. Fish and Wildlife Service who indicated that the area is not in their acquisition area, even though it might be a tributary to Rock Creek and they would not have any comments over and above Clean Water Services for storm water and resource protection. Brad stated that Sherwood Building Official, Scott McKie, had indicated that a 6' x 6' bathroom was probably too small for ADA Access as the occupant needs to have a turning radius inside the stall and sink area, but the area may not need to be too much larger, possibly 7' x 7'. Brad said the applicant's representative, Chris Goodell, confirmed that the fuel would be diesel and propane as indicated in the testimony at the previous meeting and the fuel would require permits from TVF&R, but not the Department of Environmental Quality (DEQ). Brad explained that the DEQ is concerned about underground tanks and air quality. DEQ's local representative confirmed that gasoline requires permits, but not diesel and propane. Brad commented that he further questioned the applicant regarding who would use the fuel and was told it would not be open to the public but to renters in the facility who will have to prearrange a time to fill up with an attendant. Brad expounded on the TVF&R permits for the fuel stating that the seismic loads, stability of the structure, emergency shut off and spillage issues will be reviewed prior to permitting. With respect to a turn around, the applicant has proposed additional signage and a permanent land line to call the office to provide access through the gate, but TVF&R will not require a turn around. Brad added that video surveillance is not required by the code, but the applicant has maintained

that it is a common practice in the industry and they will have video surveillance of various components of the storage facility.

Brad stated that staff continues to recommend approval with conditions and suggested that if the Commission is not comfortable with the language they could add a condition requiring that the fuel access be limited to patrons who have rented space in the facility, require an ADA bathroom, even though the Building Official will require it. Brad added that the RV wash has to be designed so that the storm and sewer do not mix per Clean Water Services, water from washing vehicles is put in the sewer system, and it cannot be open above because rain mixes with the sewer.

Chair Allen stated the record was left open for testimony and asked Brad for written testimony. Brad entered and read Exhibit K, a letter from Jim Haynes; Exhibit L, a letter from Scott Haynes; Exhibit M, an email from Casey Overcamp supporting the project, and Exhibit N, a letter from Jim Claus. As Mr. Claus was present the five page letter was not read. Julia added that a letter from the Chamber was received (see record, Exhibit O), but as they were also present to testify the letter was not read. Chair Allen opened the hearing for public testimony.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus expressed his astonishment at the testimony and commented regarding the 1995 code and gas stations being prohibited as an accessory, incidental, or main use. Mr. Claus commented regarding the application getting an exception and if permits are issued they are revocable. Mr. Claus commented regarding a mini warehouse becoming a ministorage, a lumber yard becoming Home Depot, and the annex being an extension of a non-conforming use which, he stated, the code bars you from doing. Mr. Claus commented regarding clarifying language in the code before Council and disqualifying the PUD, and stated it would be administering variances for self-imposed hardships because of the parceling. Mr. Claus commented on the rush to get revenues, overlooking the 95 code, and previous City Manager, Jim Rapp's dislike for mini storage, self-service, and car lots. Mr. Claus commented on the last facility of this type that came before the Commission that was "refused because it did not meet the design standards" but had the same application in a general commercial zone that staff said it conformed to the code. Mr. Claus stated there were two laws in Sherwood; laws for people that curry political favor particularly within the urban renewal boundaries, and laws for the rest of us outside of it. Mr. Claus commented that the code, fire problems, and drainage problems were being ignored and the PUD was given in order to ignore the zoning. Mr. Claus stated he would appeal the decision and he would try his best to terminate this PUD, even if it takes a lawsuit.

Leanna Knutson, 17052 SW Cobble Court, Sherwood. Ms. Knutson stated she was President of the Sherwood Chamber of Commerce and was present to give support for the Sentinel Self-Storage expansion project on behalf of the hundreds of members the Chamber represents. Ms. Knutson commented on the mission of the Chamber and stated that business development and expansion creates jobs, fuels the City's tax base, and promotes the standard of living that we love about Sherwood. Ms. Knutson commented that the Chamber supports the expansion because it supports local opportunities. Ms. Knutson commented regarding the Residences at Cannery Square stating that the Chamber wanted to offer its support for that project and like the Sentinel Self-Storage expansion the apartment complex harmonizes the economic aspirations of our community.

Chair Allen commented that the public testimony has been closed for the Capstone project and the commission cannot take that part of her testimony into consideration.

Gary Langer, 17384 SW Timber Crossing Lane, Sherwood. Mr. Langer asked if there were enough commissioners to make a decision. Chair Allen affirmed that there was a fourth Commissioner participating by phone. Mr. Langer commented that there has been a lot of research for the development of this project, it will be a state of the art facility, and he wanted to share some of the positive aspects of the project. Mr. Langer commented that there was a lot of community support, where he lives you cannot have boats, cars and RV's out, and this facility works really well for the city of Sherwood. Mr. Langer commented on the design and planning for the project and facilities in Tigard, Tualatin, Wilsonville, and the new one on Cipole Road adding that RV repair can be done on site. Mr. Langer stated he wanted to address some objections raised by previous testimony. Mr. Langer commented regarding Home Depot and Sentinel being illegally built and stated the projects were done over ten years ago and done by code and he was unsure why the issue keeps reoccurring. Regarding sewer spillage into the water, Mr. Langer stated that the facility will have a safe dump station because of design, grading and structure. Mr. Langer commented that Sentinel has been in business since 1997, has a lot of repeat customers, and is at capacity much of the time. Mr. Langer commented that there was no water stored in the farm field and there was not a well near the site that it was set up for drainage and the wetland area. Mr. Langer commented on the landscaping ordinance not being met because of the use of the term annex and stated that the application meets all of the code requirements which have been approved by staff. Mr. Langer commented that 90% of the RVs will be covered and the site will be clean as he lives in Sherwood, too.

Sandford Rome, 14645 SW Willamette Street, Sherwood. Mr. Rome commented on the term *standing* and testimony received from residents outside of Sherwood. Mr. Rome commented that he would like to see this project go forward with the added conditions for approval. Mr. Rome commented regarding long term residents, standing, and the things he has seen in this town over the years. Mr. Rome commented regarding having to pay additional taxes for repairs or changes in the City and long term residents who have also had to pay. Mr. Rome commented regarding building a state of the art facility and not having it come back to the citizens and asked how the Commission might correct the problems that arise and said the City should have an addressable procedure for fixing any unforeseen problems immediately. Mr. Rome referenced streets that were not completed properly in the past. Mr. Rome commented on the standing of the Langer family and their rights to develop their property. Mr. Rome commented on the Cannery square and standards that were not met. Mr. Rome repeated his comments regarding problems being solved and stated if it is the City's dollar it is his dollar.

Chris Goodell, representing the applicant, Langer Family LLC, from AKS Engineering, 13910 SW Galbreath Drive, Ste. 100 Sherwood. Mr. Goodell stated he prepared a memo regarding the questions from the Commission at the last hearing that was included in the packet which included business operations. Mr. Goodell commented that the fuel in question will be diesel and not gas. Mr. Goodell stated there were project engineers, and the owner/ operator and applicant, were present to answer any questions. Mr. Goodell asked for the Commission's approval.

Wes Freadman, 21315 SW Baler Way, Sherwood. Mr. Freadman stated he was a supporter of the project and commented that all of the problems have been addressed. Mr. Freadman commented that Sentinel was at maximum capacity and if Sherwood residents did not want a storage facility it

would be empty. Mr. Freadman commented that the facility will be a good neighbor, good use of the land and tax revenue and he thought it should be approved.

With no one else signed up to testify, Chair Allen closed the public testimony and asked for any questions from the Commission.

Chair Allen asked regarding the code that applies to the project and referenced the Permitted Uses in the General Commercial Zone which states it “includes wholesale trade, warehousing, commercial storage, and mini warehousing”. Mr. Allen commented that he would have thought commercial storage as a “business that sells storage” and asked if he was reading it correctly and in the correct version of the appropriate code. Brad confirmed and stated he wanted to clarify that under the Langer PUD, the applicant is allowed to construct in phases 6, 7, and 8, uses that were permitted in 1995, as well as uses that would be permitted under today’s code. Brad stated this was his understanding of what council agreed to and was the intent in the 2007 minor modification. Brad stated that in the Staff Report it says that mini storage is a permitted use at the time that the PUD was approved and staff believes it is an allowed use in this zone.

Brad continued by commenting on the issue raised regarding Home Depot and the Sentinel Storage being illegal uses and stated that Home Depot was approved by the courts through a writ of mandamus and Sentinel Storage was approved through another action, that people had the opportunity to appeal, but those uses are allowed and in affect today.

Chair Allen commented on the issue of *standing* and stated that from a legal standpoint his understanding was standing was the ability to come and testify and if you do not like the decision to go appeal it. Chair Allen added that Land Use in Oregon is broad and everyone the Commission has heard from, has standing to be able to come and testify and carry their arguments. Attorney Chris Crean confirmed and stated that under Oregon law, at this level, any person may participate in a local land use proceeding and anyone who participates then has *standing* to appeal that decision. Chair Allen commented that the point being made regarding standing was more broad in that, irrespective of legal standing, some opinions may be entitled to different weight than others and his opinion was that any time someone comes to the Planning Commission he does not think of it as standing, but considers what their interests are. Chair Allen commented regarding a previous storage decision brought up in earlier testimony and stated his recollection differs from the testimony that was heard as the only one he could recall was the one that was built. Chair Allen stated the Planning Commission was rebuked by members of SURPAC for allowing it.

Chair Allen commented that he did not think additional conditions were necessary as they were adequately dealt with in other regulation. Chair Allen asked if other Commissioners had comments or questions. None were provided.

Motion: From Commissioner James Copfer for the Planning Commission to approve the application for the Sentinel Self-Storage Annex (SP 12-03), based on the applicant testimony, public testimony received, and the analysis, findings, and conditions in the Staff Report; seconded by Commissioner Griffin. All Commission members present voted in favor. (Commissioner Cary voted yes by phone, Vice Chair Albert and Commissioners Clifford and Walker were absent.)

Chair Allen called a five minute recess and the call with Commissioner Cary was terminated.

b. Public Hearing Residences at Cannery Square (SP 12-04 Continued from 8/14/12 Planning Commission meeting.

Chair Allen reconvened the public hearing for SP 12-04 and stated that public testimony had been closed. Chair Allen asked the Commissioners regarding any ex parte contact, bias, and potential or actual conflicts of interest.

Julia added that Commissioner Clifford was on the phone via conference call and there was still a quorum with a different commissioner.

Commissioner Griffin declared that he had a short conversation with Jeff Sacket from Capstone regarding the look of the buildings following the previous meeting that would not affect his vote.

Chair Allen stated that the public testimony had been closed, but there was written testimony that was received in a timely manner but was not in the record. Chair Allen stated they would enter the letter verbally into the record and re-open the testimony for anyone who wished to testify on any issues raised by that comment. Chair Allen stated he would give latitude to the responses, but asked that no new information be entered into the record because they should not be considered by the commission and will complicate matters.

Brad Kilby read the letter from John and Jackie Bolton, 22515 SW Lincoln Street, Sherwood (see SP 12-04, Exhibit J) which commented on raising their family in a historic house on Lincoln Street, the unofficial collaboration between the developer and the City, and changes in zoning laws over the years that allow an apartment building in the middle of a neighborhood. The Boltons stated that they were adamantly opposed to the building and questioned having a three level apartment building in the middle of one of the oldest neighborhoods in the city, adding that it will change the dynamics of Old Town Sherwood in a negative way. The Boltons commented on congestion in downtown Sherwood, traffic on Willamette street from the Old Town Field House and that an apartment complex will worsen the problem. The Boltons commented on the concern for safety the of children in the neighborhood who walk to school and the effect of a hundred more cars on the road. The Boltons commented on changing Old Town area with a structure that does not fit in and asked for consideration of the negative impacts to the families that live in the neighborhood. The Boltons commented that just because zoning codes allow it to be built, does not mean it is a good thing to be built and residents in the area most affected should be taken into consideration when making the decision. The Boltons commented that the complex will not keep Sherwood and old town going in a positive direction and commented on voting for ballot measures and council members that help Sherwood be great and fair to citizens.

Chair Allen opened public testimony for the limited purpose of hearing testimony in response to the issues raised in the letter.

Sandford Rome, 14645 SW Willamette Street, Sherwood. Mr. Rome commented regarding the project being harmonious with the neighborhood stating he has been working with Brad Kilby regarding language to be forthcoming. Mr. Rome commented that there was no way to build a four story building in a two story neighborhood and keep it harmonious. Mr. Rome commented on the number of cars in the neighborhood and suggested that with one hundred units there will be more than one hundred additional cars. Mr. Rome commented that the traffic study was provided by Capstone and if you study any apartment complex in town by the number of trips in

and out for seven days you would see that a 54 unit apartment, such as the Murdock Apartments, does something over 300 trips a day. Mr. Rome challenged the credibility that the traffic study was objective in studying apartment complexes in the city. Mr. Rome commented regarding pictures that he had submitted at a previous Planning Commission meeting regarding Lincoln Street improvements and remaining road problems and lack of sidewalks. Mr. Rome commented regarding putting drivers onto Tualatin Sherwood Road or Oregon Street and taking the most direct route, which is provided by Lincoln Street. Mr. Rome commented that it was difficult to drive by Willamette Street as the road ends at Murdock with a round-about. Mr. Rome commented that the project was like two army barracks with car parking underneath and the city has tried for two years to make it a viable project, disregarding comments and design standards. Mr. Rome commented on how the project was being financed and stated it was a dormitory type structure, with 51 units in each building, on roughly an acre. Mr. Rome commented on the need to provide for the neighborhood to make it harmonious and suggested two stories with fewer units or another building on the property. Mr. Rome asked how the city was going to pay property owners back for the damages done when the project is finally finished and opponents were right again.

Chair Allen closed the public testimony. Planning Manager, Julia Hajduk inquired regarding procedure to receive the applicant's final testimony. Chris Crean stated the applicant should have testified during the public testimony. Chair Allen reopened the public testimony in case there was any lack of clarity to receive the applicant's testimony with a five minute time limit.

Jeff Sacket, Capstone Partners, 1015 NW 11th Ave, Ste. 243, Portland. Mr. Sacket commented that he disagreed with regards to the project being incompatible with the neighborhood and stated the project has conformed with every regulation whether it was from the Code, the Planning Commission, or the Architectural Planning Book approved by the Planning Commission and City Council. Mr. Sacket commented that the project was handsome and he expects the project to be a welcome addition to Old Town and Sherwood as a whole. Mr. Sacket commented regarding the traffic engineer's analysis and stated DKS is a reputable local and regional traffic engineer that is beyond reproach adding that Capstone hired them to evaluate the traffic situation as they saw fit as well as respond to the City Engineer's requests. Mr. Sacket commented that Capstone is not traffic experts, but hire traffic experts and do as they advise.

Chair Allen closed the public testimony and stated there were updated staff comments.

Brad Kilby commented on the reputation of DKS and the number of traffic studies they perform and stated that the traffic studies were based on the 8th edition of the International Traffic Engineers Manual which is the accepted manual used by cities, counties and traffic engineers in determining traffic counts. Brad showed a presentation with the conditions of approval (see record, Exhibit 2) and commented that they were provided in the Planning Commission packet, with the exception of two conditions in the presentation. Brad stated that the first conditions of approval added are prior to final site plan approval which included in C.3 the verbiage "or evergreen screen" to the condition, from the last hearing, that required the applicant to install a 6-foot tall fence, wall *or evergreen screen* along the east property line of the east residential building, and the west property line of the west residential building. Brad explained that another condition was C.4 which contained language discussed regarding meeting Clean Water Services (CWS) requirements within the City in the event that the regional storm water quality facility came online and is to obtain construction plan approval for those facilities prior to final site plan approval or in the event that they were not required to do that a compliance agreement had to be

put into place to eliminate the water quality facility. Brad read the condition for the benefit of Commissioner Clifford who was on the phone: *Obtain construction plan approval from the Engineering Department for all public improvements including the on-site water quality facility if an alternative has not been agreed upon at time of final site plan review. If the applicant, City and CWS reach an acceptable agreement to use the regional water quality facility, the applicant may submit revised plans showing how the areas for the on-site water quality facility will be otherwise landscaped or utilized consistent with the approved development plans and the engineering compliance agreement modified accordingly to eliminate the on-site water quality facility.*

Brad commented that the next set of conditions were to be completed prior to building permits but they appeared to be the same as prior to final site plan approval and he moved on to conditions of approval prior to final occupancy. Brad read the condition E.6 which read *On-site or a regional storm water treatment system that complies with City of Sherwood and CWS standards shall be either in place, operational and any necessary connection fees paid or an agreement and assurances acceptable to both the City of Sherwood and CWS shall be in place.*

Chair Allen asked Brad to read the conditions of approval prior to building Permits from the revised staff report. Brad read D.1 *Prior to issuance of building permits for the east and west residential buildings, the applicant shall submit revised drawings that illustrate an enhanced decorative treatment of the southeast portion of the building and/or sites facing SW Willamette Street. Such architectural revisions shall involve variations of texture, materials, patterns, and color which are distinct yet complementary to the building, or shall include brick or stone elements which serve to add visual interest to the portion of the project visible from SW Willamette street* and stated that this language was requested by the commission. Brad read D.8 which states *Provide a set of plans that clearly demonstrates compliance with the pitch of the roof as permitted by the approved architectural pattern book* and commented that this was opposed to what the code called for.

Brad concluded and stated staff would recommend approval as amended.

Chair Allen commented on being harmonious with the neighborhood and said he was considering this issue. Chair Allen commented regarding what the neighborhood is, what it is to be harmonized with, and what is the aim to have it be. Chair Allen commented that the area was a transitional area; it was not Old Town or the lower density residential area nearby. Chair Allen commented that this area has been on track for years and was included in the Old Town Overlay five or six years ago. Chair Allen commented that we had the Cannery PUD a couple of years ago and now have this site plan, adding that the Commission is considering an area that is at least a transitional area between the existing residential and Old Town and at most an extension of Old Town proper in relation to Cannery Square and the Community Center. Chair Allen commented that the applicant has done a good job in trying to address that issue and make it harmonious in that transitional way. Chair Allen commented regarding traffic and street improvement issues and stated his opinions about those issues are on the record from the Commission's previous recommendation to Council regarding the PUD. Chair Allen commented that the narrower question is if this plan is consistent with that approved PUD and he believed it did and the revisions to the conditions strengthened that.

Commissioner Copfer stated he agreed with Chair Allen and wanted Sanford Rome to know that the Commission did hear regarding Lincoln Street, however it is the Commission's responsibility to look at if the application meets the PUD and it does.

Commissioner Griffin commented regarding the changes to the southeast side of the building and that he thought the comments from citizens were heard. Mr. Griffin commented regarding the traffic study being done by request from concerned citizens and the retention of a reputable company to perform the study. Mr. Griffin commented that the application was solid and it will add traffic to Old Town that may spark some activity in the area perhaps for Saturday Market or in new restaurants.

Commissioner Clifford commented (via phone) that he agreed as far as the application meeting the code and that he had looked over the plans and accompanying documents. Mr. Clifford commented on his concern regarding parking and the amount provided. Mr. Clifford commented regarding the application being a good project to bring together people using fewer vehicles, walking more, using public transportation, and utilizing the Old Town area. Mr. Clifford commented regarding the trash area in the interior of the building being an asset to keeping the project clean and orderly and on the enhancement of the southern portion of the buildings with more architectural detail.

Motion: From Commissioner James Copfer for the Planning Commission to approve the application for Residences at Cannery Square (SP 12-04) based on the applicant testimony, public testimony received, the analysis, finding, and conditions as revised in the Staff Report, seconded by Commissioner Russell Griffin. All Commission members present voted in favor. (Commissioner Clifford voted yes by phone, Vice Chair Albert and Commissioners Cary and Walker were absent.)

Chair Allen called a brief recess; the call with Commissioner Clifford was not terminated.

7. New Business

a. Public Hearing- Langer Farms Subdivision Appeal (SUB 12-02)

Chair Allen opened the public hearing on the appeal on the Planning Manager's decision of SUB 12-02 by reading the public hearing statement which stated the appeal was filed by Jim Claus. Chair Allen asked for the disclosure of any ex parte contact, bias or conflicts of interest. Chair Allen stated as it was legislative, ex parte did not strictly apply, but disclosed a conversation with Jim Claus the previous Friday regarding a courtesy advisory that he (Mr. Claus) was sending an email with a number of issues raised that did not pertain to the Langer Farms Subdivision Appeal.

Legal Counsel, Chris Crean clarified that the hearing was quasi-judicial, not legislative.

Commissioner Griffin disclosed that he had contact with the Clauses through piano lessons and church but it would not affect his ability to make a decision.

Chair Allen asked for the Staff Report.

Brad Kilby gave a presentation (see record, Exhibit 3) explained that the hearing was for the appeal of SUB 12-02 the Langer Farms Subdivision, he would summarize the application, and

then go through his understanding of the appellant's assignments of error. Brad stated that the Planning Commission packet contained the all of Mr. Claus's testimony and Staff's responses.

Brad stated that on June 21, 2012 a decision to approve a subdivision of five lots and two tracks for a 55.09 acre site known as the Langer property was issued and the Sentinel Storage application approved earlier in the evening was a 6.93 acre portion of lot 5 of the subdivision. Brad stated that the decision was appealed in a timely manner by Jim Claus on July 5, 2012. Brad commented that the staff decision and associated attachments were in the Planning Commission packet as Exhibit 1, the appeal materials provided by Mr. Claus were Exhibit 2, and a letter from the applicant's attorney, Seth King of Perkins Coie, was Exhibit 3.

Brad commented on the assignments of error and began by stating that Mr. Claus believed there was a *Flawed original Notice of Decision containing conflicting information that staff cites as scrivener's error*. Brad explained that the Scrivener's error included language that stated "*this approval is valid for a period of one (2) years from the date of the decision notice, per Section 16.120.050.*" Brad commented that 16.120.050 states that if the final plat is not approved within two years, the preliminary plat approval shall expire and a new plat must be submitted. Brad commented that this was a harmless Scrivener's error and it did not constitute a material error in the decision.

Brad commented that the second assignment of error was that *Improper Public Notice was given by staff and staff has relied on INFILL standards for proposed Lot 5 to grant waivers for the access without properly notifying the PUBLIC per Sherwood Zoning Code Chapter 16.68.060*. Brad stated that 16.68.060 applies to infill development standards which only apply to residential properties and not to light industrial or general commercial. Brad commented that Mr. Claus contends that staff relied on this section to allow the proposed lot to achieve the access standard when in fact the definition of a lot allowed staff to make that call adding that a lot *is a parcel of land of at least sufficient size to meet the minimum zoning requirements of this code and with frontage on the public or easement approved by the City*. Brad commented that there is precedence within the City for allowing lots to be accessed via an access easement and staff believes that the finding remains accurate. Brad added that there was a reference to 16.68 in the staff analysis but it was not relied upon for making the finding that the applicant could propose to access the site through an easement. Brad commented that Mr. Claus added that the City cannot allow such a long access and stated that the proposed access is a driveway and utility easement, not a street so it is not subject to the TSP.

Brad commented that the third assignment of error was that the application was a *Violation of the PUD – a Major Change to the Final Development Plan dated August of 1995. Staff is requiring a change in the use of the land and requiring dedication of land in this subdivision application for public roadway and right-of-way. The land was specifically proscribed from that use in the original Langer PUD. The Langer PUD must be treated as having a Major Change and thus go through the PUD approval process noted in Sherwood Code Chapter 16.40*. Brad stated staff disagrees and commented that Mr. Claus is contending that by extending and requiring the right-of-way dedication for the continuation of SW Century Boulevard that staff has changed the use of the land. Brad commented that utilizing that logic the City would never be able to plan for future street extensions, explaining that SW Century Drive came subsequently after the PUD and was added to the TSP as a connecting street. Brad commented that the dedication and future construction was agreed to in a modification of the PUD

and the Developer's Agreement in 2010. Brad commented that the PUD approval is an overlay zone that is applied to a property and in order to constitute a major change a threshold had to be met. Brad explained that the boundaries of the PUD are not changing by requiring the road; the applicant is not asking for a major change that would be inconsistent with prior approvals; the prior approvals did not identify which land was devoted to a specific use; and the final development plan is only a phasing plan with some proposed accesses for this portion of the site off of what was North Adams Ave at the time, which is now SW Langer Farms Parkway. Brad added that there is not an increase in density because it is not a residential development and therefore does not constitute a modification in the Planned Unit Development.

Brad commented that the next assignment of error was *Staff's decision is flawed. Staff is treating the PUD as if it is outside of PUD constraints for part of the logic used to grant approval to a 5-lot subdivision of the PUD. Also, staff neglected to submit pertinent information to the record as part of this application which would have direct bearing on the original staff decision – which occurred after staff closed the comment period. As such I have included some of that missing information as it is directly pertinent to this appeal. See also Exhibit 8, copy from the 1995 code Section 3.4040 for appeals showing that parties may present old evidence or any additional evidence.* Brad stated that the subdivision is not subject to 3.4040 but subject to standards in the code today as it was not filed at the same time that the PUD was processed in 1995, therefore it was not required to be processed at the same time as the PUD was approved. Brad stated that according to the City Attorney's office "a PUD decision under 16.40 is a separate and distinct decision from a subdivision decision under 16.120." Brad referred to language in 16.40.020.B.5 which states "If the PUD involves the subdivision of land ..." and pointed out that *if* was the key word. Brad stated that this PUD did not involve the subdivision when it was approved in 1995 and [per the attorney] "this affirms the interpretation that they are separate decisions, albeit when they are proposed concurrently, they need to be processed concurrently." Brad stated that if we were to work under this assumption that you could not ever come back and subdivide your property then businesses or large commercial complexes like Albertsons would not be able to go in and subdivide their property because it was not considered at that time; or Safeway would not be able to take off the small commercial portion where Starbucks and those businesses are. Brad stated that this is a common practice in commercial development to divide the land for the purposes of financing and selling the property and, as long as they meet the standards, then staff would review any subdivision application under today's regulations. Brad added that a subdivision application for four to ten lots will follow a Type II process and Mr. Claus maintains that staff did not have the ability to review this application and it should have been reviewed at a higher level and staff disagrees.

Brad stated that the next assignment of error was a *Violation of Sherwood code Section 16.40.040(A)(2): Failure to Complete. The Planning Commission must meet to decide if the PUD is still in the public's interest* and staff disagreed. Brad commented that the actual language for 16.40.040(A)(2) states, "*When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.*" Brad commented that this PUD has been under construction since 1995 with subsequent modifications to the PUD and City Council has reviewed and approved changes and modifications to developer agreements since 1995. Brad commented that staff believes that the City Council made the decision that was in the public's

interest when it approved the modifications in 2007 and agreed to negotiate the developer's agreement in 2010 by the Sherwood City Council.

Brad stated that the next assignment of error was a *Violation of the intent of the PUD – staff is attempting to incorrectly administratively apply Subdivision Standards to the Langer PUD Phases 6, 7, 8, which is beyond their scope and authority. The Phases are to have Site Plan Reviews with the Planning Commission/City Council. Staff essentially has made up a new process for the PUD by incorrectly trying to grant subdivision and land division approval through a Type II procedure.* Brad commented that staff believes the appellant is wrong because this application is a distinct application and not a PUD, but a subdivision of the PUD. Brad commented that the applicant is still required to come in and file for site plan review on each one of these lots as they come in to develop. Brad added that per the language referenced earlier 16.120.030.1.a which says that subdivision of land for four to ten lots is administratively processed meaning that it gets decided by the Planning Manager.

Brad stated that staff recommends denial of the appeal and an affirmation of the staff decision.

Chair Allen asked for questions of staff, seeing none Chair Allen called for applicant testimony from Seth King. Julia Hajduk set the timer for 30 minutes to time the applicant.

Seth King, Land Use Attorney at Perkins Coie, 1120 SW Couch Street, Portland. Mr. King stated he was present on behalf of the applicant, Langer Family LLC, with members of the development team including Matt Grady from Gramor Development, Alex Hurley project engineer, Keith Jones the project planner, and several members of the Langer family. Mr. King stated that the applicant believes there is substantial evidence in the whole record to support the conclusion that this subdivision application satisfies all of the applicable criteria and therefore should be approved. Mr. King referred the Commission to the letter dated July 17, 2012 which is part of the packet. Mr. King offered to answer any questions and asked to reserve the remainder of the time for rebuttal.

Chair Allen asked for any questions from the Commission. Having none, Chair Allen asked for public testimony for or against other than the appellant. Seeing none, Chair Allen asked for testimony from the appellant, Jim Claus.

Mr. Claus inquired about having 30 minutes to testify. Chair Allen confirmed.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus stated he would add to the record items containing the ordinance where Mr. Langer, as a City Councilman, voted on the ordinance that allowed this subdivision occur and the City contract with Beery, Elsner, and Hammond (see record, Exhibit 4). Mr. Claus commented that he would give an overview of what he saw wrong with this process and spoke of his years teaching at the University of British Columbia where he was asked to debate against a man named Eric Todd; one of those rare people who had a doctorate in law from Harvard. Mr. Claus commented that Mr. Todd would turn about how the American Constitution protected Americans better than the Canadian system and said that Mr. Claus would see the complete corruption of Oregon's Land Use Planning because there is no 14th amendment requirements and protections to any real degree. Mr. Claus commented regarding British Columbia using the British North American Act that has specific language that says "we loath to give government officials discretionary power for fear we will corrupt them" and Mr. Todd's guarantee of corruption of the system in Oregon because there is no sales tax and will

not be driven by good land use decisions but political decisions. Mr. Claus commented that there was a PUD on Langer's farm ground in order to borrow tax money to support staff and that he believes the parceling to be the worst denegation he has seen in this town. Mr. Claus commented regarding the tax base, excess, and new taxes going to the City. Mr. Claus commented on when he worked in San Francisco on Urban Renewal Plans where the Mayor used eminent domain to take property where the money was to be paid back in ten years so that everything then goes back on the tax roll. Mr. Claus added that the money was paid back in nine and a half years due to his math. Mr. Claus commented that the farm ground is being taken and the excess value is used to borrow bonds to run this city. Mr. Claus referred to the statements from Mr. Todd regarding corruption and staff eventually becoming an entity in and of themselves and alluded it wasn't just the union he worked for which manipulated elections.

Mr. Claus commented that the government workers had become an entity in and of themselves and are concerned as a stakeholder. Mr. Claus commented regarding the subject property and people like Wal-Mart being told where to build because they originally wanted to build on Broadhurst's and Shannon's property. Mr. Claus commented regarding the Broadhurst and Shannon property being a superior location at a lower price and the Mayor not wanting Wal-Mart or Opus there, adding that it would have been a lifestyle mall. Mr. Claus commented on the zoning being driven by financial needs not the enabling statute and was no longer promoting or protecting health, safety, and welfare, and aesthetics, but financing for the staff. Mr. Claus commented that City Hall stands as a monument to waste, fraud and abuse and stated it was where much of the urban renewal money went. Mr. Claus commented on the plaza and regarding old town being a the only classic central business district left in Oregon until it was turned into the Spanish Plaza model that it is now. Mr. Claus commented that it was centered on government and he maintained that the Cannery Square park was built so the staff would have a place to have lunch and suggested it was not built for children because it was without a bathroom. Mr. Claus commented that we have seen this system easily corrupted in Sherwood because we have a strong City Manager form of government. Mr. Claus commented regarding council person's stating "we have a good staff" and the City Manager having a group of staff that works for him adding that if a City Councilor talks to staff their job is threatened, and they can be called upon to resign. Mr. Claus commented on the City having a contract attorney that represents the City Manager, the Council, and the Mayor and commented regarding no attorney representing the interests of the City although the charter calls for it. Mr. Claus commented regarding getting rid of the City Attorney and staff operating ultra vires-ly and beyond the scope of their authority. Mr. Claus commented that code never intended to allow staff to make the discretionary interpretations they are making in a PUD. Mr. Claus commented on the location of Home Depot and a former City Manager calling it a lumber yard, deeming the application complete, the City Council finding out about it 120 days after, the subsequent lawsuit, and commented that it was the first shift from our plan to moving our retail on to light industrial. Mr. Claus added that the land across the street from Home Depot is light industrial and the buildings were not supposed to be there. Mr. Claus commented that we have drifted down that road to discretionary power for salaried government officials that is only constrained by the 14th Amendment and federal court, not constrained in Oregon. Mr. Claus commented regarding having four minutes to testify at meetings, but if you ask for answers and do not leave, you will be escorted out. Mr. Claus commented that this is being done because the only way that staff can move to that money is to be given discretionary power.

Mr. Claus commented regarding the commission not reading the 95 Code and that most do not have a copy and he does. Mr. Claus stated that the request on a PUD to make variances is not permitted in that code or in the latest edition, yet if you look at these subdivisions you have variances. Mr. Claus referred to Ambler Realty vs. The Village of Euclid and commented regarding the fifth amendment being set aside, a substantial benefit and value left in the property then referred to Nectow vs. Cambridge regarding having an exception in a code. Mr. Claus commented that the PUD was written so you could not have exceptions because you have already given away half of the world in the zoning. Mr. Claus commented regarding the code not allowing fueling and mini-storage because staff made discretionary decisions to finance this town. Mr. Claus commented regarding appealing to LUBA and it not being able to stop it.

Mr. Claus commented on a man named Jim Roberts from Madison who said the world spins because of dumb and if we don't have enough dumb we will all fall off of it and not stopping dumb but creating a record. Mr. Claus referred to Kelo vs. Newhaven where the Institute for Justice fought the suit because a big pharmaceutical company wanted the land and the city wanted money to increase the tax base, so kicked everybody out of an area that was not blighted. Mr. Claus commented that the pharmaceutical company waited until they won the case and never built. Mr. Claus commented that the case went to the supreme court, and this is a case study of urban renewal destroying zoning. Mr. Claus commented regarding the same litigation in Norwood and his involvement with the Small Business Administration's concern for taking people's property and the city paying the true price of what that property was worth, adding that the Ohio supreme Court said the enabling statute does not allow that kind of taking. Mr. Claus commented that Sherwood is moving toward a staff with a vested interest to keep the money coming in, having discretionary power to make decision, and freezing the rest of us out of business. Mr. Claus commented that the zoning has to be run by the staff so they can build the Downtown Center after destroying the Robin Hood Theater which was a better gift and there was no reason to destroy it as it represented historic buildings. Mr. Claus commented regarding the City needing money to build in Old Town .

Mr. Claus commented that the subject property was no longer a PUD but a catch as catch can subdivision and put forward that a mass merchandizer will come in and get staff to say it meets all of the requirements turning 13 Acres into Wal-Mart just like it did in Corvallis. Mr. Claus commented that the citizens will live with it because it generates lots of tax dollars but that it was a zero sum tax game except it puts money into our staff and into politician's hands and cheats school children. Mr. Claus repeated that Wal-Mart and Opus wanted to go on the highway, and Fred Meyer will go on the highway and stated that once they go there you won't build another one. Mr. Claus commented that the City is putting its value over there and using it up and explained that retail is the classic zero sum game; meaning somebody gains and somebody loses. Mr. Claus called Wal-Mart the merchant of death because they come into a trade area and they take the business from everybody else. Mr. Claus commented that there was \$475 billion on groceries and supermarket sale and once you put in Wal-Mart and Fred Meyer on urban renewal you are going to kill Safeway and Albertsons, thus killing your own tax base. Mr. Claus added that this means you are not going to have enough money to pay the school children back in twenty years, because you have denigrated your own tax base. Mr. Claus stated he did not believe this was a PUD for a number of reasons which staff outlined and he believed the Langer's have the political influence which they did for Sherwood Plaza. Mr. Claus stated this was simply a mission in getting people to see what is going on and to say to institute of justice they need not worry about New Haven, Oregon has them beat cold. Mr. Claus asked if the Commission understood

that what has been done is taken something that was originally Fred Meyer, which Metro stopped, and turned it into RV parking, Wal-Mart, and a Target, and swinging business over there. Mr. Claus commented that the next step is part of a conspiracy to restrain trade and his conversation with Chair Allen regarding Cedar Brook Way.

Mr. Claus commented regarding the property near Cedar Brook Way being class A as it has everything it needs, including visibility, accessibility, and parking which are the location, location, location of retail. Mr. Claus stated that if they don't stop they will never build this area out and commented regarding a road through his property that cannot be built on because of the size of parcel and what can be put there. Mr. Claus commented about the eight hour American Bar and Appraisal classes and people talking for eight hours. Mr. Claus commented regarding LUBA seeing the non-disclosure and of people thinking their financial interests don't impact their elected members and their family. Mr. Claus commented regarding LUBA looking at this as stealing from school children or saying the application is not a PUD. Mr. Claus commented that it was a clever way to combine sick eminent domain proceedings with police power proceedings and turning the zoning of general commercial and retail over to the staff and certain elected officials. Mr. Claus commented that it was the end of market driven zoning as we know it, because there is no competition when staff tells buyers and retailers where to go. Mr. Claus commented regarding sovereign immunity, not being able to sue, and that a citizen only gets the rare privilege of pure political speech in front of the Commission. Mr. Claus commented that the staff has the privilege all of the time and it is called sovereign immunity. Mr. Claus commented that what is going to happen is it will lead to a suit and depositions will be taken. Mr. Claus commented regarding being able to build on Columbia because of the footprint and the new owner being able to build after he sold the property for a giveaway price. Mr. Claus commented regarding having urban renewal of all of the zoning in this town and reiterated that the subject property was not a Planned Unit Development. Mr. Claus commented regarding the cannery, the contract attorney signing a contract with Capstone LLC, the layout of the site and the public not knowing and the inability to appeal. Mr. Claus commented that citizens cannot complain regarding the work the attorneys do for the Mayor or the City Manager, but a City attorney would have had to report it. Mr. Claus commented that this will be a wonderful case study about how a town converted farm ground into a major industrial retail commercial center, shut down more competitive property, and had the staff determine where you will build. Mr. Claus commented that there are all of the technical reasons in the code to not approve the application but it was comical to see what has been done with it. Mr. Claus commented regarding every family owning land in the town that has tried to develop and being put out of business by the process. Mr. Claus commented regarding Metro running a pathway on his property and the rash people will get. Mr. Claus commented regarding the property on Columbia that was sold and the McFall subdivision watershed. Mr. Claus stated that nobody can live with that and in the end the City is putting money out there to dump 20% of it to staff. Mr. Claus stated he will appeal the decision even though he won't win and something will have to turn around. Mr. Claus commented regarding being insulted, using police and said the City must have something to hide.

Chair Allen asked if any commission members had questions. Seeing none, Chair Allen thanked Mr. Claus and asked how much time the applicant had remaining for rebuttal. Julia Hajduk replied that the applicant had 28 minutes and 41 seconds.

Seth King, on behalf of the applicant, Land Use Attorney at Perkins Coie, 1120 SW Couch Street, Portland. Mr. King commented that the appellants spoke for approximately 28 minutes without

addressing a single approval criterion applicable to preliminary subdivision plat or carrying the burden on any of his appeal issues. Mr. King commented that Mr. Claus did not present any substantial evidence that undermined the substantial evidence that is already in support of approval of the application. Mr. King stated there was no request for a continuance or that the record be held open. Mr. King commented that on the basis of those items the appellant has not carried its burden to present any reason to deny the application. Mr. King stated that conversely, based on the applicant's materials, staff presentation, and the letter from Perkins Coie dated July 17, 2012, there is substantial evidence in the record to support approval of the application subject to the conditions included in the original staff decision. Mr. King stated that because there was no request for a continuance or that the record be held open, the Planning Commission would be able to reach a decision tonight. Mr. King commented on Mr. Claus's concern that financial needs were driving land use decisions in the City and stated that there was no evidence of this being the case for this application. Mr. King commented regarding Mr. Claus's references that there was no right to request variances in the 1995 Code and stated that the 1995 Code is not at issue in this application and the code that was in effect at the time the application was submitted is applicable. Mr. King commented regarding Mr. Claus's attacks on the potential uses and end users of the property and stated this application does not concern the particular uses or end users and there is no evidence relating to what uses or end users there might be therefore it is not relevant to the decision. Mr. King commented regarding the issues Mr. Claus raised regarding the Planned Unit Development and its processes and stated that this application does not concern the Planned Unit Development as it is a subdivision application independent of the PUD. Mr. King concluded his rebuttal testimony by requesting that the Commission deny the appeal and affirm the staff decision.

Chair Allen asked for questions of Mr. King. Mr. Claus asked for rebuttal to Mr. King's testimony. Chris Crean noted that there was no provision for appellant rebuttal and explained that the ordinance requirements for an appeal hearing allow the applicant to split his time between presentation and rebuttal, but there is no provision for appellant rebuttal which is reserved exclusively for the applicant.

Chair Allen closed the public testimony and moved to final staff comments. There were no final staff comments.

Mr. Claus stated (from the back of the room) that Susan Claus would like to testify (inaudible). Chair Allen stated he called earlier for testimony for and against and no one came forward to testify.

Chair Allen called for a discussion on the appeal and remarked on a comment that the Commission does not have or has not read the 1995 Code and observed that the 1995 Code was courteously provided by the appellant, it is part of the record of this decision, and the Commission has had access to it for a number of weeks. Chair Allen stated he had looked through the relevant portions of the 1995 Code in considering his decision.

Chair Allen commented regarding the wide range of issues addressed in the testimony, whether staff had the authority to divide a big lot into smaller lots, if the correct code was followed, and whether staff made the correct decision under that code adding that he did not find anything persuasive in the written materials or in the testimony. Chair Allen commented that the correct

code was followed and it was a subdivision decision, not a PUD decision, and he could not find a basis to overturn the staff decision.

Commissioner Copfer added he would agree and stated he had read the 95 code and materials provided several times, that staff has completed the work, and he sees nothing to stop the subdivision.

Commissioner Clifford stated that he has reviewed the submittal documents, studied the plans provided, and read the letters and appeal documents. Mr. Clifford commented that staff's responses to the appeal were clear and the application did meet code requirements.

Commissioner Griffin commented that staff has done an adequate job in researching and making sure that what they do on behalf of the City is correct and legal. Mr. Griffin commented on the using the advice of an attorney and the path used to reach a decision. Mr. Griffin commented that the decision could be appealed to a higher board and he did not have anything at this level to say no to this application and perhaps City Council would feel differently.

Chair Allen inquired regarding if the proper method was to approve the application or to deny the appeal. Julia Hajduk deferred to legal regarding the proper method and clarified that the next level of appeal would be to the Land Use Board of Appeals (LUBA).

Chris Crean commented that the motion would be two parts: to uphold the appeal and reject the staff recommendation or, conversely, to deny the appeal and affirm the staff recommendation.

Motion: From Commissioner James Copfer for the Planning Commission To Deny The Appeal Of Langer Farms Subdivision (SUB 12-02) And Uphold The Staff's Findings, The Staff Decision To Move The Subdivision Forward, seconded by Commissioner Russell Griffin. All Commission members present voted in favor. (Commissioner Clifford voted yes by phone, Vice Chair Albert and Commissioners Cary and Walker were absent.)

8. Consent Agenda

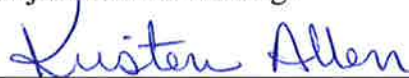
The consent agenda consisted of various minutes from March 13, March 27, April 24, May 22, and July 10, 2012.

Motion: From Commissioner James Copfer for the Planning Commission To Adopt the Consent Agenda as Written, seconded by Commissioner Russell Griffin. All Commission members present voted in favor. (Commissioner Clifford voted yes by phone, Vice Chair Albert and Commissioners Cary and Walker were absent.)

Chair Allen commented that the next meeting was September 11, 2012 which include the Cedar Brook Way TSP. Julia confirmed and added that it also included the Langer Phase 7 commercial development project.

9. Adjourn

Chair Allen adjourned the meeting.

Submitted by 
Kirsten Allen, Department Program Coordinator

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Incorrect date: Change to July 10, 2012

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