



Home of the Tualatin River National Wildlife Refuge

**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
January 11, 2011**

Work session – 6:00

1. Code Clean-Up Project:
 - a. Review final draft amendments: Variances and adjustments and Residential uses
 - b. Update on Parks and Open spaces topic
 - c. Tree removal and mitigation

Business Meeting – 7:00

1. Call to Order/Roll Call
2. Agenda Review
3. Consent Agenda: Minutes - August 10, September 7, September 28, December 14, 2010
4. Council Liaison Announcements
5. Staff Announcements
6. Community Comments
7. Old Business:
 - a. Continued Public Hearing PA 10-03 Code Clean-up Phase I.V (1.5)- The proposed changes will update the Fences, Walls and Hedges (16.58.030), Landscaping (16.92), On-Site Storage (16.98), Trees Along Public Streets or on Other Public Property (16.142.050) and Recommended Street Trees (16.142.080). Specifically, the proposed language will clarify the standards for fences and walls on residential and non-residential property. The definition of a fence or wall has been clarified and hedges have been removed from these standards. The street tree removal and replacement standards have been revised to make this process more user friendly. The spacing requirements have been updated to eliminate the street tree problems that have occurred as the trees have aged due to the existing spacing standards. The recommended street tree list has been revised to remove problem trees, fruit bearing trees and add more appropriate trees. The canopy spreads of the trees have also been added to provide additional information to the users.
8. New Business - none
9. Adjourn

Continued Work Session – Following business meeting

1. Update on Tonquin Trail Master Plan
2. Continued Discussion on Commercial and Industrial Uses – feedback on use classifications

City of Sherwood, Oregon
Planning Commission Minutes
August 10, 2010

Commission Members Present:

Chair Allen
Jean Lafayette
Michael Cary
Raina Volkmer

Staff:

Julia Hajduk, Planning Manager
Heather Austin, Senior Planner
Karen Brown, Recording Secretary

Commission Members Absent:

Lisa Walker
Matt Nolan
Russell Griffin

Council Liaison – Mayor Mays

1. **Call to Order/Roll Call** – Chair Allen called the meeting to order. He announced that Commissioner Nolan has submitted his letter of resignation as of the September 14, 2010 meeting.
2. **Agenda Review** – Includes continued public hearing on PA 09-03 Tonquin Employment Area and new business including a public hearing on the Code Clean Up Phase I.
3. **Consent Agenda** – Minutes from July 13, 2010. Motion made by Commissioner Lafayette to approve the consent agenda and was seconded by Commissioner Volkmer. A vote was taken, all were in favor and the minutes were approved.
4. **Staff Announcements** – Staff announced that the Tonquin Trail Project Group will have a booth at Music on the Green in Sherwood and encouraged anyone with questions to stop by.

Chair Allen commented that in his most recent water bill there was a notice about the Code Clean Up and that he sees this as a great improvement to broadening communication with the public.

5. **City Council Comments** – Mayor Mays told the Commission and public that the Council and Washington County have approved an IGA between both entities to enable the City to build South Adams Avenue, and go to bid this fall. Additionally the City has gone to bid and expects to award a contract for the Cannery Streets Project as well as a public hearing being held regarding the Plaza, later this month or next. He also mentioned that Friday August 13th at 5:00 is the deadline to file to run for Mayor or to apply for seats on City Council.
6. **Community Comments** – *Tim Voorhies PO Box 908, Sherwood OR* commented that he noticed on his utility bill that a light fee had been included. It had been his understanding that the fee was not going to be added for 6 months.

7. **Old Business** – Reconvened the Tonquin Employment Area public hearing (PA 09-03). Senior Planner Heather Austin began by reviewing changes proposed in the packet for this meeting.

Commissioner Lafayette asked to clarify that Exhibit T is the second revised changes to the code language and that it is the exhibit that will be edited for final recommendation. Heather agreed that this exhibit along with Exhibit F will incorporate all of the changes made.

Heather continued that Chris Zahas of Leland Consulting is present to answer any employment or economic questions as well as Frank Angelo of Angelo Planning Group, the city's main consultant for this project. Additionally she pointed out that in the staff memo there is a reference to Blake Street in Tualatin. Chris Maciejewski from DKS Associates is available to respond to questions regarding traffic impact questions. DKS Associates reviewed the closure of Blake in Tualatin and, while the Tonquin Employment Area will not be majorly impacted, regionally it is a bad decision as it cuts off an East/West connector. Another issue she has received comments on is the proposed rock quarry on Tonquin Road, but since that area is outside of the City's jurisdiction and urban reserves area, she will not be addressing those comments and the City has no position on this proposal at this time.

Chair Allen asked what the funding status is for widening Tualatin-Sherwood Road.

Chris Maciejewski from DKS Associates responded to Chair Allen's question by saying that the funding status for long range projects in this area is changing all of the time. It is his understanding that at this time, none of the plans include this project in any of the 5 year plans. It is a longer range project. The region has determined that there will be adequate funds to build it, but those funds have not been identified yet. Over 20 years it is reasonably likely to expect that project to be built. Responding to a question from Chair Allen regarding how likely this projects is to happen, Chris explained that Metro looks at all of the city's and county's projects on a list that gets prioritized then they decide which projects can be funded and which cannot. If business continues as usual or there are planned funding modifications like increased SDCs there should be money to fund the project.

Conversation continued with Chris regarding widening of Tualatin-Sherwood Road and if developments would be required to do the work. Several options are possible and decisions are typically made on a case-by-case basis.

Chair Allen asked Staff when this proposed project area was brought into the UGB.

Heather responded by saying it was done in 2004 and has been designated as employment/industrial.

Chair Allen opened the meeting for public testimony.

Karen DePriest 14250 SW Tonquin Road, Sherwood OR submitted a letter she has written reiterating her testimony at previous meetings (added to the record as exhibit AA) then deferred the rest of her time to Bob Browning.

Donna Kreitzberg PO Box 3242, Tualatin OR voiced her concerns that the City of Tualatin was planning to extend Blake Avenue. She and a group of 600 neighbors mobilized and got the Tualatin City Council to remove the extension of Blake from their SW Tualatin Concept plan. She wants to let the City of Sherwood know that they will not stand for any development in the Blake Street area.

Peggy Kern 21050 SW Dahlke Lane, Sherwood OR submitted a letter she has written (exhibit AB) expressing her concerns over development in her neighborhood. She then deferred the remainder of her time to Bob Browning.

Cindy Walker, Dillion Walker and Theresa Endicott will all be represented by Mr. Browning as well.

Bob Browning PO Box 430 Forest Grove OR spoke as the Attorney representing Ms. Kern, Ms. Barnard Ms. Walker and Ms. DePriest. They had concerns that this area is being looked at as a potential employment area but understand that in 2004 it was designated as such. They see that there is a significant amount of space un-developed or vacant that could be used first, before developing their neighborhood. He wants to caution the city to move forward slowly and carefully. The second aspect he wanted to point out is that as development moves forward it is very important to remember the folks that are already in this area. He feels the public involvement to this point has been very good and hopes that continues. There are concerns however that once development starts the people that live and have lived in that area for some time, that enjoy the quiet neighborhoods and enjoy the wildlife will be forgotten. They hope that any measures possible will be taken to screen them from the development; like berms and vegetative screening. He gave Coffee Creek Prison as an example of a development that was done right and not intrusive to the area.

George Pitz 19041 SW Olson Ave., Lake Oswego OR Mr. Pitz is the Vice President of the Tualatin Valley Sportsman Club which owns the 220 acres that is surrounded by and south of this proposed development area. One of his concerns is what the requirements will be to protect the Tonquin scab lands. His property is required to set aside land that they can do nothing but pay taxes on and feels that if their property is required to protect the scab lands that the new developing areas should have the same requirement. They are also very proud of the wildlife in their area and are concerned about maintaining their habitat. While it would be to the advantage to the gun club to have a factory type development close by and not residences with their windows open in the evening, he is not sure this is the best use of this land.

With no one else signed up to testify, Chair Allen closed public testimony and called a short recess.

Chair Allen called the meeting back to order and asked for any further questions for Staff. Commissioner Lafayette asked about performance zoning, and reiterated the idea that they want to make doing the right thing, the easy thing. She indicated that at this point

she does not feel that is the case. If we are going to provide an employment area, what incentives are being offered to attract companies? The idea of expanding the Urban Renewal District boundary is mentioned in the plan. She is not in favor of that and believes that from a tax basis, the boundary needs to end at some point. She would also like to see the tree removal disincentive addressed.

Heather addressed the concerns brought up by Commissioner Lafayette by saying that the tree removal issue is being handled in the Code Clean-up project. Regarding incentives, the fast track for industrial development will apply to this area.

A conversation regarding allowed uses, prohibited uses and conditional use standards ensued among staff and the Commission. Chair Allen summarized by saying he would like to see something added to the allowed uses referring to research and development facilities and associated manufacturing.

More specific conversation continued regarding eliminating specific items E, F, G & H in section 16.31.030 as well as what constitutes incidental uses. Frank Angelo joined the conversation and gave suggestions for changing the wording to ensure industrial development comes first.

Mayor Mays suggested making the requirements stricter now and being able to loosen them up later as development occurs. Chair Allen agreed with that idea.

Julia suggested changing 16.31.050 to say retail, professional services, daycare etc. in the EI zone must be concurrent with the industrial development on the property.

Chair Allen suggested changing 16.31.050 to say you could build the 5,000 sq ft per outlet, no more than 20,000 provided your site is at least 5 acres and prohibited outright on sites less than 5 acres and include limitations suggested earlier by Julia.

Conversation continued with Commissioner Lafayette asking how the 5 acre minimum lot size was determined. Heather and Chris Zahas explained that they had met with the Economic Development Manager to discuss what size developments would encourage campus style developments as well as examining the inventory of 2 and 3 acre properties in the city. Chris explained that they do know that a lot of the desired types of business want to locate in parks or master planned business parks which can range anywhere from 5 to 20 acres. The suggestion was made to change the requirement to 3 acres.

Commissioner Volkmer asked about standards for buffering and screening. Staff responded by pointing out that there are requirements already in place for screening where needed. The fencing standards will be addressed in the code clean-up and buffering can be addressed there as well.

Noise, glare, and vibration are already covered in the code as well as the newest building codes.

Heather indicated that she will add information for Council regarding the Blake Street improvements and how that will effect or not affect this project.

Chair Allen commented on testimony received at both this meeting and the last pertaining to maintaining the area in its current or natural state and while he appreciates what the people are asking for, the decision about that was made in 2004 when the area entered into the UGB. What he sees as the task of the Commission and the Council now is that the development is done keeping those citizens and their concerns in mind.

Commissioner Lafayette made a motion to continue PA 09-03 to August 24, 2010 so that they could see all of the changes that were discussed this evening and deliberate further. The motion was seconded by Commissioner Cary, a vote was taken and all were in favor.

8. New Business – PA 10-02 Code Clean-Up Phase I

Chair Allen opened the public hearing on the Code Clean-Up Phase I.

Julie gave an overview of what the code-clean up phase 1 will include and what the proposed areas of notice look like. She recommended holding a public hearing and forward any recommended changes to the City Council.

Commissioner Lafayette suggests adding a cover page in the packet that goes to the Council explaining that the entire packet is not new information, rather 3 sections including public notice, application submittal and scriveners errors clean-up.

Chair Allen opened the meeting for public testimony.

Neil Shannon 25597 SW Red Fern Drive, Sherwood OR Mr. Shannon's main concerns are regarding street trees and how they are protected. With the meter boxes and other items in the planter strips, it is hard to maintain healthy street trees.

Julia and the Commission informed Mr. Shannon that street trees are not in this proposal but will be in future code clean-up projects.

With no other people signed up to testify, Chair Allen closed the public hearing.

The Planning Commission had a discussion about standardizing "designee" and who is covered by that term.

Commissioner Lafayette made a motion that the Planning Commission recommends approval of PA10-02 Code Clean-Up Phase 1 based on the adoption of the Staff Report, findings of fact, public testimony, agency comments, staff recommendations, applicant's comments and language as revised. Motion seconded by Commissioner Cary. A vote was taken and all were in favor.

The next meeting is scheduled for August 24, 2010

Chair Allen closed the public hearing.

End of minutes.

City of Sherwood, Oregon
Draft Planning Commission Minutes
September 7, 2010

Commission Members Present:

Chair Allen
Jean Lafayette
Michael Carey
Russell Griffin
Lisa Walker

Staff:

Julia Hajduk, Planning Manager
Michelle Miller, Associate Planner
Karen Brown, Recording Secretary

Commission Members Absent:

Matt Nolan
Raina Volkmer

Council Liaison – Mayor Mays

Call to Order/Roll Call – Chair Allen called the meeting to order. Karen Brown called roll.

1. **Agenda Review** – Sherwood Cannery Square Plaza SP 10-02/CUP 10-01
2. **Consent Agenda** – None
3. **Staff Announcements** – None given
4. **City Council Comments** – Mayor Mays was present, no council comments made
5. **Community Comments** – *Susan Claus 22211 SW Pacific Hwy, Sherwood OR* asked how an item/question is added to the “Residential Hot Topics” list and how that process will work. She has concerns that after this code clean-up exercise has moved forward that there may be last minute, walk-on issues that could be explosive and how those would be dealt with and what the time lines are for the process.

Chair Allen responded by explaining that it has been an iterative process including on-line surveys and listening sessions. There is another listening session scheduled for September 14th that she is invited to attend and bring any issues or concerns up at that time. The intent is to be sure that items are looked at to determine if they are clean up issues or more true policy issues. The plan is to address the issues brought forward and avoid any “explosive” items showing up at the Council level.

There is a schedule posted on the web-site, as well. Julia addressed the time line question by saying the plan is to have the residential code ready for review sometime in December.

Mrs. Claus expressed concern that code changes may occur that the public was not given notice about or a chance to voice their opinions about, to be specific she is worried that there may be changes that will directly affect her sign that is visible on Pacific Hwy. She made a point to say that she feels every effort should be made to engage local business owners. She also hopes the people can be made to understand at what point they can give testimony.

Chair Allen acknowledged the comments and explained that many avenues have been used to notify everyone in Sherwood about the listening sessions and their opportunity to share their ideas with the Planning Commission. Notices have gone out by way of post card mailings, articles in the Gazette as well as the Archer along with updates on the City's web site and e-mail notices. He did assure everyone that at the beginning of the next listening session he would take the time to explain the process and how and when citizens are able to engage in the process and at what levels things happen.

Eugene Stewart 23695 SW Pine Street, Sherwood OR began by encouraging the Commission to have a work session on the Oregon State goals and guidelines especially Goal 1 Citizen Involvement. He is concerned that there is not a written plan in place at this time as well as a Citizen's Involvement Committee.

6. New Business –

a. Sherwood Cannery Square Plaza SP 10-02/CUP 10-01

Chair Allen began the public hearing by reading the public hearing disclosure script. Chair Allen disclosed that a neighbor of his is the president of the Robin Hood Festival and expressed the concern that there is a place set aside in the Plaza for a Christmas tree. No other exparte' or contact was disclosed and this disclosure was not challenged by anyone.

Julia presented her staff report and pointed out two new exhibits that had been submitted; one by Sanford Rome and one by James Claus, both of which ask that the record be left open. Those will be labeled exhibits C and D. Those requests coincide with the Planning Staffs request on page 3, which ask that a decision not be made during this meeting, but rather wait for the Land Use Board of Appeals decision to be made regarding the PUD.

The City is hoping to incorporate the grading for the plaza into the street improvement bid package, which is part of the reason for this special meeting.

The proposal being reviewed at this meeting is for a 12,000 sq. ft. public plaza on the Northeastern corner of Pine and Columbia.

Commissioner Lafayette and Julia discussed the conditions regarding the general and specific Planned Unit Development final development plan requirements. As approved the conditions go to 23, but the Staff Report only goes to 20. Julia explained that there was a discrepancy between the Planning Commission recommendation and the City Council decision. Julia indicated that a copy will be made of the newly numbered conditions and labeled as Exhibit E in the record.

Chair Allen asked for clarification on condition 11 regarding outdoor sales and conditional use permits. Julia explained that the provision for outdoor sales was meant for special events like Saturday Markets and festivals, rather than permanent retail shops having access for outdoor sales. There are places in the Staff Report that speak to this issue, page 6 and page 19.

Chair Allen opened the hearing for the applicant's testimony:

Jeff Sacket from Capstone Partners, 1015 NW 11 Ave. Suite 243, Portland OR gave an overview of plaza presentation, and then turned the floor over to Curt Lango.

Kurt Lango, of Lango Hansen Architects 1100 NW Glisan, Portland OR. Kurt and his team are excited about the work they've done for the Plaza over the past 8 months. As well as the Plaza they have been working on additional improvements for the Sherwood Cannery Square including the Streetscape project and the Machine Works Building. Focusing on the Plaza there are several interesting elements which include: shade canopies both on the North and West side, a grass area, an interactive water feature that when turned off doubles as an amphitheater as well as a very large Heritage Tree. Through several meetings including public meetings and meetings with the Parks Board there have been some good changes that have been made to the plan. The materials planned to be used at this time are primarily two types of brick, which will add some depth and color. Wilkinson Stone, which is quarried here in the northwest as well as granite caps, will also be used in certain areas. There is a desire to save some money and re-use some of the granite pavers that are currently being used as part of the streetscape in Old Town, around the basin of the water feature replacing the pavers in the street with colored concrete. Kurt described in detail the water features and the canopy designs as well as the furnishings which include 12 bike parking spaces, drinking fountains, benches and trash receptacles. In addition to the grassy area, there are color beds planned for different plantings throughout the seasons. The Heritage tree is proposed as a Honey Locust which can get to be approximately 50' tall with a 40' wide canopy. Lighting has been addressed both in the plaza and under the canopies insuring a safe, secure, well lit area. A sound system will also be installed to be used during events for public announcements or other MC'd events as well as the potential to pipe in music during holidays or other similar functions. An art committee has been established to determine the location and types of public art within the plaza. There is also a tree well designed for holding a community Christmas tree equipped with power for lights.

Jeff Sacket spent some time discussing the "phasing" of the entire project emphasizing the need for flexibility. "Committing to a schedule for a multi phase project with a duration of many years is essentially impossible given the variety of unpredictable variables that might affect it." They are "reasonably confident of the near term phases but have been necessarily conservative in projecting timing for the subsequent phases."

Capstone is very motivated to begin this project and move forward as quickly as possible; however the world economy and markets do have impacts on this type of development. The signs are favorable that things are moving in the right direction. The commercial buildings will either need to be pre-leased or sold before construction can begin as no financing is available on speculative ventures at this time. They will continue to move

forward, but will still ask for flexibility from the Planning Commission and Urban Renewal.

Murray Jenkins from Ankrom Moison Architects 6720 SW Macadam, Suite 100, Portland OR pointed out several revisions that have been made regarding the Pattern Book that were discussed the last time he talked with the Planning Commission (when the preliminary PUD was under review). The first change is in tone. Commissioner Lafayette requested the wording be changed to have a more positive connotation. Murray has changed the wording throughout, taking out the wording that says the standards don't apply and now say although it doesn't technically apply they believe the intent should apply. Secondly the Commission had a question regarding the exterior metal panels and what those were. He has added a paragraph specifying that corrugated metal panels and T-111 will not be allowed, but what would be allowed are high quality panel materials.

Chair Allen then opened the meeting up for public testimony either for or against the proposal.

Susan Claus 22211 SW Pacific Hwy. Sherwood, OR requested that the record be left open. She continued by expressing concern that this hearing is being held while the project is still pending a decision from LUBA. She feels there should be some acknowledgment or explanation as to why this is being moved forward prior to the LUBA decision being made. She also believes that the testimony just given by Jeff Sacket regarding phasing is different from that in the packet. She requested an updated phasing plan that reflects Mr. Sacket's testimony. Mrs. Claus expressed concern regarding the timing of the project and the Urban Renew Plan that is supposed to be completed by 2020. She agrees with Mr. Sacket that there is a need for flexibility, but has concerns that decisions are being made now predicating that the Urban Renewal will have to continue and questions who will pay for that. She asked if the renderings that show the different stories are what the buildings will be held to or is there a possibility that they may end up 3 stories.

Eugene Stewart 23695 SW Pine Street, Sherwood, OR stated first that he is neither a proponent nor opponent of the project, but rather has questions and would like to see some conditions be added including one that would require the parking study be completed before the project continues. He also believes that in the Transportation Plan Oregon Street is shown coming into the development and questions why that is not happening now. He feels like that should be another condition placed on the project. He also has concerns regarding the fixture color requirements. He stated that the Streetscape plan that has been adopted calls for black fixtures, and then it was voted on for blue fixtures. He would like to see a condition stating that the downtown streetscape plan would need to be followed. He has concerns regarding notice that was sent out as well. He did not recall getting notice of the project and believes that tenants in his building should be notified as well. Regarding the pattern book that has been discussed several times, he believes that the project should follow what has already been adopted for the look in Old Town. He also suggested adding a parking structure.

With no one else signed up to testify, Chair Allen called the applicant back up for their rebuttal.

Jeff Sacket returned to rebut/respond to questions asked during public testimony. He began by agreeing that they would submit a revised phasing plan with updates. Regarding phasing and Oregon Street/Adams Ave. connection to the Plaza, there are many contributing factors. Access to Old Town must remain open at all times. With only two access points, Sherwood Blvd/ Pine Street and Oregon Street there will need to be considerable coordination done to maintain access. Pine Street will need to be closed completely for approximately 2 months during the project, which is also constrained by ODOT Rail orders for work to be done that will close Oregon Street temporarily. Regarding the developer being held to the renderings, he indicated that they are not held by the drawings, however they are held to the total amount of square footage that was approved in the City Council's decision. The total number of residential units and commercial units are fixed. The actual layout is subject to the Architectural pattern book and final development plan approval by the Planning Commission.

Kurt Lango continued first by addressing the question of the size of the Plaza. Based on the density of the development around the Plaza it was determined that too much open space left empty would not be appropriate. Regarding the fixture color, the streetscape items will remain blue to match existing fixtures within the City. Within the Plaza the goal is to not emphasize the fixtures but rather have them recede in the background. Those features will be a dark bronze color.

Chair Allen and Commissioner Lafayette discussed with Mr. Lango the fact that per City Council direction there will actually be 3 different colored fixtures in that area; the blue to match the street scape, some black to match the neighborhood and the dark bronze within the Plaza.

In response to a question from Commissioner Griffin, Kurt discussed the capacity of the plaza. Based on research done they feel that the Plaza could hold 400 to 500 people and possibly more if Columbia Street was closed during an event.

In response to Commissioner Griffins' question regarding the impacts that the potential Langer project could have on Capstone's ability to build, Jeff explained that he feels they are two very different products and that the retailers and businesses that would be drawn to an Old Town location would be very different than the large format retailers that would locate on the Langer's site. There will likely be some competition, but competition tends to make everyone sharper and there will likely be tenants that can go either way. There will be different atmospheres and different amenities that each will hold.

Commissioner Lafayette asked if the areas for future development could be graded and used for temporary event parking.

Per Jeff Sacket, that has not been established yet, but is not out of the question.

She also asked if there was going to be broadband antenna on the light poles.

Kurt Lango responded by saying currently there are no plans to install WiFi within the Plaza.

Conversation continued about items that will actually be addressed in detail during site plan review for individual buildings.

Chair Allen closed the public hearing, leaving the written record open as requested.

In final Staff Comments Julia talked about conditions that have to be met prior to completion of the project and obtaining a Certificate of Occupancy for the Plaza including needing the subdivision to be complete which means being platted and recorded. She also felt it would be a good idea, in response to Commissioner Lafayette's suggestion, that it be clear that the lots not yet built could potentially be temporarily graveled for parking.

Chair Allen summarized where the project stands at this time. The record will be left open for 7 days. The applicant will then have 7 days to respond to that materials submitted. There has also been a request that the applicant submit the updated phasing plan within the first 7 day time frame. Commissioner Lafayette asked if it is documented within the findings that there is no sensitive area within the Plaza.

Regarding the Land Use Board of Appeals decision; the timing will be that the decision will be made, at the latest, the day after the first 7 days that the record is left open. If LUBA turns down the appeal then the Planning Commission will continue moving forward. If the decision is to remand the decision, then the Planning Commission will determine what next steps to take at that time.

Commissioner Lafayette made a motion to continue SP 10-02/CUP 10-01 to _____. The motion was seconded by Commissioner Griffin. All were in favor.

SP 10-02 2010

The next meeting is scheduled for September 14, 2010.

Chair Allen closed the public hearing.

End of minutes.

City of Sherwood, Oregon
Planning Commission Minutes
September 28, 2010

Commission Members Present:

Chair Allen
Jean Lafayette
Russell Griffin
Lisa Walker
Michael Cary

Staff:

Julia Hajduk, Planning Manager
Heather Austin, Senior Planner
Karen Brown, Recording Secretary

Commission Members Absent:

Raina Volkmer

Council Liaison – Mayor Mays

Call to Order/Roll Call – Chair Allen called the meeting to order. Chair Allen asked for a moment of silence in honor of City Councilman Del Clark.

1. **Agenda Review – Sherwood Cannery Square Plaza continuation**
2. **Consent Agenda – None**
3. **Staff Announcements – No announcements made**
4. **City Council Comments – Mayor Mays** announced that the Memorial Service for Councilman Del Clark was to be held Saturday October 10th at 2:00 at the Sherwood High School Gym. Friday, the 8th through Sunday the 10th, with the Governors permission, the flags in the community will be flying at half-mast. At a recent League of Oregon Cities’ meeting the City of Sherwood received two awards: One gold for our Wellness Promotion and a silver for Safety Awareness.
5. **Community Comments – none given**
6. **Old Business** - the continuation of SP 10-02/CUP 10-01. Commissioner Lafayette disclosed potential exparte contact in the form of a conversation with a friend regarding bike lockers in the square, but does not feel that will affect her ability to participate.

Clarification was given regarding the motion made at the last meeting. The motion made missed providing an opportunity for additional comments or response. Public notice was posted correctly and the length of time given did not change. Within the first 7 days Exhibits F – L were submitted. The record will not need to be re-opened.

Based on information submitted and Commission comments; three changes are being recommended. The improvements associated with the Plaza must be complete prior to Certificate of Occupancy for the Plaza.

A potential revised finding has been drafted better responding to the CWS comments and can be found on page 10. Mitigation required by CWS as part of their Service Provider letter must be complete prior to occupancy of the Plaza.

Another revised condition was written to more clearly grant permission for parking prior to construction on the empty lots. The condition says “provide for temporary parking areas within the PUD until parking lots are constructed with future phases to accommodate needed parking during large festivals and events.”

Other revisions reflect the LUBA decision affirming the original PUD and updates to the public comment section reflecting that additional written and verbal testimony have been received.

Regarding the TSP amendments; since the LUBA decision affirmed the original decision it essentially is affirmed by DLCD.

The Economic Development Manager has indicated that the funding for the East bound right turn lane from Oregon Street to Lincoln Street will come from the Urban Renewal Agency and funds are available.

Julia suggested 3 different motions: one for the revised pattern book, one for the phasing plan which would become part of the preliminary PUD file for future reference and then the site plan and CUP approval.

Discussion continued regarding the implications of approving the phasing plan. Concerns were discussed regarding what steps would need to be taken by the developer if they did not meet the phases established including the possibility of coming back to the Commission for new approval.

Deliberation began regarding the revised materials submitted, there were no major concerns.

Commissioner Lafayette made the first motion to approve the revised pattern book as it has been submitted with this application. The motion was seconded by Commission Griffin. A vote was taken and all were in favor. The motion passed.

Commissioner Lafayette made a second motion to approve the applicant’s revised phasing plan as submitted in Exhibit G incorporating staff comments that begin on page 5. Commissioner Walker seconded motion. A vote was taken and all were in favor. The motion passed.

Deliberation continued regarding edits and changes that have been made and if everyone was comfortable with the final wording including revisions saying “the subdivision SUB 09-02 plat must be recorded including meeting all conditions required of subdivision plat approval in PUD 09-01.

Commissioner Lafayette made the final motion to approve SP 10-02/CUP 10-01. Commissioner Cary seconded motion. A vote was taken and all were in favor. The motion passed.

The next meeting is scheduled for October 12, 2010.

Chair Allen closed the public hearing and the Commission moved into work session.
End of minutes.

City of Sherwood, Oregon
Planning Commission Minutes
December 14, 2010

Commission Members Present:

Chair Allen
Jean Simson
Russell Griffin
Lisa Walker
Brad Albert

Staff:

Julia Hajduk, Planning Manager
Zoe Monahan, Assistant Planner

Karen Brown, Recording Secretary

Commission Members Absent:

Michael Cary
Raina Volkmer

Council Liaison – Mayor Mays

1. **Call to Order/Roll Call** – **Chair Allen** called the meeting to order and welcomed new Commissioner Brad Albert
2. **Agenda Review – PA10-03 Code Clean Up Phase 1.5, SWOT Analysis**
3. **Consent Agenda – None**
4. **City Council Comments – Mayor Mays** none given
5. **Community Comments** – Rick Finsand, 22652 SW Sauders Drive, Sherwood OR representing himself and the Woodhaven Homeowners Architecture Board voiced concerns about parking around the intersection of Woodhaven Drive and Saunders Drive.

Tom Pessemier responded for the Engineering Department by saying that this is not actually a Planning Commission issue; that intersection has been the subject of a formal study and that parking there is creating a hazard for pedestrians, emergency vehicles and school busses. There will be 3 parking spaces removed and a stop sign installed. Notices will be sent to the homeowners in the area.
6. **Staff Comments** – **Julia** mentioned that 3 of the 4 Planners attended a legal issues conference and will discuss that at a future meeting. She also notified the Commission that the IT Department has requested permission to video tape and broadcast the meetings on the Community Access Channel. No one objected to the proposal.
7. **New Business - PA 10-03 Code Clean-Up**, Chair Allen asked for any exparte contact disclosures. Commissioner Simson disclosed that she had received a call for Tim Voorhies regarding the code and work session topics and voiced some concerns about what is being asked of the citizens. She did not feel that conversation would prevent her

from participating. **Commissioner Griffin** disclosed that he had been approached by Jim Claus in the parking lot on his way into the meeting but did not fully understand what was said by Mr. Claus, but reference was made to Jews and Nazis but he does not feel that it would prevent him from participating in the hearing.

Zoe presented her staff report regarding the proposed changes in the code regarding: fences, walls, hedges and street trees. The development code has not been comprehensively updated since 1990 so this is the effort to update the code.

First, the question of what defines a fence was addressed. Hedges and vegetation have been removed from this definition. The requirements proposed include maximum height allowance, separated the residential and non-residential requirements, and modified the corner lot set-back requirements. Street tree spacing and removal were also addressed in this review. The proposed spacing is now based on the canopy spread rather than 1 tree for every 25' of frontage. Regarding the removal process, the Parks Board approval has been removed and a process that allows for public comment period has been added. An exemption process has also been added. The recommended street tree list and prohibited street tree lists have been revised, as well as an alternative street tree process if someone wants to add a tree that is not currently listed. They have suggested a tiered removal process based on the size of the tree as well. Staff's recommendation is to recommend approval to the Council on the proposed language.

Commissioner Griffin asked about what fees would be charged for tree removal.

The fees have not been determined yet, but will need to be approved by the Budget Committee and should be suggested prior to going to council for review.

Chair Allen opened the hearing up to public comment:

Neil Shannon, 23997 SW Red Fern Drive, Sherwood OR, provided public testimony saying he is in favor of using the canopy diameter as one of the guidelines, however has concerns regarding protecting the trees in the planter strips. There are so many other items in the strips it is not giving the trees a chance to survive. Regarding removal and replacement, he is not in favor of permits being required and feels the HOA needs to be more involved.

Noreen O'Connor 17511 SW Heatherwood Lane, Sherwood OR, has been very active in tree planting in the community. She will be happy to take responsibility for her tree, but urged the Commission to be careful with the details. She does not want to have to pay a fee to remove a tree that should never have been allowed to be planted. She does not want to see a battle fought one homeowner at a time.

Treena Landers 23855 SW Red Fern Drive, Sherwood OR, president of the HOA for Arbor Lane, has worked for over the past year to have permission to replace trees in their neighborhood with Sunset Maples. She would also like to see a plan that includes the HOAs more. They have mapped their entire neighborhood and had hoped to work with the Parks Board on letting the HOA approve the removal of trees when necessary. She feels like every time they get their process lined up, something gets changed.

Tim Voorhies PO Box 908, Sherwood OR, has concerns with items in the plan stating that after trees are planted the maintenance becomes the homeowner's responsibility. He asked about guidelines that homeowners need to follow while pruning limbs. He has concerns that homeowners could be in trouble if they prune street trees.

Seeing no other citizens wanting to testify, Chair Allen closed the public testimony.

Julia added that the intent was never to add bureaucracy, but rather alleviate steps and time constraints. The potential was discussed of letting recognized HOAs approve their own tree removal and maintenance to a point.

Tom Pessemier suggested that there may be a land use process that would allow HOAs to work with staff to develop guidelines that would allow, for example, the removal and replacement of 20 street trees all together rather than having each homeowner go through the process one at a time.

In closing the Staff Report, Zoe pointed out that they have tried to incorporate ways for public comment to be taken in both process types. She added that in the exemption process the letter from a certified arborist would need to indicate why the tree could not be replaced and how it might continue to create additional problems.

Conversation/deliberation continued regarding the best way to determine tree sizes allowed, where and how to measure the height as well as fees and costs for permits if permits are required.

Commissioner Albert added the fact that there are large storm water benefits to the City by having large trees that help with shade and evaporation and that should be looked at while making these decisions.

It was determined that the Commission would like more information regarding fees and costs of permitting processes as well as size guidelines of removal and replacement requirements ranging from no process to a light process and a heritage tree process as well as a "wholesale" process for removing/replacing large numbers of trees at one time.

Commissioner Simson asked to clarify if the wording that states "within the right-of-way to the owners' property", includes the trees in front of homes in the median, like on Sunset Blvd. It was determined that the owners' responsibility is to the curb line.

Discussion moved to fences and walls. Commissioner Simson began by suggesting some of the definitions be added into the criteria and locations sections. Staff agreed.

A motion was made to continue the public hearing for PA 10-03 to January 11, 2011, keeping the record open. Commissioner Albert seconded the motion; all were in favor, the motion passed.

S.W.O.T (Strengths, Weaknesses, Opportunities and Threats) Analysis. Julia began by sharing the previous year's list of items. Commissioner Simson feels that reading a

long list before the Council is not very productive. A shorter list is easier to absorb. She has pointed out a few items she feels would be best to focus on. She was excited after last year's meeting. The Commission gave several comments about what they felt was important. The two things repeated were the public notice process and the desire to have joint work sessions. Both of those have happened and she felt that was very positive feedback and would like to keep that momentum going and re-emphasize those issues.

Her suggestions after conversation among the Commission include:

Strengths would be: very good public involvement, effective work sessions with Council and better communication with other boards when developing concept plans.

Weaknesses- Communication tools. Lack of data and performance data to gauge how well things are working. A weakness and opportunity would be finding a way to educate the public on the planning and development processes.

Opportunities – webcast and/or broadcast of meetings and better technology to convey public information. The construction downturn can still be an opportunity. Streamline the standards for different circumstances.

Threats include: Cost of doing business in Sherwood and the cost of developing in Sherwood are both seen as threats.

The next meeting is scheduled for January 11, 2011

Chair Allcn closed the public hearing and the Commission moved into work session.

End of minutes.



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MEMORANDUM

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DATE: January 4, 2011
TO: Planning Commission
FROM: Zoe Monahan, Assistant Planner
SUBJECT: Tree Code Update

As the street tree code updates are wrapping up, we are moving to Trees on Private Property. The review of the tree code is needed to ensure that the values of the community continue to be met. The tree code will address tree removal and mitigation criteria. The focus will be on removal, preservation and mitigation impacts on lots that are being developed. This is a current concern as the Brookman Road Concept Plan area and the Tonquin Employment Area have a number of lots with large trees.

We are interested in looking at different options to find a compromise to preserve Sherwood's tree canopy while encouraging development. An issue paper was provided to the Planning Commission in the December 14, 2010 packet. This addresses the initial comments and facts surrounding this issue. It also briefly provides a comparison of other jurisdictions' regulations.

The next step will be to set a foundation for the public and the commission. We will be hosting a Tree Panel in order to educate the public as well as the boards and commissions about tree removal. The panel will be on February 8, 2011. The panelists include the developer and urban forester perspectives. The panelists will be given a list of questions in advance and there will be a facilitated question and answer session following the discussion of the prepared questions.

After the panel, we will continue to shape the goals and objectives based on the community's values related to trees. It is anticipated that this step of the process will finish in late spring 2011. The language will be drafted during the summer and the first public hearing will likely be in September 2011, however this is subject to change.

Questions of the Planning Commission:

Does the Planning Commission have any initial questions or concerns regarding the issue paper, tree panel or the proposed timeline?



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DATE: January 4, 2011
TO: Planning Commission
FROM: Zoe Monahan, Assistant Planner
SUBJECT: PA 10-03, Revised Draft Language

The revised language in Exhibit A and Exhibit B, included as attachment 1 to this memo, was updated based on the Planning Commission discussion regarding fences and street trees on December 14, 2010. The new revisions are briefly outlined below and they have been highlighted in yellow to easily identify the changes in Exhibit A and Exhibit B. The track changes continue to identify the proposed language. The language in blue underline is new and the language in ~~red with a strike through~~ will be deleted if approved. Additionally, staff has addressed the Planning Commission's concerns about measuring Diameter at Breast Height (DBH) and potential fees. At the end of this memo you will find a list of questions to consider while reviewing the code language. The staff report has also been updated to reflect the tiered street tree removal process as well as a process for Home Owner's Association authorization to remove street trees. The updated staff report is attachment 2 to this memo.

Summary of changes:

Fences (16.58.030)

- Sound wall standards have been removed from the definition section and moved to residential and non-residential zone regulations (D.5 on page 1 and E.2 on page 2)
- Buffering has been reworded to address the concern that this should also apply to commercial or industrial standards adjacent to residential uses. (F.1.d. on page 2)

Street Trees (16.142.050)

- The spacing standards have been updated to make it clear to the reader that the intent of the spacing is to have a full canopy when the tree is mature and that the canopy should be continuous without openings when the street trees reach maturity. (A.4.a. on page 8)

- The two tier street tree removal system has become a three tier system:
 - Tier 1- trees less than 5" = no review (B. page 9)
 - Tier 2- trees 5" – 10" = Type I land use process, ten (10) day public comment period and additional review if comments are submitted. A minimal fee would be required for processing. (B.2. page 9)
 - Tier 3- trees above 10"= Type II land use process, requires arborist report, a statement describing how assistance was sought to retain the tree and a fourteen (14) day public comment period. (B.3. page 9- 10)
- Home Owner's Association (HOA) Authorization Process has been developed to allow HOA's that want to do the street tree review of the trees in their neighborhood, the possibility of requesting this authority from the Planning Commission. We have thoroughly considered how best to allow such a process and come up with suggested language that would do this while ensuring all legal requirements are met.

Chapter 16.142 – Land Use Process – summary proposed changes

- This would be a Type IV land use review with a decision by the Planning Commission.
- There are application submittal criteria outlined as well as approval criteria.
- The criteria have been developed to ensure that the HOA is active, has the authority to administer and enforce the program and has support from the property owners within the HOA boundary.
- They must demonstrate that they will have similar standards to the Cities spacing standards and removal and replacement standards.
- There are minimal conditions incorporated into the language requiring that the HOA submit documentation to demonstrate that they are meeting the approved guidelines at designated times.
- The City retains the ability to revoke the street tree removal review authority when needed.
- The approval is valid for 5 years and can be extended through a Type IV process.

Chapter 12.20 – Municipal Code – summary of proposed changes

- Once authorization is granted by the Planning Commission to administer a tree removal and replacement program the applicable standards for process, mediation and revocation move to the municipal code.
This makes it clear that the actions the HOA takes are not land use actions and clearly identifies a mechanism for people to challenge an HOA decision.

Measuring Diameter at Breast Height (DBH)

The Planning Commission had directed staff to add a standard to describe how the DBH would be measured. There was concern that the measurement should be more specific than 4 ½ feet above the ground. DBH is a standardized term used throughout arboricultural organizations. As such, there are multiple resources to show how to measure DBH in situations where the trunk of the tree branches below the 4 ½ feet, has an irregular trunk at the point of standard measurement, etc. It is recommended that we do not try to define how to measure within the code but rather utilize standard measurement practices.

Fees

The Commission wanted information about potential fees that would be associated with the tree removal permit process to ensure that what was being adopted did not create undue burden or process. The Budget Committee and City Council will ultimately have to adopt a fee into the fee schedule. At this time, we will not propose a fee be immediately imposed but will recommend one with the fee schedule to be adopted in the upcoming fiscal year (July 2011). That said, to help the Commission see potential costs with each process tier that has been developed, we have estimated the time involved in each type of application and estimate the following:

- Tier 1 – no cost due to no permit
- Tier 2 – Assuming 30 minutes of staff time to take permit in, provide sign, document in the computer and ultimately create a letter reflecting the permit approval, the fee is estimated to be approximately \$20 unless more detail is requested at which time the applicant will need to obtain an arborist report.
- Tier 3 – Because this requires notice and a staff report, the amount of time is much greater and therefore, the fee would need to be higher. It is estimated that an initial fee would be between \$500 and \$1000 if it were intended to cover staff time with no subsidy from the general fund. This fee would need to be evaluated over time to see if it truly covers the staff time and adjustments made accordingly.

Questions for the Planning Commission to consider:

- 1) Does the commission want to move forward with the HOA authorization process?
- 2) The DBH measurement has not been added to the proposed language as discussed above, is the Planning Commission comfortable moving forward without adding this to the code language?
- 3) Is the Planning Commission comfortable with the proposed language and ready to make a recommendation to City Council or is more discussion needed?



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2009 Top Ten Selection



2007 18th Best Place to Live



DATE: January 4, 2011
TO: Planning Commission
FROM: Michelle Miller, AICP, Associate Planner
SUBJECT: Response of legal counsel, on the categorization of churches, synagogues, mosques, other places of worship

Question: 'Can we call this category Religious Institutions without negatively triggering RLUIPA?'

- A. With respect to RLUIPA, it's not what we call the building but how it is treated in the zoning code. Patrick is correct that we have to treat "public gathering places" the same and couldn't for example, allow an Elk's Lodge in the MDRH zone but not a church (synagogue, mosque, Stonehenge, etc.). The problem I have with "public gathering places" is that it makes the code less user-friendly because people won't know what a "public gathering place" is. Is it a park, a lodge, a church, the street in front of my house? Also, by using "public" to modify "gathering places," it suggests we intend that code section to apply only to "public" institutions, which would exclude churches. On the other hand, there's nothing wrong with listing churches and other religious facilities as long as we zone them the same as other facilities that have the same impact, and it uses terminology most readers will understand.

My recommendation is to stick with the term "religious institutions." you(sic) may also want to expand it to read something like: "Religious institutions including but not limited to churches, synagogues, mosques and related subsidiary activities." That makes it reasonably clear what we're talking about in the code in terms most readers will understand. Also, I threw in "related subsidiary activities" to cover day care facilities, classrooms, maybe a gymnasium, and the other sorts of things that often go along with a church -- although I recognize you may have this covered in other ways.

Christopher D. Crean
BEERY ELSNER & HAMMOND, LLP
1750 SW Harbor Way, Suite 380



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DATE: January 4, 2011
TO: Planning Commission
FROM: Michelle Miller, AICP, Associate Planner
SUBJECT: Residential Land Use Districts Update

At the December 14, 2010 Planning Commission work session, commissioners had an opportunity to review the residential land use proposed code changes. The Commissioners responded positively to the proposed changes of the other residential use sections and after a brief discussion, requested staff draft new criteria for accessory structures concerning structure sizes and proximity to the property lines and main dwelling unit.

Specifically, §16.50 Accessory Uses Code language has been amended to include:

- A definition of accessory structure
- Height limit reduced from 25 feet to 15 feet
- Size limit reduced from 720 sq. feet to 600 sq. feet
- Accessory buildings now have three different size categories that limit proximity to the property line:
 - Less than 100 sq. feet and less than 6ft tall, it may abut the rear or side property line.
 - Between 100 - 200 square feet, accessory structures must be at least 3 feet from the side or rear property line
 - When a Building Permit is required:
 - a. No accessory building or structure over three (3) feet in height that requires a building permit per the Building Code shall not be located closer than ten(10) feet to any side or rear property line.
 - b. Any accessory building or structure that requires a building permit per the Building Code attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.

- No accessory structure(s) shall comprise over 25% of the required rear yard setback
- Accessory Structure Exemptions:
 - Pergolas, arbors and trellises
 - Play structure and swing sets
 - Flag poles limited to 20 feet
 - Temporary and seasonal above ground pools
 - Structures that are Accessory Dwelling Units fall under the provisions of §16.52 Accessory Dwelling Units.

Issue for Commissioners:

1. With these recommended changes to the Residential Use Classification section, can staff move forward with scheduling the Public Hearing on Residential Uses and Variances?

DATE: January 4, 2011

****Editor's note: Sections 16.12-16.20 are combined into one new section. Re-formatting is not shown in track changes, however all other changes are shown with new text in blue underline, deleted text in ~~red-strike~~ though and moved text in green with double underline or strikethrough (underline when moved to a section, strikethrough when moved from a section.)**

16.12 Residential Land Use Districts

The residential districts are intended to promote the livability, stability and improvement of the City's neighborhoods.

16.12.010. Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density of 0.7 to 1 dwelling unit per acre.

1. If developed through the Planned Unit Development (PUD) process, as per Chapter 16.40, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space the permitted density ~~not to exceed two (2) dwelling units per acre and a density not less than 1.4 dwelling units per acre may be allowed.~~ of 1.4 to two (2) dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement.

2. Special Density Allowances (formerly 16.12.070)

Housing densities up to two (2) units per acre, and minimum lot sizes of 10,000 square feet, may be allowed in the VLDR zone when:

- a. The housing development is approved as a PUD, as per Chapter 16.40; and
- b. The following areas are dedicated to the public or preserved as common open space; floodplains, as per Section 16.134.020(Special Resource Zones); natural resources areas, per the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan, and wetlands defined and regulated as per current Federal regulation and Division VIII of this Code; and
- c. The Review Authority determines that the higher density development would better preserve natural resources as compared to one (1) unit per acre design.

B. Low Density Residential (LDR)

The LDR zoning district provides for single-family housing and other related uses with a density of 3.5 to 5 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

C. Medium Density Residential (MDRL)

The MDRL zoning district provides for single-family and two-family housing, manufactured housing on individual lots and in manufactured home parks, and other related uses with a density of 5.6 to 8 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirements.

D. Medium Density Residential High (MDRH)

The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing on individual lots, multi-family housing, and other related uses with a density of 5.5 to 11 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

E. High Density Residential (HDR)

The HDR zoning district provides for higher density multi-family housing and other related uses with density of 16.8 to 24 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

16.12.020. Residential Permitted and Conditional Land Uses

Table XX: Land Uses Allowed in Residential Districts

Uses	VLDR	LDR	MDRL	MDRH	HDR
Single-Family Attached or Detached Dwellings	P	P	P	P	P
Two Family Dwelling Unit	N	N	P	P	P
Multi-family Dwelling Unit	N	N	P	P	P
Townhomes	N	N	P	P	P
Accessory Dwelling Unit- subject to Chapter 16.52	P	P	P	P	P
Manufactured Homes	P	P	P	P	P
Planned Unit Development (PUD)	P	P	P	P	P
Agricultural Uses ¹	P	P	P	P	P
Temporary Uses	P	P	P	P	P
Home Occupations-subject to Chapter 16.42	P	P	P	P	P
<u>Amateur “Ham” Radios</u>	P	P	P	P	P
<u>Four or Fewer Chickens- subject to Chapter 16.12.060</u>	P	P	P	P	P
Group homes ²	P	P	P	P	P
Family Daycare Providers	P	P	P	P	P
Public Recreational Facilities ³	P	P	P	P	P
Residential Care Facility	P	P	P	P	P
Religious Institutions—Churches and parsonages	C	C	C	C	C
Special Care Facilities, including but not limited to hospitals,					
Cemeteries and crematory mausoleums	C	C	C	N	<u>N</u>
Public and Private schools— providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited	C	C	C	C	C
Day Care Facilities other than family day care providers, which are permitted outright.	C	C	C	C	C
Civic Buildings Government Offices included but not limited to postal stations, administrative offices (police and fire stations, post office)	C	C	C	C	C
Public Use Buildings including but not limited (libraries, museums, community and senior centers)	C	C	C	C	C
Plant Nurseries ⁴	C	C	C	C	C
Private Lodges, Country Clubs, Golf Courses	C	C	C	C	C
Basic Public and Private Utilities (electric substations, public works yard, treatment plant)	C	C	C	C	C
Any business service processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use	C	C	C	C	C

¹ Includes farming and horticulture but excludes commercial building or structures or the raising of animals except as otherwise permitted by this code.

² Group homes not to exceed five (5) unrelated persons in residence, family day care providers, or government assisted housing

³ Includes but is not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.

⁴ Including other agricultural uses and associated commercial buildings and structures.

Radio, Television and similar communications stations, on lots with a minimum width and depth equal to the height of any tower in conformance ⁵	C	C	C	C	C
Raising of Animals other than Pets or as otherwise permitted	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

16.12.030 Residential Land Use Dimensional Standards

A. Generally

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 Chapter 16.84. (**Variance and Adjustments**)

B. Lot Dimensions and Setbacks.

Except as modified under Chapter 16.68 (Infill Development), Section 16.144.030 (Wetland, Habitat and Natural Areas) and or as otherwise provided, required minimum lot areas, dimensions and setbacks shall be provided in the following table:

Table XX: Dimensional Standards per Zone

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
Minimum Lot areas: (in square feet)						
Single-Family Detached	40,000	10,000	7,000	5,000	5,000	5,000
Single Family Attached	40,000	10,000	7,000	5,000	4,000	4,000
Two or Multi-Family: for the first 2 units				10,000	8,000	8,000
Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line⁶: (in feet)						
Single-Family	None	None	60	50	50	50
Two-Family	X	X		60	60	60
Multi-family	X	X	X	X	60	60
Manufactured Homes:	-	-	50	50	50	50
Lot Depth	None	None	80	80	80	80

⁵ Amateur "Ham" radio towers are exempt from this provision per this section, they are permitted outright.

⁶ Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard. (Moved from 16.60.040)

Maximum Height⁷	30 or 2 stories	30 or 2 stories	30 or 2 stories	30 or 2 storie s	35 or 2.5 stories	40 or 3 stories	
Amateur Radio Towers (in feet)	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	<u>70</u>	
Setbacks (in feet)							
Front yard setback	20	20	20	20	20	20	
Interior Side yard setback:							
Single-Family Detached:	5	5	5	5	5	5	
Single-Family Attached	20	20	20	10	5	5	
Two Family				5	5	5	
Multi-Family							
	• 18 ft. high or less	X	X	X	X	5	5
	• If 18-24 ft. in height					<u>5</u> ⁷	7
	• If over 24 ft. in height.-					see § 16.68 (Infill)	see § 16.68 (Infill)
Corner Lot Street Side Single Family	20	20	20	15	15	15	
Multi-family	X	X	X	X	20	30	
Rear yard	20	20	20	20	20	20	

⁷ Maximum height is the lessor of feet or stories

C. Height

Except as otherwise provided for accessory structures, or for townhomes under Chapter 16.44 or for infill development under Chapter 16.68, the maximum height of structures shall be identified in the table above (Table XX).

1. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet.
2. Some accessory structures, such as chimneys, stacks, water towers, radio or television antennas, etc. may exceed these height limits with a conditional use permit, per Chapter 16.62 (Conditional Uses).

16.12.040 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 Divisions V, VIII, IX.

16.12.050 Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.

(Ord. 2000-1092 § 3; 88-979; 87-867; 86-851)

16.12.060 – Chickens

A. Purpose: Residents of the City shall be allowed to keep chickens, subject to the requirements of this Chapter.

B. Locational Requirements.

1. Chickens shall only be kept on property which is occupied by a detached single family dwelling.
2. Chickens shall only be kept upon property which is the principal residence of the owner of the chicken.
3. Chickens and chicken enclosures shall not be located in any area between the primary dwelling and the front property line.
4. Chicken enclosures must be at least ten feet from the property line.

C. Number of Chickens Permitted

1. No more than 4 (four) hens may be kept on any one property within the City of Sherwood.
2. No roosters may be kept within the City of Sherwood.

3. Chicks up to 12 weeks old may be kept indoors as household pets and are not subject to the limitations of 1 and 2 above.

D. Criteria and Prohibitions

1. Chicken Enclosures

a. Chickens shall be kept within a secure enclosure and allowing chickens to enter adjoining properties is prohibited.

b. Enclosures shall be kept clean, dry, free of noticeable odors and in good repair.

c. Enclosures shall prevent the entry of rodents and predators.

2. Chickens shall be kept for personal, non-commercial use only. No person shall sell eggs or engage in chicken breeding or fertilizer production for commercial purposes.

3. The keeping of chickens in such a manner as to cause a nuisance, as defined in Chapter 5 of the Municipal Code or under applicable law is prohibited.

E. Procedure

1. In a residential zone, a resident who wants to raise chickens per the requirements of this section must obtain a permit and pay a processing fee to the Planning Department.

2. Tenants and renters of property may keep chickens with the written permission of the property owner and submitted to the Planning Department.

16.12.070 Amateur "Ham" Radio Towers/Facilities

A. All of the following are exempt from the regulations contained in this section of the Code:

1. Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS 221.295.

2. This includes antennas attached to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. This exemption applies only to the Sherwood Development Code and does not apply to other applicable city, state, and federal regulations. Amateur radio facilities not meeting the requirements of this exemption are considered non-exempt, and must comply with 16.12.030.C. Height above.

B. Requirements for Non-Exempt Amateur Radio Facilities

1. Non-exempt amateur radio facilities may not be erected until a valid building permit has been obtained from the City of Sherwood.

2. Notwithstanding Chapter XX of the Development Code, the following rules apply to non-exempt amateur radio facilities in existence on or before 2011:
 - a. Facilities constructed before 2011 under building permits validly issued on the date of construction are not subject to these regulations.
 - b. Exempt facilities that are proposed to be modified to become a non-exempt facility, shall acquire a new building permit from the City.
3. Facilities without permits from the City of Sherwood or Washington County shall acquire a building permit from the City.

The following are definitions that should be added to the City's definition section.

a. Amateur ("Ham") Radio Services: Radio communication services, including amateur-satellite service and amateur service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.

b. Amateur Radio Facilities: The external, outdoor structures associated with an operator's amateur radio service. This includes antennae, masts, towers, and other antenna support structures.

Chapter 16.42 HOME OCCUPATIONS*---all Type I and Type II have been replaced with Class I and Class II

Sections:

- 16.42.010 Purpose
- 16.42.020 Authority
- 16.42.030 Exemptions
- 16.42.040 Class I and Class II Home Occupations
- 16.42.050 General Definition and Criteria for Home Occupations
- 16.42.060 Class I Home Occupation Criteria Defined
- 16.42.070 Class II Home Occupation Permit Criteria Defined
- 16.42.080 Prohibited Uses
- 16.42.090 Permit Procedures for Class II Home Occupations
- 16.42.100 Expiration and Revocation of Home Occupation Permits
- 16.42.110 Appeals.

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

16.42.010 Purpose

It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures. Home occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood and homes. (Ord. 2002-1130 § 3; 86-851)

16.42.020 Authority

The provisions of this Code are intended to apply to those entities required to obtain a Sherwood business license under the provisions of the Sherwood Municipal Code Chapter 5.04. No person shall carry on a home occupation, or permit such use to occur

on property, which that person owns or is in lawful control, contrary to the provisions of this ordinance. A person must first determine if a permit, for such use in the manner provided by this section, is required.

(Ord. 2002-1130 § 3; 86-851)

16.42.030 Exemptions

A. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises.

B. Short-term sales from a residence shall not be deemed to fall under the regulations for home occupations. Such sales shall not exceed one (1) week in duration and a two (2) week period in any given calendar year. Examples of such uses are, but not limited to, garage sales, estate sales, rummage and craft sales.

(Ord. 2002-1130 § 3; 86-851)

16.42.040 ~~Type I and Type II~~ Home Occupations

A. Home occupations or professions shall be carried on wholly within the principal building and clearly secondary, in the City's determination, to the use of the building as a dwelling. All home occupations shall be administered as either ~~Type~~ Class I or II, distinguished by the potential impacts they represent to the neighborhood. Both ~~Type~~ Class I and Class II Home Occupations are required to apply for and maintain a City of Sherwood business license.

B. Type Class I home occupations are exempt from the permitting process and defined by the listed criteria.

(Ord. 2002-1130 § 3; 86-851)

16.42.050 General Definition and Criteria for Home Occupations

A. Home occupations or professions are businesses carried on wholly within a residential building requiring a City business license. Home occupations are clearly incidental and accessory to the use of the property as a dwelling, and they are not detrimental or disruptive in terms of appearance or operations to neighboring properties and residents. The occupation or profession does not require additional off-street parking nor upset existing traffic patterns in the neighborhood. All home occupations shall be in accordance with the following general criteria:

1. All business operations shall comply with the current City of Sherwood noise ordinance and shall not produce any offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.

2. No exterior remodeling which alters the residential character of the structure shall be permitted.

3. The occupation or profession shall not occupy more than twenty-five percent (25%) of the total floor area of all habitable buildings on the property, including customary accessory buildings. Home Occupations in the Old Town Overlay may occupy up to fifty percent (50%) of the entire floor area of all buildings on a lot per section
16.162.060.D.

4. There shall be no storage and/or distribution of toxic or flammable materials and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals who are engaged in home occupations shall make available to the Fire Marshal for review the Material Safety Data

Sheets which pertain to all potentially toxic and/or flammable materials associated with the use.

5. There shall be no exterior storage of vehicles of any kind used for the business with the exception of one commercially licensed vehicle of not more than one ton gross vehicle weight (GVW) that may be parked outside of a structure or screened area.

16.42.060 Type Class I Home Occupation Criteria Defined

A. **Type Class I** home occupations shall be conducted in accordance with the following defined criteria:

1. Only the principal occupant(s) of a residential property may undertake home occupations.
2. Storage of materials is confined to the interior of the residence with no exterior indication of a home occupation.
3. No exterior signs that identify the property as a business location.
4. No clients or customers to visit the premises for any reason.
5. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television and any other advertising media.
6. Deliveries to the residence by suppliers may not exceed three per week and shall be prohibited on weekends.

(Ord. 2002-1130 § 3)

16.42.070 Type Class II Home Occupation Permit Criteria Defined

A. **Type Class II** home occupations require a permit and shall be conducted in conformance with the following criteria:

1. One non-illuminated exterior sign, not to exceed one (1) square foot. In addition to signs permitted for home occupations, one (1) non-illuminated, attached, exterior sign, up to a maximum of nine (9) square feet in surface area, may be permitted for each approved home occupation in the Old Town Overlay per section 16.162.070.E.
2. The number of customers and clients shall not exceed 5 visits per day. Customers, and clients may not visit the business between the hours of 10:00 PM and 7:00 AM, Monday through Friday and between 7:00 PM and 8:00 AM, Saturday and Sunday.
3. Storage of materials on the premises shall be screened entirely from view of neighboring properties by a solid fence. Exterior/outside storage of materials shall not exceed five percent (5%) of the total lot area and shall not encroach upon required setback areas of the zone.
4. Commercial pick up and deliveries shall be limited to one (1) per day on weekdays and shall be prohibited on weekends.
5. ~~A maximum of one volunteer or one on-site employee, who is not a principal resident of the premises~~ One volunteer or one FTE (full time equivalent) employee who does not live at the residence.
6. A total of two (2) FTE employees or volunteers will be allowed, if it can be shown that parking in the vicinity will not be negatively impacted by the addition of the FTE employee. (i.e. adequate off-street parking is available to accommodate the homeowners and the employees.)

16.42.080 Prohibited Uses

A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as home occupations and must be conducted as allowed in a commercial or industrial zone:

1. Auto body repair, restoration and painting.
 2. Commercial auto repair (auto repair for other than the property owners/tenants personal vehicles).
 3. Junk and salvage operations.
 4. Storage and/or sale of fireworks.
- (Ord. 2002-1130 § 3; 86-851)

16.42.090 Permit Procedures for ~~Type~~Class II Home Occupations

An application for a ~~Type~~Class II Home Occupation Permit shall be filed according to the application procedures of Chapter 16.72, in conjunction with a City business license, accompanied by the appropriate fee as per Section 16.74.010. The application shall identify the type of use and address the conditions contained in Chapter 16.42 and other applicable sections of this Code. The ~~City Manager~~ ~~Planning Director~~ or his designee may impose additional conditions upon the approval of ~~Type~~Class II home occupation permits to ensure compliance with the requirements of this chapter. The action of the ~~City Manager~~ ~~Planning Director~~ or ~~designee~~ may be appealed as per Chapter 16.76.

(Ord. 2002-1130 § 3)

16.42.100 Expiration and Revocation of Home Occupation Permits

A. ~~Type~~Class II Home Occupation permit expiration.

A ~~Type~~Class II home occupation permit shall be valid for a period of one (1) year. Renewal of the permit shall be accomplished in the same manner as an application for a new permit under this section.

B. Grounds for revocation.

The Planning Director may revoke a home occupation permit at any time for the following reasons:

1. A violation of any provision of this Chapter.
2. A violation of any term or condition of the permit.
3. Failure to pay the City of Sherwood Business License fee in a timely manner.

When a ~~Type~~Class II home occupation permit has been revoked, a new ~~Type~~Class II home occupation permit will not be issued to the applicant or other persons residing with the applicant for a period of up to twenty-four (24) months.

(Ord. 2002-1130 § 3)

16.42.110 Appeals.

The action of the ~~City Manager~~ ~~Planning Director~~ or ~~designee~~ may be appealed per the provisions of Chapter 16.76.

(Ord. 2002-1130 § 3)

Chapter 16.50

ACCESSORY STRUCTURES, ARCHITECTURAL FEATURES AND DECKS

~~ACCESSORY USES~~

Sections:

16.50.010 Standards and Definition

16.50.020 Conditional Uses

16.50.030 Conflicts of Interpretation

16.50.040 Accessory Structure Exemptions

16.50.050 Architectural Features

16.50.060 Decks

16.50.010 Standards and Definition

A. Definition

Accessory Building or Structure: A structure whose use is incidental and subordinate to the main use of property, is located on the same lot as the main use, and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the State Building Code.

B. Generally

For uses located within a residential zoning district, accessory uses, buildings, and structures, ~~excluding decks, which are subject to Section 16.60.050,~~ shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the City of Sherwood Building Code as amended. Where this Code and the Building Code conflict, the most stringent shall apply.

C. Dimension and Setback Requirements

A1.. Any accessory building shall have not more than 600 (~~six seven~~-hundred ~~and twenty (720)~~) square feet of ground floor area and shall be no taller than 15 ~~25~~-feet in height.

B2. No accessory building or structure over three (3) feet in height shall be allowed in any required front yard ~~or side yard~~. Accessory buildings may be allowed in required side and rear building setbacks as described below.

3. When a Building Permit is not required and the structure is less than 100 square feet and less than six feet tall, the structure may abut the rear or side property line.

4. When a Building Permit is not required and the structure is over 100 square feet but under 200 square feet:

a.C. Detached accessory structures that do not require a building permit per the Building Code shall maintain a minimum 3-foot distance from any side or rear property line ~~and must be a minimum of 6 (six) feet from an accessory or primary structure.~~

b. Attached accessory structures that do not require a building permit per the Building Code shall be setback a minimum of three (3) feet from any side property line and ten (10) feet from a rear property line.

5. When a Building Permit is required:

Da. No accessory building or structure over three (3) feet in height that requires a building permit per the Building Code shall be located closer than ten(10) feet to any side or rear property line.

Eb. Any accessory building or structure that requires a building permit per the Building Code attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.

F.D. No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.
(Ord. 2003-1151 § 1; 86-851).

16.50.020 Conditional Uses

Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 16.82.
(Ord. 86-851 § 3)

16.50.030 Conflicts of Interpretation

A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Chapter 16.88.

16.50.040 Accessory Structure Exemptions

The following are not considered accessory structures for the purposes of this section:

- A. Pergolas, arbors and trellises
- B. Play structure and swing sets
- C. Flag poles limited to 20 feet
- D. Temporary and seasonal above ground pools
- E. Structures that are considered Accessory Dwelling Units and fall under the provisions of 16.52 Accessory Dwelling Units.

16.50.050 Architectural Features-Moved from 16.60.040

Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to five (5) feet into a front or rear required yard setback and two and one half (2 ½) in the required side yard setback.

16.50.060~~16.60.060~~ Decks

Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks. Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear property line. All other decks will comply with the required setbacks for the underlying zoning district.

16.52-16.56 no changes

16.58 CLEAR VISION AND FENCE STANDARDS **Supplementary Standards**

Sections:

16.58.010 CLEAR VISION AREAS

16.58.020 ~~Blank~~ **ADDITIONAL SETBACKS** :Moved To Public Improvements

16.58.030 FENCES, WALLS AND HEDGES

~~16.58.040 LOT SIZES AND DIMENSIONS~~: Move to Yard Requirements

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

16.58.010 Clear Vision Areas

A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.

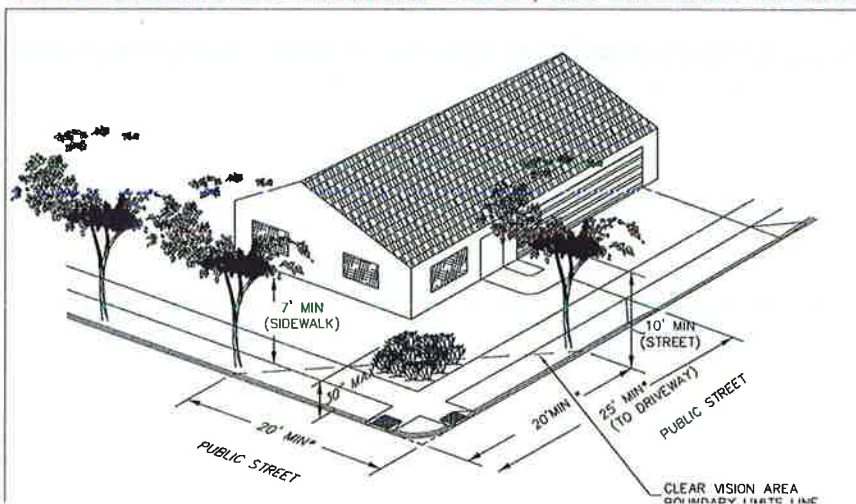
B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.

C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2- 1/2) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side.

(Ord. 86-851 § 3)

The following requirements shall govern clear vision areas:

1. In all residential zones, the minimum distance shall be twenty (20) feet.
2. In all zones, the minimum distance from corner curb to any driveway shall be twenty five(25) feet.
3. ~~In commercial and industrial zones, the minimum distance shall be fifteen (15) feet, or at intersections including an alley, ten (10) feet, except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the~~



~~feet, or at intersections including an alley, ten (10) feet, except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the~~

~~distance shall be twenty-five (25) feet.~~ Where no ~~setbacks yards~~ are required, buildings may be constructed within the clear vision area.

~~16.58.020 ADDITIONAL SETBACKS~~

~~Generally~~

~~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 Arterial—	61 feet—
2.—	Minor Arterial—	37 feet—
3.—	Collector—	29 feet—
4.—	Local—	26 feet—

16.58.030 Fences Walls and Hedges – addressed separately under Phase 1.5

~~16.58.040 LOT SIZES AND DIMENSIONS~~

~~A. Generally~~

~~If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68, Infill Development.~~

~~B. Cul-de-sacs~~

~~Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard.~~

~~C. Infill Development~~

~~Lot sizes and dimensions shall conform to the underlying zone district except as modified under Chapter 16.68, Infill Development.~~

~~(Ord. 2006-021)~~

Chapter 16.60 YARD and DIMENSIONAL REQUIREMENTS *

Sections:

16.60.010 Through Lots

16.60.020 Corner Lots

16.60.030 Yards

16.60.040 Lot sizes and dimensions

~~16.60.040 Exceptions~~ Moved to 16.50

~~16.60.050 Decks~~ Moved to 16.50

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

16.60.010 Through Lots

On a through lot the front yard requirements of the zone in which such a lot is located shall apply to the street frontage where the lot receives vehicle access; except where access is from an alley, the front yard requirements shall apply to the street opposite the alley.

(Ord. 2006-021; 86-851 § 3)

16.60.020 Corner Lots

On a corner lot, or a reversed corner lot of a block oblong in shape, the short street side may be used as the front of the lot provided:

A. The front yard setback shall not be less than twenty-five (25) feet; except where otherwise allowed by the applicable zoning district and subject to vision clearance requirements.

B. The side yard requirements on the long street side shall conform to the front yard requirement of the zone in which the building is located.

16.60.030 Yards

A. Except for landscaping, every part of a required yard (also referred to as minimum setback) shall be open and unobstructed from its lowest point to the sky, except that architectural features such as awnings, fire escapes, open stairways, ~~and~~ chimneys, or ~~and~~ accessory structures permitted in accordance with Chapter 16.50 may be permitted when so placed as not to obstruct light and ventilation.

B. Where a side or rear yard is not required, and a primary structure is not erected directly on the property line, it shall be set back at least three (3) feet.

~~16.60.040~~ ~~16.58.040~~ **LOT SIZES AND DIMENSIONS**

A. Generally

If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68, Infill Development.

~~16.60.060 Decks~~

~~Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks. Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts~~

~~that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear property line. All other decks will comply with the required setbacks for the underlying zoning district. (Ord.~~

Division VI. Public Improvements

16.108. Streets

Chapter 16.108 STREETS*

Sections:

16.108.010 GENERALLY

16.108.030 REQUIRED IMPROVEMENTS

16.108.040 LOCATION AND DESIGN

Only change to this section:

16.108.040 Location and Design

D. Additional setbacks

Generally 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:

<u> </u>	<u>Classification</u>	<u>Additional Setback</u>
<u>1.</u>	<u>Major Arterial</u>	<u>61 feet</u>
<u>2.</u>	<u>Minor Arterial</u>	<u>37 feet</u>
<u>3.</u>	<u>Collector</u>	<u>29 feet</u>
<u>4.</u>	<u>Local</u>	<u>26 feet</u>

Editor's note: This entire section replaces existing 16.84 in its entirety.

Chapter 16.84 VARIANCES

- 16.84.010 Variances - Purpose
- 16.84.020 Variances - 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.

16.84.020 Variances-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 design 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.

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. 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 A Variances

1. Applicability Class A variance requests are those meet the criteria in a-e, below:

a. The Class A-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 based on Building Code requirements.

- e. A 25% or less reduction in other Code standards or dimensions not otherwise specifically identified in this section.
2. **Approval Process:** Class A 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:** Class A variances shall meet 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 A variance is limited to three or fewer lots per application and cannot be part of a subdivision 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 B Variances

1. **Applicability** Class B variance requests are that meet the criteria in a-c, below:
 - a. The Class B 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 B 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 variance shall not be approved that would vary the “permitted, conditional or prohibited uses” of a land use district.

2. **Approval Process** Class B variances shall be processed using a Type IV procedure, as governed by Chapter 16.84, using the approval criteria in subsection 3, below. 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 variance based on all of 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.

16.58.030 FENCES, ~~AND WALLS~~ ~~AND HEDGES~~

Generally

A. Purpose: The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effect of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

B. Definition: ~~For purposes of this Section, a corner lot adjoining two (2) City streets shall have both yards adjoining the streets considered as front yards.~~

1. Fence: A freestanding structure that provides a barrier between properties or different uses on the same property and is generally used to provide privacy and security. A fence may be open, solid, wood, metal, wire, masonry or other materials and includes lattice or other decorative toppers.
2. Wall: A solid structural barrier that is not intended to alter the grade.
3. Retaining wall: A solid barrier that provides a barrier to the movement of earth, stone or water and is used to alter the grade.
4. Sound wall - An exterior wall designed to protect sensitive land uses including parks, residential zones and institutional public zones from noise generated by roadways, railways, commercial and industrial noise sources.
5. Landscape feature: A trellis, arbor or other decorative feature that is attached to or incorporated within the fence.

C. ~~Types of Fences~~ Applicability:

The following standards apply to walls, fences, ~~hedges, lattice, mounds, and decorative toppers.~~ The standards do not apply to vegetation, sound walls and landscape features up to four (4) feet wide and at least 20 feet apart. and screens of all types (or a combination thereof) whether open, solid, wood, metal, wire, masonry, plant vegetation or other materials.

D. Location - Residential Zone:

1. Fences up to forty-two inches (42") high are allowed in required front building setbacks.
2. Fences up to six feet (6') high are allowed in required side or rear building setbacks, except fences adjacent to public pedestrian access ways and alleys shall not exceed forty-two inches (42") in height unless there is a landscaped buffer at least three (3) feet wide between the fence and the access way or alley.
- ~~3. Rear (flag) lot access drives shall be separated from abutting property(ies) by a minimum of forty-two inch (42") sight-obscuring fence or a 42" - 72" high landscape hedge within a four (4) foot landscape buffer. Alternatively, where existing mature trees and vegetation are suitable, the Planning Supervisor may waive the fence/buffer in order to preserve the mature vegetation.~~
3. Fences on corner lots may not be placed closer than eight (8) feet back from the sidewalk along the corner-side yard.
4. Additionally, all All fences shall be subject to the clear vision provisions of Section 16.58.010.

~~(Ord. 2006-021)~~

5. A sound wall is permitted when required as a part of a development review or concurrent with a road improvement project. A sound wall may not be taller than 20 feet.

E. Location – Non-Residential Zone:

1. Fences up to eight feet (8) high are allowed along front, rear and side property lines, subject to Section 16.58.010. (Clear Vision) and building department requirements.
2. A sound wall is permitted when required as a part of a development review or concurrent with a road improvement project. A sound wall may not be taller than 20 feet.

Provisional Locations:

1. ~~On corner lots in residential areas, where a home is characterized as back-to-back (See diagram adopted herein as shown in the illustration of these text provisions):~~
 - a. ~~A six-foot (6') fence may extend into the required second front yard in an amount not to exceed fifty percent (50%) of the distance measured between the house and sidewalk.~~
 - b. ~~Said fence may not extend beyond eight feet (8') from the rear of the house toward the front.~~
 2. ~~On corner lots in residential areas where a home is characterized as back-to-front (See diagram adopted herein as shown in the illustration of these text provisions):~~
 - a. ~~A six-foot (6') fence may extend into the second required front yard in an amount no greater than five feet (5') from the house.~~
 - b. ~~Said fence may not extend beyond eight feet (8') from the rear of the house to the front.~~
 3. ~~Fences in yards affecting cul-de-sacs are exempt from this Subsection.~~
- ~~F. Provisional Conditions: The following conditions are applied to those fences constructed pursuant to Subsection E:~~
1. ~~The clear vision standards of Section 16.58.010 apply and take precedence over these provisions in the event of conflict between this Section and Section 16.58.030.~~
 2. ~~Wire/chain link fencing is not allowed along any residential street frontage.~~

~~G~~

F. General Conditions – All Fences

1. In all cases, the following standards ~~are applied~~ apply:
 - a. Fences must be structurally sound and maintained in good repair. ~~Fences~~ A fence may not be propped up in any way from the exterior side.
 - b. Chain link fencing is not allowed in any required residential front yard setback.
 - c. The finished side of the fence must face the street or the neighboring property. This shall not preclude finished sides on both sides.
 - d. ~~Wood fences along side yards that are shared between two properties shall be a "good neighbor" design with alternating boards~~
 - d. Buffering: If a proposed development is adjacent to an dissimilar use such as commercial use adjacent to a residential use, or development adjacent to an existing farming operation, a buffer plan that includes, but is not limited to, setbacks, fencing, landscaping, and maintenance via a homeowner's association or managing company shall be submitted and approved as part of the preliminary plat or site plan review process per Section 16.90.020 and Chapter 16.122.
 - e. In the event of a conflict between this section and the clear vision standards of Section 16.58.010, the standards in section 16.58.010 prevail.
 - f. Fences and walls shall not be located within or over a public utility easement without an approved right-of-way permit.
 - g. The height of a fence or wall is measured from the actual adjoining level of finished grade measured six (6) inches from the fence. In the event the ground is sloped, the lowest grade within six (6) inches of the fence shall be used to measure the height.

~~H. Administrative Variance: The City Manager or his/her designee may grant an administrative variance to this Section.~~

~~I. Abatement of Fences in Non-Compliance~~

~~1. Fences that do not conform to Subsection E of this Code must come into compliance when the house is sold, when other permits are issued, or by September 1, 2003, whichever is earlier. Fences constructed~~

~~affecting cul-de-sacs or fences creating inadequate site distances pursuant to Section 16.58.010 must come into compliance immediately.~~

~~2. Chain link fences forty-two inches (42") or under in front yard setbacks, erected prior to adoption of this ordinance, or other fences which, when installed, were legal under the Municipal Code of Ordinances effective at that time, are exempt from Subsection (I)(1).~~

~~J. Penalties: Violations of this Section shall be subject to the penalties defined by Section 16.02.040. (Ord. 96-1014 § 1; 93-964; 86-851)~~

Chapter 16.72 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

16.72.010 Generally

A. Classifications

Except for Administrative Variances, which are reviewed per Section 16.84.020, and 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 Plats
- f. Final Site Plan Review
- g. Time extensions of approval, per Sections 16.90.020; 16.124.010
- h. Type II Home Occupation Permits
- i. Interpretive Decisions by the City Manager or his/her designee
- j. Tree Removal Permit – a street tree five (5) to ten (10) inches DBH, per Section 16.142.050.B.2.

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. Tree Removal Permit – a street tree over 10 inches DBH, per Section 16.142.050.B.3.

3. Type III

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

- a. Conditional Uses
- b. Variances, including Administrative Variances if a hearing is requested per Section 16.84.020.
- c. 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.
- d. Subdivisions -- Less than 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 50 lots.

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.

Chapter 16.92 LANDSCAPING*

Sections:

[16.92.010 LANDSCAPING PLAN](#)

[16.92.020 LANDSCAPING MATERIALS](#)

[16.92.030 LANDSCAPING STANDARDS](#)

[16.92.040 INSTALLATION AND MAINTENANCE](#)

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

16.92.010 LANDSCAPING PLAN

All proposed developments for which a site plan is required pursuant to Section 16.90.020 shall submit a landscaping plan which meets the standards of this Chapter. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan. Maintenance of existing non-invasive native vegetation is encouraged within a development and required for portions of the property not being developed.

(Ord. 2006-021; 86-851 § 3)

16.92.020 LANDSCAPING MATERIALS

A. Varieties

Required landscaped areas shall include an appropriate combination of native evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of this Chapter.

(Ord. 2006-021; 86-851 § 3)

B. Establishment of Healthy Growth and Size

Required landscaping materials shall be established and maintained in a healthy condition and of a size sufficient to meet the intent of the approved landscaping plan. Specifications shall be submitted showing that adequate preparation of the topsoil and subsoil will be undertaken.

(Ord. 86-851 § 3)

C. Non-Vegetative Features

Landscaped areas as required by this Chapter may include architectural features interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, semi-pervious decorative paving, and graveled areas. Impervious paving shall not be counted as landscaping. Artificial plants are prohibited in any required landscaped area.

(Ord. 2006-021; 86-851 § 3)

D. Existing Vegetation

All developments subject to site plan review as per Section 16.90.020 and required to submit landscaping plans as per Section 16.92.020 shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the Review Authority, in addition to complying with the provisions of Section 16.142.060, and Chapter 16.144.

(Ord. 2006-021; 94-991 § 1; 86-851)

16.92.030 LANDSCAPING STANDARDS

A. Perimeter Screening and Buffering

A minimum six (6) foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen shall be required along property lines separating single and two-family uses from multi-family uses, and along property lines separating residential zones from commercial or industrial uses. For new uses adjacent to inventoried environmentally sensitive areas, screening requirements shall be limited to vegetation only so as to preserve wildlife mobility. In addition, plants and other landscaping features may be required by the Review Authority in locations and sizes necessary to protect the privacy of residences and buffer any adverse effects of adjoining uses.

(Ord. 2006-021; 86-851 § 3)

B. Parking and Loading Areas

1. Total Landscaped Area

A minimum of ten percent (10%) of the lot area used for the display or parking of vehicles shall be landscaped in accordance with this Chapter. In addition, all areas not covered by buildings, required parking, and/or circulation drives shall be landscaped with plants native to the Pacific Northwest in accordance with this Chapter.

(Ord. 2006-021; 86-851 § 3)

2. Adjacent to Public Rights-of-Way or Abutting Other Private Property

a. A landscaped strip at least ten (10) feet in width shall be provided between rights-of-way and any abutting off-street parking, loading, or vehicle use areas. Landscaping shall include any combination of evergreen hedges, dense vegetation, earth berm, grade, change in grade, wall, bio-swales or fence, forming a permanent year-round screen, except in clear vision areas as per Section 16.58.030.

b. Rear (flag) lot The access drives to a rear lot (i.e. flag lot) shall be separated from abutting property(ies) by a minimum of forty-two inch (42") sight-obscuring fence or a 42"-72" high landscape hedge within a four (4) foot wide landscape buffer. Alternatively, where existing mature trees and vegetation are suitable, the City Manager or Manager's designee Planning Supervisor may waive the fence/buffer in order to preserve the mature vegetation.

(Ord. 86-851 § 3)

3. Perimeter Landscaping

A ten (10) foot wide landscaped strip shall be provided between off-street parking, loading, or vehicular use areas on separate abutting properties or developments. A minimum six (6) foot high sight-obscuring fence or plantings shall also be provided, except where equivalent screening is provided by intervening buildings or structures.

(Ord. 86-851 § 3)

4. Interior Landscaping

A minimum of fifty percent (50%) of required parking area landscaping shall be placed in the interior of the parking area. Landscaped areas shall be distributed so as to divide large expanses of pavement, improve site appearance, improve safety, and delineate pedestrian walkways and traffic lanes. Individual landscaped areas shall be no less than sixty-four (64) square feet in area and shall be provided after every fifteen (15) parking stalls in a row. Storm water bio-swales may be used in lieu of the interior landscaping standard.

(Ord. 2006-021; 86-851 § 3)

5. Landscaping at Points of Access

When a private access-way intersects a public right-of-way or when a property abuts the intersection of two (2) or more public rights-of-way, landscaping shall be planted and maintained so that minimum sight distances shall be preserved pursuant to Section 16.58.010.

(Ord. 86-851 § 3)

6. Exceptions

For properties with an environmentally sensitive area and/or trees or woodlands that merit protection per Chapters 16.142 and 16.144, the landscaping standards may be reduced, modified or "shifted" on-site where necessary in order to retain existing vegetation that would otherwise be removed to meet the above referenced landscaping requirements. The maximum reduction in required landscaping permitted through this exception process shall be no more than 50%. The resulting landscaping after reduction may not be less than five feet in width unless otherwise permitted by the underlying zone.

Exceptions to required landscaping may only be permitted when reviewed as part of a land use action application.

(Ord. 2006-021)

C. Visual Corridors

Except as allowed by subsection F, new developments shall be required to establish landscaped visual corridors along Highway 99W and other arterial and collector streets, consistent with the Natural Resources and Recreation Plan Map, Appendix C of the Community Development Plan, Part II, and the provisions of Chapter 16.142.

(Ord. 91-922 § 3; 86-851)

Chapter 16.98 ON-SITE STORAGE*

Sections:

[16.98.010 RECREATIONAL VEHICLES AND EQUIPMENT](#)

[16.98.020 SOLID WASTE AND RECYCLING STORAGE](#)

[16.98.030 MATERIAL STORAGE](#)

[16.98.040 OUTDOOR SALES AND MERCHANDISE DISPLAY](#)

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

16.98.010 RECREATIONAL VEHICLES AND EQUIPMENT

Recreational vehicles and equipment may be stored only within designated and improved off-street parking areas. Such areas shall meet the screening and landscaping requirements of Section 16.92.030.

16.98.020 SOLID WASTE AND RECYCLING STORAGE

All uses shall provide solid waste and recycling storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste and recycling storage areas and receptacles shall be located out of public view. Solid waste and recycling receptacles for multi-family, commercial, industrial and institutional uses shall be screened by six (6) foot high sight-obscuring fence or masonry wall and shall be easily accessible to collection vehicles.

(Ord. 2006-021; 86-851 § 3)

16.98.030 MATERIAL STORAGE

A. GENERALLY

Except as otherwise provided herein, external material storage is prohibited, except in commercial and industrial zones where storage areas are approved by the Review Authority as part of a site plan or as per Section 16.98.040.

(Ord. No. 2010-05, § 2, 4-6-2010; Ord. 89-901 § 1; 86-851)

B. Standards

Except as per Section 16.98.040, all service, repair, storage, and merchandise display activities carried on in connection with any commercial or industrial activity, and not conducted within an enclosed building, shall be screened from the view of all adjacent properties and adjacent streets by a six (6) foot ~~to eight (8)~~ foot high, sight obscuring fence subject to chapter 16.58.030. In addition, unless adjacent parcels to the side and rear of the storage area have existing solid evergreen screening or sight-obscuring fencing in place, new evergreen screening no less than three (3) feet in height shall be planted along side and rear property lines. Where other provisions of this Code require evergreen screening, fencing, or a landscaped berm along side and rear property lines, the additional screening stipulated by this Section shall not be required.

(Ord. 89-901 § 1)

C. Hazardous Materials

Storage of hazardous, corrosive, flammable, or explosive materials, if such storage is otherwise permitted by this Code, shall comply with all local fire codes, and Federal and State regulations.

(Ord. 89-901 § 1)

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Division VIII. ENVIRONMENTAL RESOURCES

Chapter 16.142 PARKS, OPEN SPACES AND TREES

16.142.050 ~~Trees Along Public Streets or on Other Public Property~~ Street Trees

A. ~~Trees Along Public Streets~~ Installation of Street Trees on New or Redeveloped Property

Trees are required to be planted to the following specifications along public streets abutting or within any new development or re-development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets. After installing street trees, the property owner shall be responsible for maintaining the street trees on the owner's property or within the right of way adjacent to the owner's property.

1. ~~Tree-l~~Location: Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.

~~(Ord. 2006-021)~~

2. ~~Tree-s~~Size: ~~A~~Trees shall have a minimum trunk diameter of two (2) inches DBH and minimum height of six (6) feet.

53. Tree-tTypes: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.

4. Required Street Trees and Spacing

a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080 with the intent of providing a continuous canopy without openings between the trees. For example, if a tree has a canopy of 40 feet, the spacing between trees is 40 feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.

b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than 40 feet apart in any development.

c. A new development may exceed the 40-foot spacing requirement under section b. above, under the following circumstances:

- (1). Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
- (2). There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and
- (3). The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
- (4). The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.

~~3. Tree spacing: A minimum of one (1) tree for every twenty-five (25) feet of public street frontage, or two (2) trees for every buildable lot, whichever yields the greater number of trees. Double fronting lots shall have a minimum of one (1) street tree for every twenty-five (25) feet of frontage. Corner lots shall have a minimum of three (3) street trees.~~

4(5). For arterial and collector streets, the City may require planted medians in lieu of paved twelve (12) foot wide center turning lanes, planted with trees to the specifications of this subsection.

~~5. Tree types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.~~

(Ord. 2006-021)

B. Removal and Replacement of Street Trees

The removal of a street tree shall be limited and in most cases, necessitated by the tree. A person may remove a street tree as provided in this section. The person removing the tree is responsible for all costs of removal and replacement. Street trees less than five (5) inches DHB can be removed by right by the property owner or his or her assigns, provided that they are replaced. A street tree that is removed must be replaced within six (6) months of the removal date.

1. Criteria for All Street Tree Removal for trees over five (5) inches DBH

No street tree shall be removed unless it can be found that the tree is:

- a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
- b. Obstructing public ways or sight distance so as to cause a safety hazard, or
- c. Interfering with or damaging public or private utilities, or
- d. Defined as a nuisance per City nuisance abatement ordinances.

2. Street trees between five (5) and ten (10) inches DBH may be removed if any of the criteria in 1. above are met and a tree removal permit is obtained.

a. The Tree Removal Permit Process is a Type I land use decision and shall be approved subject to the following criteria:

- (1). The person requesting removal shall submit a Tree Removal Permit application that identifies the location of the tree, the type of tree to be removed, the proposed replacement and how it qualifies for removal per Section 1. above.
- (2). The person shall post a sign, provided by the City, on or adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
- (3). If an objection to the removal is submitted by the City or to the City during the ten (10) calendar day period, an additional evaluation of the tree will be conducted by an arborist to determine whether the tree meets the criteria for street tree removal in Section 1. above.
- (4). Upon completion of the additional evaluation substantiating that the tree warrants removal per Section 1. above or if no objections are received within the 10 day period, the tree removal permit shall be approved.
- (5). If additional evaluation indicates the tree does not warrant removal, the Tree Removal Permit will be denied.

3. Street trees over ten (10) inches DBH may be removed through a Type II review process subject to the following criteria.

a. The applicant shall provide a letter from a certified arborist identifying:

(1) The tree's condition,

(2) How it warrants removal using the criteria listed in Section 1. above, and

identifying any reasonable actions that could be taken to allow the retention of the tree.

b. The applicant shall provide a statement that describes whether and how the applicant sought assistance from the City, HOA or neighbors to address any issues or actions that would enable the tree to be retained.

c. Review of the materials and comments from the public confirm that the tree meets the criteria for removal in Section 1. above.

C. Homeowner's Association Authorization

The Planning Commission may approve a program for the adoption, administration and enforcement by a homeowners' association (HOA) of regulations for the removal and replacement of street trees within the geographic boundaries of the association.

1. An HOA that seeks to adopt and administer a street tree program must submit an application to the City. The application must contain substantially the following information:

a. The HOA must be current and active. The HOA should meet at least quarterly and the application should include the minutes from official HOA Board meetings for a period not less than 18 months (six quarters) prior to the date of the application.

b. The application must include proposed spacing standards for street trees that are substantially similar to the spacing standards set forth in 16.142.050.A above.

c. The application must include proposed street tree removal and replacement standards that are substantially similar to the standards set forth in 16.142.050.B above.

d. The application should include a copy of the HOA bylaws as amended to allow the HOA to exercise authority over street tree removal and replacement, or demonstrate that such an amendment is likely within 90 days of a decision to approve the application.

e. The application should include the signatures of not less than 75 percent of the homeowners in the HOA in support of the application.

2. An application for approval of a tree removal and replacement program under this section shall be reviewed by the City through the Type IV land use process. In order to approve the program, the City must determine:

a. The HOA is current and active.

b. The proposed street tree removal and replacement standards are substantially similar to the standards set forth in 16.142.050.B above.

c. The proposed street tree spacing standards are substantially similar to the standards set forth in 16.142.050.A above.

d. The HOA has authority under its bylaws to adopt, administer and enforce the program.

e. The signatures of not less than 75 percent of the homeowners in the HOA in support of the application.

3. A decision to approve an application under this section shall include at least the following conditions:

a. Beginning on the first January 1 following approval and on January 1 every two years thereafter, the HOA shall make a report to the City Planning Department that provides a summary and description of action taken by the HOA under the approved program.

Failure to timely submit the report that is not cured within 60 days shall result in the immediate termination of the program.

- b. The HOA shall comply with the requirements of Section 12.20 of the Sherwood Municipal Code.

4. The City retains the right to cancel the approved program at any time for failure to substantially comply with the approved standards or otherwise comply with the conditions of approval.

- a. If an HOA tree removal program is canceled, future tree removals shall be subject to the provisions of section 16.142.050.
- b. A decision by the City to terminate an approved street tree program shall not affect the validity of any decisions made by the HOA under the approved program that become final prior to the date the program is terminated.
- c. If the city amends the spacing standards or the removal and replacement standards in this section (SZCDC 16.142.050) the City may require that the HOA amend the corresponding standards in the approved street tree program.

5. An approved HOA tree removal and replacement program shall be valid for 5 years; however the authorization may be extended as approved by the City.

D. Exemption from Replacing Street Trees

A street tree that was planted in compliance with the code in effect on the date planted and no longer required by spacing standards of section A.4. above may be removed without replacement provided;

1. Exemption is granted at the time of tree removal permit or Type II street tree removal approval, or authorized Homeowner's Association removal per Section 16.142.050.C. above.
2. The property owner provides a letter from a certified arborist stating that the tree must be removed due to a reason identified in the Tree Removal criteria listed in Section 16.142.050.B.1. above, and.
3. The letter describes why the tree cannot be replaced without causing continued or additional damage to public or private utilities that could not be prevented through reasonable maintenance.

E. Notwithstanding any other provision in this section, the City Manager or the Manager's designee may authorize the removal of a street tree in an emergency situation without a tree removal permit when the tree poses an immediate threat to life, property or utilities. A decision to remove a street tree under this section is subject to review only as provided in ORS 34.100.

~~Prohibited Trees and Shrubs~~

- ~~1. Poplar, conifer, cottonwood, willow, ailanthus, any other native tree species, and fruit and nut trees, are prohibited along public streets as such trees tend to grow in such manner as to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same.~~
- ~~2. Poplar, cottonwood, and willow trees are prohibited on other public or private property not along public streets, when, in the City's determination, such trees may tend to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same. English ivy, holly and Himalayan blackberries are also prohibited on public property~~

~~C. Removal and Cutting of Trees~~

~~1. For the purposes of this Section, "removal and cutting" shall be defined as the falling or removal of a tree, or any other deliberate action by any person, the natural result of which is to cause the death or substantial destruction of the tree. Prohibited removal and cutting activities do not include normal trimming or pruning when done in accordance with generally accepted arborecultural practices. The~~

~~authorizations required by this subsection shall not apply to any removal or cutting associated with development activities authorized by the land use approvals contemplated by this Section 16.142.060. Subsection C of this Section shall only govern the removal or cutting of trees along public streets or of trees and woodlands on public property not part of a land use application.~~

~~2.— Any tree located on public property or along public streets, as per this Section, shall not be subsequently removed or cut without the authorization of the Parks Advisory Board, unless removal or cutting is necessitated by the tree:~~

~~a.— Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or~~

~~b.— Obstructing public ways or sight distance so as to cause a safety hazard, or~~

~~c.— Interfering with or damaging public or private utilities, or~~

~~d.— Being defined as a nuisance as per City nuisance abatement ordinances, or~~

~~e.— Otherwise becoming a hazard to life or property, in the City's determination.~~

~~3.— All requests for authorization to remove or cut trees or woodland shall be made in writing stating reasons and circumstances necessitating removal or cutting. The Parks Advisory Board shall consider the request in open session at any duly convened Board meeting. Any Board authorization for the removal and cutting of such trees or woodlands shall be made in writing, setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records, as per other Notices of Decision required by this Code. Any tree or woodland removed per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal is responsible for all costs of replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.~~

~~4.— In the specific circumstances listed in subsection C2 of this Section only, the City Manager or his or her designee may administratively authorize the immediate removal of such trees or woodlands without Parks Advisory Board review. Any administrative authorization for the removal or cutting of such trees or woodlands shall be made in writing setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records as per other Notices of Decision required by this Code. Any tree or woodland removed as per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.~~

DE. Trees on Private Property ~~e~~Causing ~~d~~Damage

Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the City Manager or his or her designee, ~~without Parks Advisory Board review.~~ Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and ~~processed as per~~ reviewed under the applicable City nuisance abatement ordinances.

EG. Penalties

The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this Section, shall be subject to the penalties defined by Section 16.02.040, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

**Please note that the code language for trees on public property has been removed and it is recommended that this section (former 16.142.050.C.2) be moved to chapter 12.12. of the municipal code.*

16.142.080

A. Recommended Street Trees

TABLE INSET:

<u>Common Name</u>	<u>Botanical Name</u>	<u>Canopy Spread</u>
<u>Acer - Maple</u>		
Cavalier Norway Maple	Acer platanoides cavalier - Cavalier Norway Maple	
Cleveland Norway Maple	p. cleveland	<u>30'</u>
Cleveland II Norway Maple	p. cleveland	<u>25'</u>
Columnar Norway Maple	p. columnare	<u>15'</u>
Fairway Sugar Maple (sugar maple)	p. fairway	<u>40'</u>
Olmsted Norway Maple	p. olmsted	<u>20-25'</u>
Summershade Maple	p. summershade	<u>35-50'</u>
<u>Roughbark Maple</u>	<u>Acer triflorum</u>	<u>20'</u>
<u>Trident Maple</u>	<u>Acer buergeranum</u>	<u>20'</u>
<u>Rocky Mountain Glow Maple</u>	<u>Acer grandidentatum 'Schmidt'</u>	<u>15'</u>
<u>David's Maple</u>	<u>Acer davidii</u>	<u>20'</u>
<u>Metro Gold Hedge Maple</u>	<u>Acer campestre 'Panacek'</u>	<u>25'</u>
Red Sunset Maple (Old Town)	Acer rubrum red sunset - Red Sunset Maple (Old Town) <u>(Provided that a root barrier is installed)</u>	<u>25-40'</u>
<u>Royal Red Maple</u>	r. royal red	<u>20-25'</u>
<u>Gerling Red Maple</u>	r. gerling	<u>25-35'</u>
<u>Tilford Red Maple</u>	r. tilford	<u>30'</u>
Carpinus - Hornbeam		
<u>Pyramidal European Hornbeam</u>	Carpinus betulus pyramidalis <u>pyramidalis</u>	<u>30-40'</u>
<u>Pyramidal European Hornbeam</u>	b. columnaris	<u>15'</u>
<u>Pyramidal European Hornbeam</u>	b. fastigiata	<u>15-20'</u>
	Cercidiphyllum - Katsura Tree	
	e. japonicum	<u>20-50'</u>

<u>Eastern Redbud</u>	Cereix <u>Cercic</u> , canadensis - Canadian Red Bud		<u>10-20'</u>
Fraxinus - Ash			
	americana		<u>35-50'</u>
	americana		<u>35-50'</u>
<u>Dr. Pirone Ash</u>	angustifolia dr. pirone		
	oxyearpa flame		
<u>Raywood Ash</u>	raywoodi		<u>20'</u>
<u>Oregon Ash</u>	latifolia		<u>25-40'</u>
Ginkgo			
	bilboa		<u>50-60'</u>
<u>Autumn Gold</u>	bilboa		<u>25-35'</u>
<u>Fairmount</u>	bilboa		<u>15-25'</u>
Gleditsia			
<u>Honey Locust</u>	triacanthos sunburst		<u>20-30'</u>
Liquidamber			
<u>American Sweetgum</u>	styraciflua		<u>40'</u>
Liriodenrod			
	tulipifera		<u>30-50'</u>
Magnolia			
<u>Evergreen Magnolia</u>	grandiflora vars		
<u>Southern Magnolia</u>	grandiflora		<u>40'</u>
<u>Dr. Merrill Magnolia</u>	kobus dr. merrill		<u>15-20'</u>
<u>Edith Bogue Magnolia</u>	<u>Magnolia grandiflora 'Edith Bogue'</u>		<u>15'</u>

		Platanus	
		aceriflora	<u>65-80'</u>
	Purnus - Cherry - Plum		
Double Flowering Cherry		avium plena	<u>30-40'</u>
Scanlon Globe Cherry		avium scanlon	<u>30-40'</u>
Japanese Cherry		serrulata vars (nonweeping)	<u>15-30'</u>
Okame Cherry		okame	<u>20-30'</u>
Blireana Plum		blireana	<u>20'</u>
Newport Plum		cerasifera newport	15-20'
Pissardi Plum		pissardi	<u>10'</u>
Thundercloud Plum		thundercloud	20'
Krauter's Vesuvius Plum		vesuvius	<u>15'</u>
Amur Chokecherry		maacki	<u>25-30'</u>
Redbark Cherry		serrula	<u>20-30'</u>
Alberti Cherry		padus alberti	10-20'
Spaethi Cherry		spaethi	15-20'
Chokecherry		virginiana var. mellanocarpa canada red	10-20'
European Birdcherry		padus	<u>35'</u>
Bigflowered Birdcherry		grandiflora	<u>10-20'</u>
Rancho Birdcherry		berg	<u>15-20'</u>
Purpleleaf Birdcherry		purpurea	<u>10-20'</u>
<u>Prairifire Crabapple</u>		<u>Malus 'Prairifire'</u>	<u>20'</u>
	Quercus		
<u>Crimson Spire Oak</u>		Quercus alba x Q. robur 'Crimschmidt'	15'
<u>Pin Oak</u>		palustris	<u>35'</u>
		rubra	30-50'
	Tilia - Linden		

American Linden	americana	35-40'
Little Leaf Linden	cordata	40'
	glenleven	
	redmond	
Crimean Linden	euchlora	20-30'
Silver Linden	tomentosa	40'
Bicentennial Linden	bicentennial	30'
Greenspire Linden	greenspire	20'
Salem Linden	salem	20-30'
<u>Chancellor Linden</u>	<u>Tilia cordata 'Chancole'</u>	<u>20'</u>

B. Recommended Street Trees under Power Lines

- Acer ginnala -- Amur Maple 20' spread
- Acer campestre -- Hedge Maple 30' spread
- Acer palmatum -- Japanese Maple 25' spread
- Acer griseum -- Paperbark Maple 20' spread
- Acer circinatum -- Vine Maple 25' spread
- Amelanchier x grandiflora -- Apple Serviceberry 20' spread
- Amelanchier Canadensis -- Shadblow Serviceberry 20' spread
- Cercis Canadensis -- Eastern Redbud 25-30' spread
- Clerodendrum trichotomum -- Glorybower Tree 20' spread
- Cornus florida -- Flowering Dogwood 20-25' spread
- Cornus kousa -- Japanese Dogwood 25' spread
- Crataegus phaenopyrum -- Washington Hawthorn 25' spread
- Crataegus x lavellei -- Lavelle Hawthorn 20' spread
- Fraxinus excelsior globosum -- Globe-Headed European Ash 12-15' spread
- Fraxinus ornus -- Flowering Ash 20-30' spread
- Fraxinus oxycarpa aureopolia -- Golden Desert Ash 18' spread
- Koelreuteria paniculata -- Goldenrain Tree 10-20' spread
- Laburnum x waterii -- Golden Chain Tree 15' spread
- Malus -- Flowering Crabapple 20-25' spread
- Prunus -- Flowering Cherry 20-25' spread
- Pyrus calleryana -- Flowering Pear "Cleveland Select" 20 spread
- Styrax japonica -- Japanese Snowbell 25' spread
- Syringa reticulata -- Japanese Tree Lilac 20-25' spread

C. Prohibited Street Trees

- Acer, Silver Maple
- Acer, Boxelder
- Ailanthus, gladiosa - Tree-of-heaven
- Betula; common varieties of Birch
- Ulmus; common varieties of Elm
- Morus; common varieties of Mulberry
- Salix; common varieties of willow

Coniferous Evergreen (Fir, Pine, Cedar, etc.)

Populus; common varieties of poplar, cottonwood and aspen

Female Ginkgo

D. Alternative Street Trees

Trees that are similar to those on the recommended street tree list can be proposed provided that they are non-fruit bearing, non-invasive and not listed on the prohibited street tree list. A letter from a Certified Arborist must be submitted, explaining why the tree is an equivalent or better street tree than the recommended street trees that are identified in this section.



Signed:

Zoe Monahan, Assistant Planner

Proposal: Amendments to the Development Code on this phase of the Code Clean-Up project will clarify the standards for fences and walls on residential and non-residential property, streamline the process for street tree removal and provide for flexibility in the spacing of required street trees. Specifically, the definition of a fence or wall has been clarified and hedges have been removed from the fence and wall standards. The street tree removal and replacement standards have been revised to streamline the process. The street tree spacing requirements have been updated to account for differences in trees and to take into account driveways and utilities that may conflict with the trees. The recommended street tree list has been revised to remove problem trees, fruit bearing trees and to add more appropriate trees. The proposed changes will modify the following code sections: Fences, Walls and Hedges (16.58.030), Classifications (16.72.010.A), Landscaping (16.92), On-Site Storage (16.98), Trees Along Public Streets or on Other Public Property (16.142.050) and Recommended Street Trees (16.142.080). The proposal will also move the process for review and approval of trees on public property (other than street trees) to Chapter 12 of the Municipal Code. The proposed amendments are attached to this report as Exhibit A.

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.
- G. 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. Amendment of Chapter 12 of the Municipal code is not a land use decision and does not require a hearing and recommendation by the Planning Commission. Any appeal of the City Council decision relating to Chapter 16 updates would go directly to the Land Use Board of Appeals.
- H. Public Notice and Hearing: Notice of the December 14, 2010 Planning Commission hearing on the proposed amendment was published in *The Times* on 12/2/10 and 12/9/10. In addition, as a courtesy, notice placed in the December edition of the Gazette. Notice was posted in 5 public locations around town and on the website on 11/22/10. Notification of the continuance of the hearing to January 11, 2011 was announced publicly at the Planning Commission meeting on December 14, 2010. A courtesy notice of the continued public hearing was posted in the 5 public locations around town and on the website on December 21, 2010. The City also sent e-notice to the interested parties list and 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 sent 10/26/10.

I. 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).

J. Background:

The City underwent periodic review in 1989-1991 and the Zoning and Community Development Code was comprehensively reviewed and updated as part of that process. Since that time, there have been a number of updates to comply with regional and state laws, address local issues and in response to applications. Overtime the piece-meal updates resulted in the need to conduct a comprehensive audit and update of the code to ensure cross references are correct, standards are clear, and typographical errors are fixed. In addition, over time the trends and values have changed such that it is necessary to evaluate the standards to ensure they address current needs. To that end, the Council, Planning Commission and staff identified the need to conduct a comprehensive update of the Development Code. The Code Update project has been broken into phases to allow manageable portions to be reviewed and adopted prior to moving on to another phase. Phase I was adopted in October of 2010.

After Planning Commission review it was determined that only a portion of the second phase would move forward at this time, while additional work is being completed for the remainder of Phase II. This phase, referred to as phase I.V (1.5) focuses on two elements: 1.) fence standards clarification and 2) street tree removal and replacement as well as spacing requirements.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent an e-mail request for comments to Metro and Portland General Electric on November 5, 2010. DLCDC received notice on October 28, 2010. 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 has received input from the public during informal listening sessions, via public surveys and public testimony at the December 14, 2010 Planning Commission public hearing which helped guide the proposed amendments under review.

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.

The City has identified that the code is not always clear and embarked on this multi-phase code clean-up project to address issues that have arisen as a result to make it clearer, more user-

friendly, and to reflect current trends and community values. The proposed changes represent the first half of the second phase. Recent input from the public has also made it clear that the required street trees and spacing have led to maintenance issues and the street tree removal process is unclear and cumbersome. The City has also received many comments over the years that the one-size-fits-all fence standards do not adequately accommodate the security needs for non-residential uses and the corner lot fence standards provide little opportunity for properties with corner lots to have privately fenced yards.

The Planning Commission has held a series of work sessions to discuss the proposed changes and considered public input before the changes were developed to obtain feedback on needed changes. Fences and walls (16.58.030), Trees along public Streets and other Public Property (16.142.050) as well as the Recommended Street Tree List (16.142.080) have been reviewed by both staff and the Commission.

In order to clarify standards in response to issues and questions that have arisen over the past years, the code sections for fences (16.50.030) has been updated with clearer definitions and separate regulations for residential and non-residential zones. Specifically, the definition of a fence has been changed to clarify that lattice and decorative toppers are included in the definition of a fence and that these features are included in the total height of the fence. The proposed language also clarifies that sound walls are not considered fences and provides a definition. The sound wall definition allows sound walls to be up to 20 feet tall which would not meet the six foot tall fence standard in the past.

Because the corner lot fence standards were awkward in that the permitted six foot high fence was in relation to the house regardless of how far the house was setback from the property line, the standards for corner lot fencing is proposed to be modified to better reflect the intent while preserving more opportunity for property owners to fence their yards. The corner lot fence standards are intended to ensure that a driver's vision is not obstructed by residential fences and to provide a more pedestrian friendly experience by preventing a six foot high fence along a sidewalk. The proposed language clarifies that the vision clearance standards apply and has identified that the fence must be eight feet back from the sidewalk to ensure that public utility easements are not covered. This eight foot setback will also ensure pedestrians do not have a tall fence right next to the sidewalk. The eight foot setback and the clear vision standards will provide clear vision along corner lots while still allowing homeowners to fence the majority of their yards for privacy.

Both the City Council and Planning Commission have received input from concerned residents recently about the street tree standards. Concerns relate to the process as well as the standards for installation of street trees and replacement of street trees that are permitted to be removed. The current standards do not take utilities, driveways, etc. into account and each development is required to provide one tree for every 25 feet of street frontage or two trees for every buildable lot, whichever is greater. The result is often trees spaced too close together such that the tree is not healthy or there are avoidable impacts to the sidewalk and utilities. To this end, the spacing standards are proposed to be updated to account for public utilities, driveways and street lights and mature canopy spread of the tree will determine what the spacing of the tree will be. The proposed code language also has an exemption to replacement of a street tree if the trees originally were planted too close and lead to problems with utilities and lifting the sidewalks.

Through the process of evaluating the existing standards and processes, it was determined that the Parks Board was not necessarily the most appropriate review body to consider the removal of street trees. After much discussion and several work sessions, a new process for the consideration of removal of street trees was developed. This process allows for consideration of removal and replacement as well as a removal without replacement. As proposed, removal of street trees under 5 inches diameter at breast height (DBH) is permitted without review. Street

trees between 5-10 inches DBH can be removed via a Type I administrative process if specific clear and objective standards are met and street trees over 10 inches DBH are reviewed by a Type II process which includes a staff level decision after the opportunity for public notice and comment.

The process for removal of street trees 5 -10 inches DBH will require the person requesting the removal of the tree to apply for a tree permit. There will be a ten day period for others to object to the removal of the tree based on the outlined standards (i.e. they do not believe the tree meets the criteria for removal). If objections are raised an additional evaluation of the tree will take place to determine if the tree meets the criteria for removal. If there are no objections or the additional evaluation indicates that the tree meets the criteria for removal, the tree permit will be approved.

The process for removal of trees greater than 10 inches DBH requires the more detailed evaluation as part of the initial submittal and encourages the property owner to seek assistance from neighbors, HOAs or the City to address any issues that would enable the property owner to save the tree. The formal public notice (to property owners within 1000 feet) provides opportunity for the public to comment on the tree removal, and again, perhaps provide an opportunity for the neighborhood to work together to help the property owner save the tree if possible.

At the December 14, 2010 Planning Commission public hearing, Neil Shannon (citizen) expressed his belief that the Homeowner's Associations (HOAs) should be able to review the street trees within the HOA boundary. The Planning Commission expressed interest in this concept. They directed staff to develop a process to authorize active HOAs to review the street trees in their subdivision. As proposed, the process would be a Type IV land use review with a decision by the planning commission. This process takes into consideration the initial authorization as well as the review process. The submittal requirements, review criteria and minimum conditions have been added to provide a clear authorization process. There are also HOA regulations that have been added to chapter 12 to regulate bylaws and provide an appeal process of an HOA decision without making the HOA's decision a land use decision.

These new processes eliminate the Parks Advisory Board review of street trees, clearly outline the requirements and allow for public awareness of the proposed removal and the ability to comment on whether the tree meets the specific criteria for removal.

The Parks Advisory Board will continue to review the tree removal requests for trees on public property, excluding street trees. However, these reviews will no longer be land use decisions as this section of the code will be moved from Chapter 16 to Chapter 12.12.

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

Chapter 4, Section E, Policy 1:

- Buffering techniques shall be used to prevent the adverse effects of one use upon another. These techniques may include varying densities and types of residential use, design features and special construction standards

Chapter 4, Section O, Policy 3:

- Encourage the use of visually appealing fencing throughout the City.
- Develop and maintain landscaped conservation easements along major roadways and parkway strips along minor streets.
- Develop and implement a tree ordinance which regulates the cutting of trees and the planting of street trees.

There are no comprehensive plan requirements that would conflict with the proposed code language.

Applicable Regional (Metro) standards

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

Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comprehensive plan has been acknowledged by the State, there are no conflicts with this text change. Further, there are no known state goals or standards that the proposed amendment would conflict with. DLCD provided verbal comments that the proposed changes 'look good'. In addition, they generally support efforts to remove barriers in the code such as conflicts or lack of clarity.

As a whole, the amendments are consistent with and support Goal 2 (land use planning) by providing more clear standards. The code language is in conformance with state and federal plans. The proposed language will continue to be used city wide.

The process used to develop and review the proposed amendment is consistent with the Goal 2 requirements (and the development code):

- The Commission held multiple work sessions on the project;
- The web site was updated regularly to provide opportunity for people to get information and provide input on the project as a whole as well as input on specific topics;
- Non-scientific surveys were solicited and provided input from 47 individuals which helped inform the process;
- Staff attended, provided information and requested input at Parks Board meetings;
- Flyers announcing the project and opportunities for input were developed and made available throughout the City; and
- The Planning Commission held a "Listening Session" to get informal input as the proposed changes were being developed.

In addition to the public outreach provided before the proposed changes were developed and the public hearing set, formal notice was also published in the newspaper for two weeks prior to the hearing, published in the December issue of the Gazette, posted around town, placed in the library and on the web site. Courtesy notices were also provided on the web site, in the City Newsletter (the Archer), to the interested parties list and the most current list of HOA contacts.

FINDING: As discussed above in the analysis, there is a need for the proposed amendments and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.3 – 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 amendment 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.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends Planning Commission forward a recommendation of approval of PA 10-03 to the City Council.

- V. **EXHIBITS**
 - A. Proposed development code changes
 - B. Proposed amendments to Title12

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

12.02 Right-of-Way Permits

12.04 Street Construction Specifications

12.08 Sidewalks Construction and Repair

12.12 Parks and Other Public Areas

12.16 Utility Facilities in Public Right-of-Way

12.20 Street Tree – Home Owner’s Association Authorization

Chapter 12.12 PARKS AND OTHER PUBLIC AREAS

Sections:

12.12.010 Policy of city council.

12.12.020 Delegation of authority.

12.12.030 Regulations prescribed by council.

12.12.040 City employees not affected.

12.12.050 Closures.

12.12.060 Damage--Payment for restoration.

12.12.070 Parks--Sales and services for hire restricted.

12.12.080 Parks--Advertising and decorative devices forbidden.

12.12.090 Parks--Intoxicating liquor prohibited.

12.12.100 Parks--Rubbish accumulation prohibited.

12.12.110 Parks--Vandalism prohibited.

12.12.120 Parks--Firearms or fireworks prohibited.

12.12.130 Parks--Molesting animals, birds and fish prohibited.

12.12.140 Parks--Fishing and bathing restrictions.

12.12.150 Parks--Notice mutilation prohibited.

12.12.160 Parks--Animals running at large prohibited.

12.12.170 Parks--Use of established entrance required.

12.12.180 Parks--"No admittance" areas.

12.12.190 Parks -- Trees on Other Public Property (not street trees)

~~12.12.190-200~~ Permit for large groups required.

~~12.12.200-210~~ Permit--Exhibition required.

~~12.12.210-220~~ Permit--Subject to ordinances and regulations.

~~12.12.220-230~~ Public convenience stations.

~~12.12.230-240~~ Traffic regulations.

~~12.12.240-250~~ Violation--Penalty.

12.12.010 Policy of city council.

The city council, except as otherwise expressly provided, declares its intention to exercise general supervision, management and control of all public parks, public parkways, public squares, public grounds, including but not restricted to streets, boulevards, paths, sidewalks, greenways, rest areas, playgrounds and other areas, hereinafter collectively referred to as "public areas," whether publicly or privately owned, dedicated, leased or otherwise set aside for public use and not under the supervision or control of any other public agency; and the council declares

its intention to prescribe rules and regulations as herein set forth or from time to time as necessary, with respect to such public areas.

All public areas as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience and safety of the general public in the use thereof.

(Ord. 653 § 1, 1974)

12.12.020 Delegation of authority.

The city administrator is authorized to make such reasonable rules and regulations and to establish permit fees and permit deposits not inconsistent with this and other city ordinances and the policies of the council as herein enunciated, as may be necessary for the control and management of the public areas hereinabove designated. All such rules and regulations shall be set forth in writing, be reviewed and approved by the city park commission to the extent deemed necessary by the city administrator, shall be posted in conspicuous places in the areas affected thereby, for the guidance of the general public and individual users. When adopted, one copy of each rule and regulation shall be kept and maintained in a file for that purpose in the office of the city recorder with the approval of the park commission endorsed thereon.

If any person feels aggrieved by any such rule or regulation, he or she may appeal to the council by filing with the city recorder a remonstrance against such rule or regulation, which shall be placed on the agenda of the council at its next regular meeting; and until amended or repealed by the council, such rule or regulation shall remain in full force and effect.

(Ord. 653 § 2, 1974)

12.12.030 Regulations prescribed by council.

The council finds that it is in the public interest and necessary for the peace, health and safety of the general public that the rules and regulations set forth in this chapter be enforced, and for the purposes herein set forth are adopted.

(Ord. 653 § 3, 1974)

12.12.040 City employees not affected.

Nothing contained herein shall prevent the performance of any act or duty by city employees which has been duly authorized by the park commission, city administrator or public works director or police department.

(Ord. 653 § 4, 1974)

12.12.050 Closures.

No person shall ride, drive or walk on such parts or portions of the parks or pavements as may be closed to public travel, or interfere with barriers erected against the public.

(Ord. 653 § 5, 1974)

12.12.060 Damage--Payment for restoration.

A. Owners or persons in control of, or persons who permit the entry of, any dog, horse or other animal into any public area under the control of the city, in addition to any penalties imposed by this chapter for violation hereof, shall be held liable for, and shall pay to the city, the full value of repair or restoration of any public property damaged or destroyed; and if not paid upon demand

by the city, recovery of same may be sought by action brought in the name of the city in any court of competent jurisdiction.

B. Any person who shall utilize the public areas herein described and who shall damage or destroy any public property under the control of the city, in addition to any penalties imposed by this chapter for violations hereof, shall be held liable for, and shall pay to the city, the full value of repair or restoration of any public property damaged or destroyed, and if not paid upon demand by the city, recovery of same may be sought by action brought in the name of the city in any court of competent jurisdiction.

(Ord. 653 § 6, 1974)

12.12.070 Parks--Sales and services for hire restricted.

It is unlawful for any person to sell or offer for sale an article or perform or offer to perform any service for hire in any of the parks without a written permit for such concession properly and regularly granted by the city administrator with concurrence and approval by the park commission.

(Ord. 653 § 7, 1974)

12.12.080 Parks--Advertising and decorative devices forbidden.

It is unlawful for any person to place or carry any structure, sign, bulletin board or advertising device of any kind whatever, or erect any post or pole or the attachment of any notice, bill, poster, sign wire, rod or cord to any tree, shrub, fence, railing, fountain, wall, post or structure, or place any advertising, decorative or other device of any kind whatever, on any of the bases, statues, bridges or monuments in any park; provided, that the park commission may by a written permit, allow the erection of temporary decoration on occasions of public celebration or holidays.

(Ord. 653 § 8, 1974)

12.12.090 Parks--Intoxicating liquor prohibited.

It is unlawful for any person to take into or upon any park any intoxicating liquor, for other than his or her own use. No intoxicated person shall enter or remain in any of the parks. The sale or dispensing of malt beverages containing not more than four percent of alcohol by weight, shall be allowed only after obtaining a permit to do so from the city park commission, subject to approval of the city council and the Oregon Liquor Control Commission.

(Ord. 653 § 9, 1974)

12.12.100 Parks--Rubbish accumulation prohibited.

It is unlawful for any person to obstruct the free use and enjoyment of any park by misuse of refuse containers or by placing any straw, dirt, chips, paper, shavings, shells, ashes, swill or garbage, or other rubbish, or refuse or debris, in or upon any park, or to distribute any circulars, cards or other written or printed matter in any park.

(Ord. 653 § 10, 1974)

12.12.110 Parks--Vandalism prohibited.

It is unlawful for any person to remove, destroy, break, injure, mutilate or deface in any way any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower or other property in any park.

(Ord. 653 § 11, 1974)

12.12.120 Parks--Firearms or fireworks prohibited.

It is unlawful for any person to use firearms, firecrackers, fireworks, torpedoes or explosives of any kind in any park.

(Ord. 653 § 12, 1974)

12.12.130 Parks--Molesting animals, birds and fish prohibited.

It is unlawful for any person to use any weapon, stick, stone or missile of any kind to the destruction, injury, disturbance or molestation of any wild or domestic animal, fowl or fish within the park limits.

(Ord. 653 § 13, 1974)

12.12.140 Parks--Fishing and bathing restrictions.

It is unlawful for any person to fish, wade, swim or bathe in any of the parks except in the places designated by regulation for such purposes. The park commission shall have authority to allow fishing in the waters of any park of the city by posting adjacent to such waters a sign or signs stating that such fishing is authorized, and by posting age limits, such fishing may be restricted to juveniles or other persons under the age as designated by the sign; and it is unlawful for any person over the age limit as posted to fish in any such waters of a city park.

(Ord. 653 § 14, 1974)

12.12.150 Parks--Notice mutilation prohibited.

It is unlawful for any person to injure, deface or destroy any notice of the rules and regulations for the government of the parks which shall have been posted or permanently fixed by order or permission of the park commission.

(Ord. 653 § 15, 1974)

12.12.160 Parks--Animals running at large prohibited.

It is unlawful for the owner, possessor or keeper of any animal to permit such animal to roam at large in any park, and, if such animal is found in any park, it may be impounded.

(Ord. 653 § 16, 1974)

12.12.170 Parks--Use of established entrance required.

No one shall enter or leave the parks except at an established entrance, and no one shall enter or remain in the parks after the hours fixed by regulation.

(Ord. 653 § 17, 1974)

12.12.180 Parks--"No admittance" areas.

No person shall enter any building, enclosure, or place within any of the parks upon which the words, "no admittance" shall be displayed or posted by sign, placard or otherwise.

(Ord. 653 § 18, 1974)

12.12.190 Parks -- Trees on Other Public Property (not street trees)

Trees and woodlands on public property shall be preserved to provide clean air and a natural environment for the community.

A. The Parks Advisory Board may authorize or require the removal of any tree on public property, excluding a street tree, that is:

1. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees;
2. Obstructing public ways or sight distance so as to cause a safety hazard;
3. Interfering with or damaging public or private utilities;
4. A nuisance under City nuisance abatement ordinances; or
5. Otherwise constitutes a hazard to life or property, in the City's determination.

B. The City Manager or Manager's designee may order the removal of a tree on public property in an emergency situation without Parks Advisory Board approval when the tree poses an immediate threat to life, property or utilities. A decision to remove a tree on public property under this section is subject to review only as provided in ORS 34.100.

C. A tree that is removed under this section must be replaced unless it is determined by a certified arborist that it cannot be replaced without additional or continued damage to public or private utilities that cannot be prevented through reasonable maintenance.

~~12.12.190-200~~ Permit for large groups required.

Use of the public areas herein described for organized group picnics, political or religious gatherings, or groups consisting of more than one hundred fifty (150) persons in attendance at any one time, is unlawful unless a written permit has been issued with the approval of the park commission or designated agent thereof.

(Ord. 653 § 19, 1974)

~~12.12.200-210~~ Permit--Exhibition required.

Any person claiming to have a permit from the city shall produce and exhibit such permit upon request of the park commissioner or the police department.

(Ord. 653 § 20, 1974)

~~12.12.210-220~~ Permit--Subject to ordinances and regulations.

All permits issued by the city shall be subject to the city's ordinances. The persons to whom such permits are issued shall be bound by the rules, regulations and ordinances as fully as though the same were inserted in such permits. Any person or persons to whom such permits shall be issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued, as well as for any breach of such rules, regulations and ordinances, to the person or persons so suffering damages or injury.

(Ord. 653 § 21, 1974)

~~12.12.220-230~~ Public convenience stations.

A. It is unlawful for any person to blow, spread or place any nasal or other bodily discharge, or spit, urinate or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public convenience station or in any place in such station, excepting directly into the particular fixture provided for that purpose. Nor shall any person place any bottle, can, cloth, rag, or metal, wood or stone substance in any of the plumbing fixtures in any such station.

B. It is unlawful for any person to stand or climb on any closet, closet seat, basin, partition or other furniture or fitting, or to loiter about or push, crowd or otherwise act in a disorderly

manner, or to interfere with any attendant in the discharge of his or her duties, or whistle, dance, sing, skate, swear, or use obscene, loud or boisterous language within any public convenience station, or at or near the entrance thereof.

C. It is unlawful for any person to cut, deface, mar, destroy, break, remove or write on or scratch any wall, floor, ceiling, partition, fixture or furniture; or use towels in any improper manner, or waste soap, toilet paper, or any of the facilities provided in any public convenience station.

(Ord. 653 § 22, 1974)

| 12.12.~~230-240~~ Traffic regulations.

Except as may be otherwise specifically prescribed by this chapter or other city ordinances, the motor vehicle code of the city regulating street traffic shall be in full force and effect in all public areas described in this chapter.

The following regulations are made applicable to public areas within the city and subject to the city's control:

A. No one shall ride or drive any bicycle, motorcycle, motor vehicle, truck, wagon, horse, or any vehicle or animal in any part of the parks, except on the regular drives designated therefor; provided, that baby carriages and such vehicles as are used in the park service are not included in the foregoing prohibition.

B. No one shall drive any moving van, dray, truck, heavy-laden vehicle, or vehicle carrying or ordinarily used in carrying merchandise, goods, tools, materials or rubbish, except such as are used in the park service, over any drive or boulevard in any of the parks; provided, however, the city park commission in its discretion may grant permission in writing for vehicles to carry materials over park drives or boulevards to buildings abutting on parks when no other road, street or way is accessible or passable.

C. No one shall hitch horses or other animals to any tree, shrub, fence, railing or other structure, except such as are provided for such purpose, or allow horses or other animals to stand unhitched while the rider or attendant is beyond reach of such horse or other animal.

D. It is unlawful for any person to park any motor vehicle on any park or playground area in the city, except in regularly designated parking areas. The police department shall have and exercise authority to tow any vehicle found parked in a park or playground area not designated for parking purposes, and to impound such vehicle and to impose and collect the fees for towing and storage.

E. It is unlawful for any person to store, park or leave standing unattended for a continuous period of more than twenty-four (24) hours, any motor vehicle, boat, trailer, conveyance or other personal property within any public area under the city's control.

(Ord. 653 § 23, 1974)

| 12.12.~~240-250~~ Violation--Penalty.

Any person violating any provision of this chapter or any rule or regulation adopted pursuant hereto, upon conviction, shall be punishable by a fine of not more than five hundred dollars (\$500.00).

(Ord. § 98-1049 § 7: Ord. 653 § 24, 1974)

12.20 Street Tree – Home Owner’s Association Authorization:

12.20.010 Purpose

The purpose of this section is to allow an active homeowners association to regulate the assessment, removal and replacement of street trees within the boundaries of the association in a less regulatory manner than required under the Sherwood Development Code (SZCDC 16.142). It is intended by the city that a homeowners association that is delegated authority under this section will adopt, administer and enforce a system of regulations for the evaluation and, if necessary, removal and replacement of street trees in the public right-of-way that is substantially similar to the system of regulations set forth in the city development code. It is further intended that a street tree program administered by the HOA will allow greater flexibility to assess and craft solutions for the management of street trees within the boundaries of the HOA and at less cost to the property owner and the community.

12.20.020 Authority of Homeowners Association to Adopt and Administer Program

A. A homeowners’ association (HOA) may apply to the city under SZCDC 16.142 for authority to adopt, administer and enforce a program for regulating the assessment, removal and replacement of street trees within the boundaries of the association. An HOA with an approved street tree program shall administer and enforce the program as approved by the city.

B. For purposes of this section 12.20, a “street tree” is a tree that is planted within the planter strip along a street. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or required by the City.

12.20.030 Adoption into Bylaws

An HOA that is approved to administer a program for street tree removal and replacement shall incorporate the program standards and procedures into its bylaws. A copy of the amended bylaws must be submitted to the City Planning Department on the January 1 immediately following adoption. In the event the provisions in the bylaws concerning the street tree program are amended, the HOA shall submit a copy of the amendments to the City Planning Department within 90 days of the amendment.

12.20.040 Final Decision by HOA; Appeal

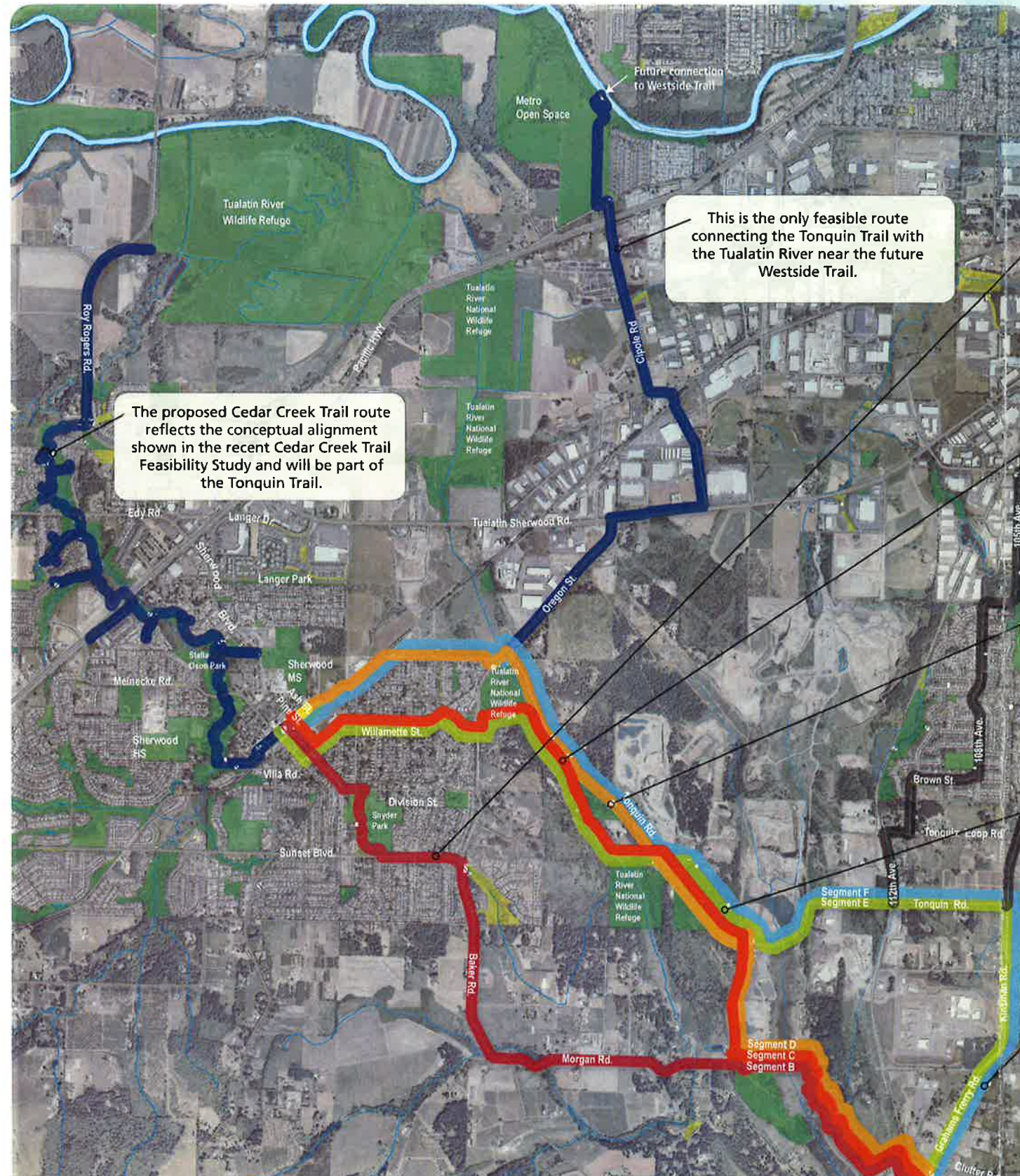
A. An HOA with an approved street tree program shall include in the program an opportunity to appeal a decision by the HOA. If the decision is made by a person or committee that is subordinate to the HOA Board, the program shall allow for an appeal to the Board. A final decision by the HOA Board must be in writing and must set forth the basis for the decision. A copy of the written decision must be provided to the affected

property owner and to the person who filed the appeal, if different, within five business days of the date the decision.

B. A final decision by the HOA Board may be appealed to the city manager within 14 days of the date of the final decision. The appeal shall be in writing and shall include a description of the error alleged in the board's decision.

1. Upon receipt of an appeal, the city manager shall set a date for the matter to be heard by the city manager in the regular course of business. The person filing the appeal, the affected property owner, and the HOA Board may appear and submit written and verbal testimony and evidence. The person filing the appeal has the burden of proving by substantial evidence that the Board made a legal or factual error in its decision.
2. The City manager may request testimony or evaluation of the evidence by the city planning manager for the purpose of substantiating the claims made by the parties. The person filing the appeal shall have an opportunity to rebut any evidence submitted by the planning manager.
3. The city manager shall determine whether the HOA Board made a decision that is in substantial compliance with the street tree program as approved by the City. The city manager may make an independent assessment of substantial compliance with the applicable standards and procedures and is not limited to the record that was before the HOA Board.
4. The city manager shall issue a written decision within 30 days of the date of the hearing. The decision shall set forth the basis for the decision and the evidence relied upon. The city manager's decision is final, subject to review only as provided in ORS 34.010 to 34.100.

Tonquin Trail: Routes to Sherwood



The proposed Cedar Creek Trail route reflects the conceptual alignment shown in the recent Cedar Creek Trail Feasibility Study and will be part of the Tonquin Trail.

This is the only feasible route connecting the Tonquin Trail with the Tualatin River near the future Westside Trail.

All routes to Sherwood would connect to a built portion of the Cedar Creek Trail in Stella Olsen Park.

Segment B

- Southern off-street portion avoids Grahams Ferry Rd. and Tonquin Rd.
- Relatively direct route, but steep; compromised sight lines.
- 75 percent of route is on-street (roadway shoulders in rural areas; shared road ways in urban areas).
- Snyder Park connection.

Segment C

- Southern off-street portion avoids Grahams Ferry Rd. and Tonquin Rd.
- 75 percent of route off-street.
- 50 percent of trail adjacent to natural areas; opportunities for wildlife viewing.
- Could feel isolated in some areas.

Segment D

- Southern off-street portion avoids using Grahams Ferry Rd. and Tonquin Rd.
- 66 percent of route separated from but next to Tonquin Rd. and Oregon St.
- Connects to schools, transit stops and other trails and parks.
- Opportunities for wildlife viewing.

Segment E

- 80 percent of route separated from but next to streets.
- Could feel isolated in some areas.
- Travels near a quarry and other industrial areas.
- Relatively indirect route; steep grades.

Segment F

- 100 percent of route separated from but next to major roads with truck traffic.
- Could feel isolated in some areas.

Routes to Tualatin

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: 1/11 Agenda Item: STREET TREES

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

Name: NEIL SHANNON

Address: 23897 S.W. Red Fern Dr.

City/State/Zip: Sherwood OR 97140

Email Address: NEILSHNN@MSN.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.

Julia Hajduk

From: NEIL SHANNON <neilshnn@msn.com>
Sent: Friday, January 07, 2011 2:50 PM
To: PlanningCommission
Subject: Continued Hearings regarding Street Trees
Attachments: Neil Shannon comments.doc

Hi Planning Commission,

I will be attending the upcoming January 11th continued hearing regarding the code cleanup issues of street trees. In that context I have attached some comments regarding the current staff proposals. I will be addressing these comments as part of my testimony and thought that an advance copy to yourselves and to staff would allow you to become more familiar with the issues.

Thank you for your attention.

Neil Shannon
23997 SW Red Fern Road
Sherwood, Oregon 97140

Exhibit C

Scribner error (page 56 of the packet, page 9 of the proposed ordinance) Section B, highlighted in yellow) DHB should be DBH.

(Same page) Section B.2(3), I know that the code is generally careful to specify the responsibilities, you may want to specify that it is the applicant who provides the arborist report or, perhaps, is it the intent to require the person objecting to the removal to substantiate the objection with an arborist report?

I have some concerns regarding the issues and methods regarding trees greater than 10 inches in diameter. It appears to me that we are getting way too complicated and way too costly a Type II review process. I would suggest that we can stay with the same procedure as we are with 5" to 10" DBH with the exception that an arborist report would be required instead of suggested.

Also keep in mind, as described in Section B item 1, trees can only be removed for the specific reasons of:

- a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
- b. Obstructing public ways or sight distance so as to cause a safety hazard, or
- c. Interfering with or damaging public or private utilities, or
- d. Defined as a nuisance per City nuisance abatement ordinances.

With a requirement that the arborist report justify the removal based on the Section B item 1 requirements and the 10 day posting period there should be plenty of opportunity for staff to review the circumstances and give the public an opportunity to appeal if they disagree. Whole lot simpler and a whole lot less cost!

Regarding the HOA's, I know what staff is trying to do and it is obvious that they are very uncomfortable delegating their responsibilities. I believe that the added provisions in section C miss the point and try to hog tie a HOA to put on a mask that would have them making the same decisions that Planning Staff would make. The process is way too complicated and way too costly. The idea was to get HOA's involved in the decisions regarding trees in the neighborhood. At this point I recommend deleting I recommend deletion of Section 16.142.050 (C). If the HOA wants to comment they can do it as part of the 10-day waiting period.

Regarding the allowance to not replace the tree that has been removed, Section D looks good (modified because of the comments above about the Type II and HOA review) except that I feel that it should include some language to include a consideration for mitigation by movement to a nearby alternate location.

Just some thoughts from the citizen side of the discussion.

Neil Shannon
23997 SW Red Fern Drive

APPROVED MINUTES

City of Sherwood, Oregon
Draft Planning Commission Minutes
January 11, 2011

Commission Members Present:

Chair Allen
Jean Simson
Matt Nolan
Raina Volkmer
Russell Griffin
Michael Cary

Staff:

Julia Hajduk, Planning Manager
Zoe Monahan, Assistant Planner
Karen Brown, Recording Secretary

Commission Members Absent:

Lisa Walker

Council Liaison – Mayor Mays

1. **Call to Order/Roll Call** – **Chair Allen** called the meeting to order.
2. **Agenda Review** – Chair Allen noted that the Code Clean Up 1.5 is on the agenda and that the earlier work session discussed residential uses and accessory structures. He noted that after the business meeting the work session will reconvene and discuss parks and open spaces, tree removal and mitigation and commercial/industrial uses.
3. **Consent Agenda** – Minutes from August 10, September 7, September 28 and December 14. Commissioner Simson pointed out two scrivener's errors on Sept. 7th, page 6 should include the continuation date of September 28th, 2010. On the September 28th minutes, page 2, fourth paragraph from the bottom, pattern is misspelled. Commissioner Simson made a motion to approve the revised consent agenda with the scrivener's errors corrected. A vote was taken; all Commissioners present were in favor. The motion passed.
4. **City Council Comments** – none given,
5. **Staff Announcements** – There will be a Tree Panel Discussion February 8th. The panel will include developers and urban foresters. This discussion is not related to street trees but trees in general as the tree removal and mitigation review portion of the Code Cleanup begins.
6. **Community Comments** – none given
7. **Old Business** – Continuation of PA 10-03. Chair Allen reopened the public hearing. Commissioner Volkmer disclosed that she has had a conversation with a person in her neighborhood about trees and some of the issues they are causing, but does not feel that conversation will keep her from being fair.

Zoe Monahan gave the updated staff report. She pointed out that public comments had been received via e-mail from Neil Shannon which she explained will be labeled exhibit 3. (this was revised and they are now labeled exhibit C.) She reminded everyone that this was a continuation of the meeting that was held December 14, 2010 and that the public record had been left open during that meeting. She explained that based on the Planning Commission's comments the following have been done:

- Modifications have been made to fences.
- The Sound Wall criterion has been moved to both the residential and non-residential standards sections.
- The description of buffering has also been clarified and an example has been added.
- Street tree spacing has been clarified to explain the canopy spread measurement calculations.
- Previously there had been a two tiered process for Planning Commission review. A third tier has been added for those projects with trees under 5" dbh allowing them to be removed without a permit or review. Tier 2 is for trees measuring 5" to 10" dbh and will require a type I land use review and a 10 day waiting period. Tier 3 is for any tree over 10" dbh and will require a type II land use review and a 14 day waiting period and a letter from a certified arborist.
- An option was proposed that would allow Home Owners Associations (HOA) to take over the authorization process for trees in their neighborhoods. Public comment had been given on the process as well. The Planning Department's proposal includes a process to allow HOA's to be authorized to make decisions about trees as well as in Chapter 12 what guidelines would need to be added to the HOA's rules and creating an appeal process as well.

Zoe noted that the fees for trees would need to be reviewed by the Budget Committee and City Council and ultimately, if approved, be adopted with the fee schedule and adopted with the budget in July of 2011. Tier I would have no costs. Tier II would be approximately \$20.00; Tier III will require substantially more Staff time and needs to be able to fund itself without using General Funds. Those fees will be evaluated more in the future.

Staff's recommendations are to recommend approval by Council or recommend approval of modified code language.

Chair Allen opened the meeting up for public testimony.

Neil Shannon 23997 SW Red Fern Drive, Sherwood Oregon, reiterated his points made in his written testimony. He agrees with the Tier I and Tier II suggestions and thinks they are excellent. The Tier III plan causes him great concerns. He would suggest that a Tier III just be a slightly modified Tier II which would make the Arborists report required and that there be an issue with the tree. Fees from \$500 to \$1,000 to replace a tree that obviously has issues will encourage people to work outside of the system. While he testified at the last meeting encouraging HOAs to get involved, he feels the plans for including their involvement are much too difficult and HOAs will not be able to pay the costs. He talked about the canopy spread and thinks it should be a goal not a requirement. He hopes the tree issues can be dealt with, but without the high costs

With no other citizens wanting to testify, Chair Allen closed the public testimony and asked for someone to speak more specifically about the structure for HOA's being given some authority regarding trees.

Chris Crean, the Attorney for the City of Sherwood, responded by saying that he has worked with Staff to design a process for HOA's to get involved. There are two things that must be included when a portion of the City's authority is delegated to a private organization; there has to be relatively clear guidelines for the exercise of that authority and there must be an appeals process. Another issue Chris and Staff discussed was avoiding HOA's making land use decisions. It was determined that if Home Owners Associations want to administer a street tree program, they need to come to the City and ask for authority to do so. They need to show substantially similar standards to the City's standards, the need to have amended by laws and several other items. If it is determined that the criteria has been met they can then proceed. The regulations for how the HOA's must proceed are covered in Chapter 12. Anything put into Chapter 16 is considered a land use regulation and if someone administers that regulation they are making land use decisions. Since they don't want the HOA's activities to fall under Chapter 16, it has been moved to Chapter 12.

Discussion continued between Staff and the Commission regarding the specific details between the different process types.

Chair Allen recapped the 4 issues being deliberated and obtained a consensus on:

1. the first being that they would like a reference to measuring DBH being an "industry standard" description.
2. One of the questions that arouse during that discussion was who would be responsible for paying for the arborist's report. The Commissioner's all agreed that it would be the responsibility of the applicant to obtain the arborists report.
3. Regarding the process for trees over 10" DBH they decided that they would fall under the Type 2 land use process with the addition of a mandatory arborist's report and having to post notice prior to removal.
4. It was also decided to leave the type IV HOA process be left in.

Commissioner Simson made a motion to recommend approval to the City Council of PA 10-03 based on the adoption of the Staff Report, findings of fact, public testimony, Staff recommendations, agency comments, applicant comments and code language as revised. Commissioner Albert seconded the motion. A vote was taken and all Commissioners present were in favor. The motion passed.

Chair Allen closed the public hearing and the Commission moved into work session.

End of minutes.