



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
March 23, 2010 – 7 PM**

Business Meeting – 7:00 PM

- 1. Call to Order/Roll Call**
- 2. Agenda Review**
- 3. Consent Agenda Meeting minutes from February 23, 2010.**
- 4. Staff Announcements**
- 5. Council Announcements (Mayor Keith Mays, Planning Commission Liaison)**
- 6. Community Comments (*The public may provide comments on any non-agenda item*)**
- 8. Old Business:**
 - a. None
- 9. New Business:**
 - a. Public Hearing – Land Use Approval Time Extension (PA 10-01) The proposed changes affect the land use approval time limit extensions sections of the Code (16.90.020(6), 16.124.010, 16.128.040) for applications approved between 2007-2009. Generally, the applicant must begin construction on the site within a two-year period. If construction has not begun, the applicant may apply for an extension of time of the land use approval for an additional year. For land use approvals granted between January 1, 2007 and December 31, 2009, an additional one-year may be granted after the first extension time has ended because of the poor economic conditions during 2007-2009. The applicant will need to file a written request, satisfy criteria and pay an extension fee.
 - b. Selection of a Planning Commission member to serve on the Cultural Arts Community Center Steering Committee.
- 10. Comments from Commission**
- 11. Adjourn the Business Meeting**
- 12. Next Meeting: April 13, 2010**



IT'S IN OUR HANDS Make sure that you are counted; return your Census form as soon as possible.

City of Sherwood, Oregon
Draft Planning Commission Minutes
February 23, 2010

*Jeff approved
Made motion*

*Matt 2nd
Patrick abstained*

Commission Members Present:

Lisa Walker
Jean Lafayette
Matt Nolan
Adrian Emery
Todd Skelton

Staff:

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

Commission Members Absent: Chair Allen, Commissioner Volkmer

Council Liaison – Mayor Mays

1. **Call to Order/Roll Call** – Vice Chair Lafayette called the meeting to order. **Karen Brown** called roll.
2. **Agenda Review** – No changes were made to the meeting agenda.
3. **Consent Agenda** – Consisted of minutes from the November 24th, 2009 and January 26th, 2010 Planning Commission meetings. There were no changes or comments regarding the minutes. Commissioner Nolan moved to adopt the consent agenda. Commissioner Skelton seconded the motion. A vote was taken; all were in favor, the motion passed.
4. **Staff Announcements** – Julia reminded everyone that Commissioner Skelton and Commissioner Emery’s terms will be expiring at the end of March. Commissioner Skelton has indicated he does not intend to seek reappointment. There have been 5 applications received including one from Commissioner Emery. Time for interviews is tentatively scheduled for next week.

This year’s Arbor Day celebration will be held April 16th near Stella Olson Park. This year the City has been able to partner with the Disney Give a Day Get a Day program. People that volunteer for the event will be eligible for a free day at Disneyland. There have already been 20 volunteers registered.

5. **City Council Comments** – Mayor Mays talked about the public hearing the Council recently had including review of the Cannery PUD. Council directed Staff to bring an Ordinance back to Council next week for consideration adopting the Cannery PUD. The direction that Council gave staff was to make some changes to recommendations from the Planning Commission and keep some of the recommendations.
At the Metro level, Metro as well as the 3 counties will be acting on the core 4 proposal for Urban Reserves, Rural Preserves and undesignated areas including IGAs between each county and Metro. There will be more information to come regarding those meetings.

6. Community Comments –

Susan Claus 22211 SW Pacific Hwy., Sherwood OR began by thanking the Commission for the time and attention they gave to the Cannery PUD and the way they handled the public hearings and letting the public speak. She was very disappointed on the other hand with the way the Council handled the project. She stated that when Mayor Mays said the Council took a lot of the Commissions suggestions that was false. As she understands it; the Council changed the requirements for the number of units back to 101 and took out the traffic studies. She believes there was a pre-existing agreement and that they wasted everyone's time and then didn't even apologize.

She wanted to make another objection to the fact that Mayor Mays is the Council Liaison to the Planning Commission because he controls the agenda at the Council level.

She went on to explain, from her perspective, what happens when a citizen wants to find out information when there is a land use application. She stated that the new web-site is not very "searchable" and when she wants to find documents by herself, she is often unable to. She then believes she is at the mercy of Staff to provide those documents for her. She explained that record requests from her are handled sequentially. She indicated that she turned in a request for records on February 1st, 2010 and just received the information today, (Feb. 23rd). Now that the first request has been completed then the next request she has in line will be handled.

She again thanked the Commission on their handling of the review of the Cannery Project, but is not happy with the way the City Council review the project and the Commission's recommendations. She feels that citizens cannot get information they are requesting in a timely manner and the process has been so corrupted..

Vice Chair Lafayette asked about problems with information requests. Julia stated that all requests for information need to be directed to Tom Pessemier. A conversation ensued about the process for records requests and time frames allowed to fulfill those requests as well as how the fees are determined. A copy of the record request form was provided by a member of the audience. Commissioner Walker asked if there is the potential for citizens to view records on-site without needing to have them sent to them. Julia explained that while she cannot speak for other departments, within the Planning Department people can come to the Planning Counter and request to look at a land use file, and if it is readily available they are welcome to review the file themselves. If the information is not close at hand the customer may be asked to return, but review of documents is certainly available. Mrs. Claus stated that from her point of view, no one else treats records the way the City of Sherwood does. She feels she can get information from other entities much easier than she can from the City of Sherwood.

Robert James Claus 22211 SW Pacific Hwy, Sherwood, OR addressed the Commission by saying he feels the planning Commission held an honest meeting which included public involvement and came up with a modified result. Shortly after that meeting there was another public hearing that he feels was not run the same way. He stated that this town is children friendly, has a wonderful park system, an excellent density and is a very desirable area. He stated that the City Council hearing was an example of someone

trying use a system to promote themselves when they can't make it economically. What you have is a system now where you take the excess land value in the Urban Renewal area and then any increase in the tax base goes to the City. He stated that this cheats the school children out of that money and the fire department and everyone else. He stated that the money was not going to urban renewal but rather "to take care of Langer's walnut blight" and to keep staff employed and the City growing by using public funds.

He indicated the contract (between the City and Capstone) allows 178 apartments and that is what they are going to get.

He wanted the Planning Commission to know "the only way you are going to cure this is not in public hearings, because our urban renewal agency has been by resolution made our Development Director." He stated that Council passes resolutions, directing what they're to do and the staff implements it. This makes the Planning Commission "a side show and window dressing." He stated that this town is now going to change; Historic Old Town is as good as gone and Langer's going to have a mega mall."

Gary Langer 14020 SW 98th, Tigard OR started by saying that since his family's name was brought up in prior comment he felt like he should speak. He agreed that the Langer family has property in Sherwood and that they have been working on it for a long time. He is happy to see Mayor Mays at the meeting as he can help transfer information from the hearing process to the City Council. He continued by saying the Langer family has been working with the City and have followed all of the rules and gone through Metro, and to have someone speak disparagingly about them is not appreciated. He had worked at the Cannery and is pleased to see it transformed and thinks it will make Sherwood a bright spot on a map. He believes Sherwood has grown to be a number one place in the United States to come to and that there are a lot of people that are very proud of the City, the sports teams, the parks and things that come with urban renewal.

7. Old Business –

a. Continuation of the Industrial Design Standards.

Heather began by restating that at the last hearing there were several issues raised and the record was held open for written testimony to be submitted. At the 1st hearing issues discussed included: public notice, the Langer property and window glazing standards. Since that meeting two pieces of additional testimony have been received. One is a letter from Sherry Oeser from Metro and the second is a letter from Tim Voorhies of Steel Tek industries. One of the issues discussed was the date of implementation of the standard. After corresponding with Metro and explaining the Commission's concerns with "back dating" the standard Heather received a letter saying they would not object to using the January 1, 2010 date. Also in the letter from Metro, Sherry clarifies that when she stated there were no properties "zoned" industrial greater than 50 acres, she meant "designated industrial by Metro." In addition, she mentioned that the Langer's parcel received Planned Unit Development approval in 1995, which was prior to any Title 4 regulations.

Exhibits G and H discuss designation as well. Incorporating those exhibits, the proposed code language in blue suggests making the standard only apply to those properties

designated industrially by Metro and would exempt the Steel Tek properties and any light industrial areas zoned in the Brookman area and the light industrial areas along Hwy. 99.

Heather and Vice Chair Lafayette further discussed for clarification what would be allowed. The two things that will matter are the January 1st, 2010 application date and if the property has been designated industrial by Metro. Any new project that is applied for will be subject to the design standards.

Additionally Heather had a correction to the original wording in the proposed updated code language. On page 3, section 16.32.030 item K and page 8 section 16.34.030 item K states that it allows retail uses up to 60,000 sq ft. That should read up to 20,000 sq. ft. on both pages which will comply with the Metro Title 4 standards.

Heather continued by pointing out other updates that had been made to the original proposed standards including: window glazing; setbacks; an alternative process; one formatting issue on page 20; and per a suggestion from Commissioner Nolan, re-phrasing the wording regarding areas visible from arterial and collector streets.

After discussion among the Commission and Staff, it was determined that it would be best to leave the window glazing requirements at 25% as glazing is only one of several options that need to be met.

Discussion continued regarding the requirement for 35' setbacks. Vice Chair Lafayette suggested allowing buildings to be set back with the caveat that the setback area is landscaped or a natural area. Aluminum siding was also discussed as being potentially acceptable. It was agreed that those options could be discussed with developers, but not be allowed outright in "fast track" proposals.

Heather continued to discuss changes suggested in formatting. It was decided that on page 20, H.2.A would be broken out into several items rather than one long sentence and 4 findings rather than one finding all lumped together. She suggested:

- A. Provide high value industrial projects that result in benefits to the community, consumers and developers.
- B. Provide diversified and innovative working environments that take into consideration community needs and activity patterns.
- C. Support the City's goals of economic development.
- D. Complement and enhance projects previously developed under industrial design standards.
- E. Enhance the appearance of industrial developments visible from arterials and collectors, particularly those considered "entrances" to Sherwood, including but not limited to: Hwy 99W, Tualatin Sherwood Road and Oregon Street.
- F. Reduce the bulk appearances of large industrial buildings as viewed from the public street by applying exterior features such as architectural articulations, windows and landscaping.
- G. Protect natural resources and encourage integration of natural resources into site design (including access to natural resources and open space amenities by the employees of the site and the community as a whole.

Heather reviewed the items she understands the Commission wants to change collectively.

The Commission all agreed that she had included everything they were concerned with.

Commission Emery made a motion to approve the Industrial Design Standards PA09-01 based on the adoption of the Staff Report, finding of fact, public testimony, staff recommendation, agency comments, applicant comments and conditions as revised. The motion was seconded by Commissioner Nolan.

Julie clarified that it was a recommendation to Council for approval. A vote was taken and all agreed.

8. **New business** – Vice Chair Lafayette continued onto new business which is the selection of a Planning Commission member to serve on the Cultural Arts Community Center Steering Committee. Mayor Mays expanded on the description of the Committee and what the requirements would be for the Planning Commission member.

Commissioner Emery would like to participate. Commission Walker suggested that Commissioner Volkmer may be interested as well.

Vice Chair Lafayette tentatively appointed Commissioners Emery and Volkmer but deferred the formal selection until Chair Allen and Commissioner Volkmer were present.

9. **Council Comments:** Vice Chair Lafayette asked about the status of the Brookman Road appeal.

Julia responded by saying that at this point Metro has not withdrawn their appeal and Staff is actively preparing information for the exceptions process. The extension at LUBA expires in April.

The conversation continued regarding a work program for the Planning Commission. The suggestion was made that Julia bring the plan back to the Commission for review then during the April Work Session with the Council discuss this along with the code clean up.

The next meeting is scheduled for March 23, 2010.

Vice Chair Lafayette closed the meeting at 8:20 p.m.

End of minutes.

Proposal: The proposed code language amends the current development code standards regarding the Land Use Approval Time Extension, Sections 16.90.020(6), 16.124.010 and 16.128.040 of the Sherwood Zoning and Community Development Code (SZCDC). The proposed code amendment language specifically allows applicants who received land use approval between January 1, 2007 and December 31, 2009, an additional one-year extension of the land use approval due to the current economic conditions. The proposed amendments are attached as **Exhibit A**.



Michelle Miller, Associate Planner

I. BACKGROUND

- A. Legislative History: The current time extension provisions of SZCDC sections 16.90.020(6), 16.124.010 and 16.128.040 allow a one-year extension of time for land use approvals granted for those applicants who are unable to begin construction of their project or submit for final plat within the initial one- or two-year time period allowance. Applicants must pay a fee and provide an explanation for the need of an extension. Staff reviews the application and may authorize the initial one-year extension.
- B. Location: Citywide
- C. Review Type: The legislative change to the Development Code requires a Type V review with a public hearing before the Planning Commission who will make a recommendation to the City Council. The City Council will then hold a public hearing and make a decision after consideration of public comment. The Land Use Board of Appeals (LUBA) would hear an appeal.
- D. Public Notice and Hearing: Staff posted notice of the pending hearing in five locations throughout the City on March 2, 2010. The notice was published in the Tigard/Tualatin Times on March 11, and March 18, 2010 in accordance with Section 16.72.020 of the SZCDC.
- E. Review Criteria: The required findings for a "Plan Amendment" are identified in § 16.80 of the Sherwood Zoning and Community Development Code.

II. PUBLIC COMMENTS

Staff received written comments from several applicants facing an expiration of their land use approval due to the poor economy and the inability to get funding for their projects thus prompting this action. Staff sent notice on March 3, 2010 to applicants who received land use approval from 2007-2009. After notice was sent, but prior to the hearing on March 23, 2010, staff received the following comments.

Scott Mazzuca, 3rd St. Partition (SP 08-01) supported the time extension and explained his situation. Mr. Mazzuca's email correspondence is attached as Exhibit B.

Lans Stout, Winslow Site Plan (SP 08-08) supported the time extension but preferred an automatic onetime extension for those projects approved during 2007-2009. He supported a waiver of fees and no application submittal for these projects to avoid further burden to these applicants. Mr. Stout's correspondence is attached as Exhibit C.

Staff Response: Mr. Stout's proposal was considered by the Planning Commission and it was determined that it did not offer enough scrutiny of the land use approvals or knowledge of the applicant's intention to move forward on the project as approved.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on March 4, 2010. The City received no response or no comment from the following agencies indicating that they had no comment or objections: Kinder Morgan, ODOT Signs, TVWD, Tri-met, NW Natural, Sherwood Broadband, BPA, CWS, DSL, Sherwood School District, TVF&R, Pride, Raindrops 2 Refuge, Portland Western RR, Metro, Washington County, ODOT, and PGE.

IV. PLAN AMENDMENT REVIEW

A. APPLICABLE DEVELOPMENT CODE CRITERIA

16.80.030.1

Text Amendment:

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

Need: From the date of approval, most land use decisions expire after one year (partition) or two years (site plans and subdivisions). Historically, this has been sufficient time for applicants to complete their projects. If not, the City offers a one-year extension process. As most recent economic news indicates, progress on residential and commercial real estate has been stymied by poor economic conditions throughout the region and nation. Over twenty land use approvals in the City have languished in the preliminary approval phase and have not moved forward with construction due to a number of factors, but primarily due to the recession. Some of the approvals granted in 2007 have already received a one-year extension. A second year extension would allow these projects the ability to secure funding and move forward with their development within the next year.

Plan Provisions: The plan amendment is reviewed for consistency with applicable Comprehensive Plan policies and the statewide planning goals within this report. No applicable Metro Functional Plan policies affect this decision.

FINDING: Based on the above discussion, the proposed amendment complies with this standard.

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.**
- B. **“Significant” means that the transportation facility would change the functional classification of an existing or planned transportation facility, change the standards implementing a functional classification, allow types of land use, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility, or would reduce the level of service of the facility below the minimum level identified on the Transportation System Plan**
- C. **Per OAR 660-12-0060, Amendments to the Comprehensive Plan or changes to land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.**

The proposed Code language does not allow for any changes in the already approved land use decision, only an extension of that approval. Through the approval process, the approval authority considered the impacts of the development on the transportation facilities. No changes have been made to the Transportation System Plan since 2006, prior to approval of any of the projects affected by the proposed approval extensions.

FINDING: The proposed language does not affect the transportation system and this section is not applicable.

B. APPLICABLE COMPREHENSIVE PLAN POLICIES

The purpose of the Comprehensive Plan is to guide the growth and development of the Sherwood Planning Area consistent with the City policy goals and State goals and guidelines. Each land use decision subject to the proposed amendment must meet the applicable development code criteria, including compatibility with the Comprehensive Plan. Additionally, the extensions criteria do not negatively affect any of the other Comprehensive Plan policies and have addressed the general themes found within the Comprehensive Plan.

FINDING: Based on the above discussion, this section is not applicable.

C. APPLICABLE STATEWIDE PLANNING GOALS

Goal 1 (Citizen Involvement) To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Staff posted notice of the text amendment at five locations throughout the City. Notice of this amendment was published in the local paper two times before the date of this hearing.

FINDING: Staff utilized the public notice requirements of the Code to notify the public of this proposed plan amendment. The City's public notice requirements have been found to comply with Goal 1 and therefore, this proposal meets Goal 1.

Goal 2 (Land Use Planning)

Goal 3 (Agricultural Lands)

Goal 4 (Forest Lands)

Goal 5 (Natural Resources, Scenic and Historic Areas and Open Spaces)

Goal 6 (Air, Water and Land Resources Quality)

Goal 7 (Areas Subject to Natural Hazards)

Goal 8 (Recreational Needs)

FINDING: The Statewide Planning Goals 2-8 do not specifically apply to this proposed plan amendment; however, the proposal does not conflict with the stated goals.

Goal 9 (Economic Development) To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

One of the primary reasons for the proposed file time extension amendment has been a consideration of the recent economic situation. There are many uncertainties that have led applicants and developers to put their projects on hold and not begin construction due to these factors outside of the normal control of the applicants. By extending the qualified approvals, this land use ordinance will have the positive effect of allowing development to proceed when the economy has recovered. This will help avoid the redundancy of a re-application and thus save the applicant time and money.

FINDING: Based on the above discussion, the proposed amendment satisfies the intention of Statewide Planning Goal 9.

Goal 10 (Housing)

Goal 11 (Public Facilities and Services)

Goal 12 (Transportation)

Goal 13 (Energy Conservation)

Goal 14 (Urbanization)

Goal 15 (Willamette River Greenway)

Goal 16 (Estuarine Resources)

Goal 17 (Coastal Shorelands)

Goal 18 (Beaches and Dunes)

Goal 19 (Ocean Resources)

FINDING: The Statewide Planning Goals 10-19 do not specifically apply to this proposed plan amendment; however, the proposal does not conflict with the stated goals.

Staff assessment and recommendation on Plan Amendment:

Based on the discussion, findings of fact and conclusions of law detailed above, staff finds that the proposed plan amendment meets applicable local and state criteria and there are no applicable regional criteria.

Staff recommends the Planning Commission **RECOMMEND APPROVAL** of *PA 10-01 Land Use Approval Time Extension* to the Sherwood City Council.

Exhibits

A – Proposed Development Code amendments to Sections 16.90.020(6), 16.124.010, 16.128.040

B- Email Comment from Scott Mazucca, scott.mazucca@gmail.com

C- Email Comment from Lans Stout, LStout@tmrippey.com

Proposed Code Changes

16.90.020.6 Community Design- Site Plan Review- Time Limits

a. Site plan approvals shall be void after two (2) years unless construction on the site has begun, as determined by the City. The City may extend site plan approvals for an additional period not to exceed one (1) year, upon written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.74.010.

b. A site plan that was approved between January 1, 2007 and December 31, 2009, may receive a second extension of one (1) year. An application for a second extension must demonstrate:

1) The site will likely be developed given the additional time.

2) There has not been a change in circumstances or the applicable regulations or statutes that would necessitate modification of the approval or the conditions of approval since the effective date of the original decision.

3) The development previously approved is not being modified in design, use, or condition of approval.

16.124.010 Subdivisions and Partitions- Final Plats- Generally

1. Time Limits

Within two (2) years after approval of the preliminary plat, a final plat shall be submitted. The subdivider shall submit to the City the original drawings, the cloth, and fifteen (15) prints of the final plat, and all supplementary information required by or pursuant to this Code. Upon approval of the final plat drawing, the applicant may submit the Mylar for final signature.

2. Extensions

After the expiration of the two (2) year period following preliminary plat approval, the plat must be resubmitted for new approval. The City may, upon written request by the applicant, grant a single extension up to one (1) year upon a written finding that the facts upon which approval was based have not changed to an extent sufficient to warrant refiling of the preliminary plat and that no other development approval would be affected.

3. Second Extension

A preliminary plat that was approved between January 1, 2007 and December 31, 2009, may receive a second extension of one (1) year. An application for a second extension must demonstrate:

a. The final plat will likely be submitted given the additional time.

b. There has not been a change in circumstances or the applicable regulations or statutes that would necessitate modification of the decision or conditions of approval since the effective date of the original decision.

c. The preliminary plat previously approved is not being modified in design, use, or condition of approval.

16.128.040 Subdivisions and Partitions- Land Divisions- Filing Requirements

1. Generally

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

2. Extension

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

3. Second Extension

A partition that was granted between January 1, 2007 and December 31, 2009, may receive a second extension of one (1) year. An application for a second extension must demonstrate:

- a. The final plat will likely be submitted given the additional time.
- b There has not been a change in circumstances or the applicable regulations or statutes that would necessitate modification of the decision or conditions of approval since the effective date of the original decision.
- c. The previously-approved partition is not being modified in design, use, or condition of approval.

Michelle Miller

From: Scott Mazzuca [scott.mazzuca@gmail.com]
Sent: Thursday, March 04, 2010 2:27 PM
To: Michelle Miller
Subject: PA 10-01 Land Use Approval Extension

Dear Michelle and Counsel:

My name is Scott Mazzuca and I own 16157 SW 3rd Street which has a preliminary approval. I request that council approve the extension as the market has been frozen for two years, it is nearly impossible to borrow funds for development, and no incentive to finish a project that can't be sold.

I intend to finish the development and a 1 year extension would help immensely.

Sincerely,

Scott Mazzuca
503.313.8303

Exhibit B

Michelle Miller

From: Lans Stout [LStout@tmrippey.com]
Sent: Monday, March 08, 2010 9:41 AM
To: Michelle Miller
Cc: Ron Winslow; Karl Koroch; Gene Mildren
Subject: Site Plan Review Time Limits

Michelle:

Thanks for sending the public notice for the Code amendment which addresses the expiration of Site Plan Review applications. As I understand it, the proposal would allow a party with an approval which was granted between 1-1-07 and 12-31-09 to request approval of a second one-year extension beyond the one-year which the Code currently allows to be granted. Both the first and second extension would require submittal of an application and fee as well as a staff decision to either approve or deny the request.

While this approach does allow some degree of assistance to applicants who due to the recent and current financial climate cannot proceed with their projects, it is not the best solution. A better alternative is to simply grant all of the effected Site Plan Review applications an initial one-year extension, after which the existing Code language, offering an opportunity for an application for approval of a one-year extension would apply.

Under the proposed language, you will undoubtedly receive multiple applications, which will need to be processed and presumably approved at a cost to both the applicants and the City. The benefit of going through this exercise does not outweigh the time and cost requirements.

The City of Tualatin has recently approved the general extension approach, and Tigard is in process with a similar Code amendment. You may find it useful to discuss with staff from those jurisdictions the logic they used and the response from their Councils.

Thanks for the opportunity to comment.
Lans

Exhibit C

Proposed Code Language

16.90.020.6 Community Design- Site Plan Review- Time Limits

Site plan approvals shall be void after two (2) years unless construction on the site has begun, as determined by the City. The City may extend site plan approvals for an additional period not to exceed one (1) year, upon written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.74.010. For site plan approvals granted on or after January 1, 2007 through December 31, 2009, the approval shall be extended until December 31, 2013.

16.124.010 Subdivisions and Partitions- Final Plats- Generally

1. Time Limits

Within two (2) years after approval of the preliminary plat, a final plat shall be submitted. The subdivider shall submit to the City the original drawings, the cloth, and fifteen (15) prints of the final plat, and all supplementary information required by or pursuant to this Code. Upon approval of the final plat drawing, the applicant may submit the mylar for final signature.

2. Extensions

After the expiration of the two (2) year period following preliminary plat approval, the plat must be resubmitted for new approval. The City may, upon written request by the applicant, grant a single extension up to one (1) year upon a written finding that the facts upon which approval was based have not changed to an extent sufficient to warrant refiling of the preliminary plat and that no other development approval would be affected. For preliminary plat approvals granted on or after January 1, 2007 through December 31, 2009, the approval shall be extended until December 31, 2013.

16.128.040 Subdivisions and Partitions- Land Divisions- Filing Requirements

1. Generally

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

2. Extension

After expiration of the twelve (12) months period following partition approval, the partition must be resubmitted for new approval. The City Manager or his/her designee may upon written request by the applicant, grant an extension up to twelve (12) months upon a written finding that the facts have not changed to an extent sufficient to warrant refiling of the partition and that no other development approval would be affected. For partitions granted on or after January 1, 2007 through December 31, 2009, the approval shall be extended until December 31, 2013.

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After expiration of the twelve (12) months period following partition approval, the partition must be resubmitted for new approval. The City Manager or his/her designee may upon written request by the applicant, grant an extension up to twelve (12) months upon a written finding that the facts have not changed to an extent sufficient to warrant refiling of the partition and that no other development approval would be affected. For partitions granted on or after January 1, 2007 through December 31, 2009, the approval shall be extended until December 31, 2012 upon written request and payment of the application fee.

Julia Hajduk

From: Chris Crean [Chris@gov-law.com]
Sent: Tuesday, March 23, 2010 4:10 PM
To: Julia Hajduk
Subject: Legislative procedures

The City is required to hold the record open upon request **only** in a quasi-judicial proceeding:

“197.763 Conduct of local quasi-judicial land use hearings; notice requirements; hearing procedures. The following procedures shall govern the conduct of quasi-judicial land use hearings conducted before a local governing body, planning commission, hearings body or hearings officer on application for a land use decision and shall be incorporated into the comprehensive plan and land use regulations:

* * *

“(6)(a) Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing . . .”

This requirement does not apply to a legislative matter and the Planning Commission may close the record whenever it believes it have enough information to make a reasoned decision.

Let me know if you have any questions.

- Chris

Christopher D. Crean
BEERY ELSNER & HAMMOND, LLP
1750 SW Harbor Way, Suite 380
Portland, OR 97201
t (503) 226 7191 | f (503) 226 2348
www.gov-law.com

This is intended for addressees only. It may contain legally privileged, confidential or exempt information. If you are not the intended addressee, any disclosure, copying, distribution, use of this e-mail is prohibited. Please contact me immediately by return e-mail and delete the message and any attachments.

Code update Process Overview

Purpose: Update Sherwood Zoning and Community Development Code so that it is easy for the public and developers to use and so that it reflects the current rules as well as community values.

Framework: It is assumed there will be no changes to the Comprehensive Plan as part of this update, rather the text is being updated, consistent with the Comprehensive Plan to better reflect current values and needs.

The issues identified to date have been placed into four categories:

Tier I – relatively easy to address. May require some outreach and policy decisions but it is expected these could be reviewed, evaluated and recommendations made within 2-4 months

Tier II – A little more involved. Because of complexity, time required to develop a recommendation is expected to be 4-6 months

Tier III – These are “bigger” issues that require coordination with other boards, agencies and a higher level of policy issues. These are likely to take 4-8 months to develop a solid recommendation.

Tier IV – These are projects in and of themselves and require a significant amount of outreach, evaluation and policy decision. These are expected to take 6-9 months to develop a solid recommendation.

Prioritization: At this time, **no formal prioritization has been made.** It is recommended, to show progress and move the project forward, that Tier I projects be addressed first moving into Tier II-IV. Staff has reviewed the current list of issues and recommends addressing more than one “Tier” at a time depending on the topics being addressed.

Draft List of Code Clean-up Issues

Issue to be addressed	Discussion	Recommended Phase Priority
Tier I (2-4 months to analyze and develop amendments)		
Simple housekeeping updates	These are generally simple fixes to clarify how a standard is applied, fix clerical errors, etc.	1
Complex housekeeping	These are needed to address inconsistencies in the code or code needs to be more clear and policy direction is required to determine what the consistent standard should be.	1
Modification to site plans	The Code is fairly open in regards to the City determining if a project is exempt from site plan review or site plan modification. A site plan modification is processed the same as an original site plan and charged ½ the fee. There needs to be a more objective review process for determining whether a change is not so major that it warrants a new process but substantial enough to trigger an administrative review. There also needs to be clear administrative review criteria.	3
Fences	The current fence standards for corner lots are difficult to explain and very often result in significant amounts of usable yard space not being able to be fenced with a 6 foot fence. The standards for sloped lots needs to be evaluated and made more clear.	2
Public involvement/notice	There has been much discussion about the need to evaluate the current area of mailed notice and how public notice in general is provided. There is also a need to consider whether legislative amendments require more notice than quasi-judicial (larger notice area, more notices, etc)	1
Variances and adjustments	The current process allows for administrative variances but requires a hearing and additional fee if anyone asks for there to be one. This is cumbersome and costly and does not provide for minimum levels of flexibility. It is suggested that we consider a modified process to allow staff to make administrative level adjustments. Clear and objective criteria would need to be developed as well.	2
Application submittal requirements	These regulations need to be updated to reflect current practices (electronic copies for example), necessary number of copies and to remove unnecessary submittal requirements.	1
Tier II (4-6 months to analyze and develop amendments)		
Use classifications	<p>Overall there is a need to ensure that use classifications are consistent among commercial uses, industrial uses and residential uses or clearly designed to be different for specific reasons.</p> <p>There is also a need to review the existing use classifications</p>	2

Issue to be addressed	Discussion	Recommended Phase Priority
	<p>to determine if additions, modifications or deletions are needed.</p> <p>The overall goal would be to create a table where someone could look at a use and see where it was permitted, conditional or not permitted in any commercial zone or industrial zone.</p>	
Design standards for Apartment complexes	The City has design standards for commercial and mixed-use developments and for Townhomes but there are no clear and distinct design standards for apartments.	4
Tier III (4-8 months to analyze and develop amendments)		
Open space requirements	There are inconsistencies in the open space requirements for town homes and multi-family developments (even though a townhome can be within a multi-family development) that needs to be resolved. There is also a need to evaluate if open space should be a requirement for any residential development and, if so, how much.	1
Temporary uses	<p>Council adopted Resolution 2002-021 which established that short term temporary events such as carnivals, festivals, fireworks, etc must comply with specific standards but do not require a TUP. It was indicated in the resolution that staff should prepare and ordinance to implement the provisions of the resolution; however this was not done.</p> <p>The City needs to determine if they continue to support the provisions of the resolution and, if so, modify the development code to reflect that direction.</p>	5
Density clarification	There is also a need to discuss the maximum densities for commercial and mixed use developments and how it is calculated.	5
Minimum lot size clarification	There is a disconnect with the density for several zones and the minimum lot size. This results in confusion on the part of developers over how the minimum and maximum density is to be calculated. Clarification and reconciliation is needed.	5
Tier IV (6-9 months to analyze and develop amendments)		
Temporary signs	<p>We have heard from several business owners along Tualatin Sherwood that the inability to place some temporary signs is hurting their business in an already bad economy.</p> <p>Conversely, we hear from citizens who do not like to see all the temporary signs, especially near major intersections.</p>	5

Issue to be addressed	Discussion	Recommended Phase Priority
	Processing of the temporary sign permits occasionally leads to confusion and frustration because the codes are not clear.	
Tree removal and mitigation standards	<p>We have realized on several recent projects that the mitigation requirements for lots of significant stands of trees may be cost prohibitive. This is expected to be exacerbated with Area 48 and to a lesser extent, Brookman. It is recommended that we evaluate the value of our current standards and determine if alternatives area available that may result in a similar benefit.</p> <p>On the other end of the spectrum, we have heard from some who feel the tree removal standards should be more stringent.</p> <p>Should we be looking more closely at the quality of the tree itself and its value in the ecosystem rather than one size fits all?</p>	5
Capacity Allocation Program (CAP)	Current staff has struggled with the purpose and application of these standards. It is recommended that the City evaluate the original purpose of this program and if it is still warranted to determine if updates to modify, clarify or eliminate are appropriate.	5

Staff action plan:

Based on initial and final priority lists, staff will begin reviewing the identified issues. Multiple staff will be working concurrently and it is anticipated that several issues will be discussed by the Planning Commission at each meeting.

1. For each "issue" staff will prepare a white paper for the PC that includes:
 - a. Description of the issue in greater detail
 - b. initial public feedback received
 - c. Research from other cities, applicable state law, etc
 - d. Initial staff recommendations or options for the PC to consider
2. Staff will review these white papers and discuss with the Commission at a work session
3. Staff will take PC feedback and modify as needed and solicit public/stakeholder feedback
4. PC will hold a public hearing (not legal land use public hearing) to get input and provide final direction/endorsement to put into larger Ordinance to be processed beginning in August.

Staff recommends the following "priority" based on 1.) what will be able to processed the fastest, 2.) grouping issues together in ways that make sense, 3.) focusing on what will provide the most relief for developers going through the review process and 4.) what will benefit the public by ensuring that requirements are clear and development that occurs is done well.

2010

Phase 1: April - June

- Outreach to public, developers and property owners April-June
 - Solicit input into issues, concerns, recommendations
 - Outreach varies based on audience
- Simple housekeeping updates
- Updates to public notice sections
- Application submittal requirements
- Open Space Requirements (*continuing Oct/Dec*)

Phase 2: June-Aug

- Updates to variance and adjustments
- Fences
- Residential Use Classifications (*continuing into Sept/Oct*)
- Industrial Use Classifications (*continuing into Sept/Oct*)
- Open Space Requirements (*continuing to Oct/Dec*)
- Public meetings and outreach on PC endorsed changes up to Aug.

Phase 3: August – October

- Modifications to site plans
- *Continued* Residential Use Classifications
- *Continued* Industrial Use Classifications
- Commercial use Classification consistency (*continuing into Nov/Dec*)
- Open Space Requirements (*may be continuing to Dec*)

Phase 4: October- December

- *Continued* Commercial use Classification consistency (continuing into Nov/Dec)
- Design standards for apartment complexes (continuing into Jan/Feb)
- Temporary uses

Phase 5: 2011 tasks:

Continued Design standards for apartment complexes

Density Clarification

Minimum lot size clarification

Temporary signs

Tree removal and mitigation standards

Capacity Allocation program

Analysis of benefits of addressing specific identified issues

Issues to be addressed	Code clean-up would provide primary benefit for the following						Staff Recommended Priority
	Business owner	Developer	Res Property owner	Customer service	Process	Community in general	
Simple housekeeping updates				X	X		H
Complex housekeeping	X	X	X	X	X		H
Modification to site plans	X	X			X		M
Fences			X	X			M
Public involvement/notice			X				H
Variances and adjustments	X	X	X				M
Application submittal requirements		X					M
Use Classifications				X	X		H
Design standards for Apartment complexes			X			X	L
Open space requirements		X	X			X	H
Temporary uses	X	X					L
Density clarification					X		L
Minimum lot size clarification					X		L
Temporary signs	X					X	L
Tree removal and mitigation standards		X	X				L
Capacity Allocation Program (CAP)	X	X					L

DRAFT

Overview of project

Past	April-May	May-June	Aug-Nov	Dec-Feb	Feb-April	May-July	August-November
Preliminary audit of code and issues	Council work session to review issues and set initial priorities	Finalization of issues and priorities	Package PC endorsed changes into one ordinance for processing		Package PC endorsed changes into one ordinance for processing		Package PC endorsed changes into one ordinance for processing
Feedback from PC	Public outreach on issues and priorities	Initial priority issues review begins	Continue issue review based on priorities	Continue issue review based on priorities	Continue issue review based on priorities	Continue issue review based on priorities	Continue issue review based on priorities
	Simple housekeeping update review begins						

2010 – Tentative schedule

DRAFT

		April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan
	Public Outreach				X (informal)	X (PC)	X (CC)				
	CC work session										
Phase 1	Simple housekeeping updates Division I-IX in sections										
	Complex housekeeping										
	Public involvement/notice										
	Application submittal requirements										
Phase 2	Open space requirements										
	Fences										
	Variances and adjustments										
Phase 3	Use Classifications										
	Modification to site plans										
Phase 4	Design standards for Apartment complexes										
	Temporary uses										
Phase 5	Density clarification										
	Minimum lot size clarification										
	Temporary signs										
	Tree removal and mitigation standards										
	Capacity Allocation Program (CAP)										

X = public meeting

Staff Recommended Action Plan/Priority

Tier	Issue to be addressed	Discussion
Phase 1 - April-June		
I	Simple housekeeping updates Division I-IX in sections	These are generally simple fixes to clarify how a standard is applied, fix clerical errors, etc.
I	Complex housekeeping	These are needed to address inconsistencies in the code or code needs to be more clear and policy direction is required to determine what the consistent standard should be.
I	Public involvement/notice	There has been much discussion about the need to evaluate the current area of mailed notice and how public notice in general is provided. There is also a need to consider whether legislative amendments require more notice than quasi-judicial (larger notice area, more notices, etc)
I	Application submittal requirements	These regulations need to be updated to reflect current practices (electronic copies for example), necessary number of copies and to remove unnecessary submittal requirements.
III	Open space requirements	There are inconsistencies in the open space requirements for town homes and multi-family developments (even though a townhome can be within a multi-family development) that needs to be resolved. There is also a need to evaluate if open space should be a requirement for any residential development and, if so, how much.
Phase 2 - June-Aug		
I	Fences	The current fence standards for corner lots are difficult to explain and very often result in significant amounts of usable yard space not being able to be fenced with a 6 foot fence. The standards for sloped lots needs to be evaluated and made more clear.
I	Variances and adjustments	The current process allows for administrative variances but requires a hearing and additional fee if anyone asks for there to be one. This is cumbersome and costly and does not provide for minimum levels of flexibility. It is suggested that we consider a modified process to allow staff to make administrative level adjustments. Clear and objective criteria would need to be developed as well.
II	Use classifications Residential Industrial	Overall there is a need to ensure that use classifications are consistent among commercial uses, industrial uses and residential uses or clearly designed to be different for specific reasons. There is also a need to review the existing use classifications to determine if additions, modifications or deletions are needed. The overall goal would be to create a table where someone could look at a use and see where it was permitted, conditional or not permitted in any commercial zone or industrial zone.
III	<i>(Continuing)</i> Open space requirements	There are inconsistencies in the open space requirements for town homes and multi-family developments (even though a townhome can be within a multi-family development) that needs to be resolved. There is also a need to evaluate if open space should be a requirement for any residential development and, if so, how much.

Phase 3 - August-October		
I	Modification to site plans	The Code is fairly open in regards to the City determining if a project is exempt from site plan review or site plan modification. A site plan modification is processed the same as an original site plan and charged ½ the fee. There needs to be a more objective review process for determining whether a change is not so major that it warrants a new process but substantial enough to trigger an administrative review. There also needs to be clear administrative review criteria.
II	Use classifications (Continuing) Residential (Continuing) Industrial Commercial	<p>Overall there is a need to ensure that use classifications are consistent among commercial uses, industrial uses and residential uses or clearly designed to be different for specific reasons.</p> <p>There is also a need to review the existing use classifications to determine if additions, modifications or deletions are needed.</p> <p>The overall goal would be to create a table where someone could look at a use and see where it was permitted, conditional or not permitted in any commercial zone or industrial zone.</p>
III	(Continuing) Open space requirements	There are inconsistencies in the open space requirements for town homes and multi-family developments (even though a townhome can be within a multi-family development) that needs to be resolved. There is also a need to evaluate if open space should be a requirement for any residential development and, if so, how much.
Phase 4 - October-December		
III	Temporary uses	<p>Council adopted Resolution 2002-021 which established that short term temporary events such as carnivals, festivals, fireworks, etc must comply with specific standards but do not require a TUP. It was indicated in the resolution that staff should prepare and ordinance to implement the provisions of the resolution; however this was not done.</p> <p>The City needs to determine if they continue to support the provisions of the resolution and, if so, modify the development code to reflect that direction.</p>
II	Design standards for Apartment complexes	The City has design standards for commercial and mixed-use developments and for Townhomes but there are no clear and distinct design standards for apartments.
II	Use classifications (Continuing) Commercial	<p>Overall there is a need to ensure that use classifications are consistent among commercial uses, industrial uses and residential uses or clearly designed to be different for specific reasons.</p> <p>There is also a need to review the existing use classifications to determine if additions, modifications or deletions are needed.</p> <p>The overall goal would be to create a table where someone could look at a use and see where it was permitted, conditional or not permitted in any commercial zone or industrial zone.</p>

Phase 5 - 2011 Tasks		
III	Density clarification	There is also a need to discuss the maximum densities for commercial and mixed use developments and how it is calculated.
III	Minimum lot size clarification	There is a disconnect with the density for several zones and the minimum lot size. This results in confusion on the part of developers over how the minimum and maximum density is to be calculated. Clarification and reconciliation is needed.
IV	Temporary signs	<p>We have heard from several business owners along Tualatin Sherwood that the inability to place some temporary signs is hurting their business in an already bad economy. Conversely, we hear from citizens who do not like to see all the temporary signs, especially near major intersections.</p> <p>Processing of the temporary sign permits occasionally leads to confusion and frustration because the codes are not clear.</p>
IV	Tree removal and mitigation standards	<p>We have realized on several recent projects that the mitigation requirements for lots of significant stands of trees may be cost prohibitive. This is expected to be exacerbated with Area 48 and to a lesser extent, Brookman. It is recommended that we evaluate the value of our current standards and determine if alternatives area available that may result in a similar benefit.</p> <p>On the other end of the spectrum, we have heard from some who feel the tree removal standards should be more stringent.</p> <p>Should we be looking more closely at the quality of the tree itself and its value in the ecosystem rather than one size fits all?</p>
IV	Capacity Allocation Program (CAP)	Current staff has struggled with the purpose and application of these standards. It is recommended that the City evaluate the original purpose of this program and if it is still warranted to determine if updates to modify, clarify or eliminate are appropriate.

Sherwood Development Code Housekeeping update Public Involvement Plan

The Sherwood Development Code Housekeeping update will update the Code so that it is easy for the public and developers to use and so that it reflects the current rules as well as community values. It is assumed there will be no changes to the Comprehensive Plan as part of this update, rather the text is being updated, consistent with the Comprehensive Plan to better reflect current values and needs. The City staff has completed an initial audit of the code to identify minor and major issues that need to be clarified or modified. Because of the breadth of clean-up items identified, the project will prioritize issues and process evaluation and proposed amendments as they are able to be addressed. Different issues will require different levels of public involvement. The purpose of this public involvement plan is to identify minimum project-wide outreach strategies as well as potential targeted strategies based on the issue being evaluated.

Stakeholders – Because this project will evaluate the entire code, the stakeholders ultimately are everyone in the community including:

- Business owners
- Property owners
- Developers
- Residents

In order to ensure stakeholders are aware and involved in the process, the outreach will be multi-pronged:

- Utilize existing boards and commissions (Planning Commission, Parks Board, SURPAC)
- Clubs and organizations (HOA's, Chamber of Commerce, etc)
- Direct mailing to property owners
- Targeted mailing to past developers
- News media (Gazette, The Times, Oregonian)
- Archer articles
- Web site
- Update and maintain an interested parties list
- Mobile "Hot Topics" display board for library lobby or events
- CPO 5 newsletter

The Planning Commission will act as Steering Committee; however there will be elements where the Commission will want recommendations from appropriate stakeholders:

Issues to be addressed	Formal recommendations may be requested on specified issues					
	Chamber of Commerce	Parks Board	SURPAC	BOOTS	HOA's	Other?
Project kick-off	X	X	X	X	X	
Simple housekeeping updates						
Complex housekeeping	X	X	X	X	X	
Modification to site plans						
Fences					X	
Public involvement/notice						
Variances and adjustments						
Application submittal requirements						
Use Classifications	X		X		X	
Design standards for Apartment complexes						
Open space requirements		X				
Temporary uses						
Density clarification						
Minimum lot size clarification						
Temporary signs	X				X	
Tree removal and mitigation standards		X			X	
Capacity Allocation Program (CAP)						

Informal public meetings

As part of work sessions, the Planning Commission may wish to take public input prior to making direction to staff on endorsed language. These meetings would not be legally required they would be to solicit input before the Commission provides direction. Formal and legally required hearings will occur when amendments are being processed for adoption.

Direct mailing to property owners – The City will try to utilize the utility billing mailer to provide initial project kick-off information. Additional direct mailings may be deemed necessary at other stages in the process.

Web site – Link from front page of web site (and Planning Page) with up to date information about the process. Web site to be updated monthly. Ideas for web site include:

- Project schedule
- Summary of work session topics and discussion
- Draft amendments
- Final “endorsed amendments”

Newspaper Articles – Monthly updates in the Sherwood newsletter and Gazette. Press releases to Gazette, Tigard Times and Oregonian at key stages in process such as project kick-off.

Boards and Committees – Monthly e-mail update to the chair and/or staff liaison of City Boards and Committees to share with members.

Interested parties list – Develop and maintain interested parties list. Include monthly updates on project similar to those sent to Boards and Committees.

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.

Agenda Item: Extension for land use approvals

I am: Applicant: Proponent: Opponent: Other

Name: Patofek Huske

Address: 23352 SW Murdock Rd

City/State/Zip: Sherwood, OR 97140

Email Address: pat@nonwood-homes.com

I represent: Myself Other

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

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

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

Agenda Item: Public Hearing 9.a.

I am: Applicant: Proponent: Opponent: Other

Name: Susan Clays

Address: 2224 SW Parkway

City/State/Zip: Sherwood

Email Address: _____

I represent: _____ Myself _____ Other

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3/23/10

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

Agenda Item: 9.A. Public Hearing

I am: Applicant: Proponent: Opponent: Other

Name: Jim Clays

Address: 2224 SW Patton

City/State/Zip: Sherwood OR 97140

Email Address: _____

I represent: Myself Other

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3/23/10

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(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)

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

Agenda Item: Land Use Approval Ext

I am: Applicant: Proponent: Opponent: Other

Name: Scott Mazzuca

Address: 16157 SW 3rd St

City/State/Zip: Sherwood OR

Email Address: Scott.Mazzuca@gmail.com

I represent: Myself Other

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

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

3/13/10

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- 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.

Agenda Item: Community Comments

I am: Applicant: Proponent: Opponent: Other

Name: Jim CLAYS

Address: 2224 SW Parkway

City/State/Zip: Sherwood

Email Address: _____

I represent: Myself Other

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

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

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

Agenda Item: Committee Comments

I am: Applicant: Proponent: Opponent: Other

Name: Susan Clays

Address: _____

City/State/Zip: _____

Email Address: _____

I represent: Myself Other

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

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

exhibit #
Submitted
@ meeting.

Subj: Re: Complete notice list for PA-10-01
Date: 3/23/2010 3:57:48 P.M. Pacific Daylight Time
From: ClausSL@aol.com
To: pessemiert@ci.sherwood.or.us, millerm@ci.sherwood.or.us
CC: hajdukj@ci.sherwood.or.us

Dear Tom-- Please send the complete notice list from March 3, 2010 that you sent out to applicants who received land use approval from 2007-2009. Thank you-- Susan

In a message dated 3/23/2010 2:40:22 P.M. Pacific Daylight Time, pessemiert@ci.sherwood.or.us writes:

Attached is the information that you requested.

2009 is used because it is generally a natural cutoff date rather than one in the future.

There were no projects approved since December.

Tom Pessemier

From: ClausSL@aol.com [mailto:ClausSL@aol.com]
Sent: Monday, March 22, 2010 5:26 PM
To: Michelle Miller
Cc: Julia Hajduk; Tom Pessemier; Julia Hajduk
Subject: Re: Complete list of approved applications that are affected by PA 10-01

Dear All-- my apologies for leaving Tom and Julia off the original email.. I am copying them now.

In a message dated 3/22/2010 2:20:22 P.M. Pacific Daylight Time, ClausSL@aol.com writes:

RE: PA 10-01
Updates to Land Use Approval Time Extension Sections of the Development Code

Dear Michelle--

Could you please look through your records and list all the approved land use decisions that this proposed extension would apply to? I would like to know this before testifying tomorrow. I am sure you already have this list gathered. Please send a copy of that list-- an electronic copy would be fine.

Also, could you please answer why you chose the dates that you have-- including cutting the date off at December 31, 2009? What other land use applications have been approved after December 31, 2009?

Sincerely,

Susan Claus

cc: planning commission members

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Project #	Project Name	Location	File Type	Date of Land Use Approval	Expiration Date	First Extension Date
MLP 07-05	Murdock	Murdock Road	3 lot partition	4/15/2008	4/15/2009	4/15/2010
SP 06-09	Edy Road Townhomes	on SW Edy Road	14 townhomes	5/10/2007	5/10/2009	5/18/2010
MLP 08-01	3rd Street Partition	3rd Street in Old Town on SW Sherwood Blvd. across from	3 lot partition	7/1/2008	7/1/2009	7/1/2010
SUB 07-01	Sherwood Oaks Townhomes	SMS	subdivision/site pla	13-Jul-07	13-Jul-09	7/13/2010
SP 07-01	Comfort Suites Hotel	on Pacific Hwy	Site Plan-Hotel	9/18/2007	9/18/2009	9/18/2010
SP 07-08	Oregon Street Industrial Bldg	Oregon Street	3 bldg.on Oregon S	2/19/2008	2/19/2010	2/19/2011
SP 07-07	Provident Dev. Road	Road off of Oregon Street	road	3/7/2008	3/7/2010	3/7/2011
MLP 09-01	Morris Salade	on SW Washington and Willamette SW Edy Road and SW Copper	3 lot partition	3/31/2009	3/31/2010	3/31/2011
SUB 07-02	Daybreak	Terrace	subdivision/site pla	8-Apr-08	4/8/2010	4/8/2011
SP 08-08	Winslow Site Plan	Galbreath	Indust. Build	4/14/2008	10/14/2010	10/14/2011
SP 08-02	Peterson Old Town Office Bld	on SW Pine and 2nd	Site Plan-mixed use	4/22/2008	4/22/2010	4/22/2011
MLP 09-02	Pride Disposal	on SW Tualatin Sherwood Road	2 lot partition	6/8/2009	6/8/2010	6/8/2011
MLP 09-03	Parkway Plaza	on Pacific HWY	3 lot partition	8/4/2009	8/4/2010	8/4/2011
SUB 07-03	Olivia Grand Townhomes	on Pacific HWY	subdivision/site pla	8/5/2008	8/5/2010	8/5/2011
SP 08-10	Verizon Addition	on Sherwood and Pine	building improvem	8/12/2008	8/12/2010	8/12/2011
SP 08-09	OR WA Lumber	off of Tualatin Sherwood Road	2 industrial buildin	10/14/2008	10/14/2010	10/14/2011
SP 08-12	Olds Business Center Lot 3	Olds and Arrow	Indust. Build	1/16/2009	1/16/2011	1/16/2012
SUB 08-01	Pine Street	Pine street on Snyder Park	subdivision/	2/12/2009	2/12/2011	2/12/2012
SP 08-13	Villa Lucca	on Pacific Hwy	Ind. Living Facility	6/16/2009	6/16/2011	6/16/2012
SP 09-04	Parkway Plaza	on Pacific Hwy	3 bldg. Commercia	8/4/2009	8/4/2011	8/4/2012
SUB 09-01	McFall Subdivision	Pacific HWY	subdivision	10/12/2009	10/12/2011	10/12/2012
SP 07-09	Galbreath Colamette	on Galbreath	Indust. Build	12/24/2007	Expired***	

Received 1st Extension=
Set to expire in 2010
without extension or
Extension Provision
Set to expire in 2010
without Extension
Provision Amendment

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
March 23, 2010

Commission Members Present:

Chair Allen
Jean Lafayette
Matt Nolan
Raina Volkmer
Todd Skelton

Staff:

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

Commission Members Absent: Commissioner Walker, Commissioner Emery

Council Liaison – Mayor Mays

1. **Call to Order/Roll Call** – Chair Allen called the meeting to order. Karen Brown called roll.
2. **Agenda Review** – included the consent agenda and discussion on PA 10-01 Land Use Time Extensions.
3. **Consent Agenda** – Minutes from February 23, 2010. Commissioner Lafayette moved to approve the consent agenda. Chair Allen abstained from vote as he had not been present at that meeting. All others voted to approve and the motion was passed.
4. **Staff Announcements** – Julia Hajduk announced that the Arbor Day celebration is scheduled for April 16, 2010 and that the City has partnered with Disney for the “Give a Day- Get a Day” program and has over 100 volunteers registered to help. The City has also received the Growth Award from the Arbor Day Tree City USA for the first time.

Julia took a moment to recognize Commissioners Skelton and Emery as this meeting will be their final meeting on the Commission. Chair Allan also spoke and thanked both for all of their time and commitment to the commission over many years.

Julia went on to introduce from the audience the two new members that will be joining the Commission: Russell Griffin who has been a member of the Commission in the past and Mike Cary.

Julia informed the Commission that the Cannery PUD has been appealed to the Land Use Board of Appeals (LUBA) and the Brookman Road project appeal may be near resolution.

5. **City Council Comments** – Mayor Mays wanted to reiterate the thanks and gratitude to Commissioner Skelton and Commissioner Emery for their service and contribution to the community.

He went on to say that the Council is moving forward with the Engineering design for the Skate Park. The City is applying for a grant from the State to move forward with the park.

Community Comments – Robert James Claus 22211 SW Pacific Hwy, Sherwood Oregon, spoke about the state of the City’s financial status when he first came to Sherwood and the local improvement districts. He spoke about favorable changes that, based on his opinions, were put into place by former Mayor Walt Hitchcock to help the tax base. Mr. Claus explained that he believes retail, as a rule, is a bad deal tax wise and low income housing is even worse. He stated that he believes the City is drifting backwards away from the positive financial growth and changes Mr. Hitchcock had facilitated. Regarding the proposed project for downtown he stated that based on the appraisals he’s seen it is 12 million that “we” paid 6 million for and are telling Bank of America that it is going to be an appraised value of 33 million. He felt that the Planning Commission had taken a fairly reasonable stand on the Cannery, and that they had taken the time to look at the negative impacts to the City of the proposal and the fundamental tax base of the City. He feels the City will become bankrupt if it continues down the path it is on.

Susan Claus 22211 SW Pacific Hwy, Sherwood, OR began by thanking Chair Allan for all of the work he did with the Planning Commission on the Cannery hearings. She then went on to talk about the basic parts of a land use project and the steps that need to be followed. She believes that those steps need to be more coordinated. As she sees it; with a lot of conditions of approval that come to the Planning Commission there is an assumption that the background work has already been done. She would like to see better language or more informative language in the items brought before the Commission so they know actually what other work has been done, or may still need to be done. Assuming that all of the infrastructure is in place may be questionable in her opinion. She feels that there is no protocol in place for citizens to ask questions to departments or any type of oversight committee in case they don’t agree with decisions that are made.

6. New business – PA 10-0 Land Use Approval Time Extension

Michelle Miller presented the Staff Report and pointed out Exhibit A which spells out the proposed changes to the code that would effect: subdivisions, preliminary plats and site plans. Historically land use decisions have granted 2 years for projects to begin construction with the possibility of one extension for 1 year. During the current economic times, there has been more than one developer that has run out of time, under these guidelines. The proposed code language changes would grant an additional one year time line to begin work. The change would affect approximately 20 land use decisions that have currently been granted within the City. Staff is asking a recommendation of approval to the City Council.

Community Comments - Susan Claus 22211 SW. Pacific Hwy, Sherwood OR would like to request copies of the correspondence, referred to in the staff report, by applicants requesting extensions due to economic conditions. She has also requested from Tom Pessemier the notice list of everyone notified about the proposed change. The McFall

Subdivision will be affected by the decision, but she had not received notice that was sent by staff on March 3rd. She did say it may have been sent to her attorney, but that she had not seen it yet. She would like to ask that the record be left open so the list of who notice was sent to may be made part of the record. She submitted a list into the record of effected projects that she had been given earlier in the day. This was labeled as Exhibit D in the record.

Chair Allan spoke to Mrs. Claus and explained that since this public hearing is Legislative and not Quasi-Judicial the record is not required to be left open upon request. The Commission may hold the record open and will discuss the benefit of leaving it open during their deliberation process.

Robert James Claus 22211 SW Pacific Hwy, Sherwood, OR believes the Commission has a problem with the land use action and legislative action process. He stated that there are two parts to it. One in which the private party is totally responsible and one where the City is responsible. Infrastructure is always the City's obligation. As he sees it the issue here is time and money. In his opinion the City does not move in steps to work through a project, but rather comingle the steps and responsibilities. He urged the Commission before they vote, to review what he referred to several times as the "Bible" from Julia and that it would help explain the process and why he feels this is such a developer unfriendly town and until the Commission realizes that the problem is the staff, and rules and the delays the City will not be able to continue to develop.

Scott Mazzuca 16157 SW Third Street, Sherwood OR explained that he is a property owner in Sherwood and has been a developer here as well. He had completed construction on two "pre-sold" projects just as the market changed in 2008; the sales failed and he has, to the date of this meeting, not been able to sell those properties. He continued by giving more details and examples of the poor economic times and how real estate has been effected. He has other property as well that he would like to develop, but does not see the feasibility at this time. He feels a year extension could make a very big difference to developers and he would suggest perhaps even more than a year extension.

Pat Huske 23352 SW Murdock Road, Sherwood, OR began by thanking the Commission for the extension. Mr. Huske explained that he owns several pieces of property in the Murdock road area that had been identified 4 years ago by Oregon DEQ as containing contaminated soil from the Tannery property. He made the decision to stay and was successful in cleaning the property. During the process he battled with neighbors and the City to re-zone the property so he could afford to continue the cleanup process. Had he been able to move forward with his project sooner he would have been able to compete with the JC Reeves million dollar homes. To reiterate Mr. Mazzuca's sentiments, the economic conditions are terrible for developers. Considering his experience he would like to suggest not only an extension, but a "hardship" provision as well not just in light of the economy, but other issues that could arise for developers.

Commissioner Lafayette asked what the process was in requesting the first extension.

Michelle explained that as the time line draws near the applicant submits a letter requesting an extension and pays a fee of \$150.00. The extension can then be granted if

cause is shown. In her experience with the City, no request has been denied. What is being proposed is the possibility of granting more than one extension.

Commissioner Lafayette spoke with Mr. Huske and Michelle regarding keeping the record open and what could be accomplished by doing so. Mr. Huske's goal would be the addition of "hardship" extension language other than just economic conditions. He would really like to see an attitude from the City and the Commission of how can we help the developer rather than what road blocks can we put in front of them.

Michelle pointed out that if the record is left open, Mr. Huske's approval will expire April 15, 2010.

Seeing no other public testimony cards, Chair Allan closed the public testimony.

Julia wanted to clarify that what is being discussed in this meeting is "proposed" language changes. They have not already been decided and this is the chance to add or change current language.

Michelle gave final staff comments by first responding to Mrs. Claus' request for copies of correspondence that started this process. There will not be any written records available as prior to the notice being sent there had been only phone calls and conversations suggesting this would be valuable. She then went on to say that the excel spreadsheet she had prepared included all of the projects she could find that would be effected by these changes. She had mailed as a courtesy notice, not a required notice to the projects on that list including the Claus' at 22211 SW Pacific Hwy. Additionally as part of the request being sent to City Council she has included the request for an emergency clause which would put any changes into effect immediately rather than the normal 30 day period in an effort to help Mr. Huske's project and his April 15th expiration date.

Conversation ensued between Michelle, the Commissioners and Mayor Mays regarding the timing of getting this to the Council. Commissioner Lafayette also suggested consistency within the language specifying who the decision makers are and to whom an appeal would be given to rather than just referring to "the City".

Deliberation continued regarding approval based on a processed based solution vs. a blanket extension. Commissioner Nolan suggested an automatic extension for any projects approved between January 1, 2007 and December 31, 2009 without requiring extension requests, giving the developers to December 31, 2013. Chair Allen was in favor of the automatic extension approach as well, that would encompass everyone, even those that may not be aware of the process that would need to be followed to receive the extension in a timely manner.

Mr. Huske's suggestion of adding a hardship provision was discussed and it was determined the Commission would like to discuss this option, however they want to get the original issue off to the Council, so they would ask that it be remanded back to them to work on the hardship language.

Chair Allan continued by addressing the process issues that he felt had been raised. Regarding the request for written copies of requests to staff for the need for extensions; he is happy to see the issue scheduled as this is an issue he would have wanted to bring forward anyway and sees the benefit of being proactive given current circumstances. Commissioner Nolan agreed and suggested editing the staff report to remove the word “written” comments to just say comments. With respect to notice, if the blanket approach is taken, notice won’t actually be an issue or worth keeping the record open. With a hearing at Council there will still be an opportunity for additional written comments to be submitted.

Mrs. Claus returned to the microphone and withdrew her request for the record to be left open. If it would adversely affect Mr. Huske’s project she would rather see it moved forward here, and then she will address her issues with the Council.

Chair Allen then suggested that the proposed language be changed to reflect what had originally been suggested during the work session. Exhibit E which was the proposed code language that was added to the record suggesting a blanket extension without fees or requests being required. The other proposed language would be Exhibit F. The findings to Council would also note that if Council should choose to pursue the other language, that applicants would not be required to take action before their land use approval had expired. In addition the Commission would like to include a finding that requests Staff bring a separate action for a hardship clause to be reviewed at a future date.

Commissioner Lafayette suggested that this would be a great opportunity for positive press release and a chance to help citizens become aware of the Planning Commission’s activities. In addition, the Planning Commission felt that notice should go to all of the applicants affected by the decision.

Commissioner Lafayette made a motion to modify the Staff Report on page 1 of 5 to strike the word “written” and the recommendation of approval of Exhibit E. Regarding Exhibit A, if Council chooses to retain the text from this exhibit the recommendation should reflect that they would interpret it as discussed.

Commissioner Nolan seconded the motion. A vote was taken and all present were in favor of the changes.

Commissioner Lafayette made a second motion to recommend approval of the revised PA 10-01 based on the adoption of the Staff Report, findings of fact, public testimony, Staff recommendation, agency comments, applicant comments and code section as revised.

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

Chair Allen moved on to agenda item 9. B, the selection of a Planning Commission member to serve on the Cultural Arts Community Center Steering Committee. Chair Allen suggested that the new Commission member Russell Griffin be appointed as the Planning Commission representative. All members, including Russell (who was in the audience) were in favor of that appointment.

Commission Comments – Chair Allan raised a concern. The agency he works with at the State is currently working on adopting a new energy conservation code that includes changes that may affect some of the design standards in Sherwood, particularly Old Town. Items like glazing and the use of stucco on mass walls. He suggests the people visit the Building Codes web-site to get an idea of what is being discussed.

The next meeting is a work session scheduled for April 13, 2010.

Chair Allen closed the meeting at 8:25 p.m.

End of minutes.