



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, June 1, 1999
7:00 PM**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - May 18, 1999**
- 3. Agenda Review**
- 4. Work Session to discuss the Land Use Application Review Process**
- 5. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the following procedure (Resolution 98-743, adopted June 9, 1998):
 - Staff Report--15 minutes
 - Applicant--30 minutes(to be split, at the discretion of the applicant, between presentation and rebuttal.)
 - Proponents—5 minutes each (applicants may not also speak as proponents.)
 - Opponents—5 minutes each
 - Rebuttal—Balance of applicant time (see above)
 - Close Public Hearing
 - Staff Final Comments—15 minutes
 - Questions of Staff/Discussion by Body—no limit
 - Decision (Note: Written comments are encouraged, and may be submitted prior to the hearing, at the hearing, or when the record is left open, after the hearing for a limited time. There is no limit to the length of written comment that may be submitted)
- A. (Continued from May 18, 1999) PA 99-3 Hearings Officer Plan Text Amendment** to the Community Development Code, Part 3, amending Section 1.202.01 to include a definition for “Hearing Authority” and Zoning Code Chapter 3 to establish a Hearings Officer for the review of Type III decisions which include conditional uses, variances, major site plans (greater than 15,000 sf of building area) and major subdivisions (greater than 3 acres of land area).
- 6. Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
- 7. Other Business**
- 8. Adjourn**

**ITEMS NOT COMPLETED BY 11:00 PM WILL BE CONTINUED
TO THE NEXT REGULARLY SCHEDULED MEETING**

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
June 1, 1999

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:05 PM.

Commission Members present:

Adrian Emery
Sterling Fox (7:07 PM)
Ken Shannon
Angela Weeks
Bill Whiteman

Staff:

Jason Tuck, Associate Planner
Scott Clark, Assistant Planner

Commission Members absent:

Keith Mays

Chairman Whiteman announced that Mayor Hitchcock appointed Jeff Schroeder to the Commission position vacated by Paul Stecher.

2. Minutes of May 18, 1999

Chairman Whiteman asked if there were any additions or corrections to the minutes of May 18, 1999. There were none.

Adrian Emery moved the Planning Commission accept the May 18, 1999 minutes as presented. Seconded by Angela Weeks.

Vote for Passage of Motion: 4-Yes, 0-No, 1-Abstain (Whiteman)

3. Agenda Review

Chairman Whiteman announced the public hearing for Agenda Item 5A, PA 99-3 Hearings Officer Plan Text Amendment would be continued so that the Commission could continue with their work session to discuss this item.

4. Work Session to discuss the Land Use Application Review Process

Chairman Whiteman stated that he and Jim Claus had talked about a concept Mr. Claus would like to propose to the Commission.

Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He noted:

- The City is at the stage where a major decision needs to be made.

- When he moved to Sherwood, a number of years ago, the first thing he found out was that the town was financially bankrupt.
- Local Improvement Districts (LID's) were supposed to stimulate growth in Sherwood. It did not happen and people lost all their property. We gave away property for almost nothing, just to get building started.
- System Development Charges (SDC's) and Traffic Impact Fees (TIF's) were the next attempt.
- Very slowly, Sherwood began to build a financial base. This was a limited base. You cannot take from property owners and think you are building a future. You can only build a "base" to establish a future.
- The City set some policies such as preserving open space, developing a park system and supporting the Tualatin River National Wildlife Refuge.
- He discussed the land his family gave to the Wildlife Refuge, the theater they gave to the City and other land they gave to the City. When the time came, he owned one of the main LID's in the town and he didn't ask to be paid back.
- The citizens, as a group, have paid their fair share. When Jon Bormet came to Sherwood, the City had \$21 million in the bank. Now the City has less than \$13 million, after three years and collecting at least \$3-4 million a year. If you build 350 houses, the City would have received \$3-1/2 million. Nobody seems to know how City got to its current financial state.
- Let's not forget where we came from and let's not forget we took people's property away from them and gave it to developers. Let's not forget we asked people for money to keep this town afloat.
- He has nothing against the Planning, Engineering or Survey Departments. Whether Jason or Scott want to believe this, is their business, but he is a member of the City and he does have an objection to running the City in "red ink". He has seen what happens when a small town runs in "red ink".
- Mr. Moody prepared a budget that talks about 350 units being built in the City this year and another 350 units next year. Where is this going to occur?
- The message he is telling the Commission is that the City's days of bloom are over. We are back to a town that is not broke, but it is not a rich town.
- You have a town that can put in a sidewalk and tell the citizens it is going to cost \$450,000 and then have Mr. Moody say it cost \$700,000. In all actuality, you are looking at \$1.1 million for the sidewalk project.
- We do not even know what our capital projects cost. These are some of the things the Budget Committee is trying to figure out.
- He discussed the Tualatin River National Wildlife Refuge and its budget.
- Let's go back to where we were on a "pay as you go basis" with the operating units like Planning, Engineering and Surveying. The state law allows the City to do this.
- He discussed the Wildlife Haven application and stormwater SDC's.
- He is going to suggest a way for the Planning Commission to stay in control. He would suggest some things to do immediately to change this.

Mr. Claus referenced the proposed Code language for the Hearings Authority and made the following recommendations:

- The list should be by rank – City of Sherwood, City Council, Planning Commission, Landmarks Advisory Board and Hearings Examiner.
- Add, “The City Council shall be elected and all hearing authorities shall either be employed by, or appointed by the City Council.” The Commission asked if Mr. Claus could provide a hard copy of his comments. He said if the Commission likes the concept, he will have an attorney prepare the appropriate language.
- This is a major reverse because they are either appointed or employed by the City Council. It means they are no longer under the jurisdiction of the City Manager.
- Anyone the hearings examiner works for, he is their employee. This means the hearings examiner is like the judge. He serves at the pleasure of the City Council.
- The hearings examiner will get an application, it will be complete, for a set fee they will write the analysis, bring it to the Commission and the Commission places findings on it. It is not a hearings officer. He does the examination of that record for the Commission.
- The hearings examiner would be a practicing, licensed attorney in Oregon. The reason is very simple, they cannot misrepresent the law.

Chairman Whiteman said Mr. Claus’s proposal would remove the hearings officer and places the Commission back to hearing all land use issues. Mr. Claus said this was correct. He identified some of the things he thought the Commission should look at.

- A hearings examiner would cost approximately \$125.00 an hour.
- All a developer wants is to have their application move forward.
- The pre-application conference may be scheduled to provide information to the applicant. There should be a basic fee for the pre-application conference. Participants should include the plans examiner, building department, City Engineer, planning department, public works and the City Manager. A fee of \$500.00 for a full pre-application meeting with staff would not be unreasonable.
- Referencing the application submittal. Such forms, as completed by the applicant shall be returned within ten (10) working days with City of Sherwood Staff comments, from the date of receipt or shall be incomplete and the application set for hearing no more than 45 days. If you are going to charge for this, you have to speed it up. The hearings examiner would be the person to review these applications.
- Referencing Section 3.03.01, within 30 days of the date of initial submission, should be changed to 10 working days. Type I fees would be \$1500.00 and Type II fees would be \$3000.00 and there would be a hearings examiner. For a Type I action, the review of the materials shall be done by the hearings examiner, not his/her designee, without a public hearing. Notice of the decision shall be provided to the applicant. The decision of the hearings examiner shall be set at the next Planning Commission meeting for final review by the Commission. If there is some issue that is a policy decision, it has to rest with the Commission and has to be a public decision. If the Commission cannot make the decision it shall be forwarded to the City Council.
- The hearings examiner would review Type II applications and this would include a public notice. Every place it states City Manager should be Hearings Examiner. The final decision and presentation of the expedited hearings shall be the Planning Commission.

- Variances should be a separate condition from other land use actions. If you are going to allow any variance where it is a change of use, it should be heard under the Type III process. The accessory use would be heard under the Type II process. Now we treat all variances as exceptions. All variances are not the same and there is a very distinguishing difference.
- The Type III process should be a public hearing.
- The Code is weak concerning recordkeeping. The fees should be based on time spent on review, not a flat rate because all application costs are different. The applicant should be refunded any amount that is not used.
- He recommended the fee section be rewritten entirely with his proposal.
- Staff should not engage in code interpretation. This should be brought to the Commission. He read the proposed language for this section.
- He would recommend the conditional use and variance application fee of \$1,500.00. The major site plan and site plan fee would be \$3,000.00. The Type IV fees would have to be at least \$3,000.00. He was not sure this was high enough.

Mr. Tuck explained what the current fees are for Planned Unit Developments. Mr. Claus said the trouble with the current fee schedule is that it places a burden on the small subdivision developer.

Mr. Claus said if the Commission liked his proposal, he would make these changes to the Code language and bring them back for review.

Chairman Whiteman said what Mr. Claus was proposed is certainly different than the concept of a hearings authority. He understood the reason that the Council asked the Commission to look at the hearings authority was to free the Commission for more code review and long term planning. He asked how the hearings examiner and bringing the Commission back into the decision process would complement what the Council is trying to accomplish. Mr. Claus said the Council is doing this because they have been told that the Commission was not doing their job. After the outside consultants were called in, the Council found out that the "broken wheel" was not at the Commission level. His proposal fits entirely with what the Council wants and that is quickly turning around land use applications.

Chairman Whiteman asked if it was reasonable to expect a 10 day turnaround on all applications. Mr. Claus said it was. Chairman Whiteman asked what would happen if the developer does not want to go to the pre-application meeting and take it directly to the hearings examiner, and the application is deemed incomplete. The Commission discussed if there should be a minimum fee of at least \$500.00, without any potential refund, should the plans be deemed incomplete by the hearings examiner.

The Commission discussed the qualifications for a hearings examiner. Mr. Claus said the local APA Chapter could help write the qualifications. The hearings officer would have to be an attorney. The hearings examiner could be a planner with a lot of experience in land use planning. Chairman Whiteman said he would want to make sure that the hiring of the hearings examiner as a contractual employee would not be in conflict with the City Charter.

It was the consensus of the Commission that they would like to see a hard copy of the information Mr. Claus was proposing. Mr. Claus said he would have this available at the next meeting.

Chairman Whiteman referred the Commission to the information in the packet regarding appeals. The current Notice of Appeal the City uses is not as specific as the information in the packets. He would like to see this included in the Code language. Mr. Tuck said this would be called an "on the record" appeal instead of a "de novo" hearing. The Commission agreed this should be reviewed by the Planning Staff.

Chairman Whiteman said the concept Mr. Claus is proposing, in theory, removes the Planning Staff time to evaluate for Code to the land use application. The hearings examiner would do this. It would not do away with the Planning Department, but it does have the potential for a smaller Planning Department. It also leaves the concept of hiring the hearings examiner to the City Council. Sterling Fox said he would like to have the input of the Planning Staff regarding this concept. Chairman Whiteman said if this concept moved forward, he would like to have it publicized in The Times, in addition to the public hearing notice in the Legal Section.

5. Public Hearings

5A. PA 99-3 Hearings Officer Plan Text Amendment

Bill Whiteman moved the Planning Commission continue PA 99-3 Hearings Officer Plan Text Amendment to the June 15, 1999 Regular Commission meeting. Seconded by Adrian Emery.

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

This item will be the last Agenda item under public hearings.

6. Community Comments

There were no comments.

7. Other Business

The Commission agreed that the School District should be made aware of the condition of approval regarding the Woodhaven PUD referencing a road along the property they are considering for purchase. This is the property which is now dedicated as a park.

8. Adjourn

There being no further business to discuss, the meeting was adjourned at 8:45 PM.

Respectfully submitted,

Planning Department