



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, February 17, 1998
7:00 PM - Regular Meeting
7:30 PM - Study Session**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - February 3, 1998**
- 3. Agenda Review**
- 4. Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
- 5. Consent Agenda - No items scheduled.**
- 6. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
 - A. SUB 96-6 Sherwood Crossroads Subdivision:** This application will be continued.
- 7. Other Business**
- 8. Adjourn to Study Session**
 - A. Discussion: Metro Functional Plan -** representatives from Metro will be in attendance.

**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
February 17, 1998

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:00 PM.

Commission Members present:

George Bechtold
Susan Claus
Scott Franklin
Angela Weeks
Bill Whiteman

Staff:

Greg Turner, City Planner
Jason Tuck, Assistant Planner
Sue Engels, Development Director
Roxanne Gibbons, Recording Secretary

Guests:

Mary Weber, Metro
Marian Hull, Metro

2. Minutes of February 3, 1998 Regular Meeting

Chairman Whiteman asked if there were any corrections, additions or deletions to the minutes of February 3, 1998. There were none.

George Bechtold moved the Planning Commission accept the February 3, 1998 Planning Commission minutes as presented. Seconded by Scott Franklin.

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

3. Agenda Review

Chairman Whiteman asked if there were any changes to the Agenda. Greg Turner referred the Commission to a letter from the applicant's representative requesting a continuance for the Sherwood Crossroads Subdivision. The Commission would deal with this item at the appropriate time.

4. Community Comments

Chairman Whiteman called for comments from the audience.

Robert James Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus said he would like to speak about the Metro Functional Plan, Title 3 Water Quality Protection, which is scheduled for a Commission work shop following the regular meeting. He noted:

- There are some extremely serious components of the proposed Title 3, which he believed the Metro Staff is openly misrepresenting.

- He outlined some problems which he felt the Commission should be aware of prior to the work shop session.
- Generally, it had been presumed that the predominant agency in control of zoning, unless you are a “home rule” City, were controlled by the State Enabling Act. If someone had pre-empted your right to do something, then you couldn’t do it, absent specific power from the legislature. He cited the Landom Act.
- If Metro adopts a Code, it is obligatory for the City to follow it, or the City will be fined. The City must pass a law exactly like it or more restrictive. You cannot have something that is less restrictive.
- He was told by Metro Staff that this proposed ordinance would not have a dramatic impact. He asked Metro for a copy of the documents. Metro is showing riparian corridors on the map that they are going to try and tell the property owners they have to be 200 feet from.
- He received a copy of the package and Metro alleged it was in the hands of all of the elected officials and Staff. After talking to several Staff and elected officials, no one seemed to know about this proposed Metro ordinance. There is a letter from Metro which states copies of the ordinance were sent to all elected officials and Staff.
- Metro told him they are doing this because they have to implement Title 6 and Title 7 and Title 3 is the way to do this. Title 3 states that property owners cannot build in their corridors on the streams, within 200 feet on each side. This amounts to an acre for every 200 feet you go.
- Title 3 is not talking about small pieces of land. Title 3 is talking about destroying a number of properties.
- If a developer sues over Title 3, they are going to sue the City and the City will have to go against Metro and ask to be held harmless. The City is going to pay.
- sThere are no provisions in the ordinance for indemnification.
- Sherwood has no floods. Mark Turpel of Metro said Sherwood does have flooding and he made reference to the Onion Flats. The onion flats are outside the Urban Growth Boundary.
- Metro is not paying any attention the Corps of Engineers or the FEMA maps.
- Sherwood has done more for cleaning up the streams than any other jurisdiction. He referenced the Tualatin River National Wildlife Refuge.
- Metro has said this ordinance is not retroactive; that is not the case, it is retroactive. For homes that fall into the non-conforming statute, owners will not be able to update or modernize, they can only be maintained. If you are 200 feet from that floodplain, you can’t improve it. The statute states you can’t.
- The proposed code is sloppily written. It is not consistent.
- Under this proposal, you cannot get a variance unless all economic value is destroyed.
- According to Metro, there are approximately 232,670 acres inside the UGB. There are 53,450 acres vacant and unimproved in the UGB and 37,000 acres are considered buildable. Based on this ordinance, there is going to be no impact. Metro is using information from 1994. This data is fixed and it is fixed because Metro has an agenda to steal public property, force the City’s to litigate it and watch on the sidelines. This is more of no growth, I will not pay, Oregon planning.
- This is a public relations campaign to use Tualatin’s lack of planning to punish Sherwood.

- The City should ask Metro’s legal counsel to put it in writing that this ordinance is not retroactive, that it has no impact on existing structures or land, and that it will not violate mitigation standards.
- The City should receive some kind of credit for the Herculean job that has been done in this town.
- Unless Metro is willing to indemnify and hold this City harmless, in writing, from a “takings provision,” he would see what could be done under a compliance agreement to make Metro responsible for State law violations.
- The City has 18 months to comply with this proposed ordinance. The City Planning Department should notice every citizen in town that is going to be impacted by this ordinance.

In response to Chairman Whiteman’s question, Mr. Claus made reference to several areas of the Draft Title 3 Water Quality and Flood Management Conservation dated 12-30-97. He noted:

- Section 2 Applicability. This ordinance applies to new developments and re-developments in the water quality and flood management overlay.
- When does the right vest in a development. This has never been litigated in Oregon.
- The ordinance defines a development as anything that moves over 10 cubic yards of dirt.
- The ordinance states:
 - The overlay zone restricts the primary uses that are allowed in the base zone by right with limitations or as conditional uses. They tell you right here it is zoning.
 - This development does not apply to emergency procedures necessary to protect existing development, including emergency maintenance, repairs and replacement of existing structures, exterior improvements, roads and utilities.
 - This ordinance does not apply to any development applications already deemed complete as of the effective date of the ordinance. See ordinance 227.178, subsection 3 and 221.428(3).
- This is a “takings”. Make sure that the retroactive “takings” absolutely do not apply in any way to modification expansion.
- He referenced the section regarding “variances”. Unless you have lost all economic use of the land, you can’t develop it. What is the definition of “economically viable use”.
- The maps Metro is using are not correct. The maps show at least two streams that have subdivisions in them.
- There are no mitigation credits for water quality and cleaning up the streams going into the Tualatin River under this proposed ordinance. Sherwood took a proactive step to protect water quality. Sherwood should be the model for Title 3, but we are not getting this recognition from Metro.
- These documents need to be read very carefully.

Jack Polans, 16000 SW Queen Victoria Place, King City, Oregon 97224, addressed the Commission. Mr. Polans asked if he could direct a question to Mr. Claus. He asked if the taking of the so-called land from Cedar Creek is similar to Fanno Creek in Tigard and Metro’s

harbor system. Mr. Claus said this was a different set of regulations. This is flood plain and wetlands.

There were no further community comments.

5. Consent Agenda

There were no items scheduled.

6. Public Hearings

6A. SUB 96-6 Sherwood Crossroads Subdivision

Mr. Turner referred the Commission to a letter dated February 17, 1998 from the applicant's representative requesting that the application be continued indefinitely. The letter referenced the 120-day deadline to March 31, 1998. Chairman Whiteman recommended that any motion should include the indefinite continuance of the 120-day deadline.

Susan Claus moved the Planning Commission continue SUB 96-6 Sherwood Crossroads Subdivision indefinitely and the 120-day deadline be continued indefinitely. Seconded by George Bechtold.

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

7. Other Business

Chairman Whiteman asked about the status for filling the vacant Commission positions. Staff responded some applications have been received, but they are not aware of any deadline for making selections.

Chairman Whiteman asked if a sign could be placed outside the Masonic Hall to identify when a meeting is being held. Staff will take care of this request.

There being no further business to discuss, the meeting was adjourned at 7:50 PM.

The Commission went into a study session to review the Metro Functional Plan.

Respectfully submitted,

Planning Department