



**City of Sherwood
PLANNING COMMISSION
855 N. Sherwood Blvd
Tuesday, November 18, 1997
7:00 PM**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - November 4, 1997**
- 3. Agenda Review**
- 4. Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
- 5. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
 - A. PA 97-8 Plan Text Amendments:** (cont'd from Nov 4, 1997) Streamlining the planning process including provisions for expedited land divisions and limited land use decisions.
 - B. PA 97-9 Plan Text Amendments** to the Development Code, Part 3, Sections 2.110 and 2.111 to remove and add certain uses in the Light Industrial (LI) and General Industrial (GI) zoning districts.
 - C. PA 97-10 Plan Text Amendment** to the Development Code, Part 3, to add a new Office Retail (OR) zoning district.
- 6. Other Business**
- 7. 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
November 18, 1997

1. Call to Order/Roll Call

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

Commission Members present:

Allen Baker
George Bechtold
Susan Claus (7:10 PM)
Scott Franklin
Angela Weeks
Bill Whiteman

Staff:

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

2. Minutes of November 4, 1997 Regular Meeting

Chairman Whiteman asked if there were any corrections, additions or deletions to the minutes of November 4, 1997. Angela Weeks asked that page 4 of the minutes be corrected identifying Chairman Whiteman as voting no on the motion. She had been identified as voting both yes and no. There were no further comments.

**Bill Whiteman moved the Planning Commission accept the November 4, 1997
Planning Commission minutes as corrected. Seconded by Allen Baker.**

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

3. Agenda Review

There were no changes to the Agenda as presented.

4. Community Comments

Chairman Whiteman called for comments from the audience.

Tom Aufenthie, 15674 Highpointe Drive, Sherwood, Oregon 97140, addressed the Commission. Mr. Aufenthie said he attended the last meeting where the Commission made a decision on the Act III Theaters Site Plan. He asked for clarification on this decision and whether the approval was contingent upon the City working with ODOT and Washington County to come to an agreement regarding access. He also referenced the fact that some citizens were planning to appeal this decision to the City Council. Chairman Whiteman advised Mr. Aufenthie that the Act III Theaters Site Plan was approved, subject to the applicant, not the City, coming to an agreement with ODOT and Washington County regarding the access issues. The site plan approval is based on the applicant being able to meet the conditions of approval in the Decision Notice adopted by the Planning Commission. Mr. Baker stated that the City will be responsible for placing the proposed loop road into the Transportation Plan. Chairman Whiteman advised that the approval for this site plan is valid for one (1) year, unless the Commission finds in favor

of an extension, which would be based upon a written request from the applicant showing adequate cause for an extension and payment of an extension application fee as per the Development Code. Sue Engels concurred that the applicant would need to meet all of the conditions of approval prior to receiving any building permits. The proper permits must also be received from Washington County and ODOT.

Keith Mays, 23237 Pine Street, Sherwood, Oregon 97140, addressed the Commission. He asked what action the City Council took at the Special November 17, 1997 Council meeting regarding the Act III Theaters Site Plan. Chairman Whiteman advised that the Council did not take any action regarding an appeal of the application.

Neil Kirk, reporter for the Sherwood "Gazette", 24967 SE Highway 224, Boring, Oregon 97009, addressed the Commission. Mr. Kirk said he was before the Commission just for the public record and because the City Council would not meet prior to the publishing deadline for the next issue of the Gazette. He addressed the issue of licensing as an engineer, in particular Mr. Ahmad Qayoumi. He had contacted Ahmad who said he had to talk with the City Manager. He then received a call from the City Manager. Ahmad never called him back. Mr. Kirk said he had to make every effort possible to give Ahmad an opportunity to respond to what he plans to publish. He requested that the City ask Ahmad to contact him at 637-6482 or leave a voice mail. His E-mail address is mjKIRK@spryadt.com. He would like Mr. Qayoumi's viewpoint regarding the issue of the state of Oregon engineering certification. Mr. Bormet is not the person at issue, Ahmad is the person at issue.

5. Public Hearings

Chairman Whiteman read the hearings disclosure statement and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda.

Susan Claus advised she had ex-parte contact with different members of the community regarding PA 97-8 Plan Text Amendments. She did not feel this would affect her decision one way or the other on this application.

Scott Franklin advised he had ex-parte contact with Kevin Curry of the Homebuilders Association. Mr. Curry contacted him and Mr. Franklin's recommendation to him was to bring any comments he had in writing and submit them to the City for the record.

Bill Whiteman said he had ex-parte contact with one individual who he let borrow his planning packet.

There were no further disclosures.

5A. PA 97-8 Plan Text Amendments Streamlining the Planning Process, including

Expedited Land Divisions and Limited Land Use Decisions

Chairman Whiteman opened the public hearing on PA 97-8 Plan Text Amendments and called for the Staff Report. Sue Engels referred the Commission to the Staff Report dated October 7, 1997, a complete copy of which is contained in the Planning Commission's minutes book. She noted the following:

- This plan text amendment would alter the planning process from what it is currently.
- Both the Commission and City Council held a workshop to discuss the details of this proposed amendment. Staff was directed to prepare a text amendment which would implement the items discussed
- The object of streamlining would be to have Staff handle a greater number of the more routine planning land use applications. Currently, Staff makes administrative decisions on administrative variances, lot line adjustments and home occupation permits. Every other land use application comes before the Planning Commission. There are a number of applications which require two hearings, one with the Commission and the second one at the City Council.
- The City is experiencing rapid growth and at times it becomes difficult to meet the state requirements of processing every application within the 120-day deadline.
- In many cases, if the application meets the code, there is nothing further to review.
- State statutes require the City to comply with the "Expedited Land Division" process. Certain land divisions and minor partitions would fall under this category. A developer with an application which meets this criteria has the right to demand this process. The process is handled completely on the local level within a 63-day time period. Any appeals would go to a hearings officer. State statutes require this process to be included in the Development Code.
- Staff recommends that the Type II proposed planning process include site plans, minor land partitions, subdivisions, and temporary uses.
- The Type II process would have two parts; the City process and the Expedited Land Division process.
- The proposed types of planning processes include:
 - Type I - signs, property line adjustments, interpretations of similar uses. Staff review for completeness, City Manager decision and appealed to the Planning Commission.
 - Type II - site plans, minor land partitions, subdivision, temporary uses. Neighborhood development meeting (not a public hearing), Staff decision and appeal to either the City Council or hearings officer (expedited land divisions).
 - Type III - conditional use permits and variances. Planning Commission review at a public hearing, appeal to the City Council at a public hearing, and then appeal to LUBA.
 - Type IV - planned unit developments, plan text amendments, plan map amendments. Planning Commission at a public hearing, City Council at a public hearing and appeals to LUBA.
- Under the Type II process, adjacent property owners would be notified, the notices would be posted throughout the City, but there would be no publication in the newspaper. During the 14 day notice time-frame, written comments could be made to the City. The neighborhood meeting would be held in this time period, at approximately 7 days.

Mr. Bechtold asked how the record would be maintained for the Type II process. Ms. Engels said a tape would be kept of the neighborhood meeting, and Staff would incorporate all comments and questions into the Staff Report. The Staff Report would also include the findings and recommendation by Staff for approval or disapproval. There would be a 14 day appeal period, in lieu of the current 21 day appeal period.

Mr. Baker said the sample Staff provided to the Commission of the proposed Oregon City ordinance referencing the same type of process, identifies the appeal going to the Planning Commission and then to LUBA. Ms. Engels said she was not that familiar with the Oregon City Code. In Sherwood's case, the 63 day time period would only allow an appeal to one board to meet the deadline.

Mr. Baker said the plan amendments that Staff is proposing would not leave very much for the Planning Commission to review. It would seem to make more sense to appeal to the Commission which would allow the City Council time to conduct other business.

Ms. Engels said as the City complies with the Metro Urban Functional Plan and the Metro 2040 Growth Plan, there will be many more conditional use applications. As the City develops there will be more requests for variances and conditional uses. The Planning Commission needs more time to do long range planning. The City Comprehensive Plan and Development Code will need to be updated to conform with the Metro 2040 Growth Plan. The Transportation System Plan (TSP) will also become a part of this process. The City Staff does not have a position specifically devoted to long range planning. The PA 97-8 streamlining process is an attempt to allow the Commission more time to do long range planning.

The Commission asked where Staff would get the time to meet the requirements of the streamlining process. Ms. Engels said Staff is basically already doing the same amount of work as would be required by this process. Ms. Claus said the neighborhood meetings would not have the same scope as the public hearing process.

Ms. Engels said the safeguard in the proposed process would be the Staff Report which would be written. The findings must meet the scrutiny all the way through to LUBA, if necessary. The findings must show that the application meets all of the Code criteria. The opportunity for a public hearing would be there through the appeal process. The Commission asked if the land use application fees, in particular appeal fees, were going to be revised. Ms. Engels responded that this process would be by resolution of the City Council. The Commission could ask the City Council to make certain adjustments to the land use application fees. This could include some type of petition for an appeal. However, people would be more likely to appeal something if the fees were too low. This becomes a very sensitive issue and some appeals probably would not be well thought out.

Ms. Claus said if they are streamlining the process, it is very appropriate to review the fee schedule and make the necessary changes.

For the Type II process, Mr. Baker asked if the Staff report would be completed by the neighborhood meeting. Ms. Engels said the Staff report would be completed following the neighborhood meeting to allow time to incorporate all of the comments from the neighborhood meeting.

Mr. Franklin asked what percentage of the development applications the City receives fall into the Type II process. Ms. Engels said it would be the majority of the applications. Mr. Franklin asked if the majority of the applications coming through would be in the Type II process which the Commission would not see, and the Staff would make the decision, is this the direction the Commission wants to go. Is the Commission comfortable with having the majority of the land use application decisions being made by City Staff. Chairman Whiteman said he was not because one of the things the Commission becomes most involved with is setting conditions of approval. Many of these conditions are established after receiving public input. He also thought that the appeal in the Type II process should be through the Planning Commission. He does not have that much confidence in "a staff", not necessarily the existing City Staff, to do all the things that become community concerns and where the Commission could establish conditions to offset these concerns. The City Council does not deal with land use applications that much.

Mr. Baker asked if the Expedited Land Division process limits the size of the subdivision. Ms. Engels said Staff would need to look at the statute to answer this question.

Ms. Engels concluded her review of the Type III and Type IV proposed processes. The Type IV would be same process currently in use for planned unit developments, plan text and plan map amendments.

Ms. Engels discussed the letter dated October 31, 1997 from ODOT regarding their recommendation on the streamlining process. ODOT is asking for more time to review the Staff report. This would cut into the 120-day time period. Staff does not recommend including ODOT's proposal into the streamlining process.

In conclusion, Ms. Engels said Staff is recommending approval of this streamlining process to the City Council. The Department of Land Conservation and Development received a copy of this proposal and they had no objections.

Chairman Whiteman asked if there was anyone who wished to testify in favor or opposition to PA 97-8 Plan Text Amendments - Streamlining Planning Process.

Keith Mays, 23237 Pine Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Mays said it sounded like there may be a need if there is a certain size of development that meets Code requirements, it should go before the Commission to assure community concerns are being met. This would include some type of appeal process which is fairly straightforward to follow.

Chairman Whiteman asked if there was anyone else who wished to testify. There being no further testimony, Chairman Whiteman closed the public hearing for PA 97-8 Plan Text

Amendments - Streamlining Planning Process, including Expedited Land Divisions and Limited Land Use Applications, for discussion by the Commission.

Mr. Baker asked if Staff could provide the Commission with a copy of the Expedited Land Divisions statute. The Commission discussed what criteria was required to apply for an expedited land division. Staff did not have a copy of the statute available for this meeting.

In response to the Commission's question, Ms. Engels said the proposal did not differentiate in process for residential or commercial applications.

The Commission discussed the Type II process at length. Mr. Baker asked if someone not testifying at the public hearing had the right to appeal. Ms. Engels responded only parties to the application have appeal rights. The appeal would be based only on issues which are a part of the record. She explained in further detail the appeal process for Type II applications. It was not the intent to require attendance at the neighborhood meeting to be a party on appeal. The appeal to the City Council would be a public hearing.

Chairman Whiteman said this application is before the Commission because the Mayor was interested in removing the double hearing process. He asked if the Commission could recommend changing the Type III and IV process to state when the application goes before the City Council it is as an appeal and not a public hearing. Ms. Engels said Staff would need to ask the City Attorney for a legal opinion whether an appeal to the City Council could be held without having a public hearing. Considerable discussion followed on this matter.

Mr. Franklin suggested that plan text amendments should have two public hearings, but one public hearing should be held for planned unit developments.

Susan Claus said the Type IV process is necessary. The Planning Commission has a lot more background in hearing the Type IV land use applications. She was comfortable with the Type IV process as presented.

In response to Chairman Whiteman's question, Ms. Engels said the City Council receives a monthly staff report from the Planning Department identifying the land use applications received identifying whether the application was approved or disapproved.

The Commission agreed there were still too many questions to make a final decision on this application.

George Bechtold moved the Planning Commission continue PA 97-8 Streamlined Planning Process et al to the December 2, 1997 Regular Commission meeting. Seconded by Angela Weeks. The public hearing was closed.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

The following recommendations and/or questions were presented by the Commission regarding PA 97-8:

- Type II process - delete the top line for site plans, minor partitions, subdivisions and temporary uses to the Type III process. Type II minor partitions and subdivisions would remain for the expedited land division process (Mr. Bechtold).
- Further review of the neighborhood meetings and how these meetings would be handled. Information gathering versus a wish list for the developer to open their checkbooks. Who would host the meetings, Staff or the developer.
- Are neighborhood meetings required for the expedited land division process.
- Any penalty if a sign is not posted on the subject property by the applicant. If more wording necessary for this section of the Code.
- Type I process - what are the noticing requirements and time lines.
- Review of the expedited land division statute.
- Scott Franklin will send his questions to Staff.
- Are temporary uses necessary as Type II or can they be placed at the Type I process.
- Clarification regarding the appeal eligibility.

5B. PA 97-9 Plan Text Amendments - Remove and add certain uses in the Light Industrial (LI) and General Industrial (GI) zoning districts.

Susan Claus announced PA 97-9 has to deal with general commercial uses being taken out of the light industrial and general industrial zoning districts. PA 97-10 deals with creating a new Office Retail (OR) zoning district. She has some property along Highway 99W that is general commercial. She said she would not participate in Agenda Item 5C. Also, because there was the full membership of the Commission in attendance, she would not participate in Agenda Item 5B, even though this discussion would be focused on Tualatin-Sherwood Road and she does not have any interest there. She thought there could be an argument that if she had other general commercial uses and the plan text amendment would be removing uses from one district it would benefit her in some way because she has general commercial property. If she had any comments, it would be from the other side of table and not as a Commission member.

The Commission concurred that Ms. Claus would have valuable input on both of these agenda items regardless of her potential conflict of interest on these two items. They asked Ms. Claus to consider participating in the discussion, but abstain from voting on the two plan text amendments. During the discussion, if Ms. Claus felt uncomfortable, she could leave the table. Ms. Claus agreed to participate in the discussion , but not to vote.

Chairman Whiteman opened the public hearing on PA 97-9 Plan Text Amendments and called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated November 18, 1997, a complete copy of which is contained in the Planning Commission's minutes book. He noted the following:

- In January 1997, the Planning Commission met in a work shop and decided there was concern regarding the code allowance of General Commercial (GC) uses not being compatible with some of the industrial uses. On May 20, 1997, the Commission conducted a

public hearing on a proposed amendment to remove the GC uses from the industrial zones and recommended approval to the City Council.

- The City Council rejected the plan text amendment with the suggestion that the matter be studied further with an emphasis on long-range planning for the area. Subsequently, joint work sessions with the Council and Commission were held.
- The GC zone is primarily comprised of uses which are retail, service or office type uses. The Code states that the purpose of the GC zone is to provide for commercial uses which require large parcels or uses which involve products and activities.
- The Code states that the purpose of the industrial zones is to provide for manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial uses are typically large warehouses uses.
- The allowance of all commercial/trade activity in industrial zones leads to a conflict between the uses.
- Staff is recommending revisions to the LI and GI zones to allow only those uses which would be compatible with the intent of the industrial zones. The proposed changes are illustrated in the attachment which is a direct product of the joint workshops that were held with the City Council and the Planning Commission.
- The proposed amendment has been identified by the Commission and Council as a problem area which needs to be corrected. The proposed amendment is in accordance with the intent and purpose of the Development Code.

In conclusion, based upon the findings of fact, Staff recommends approval of the Code amendments to Sections 2.110 and 2.111.

Mr. Baker said adult businesses are currently allowed in the general commercial zone. There was previous discussion about moving this use to an industrial zone or not permitting the use outright. Ms. Engels said the Council and City Attorney are currently reviewing this issue.

Chairman Whiteman asked if there was anyone who wished to testify in favor or opposition to PA 97-9 Plan Text Amendments - Changes to Sections 2.110 and 2.111 to remove and add certain uses in the Light Industrial (LI) and General Industrial (GI) zoning districts.

Clarence Langer, 15585 SW Tualatin-Sherwood Road, Sherwood, Oregon 97140, addressed the Commission. Mr. Langer said he would like to focus on Item K, Special Care Facilities, including but not limited to assisted living facilities under the permitted uses in the General Industrial Zone. He noted:

- He would not like to be in a special care facility which would look out at a general industrial use building, such as Wellons.
- The special care facilities were included in the other zones in 1977 when the initial Comprehensive Plan was developed. There have been a lot of changes since that time.
- These living facilities need to be in a living area, not in an industrial area. They should be located in a residential or retail commercial area. Somewhere where you don't have a lot of large trucks and equipment.

- Special care facilities need to have a designated zone to be in as a permitted use.
- He would recommend special care facilities be allowed in either the High Density Residential (HDR) zone or Retail Commercial (RC) zone.

Ms. Engels said part of the long-range planning would be to allow certain types of uses in the Light Industrial (LI) zone which would be next to a residential area. Examples would be assisted living or a doctor's office. There is language in the Code which requires some buffering of those intense, industrial type uses. It is not the intention to put an assisted care facility next to a "Wellons".

Mr. Tuck said assisted care facilities are currently allowed as a conditional use in the HDR zone.

Chairman Whiteman asked if there was anyone else who wished to testify.

Robert Simon, 712 Main Street, Oregon City, Oregon 97045, addressed the Commission. Mr. Simon said he represented Mr. Langer on other issues, but not this one. Mr. Simon noted:

- He represents the Pacific Anti-Discrimination Advocates (PANDA), an Oregon non-profit corporation.
- He said he would discuss the Fair Housing Act. Because the Commission has a text amendment before them, they have the ability to pass a motion which would direct Staff to bring before the Commission the additional language that Mr. Langer has suggested. The Commission is not limited.
- Once the Commission opens and processes a plan text amendment, the Commission can, as a result of this process, request that Staff brings back to them other additions and changes, particularly, if the process has been noticed. Staff must identify what these changes are and provide Department of Land Conservation and Development (DLCD) with a copy. They would not have to renew the 45 day notice requirement because DLCD has already been put on notice that the City is looking at special care facilities.
- PANDA would like to suggest that under the Fair Housing Act, the City needs to have special care facilities as a permitted use in at least one of the zoning districts.
- He discussed the meaning of "special care facilities" and referenced the City of Edmonds v. The Washington State Buildings Codes Council case. The case was based on Edmonds not allowing, as a permitted use in any zone, any group homes for the disabled in excess of six people. The State also imposed other spacing and licensing requirements.
- The Fair Housing Act protects the disabled. It is only about 10 years old. For the first time, the Supreme Court addressed how zoning and fair housing laws work together.
- The Supreme Court concluded that the City of Edmonds could not preclude these uses. The Court found that Edmonds must have these housing choices for the disabled as permitted uses in a zone.
- The City of Newberg is currently being sued because they do not have it as a permitted use in any zone.
- The law arises from the 1988 amendment to the Fair Housing Act which was originally adopted in 1968 with the objective of integrating housing. The Act was needed to help two classes of people, single mothers with children and families with children and the disabled.

Two changes were added to the Act; one that you may not discriminate based on “familial status”.

- The Congress stated that you must make reasonable accommodations of your rules and policies so that the disabled have an equal amount of opportunity to live in housing of their choosing.
- As the City of Sherwood Code is written today, if someone wants to come to an assisted living or special care facility in the City, just because the residents are disabled, the City is going to make them go through a conditional use process. If you are an HDR user, you can have multi-family dwellings, including boarding houses permitted outright. He cited other examples.
- Does the City of Sherwood want to tell the disabled that they need special licenses to live in the City.
- Assisted living is changing. It is no longer what used to be thought of as nursing homes. The Marriott Corporation, Lutheran Homes, Good Samaritan and Marylhurst are all operating homes called “Aging in Place.” These are apartments with kitchenettes which allow someone to live independently. As these individuals age and become disabled, they are able to contract for additional supportive services. These services include nurse and eat in a common dining room.
- The City needs to have special care facilities as a permitted use in at least one zone to meet the Supreme Court order.
- The Federal Government has the ability to impose its desires upon local jurisdictions. The Supreme Court and lesser courts have agreed to this.
- The Commission could make a motion to ask Staff to provide an amendment to either the RC or HDR zone which would allow special care facilities as a permitted use.
- PANDA’s preference would be to allow assisted care facilities as a permitted use in the HDR zone. However, either zone, Retail Commercial or HDR would be acceptable.
- Another point would be that the assisted care facilities employ and train people, so they should be encouraged.

Mr. Simon said this would be PANDA’s recommendation and he would answer any questions. Under the Fair Housing Act, there was no attempt to educate local governments on what the Act required. Under the ADA, there was a much better attempt to educate as well as a technical compliance manual. There is a third law, the Rehabilitation Act of 1973. Most of the ADA and reasonable accommodation requirement in the Fair Housing Act are derived from the Rehabilitation Act.

Chairman Whiteman asked if there was anyone else who wished to testify regarding PA 97-9 Plan Text Amendments. There being no further testimony, Chairman Whiteman closed the public hearing on PA 97-9 for discussion by the Commission.

Ms. Engels said it was the City Council’s intention that assisted living facilities needed to be permitted as an outright use in one of the zoning districts. The Council is aware of this need and would probably be acceptable to a recommendation from the Commission.

The Commission discussed whether crematoriums should be included with mortuaries and if there would be an issue of medical waste. The Commission also discussed what zoning district the adult entertainment use should be placed in the Code. The Commission suggested the general industrial zone and to remove it from the general commercial zone. Staff will follow-up on the question of whether the adult entertainment use could be limited in any way.

Mr. Tuck said Staff would need to confirm opening up this plan text amendment to other chapters of the Development Code without specific noticing of the particular zoning district. The Commission agreed that the City Council could modify the ordinance from the recommendation of the Commission, if needed.

Allen Baker moved that Staff carry forward a recommendation from the Planning Commission concerning the change of adult entertainment either as an allowable or conditional use in the General Industrial (GI) zone from the General Commercial (GC) zone, unless it can be a prohibited use in all zones. Seconded by George Bechtold.

Vote for Passage of Motion: 5-Yes, 0-No, 1-Abstain (Claus)

Chairman Whiteman asked if the Commission wished to make a motion regarding the assisted care facilities.

Bill Whiteman moved the Planning Commission recommend to the City Council that assisted care facilities be included as a permitted use in the High Density Residential (HDR) zone and as a conditional use in the Retail Commercial (RC) zone. Seconded by Scott Franklin.

Vote for Passage of Motion: 5-Yes, 0-No, 1-Abstain (Claus)

Chairman Whiteman asked if there was a motion concerning PA 97-9 Plan Text Amendments.

George Bechtold moved the Planning Commission recommend to the City Council approval of PA 97-9 Plan Text Amendments to the Development Code, Part 3, Sections 2.110 and 2.111 to remove and add certain uses in the Light Industrial (LI) and General Industrial (GI) zoning districts, based on findings of fact, Staff recommendation, and public testimony. Seconded by Angela Weeks.

Vote for Passage of Motion: 5-Yes, 0-No, 1-Abstain (Claus)

Chairman Whiteman recessed the Commission meeting at 9:45 PM for a break and reconvened the meeting at 9:50 PM.

5C. PA 97-10 Plan Text Amendment - Add a New Office Retail (OR) Zoning District

Chairman Whiteman opened the public hearing on PA 97-10 Plan Text Amendments and called for the Staff Report. Sue Engels referred the Commission to the Staff Report dated November

18, 1997, a complete copy of which is contained in the Planning Commission's minutes book. She noted the following:

- The City is trying to create a zone that would fulfill a mandate from Metro to provide jobs in designated employment areas. A significant employment area in Sherwood is located along Highway 99W.
- The majority of properties located along Highway 99W within the City are zoned commercially.
- The question arose whether the General Commercial zone would satisfy the requirements of the Functional Plan. In addition to the mixed use nature of employment areas, the Functional Plan also states that there shall be no single retail uses over 60,000 square feet within these areas. The proposed zoning district is in compliance with the Functional Plan in that it prohibits retail uses larger than 60,000 square feet of gross leasable area per building or business.
- This plan text amendment is not to change any zoning of particular parcels at this time, but to create the Office Retail zoning district.
- The Office Retail zone will allow an employment focus that provides areas for businesses and professional offices and related uses in locations that are adjacent to housing and supported by an adequate road system.
- The Office Retail zone will also include a mixed use component for multiple family residential apartments, condominiums and townhouses.
- Metro has comments on the proposed zone and has indicated it is in conformance with the Functional Plan.
- The proposed amendment has been identified by the Planning Commission and City Council as a problem area which needs to be corrected.

In conclusion, based on the findings of fact, Staff recommends approval of PA 97-10 Plan Text Amendment creating a new Office Retail (OR) zoning district.

Chairman Whiteman asked if there was anyone who wished to testify either for or against PA 97-10 Plan Text Amendment.

Ryan O'Brien, 233 SE Washington Street, Hillsboro, OR 97123, addressed the Commission. Mr. O'Brien said his firm has been asked by the Smith family, who own property directly west of Smith Farm Estates, to speak on their behalf. He noted:

- The Smith family is very interested commercial building of their property. They have owned the property for a number of years and have had a lot of people looking for residential uses, but everyone wants to build commercial there.
- He thought that the 60,000 square foot minimum, big-box was for an industrial area, not necessarily meant for a commercial area. He thought this was the intent of Metro.
- He referenced Section 2.107.02, Item F, of the proposed amendment, retail trade which provides support to business and professional office uses, including personal sales and services. He suggested this should be amended to read, "Retail trade, sales and service businesses." The requirement that the retail trade provides support to business and

professional offices uses would be very difficult to define. What does this really mean. The intent is to provide for the people in the immediate area.

- It would be very difficult to interpret Section 2.107.02F as it is proposed. There is nothing to define what retail trade is and what kind of retail trade.
- He referenced Section 2.107.06C, no more than four permitted or conditional uses may be established within any single OR zoning district. He was not sure exactly what this means.

Mr. O'Brien said these were his only two comments and he would answer any questions from the Commission.

Chairman Whiteman asked if Staff could respond to Section 2.107.06C. Ms. Engels said she would need to refer this question to the City Planner.

With regard to Section 2.107.02F, Ms. Engels said a business such as a drive-thru restaurant oriented to the highway would not necessarily support business offices in the area. This section could be reworded for clarification.

Chairman Whiteman asked if there was anyone else who wished to testify on PA 97-10 Plan Text Amendments, creating a new Office Retail (OR) zoning district. There being no further testimony, Chairman Whiteman closed the public hearing on PA 97-10 for discussion by the Commission.

The Commission discussed at length how to reword Section 2.107.02F, Permitted Uses in the Office Retail (OR) zone to make it easier to interpret. They discussed the meaning of "personal sales and service." Jason Tuck read the definition of retail trade from the Code, "The sale of goods and products to the consumer, generally for direct consumption and not for resale."

The Commission made the following recommendations regarding PA 97-10 Office Retail Plan Text Amendment:

- Provide a definition for Section 2.107.06C, what is a single Office Retail zoning district.
- Reword the definition of Section 2.107.02A, Permitted Uses, clarifying the definition of clinics of architects, including health clubs and veterinarians.
- Further clarify the definition of Section 2.107.02F. Retail trade that can provide services.
- Reword Section 2.107.02G.
- Totally separate personal sales and services to another definition.

The Commission directed Staff to come back with revised definitions for Section 2.107.02, Permitted Uses, in particular Items F and G, and Section 2.107.06C, to include special criteria explanation for the Office Retail (OR) zoning district.

Angela Weeks moved the Planning Commission continue PA 97-10 Plan Text Amendment creating a new Office Retail (OR) zoning district to the December 2, 1997 Regular Commission meeting. Seconded by Allen Baker.

Vote for Passage of Motion: 5-Yes, 0-No, 1-Abstain (Claus)

6. Other Business

Jason Tuck distributed information regarding Pacific Lumber as follows:

- The site plan was approved on January 4, 1994.
- On January 26, 1994, the City Council approved a request for a sewer connection deferral.
- The Planning Commission denied the request for site plan modification to the facade of the building on October 4, 1994.
- On May 2, 1996, the City sent a letter to Mr. Morse indicating that he needed to connect to the sanitary sewer.

Scott Franklin asked Staff how many times the 120-day rule had been violated. Ms. Engels said to her knowledge, one time. There are several land use applications which have been very close to a violation of the 120-day rule. Mr. Franklin said the Commission is trying to improve the planning process so this rule is not violated, but one violation in 10 years does not seem like a problem.

With regard to relocating the Commission meetings to another site, Ms. Engels said Staff has contacted the Masonic Hall. The City Manager would need to negotiate the appropriate fee for this use. Susan Claus said the other solution would be to get an adequate PA system for the Senior Center. George Bechtold said the Commission takes up more room than the Council and there are more space limitations at the Masonic Hall. Chairman Whiteman said the Mayor had approached him about reducing the Commission from seven to five members.

There being no further business to discuss, the meeting was adjourned at 10:45 PM.

Respectfully submitted,

Planning Department