

COPY

THE CITY COUNCIL OF THE CITY OF SHERWOOD, OREGON

Resolution 2000-869

A resolution approving the settlement agreement in the case of Home Depot USA, Inc., vs. The City of Sherwood

WHEREAS, on March 6, 2000, Home Depot USA, Inc. ("Home Depot") filed a Petition for Writ of Mandamus against the City of Sherwood in the Circuit Court of the State of Oregon for the County of Washington, Case No. C00 0613 CV;

WHEREAS, pursuant to ORS 227.179, upon filing of the Petition for Writ of Mandamus, jurisdiction for all decisions regarding Home Depot's land use applications, including settlement, vested with the Circuit Court;

WHEREAS, on April 24, 2000, the Court ruled that the City had exceeded the statutory time limits of ORS 227.178 for processing land use applications filed by Home Depot;

WHEREAS, the City Council desires to resolve the dispute with Home Depot and enter into a settlement pursuant to a court directive, in the form of a stipulated writ or other appropriate directive from the Court;

NOW, THEREFORE, the City Council of the City of Sherwood resolves that the City may enter into such a settlement with Home Depot, reflecting the following terms placed on the record before the Court on April 25, 2000:

1. Home Depot shall use its best efforts to obtain a second public access driveway to Highway 99W, with right-in, right-out access only, subject to any necessary approvals from the Oregon Department of Transportation and Washington County.
2. Subject to paragraph 1, Home Depot shall maximize, to the extent feasible, the landscaping along the northeast side of the site.
3. Subject to paragraphs 1 and 2, Home Depot shall maximize, to the extent feasible, the number of parking spaces throughout the site.
4. Home Depot may construct a pylon-supported sign near its main entrance; the sign shall be a maximum of 15 feet in height, and the 2 sign faces shall not exceed an area of 70 sq. ft. each.
5. The approved site plan will be the Site Plan dated January 27, 2000, entered as Exhibit A to the settlement transcript before the Circuit Court on April 25, 2000.
6. The design and landscaping of the store shall be that reflected on the elevations dated February 24, 2000, entered as Exhibit B to the settlement transcript of April 25, 2000.

7. The parties will produce a written agreement for presentation to the Court within two weeks, including conditions addressing compliance with ministerial city code standards.

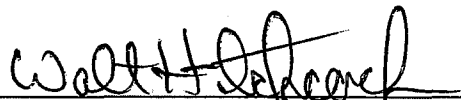
8. Home Depot agrees to waive any right to attorney fees in connection with the issuance of a writ or other directive from the Court, unless a building permit or permits are not issued following Home Depot's application.

9. Judge Letourneau of the Circuit Court retains jurisdiction over the case to resolve disagreements in the documentation of this agreement and over any award of attorneys, fees, subject to the preceding paragraph.

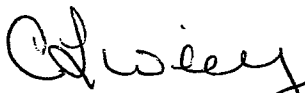
10. The parties agree to issue a joint press release following adoption of this resolution.

11. This resolution is adopted in furtherance of settlement of a matter in the jurisdiction of the Circuit Court under ORS 227.179, which gives the Circuit Court exclusive jurisdiction over Home Depot's land use applications, including any settlement. Therefore, the adoption of this resolution or any subsequent resolution or order in this case is not a land use decision or a limited land use decision, as defined in ORS 197.015.

Duly passed by the City Council this 25th day of April 2000.


Walt Hitchcock, Mayor

ATTEST:


C. L. Wiley, Recorder