

Planning Commission

Agenda

January 3, 1985, 7:30 pm

School District Board Room

- I. Approval of Minutes
September 20, 1984
November 15, 1984

- II. Public Hearing
Amendment to the text of the
Community Development Code,
Chapter 1, Section 3.01.

PLANNING STAFF REPORT

TO: City of Sherwood
Planning Commission
DATE TYPED: December 17, 1984

FROM: Benkendorf & Associates,
Sally Rose, Consulting City Planner
HEARING DATE: January 3, 1985

SUBJECT: Amendment to Text, Community Development Code

I. PROPOSAL DATA

Applicant: This proposed text amendment was initiated by the Sherwood City Council as authorized by Chapter 1, Section 3.01 of the City of Sherwood Community Development Code.

Request: Amend Chapter 1, Section 3 of the City of Sherwood Community Development Code regarding the distinction between Major and Minor Plan Map Amendments.

II. BACKGROUND INFORMATION

In March, 1983 the Sherwood City Council amended the Community Development Code to provide for Major and Minor Plan Map Amendments. A Minor Plan Map Amendment, as defined in Chapter 1, Section 3.01 of the Code, pertains to **"one or part of one lot of record of an area of 4 acres or less..."** Under the provisions of the Code, a Minor Plan Map Amendment can be approved by the Planning Commission after a public hearing. It does **not** require review or approval by the City Council.

It is clear that this language was adopted in order to accommodate speedy approval of small, non-controversial amendments. **However, since the Plan Map was adopted by ordinance, it can only be legally amended by ordinance.** The City Council is the only entity which can adopt an ordinance. Therefore, the present Code language, although expedient, is not legally binding.

As a result, the Council directed the City Manager to prepare an amendment to the Code that will require all amendments to the Plan be accomplished by ordinance.

Enclosed, therefore, is proposed language to amend Chapter 1, Sections 3.02 A4 and B4 and to add a paragraph 5.

III. FINDINGS OF FACT

- A. The proposed amendment is **not** site specific, but rather speaks to a change in the **process** of an amendment to the Plan Map or text.
- B. The proposed amendment will rectify a Code provision which now erroneously allows an amendment without an ordinance.
- C. The error in the present Code language is the result of an oversight. The correction is requested by the City Council.
- D. The proposed amendment is in compliance with the remaining portions of Section 3.00 governing amendments.
- E. The proposed amendment is limited to the amendment process and is consistent with the remainder of the Code.
- F. The needs of economic enterprise are considered by this proposed amendment. Economic enterprises need to be assured that the City's amendment process can be relied upon to facilitate a binding final decision.
- G. This proposed amendment is not site specific. Therefore, the following factors are **not applicable**.
 - o The various characteristics of the areas in the city;
 - o The suitability of the various areas for particular land uses and improvements;
 - o The land uses and improvements in the areas, trends in land improvement;

- o Density of development;
- o Property values;
- o The needs of economic enterprises in the future development of the area;
- o Transportation access;
- o Natural resources and the public need for healthful, safe and aesthetic surroundings and conditions.

IV. REVIEW CRITERIA

Chapter 1, Section 3.03 of the Community Development Code sets forth the criteria for any plan amendment.

V. STAFF RECOMMENDATION AND CONCLUSIONARY FINDINGS

Based upon the Findings of Fact and Conclusionary Findings set forth below, the Staff recommends **approval** of the proposed amendment to Chapter 1, Sections 3.02A 4 and 3.02B 4 and 5 of the City of Sherwood Community Development Code.

- A. The proposed amendment is in conformance to the portions of the text of the Comprehensive Plan not being considered for amendment, particularly, the remainder of Section 3 governing annexations.
- B. The public interest is best served by granting the amendment at this time, because the present language erroneously allows an amendment without an ordinance.
- C. The following factors in ORS 215.055 were consciously considered:
 - o The various characteristics of the areas in the city;
 - o The suitability of the various areas for particular land uses and improvements;
 - o The land uses and improvements in the areas, trends in land improvement;
 - o Density of development;
 - o Property values;
 - o Transportation access;
 - o Natural resources and the public need for healthful, safe and aesthetic surroundings and conditions.

COMMUNITY DEVELOPMENT CODE TEXT AMENDMENT

The present Code language to be deleted is overstricken in parenthesis. The proposed new language is in **bold type**.

3.02A.4 City Council Review. Upon receipt of a report and recommendation from the Planning Commission, the City Council shall conduct a public hearing. **The Council's decision shall include findings as required in Chapter 1, Section 3.03 of the Community Development Code. Approval of the request shall be in the form of an ordinance.**

3.02B.4 The decision of the Planning Commission shall include a determination of whether the action contemplated is a major or minor plan amendment. ~~(and is subject to review according to the procedures described in Section 6.00 of this chapter.)~~ **The decision shall include findings as required in Section 3.03 and shall be forwarded to the City Council.**

3.02B.5 **The City Council shall review the findings and shall act in one of the following manners:**

- a. **Adopt the Planning Commission findings along with an ordinance (as provided in the City Charter) amending the Plan Map.**
- b. **Adopt the Planning Commission findings along with an Order denying the requested amendment.**
- c. **Hold another public hearing after Public Notice provided in Chapter 1, Section 7.00 of the Community Development Code.**

After the public hearing, the Council shall adopt findings as required in Section 3.03 to support the decision. Approval of the request shall be by ordinance. Denial shall be by order.

APPROVED MINUTES

Sherwood Planning Commission
Minutes
January 3, 1985

The meeting of the Sherwood Planning Commission was called to order by Vice President David Crowell at 7:35 p.m. Planning Commission members Mo Turner, Dwight Minthorne, Sally Howard and Cathy Navarra were present. Sally Rose, Consulting Planner of Benkendorf & Assoc. was also present.

Mr. Crowell asked for any corrections to the minutes of September 20, 1984 and November 15, 1984. There being no additions or corrections the minutes stood approved as written.

Mr. Crowell opened the public hearing on the amendment to the text of the Community Development Code, Chapter 1, Section 3.01.

Sally Rose explained that a year or so ago the City undertook an amendment to the code to draw a distinction between minor plan map amendments and major plan map amendments. The major amendments needed a public hearing and the smaller ones did not. The problem with this is that since the plan map was adopted by ordinance the only way it can be changed is by an ordinance. The council has to, by ordinance, change the plan map if there is going to be a change. What is being proposed is that the distinctions between major and minor be kept but that even under a minor plan map amendment there is a process that the council can adopt it by ordinance. Once the council get the findings of the Planning Commission they can either adopt the Planning Commission findings and develop an ordinance amending the Plan Map or, adopt the Planning Commission findings along with an Order denying the requested amendment or, hold another public hearing for whatever reason they so determine. Sally Rose also stated that one other change being made would be in paragraph 3.02 A 4 adding, "The council's decision shall include findings as required in Chapter 1, Section 3.03 of the Community Development Code. Approval of the request shall be in the form of an ordinance."

Ms. Rose stated that the only plan map amendment that has been processed under the old code is that of Dr. Michael Goodman. In February the council will hear that request and make a decision on whether or not to change that property designation.

Mr. Crowell asked if this would affect a subdivision of a piece in a minor partition. Ms. Rose stated that in a minor partition you were only changing the size of the parcels not the use that would be allowed.

Mr. Minthorne asked that if the council decided to hold a public hearing would all the notices have to be again sent out. Ms. Rose stated that was correct, but there would not automatically be a public hearing. The council could approve or deny the Planning Commission findings.

Mr. Minthorne was concerned that if this language was approved would an applicant lose his right of appeal to the council if they rubber stamped what the Planning Commission recommended. If the council has the final decision, who do you appeal that decision to? Discussion was held as to who can make an appeal and how that appeal would be made. Sally Rose stated that the only decision that can be appealed is one that is final. The Planning Commission would only make a recommendation and the council would make the final decision. Ms. Rose suggested the possibility of adding a subsection d regarding an appeal.

Mr. Gene Stewart felt that there was legal opinion that the city code was alright, why has that now changed. If the city council has to pass an ordinance maybe the planning commission should be ignored and everything should be taken directly to the council. Sally Rose stated that she did not know what went on in the past but the city attorney, the council, the city manager and herself have worked on this in the past month. Mr. Mo Turner felt that it had to do with the new City Charter.

Mr. Gene Stewart felt that the City Council gave authority to make those decisions to the Planning Commission. He felt that staff should make a recommendation to the city council, the city council can hold a public hearing and make the final decision. Only one public hearing should be necessary.

Cathy Navarra felt that if the city council has to make the final decision then why do they need the planning commission. Sally Rose advised that there are several decisions that the Planning Commission can make that are final. She further stated that the main objective is to keep it streamlined.

Sally Howard felt that part of their function was to review these things and she felt that they should continue to be a part of the process.

Mr. Stewart felt that there was staff to make the recommendation so why have the Planning Commission and Council make the decision. He did not feel that two stops were necessary.

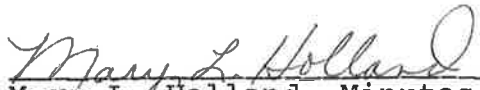
Dave Crowell closed the hearing to the public. There was further discussion as to how insure that an applicant has a right to appeal a decision. Sally Rose felt that there was agreement with the language presented with the addition of language that will allow for a provision for a person to appeal a Planning Commission decision and require that the council hold a public hearing.

Mo Turner made a motion that the Planning Commission present the amendment of Chapter 1, Section 3 of the City Code to the Council with the addition of subsection d which would give a mechanism for citizen appeal. Sally Howard seconded the motion. Motion passed with 4 yes. Cathy Navarra abstained.

Mr. Turner stated that at the last Planning Commission meeting they did not have all the facts and papers that they should have had. Ms. Rose agreed and took some responsibility for that. She stated that there were some facts that she became aware of after everything had gotten under way.

Mr. Gene Stewart asked if the fire district had put the plantings and screening up at the microwave tower. Sally Rose stated that she would check into this and see if she could find the conditional use permit.

Meeting adjourned at 8:55 p.m.



Mary L. Holland, Minutes Secretary