

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 690

AN ORDINANCE ADOPTING FINDINGS WITH RESPECT TO THE APPLICATION OF MORGAN-STALEY LUMBER CO., INC. FOR A PERMIT TO EXCEED THE MAXIMUM HEIGHT LIMITATION APPLICABLE IN THE GENERAL INDUSTRIAL DISTRICT I-1 WITH RESPECT TO A CYCLONE AND SAVING BIN STRUCTURE TO BE LOCATED ON TAX LOT 1100, TAX MAP 2S132AB AT 1050 OREGON STREET, CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON, GRANTING SAID APPLICATION TO EXCEED THE HEIGHT LIMITATION AND FIXING AN EFFECTIVE DATE.

THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1: The City Council finds that the subject property of Morgan-Staley Lumber Co., Inc. is located in the general industrial district I-1 and as such is subject to the following requirement of the Sherwood Zoning Code Section 3.07(4)(e) "Maximum Height of Structures: 45 feet or 3-1/2 stories, whichever is less". The Sherwood Zoning Code, however, further provides pursuant to Section 4.14 as follows:

(1) The height limits established herein shall not apply to chimneys, stacks, water towers, radio or television antennas, towers, windmills, grain elevators, silos, elevator penthouses, monuments, domes, spires, belfries, hangars, unless they are over 100 feet in height.

(2) Approval of the council under the conditional use procedure shall be required for all structures mentioned above that exceed the height limitations for structures in the applicable zone. (Emphasis supplied)

(3) A parapet wall not exceeding four feet in height may be erected above the height limit of the building on which it rests.

Council further finds that while the zoning code requires that an application to exceed the maximum height limitation for structures in the applicable zone be approved or denied pursuant to the conditional use procedure, that the application to exceed the height limitation is less in the nature of a conditional use of the property than it is in the nature of a variance from the building height and setback requirements of use within the zone, whether those uses be primary, permissive uses or conditional uses, and therefore in considering an application to exceed the height standards, the standards not only of the conditional use ordinance, found in sections 6.01 through 6.03 of the City Zoning Code as amended by Ordinance No. 688 adopted December 14, 1977, but also the standards for granting a variance should be of concern in granting an application to exceed the height limitations. The standards for granting variances are to be found in Section 8.02 of the Sherwood City Zoning Code.

Section 2: The Council further finds that pursuant to prescribed procedures the owner of said land has applied to the City of Sherwood pursuant to the conditional use procedure, to exceed the height limitation of 45', to erect a towerlike structure consisting of a

sawdust and shaving cyclone, a shaving bin and a trestle upon which the two foregoing elements are mounted, said structure being a total of 57'5" in height above ground level and being depicted on the diagram attached hereto, marked Exhibit A and by this reference incorporated herein. The Council further finds that said application has been duly reviewed by the Site Review Board and approved and has been reviewed by the City Planning Commission at a public hearing held January 31, 1978, after due and legal notice. The Planning Commission, after said hearing, has by split vote recommended to the City Council approval of the application with conditions. The City Council, after due and legal notice, held a public hearing on said application at 7:30 P.M. in the City Council Chambers at City Hall, at its regular meeting of February 8, 1978, at which time the City Council heard from proponents and opponents of the request to exceed the height limitations of the applicable zone.

Section 3: The City Council finds that the City staff has submitted a staff report dated January 19, 1978, and the City Council adopts as a part of its findings, the statements set forth in paragraph I and II of said Staff Report, a copy of same marked Exhibit B and by this reference incorporated herein. The City further finds that the Planning Commission issued on February 3, 1978, a notice of its decision and recommendation pursuant to its review of the application. The City Council adopts as part of its findings of fact, those findings set forth in paragraph A of the Planning Commission's Notice of Decision, a copy of which is marked Exhibit C, hereto attached and by this reference incorporated herein. As additional findings of relevant facts, the City Council finds as follows:

(a) There has been constructed on the site a building in which the owner has been operating a business wherein it utilizes lumber which has been planed elsewhere. The owner takes this material, resaws it and runs it through molding machines which place a pattern upon the lumber. One of the primary products produced in this operation is tongue and groove flooring. The molding machines and the saws produce a certain amount of sawdust and shavings. The structure which the applicant proposes to erect, a copy of which is depicted on Exhibit A, has as its primary function, the receipt of the sawdust and shavings which are blown to it by a fan through duct work to the top of the tower where they enter into a cone or funnel shaped structure known as the cyclone. After the sawdust and shavings pass through the cyclone, they drop into the shaving bin structure below and when the shaving bin is full, the shavings drop from this bin into trucks and are taken from the site. The function of the cyclone is to separate the shavings and sawdust from the air which was utilized to force the shavings and sawdust through the ductwork to the top of the tower. This separation is accomplished in the cyclone which utilizes the principles of centrifugal force and gravity.

(b) That portion of the structure which exceeds the maximum height limitation of the zone exceeds that limitation by 12.5 feet. The evidence submitted at the hearing supports the finding that this structure could not be lowered sufficiently to bring it within the 45' limitation by lowering a portion of the structure below ground level due to the presence of a high ground-water level. There was further evidence which supports the finding of fact that to lower the cyclone portion of the structure by 12.5' would require one of two less desirable alternatives. First the

shavings could be conveyed from a lower collection bin up to the height of the trucks used to haul the shavings. This would require the installation of another outside conveyor which would increase the amount of noise and result in additional dust and wood particulates escaping into the atmosphere. The other alternative would require reducing the size of the collection portion of the shaving bin to such a small size, that either the haulers could not economically haul the shavings away and if smaller size loads were utilized even though not economical, that would result in a greatly increased number of truck trips to remove the shavings with attendant increased traffic problems.

(c) There was testimony from local residents that the structure was objectionable because the residents did not want to be able to see such a structure from their homes. There also was testimony from other local residents in the immediate area that the presence of such a structure would not be objectionable to them. There was no testimony that the 12'5" portion of this structure above the permitted height limitation would materially impair or despoil the view from any particular property or create any hazard to any particular property or have any adverse effect upon the valuation of any particular property and the Council finds that none of these effects would result from erection of the structure above the 45' limitation provided it does not exceed 57'5".

(d) There was substantial testimony, discussion and argument presented at the public hearing concerning the Department of Environmental Quality noise level standards and whether or not the mechanical aspects of the structure would or would not emit noise in excess of those standards. The Council finds that the structure must meet applicable Department of Environmental Quality and City standards with respect to noise pollution, whether the structure erected is higher or lower than the 45' standard in the applicable zone. The Council further finds that erecting this structure 12'5" above the 45' level will not in and of itself, cause any materially greater adverse effects on the property in the vicinity due to noise. The 12'5" in excess of the height limitation is found to be the minimum amount of height in excess of the limitation required by the applicant in order to properly, safely, efficiently handle its sawdust and shavings in a manner which will not create a public or private nuisance. That any potential adverse effects exceeding the height limitation or surrounding property are in the nature of aesthetic impact only and that aesthetic impact will be substantially and sufficiently ameliorated by the conditions to approval of the request hereinafter imposed.

(e) The request is in conformity with the existing zone, the comprehensive plan and there is a proven need for certain types of structures such as that proposed by the applicant in industrial zones provided that said structures are properly erected and conditions are imposed to assure that neighboring property is not adversely affected. That there is a need for such structures is recognized by the provisions of the Sherwood zoning code particularly Section 4.11 which empowers the City Council to grant exceptions to the height limitations of the applicable zone for structures up to 100' in height. Granting the application will not require installation of any additional public services as all public facilities servicing the proposed site are presently installed or will be and the structure involved will not materially increase the burden on any of said facilities.

(f) There has been demonstrated a public need for the product being manufactured by the applicant. It has been demonstrated that the erection of the cyclone shaving bin and trestle are the safest, least offensive, and most efficient way of handling the waste products from that manufacturing operation and that said structure would have less impact on surrounding properties than other alternative means of handling said waste material.

Section 4: The application of Morgan-Staley Lumber Co., Inc. to construct a 57'⁶/₈" cyclone and storage tower structure as depicted on Exhibit A on the parcel of real property owned by it at 1050 N.E. Oregon Street, Sherwood, Oregon (tax lot 1100, tax map 32AB) is hereby approved subject to the following conditions:

1. The structure shall not exceed 57'⁶/₈" in height and shall be constructed in accordance with the dimensions depicted on Exhibit A.
2. The bin and cyclone shall be painted the same color as the building so as to blend the structure with other improvements on subject property as much as possible. The paint used on said structure shall be of a type and variety so as to minimize as much as possible any reflection or glare from the structure. The paint on said structure shall be kept and maintained in good condition so that the tower will not become unsightly due to the peeling of paint and weathering.
3. The noise level emitted from the mechanical and other aspects of the structure shall not exceed 60 db or the current Department of Environmental Quality standard, whichever is less, when measured at the property line of the noise sensitive property.
4. Insulation or other accoustical, sound absorbing material shall be placed around the blower to reduce the noise produced by the blower as much as practicable. The weight of shavings and sawdust to be blown through the duct material into the cyclone shall not exceed 7 pounds per cubic foot.
5. Before the business license for the operation shall be renewed each year, the plant shall be open to inspection by a City Inspector to assure that only the following shaving producing equipment is being utilized within the plant: 2 moulders, 1 rip saw and 1 resaw.
6. A "hog" shall not be installed or utilized on the premises.
7. The structure shall not be erected until plans consistent with Exhibit A have been submitted to the Building Department, approved and the building permit issued to assure that the structural standards of the City Building Code for such a structure are met.

Section 5⁵: The approval hereby granted shall become effective when the applicant, Morgan-Staley Lumber Co., Inc., files with the City of Sherwood Recorder a written statement in form acceptable to the City that the applicant accepts, approves and agrees to be bound by and to perform each of the foregoing conditions to this approval.

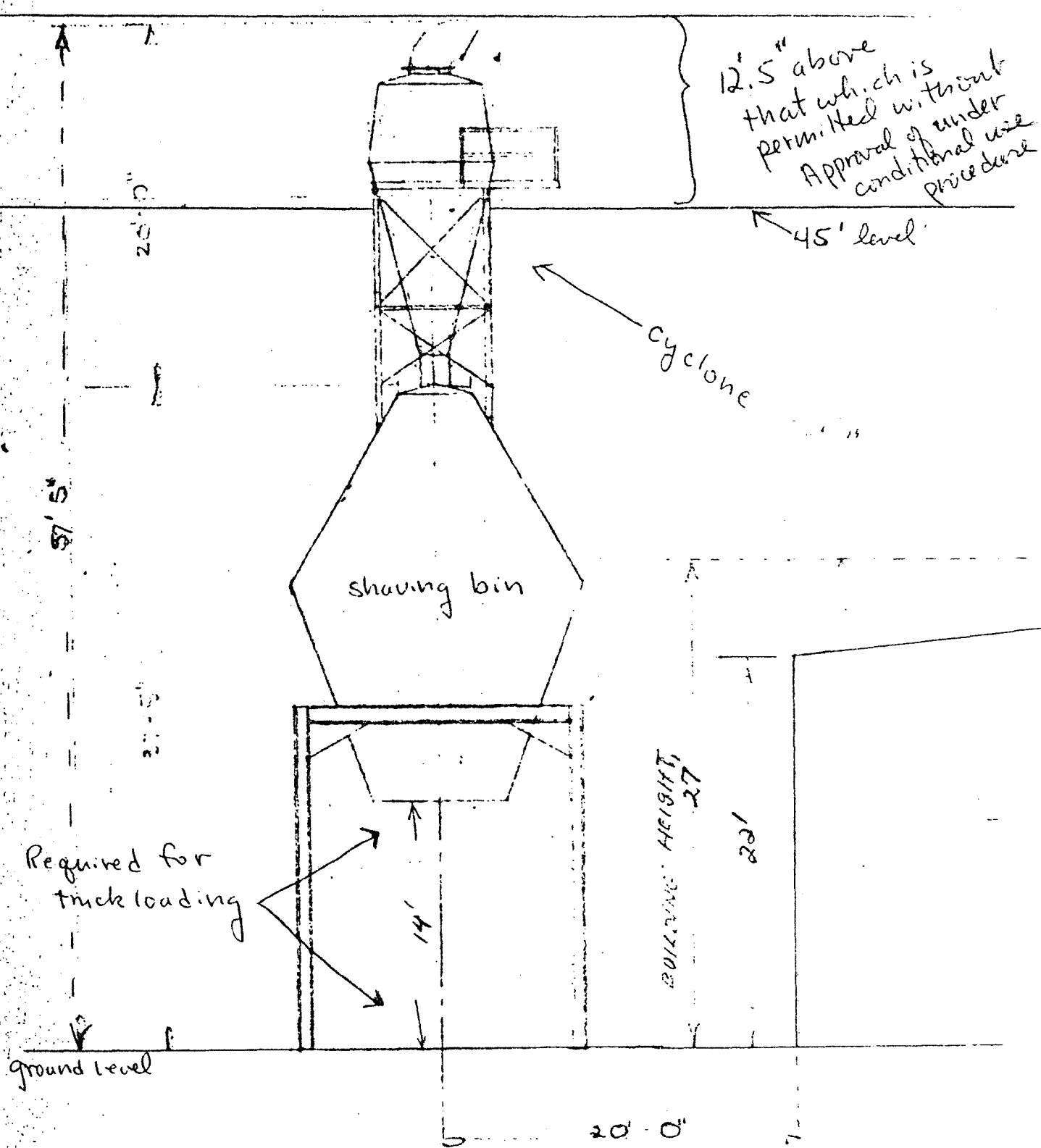
Section ⁶ 5: Inasmuch as it is necessary for the peace, health and safety for the people of the City of Sherwood that the applicant's request be acted upon in the conditions hereinabove set forth, imposed and carried out and inasmuch as the applicant will suffer considerable and economic expense if the effective date of this ordinance is unduly delayed, an emergency is hereby declared to exist and this ordinance shall become effective upon its enactment by the Council and approval by the Mayor.

PASSED: By the Council by Unanimous vote of all Council members present after being read by caption three times this 22 day of February, 1978.

Pally Blankenbaker
Recorder - City of Sherwood

APPROVED: By the Mayor, this 22 day of February, 1978.

Jack O. Harper
Mayor - City of Sherwood



Apparent scale 1" = 8'

Exhibit A

STAFF REPORT

January 19, 1978

SUBJECT: Conditional Use
LOCATION: 1050 N.E. Oregon St.
APPLICANT: Morgan Staley Lumber Co.

I. BASIC FACTS

- A. Present zoning is I-1 (General Industrial)
- B. The lot area is 4.52 acres
- C. The lot contains a recently completed industrial building.
- D. The lot is served by water and sewer.

II. FINDINGS

- A. The applicant seeks permission to erect a 57.5 ft. tower and storage bin at the northeast corner of the existing building.
- B. On April 27, 1976, the Sherwood Planning Commission approved a site plan for the development of the lot which did not include required information on the proposed tower and bin.
- C. City ordinances require that structures exceeding 45 ft. obtain a conditional use permit.
- D. On January 16, 1978, the Site Review Board approved a site plan revision including the tower subject to the approval of a conditional use permit for the structure by the City Council.
- E. The proposed bin, although not indicated on the original site plan, would appear to be required for the conduct of the originally approved use.
- F. The proposed tower and bin would extend between 30-35 ft. above the roof line of the existing building.
- G. A future business-industrial collector has been proposed along the north boundary of the lot. However, no formal action has been taken by the City which would provide a legal basis upon which to require a dedication and/or non-remonstrance agreement from the applicant at this time. A letter dated January 27, 1977 does, however, give the City assurances that the applicant does not oppose the proposed alignment if and when the City is prepared to purchase the required right-of-way.
- H. Noise pollution and air pollution attendant upon the use of the proposed structure and principal use will have to meet Oregon Department of Environmental Quality Standards.

- II. I. Adverse visual effects to adjacent residential uses should be ameliorated by available means.

III. STAFF RECOMMENDATIONS

The staff recommends approval of this application with the following conditions.

1. That the proposed tower and bin as well as the primary use with which it is associated meet applicable DEQ noise and air quality standards.
2. That design features acceptable to City staff, be employed to lessen adverse visual effects caused by the structure.

ATTACHMENTS:

Planning Commission minutes of April 27, 1976
Letter from applicant re: future street.

AVAILABLE FOR REVIEW

Original Site Plan approved April 27, 1976

NOTICE OF DECISION

Date 2/3/78

To:

Morgan-Staley Lumber Co., Inc.
P.O. Box 1637
Lake Oswego, Ore. 97034

The Planning Commission of the City of Sherwood, Oregon decided to recommend approval of your application a conditional use on January 31, 1978. The decision was based on the following major findings of fact:

- A. Required findings:(Art. VI Sec. 6.02(5) Sherwood Zoning Ordinance as amended)
 1. Public services and facilities are adequate
 2. Approval would be in conformity to the Sherwood Zoning Ordinance.
 3. There is a public need for the use in question.
 4. The public need is best served by allowing the proposed use on this site vs. other sites.
 5. Adverse visual and noise effects can and will be taken care of by conditions placed on approval of the request.
 6. Required improvements needed to provide public services to the use have been made.

The following conditions were placed on approval of the application:

- 1) That the proposed tower and bin as well as the primary use with which it is associated meet applicable DEQ noise and air quality standards.
- 2) That design features acceptable to City staff, be employed to lessen adverse visual effects and noise caused by the structure and its attendant use.

X Forwarded to the City Council on 2/3/78

 Report of Final Action

Banner D. Fisher

Title CUSTOMER

Date 9 FEB, 1978