

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 743

AN ORDINANCE ADOPTING AMENDMENTS TO THE TEXT OF THE SHERWOOD COMMUNITY DEVELOPMENT CODE (PART 3 COMPREHENSIVE PLAN) ENACTED BY ORDINANCE NO. 726, WITH RESPECT TO PERMITTING "MANUFACTURED HOUSING" IN COMMUNITY COMMERCIAL DESIGNATED AREAS AS CONDITIONAL USES AND SETTING AN EFFECTIVE DATE

WHEREAS, the Sherwood Comprehensive Plan was enacted by city ordinance No. 726, August 27, 1980, and certain text amendment proceedings have been initiated as PTA-81-03 by applicant Clarence Langer et al.; and

WHEREAS, the Planning Commission heard the matter at public hearing on April 21, 1981, after due and legal notice received the staff report dated April 10, 1981, and made its recommendations to the City Council by notice of decision dated April 24, 1981, which included by reference a copy of applicants' proposals, supporting data, and reasons for the proposed amendments, said Planning Commission decision and proposal of the applicant being attached hereto as Exhibit A, Pages 1 through 9; and

WHEREAS, the City Council after due and legal notice, held a public hearing on the matter and proposed amendments on May 13, 1981 where Exhibit A was received, the staff report marked Exhibit B and attached hereto was received, and testimony of proponents and opponents of the proposals for amendment was received and considered; and

WHEREAS, the council finds that amendments hereafter set forth enable use of planning areas designated community commercial for manufactured housing purposes, subject to conditions such that the land designated by the plan for commercial use can be used to meet interim needs without being so irrevocably committed to residential use as to frustrate the goals and purposes of the plan in designating these lands for commercial uses, and will therefore reduce the pressure to permanently commit these lands for uses other than commercial during the period of time before need and demand will result in the development of the property for commercial uses; and

WHEREAS, the city council after due consideration adopted the findings of the Planning Commission as stated in Exhibit A with respect to each proposed amendment except with respect to the proposed amendment to section 6.07.D.23, with respect to which the council finds that on-site laundry facilities are a reasonable requirement in a mobile home or manufactured housing park and that nearby offsite facilities do not adequately substitute for said requirements;

THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 2, Section 2.09c, subpart 4. of the Sherwood Community Development Code (Part 3, Sherwood Comprehensive Plan) is hereby amended to read as follows:

4. Manufactured housing parks, subject to the provisions of Section 6.07.

Section 2. Chapter 2, Section 2.11c of the Sherwood Community Development Code (Part 3, Sherwood Comprehensive Plan) is hereby amended by adding thereto the following subpart 13:

13. Manufactured housing parks subject to the provisions of section 6.07.

Section 3. Chapter 2, Section 6.07A of the Sherwood Community Development Code (Part 3 Comprehensive Plan) is hereby amended to read as follows:

A. Permitted Locations

Unless otherwise provided herein, upon compliance with applicable regulations and processes, manufactured housing parks shall be permitted only in the medium high density residential district (MDRH) and community commercial (CC) planning designation areas.

Section 4. This ordinance shall be effective on the 30th day after its enactment by the City Council and approval by the mayor.

ENACTED:

By ³⁻¹ majority vote of the council this 24 day of June, 1981, after being read in caption three times.

Polly Blankenbaker, City Recorder

APPROVED:

By the mayor this _____ day of _____, 1981.

Clyde List, Mayor - City of Sherwood

*Mayor refused to sign and vetoed Ord. 743.
Council failed to override veto. pb*



P.O. Box 167
Sherwood, Oregon 97140
625-5522 625-5523

TAX LOT: N/A

CASE NO: PTA-81-03

DATE: 4-24-81

NOTICE OF DECISION

To: Stan Adkins Bob Bouneff City Council
P.O. Box 19436 516 SE Morrison
Portland, Ore. 97219 Portland, Ore. 97214

The Planning Commission of the City of Sherwood, Oregon decided to approve a modified version of your application for plan text amendments on April 21, 1981.

The decision was based on the following major findings: (Refer to applicant proposal).

2.09 C, 4 CDC

The Commission recommended approval based on the finding that the term "manufactured housing" achieves consistency with other portions of the Plan text and is the currently accepted term in the industry.

2.11 C, 13 CDC

The Commission recommended approval based on the attached applicant findings applicable to the CC and MDRH designation areas in the Comprehensive Plan Map.

2.13 C, 5 CDC

The Commission recommended denial based on the findings that:

- a. The location of the OC designated areas on the Plan Map are not suitable for manufactured housing parks.
- b. Only one buildable OC site, not already approved for other uses, meets the minimum site size for manufactured housing parks of 5 acres.
- c. Specific identification of new manufactured housing park areas, if needed, should be made by means of a Plan Map amendment.

6.07 A CDC

The Commission recommended approval of the addition of Community Commercial (CC) areas to the list of areas where manufactured housing parks may be allowed as conditional uses but recommends denial of the same request for Office Commercial (OC) uses based on the findings in items 2.13 C, 5 and 2.11 C, 13 above.

6.07 D 5, a CDC

The Commission recommended denial since no findings were presented by the applicant to support deletion of the 25% ceiling on manufactured housing.

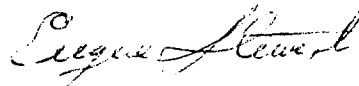
6.07 D, 23 CDC

The Commission recommended deletion of the entire section based on the findings that:

- a. The applicant's request was intended to make a requirement for centralized laundry facilities more flexible.
- b. Most individual manufactured housing units now have complete laundry facilities.

The following conditions were placed on approval of the application:

None



Eugene Stewart
Chairman Planning Commission

STATUS OF PLAN COMPLIANCE REVIEW

 Final Action

 X Additional Required Action

Review Body	Date of Meeting
<u> </u> Planning Commission	_____
<u> X </u> City Council	<u> 5-13-81 </u>
<u> </u> Design Review Board	_____

PROPOSAL

Under the present Comprehensive Plan and Development Code of the City of Sherwood, manufactured housing (mobile homes) parks are permitted only in the Medium High Density Residential (MDRH) Planning Designation Area. The applicant requests that under the conditional use provision of Section 6.07 manufactured housing parks be authorized in office commercial (OC) and community commercial (CC) planning designation areas.

The City of Sherwood has, at present, in its limits approximately 35 acres designated as CC. Within the urban growth limits to the city, and immediately adjacent to the City line, there are approximately an additional 30 acres of CC designated land. This acreage is presently on sewer and water.

Within the urban growth area of the City of Sherwood, the Comprehensive Plan designates approximately 25 acres as OC. In addition to the above commercial designation, there is within the City's urban growth area, 25 acres designated as general commercial (GC).

Therefore, the Plan indicates that there is approximately 115 acres available for commercial development in the urban growth area for the City of Sherwood. A review of the commercial development in the City of Sherwood indicates that approximately 20 acres is presently developed for commercial activity.

The commercial designation of the remainder of the property is obviously appropriate but it is felt that the

development of the remaining property to its highest and best use will be from 5 to 30 years in the future.

Given present costs of maintaining land (based upon assessments for utilities, streets and proposed legislation disallowing any tax relief or tax deferral for farm lands located within urban growth areas), agricultural use of commercially zoned land will not be economically feasible. Obviously allowing the property to lie fallow would invite economic hardship on property owners. Given that state of facts, property owners would be prone to look to develop the property so held for any economic use possible. Since it would appear that the uses allowed in CC and OC are not now readily marketable, land owners will turn upper force to the conditional uses allowed. An examination of the majority of the conditional uses indicate that the type of capital improvement required on the ground would effectively preclude the areas used with the conditional uses presently permitted from any future commercial developments, therefore preventing the City of Sherwood to achieve its goal. The applicant believes that there should be allowed certain conditional uses which would allow the land owner to put the land to economic use which would be of a benefit to the community and yet be of such a conditional use that it would not preclude the development of the area for its intended purpose. In other words, the land owner would be able to maintain the integrity of the Comprehensive Plan and might be able to use interim conditional use bridging the period of time required to hold the

ground until the demand for future development in the area of commercial uses has arrived.

The designation of the manufactured housing parks within the CC and OC areas (as a conditional use), would allow owners to commit the property to an economic use that would be beneficial to the City of Sherwood, supply a need for immediate housing while the City grows and permanent housing is developed yet does not make an irrevocable commitment of the designated areas so that it is precluded from the future commercial development. Such a conditional use would not be in conflict with the Comprehensive Plan in that the conditional uses in both the CC and the OC designated planning areas allows multi-family dwelling which would provide a higher density than a manufactured housing park.

A manufactured housing park would not detract from a CC or an OC planning designation area and allowing the conditional use within the OC and CC areas would meet all of the criteria that must be considered in accordance with ORS 215.055.

At present there is approximately 100 acres designated as medium high density residential (MDRH) which is the only planning designation area in which manufactured housing parks are presently allowed as a conditional use. An examination of the areas designated as the MDRH indicate that there is currently only one parcel that has sewer available and that parcel would have a road entrance requiring a roadway of 800 feet through OC designated property.

PROPOSED AMENDMENT

SHERWOOD COMPREHENSIVE PLAN - PART III

SHERWOOD COMMUNITY DEVELOPMENT CODE, CHAPTER 2

Section 2.09: It is proposed that Section 2.09 and its text concerning medium density residential high planning designation area (MDRH) be amended as follows, with words underlined being added and with words in brackets being deleted:

2.09 MEDIUM DENSITY RESIDENTIAL HIGH PLANNING DESIGNATION AREA (MDRH)

C. Uses Permitted by Conditional Use Permit

In a MDRH designation area the following uses and their accessory uses are permitted as conditional uses when approved in accordance with Section 4.02 of this Chapter.

4. [Mobile Home] Manufactured Housing parks subject to the provisions of Section 6.07.

Section 2.11: It is proposed that Section 2.11 and its text concerning community commercial planning designation area (CC) be amended as follows, with words underlined being added and with words in brackets being deleted:

2.11 COMMUNITY COMMERCIAL PLANNING DESIGNATION AREA (CC)

C. Uses Permitted by Conditional Use Permit

In a CC designation area, the following uses are permitted as conditional uses provided such uses meet the environmental performance standards contained in Section 4.02 of this Chapter and are approved in accordance with Section 6.00 of this Chapter.

13. Manufactured housing parks subject to the provisions of Section 6.07.

Section 2.13: It is proposed that Section 2.13 and its text concerning office commercial planning designation area be amended as follows, with words underlined being added and with words in brackets being deleted:

2.13 OFFICE COMMERCIAL PLANNING DESIGNATION AREA (OC)

C. Uses Permitted by Conditional Use Permit

In an OC designation area, the following uses are permitted as conditional uses provided such uses meet the environmental performance standards contained in Section 4.02 of this Chapter and are approved in accordance with Section 6.00 of this Chapter.

1. Hotels
2. Motels
3. Multifamily Dwellings (3 or more units) only when located on upper floors or behind commercial buildings.
4. Used permitted by Section 2.11 B. and Section 2.11 C in the CC designation area subject to the regulations of the CC designation area.
5. Manufactured housing parks subject to the provisions of Section 6.07.

Section 6.07: It is proposed that Section 6.07 and its text concerning manufactured housing park conditional use standards be amended as follows, with words underlined being added and with words in brackets being deleted:

6.07 MANUFACTURED HOUSING PARK CONDITIONAL USE STANDARDS

A. Permitted Locations

Unless otherwise provided herein, upon compliance with applicable regulations and processes, manufactured

housing parks shall be permitted only in the medium high density residential (MDRH), community commercial (CC) and office commercial (OC) planning designation areas.

6.07 MANUFACTURED HOUSING PARK CONDITIONAL USE STANDARDS

A. Design Standards

5. No building, structure or land within the boundaries of a manufactured housing park shall be used for any purpose except for the uses permitted as follows:
 - a. Manufactured Houses for residential uses only, together with the normal accessory uses such as cabana, patio slab, ramada, carport or garage, and storage and washroom building. [However, at the time of application for a manufactured housing park, the sum of proposed and existing manufactured housing units in the City shall not exceed 25% of the sum of all housing units in the City plus the number of housing units proposed in the application.]
8. Ramadas, cabanas, awnings, carports and other attached structures shall be considered part of the manufactured house for setback purposes.
23. Adequate and properly equipped laundry room facilities shall be made available to the residents of the manufactured housing park. That such facilities may be located in the park confines or may be otherwise available in the near vicinity of the park. Such determination shall be made by the planning commission. Laundry lines shall not be permitted on the manufactured housing space.

STAFF REPORT

April 10, 1981

CITY CASE NO: PTA-81-03

SUBJECT: Amendment to the Text of the Community Development Code to include Manufactured Home Parks as Conditional Uses in the OC (Office Commercial) and CC (Community Commercial) Designation Area (Chapter 2, Sections 2.11C; 2.13C and 6.07A; to Eliminate the 25% Limit on Manufactured Housing Units as a Proportion of all Units (Chapter 2 Section 6.07 D, 5, a) and to Permit Off Site Laundry Facilities as a Substitute for Required On-Site Laundry Facilities Under Prescribed Conditions (Chapter 2, Section 6.07D, 23)

APPLICABLE STANDARDS FOR REVIEW: Chapter 1, Section 3.00 Community Development Code: Procedures and Criteria for the Amendment of the Text of the Comprehensive Plan (see attached required findings)

FINDINGS

1. General Findings

The applicant has submitted a four page proposal outlining the problems leading to the proposed action and findings offered in support of the suggested plan text amendments. The applicants proposal identifies two major problems which it is contended have not been addressed in the Plan.

Problem #1

Outright permitted uses in the OC (Office Commercial) and CC (Community Commercial) designation areas on the Comprehensive Plan Map will not be needed and hence will not be developed for from 5 to 30 years into the future, a fact which places an undue burden on property owners who must bear the land holding costs.

Problem #2

The current plan does not designate an adequate quantity of serviced lands which permit manufactured housing parks.

Applicant Response

Manufactured housing parks should be added to the conditional uses in the OC and CC areas to provide an "interim" use option until market demand is strong enough for commercial uses to justify commercial development. Manufactured housing parks could be developed in such a way that future commercial development is not precluded. The additional land available for interim manufactured housing parks will meet a current unmet public need.

The applicant has also proposed amendments to replace the wording "mobile home" with the term "manufactured housing" in Chapter 2 Section 2.09C; delete the 25% limit on manufactured housing in the City in Chapter 2 Section 6.07D, 5 and permit substitution of off site laundry facilities for on site facilities in a manufactured home park under prescribed conditions in Chapter 2 Section 6.07D. 23. These proposed amendments were not specifically related to the above stated problems nor were supporting findings given in the proposal.

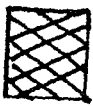
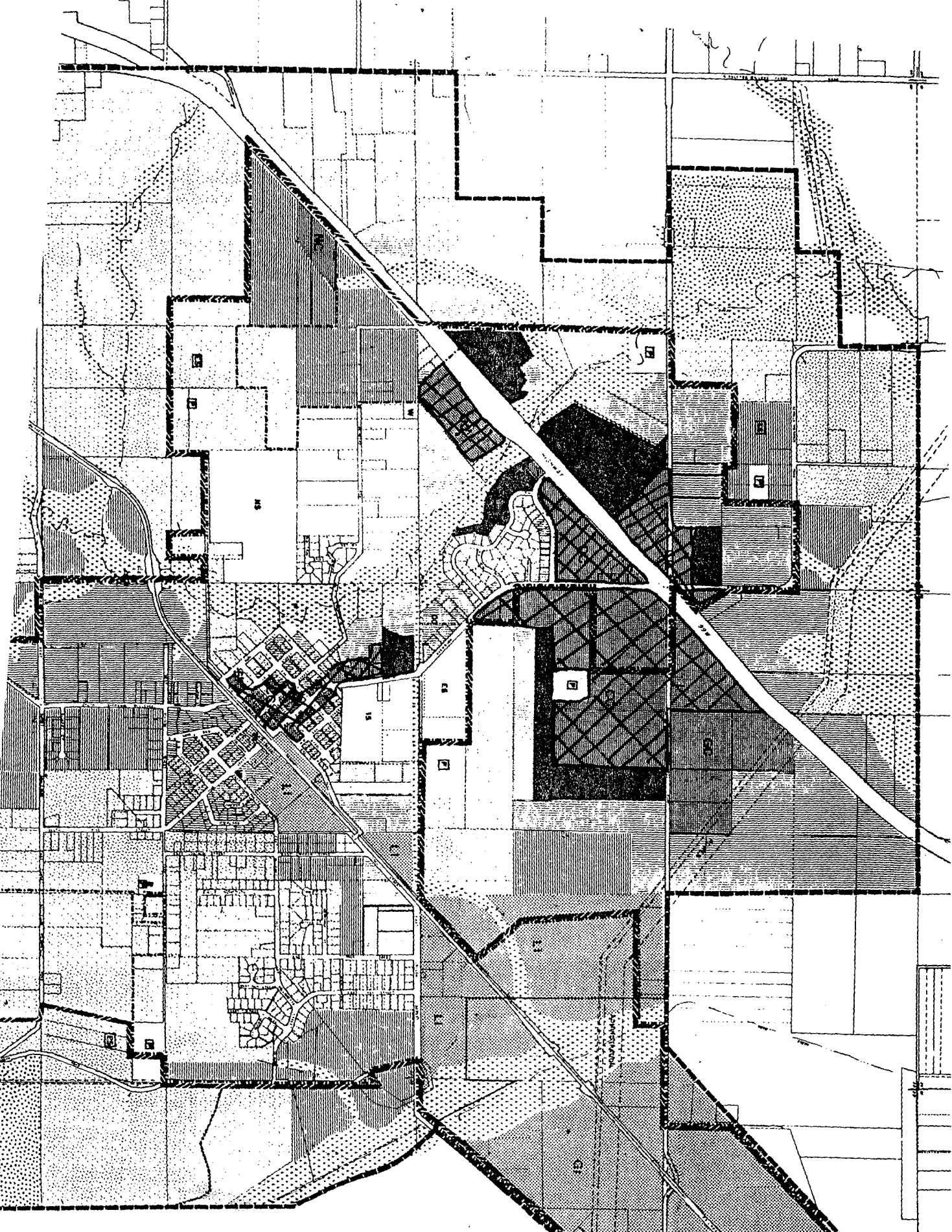
2. Need for Commercial Land

The Comprehensive Plan has allocated the following amounts of OC and CC land within the Planning Area (acres rounded).

	<u>Developed</u>		<u>Buildable</u>		<u>Totals</u>	
	City	Outside	City	Outside	City	Outside
OC	4	0	20	0	24	0
CC	<u>25</u>	<u>6</u>	<u>9</u>	<u>47</u>	<u>35</u>	<u>54</u>
Totals	29	6	29	47	59	54
Grand Totals	34		76		113	

The figures indicate that there are currently 20 acres of OC land and 9 acres of CC land in the City that are buildable. The Plan estimates that this land will meet the Commercial needs of the City through 1985. The leasing of existing retail space in Sherwood Plaza has been slow. An eleven acre office-retail PUD has been approved at Six Corners but a lagging market and slow growth in Sherwood has prevented construction of a first phase. These 29 acres of OC and CC land will most likely exceed the need for land to 1985 if slow growth continues. The applicant is justified in his concern that a market for permitted uses on this OC and CC land is not present and delays of up to five years may be expected before commercial demand will make new commercial development feasible. It should be noted however that the Plan envisions at least a portion of the OC and CC designated areas being developed for conditionally permissible multi-family residential use where these uses can be sited to complement commercial use.

Future urban CC land comprises 47 acres and is concentrated in the area southeast of the existing shopping center. This land is planned for the future Central Business District (CBD) of Sherwood and should be annexed and developed in response to market demand for CC uses consistent with a CBD design plan.



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PLANING

3. Land Holding Costs for Commercial Land

Currently, all of the unincorporated CC designated land is on farm deferral. This means that in the case of the 37 acre CC area planned for the future Central Business District, 1980-81 assessed values are less than \$1,000 per acre. Under State law deferred taxes would not be paid until the land were annexed and developed for nonfarm uses.

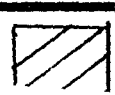
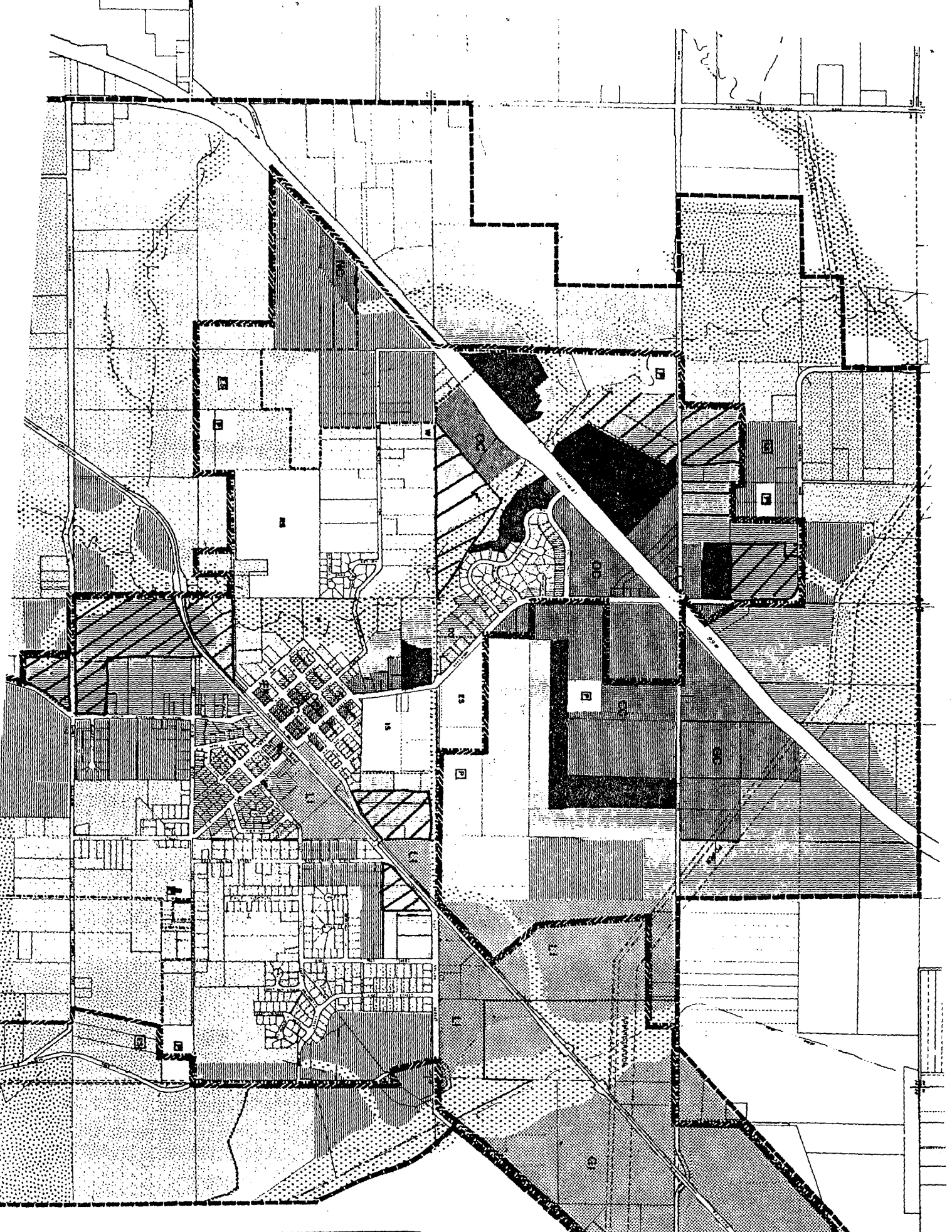
The applicant referred to HB 2227, currently in the House Revenue Committee, which in its original version would lift farm tax deferrals from properties within the Urban Growth Boundary. According to the League of Oregon Cities, the bill is undergoing changes that would limit its direct impact only to properties seeking new farm deferrals while providing incentives to currently deferred properties to convert to urban uses.

Assessments on future urban CC lands in the Rock Creek Sewer LID are approximately \$317 per acre. These costs may be financed on a 20-30 year repayment basis under the Bancroft Bonding Act.

Holding costs on the 11 acre Sherwood Plaza II site is the most significant illustration of the problem identified by the applicant. Many of the uses permitted on this site are currently not marketable.

4. Need for Manufactured Housing Park Land

There are currently approximately 100 buildable acres of potential Manufactured Home Park Land (MDRH) in the City limits. Of those acres there are 9 sites meeting the minimum park site size of 5 acres (see attached map). Of these sites, two have sewer and water service within 500 feet. Another three sites totaling about 35 acres will have sewer service via the Cedar Creek Trunk which will likely be constructed by LID in 1982. Ten parcels of five acres or more are designated MDRH in the future urban area. When additional MDRH is needed it should be annexed. If it is found that presently designated MDRH lands are inadequate to provide for manufactured housing land, it would be appropriate to redesignate other lands for MDRH uses.



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5. Interim Use Concept for Manufactured Housing Parks

Designation of manufactured housing parks as "interim" conditional uses in the OC and CC areas of the City would create a series of potential conflicts between existing and future uses.

- a. It is not feasible for the City to place a time limit on discontinuance of an established use. If the manufactured home parks are necessary to provide affordable housing to Sherwood residents they should be appropriately and permanently sited. To discontinue a use such as this could cause individual hardship and adversely affect the local housing market. Further it is questionable whether the City could require that the interim use be discontinued. The market pressure to convert the interim use to a permanent primary intended use might not exert itself over the planning period, especially in view of the ample land designated for OC and CC uses.
- b. The siting of a manufactured housing park within a CC or OC area would not meet the intent of those designations which is to provide high density concentrations of residential uses in or near commercial areas to support commercial use. The park would be developed at between 8 and 11 units per acre while the intended permanent siting of multifamily residential units would be developed at 11-16 units per acre or more. In addition, the failure to discontinue an interim park use, could mean future land use conflicts and a deterrent to full central business district or office district development consistent with the intent of the Community Development Plan.

6. Availability of Services for Needed Land Use Types

The presence of urban services to property along No. Sherwood Blvd. and the coincident need for land of a particular kind does not in itself suggest that No. Sherwood Blvd. is the place to locate the needed land uses. Care should be taken to allow development consistent with the plan's intent or to amend the plan map to reflect changed conditions. The presence of services to abutting unincorporated land on No. Sherwood Blvd., however, does provide a basis for annexation when a land use consistent with the Plan is needed. The lack of manufactured housing sites with full services is a problem which must be addressed by the City in its capital improvements plan in the case of major system requirements, and by the developer or other benefitted properties in the case of minor off-site service lines.

PTA-81-03

April 10, 1981

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STAFF RECOMMENDATION

Based on the above findings, the staff recommends denial of the request.

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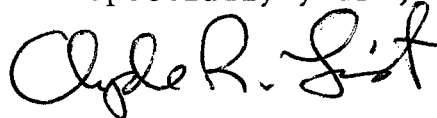
NOTICE: MAYOR TO CITY RECORDER
RE: ORDINANCE 743

Dear City Recorder:

Herein are the reasons I refused to sign Ordinance 743, which was passed by the majority of the Council June 24, 1981.

Pursuant to Chapter VII, Section 122 of the City Charter, you are required to deliver this message to the City Council with the unsigned ordinance at the next City Council meeting.

Respectfully yours,

A handwritten signature in cursive script that reads "Clyde R. List". The signature is written in black ink and is positioned below the typed name.

Clyde R. List
Mayor of Sherwood

ORDINANCE 743 IS AN IRRATIONAL DOCUMENT

The ordinance seeks to rationalize actual economic conditions with certain growth assumptions that were accepted by the City during the drafting of the Comprehensive Plan. The ordinance implies that those of us who spent all those work sessions reviewing the draft Plan were incapable of error. I never made such a claim, nor did anyone else I know.

Ordinance 743, however, refuses to allow for error. If the Plan says certain property shall be zoned Community Commercial, then dammit: "need and demand will result in the development of the property for commercial uses." (my italics). The language of the ordinance is quite earnest about saving the Plan. It wants to guard us from becoming "so irrevocably committed" to certain diversionary uses "as to frustrate the goals and purposes of the plan. . . ."

Those of us who worked on the Plan were much more humble in our expectations. We made sure that the Plan contained a procedure for revising the Plan Map from time to time to harmonize with day to day realities. (Part 2, page IV-24). We

even specified a date--May, 1982--for the first hearings to be held "for the purpose of conducting a comprehensive review of the maps and text" of the Plan. (Book 3, Section 3.04: "Periodic Plan Review.")

It would be sheer folly, of course, to accept the premise Ordinance 743 is based on: that planning decisions made during the nation's most chaotic economic period since the Great Depression should be held to as rigorously as the laws of Moses.

ORDINANCE 743 ALLOWS A ZONE CHANGE TO BE CALLED A CONDITIONAL USE.

It is impossible to understand how a use that is incompatible with the designated use can be called a Conditional Use.

To me a compatible relationship is one that is 1.) permanent, and 2.) mutually beneficial to both parties.*

Ordinance 743, on the other hand, requires 1.) not permanence but transience; 2.) not mutual benefit but mutual exclusion. The only relationship between them is that one use will survive only as long as the other doesn't replace it.

This is not the sort of policy that will show us the way to a stable community.

* The Plan defines a Conditional Use as a "type of land use that, due to its potential adverse effects on other land uses within a planning designation, requires special approval conditioned upon measures to be taken to address those effects. (Book 2, page I-2: "Definitions.")

ORDINANCE 743 WILL INFRINGE ON THE PROPERTY RIGHTS OF OTHER LAND HOLDERS.

The effect of treating a zone change as a conditional use is to allow a property holder to claim two zones at once.

As the proponent himself has pointed out, the current 25% limitation on manufactured housing units will have to be lifted once Ordinance 743 goes into effect. Although his findings were considered inadequate, the implication is that the rights of property holders with mobilhome applications already approved could be infringed upon by holders of Community Commercial property.

Another infringement that wasn't mentioned was the difficulty holders of other property will experience should they attempt to rezone their property to Community Commercial. In theory, a person who wants to open a store could be prevented from doing so by property holders who are using up Community Commercial property for manufactured housing.

ORDINANCE 743 WILL LEAD TO THE DESTRUCTION OF THE COMPREHENSIVE PLAN

If the holder of one zoning designation is to be granted special privileges, holders of other designations will demand the same. The result will be a Plan Map impossible to interpret (because of all the extraneous "conditional

uses" attached to each deseignation), and an zoning ordinance that will not fulfill its intended purpose: to encourage a compatible relationship between neighboring land uses.

ORDINANCE 743 MAY INFRINGE ON THE LIBERTY RIGHTS OF THE PEOPLE.

Although local governments do not routinely become involved in the question of liberty rights, it is this aspect of the ordinance that I find most disturbing.

The ordinance gives the property owner the privilege of reducing the housing stock at such time as economic conditions "will result in the development of the property for commercial uses." There is no question that the City will be called upon to arbitrate the uproar that will occur when that decision is made.

Personally, my only reason for becoming involved in the governmental process was to expand the people's freedoms--to provide each citizen with the most amount of opportunities to make greatest number of choices. Ordinance 743, which would increase the insecurity of the people, is diametrically opposed to that objective.

CONCLUSION

I therefore urge that Ordinance 743 not be adopted. The applicant should apply for a zone change under the existing ordinance, and should retain the option to apply for a Community Commercial deseignation at a future date.