

City of Sherwood, Oregon

ORDINANCE NO. 92-943

AN ORDINANCE APPROVING LEGISLATIVE AMENDMENTS TO THE COMMUNITY DEVELOPMENT PLAN PART 3 ZONING CODE INCLUDING A NEW PROVISION FOR ADMINISTRATIVE VARIANCES, BICYCLE PARKING PROVISIONS AND PROPERTY LINE ADJUSTMENTS AND MODIFICATIONS TO PROVISIONS FOR MINOR LAND PARTITIONS, VISUAL CORRIDOR REQUIREMENTS AND STREET TREE SPECIFICATIONS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Administrative Variance provisions for minor dimensional variances would be of benefit to the building community and Sherwood residents in terms of cost and process time, yet still requires notice to the neighbors; and

WHEREAS, the 1991 legislature adopted new standards for Minor Land Partitions and can further expedite dedications associated with a partition by signing the plat rather than filing a separate document; and

WHEREAS, the City has no provisions for Property Line Adjustments, bicycle parking, or street tree specifications and suggested tree types.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Commission Review. That the proposed Code modifications, City File No. PA91-12, were subject to full and proper review, and a public hearing before the Planning Commission on December 17, 1991 and again in January 21, 1992.

Section 2. Findings. That after full and due consideration of the Planning Staff report and comments for PA91-12, and the Washington County surveyors comments, the City Council finds that the proposed Code amendments are in conformance with the Community Development Code Section 4.203.02.

Section 3. Approval. That the proposed Zoning Code provisions attached hereto as Exhibit "A" and modifications are hereby APPROVED.

Section 4. Manager Authorized. The City Manager is directed to take such action as may be necessary to amend the Zoning Code to include the proposed revisions.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after passage and approval.

Duly passed by the City Council this 12th day February, 1992.

Polly Blankenbaker
Polly Blankenbaker, City Recorder

Approved by the Mayor this 12th day of February, 1992

Rick A. Hohnbaum
Rick A. Hohnbaum, Mayor

	<u>AYE</u>	<u>NAY</u>
Birchill	<u>✓</u>	_____
Boyle	<u>✓</u>	_____
Hohnbaum	<u>✓</u>	_____
Hitchcock	<u>✓</u>	_____
Kennedy	<u>✓</u>	_____

4.400 VARIANCES

4.401 GENERALLY

4.401.01 Authorization

The Commission may authorize variances from the standard requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property, strict application of this Code would cause undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, the Commission may attach conditions which it finds necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of this Code.

~~4.402-----VARIANCE-APPROVAL-~~

~~4.402.01--Findings-Of-Fact-~~

~~4.401.02 Approval Criteria~~

No variance request shall be granted unless each of the following is found:

- A. Exceptional and extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the effective date of this Code, topography, or other circumstances over which the applicant has no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.
- C. The authorization of the variance will not be materially detrimental to the purposes of this Code, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the goals, objectives and policies of the Comprehensive Plan.
- D. The hardship is not self-imposed and the variance

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requested is the minimum variance which would alleviate the hardship.

E. The hardship does not arise from a violation of this Code.

4.401.03 Authorization to grant or deny variances to on-site requirements.

The City Manager or his or her designee may authorize a variance from the standards of this Code relating to dimensional and on-site requirements, except lot area. Provided, however, that no variance under this section shall be greater than 25% of the requirement from which the variance is sought.

4.401.04 Criteria for Variances granted Under Section 4.401.03

A. In the case of a yard or other dimensional variance, except lot area, the applicant shall show the approval will result in:

1. More efficient use of the site
2. Preservation of natural features, where appropriate
3. Adequate provisions of light, air and privacy to adjoining properties; and
4. Adequate access

B. In the case of a variance to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the applicant shall show that approval will provide adequate off-street parking in relation to user demand. The following factors may be considered in granting such an exception:

1. Special characteristics of users which indicate low demand for off-street parking (e.g. low income, elderly).
2. Opportunities for joint use of nearby off-street parking facilities.
3. Availability of public transit; and
4. Natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards.

4.401.05 Procedures for Variances Granted Under Section 4.401.03

A. An administrative variance shall be decided by the City Manager or his or her designee unless an individual entitled to notice under subsection (B) requests a

hearing. If a hearing is requested, the proposal shall be decided by the Planning Commission. The application fee shall be less than for a variance requested under Section 4.401.01, and as specified in the City fee schedule. If a hearing is requested, the variance must be processed as a regular variance and requires the full fee. The administrative variance fee shall be credited against the regular variance fee in such circumstances. If the applicant then decides to withdraw the request, the original fee is non-refundable.

- B. The City shall notify the applicant and all property owners within one hundred (100) feet of the proposal by mailed notice. Any property owner or person present may present written comments to the City which address the relevant criteria and standards. Such comments must be received by the City within ten (10) calendar days from the date on the notice.
- C. If a property owner of a person residing or doing business within the one hundred (100) feet of the proposal presents written comments as described in subsection (B), that individual may also request that a public hearing be held by the Planning Commission on the proposal. A request for a hearing must be submitted in writing and received within ten (10) calendar days from the date on the notice.
- D. If no public hearing is requested as described in subsection (C), the Manager shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all the relevant variance requirements. The applicant may appeal this decision to the Planning Commission.
- E. If a public hearing is requested as provided in subsection (C) or the Manager's decision is appealed as provided in subsection (D), the hearing shall be conducted pursuant to Section 3.200 of the Code.
- F. The decision of the Planning Commission may be appealed to the City Council by a party to the hearing in accordance with Section 3.400 and shall be a review of the record supplemented by oral arguments relevant to the record presented by the parties.

4.401.026 Application Content

An application for a variance shall be filed with the City and accompanied by a fee, as determined by Section

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3.301. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The applicant is responsible for submitting a complete application which addresses the review criteria of Section 4.400 and other application sections of this Code. Except for variances authorized under Subsection 4.401.03, variance requests shall be subject to public notice and hearing as per Section 3.200.

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4.402.027 Time Limits

Authorization of a variance shall be void after one (1) year or such lesser time as the approval may specify unless substantial construction in the City's determination has taken place. The Commission may extend authorization for an additional period not to exceed one (1) year upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 3.301.

4.402.038 Revocation

Any departure from approved plans not authorized by the Commission shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of variance approval are not or cannot be satisfied, the variance or building and occupancy permits, shall be revoked.

D. Service Drives

Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers, and shall have minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points fifteen (15) feet from their intersection.

E. Bicycle Parking Facilities

Bicycle parking must be located within fifty (50) feet of an entrance to the building. With the permission of the City, bicycle parking may be located in public right-of-way. The recommended minimum number of bicycle parking spaces for each use is described in the following:

MINIMUM RECOMMENDED BICYCLE PARKING SPACES

Use Categories	Minimum Recommended Spaces
Residential Categories	
Household Living	Multi-dwelling 2, or 1 per 10 auto spaces. All other residential structure types-- None
Group Living	1 per 20 auto spaces
Commercial Categories	
Retail Sales and Service Office	2 or 1 per 20 spaces, whichever is greater
Drive-Up Vehicle Servicing	none
Vehicle Repair	none
Commercial Parking Facilities	4 or 1 per 20 auto spaces, whichever is greater
Commercial Outdoor Recreation	
Major Event Entertainment	
Self-service Storage	None
Industrial Categories	2, or 1 per 40 spaces, whichever is greater
Service Categories	
Basic Utilities	Park and Ride Facilities -2, or 1 per 20 auto spaces, All others - none
Community Service, Essential Service Providers	2, or 1 per 20 auto spaces, whichever is greater
Parks and Open Areas	
Schools	Highschools - 4 per classroom Middle Schools - 2 per classroom Elementary schools - 2 per 4th and 5th grade classroom
Colleges	2, or 1 per 20 auto spaces, whichever is greater
Medical Centers	
Religious Institutions	
Daycare Uses	
Other Categories	
Agriculture	none
Aviation Facilities	Per CU review
Detention Facilities	
Mining, Radio and TV Towers	none
Utility Corridors	

8.304.06 Street Trees

A. Generally

Trees or shrubs shall not be planted or removed from any public parking strip or other public place without written permission from the City. All trees and shrubs planted in any public parking strip or other public place shall conform to the requirements of this Section 8-305-01. Street trees are required in all new residential developments.

B. The following street tree specifications are to be utilized when the City requires new development to install street trees:

Tree location: On private property or in road right-of-way between sidewalk and property line, or between the sidewalk and the street. To be installed by developer, or builder.

Tree size: Minimum 1 1/2 to 1 3/4" caliper

Tree Spacing: 30 to 50 feet on center

Tree type: Use City list

B.C. Prohibited Trees

1. The following trees are prohibited in any public parking strip or other public place, except for in public parks: Poplar, Conifer, Cottonwood, Willow, Ailanthus, and fruit and nut trees.
2. Willow, Cottonwood, or Poplar trees are prohibited on all public or private property unless the City determines that tree roots will not interfere with public sewers, streets, sidewalks, and other improvements or utilities.

C.D. Removal of Trees

Any tree, shrub, or other plant growing in a parking strip, any public place, or on private property, which is endangering or which reduces the usefulness of any public street, sewer, sidewalk, or other facility shall be removed or trimmed. Failure of the property or plant owner to remove or trim a

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City of Sherwood
Recommended Street Trees

Acer - Maple

Acer platanoides cavalier - Cavalier Norway Maple

- p. cleveland - Cleveland Norway Maple
- p. cleveland - Cleveland II Norway Maple
- p. columnare - Columnar Norway Maple
- p. fairway - Fairway Sugar Maple
- p. olmsted - Olmsted Norway Maple
- p. summershade - Summershade Maple

Acer, rubrum red sunset - Red Sunset Maple (Old Town)

- r. royal red - Royal Red Maple
- r. gerling - Gerling Red Maple
- r. tilford - Tilford Red Maple

Carpinus - Hornbeam

Carpinus betulus pyramidals - Pyramidal European Hornbeam

- b. columnaris - Pyramidal European Hornbeam
- b. fastigiata - Pyramidal European Hornbeam

Cercidiphyllum - Katsura Tree

- c. japonicum - Katsura Tree

Cercix, canadensis - Canadian Red Bud

Fraxinus - Ash

- americana - White Ash
- americana - Autumn Purple Ash
- angustifolia dr. pirone - Dr. Pirone Ash
- oxycarpa flame - Flame Ash
- raywoodi - Raywood Ash
- latifolia - Oregon Ash

Ginkgo

- bilboa - Maidenhair Tree
- bilboa - Autumn Gold
- bilboa - Fairmount

Gleditsia

- triacanthos sunburst - Honey Locust

Liquidamber

- styraciflua - American Sweetgum

Liriodenrod

- tulipifera - Tulip Tree

Magnolia

- grandiflora vars - Evergreen Magnolia
- grandiflora - Southern Magnolia
- kobus dr. merrill - Dr. Merrill Magnolia

Platanus

aceriflora - London Plane Tree

Purnus - Cherry - Plum

avium plena - Double Flowering Cherry
avium scanlon - Scanlon Globe Cherry
serrulata vars (nonweeping) - Japanese Cherry
okame - Okame Cherry
blireana - Blireana Plum
cerasifera newport - Newport Plum
pissardi - Pissardi Plum
thundercloud - Thundercloud Plum
vesuvius - Krauter's Vesuvius Plum
maacki - Amur Chokecherry
serrula - Redbark Cherry
padus alterti - Alberti Cherry
spaethi - Spaethi Cherry
virginiana var. mellanocarpa canada red - Chokecherry
padus - European Birdcherry
grandiflora - Bigflowered Birdcherry
berg - Rancho Birdcherry
purpurea - Purpleleaf Birdcherry

Quercus

palustris - Pin Oak
rubra - Red Oak

Tilia - Linden

americana - American Linden
cordata - Little Leaf Linden
glenleven - Glenleven Linden
redmond - Redmond Linden
euchlora - Crimean Linden
tomentosa - Silver Linden
bicentennial - Bicentennial Linden
greenspire - Greenspire Linden
salem - Salem Linden

PROHIBITED STREET TREES

Acer, Silver Maple
Acer, Boxelder
Ailanthus, glandulosa - Tree-of-heaven
Betula; common varieties of birch
Ulmus; common varieties of elm
Morus; common varieties of mulberry
Salix; common varieties of willow
Conferous evergreen (Fir, Pine, Cedar, etc..)