

**CITY OF SHERWOOD
ORDINANCE NO. 2001-1119**

**AN ORDINANCE AMENDING THE ZONING AND COMMUNITY DEVELOPMENT CODE
REGARDING: LIGHT INDUSTRIAL (LI) ZONING DISTRICT; PLANNED UNIT
DEVELOPMENT; PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS;
APPEALS; CONDITIONAL USES; WETLAND, HABITAT AND NATURAL AREAS; and
CHAPTER 8, APPENDIX J.**

WHEREAS, population and development are continuing to increase within the City of Sherwood; and

WHEREAS, the Zoning code is the implementation of the Comprehensive Plan, and is periodically clarified, refined, or changed in response to changes in public policy, circumstances that arise in administration of the code, or new issues that face the City in land use decisions; and,

WHEREAS, the Council identified specific issues for the Planning Commission to address immediately in revisions to the Zoning and Community Development Code, to clarify certain sections of the document, and make the Zoning code more consistent with public policy as resolved by the Council.

NOW, THEREFORE THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Code Amendments:

The Light Industrial (LI) zoning district, Chapter 2.111; Planned Unit Development regulations, Chapter 2.202; Procedures for Processing Development Permits, in Chapter 3.200; Appeals, Chapter 3.400; Conditional Uses, Chapter 4.300; Wetland, habitat, and Natural Areas, Chapter 8.305; and, Appendix J of Chapter 8, in the Zoning and Community Development Code are hereby amended as written in Exhibit A.

Section 2. Effective Date: The provisions of this Ordinance shall be effective 30 (thirty) days after its approval and adoption by the City Council and the Mayor.

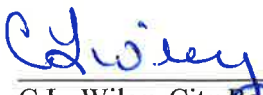
Section 3. Severability: Should any section or portion of this ordinance be held unlawful or unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific section, or portion thereof, directly specified in the decision. All other sections and portions of this ordinance shall remain in full force and effect.

DULY PASSED BY THE CITY COUNCIL ON THIS 26th DAY OF JUNE, 2001.




Keith S. Mays, Council President

ATTEST.



C.L. Wiley, City Recorder

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	AYE	NAY
Heironimus	_____	✓
Durrell	✓	_____
Claus	_____	✓
Weeks	✓	_____
Mays	✓	_____
Fox	✓	_____
Cottle		_____

Ordinance #2001-1119

Attachment "A"

LIGHT INDUSTRIAL (LI)

2.111.01 Purpose

The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.

2.111.02 Permitted Uses

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Chapter 8. Incidental retail sales, limited to 10% of the total floor area of a business, may be permitted as a secondary function of a permitted or conditional use, subject to the review and approval of the Hearing Authority.

- ~~A. Veterinarians offices and animal hospitals.~~
- B. Contractor's offices, and other offices associated with a use permitted in the LI zone.
- C. Public and private utilities, including but not limited to telephone exchanges, data centers, electric substations, gas regulator stations, sewage treatment plants, water wells and public work yards.
- D. Glass installation and sales.
- E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- ~~F. Automobile, boat, trailer, and recreational vehicle storage.~~
- G. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 2.111.04E.
- H. Industrial hand tool and supply sales, primarily wholesaled to other industrial firms or industrial workers.
- I. Other similar light industrial uses subject to Section 4.600.

- J. Dwelling unit for one (1) security person employed on the premises, and their immediate family.
- K. PUDs, new and existing, subject to the provisions of Section 2.202. New PUDs may mix uses which are permitted in ~~other underlying zoning~~ within the boundaries of the PUD. Approved PUDs may elect to establish uses which ~~were~~ are permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD.
- L. Temporary uses, including but not limited to construction and real estate sales offices, subject to Section 4.500.
- M. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the City that the location of the antenna on City-owned property would be unfeasible.
- N. Business and professional office.
- O. Tool and equipment rental.
- P. Blueprinting, printing, publishing, or other reproduction services.
- ~~Q. Daycares and preschools.~~
- R. Farm and garden supply stores and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited.
- S. Medical, dental and similar laboratories.
- T. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:
 - 1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 2.111.03.
 - 2. Appliances, including but not limited to, refrigerators, freezers, washing machines, dryers, small electronic motors and generators, heating and cooling equipment, lawn mowers, rototillers, and chain saws, vending machines, and similar products and associated small parts.
 - 3. Cosmetics, drugs, pharmaceuticals, toiletries, chemicals and similar products, except as prohibited by Section 2.110.04.

4. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts.
5. Building components and household fixtures, including but not limited to furniture, cabinets, and upholstery, ladders, mattresses, doors and windows, signs and display structures, and similar products and associated small parts.
6. Recreational vehicles and equipment, including but not limited to bicycles, recreational watercraft, exercise equipment, and similar products and associated small parts, but excluding motorized equipment unless otherwise permitted by Section 2.111.02 or 2.111.03.
7. Musical instruments, toys and novelties.
8. Pottery and ceramics, limited to products using previously pulverized clay.
9. Textiles and fiber products.
10. Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semi-precious stones.

2.111.03 Conditional Uses

The following uses are permitted as Conditional Uses provided such uses meet the applicable environmental performance standards contained in Chapter 8 and are approved in accordance with Section 4.300:

- A. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing or storage of the following articles or products:
 1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 2.111.03.
 2. Appliances, including but not limited to, refrigerators, freezers, washing machines, dryers, small electronic motors and generators, heating and cooling equipment, lawn mowers, rototillers, and chain

- saws, vending machines, and similar products and associated small parts.
3. ~~Cosmetics, drugs, pharmaceuticals, toiletries, chemicals and similar products, except as prohibited by Section 2.110.04.~~
 4. ~~Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts.~~
 5. ~~Building components and household fixtures, including but not limited to furniture, cabinets, and upholstery, ladders, mattresses, doors and windows, signs and display structures, and similar products and associated small parts.~~
 6. ~~Recreational vehicles and equipment, including but not limited to bicycles, recreational watercraft, exercise equipment, and similar products and associated small parts, but excluding motorized equipment unless otherwise permitted by Section 2.111.02 or 2.111.03.~~
 7. ~~Musical instruments, toys and novelties.~~
 8. ~~Pottery and ceramics, limited to products using previously pulverized clay.~~
 9. ~~Textiles and fiber products.~~
 10. ~~Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semi-precious stones.~~

- AB. Laundry, dry cleaning, dyeing or rug cleaning plants.
- BC. Light metal fabrication, machining, welding and electroplating and casting or molding of semi-finished or finished metals.
- CD. ~~Offices associates~~ associated with a use conditionally permitted in the LI zone.
- DE. Sawmills.
- EF. Radio, television and similar communication stations, including transmitters and wireless communication towers, except for towers located within 1,000 feet of the Old Town District which are prohibited.
- FG. Restaurants without drive-thru.
- GH. Hospitals and emergency care facilities.
- HI. Automotive, recreational vehicle, motorcycle, truck, manufactured home, boat, farm and other equipment repair or service.
- IJ. Commercial trade schools.
- JK. ~~Special care facilities, including but not limited to assisted living facilities.~~
- JL. Wholesale Building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses.

- KM. Power generation plants and associated facilities.
- L. Veterinarians offices and animal hospitals.
- M. Automobile, boat, trailer and recreational vehicle storage.
- N. Daycares and pre-schools.

2.111.04 Prohibited Uses

The following uses are expressly prohibited:

- A. Adult entertainment businesses.
- B. Any use permitted or conditionally permitted under Section 2.111 that is not specifically listed in this Section, and any use listed in Section 2.111.04.
- C. Auto wrecking and junk or salvage yards.
- D. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products.
- E. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products or substances, except for any incidental business, service, process, storage, or display that is essential to and customarily associated, in the City's determination, with any otherwise permitted or conditionally permitted use:
 - 1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products.
 - 2. Ammonia, chlorine, sodium compounds, toxins, and similar chemicals.
 - 3. Celluloid or pyroxylin.
 - 4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances.
 - 5. Explosives and radioactive materials.
 - 6. Fertilizer, herbicides and insect poison.
 - 7. Other similar products or compounds which are determined to be detrimental to the health, safety and welfare of the community.

- F. Metal rolling and extraction mills, forge plants, smelters and blast furnaces.
- G. Pulp mills and paper mills.
- H. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering.
- I. Leather tanneries.
- J. General purpose solid waste landfills, incinerators, and other solid waste facilities.
- K. Restaurants with drive-thru facilities.
- L. Retail trade, except as permitted by 2.111.02A, above.

2.202 PLANNED UNIT DEVELOPMENT (PUD)

2.202.01 Purpose

- A. PUDs integrate buildings, land use, transportation facilities, utility systems and open space through an overall site design on a single parcel of land. The PUD process allows creativity and flexibility in site design which cannot be achieved through a strict adherence to zoning and subdivision standards.
- B. The PUD district is intended to achieve the following objectives:
1. Encourage efficient use of land and resources that can result in savings to the community, consumers and developers.
 2. Preserve valuable landscape, terrain and other environmental amenities.
 3. Provide diversified and innovative living, working or shopping environments that take into consideration community needs and activity patterns.
 4. Achieve maximum energy efficiency in land uses.
 5. Promote innovative design in architecture or other site features that enhance the community or natural environment.

2.202.02 Preliminary Development Plan

A. Generally

A PUD Preliminary Development Plan shall be submitted for the review and approval in accordance with Section 3.200. PUDs shall only be considered on sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of: natural features such as floodplains, wetlands, and extreme topography, or man-made features, such as parcel configuration and surrounding development. The applicant shall describe the unusual conditions qualifying the site for PUD consideration, and the Commission shall cite findings of fact validating these conditions.

B. Content

The Preliminary Development Plan application shall include the following mapping and written narrative:

1. Existing conditions map(s) showing: All properties, existing uses, and zoning districts within three hundred (300) feet, topography at five (5) foot intervals, floodplain, significant natural vegetation and features, private

and public facilities including but not limited to utilities, streets, parks, and buildings, property boundaries, lot lines, and lot dimensions and area.

2. Listing of all property owners adjacent to the PUD as per Section 3.202.03, including names and addresses, and a listing of all persons, including names and addresses, with an interest in the property subject to the PUD application.
3. Proposal map(s) showing: Alterations to topography, floodplain, natural vegetation, trees and woodlands, and other natural features, all streets, utility alignments and easements, parks and open space, other public and utility structures, and any other dedicated land features or structures, the parceling or subdivision of land including basic parcel dimensions and areas, the phasing of the PUD, siting and orientation of proposed new structures, including an identification of their intended use.
4. Narrative describing: the intent of the PUD and how general PUD standards as per Section 2.202 are met, details of the particular uses, densities, building types and architectural controls proposed, form of ownership, occupancy and responsibility for maintenance for all uses and facilities, trees and woodlands, public facilities to be provided, specific variations from the standards of any underlying zoning district or other provisions of this Code, and a schedule of development.
5. If the PUD involves the subdivision of land, the proposal shall also include a preliminary subdivision plat and meet all requirements of Section 7.200. The preliminary subdivision shall be processed concurrently with the PUD.

C. Commission Review

The Commission shall review the application pursuant to Section 3.200 and may act to recommend to the Council approval, ~~or approval with conditions, or denial.~~ The Commission shall make their decision based on the following ~~findings of fact~~ criteria:

1. The proposed development is in substantial conformance with the Comprehensive Plan and is sited in an area that is unusually constrained due to existing natural or man-made features, while protecting the environmental resources of the site and adjacent properties.
2. That exceptions from the standards of the underlying zoning district are warranted by the design and amenities incorporated in the development plan.

3. That the proposal is in harmony with the surrounding area or its potential future use, and incorporates unified or internally compatible architectural treatments.
4. That the system of ownership and the means of developing, preserving and maintaining open spaces are acceptable.
5. That the PUD will have a beneficial effect on the area which could not be achieved under the underlying zoning district.
6. That the proposed development, or an independent phase of the development, can be substantially completed within one (1) year from date of approval.
7. That adequate public facilities and services are available or are made available by the construction of the project.
8. That the general objectives of the PUD concept and the specific objectives of the various categories of the PUDs described in Section 2.202 have been met.
9. The minimum area for a Residential PUD shall be five (5) acres, unless the ~~Council~~ Commission finds that a specific property of lesser area is suitable as a PUD ~~by virtue of being~~ because it is unusually constrained by topography, landscape features, location, or surrounding development, or qualifies as "infill", defined in Section 2.202.05(C)(3).

D. Council Action

Upon receipt of the findings and recommendations of the Commission, the Council shall conduct a public hearing pursuant to Section 3.200. The Council may approve, conditionally approve, or deny the Preliminary Development Plan. A Council decision to approve the Preliminary Development Plan shall be by ordinance establishing a PUD overlay zoning district. The ordinance shall contain findings of fact as per Section 2.202.02, state all conditions of approval, and set an effective date subject to approval of the Final Development Plan as per Section 2.202.03.

E. Effect of Decision

Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals.

2.202.03 Final Development Plan

A. Generally

Upon approval of the PUD overlay zoning district and preliminary development plan by the Council, the applicant shall prepare a detailed Final Development Plan as per Sections 2.202 and 4.100, for review and approval of the Commission. The Final Development Plan shall comply with all conditions of approval as per Section 2.202.02. In addition, the applicant shall prepare and submit a detailed site plan, if applicable, for review and approval, pursuant to the provisions of Section 5.100. The site plan shall be processed concurrently with the Final Development Plan.

B. Final Subdivision Plat

If the PUD involves the subdivision of land, a final plat shall be prepared and submitted for final approval, pursuant to Section 7.300. The final plat shall be processed concurrently with the Final Development Plan.

2.202.04 General Provisions

A.

1. Phasing

- A. The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.
- B. Any PUD which requires more than twenty four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.

2. Failure to Complete

- A. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.
- B. If continuation is found not to be in the public interest, the Commission shall recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.

B. Changes in Approved Plans

1. Major Changes

Proposed major changes in a Final Development Plan shall be considered the same as a new petition, and shall be made in accordance with the procedures specified in Section 2.202.

2. Minor Changes

Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses.

2.202.05 Residential PUD

A. Permitted Uses

The following uses are permitted outright in Residential PUD when approved as part of a Final Development Plan:

1. Varied housing types, including but not limited to single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multi-family dwellings.
2. Related NC uses which are designed and located so as to exclusively serve the PUD district.
3. All other uses permitted within the underlying zoning district in which the PUD is located.

B. Conditional Uses

A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission as per Section 4.300.

C. Development Standards

1. Density

The number of dwelling units permitted in a Residential PUD shall be ~~determined by multiplying the maximum number of units per acre permitted in the underlying zoning district or districts acres in the proposed PUD~~ the same as that allowed in the underlying zoning district, except as provided in section 2 below.

2. Density Transfer

Where the proposed PUD site includes lands within the base floodplain, wetlands and buffers, or steeply sloped areas which are proposed for public dedication, and such dedication is approved as a part of the preliminary development plan, then a density transfer may be allowed in accordance with Section 8.304.05, adding a maximum of 20% to the overall density of the land to be developed.

3. Minimum Site Area

The minimum area for a Residential PUD shall be five (5) acres unless the Council Commission finds that a specific property of lesser area is suitable as a PUD by virtue of being ~~because it is unusually constrained~~ by topography, landscape features, location, or surrounding development. ~~Council determination that a PUD under 5 acres in size may be considered shall take place in a public hearing prior to consideration by the Planning Commission. The applicant shall demonstrate that the subject property meets the criteria above.~~

3. Minimum Lot Size

The minimum lot size required for single family, detached dwellings is 5,000 square feet, unless the subject property qualifies as infill, defined as a parent parcel of 1.5 acres or less proposed for land division, where a maximum 15% reduction in lot size may be allowed from the minimum lot size.

3.200 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

3.201 GENERALLY

All development permit applications shall be classified as one of the following:

A. Type I

A Type I review action shall be decided by the ~~City Planner~~ Planning Director without public notice or public hearing. Notice of a decision shall be provided to the applicant. The action of the ~~City Planner~~ Planning Director may be appealed to the Planning Commission.

The following actions shall be subject to a Type I review process:

1. Signs
2. Property Line Adjustments
3. Interpretation of Similar Uses
4. Temporary Uses
5. Final Subdivision Plats

B. Type II

1. A Type II review action shall be decided by the ~~City Planner~~ Planning Director with a public notice.
2. The City shall notify the applicant and all property owners within 100 feet of the proposal by mailed notice. Any person or property owner may present written comments to the City which address relevant criteria and standards. Such comments must be received by the City within 14 days from the date of the notice.
3. The ~~City Planner~~ Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community Development Code. Conditions may be imposed by the ~~City Planner~~ Planning Director if necessary to fulfill the requirements of the Zoning and Community Development Code.
4. The decision shall be final unless an appeal is filed within 14 days of the final action. The applicant or any person providing written comments may appeal the decision to the Hearings Officer.

5. Appeals to the Hearings Officer shall be subject to the requirements of Section 3.404 of the Zoning and Community Development Code, or ORS 197.375 for Expedited Land Divisions.

The following actions shall be subject to a Type II review process:

6. Minor Land Partitions
7. Expedited Land Divisions
8. "Fast-track" site plan review, defined as those site plan applications which propose less than 15,000 square feet of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit except as follows: auditoriums, theaters, and stadiums.

C. Type III

A Type III review action shall be heard and decided by a Hearings Officer. The public hearing procedures shall be in accordance with the requirements of Section 3.202-3.300. An appeal of a Type III application shall be to the City Council.

The following actions shall be subject to a Type III review process:

1. Conditional Uses
2. Variances
3. Site Plans - Less than 40,000 square feet of building area.
4. Subdivisions - Less than ~~200~~ 50 lots.

D. Type IV

A legislative Type IV review action shall be heard by public hearing by the Planning Commission and a recommendation made to the City Council. The City Council shall conduct a public hearing and make a final decision. For those decisions which do not require a legislative change to the Development Code or Comprehensive Plan or Map, the Planning Commission shall conduct the public hearing and make a final decision, subject to the review criteria of each application, further subject to the Conditional Use criteria of Section 4.302.03. Appeals shall be to the City Council. The public hearing procedure shall be in accordance with the requirements of Section 3.202-3.300.

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The following legislative actions shall be subject to a Type IV review process:

1. Plan Map Amendments
2. Plan Text Amendments
3. Planned Unit Developments

The following quasi-judicial actions shall be subject to a Type IV review process:

4. Site Plans - Equal to, or Greater than 40,000 square feet of building area.
5. Subdivisions - Equal to, or Greater than ~~200~~ 50 lots.

3.400 APPEALS

3.401 GENERALLY

3.401.01 Basis of Appeal

- A. Any issue which may be the basis for appeal of a land use action to the Council or to the State Land Use Board of Appeals (LUBA) shall be raised not later than the close of the final hearing on the proposal before the City, or within seven (7) calendar days as per Section 3.205.03.
- B. Failure to raise an issue, or failure to raise an issue with sufficient specificity so as to provide the City, applicant, or other parties to the application with a reasonable opportunity to respond, will preclude appeal on said issue to the Council or to LUBA. Any aggrieved party appealing a land use action must exercise the right of petition for review to the Council prior to making any appeal to LUBA, except as provided in Section 3.401.03.

3.401.02 Appeal Eligibility

Except as otherwise permitted herein, only persons who were a party to the action being appealed, as defined by Section 3.205.02, are eligible to file for a petition for review by the Council. If the potential appellant is judged not to be a party to the action, or the issue(s) that are the basis of the appeal were not raised as per Section 3.401.01, as determined by the City, the Council shall refuse to hear the appeal and direct that the appellant be so notified in writing.

3.401.03 Exception

If the City either takes a land use action without providing a hearing as required by this Code, or takes a land use action which is substantially different than indicated in notice of the proposed action as per Section 3.203.01, an aggrieved party may, as provided by the law of the State of Oregon, appeal directly to the State Land Use Board of Appeals (LUBA).

3.402 APPEAL DEADLINE

Land use actions taken pursuant to this Code shall be final unless a petition for review is filed with the City Recorder not more than ~~twenty-one (21)~~ fourteen (14) calendar days after the date on which the Hearing Authority took final action on the land use application. In the event the aggrieved party is the applicant, the fourteen (14) ~~twenty-one (21)~~ calendar days shall be counted from the date when written notice of the action has been mailed to the address shown on the application.

3.403 PETITION FOR REVIEW

Every petition for review shall include the date and a description of the land use action, including adopted findings of fact, a statement of how the petitioner is

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aggrieved by the action, the specific grounds relied upon in requesting a review, and a fee pursuant to Section 3.301. The land use decision, supporting findings and conclusions, and evidence available upon the close of the record of the land use action, and any City staff review of the issues subject to the appeal, shall be considered.

3.404 COUNCIL ACTION

The review of the appealed land use action shall include a public hearing conducted by the Council at which time all parties to the action, as per Section 3.205.02, may present findings of fact or testimony based upon the record available during the evidentiary public hearing(s) on the land use application including testimony, all materials submitted at any previous stage of the review, the staff report(s) and audio tape or transcript of the minutes of the public hearing(s). ~~old evidence or any additional evidence.~~ Public notice and hearing procedures for appeals shall be identical to the procedures used in initially taking the land use action which is being appealed. The Council may act to affirm, reverse, refer or amend the action being reviewed. The action of the Council shall be final, except insofar as further appeal to the State Land Use Board of Appeals (LUBA) may be allowed by the law of the State of Oregon.

4.300 CONDITIONAL USES

4.301 GENERALLY

4.301.01 Authorization

Uses permitted in zoning districts as conditional uses may be established, enlarged, or altered by authorization of the Commission in accordance with the standards and procedures established in Section 4.300. If the site or other conditions are found to be inappropriate for the use requested, the Commission or Hearing Officer (cited below as Hearing Authority) may deny the conditional use application.

4.301.02 Changes in Conditional Uses

Changes in use, expansion or contraction of a legal non-conforming use, structure or site, or alteration of structures or uses classified as conditional uses, that either existed prior to the effective date of this Code or were established pursuant to Section 4.300 shall require the filing of a new application for review conforming to the requirements of Section 4.300 if the proposed changes would change increase the value- size, square footage, seating capacity or parking of existing, permitted improvements by fifty percent (50%), twenty percent (20%) or more.

Conditional uses may be authorized for a larger development (i.e. business campus or industrial park), to include future tenants of such development, if the range of uses allowed as conditional uses are considered, and specifically approved, at the time of original application.

4.301.03 Application and Fee

An application for a Conditional Use Permit (CUP) shall be filed with the City and accompanied by the appropriate fee pursuant to Section 3.301. The applicant is responsible for submitting a complete application which addresses all criteria of Section 4.300 and other applicable sections of this Code.

4.302 PERMIT APPROVAL

4.302.01 ~~Commission~~ Hearing Authority Action

The ~~Commission~~ Hearing Authority shall conduct a public hearing pursuant to Section 3.200 and take action to approve, approve with conditions, or deny the application. The ~~Commission~~ decision shall include appropriate findings of fact as required by Section 4.302.03, and an effective date.

4.302.02 Final Site Plan

Upon approval of a conditional use by the ~~Commission~~ Hearing Authority, the applicant shall prepare a final site plan for review and approval pursuant to Section 5.100. The final site plan shall include any revisions or other features or conditions required by the ~~Commission~~ Hearing Authority at the time of the approval of the conditional use.

4.302.03 Findings of Fact

No conditional use shall be granted unless each of the following is found:

- A. All public facilities and services to the proposed use, including but not limited to sanitary sewers, water, transportation access, storm drains, electrical distribution, park and open space and public safety are adequate; or that the construction of improvements needed to provide adequate services and facilities is guaranteed by binding agreement between the applicant and the City.
- B. Proposed use conforms to other standards of the applicable zone standards.
- ~~C. There is a demonstrable public need for the proposed use.~~
- C. The public need is best served by allowing the conditional use for the particular piece of property in question as compared to other available property. The granting of the proposal will provide for a facility or use that meets the overall needs of the community and achievement of the goals and/or policies of the Comprehensive Plan.
- D. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use on the surrounding uses, the neighborhood or the City as a whole are sufficiently ~~ameliorated~~ mitigated by the conditions ~~imposed~~ proposed.
- E. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography, and natural features;
- F. The use as proposed does not pose likely significant adverse impacts to sensitive wildlife species or the natural environment.

For wireless communication facilities, no conditional use permit shall be granted unless the following additional criteria is found:

- A. The applicant shall demonstrate to the satisfaction of the City that the wireless communication facility cannot be located in an IP zone due to the coverage needs of the applicant.

- B. The proposed wireless communication facility is designed to accommodate co-location or it can be shown that the facility cannot feasibly accommodate co-location.
- C. The applicant shall demonstrate a justification for the proposed height of the tower or antenna and an evaluation of alternative designs which might result in lower heights.
- D. The proposed wireless communication facility is not located within one-thousand (1,000) feet of an existing wireless facility or that the proposed wireless communication facility cannot feasibly be located on an existing wireless communication facility.
- E. The proposed wireless communication facility is located a minimum of three-hundred (300) feet from residentially zoned properties.

4.302.04 Additional Conditions

In permitting a conditional use or modification of an existing conditional use, additional conditions may be applied to protect the best interests of the surrounding properties and neighborhoods, the City as a whole, and the intent of Section 4.300. These conditions may include but are not limited to the following:

- A. Mitigation of air, land, or water degradation, noise, glare, heat, vibration, or other conditions which may be injurious to public health, safety or welfare in accordance with environmental performance standards.
- B. Provisions for improvement of public facilities including sanitary sewers, storm drainage, water lines, fire hydrants, street improvements, including curb and sidewalks, and other above and underground utilities.
- C. Increased required lot sizes, yard dimensions, street widths, and off-street parking and loading facilities.
- D. Requirements for the location, number, type, size or area of vehicular access points, signs, lighting, landscaping, fencing or screening, building height and coverage, and building security.
- E. Submittal of final site plans, land dedications or money-in-lieu of parks or other improvements, and suitable security guaranteeing conditional use requirements.
- F. Limiting the number, size, location height and lighting of signs.
- G. Requirements for the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.

H. Requirements for design features which minimize potentially harmful environmental impacts such as noise, vibration, air pollution, glare, odor and dust.

4.302.05 Time Limits

Authorization of a conditional use 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~~ Hearing Authority 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.

4.302.06 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 CUP approval are not or cannot be satisfied, the CUP approval, or building and occupancy permits, shall be revoked.

8.305 WETLAND, HABITAT AND NATURAL AREAS

8.305.01 Generally

Unless otherwise permitted, residential, commercial, industrial, and institutional uses in the City shall comply with the following wetland, habitat and natural area standards if applicable to the site as identified on the City's Wetland Inventory and the Comprehensive Plan Natural Resource Inventory.

8.305.02 Standards

- A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with the criteria of Section 8.305.A.1.a and b ~~Section 8.304.021a or 8.304.021b~~, below:
1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by ~~a minimum of sixty (60) feet, which shall be retained in its existing condition or enhanced for compatibility with the wetland. The setback may be reduced to as little as twenty (20) feet if the applicant shows such lesser setback will not adversely affect the wetland~~ an area determined by the Unified Sewerage Agency's Design and Construction Standards R&O 00-7 or its replacement, provided Section 8.303.09A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the following among other means:
 - a. A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland.
 - b. Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass.
 - c. A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.
 2. ~~Where~~ If existing wetlands are proposed to be eliminated by the facility, the applicant shall demonstrate that the project can, and will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.
- B. The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the Community Development Plan, Part 2) and protect those features from

impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:

1. The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by Federal or State government (and does not contain significant natural features identified in the Community Development Plan, Part 2, Natural Resources and Recreation Plan).
2. The facility will comply with applicable requirements of the zone.
3. The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.
4. The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.
5. Development associated with the facility will be set back from the edge of a significant natural area by a minimum of sixty (60) feet and the setback area shall be retained in its existing condition or enhanced for compatibility with the natural area. The setback may be reduced to as little as twenty (20) feet if the applicant shows such lesser setback will not adversely affect the natural area an area determined by the Unified Sewerage Agency's Design and Construction Standards R&O 00-7 or its replacement, provided Section 8.303.09A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in Section 8.305.02A1 above.

APPENDIX J

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

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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

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tomentosa - Silver Linden
bicentennial - Bicentennial Linden
greenspire - Greenspire Linden
salem - Salem Linden

RECOMMENDED TREES UNDER POWER LINES

Acer ginnala – Amur Maple
Acer campestre – Hedge Maple
Acer palmatum – Japanese Maple
Acer griseum – Paperbark Maple
Acer circinatum – Vine Maple
Amelanchier x grandiflora – Apple Serviceberry
Amelanchier canadensis – Shadblow Serviceberry
Cercis canadensis – Eastern Redbud
Clerodendrum trichotomum – Glorybower Tree
Cornus florida – Flowering Dogwood
Cornus kousa – Japanese Dogwood
Crataegus phaenopyrum – Washington Hawthorn
Crataegus x lavalleyi – Lavelle Hawthorn
Fraxinus excelsior globosum – Globe-Headed European Ash
Fraxinus ornus – Flowering Ash
Fraxinus oxycarpa aureopolia – Golden Desert Ash
Koelreuteria paniculata – Goldenrain Tree
Laburnum x waterii – Golden Chain Tree
Malus – Flowering Crabapple
Prunus – Flowering Cherry
Pyrus calleryana – Flowering Pear “Cleveland Select”
Styrax japonica – Japanese Snowbell
Syringa reticulata – Japanese Tree Lilac

PROHIBITED STREET TREES

Acer, Silver Maple
Acer, Boxelder
Ailanthus, gladiolosa - Tree-of-heaven
Betula; common varieties of Birch
Ulmus; common varieties of Elm
Morus; common varieties of Mulberry
Salix; common varieties of willow
Coniferous Evergreen (Fir, Pine, Cedar, etc.)