

**City of Sherwood, Oregon
Ordinance 2005-014**

AN ORDINANCE APPROVING A PLAN TEXT AMENDMENT: ADDING ORDINANCE CITATIONS TO THE TEXT OF THE SHERWOOD ZONING AND COMMUNITY DEVELOPMENT CODE (SZCDC); CORRECTING SCRIVENER'S ERRORS TO SECTIONS 2.106.02 & 2.202.06C4, AND CERTIFYING LANGUAGE CONTAINED IN THE CODIFIED VERSION OF THE SZCDC AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, numerous amendments have taken place in Part 3 of the Comprehensive Plan to reflect the changing landform and uses in the City of Sherwood since the last general adoption in 1986; and

WHEREAS, the City Recorder's Office conducted a review of the SZCDC to include ordinance citations in the text, and found that portions of adopted text were not complete, or errors had been made in codification of the SZCDC and recommends approval of the plan text amendments; and

WHEREAS, the Sherwood Planning Commission conducted a public hearing on the proposed plan text amendment (PA 05-02) on June 14, 2005, and recommended approval of the plan text amendment to the City Council; and

WHEREAS, the Community Development and Zoning Code Section 4.203.01 specifies the criteria to approve a change in the Comprehensive Plan Text, and that the Sherwood City Council finds that the text proposal complies based on the findings of the Planning Commission and their own deliberation; and

WHEREAS, the Sherwood City Council has received the Planning staff report (PA 05-02), the Planning Commission findings, and the Council reviewed the materials submitted and the facts of the proposal and conducted a public hearing on July 19, 2005.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Commission Review & Public Hearings. That the proposal by the Planning Commission for a Plan Text Amendment (city file No. PA 05-02) to amend the Sherwood Zoning and Community Development Code Sections 2.106.02 & 2.202.06C4 ("Exhibit A") was subject to full and proper review, and a public hearing was held before the Planning Commission on June 14, 2005 and the City Council on July 19, 2005.

Section 2. Findings. That after full and due consideration of the application, the City Staff report ("Exhibit B"), the record, findings, and of the evidence presented at the public hearing, the Council finds that the text of the Sherwood Zoning Code should be amended to address the actions of previous ordinances adopting changes in the Code, to accurately reflect such legislative acts and provide consistency in the Code; therefore, the

Council adopts the findings of fact contained in the Planning Commission staff report dated June 7, 2005. Furthermore, the Council finds that to preserve the integrity of land use decisions which may be effected by previous errors in the codified zoning code, an emergency does exist; whereupon this ordinance amendment should take place immediately.

Section 3. Approval. That the proposal for Plan Text Amendment (PA 05-02) is hereby **APPROVED** as stipulated in the document labeled "Exhibit A" and attached to this ordinance.

Section 4. Manager Authorized. The Planning Supervisor is hereby directed to take such action as may be necessary to document this amendment, including preparation of a certified amendment of the Official City Zoning and Community Development Code in accordance with City ordinances and regulations.

Section 5. Effective Date and Declaration of Emergency. As an emergency is declared to exist based on the findings of Council, this ordinance shall become effective the immediately upon its adoption.

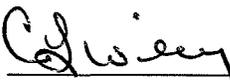
Duly passed by the City Council this 19th day of July, 2005.

Approved by the Mayor this 19th day of July, 2005.



Keith Mays, Mayor

Attest:



C.L. Wiley, City Recorder

	<u>AYE</u>	<u>NAY</u>
Luman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
King	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heironimus	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Durrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**PA 05-02 Code Update Plan Text Amendment
To Comprehensive Plan, Part 3
(Sherwood Zoning and Community Development Code)
"Exhibit A"**

June 7, 2005

I. Sections 6.302 (Streets SIF), 6.602 (Stormwater SIF), and 8.302.02 (Parks and Open Space SIF) were repealed by Ordinance 91-927 § 19, but these sections have remained in the codified version of the Code. Language adopting state standards for SDCs was originally adopted in Ord. 89-900 as "SIF" (System Improvement Fees). With the adoption of Ord. 91-927, SDCs were moved to their own chapter in the Municipal Code, Chapter 15.

Action: Approval of Ordinance amendment directing the codification service to remove Sections 6.302; 6.602; and 8.304.02 from the codified version of the SZCDC as follows:

~~6.302 STREET SYSTEMS IMPROVEMENT FEES (SIF)~~

~~6.302.01 Purpose~~

~~The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development and redevelopment of public rights-of-way, streets, bikepaths, sidewalks, traffic control devices, and appurtenant structures, designed to provide extra system capacity, and as designated on the Transportation Plan Map, attached as Appendix B, and in Chapter 6 of the Community Development Plan. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for street preservation improvements or for routine street system maintenance and operations. (Ord. 89-900 § 1)~~

~~6.302.02 Schedule of Charges~~

~~SIF's shall be assessed against new development in the City to support extra capacity street improvements. The SIF for streets shall be set by the "Schedule of Development Fees", adopted by Resolution of the Council. This schedule is included herein for purposes of information, but is deemed to be separate from and independent of this Code. (Ord. 91-922 § 3; 89-900)~~

~~6.302.03 Assessment~~

~~Except as otherwise provided by this Code or by State Law, the SIF is immediately due and payable and shall be collected prior to issuance of any building permits for new residential construction; for alterations or additions to buildings that increase~~

~~the number of residential dwelling units; or for commercial, industrial, or institutional construction requiring new or additional off-street parking as per Section 5.302. (Ord. 89-900 § 1)~~

~~6.302.04 — Deferral~~

~~Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the full SIF is paid in full. (Ord. 89-900 § 1)~~

~~6.602 — STORM WATER SYSTEM IMPROVEMENT FEES (SIF)~~

~~6.602.01 — Purpose~~

~~The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development or redevelopment of public storm water conveyance systems, specific street improvements designed to direct and control storm water flows, storm water treatment facilities, storm water detention or retention ponds, or other storm water facilities, designed to provide extra-system capacity, and as designated on the Storm Drainage Plan Map, attached as Appendix E, in Chapter 7 of the Community Development Plan, or in the plans of Washington County's storm water management authority. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for storm water system preservation improvements or for routine storm water system maintenance and operations. (Ord. 91-922 § 3)~~

~~6.602.02 — Schedule of Charges~~

~~SIF's shall be assessed against new development in the City to support extra capacity storm water improvements. The SIF for storm water shall be set by the "Schedule of Development Fees" adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code. (Ord. 91-922 § 3)~~

~~6.602.03 — Assessment~~

~~Except as otherwise provided, the SIF is immediately due and payable and shall be collected prior to the issuance of any building permits for new construction, or for alterations or additions to buildings or sites that increase the area of impermeable surface. (Ord. 91-922 § 3)~~

~~8.304 — PARKS AND OPEN SPACE~~

~~8.304.02 — Parks and Open Space System Improvement Fees (SIF)~~

~~A. — Purpose~~

~~The SIF shall be reserved and used exclusively for the acquisition, expansion, and capital development or redevelopment of greenways, parks, open space, or recreational facilities, designed to provide extra system capacity, and as designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for parks system preservation improvements or for routine parks system maintenance or operations.~~

~~B. Schedule of Charges~~

~~SIFs shall be assessed against new residential development in the City to support extra capacity parks and open space improvements. The SIF for parks and open space development shall be set by the "Schedule of Development Fees" adopted by Resolution of the Council. This schedule is included herein as Appendix J for the purposes of information, but is deemed to be separate from and independent of this Code.~~

~~C. Assessment~~

~~Except as otherwise provided, the SIF is due and payable and shall be collected prior to issuance of any building permits for new residential construction, or for alterations or additions to buildings that increase the number of residential dwelling units.~~

~~D. Deferral~~

~~Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the SIF is paid in full.~~

~~E. Waiver~~

~~When a proposed development contains lands designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan, for greenways, parks, open space, or recreational facilities, such land may be dedicated to the City in lieu of an equivalent portion of the SIF, or in the case of multi-family development, in lieu of the equivalent portion of common open space, as per Section 8.304.03. The value of the dedication shall be established by a formal appraisal provided at the developers cost, by County Assessor's records, or some other method deemed acceptable by~~

~~the City. The value of the dedication, as determined by the City, shall be deducted from the SIF.~~

II. Ord. 88-879 was codified as Chapter 2.114 of the Comprehensive Plan Part 3. With the restructuring of the code in Ordinance 91-922, which dropped 2.114 and added the language as a part of Chapter 8 in 8.202.07, Subsection '5.c.' was not included in the text. As there is no provision that actually deleted this provision, and there was no substantive reason to omit the language, it should remain in the codified version:

Action: Approval of Ordinance amendment directing the codification service to include: Section 8.202.07 5.c.: Where base flood elevation data is not provided or is not available from an authoritative source it shall be generated by the applicant for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is less.

III. SZCDC Section 2.106.02 (Office Commercial, permitted uses) was adopted per Ordinance 90-921§1, but provision 'G', allowing multi-family residential use in a PUD with specific reference to the HDR high density standards was not included in the 1990 ordinance, nor in subsequent codified versions of ordinances. It was not included in the Title 1 language changes as noted in Ord. 2000-1108. The same provision is included in Section 2.107.02.J (Office Retail); 2.108.02.F (Neighborhood Commercial); 2.109.02.M (Retail Commercial); and 2.110.02.V (General Commercial).

Action: Approval of Ordinance amendment to include language allowing multi-family residential use in a PUD with specific reference to the HDR high density standards (cited below) in these Commercial Zoning Districts:

A. (Office Commercial) 2.106.02.G Multi-family housing within a Planned Unit Development (PUD) subject to the provisions of Section 2.105.04 High Density Residential (HDR) Dimensional Standards.

B. (Office Retail) 2.107.02.J Multi-family housing within a Planned Unit Development (PUD) subject to the provisions of Section 2.105.04 High Density Residential (HDR) Dimensional Standards.

C. (Neighborhood Commercial) 2.108.02.F Multi-family housing within a Planned Unit Development (PUD) subject to the provisions of Section 2.105.04 High Density Residential (HDR) Dimensional Standards.

D. (Retail Commercial) 2.109.02.M Multi-family housing within a Planned Unit Development (PUD) subject to the provisions of Section 2.105.04 High Density Residential (HDR) Dimensional Standards.

E. (General Commercial) 2.110.02.V Multi-family housing within a Planned Unit Development (PUD) subject to the provisions of Section 2.105.04 High Density Residential (HDR) Dimensional Standards.

IV. Ordinance 98-1048 contains several modifications to definitions that are to be applied to the entire Municipal Code. There are a few minor conflicts: the meaning of 'City' in the SZCDC refers to agents and employees, not the physical bounds of the jurisdiction as in 98-1048; the terms 'person' and 'sidewalk' have different definitions; and, the term 'year' means a calendar year in Ord. 98-1048, while it's meaning has been consistently interpreted to mean 365 days in administration of the code, unless otherwise specified or superseded by state statute.

Ordinance 98-1048 also contains a definition of 'owner', and the SZCDC does not, though there are several references throughout the zoning code to the owner or 'ownership'. The SZCDC should adopt this definition as well, to be consistent with the Municipal Code.

Action: Adopt the definitions of the following terms in the SZCDC as cited in Section 1.202 supersede that of Ordinance 98-1098 for purposes of administering the SZCDC: "City"; "person"; "sidewalk". The term 'year' means a period of 365 days for purposes of administering the SZCDC, unless otherwise specified or superseded by state statute.

NOTE: STAFF WILL ADOPT A NEW DEFINITIONS SECTION LATER THIS YEAR.

V. Section 2.202.06C4 includes a reference to unlimited height standards which cannot be traced to a specific ordinance. This provision has been in the codified version of the code for several years (since 1995), and was likely reviewed when ordinance changes were made, but simply not included in the final document before Council.

Action: Include the following language in an ordinance adoption, as already included in the codified version of the SZCDC, at section 2.202.06(C)(4):

4. Height

Maximum building height is unlimited, provided a sprinkler system is installed in all buildings over two (2) stories, as approved by the Fire District, excepting that where structures are within one hundred (100) feet of a residential zone, the maximum height shall be limited to that of the residential zone.

“Exhibit B”

CITY OF SHERWOOD

Report Date: July 11, 2005

Staff Report

File No: PA 05-02 Codification & Housekeeping Plan Text Amendment

TO: CITY COUNCIL

Hearing Date: July 19, 2005

FROM: PLANNING DEPARTMENT
Kevin A. Cronin, AICP
Planning Supervisor

I. BACKGROUND

The City Recorder initiated the review of the Sherwood Zoning and Community Development Code (Comprehensive Plan - Part 3) as a result of various plan text amendments that changed the original text since adoption in 1986. Voter approval of Measure 37 also precipitated the need to document the legislative history of the zoning code and accelerated the timing of this housekeeping plan text amendment. The last major code clean up was in 2001 (PA 01-01).

Dave Wechner, AICP was contracted through the City Recorder’s office to conduct a code audit. Mr. Wechner’s review is summarized in Exhibit B. As a result of the code audit and subsequent recommendations, staff has proposed the addition of ordinance citations (Exhibit D), deleted language as a result of repeals, and codification of certain sections that have not been properly documented. Other important legislative actions are required, but are separate from this action. The Planning Commission held the first of two required public hearings on June 14 and recommended adoption.

II. AGENCY & PUBLIC COMMENTS

Staff sent e-notice to affected agencies on May 24, 2005. Direct property notice is not required for Type 5 – Legislative amendment. Staff has not received written comments on the proposal. Although technically not required, 45-day notice was also sent to DLCD on April 18, 2005.

III. FINDINGS

TEXT AMENDMENT (SECTION 4.203.01)

An amendment to the text of the Comprehensive Plan shall be based upon a need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and this Code, and with any applicable State or City statutes and regulations.

FINDING: The proposed text amendment is the result of a code audit that identified outdated language, a need for ordinance citations to improve referencing, and to codify sections that were inexplicably not documented. All nine chapters of the Sherwood Zoning and Community Development Code (Part 3) are affected. However, Exhibit A summarizes the affected chapters that are “missing links,” which include the following:

- Multi-family (HDR) permitted use in a PUD: Section 2.106.02, etc; and
- Maximum height standard: Section 2.202.06C4.

Adding citations or deleting language that was repealed does not require a plan text amendment or legislative action. However, the sections described above do require action and findings. This staff report will focus on those findings of fact.

Section 2.106.02 (Office Commercial), Section 2.107.02.J (Office Retail); 2.108.02.F (Neighborhood Commercial); 2.109.02.M (Retail Commercial); and 2.110.02.V (General Commercial): MFR as a Permitted Use in a PUD

Currently, multi-family is a permitted use when applied under the guise of a Planned Unit Development process. The High Density Residential (HDR) standards are used when such use is proposed. Multi-family units have been used previously to encourage mixed-use development with varying degrees of success. Although the implementation of the MFR use has been a challenge, the underlying use and applicability has not been questioned as far as encouraging a mix of uses and more holistic neighborhoods instead of a typical suburban zoning approach of segregating land uses. Staff recommends codifying this as a permitted use based on Comprehensive Plan language in Chapter 5 - Community Design and Chapter 4 - Land Use.

Section 2.202.06C4: Maximum Height Standard

The PUD section allows a certain amount of flexibility in return for more creative development that would not ordinarily occur by a standard site plan review or subdivision process. The height standard in non-residential section of the PUD does not limit height unless located adjacent to a residential area within 100 feet. Although staff is not aware of this provision being implemented in any commercial or light industrial zone, the intent is to allow flexibility of businesses “to go up and not out” - maximizing space for buildings and addressing environmental constraints, while still meeting needs for other accessory uses or requirements. Staff recommends codifying this provision based on Comprehensive Plan language in Chapter 4 - Land Use and Chapter 5 - Environmental Resources.

IV. RECOMMENDATION

Planning staff recommends that the City Council **adopt** by ordinance the attached plan text.

V. EXHIBITS

- A. PA 05-02: Summary of Proposed Code Changes dated June 7, 2005
- B. City Staff Report dated July 11, 2005 to City Council
- C. Summary of Notes on Comprehensive Plan Part 3 Audit, Dave Wechner, AICP dated February 28, 2005
- D. E-mail correspondence from Kevin A. Cronin, Planning Supervisor to Chris Wiley, City Recorder dated April 15, 2005.
- E. Example of ordinance citations (Chapter 1, Page 1).

End of Report

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