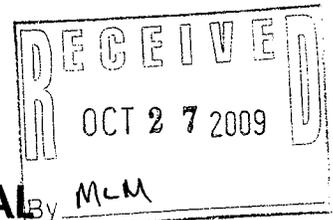




Home of the Tualatin River National Wildlife Refuge



NOTICE OF APPEAL TYPES III & IV

TAX LOT:

MAP NO: 25130D1001#1002
CASE NO: SUB 09-01 / LA 09-01

TO: CITY OF SHERWOOD

APPEAL BY: Jim and Susan CLAUS
(Appellant's Name)

ON FILE # SUB 09-01 at 25130D-1001#1002 21805 SW PACIFIC
LA 09-01 (address/tax lot number) HIGHWAY, SHERWOOD

The undersigned in the above-entitled matter does hereby appeal from that certain decision of the hearings officer rendered on the 12th day of October, 2009, upon the following grounds: *(Please provide on a separate sheet the reasons why you think the Appeal Authority should render a different decision than that rendered by the Hearing Authority).* See Attached

Jim + Susan CLAUS
Appellant

Date Signed: Oct 27, 2009

22211 SW Pacific Hwy
Address

503-625-5265
Phone No.

To be filled out by City Staff

Received by: _____ Date: _____
(authorized Staff member)

* Fee: _____ Receipt No.: _____

* See City of Sherwood current Fee Schedule, located at www.ci.sherwood.or.us. Click on City Government/Departments/Finance.

APPEAL

Persons who are a party to the decision and who have a basis for an appeal based on an issue that has been raised, are eligible to appeal this decision not more than 14 days after the date on which the action took place. For the applicant, the 14 days are counted from the date the decision was mailed.

October 12, 2009

CITY OF SHERWOOD
Report and Decision of the Hearings Officer

File No: SUB 09-01/LLA 09-01

(McFall Subdivision)

Proposal: The applicant proposes to subdivide 8.42 acres into 10 lots. The applicant proposes 9 residential lots ranging in size between 5,079 square feet and 18,752 square feet, and one "remainder" lot of approximately 6.67 acres consisting of floodplain, wetland areas, vegetated corridor and isolated upland area which the Applicant proposes to give or otherwise voluntarily transfer to the City. An existing home will remain on one of the nine lots. The applicant is also proposing to adjust the property line between the subject site (tax lots 1000 and 1001) and the adjacent development on tax lot 1002 to combine isolated pieces of property created by the right-of-way dedication of Cedar Brook Way. For purposes of addressing density standards, tax lot 1000 is also included in the proposal but is not being developed further. The applicant's proposal dated March 30, 2009 is included as Exhibit A and the applicant's revisions dated September 11, 2009 are included as Exhibit B.

I. BACKGROUND

A. Applicant Information:

Applicant: **Owner of tax lots 2S130D1001 and 2S130D1002:**
Jim and Susan Claus
22211 SW Pacific Highway
Sherwood, OR 97140
Contact: Eric Postma, (503) 228-6277

Parcel(s) size: 8.42 acres

Co-Applicant: **Owner of tax lot 2S130D1000:**
Sean Keyes, Woodhaven LLC
17933 NW Evergreen
Beaverton, OR 97006

Parcel size: 7.71 acres

Life Estate Holder: **Lloyd and Irene McFall**

TO: Sherwood City Council
Jim Patterson, City Manager, City of Sherwood
Tom Pessimeir, Community Development Manager, City of Sherwood

FROM: Jim and Susan Claus

RE: Appeal of Report and Decision of the Hearings Officer
File No.: SUB 09-01 / LLA 09-01

DATE: 27 October 2009

Dear City Council and Staff:

\$3111.00 !!!

We are appealing the above referenced decision and including whatever exorbitant appeal fee you will require with this appeal. Can you see how broken your system is? Can you imagine how much time and money you have cost and continue to cost our family? Only in Sherwood can a proposed gifting be turned into a nightmare. We should have learned our lesson with the earlier gifting and of the Robin Hood Theater. Without going into the "human side" of this land use planning debacle, this is notice to appeal Type III and Type IV report and decision of the Hearings Officer dated October 12, 2009.

The Hearings Officer uses language in the findings that eviscerates the proposed gifting. He has drawn development conclusions about the land to be gifted. There is considerable land that is not wetlands and above the 100 year floodplain. Everyone in the meeting agreed that the draft language was inaccurate and not representative of the remainder land. There is a road in that area as well as areas of the remainder land could easily be filled and further utilized. For goodness sakes, you are trying to develop a regional park and Cedar Creek pathway system throughout this area—how can the land be "undevelopable"?

His conclusionary remarks about the remainder land prevents any contemplated gifting. We are in process of checking with a tax attorney regarding this language throughout the decision by the Hearings Officer. If the Sherwood city staff and Winterbrook Planning would have worked "with" us on this file instead of taking adversarial stances, mistakes like those found throughout the initial staff report could have been prevented. During the hearing the testimony and intent of the gifting was talked about extensively and the applicant believed that the draft language throughout the document was going to be revised. Clearly it was not.

As a few examples, include:

Page 19, Section 16.142.030-D the "remainder" lot to be donated "as undeveloped open space." That is an incorrect conclusionary statement about the land. The appraiser will have to determine the highest and best use of the land as part of the appraisal process.

Page 7, Section 16.20.010 Purpose "... one of the ten lots serving as dedicated natural open space (approximately 6.5 acres)..."

Page 11, under Section 8, "... Lot 10 will remain as undeveloped open space dedicated to the City."

Page 11, under Section 12, "... the remainder lot will be preserved as undeveloped open space."

Page 13, under Section 16.108.040.03-14-4 "...While the "remainder" lot has frontage along Pacific Highway, it is undevelopable ..."

Page 20, under Section 16.144.010 "... the "remainder" tract will be given or otherwise voluntarily transferred to the City as open space..."

Page 21 under Staff's Recommended Condition, "... submit a revised plan that dedicates the "remainder lot" to the City as proposed..."

There are more examples throughout the document. We are appealing this application to have mistakes such as these REMOVED from the findings and conditions of approval.

Given the fact that city staff informed the Hearings Officer prior to our hearing that we had brought up the fact that Council had not voted on him in that position, then the City Council dismissed the Hearings Officer and chose another, we hope that this is not some kind of a hit back by staff or the hearings officer. Using a third party planner doesn't lessen the responsibility of Sherwood staff on this broken process or file.

This is the result of generosity in Sherwood. The Sherwood city staff seems to views gifting as weakness and tries to exploit it. We are also objecting to how we have been treated by the staff throughout this process. Staff should be held accountable and a review of this file made.

Please let us know the next step in this "process."

Sincerely,

A handwritten signature in black ink, appearing to read "Jim & Susan Claus". The signature is written in a cursive, flowing style.

Jim and Susan Claus
22211 SW Pacific Highway
Sherwood, Oregon 97140
503-625-5265