

City of Sherwood PLANNING COMMISSION

Masonic Hall, 60 NW Washington Street Tuesday, June 15, 1999 7:00 PM

AGENDA

- 1. Call to Order/Roll Call
- 2. Approval of Minutes June 1, 1999
- 3. Agenda Review
- **4. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the following procedure (Resolution 98-743, adopted June 9, 1998):
 - Staff Report--15 minutes
 - Applicant--30 minutes(to be split, at the discretion of the applicant, between presentation and rebuttal.)
 - Proponents—5 minutes each (applicants may not also speak as proponents.)
 - Opponents—5 minutes each
 - Rebuttal—Balance of applicant time (see above)
 - Close Public Hearing

- Staff Final Comments—15 minutes
- Questions of Staff/Discussion by Body—no limit
- Decision (Note: Written comments are encouraged, and may be submitted prior to the hearing, at the hearing, or when the record is left open, after the hearing for a limited time. There is no limit to the length of written comment that may be submitted)
- **A. SUB 99-4 Oregon Trail No. 3 Preliminary Plat:** a request for approval of an 18-lot single-family residential subdivision, lot sizes ranging from 3,650 sf to 6,655 sf. Tax Lot 201, Map 2S 1 30BD.
- **B.** (Continued from June 1, 1999) PA 99-3 Hearings Officer Plan Text Amendment to the Community Development Code, Part 3, amending Section 1.202.01 to include a definition for "Hearing Authority" and Zoning Code Chapter 3 to establish a Hearings Officer for the review of Type III decisions which include conditional uses, variances, major site plans (greater than 15,000 sf of building area) and major subdivisions (greater than 3 acres of land area).
- 5. Work Session to discuss the Land Use Application Review Process
- **6. Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
- 7. Other Business
- 8. Adjourn

ITEMS NOT COMPLETED BY 11:00 PM WILL BE CONTINUED TO THE NEXT REGULARLY SCHEDULED MEETING

APPROVED MINUTES

City of Sherwood, Oregon

Planning Commission Minutes June 15, 1999

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:00 PM.

Commission Members present: Staff:

Sterling Fox Greg Turner, City Planner
Keith Mays Jason Tuck, Associate Planner

Jeff Schroeder Lee Weislogel, City Manager Pro-Tem Ken Shannon Roxanne Gibbons, Recording Secretary

Angela Weeks Bill Whiteman

Commission Members absent:

Adrian Emery

Introduction of New Commission Member

Chairman Whiteman welcomed and introduced Jeff Schroeder. He will fill the unexpired term of Paul Stecher. Mr. Schroeder said he moved to Sherwood in December 1991 and previous to that lived in Tualatin since 1980. He is an operations manager for a printing and direct mail company in Portland.

2. **Minutes of June 1, 1999**

Chairman Whiteman asked if there were any additions or corrections to the minutes of June 1, 1999. There were none.

Sterling Fox moved the Planning Commission accept the June 1, 1999 minutes as presented. Seconded by Angela Weeks.

Vote for Passage of Motion: 5-Yes, 0-No, 1-Abstain (Mays)

3. Agenda Review

Mr. Turner said the only issue is whether the Commission wished to discuss the hearings officer proposal. There were no other comments.

4. Public Hearings

Chairman Whiteman read the hearings disclosure statement and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda. There were no Commissioner disclosures.

4A. SUB 99-4 Oregon Trail No. 3 Preliminary Plat

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated June 15, 1999, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- The site is located north of Edy Road along the east side of Cedar Creek, further described as Tax Lot 201, Map 2S 1 30BD. The site is approximately 3.28 acres in size.
- The Oregon Trail PUD (Asterbrook PUD 94-1) received approval on April 5, 1995. On December 8, 1998, the City Council approved changes to the PUD, which included changing Condition #3 to allow single family detached housing in Phase 3. The Council decided Phase 3 had expired and required resubmittal for preliminary plat approval to proceed.
- The applicant is requesting preliminary plat approval for 18 residential lots containing single-family dwellings. The proposed lots sizes range from 3,650 sf to 6,655 sf. The site slopes from east to west.
- The Staff Report should be corrected to state there is significant vegetation on the site. Staff proposes an additional condition that any tree removal would need to be mitigated as per the Code.
- The site is zoned Medium Density Residential Low (MDRL) with a PUD overlay. The zoning allows for eight dwelling units per acre. The underlying zoning allows for minimum lot sizes of 5,000 sf, but because it is a PUD, the applicant is permitted to have lots smaller than 5,000 sf.
- At the September 15, 1998 public hearing, the Planning Commission recommended a condition for placement of a good neighbor fence to be placed along the easterly property line. The Commission may require such a condition with approval of the revised proposal.
- The applicant is also required to construct a six foot wooden fence adjoining the church property as part of the original PUD approval (Condition #13).
- The applicant is proposing a 30 ft right-of-way with a 26 foot paved width, 4 foot wide planter strips and 5 foot wide sidewalks on the east side of Parkman Terrace and on both sides of Street "A". This design is consistent with what has been done in the past.
- The applicant is proposing 20 foot front and rear yard setbacks, 5 foot side yard and that the setbacks be measured from the back of the sidewalk. This has been done in the past.
- The Staff Report should be corrected to state the cul-de-sacs meets Code requirements for street standards.
- The finding for tree and woodlands inventories should be corrected to state that tree mitigation would be necessary. Staff recommends adding a condition, "Any tree removal for purposes other than public improvements shall be mitigated on an inch-to-inch caliper ratio."
- The Washington County condition should be Item "C" and Tualatin Valley Fire & Rescue condition should be Item "D".

In conclusion, based on Staff review, findings of fact and agency comments, Staff recommends approval of SUB 99-4 Oregon Trail No. 3 Preliminary Subdivision Plat with the conditions as revised in the Staff Report.

Chairman Whiteman referred the Commission to the letter dated March 31, 1999 from the Tualatin Valley Fire & Rescue District. This letter was provided to the applicant and was

inadvertently not included in the packets. Mr. Tuck said the letter included in the packets was for another application.

Mr. Tuck said the property to the east is zoned Medium Density Residential Low (MDRL) and is outside the City limits. If fencing were required along this property line it would be approximately 600 feet long.

Ken Shannon asked for clarification regarding street widths with parking on one side. Mr. Tuck said the fire department requires a street width of 15 feet unobstructed with parking on one side. The City adopted standards for local streets is 28 feet. Mr. Turner said currently the narrowest standard is 28 feet and if it is less than that, you can condition no parking on one side. The Commission asked who would maintain the garden landscape in the center of the cul-de-sac. Mr. Tuck said if Oregon Trail had a homeowners association, they would maintain it, otherwise it would be maintained by the City. Mr. Turner said the City street standards would supercede the Washington County standards which were recently adopted. The applicant said they referred to the City Engineering Standard Drawing ST 8 which shows a 26 foot street width.

Chairman Whiteman opened the public hearing on SUB 99-4 Oregon Trail No. 3 Preliminary Plat and asked if the applicant wished to provide testimony.

Len Schelsky, Westlake Consultants, representing the applicant, Farwest Properties, 15115 SW Sequoia Parkway, Suite 150, Tigard, OR 97224, addressed the Commission. Mr. Schelsky noted:

- After the applicant was required to resubmit Phase 3, they reconfigured the plan to what is being presented tonight. This plan takes into consideration some of the comments from the neighbors and the issues regarding the wetlands and sensitive land areas.
- They decided to place the street closest to the wetlands. They will be dedicating some additional property to the City as open space. The wetlands will be more protected in the long run because there will not be any houses that back up to the creek.
- There will be a little grading on the downhill side of the street. There will be a short retaining wall near the intersection because of the change of the slope.
- The plan creates single-family lots. The original PUD approval for this phase allowed 22 units and they have decreased this to 18 units. The builders have some house plans which should stay in keeping with the surrounding single family detached homes.
- They have tried to make contact with Mr. Fishback, an adjoining property owner.
- During the final design for the drainage on the north end of the project, they will be meeting with the adjacent property owners and City to address these issues.
- The current street alignment will follow the contour of the ground better and all of the drainage would flow toward the south. They have eliminated a water quality pond which was permitted through DSL and going to be placed in the wetlands.
- They have eliminated the sewer connection on the north end and this will alleviate any work in the wetlands in this area.

- They have eliminated the sewer connection on the southerly end. They will go down Edy Road and connect to the main trunk in the road. They have eliminated the two sewer connections in the wetlands.
- The water quality pond shown on the plans have been permitted and renewed until May 2000. They hope to build it this year and move forward.
- Regarding the fence, with the original PUD the developers agreed to place a fence along the east property line and still plan to provide this fence.
- They were told the local street width was 26 feet and this is what they have been following.
- The applicant has no disagreement with the findings or conditions of approval.

Mr. Schelsky said he would answer any questions. In response to Mr. Shannon's question, he said the homes would be two-story and range from 1300 sf to 1800 sf with 5 foot side setbacks. There is an Oregon Trail homeowners association. He would assume they would maintain the cul-de-sac island as well as some of the open space. There is no sight distance problem from this project to Edy Road.

Chairman Whiteman asked if there was anyone who wished to provide testimony in favor of the application.

Lorraine Burris, 17363 SW Edy Road, Sherwood, Oregon 97140, addressed the Commission. Ms. Burris said she is a proponent of the fence. The developer has assured her the fence would be installed, but she would like to have it be a requirement. Most of the time her land is used to run sheep and she would just like to have it protected. She would like a 6-foot fence and was open as to the type and material used for the fence.

Charles Jagow, 20900 SW Kruger Road, Sherwood, Oregon 97140, representing St. Paul Lutheran Church, addressed the Commission. He is a Church officer and trustee responsible for the property and association concerns. He appreciated the restatement of the fence requirement. They would like to have a chain link fence, six feet high. He noted some of the congregation's other issues:

- The grove of trees adjoining the property is very special. They would not like to see any kind of damage to the root systems. The setback is only 20 feet and Fir trees tend to have a very shallow root system. They would request that any landscaping, cuts or fills take into consideration the root zone of the Fir trees. This would preserve the grove and continued safety of any nearby houses. He identified the area on the map where the trees are located.
- The back of the Church property is an established outdoor worship area. They would ask the community to respect this as a worship area. This brings up the issue of noise and an existing condition of having outdoor services. Some people would consider the early morning services to be a nuisance.
- He asked if the Commission could require the deeds for the property have a covenant that
 would identify and respect the outdoor usage by the Church of this grove as a church facility
 for worship. There is an outdoor church structure on the property which is used for summer
 worship services and bible school.

• They do not want to offend any of the neighboring property owners. Potential property owners need to know this is an activity which is occurring on the Church property. Sometimes they use a small amplifying system or there are people playing wind instruments. The worship structure is an open-sided building with the amplification facing away from the development.

Chairman Whiteman asked Staff if there was a way to acknowledge that this was an area that was used for outdoor worship. Mr. Turner said a condition similar to a "farm practice" or "agricultural use" could be identified as "outdoor worship" use. Mr. Jagow said the Church currently has a pre-school, but in the summer there is some outdoor activity associated with a vacation bible school. Usually this is under pretty strict supervision. There is a small playground near the pre-school building. Mr. Turner said the notification would be part of the deed and each person buying property along this fence line would be notified of the church uses and potential for noise.

Matt Fishback, 20618 Duckridge Place, Sherwood, Oregon 97140, addressed the Commission as an opponent of the application. He noted:

- The first day they moved in, they heard the music from the church worship. They investigated where the noise was coming from.
- The bottom of the ravine, which is about 15 feet from his floor level, causes him concern on how this was going to be graded for the new homes. He identified the area on the map.
- There is a private road coming into Duckridge Place which ends at his property and a sidewalk that goes from the edge of his property and stops at the wetlands. He was concerned about access and how this was being addressed.
- This is the first he heard about a fence along his property and he had concerns on the type of fence and what would separate their subdivision of larger homes on larger lots from the proposed subdivision that will have smaller homes and lots.
- He was concerned about the smaller homes being built in the area and how this would affect his property value.

Chairman Whiteman asked Mr. Fishback when comparing what was reviewed in September 1998, and this proposal, are there fewer objectionable items from the viewpoint of being an adjoining property owner. Mr. Fishback said yes, the lots are a little bigger. It is not ideal and they would still like the lots to be similar in size to their subdivision. He and the applicant have traded some voice mails, but they have not yet had a meeting regarding the drainage issues. Regarding the swale below his property, he does not know the elevation gain. He is not an engineer, but it looks like it would be difficult to build this up to the proper grade.

Tim Grace, 20582 Duckridge Place, Sherwood, Oregon 97140, addressed the Commission as a proponent of the application. He said the plan is much improved from what was previously submitted. He noted:

- He is not real excited about the smaller houses.
- He lives two houses up from Mr. Fishback. He has walked the site several times.

- It is not clear from the information he has reviewed how the cuts and the fills are going to work next to the Fishback property and all the way along the road.
- The road has been moved and as you walk the property, right now there is a very severe dropoff from the existing grade to get down to the floodplain level and go out. He has looked at an existing grading plan, but not in relation to the new layout.
- He would encourage a very careful analysis of how the cuts and fills are done.
- He questioned whether it would be possible to put the road in there without some type of retaining wall to protect the wetlands.

Chairman Whiteman asked if there was any further testimony, either proponent or opponent. There being none, Chairman Whiteman asked if the applicant wished to provide rebuttal testimony.

Len Schelsky, Westlake Consultants, addressed the Commission. He discussed the concerns of the testifiers:

- In Phases 1 and 2, they recorded a disclosure statement for farm practices and will probably be a part of Phase 3 and 4. During the PUD hearings they discussed the noise from the church. The big issue at that time was the bell. If he recalls properly, they didn't want to have a disclosure statement about noise. He did not think the developers would have a problem with having a disclosure statement put in the deed stating the property is located adjacent to church property. They can come up with some wording and send it to the church to get their approval. It is noted on the plat that it is subject to the disclosure statement being recorded.
- With regard to the grading, they have a lot of dirt to get rid of on this project. The tentative plan is to dispose of it down near Tualatin-Sherwood Road and the Ice Skating Rink. They are willing to put as much dirt on Mr. Fishback's lot to make the grade acceptable. They will meet with him to resolve any concerns.
- The area of the cul-de-sac will actually be lowered about 6-7 feet from the existing ground. The grading plan shows the elevation of the cul-de-sac as 162 feet and the elevation shown prior to the house being constructed is about 160-162 feet. They would need Mr. Fishback's permission to place some fill on his lot and straight grade it.
- The grading plan shows the contours being about 10-15%. The retaining wall would be on the very upper end. The edge of the road is set back from the top of the bank.
- They would consult with an arborist regarding the grove of trees located along the property line.

Chairman Whiteman closed the public hearing on SUB 99-4 Oregon Trail No. 3 Preliminary Plat for discussion by the Commission.

The Commission discussed adding the following conditions to the application:

• A condition regarding tree mitigation as recommended earlier by Staff.

- A condition regarding fencing the east and north side of the property and the type of fencing being agreeable to the developer, the church and adjoining property owners and be 6 feet in height.
- A condition requiring a disclosure statement regarding the adjacent property being used for church worship and as farm use.
- A condition regarding consulting with an arborist to protect the fir trees in the grove along the easterly property line. The affected lots would include Lots 3, 4, 5, 6 and 11.
- A condition regarding the grading of the swale to the north of the subject property shall be done in consultation with the City engineering department, the applicant and neighboring property owners.

The Commission had considerable discussion about the lot sizes.

Ken Shannon had concerns about the 26 foot street width and undersized lots and setting a precedent for the next developer. When you look at the quality of life in Sherwood, there are two things he does not favor; small lots and private streets. He did not understand how the livability of the town was being improved with the undersized lots. The other phases of this PUD had 5,000 sf lots. When the adjoining property develops they could be down to lots less than 4,000 sf.

Keith Mays said the smaller lots and street width concerned him too. The proposed street width would virtually eliminate any parking in the neighborhood.

Mr. Tuck said the Code requires each house to have two designated parking spaces. Two of these could be in the garage and two in the driveway. Theoretically there would be four parking stalls per house.

Mr. Shannon said if there was a fire on Lots 2, 3 or 4 and someone was parked between the No Parking sign, a fire truck would not be able to provide the necessary service. The citizens would be in an uproar. The main road coming in and even Street "A" should be the minimum standard for the City, which is 28 feet.

Mr. Tuck said the zoning for the adjacent property is Medium Density Residential Low (MDRL) and the minimum lot size would be 5,000 sf. The plan being proposed tonight only has five lots that are less than 4,500 sf.

Mr. Turner said when this proposal came in, 26-feet in width, with parking on one side, was allowed. The City Council recently changed this standard to 28 feet. The Woodhaven PUD has 26 foot wide streets, curb-to-curb.

There being no further discussion,

Bill Whiteman moved the Planning Commission add the previously discussed conditions to SUB 99-4 Oregon Trail No. 3 Preliminary Plat (tree mitigation, fencing on east and north

side, disclosure statement, grading of the swale, and consulting an arborist regarding fir trees). Seconded by Sterling Fox.

Prior to voting on the motion, the Commission agreed to add another condition regarding posting no parking signs on one side of the street.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

Sterling Fox moved the Planning Commission approve SUB 99-4 Oregon Trail No. 3 Preliminary Plat based on findings of fact, public testimony, agency comments and conditions as revised. Seconded by Angela Weeks.

A roll call vote was taken:

Vote for Passage of Motion: 3 - Yes (Fox, Schroeder, Whiteman)

3 - No (Mays, Shannon, Weeks)

0 - Abstain

Motion failed.

Chairman Whiteman said the motion needed an affirmative count to pass. One option would be to re-open the hearing. He asked if there was anyone on the Commission who would be opposed to re-opening the public hearing on SUB 99-4. There being none, Chairman Whiteman re-opened the public hearing on SUB 99-4 Oregon Trail No. 3 Preliminary Plat.

Len Schelsky, Westlake Consultants, addressed the Commission. He asked what the Commission would like the applicant to do. This is about the fifth time they have been before the Commission for this subdivision. They had an approved PUD, granted in 1995 for approximately 180 units. They have already deleted about 14 lots from the original approval of this PUD. If they appeal this to City Council, it will probably be approved because they will uphold the PUD standards which allow flexibility in lot sizes. The applicant does not want to spend more time and money defending this project. He felt the decision that Phase 3 had lapsed and having to get attorneys involved cost a lot of unwarranted money. If they have to take out more lots, the price of the lots would probably increase. This is an affordability issue and the homes in this phase will probably be in the \$160,000-\$180,000 range. Is this affordable, not really. This proposal meets the PUD standards. The issue of small lots needs to be addressed through a Code amendment process. The original PUD granted attached units in this project. Right now they have none and have given up some things and spent a lot of money on issues which really should not have happened. They would really not like to have to appeal this to the City Council.

Lorraine Burris, 17363 SW Edy Road, Sherwood, Oregon 97140, addressed the Commission. Her preference would be to have no subdivision at all. However, if there is going to be a subdivision, the plans submitted tonight are much improved from the previous layout. As a

neighbor, she did not want to see duplexes built next to her. The single-family houses will make more of a neighborhood.

Jason Tuck said a possible solution to increase all of the lots sizes on the lower half would be to move the lot line near the open space and make all the square footage of the lots 5,000 square feet or close to it.

Tim Grace, 20582 Duckridge Place, Sherwood, Oregon 97140, addressed the Commission. He commented about the PUD in general. He has reviewed the Code with reference to PUD's and zoning. The reference is very clear when a PUD is allowed. This is a PUD because in 1994, it was approved and then sat dormant for some time. During that time more people moved into the area. He has lived in the area for about 4 years. The sizes of the homes being proposed will be placed on smaller lots than the surrounding area. When he first learned about this proposal, he was unaware that there was a PUD which had been approved 2-3 years earlier. He was surprised that the lot sizes were so small. The proposal being presented tonight is a huge improvement from the previous plans. He is not used to the small lots sizes and he agrees with Mr. Shannon's comments regarding small lots.

Roy Armour, 17476 SW Edy Road, Sherwood, Oregon 97140, addressed the Commission. He is a proponent of this project. He has two grown sons who cannot afford to buy a house. They need to get started somewhere. Where can they get started in Sherwood? When it comes time to develop his property, 3,000 sf lots or whatever it takes, he is for it. He is a property owner. We all can't live on half-acre lots. He attended the public hearings on the Miller's Landing proposal. They spent a lot of time talking about bike paths and foot paths through wetlands. Where is the continuity for these paths? Should the interest in Sherwood be to put people in houses they can afford, or do we worry about the houses being shacks and bringing low life. Who can afford to buy a \$225,000 house?

Matt Fishback, 20618 Duckridge Place, Sherwood, Oregon 97140, addressed the Commission. The proposal is much better than what was done before. However, when you look at everything that is around this piece, it is all bigger lots. To him what is on the ground says what is best for the area. He did not think this was the intent when the PUD was established. As everything has been built up around it and time has elapsed, now they want to come in with something that is much different.

There being no further testimony, Chairman Whiteman closed the public hearing on SUB 99-4 Oregon Trail No. 3 Preliminary Plat for discussion by the Commission.

Chairman Whiteman said for the Commission to reconsider the vote on the application would require a motion by one of the members voting "no" on the previous motion.

Keith Mays moved the Planning Commission reconsider the previous motion to approve SUB 99-4 Oregon Trail No. 3 Preliminary Plat. Seconded by Sterling Fox.

Keith Mays stated while he did not favor the small lots, the application does meet the current Code requirements. If the Commission wants to do something about the small lots, they would need to go through the process of a plan text amendment to the Code. He favored the idea of expanding the lots by moving the boundary on Lot 18.

Vote for Passage of Motion: 4-Yes, 2-No (Shannon, Weeks), 0-Abstain

Bill Whiteman moved the Planning Commission approve SUB 99-4 Oregon Trail No. 3 Preliminary Plat based on findings of fact, public testimony and agency comments and conditions as revised. Seconded by Keith Mays.

Mr. Mays said his second would include trying to enhance Lots 12-18 by moving the lot line to get closed to a 5,000 sf lot size.

Mr. Shannon said the small lots are unacceptable and will not improve the livability of Sherwood.

Ms. Weeks said the smaller lots does not necessarily mean it is an affordable house.

The Commission agreed that the Code needed to be reviewed regarding lot sizes.

Vote for Passage of Motion: 4-Yes, 2-No (Shannon, Weeks), 0-Abstain

4B. PA 99-3 Hearings Officer Plan Text Amendment (continued from June 1, 1999)

Chairman Whiteman asked Staff to incorporate the comments he provided on the appeal process in the proposal for the Commission's consideration. This will be reviewed at the next Commission meeting. He said the information from Mr. Claus will not be forthcoming and he does not plan to pursue his proposal presented at the June 1, 1999 Commission meeting. He would like to have the public hearing on this issue at the second meeting in July.

Bill Whiteman moved the Planning Commission continue PA 99-3 Hearings Officer Plan Text Amendment to the July 6, 1999 Regular Commission meeting. Seconded by Sterling Fox.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

5. Work Session

The Commission did not go into a work session.

6. Community Comments

Tim Grace asked if the Oregon Trail No. 3 Preliminary Plat application would automatically go the City Council for public hearing. Chairman Whiteman said preliminary plats only require one public hearing. Mr. Tuck said any person who has standing by testimony or providing written comments prior to the record being closed could appeal the decision to the City Council.

7. Other Business

Jason Tuck reviewed the schedule for upcoming Commission meetings. The LDS Church site plan and conditional use application is scheduled for the July 6, 1999 Regular Commission meeting. The Fred Meyer application may be ready for the July 20, 1999 Regular Commission meeting.

Chairman Whiteman reminded the Commission that a joint City Council and Planning Commission meeting is scheduled for 7:30 PM at the Senior Center on June 29, 1999. The Mayor will conduct this meeting. He will be out of town and he plans to write a letter regarding the Meinecke Road connection. The Woodhaven PUD Amendment is scheduled to be heard at this meeting.

Sterling Fox said he would be out of town and not able to attend the June 29 or July 6, 1999 meetings.

8. Adjourn

There being no further business to discuss, the meeting was adjourned at 9:00 PM.

Respectfully submitted,

Planning Department