



**City of Sherwood
PLANNING COMMISSION
Stewart Senior/Community Center
855 N. Sherwood Boulevard
November 2, 1999 - 7:00 PM
A G E N D A**

1. **Call to Order/Roll Call**
2. **Approval of Minutes – October 19, 1999 (available November 16, 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. **PA 99-4/SP 99-9 Senior Housing NW Plan Map Amendment & Site Plan: (cont'd from 10-19-99)** a request for a plan map amendment from Medium Density Residential High (MDRH) to High Density Residential (HDR) and site plan approval for construction of a 25,000 sf, single-story, 38-unit assisted living facility with vehicular access to Oregon Street. Tax Lot 4400, Map 2S 1 32BA.
- B. **SUB 99-8/VAR 99-2 Nottingham Subdivision Preliminary Plat & Variance:** a request by Joe Broadhurst for preliminary plat approval of a 53-lot single family subdivision and variance to reduce right-of-way width from 50 feet to 46 feet. The site is located at 22120 SW Pacific Hwy, Tax Lot 100, Map 2S 1 31B.
5. **New Business** – Review letter to City Council re: PUDs meeting conditions of approval.
6. **Community Comments** *are limited to items NOT on the printed Agenda.*
7. **Adjourn to Work Session to review potential Development Code Amendments.**

**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
November 2, 1999

1. Call to Order/Roll Call

Chair Angela Weeks called the meeting to order at 7:00 PM.

Commission Members present:

Adrian Emery
Keith Mays
Jeff Schroeder
Ken Shannon
Angela Weeks

Staff:

Terry Keyes, City Engineer
Roxanne Gibbons, Recording Secretary

Commission Members absent:

Sterling Fox

2. Minutes of October 19, 1999

Chair Weeks announced that the October 19, 1999 minutes would be available at the November 16, 1999 Regular Commission meeting.

3. Agenda Review

Chair Weeks read into the record a letter dated November 2, 1999 from Joe Broadhurst regarding his application scheduled for public hearing tonight. Mr. Broadhurst asked for a 14-day continuance of this application to work with City Staff on the road issues. The 120-day deadline would be extended for 14 days.

Keith Mays moved the Planning Commission continue SUB 99-8/VAR 99-2 Nottingham Subdivision Preliminary Plat and Variance to the November 16, 1999 Regular Commission meeting, as requested by the applicant. Seconded by Adrian Emery.

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

Ken Shannon asked if engineered drawings for the alteration of the Meinecke Road and Highway 99W intersection could be available at the next meeting. Mr. Keyes said he was not aware of any drawings for this intersection other than the written narrative of the City's Transportation Plan. He will research this further prior to the next meeting.

4. Public Hearings

Chair Weeks 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.

Chair Weeks announced that Greg Turner is on family leave for two weeks and Terry Keyes, City Engineer, will be presenting the Staff Report.

4A. PA 99-4/SP 99-9 Senior Housing NW Plan Map Amendment and Site Plan

Chair Weeks called for the Staff Report. Terry Keyes referred the Commission to the Staff Report dated October 26, 1999, a complete copy of which is contained in the Planning Commission's minutes book. He highlighted the main points of the report and noted:

- The applicant is proposing to change the current zoning of the property from Medium Density Residential High (MDRH) to High Density Residential (HDR). The change in zoning would increase the allowable density on the property from 11 dwelling units per acre to 16 dwelling units per acre.
- The applicant is also requesting site plan approval for a 24,573 sf assisted living facility consisting of 38 units.
- Staff previously recommended denial of the submitted application based on upon the fact that the sewer does not currently serve the site and the applicant was proposing to pump the site's sewage to an existing dead-end sanitary sewer in Oregon Street. This proposal conflicted with the City's Sanitary Sewer Master Plan. The applicant requested a continuance to meet with the City Engineering Department to resolve the sewer issue.
- Since that time the City has worked with the applicant and they have come up with two other ways to sewer the property. Both of these options are acceptable to the City.
- The first alternative would be to run a gravity line sewer from the older part of Sherwood to the south of this facility, across the school property, and to the building. To meet the grade will be really close and further surveying will be necessary by the applicant.
- The second alternative, which is also acceptable to the City, is to install a S.T.E.P. sewer system. They would install a septic tank on their property that they would maintain. A pump system would take the liquids from the septic tank and discharge them into a long private line which would go into the sewer on Oregon Street. The applicant will build a dry-line sewer lateral to their east property line so when the property to the east develops they will be able to tap into this sewer and eliminate their septic tank and pump system.
- There is no true alignment for where Adams Street will be located, but it will probably be to the east of this site. This will depend on where it extends from the north.
- The applicant will use the existing private driveway of the Church that runs north and south from Oregon Street. The applicant will widen the private drive to 24-feet and put in a 4-foot wide sidewalk from Oregon Street to their north property line.
- The waterline is a private line that goes down to Oregon Street with a double-check valve to prevent any pollution from going into the public line. If they can get the Church to hook into the new waterline they want to build, the City will allow this as a public line on a private road. It will be easy to maintain and the City will be able to abandon the old line the Church is currently using. This has been included as a condition of approval.

In conclusion, based on the a review of the applicable code provisions, agency comments and staff review, Staff recommends approval of PA 99-4 Plan Map Amendment and SP 99-9 Senior Housing Northwest Site Plan.

In response to the Commission's question, Mr. Keyes said Staff did an analysis based on what the City of Portland uses for parking standards for assisted living facilities. The applicant has exceeded what was required for parking. This discussion is on page 9 of the Staff Report. He identified the proposed parking spaces on the site plan map. They are proposing twenty parking spaces (20) which include four (4) handicapped parking spaces.

Chair Weeks opened the public hearing on PA 99-4/SP 99-9 Senior Housing Northwest Plan Map Amendment and Site Plan and asked if the applicant wished to provide testimony.

Craig Smith, representing Senior Housing Northwest, 5331 SW Macadam Avenue, Suite 200, Portland, Oregon 97201, addressed the Commission. He noted:

- This would be their seventh assisted living facility project built in the Pacific Northwest. Another one in Corvallis is almost ready for occupancy. One-half of the facilities in Oregon have been built for non-profits.
- They would own this facility. They have quite a bit of experience with this type of project. The closest facility right now is located in Lake Oswego. They just completed an Alzheimer's and assisted living project in Wilsonville. Since the early 1990's they have built six facilities.
- There will be a Registered Nurse (RN) on duty. Other than handing out the tenant's medicine, the level of medical care provided will be limited. They would also assist in medical emergencies.
- Very few residents have their own vehicles. Assisted living facilities are a new concept. A lot of cities are dealing with the parking ratio. With regard to their facilities, they have found if they allow one parking space for every two units, it is generally adequate to meet all their needs.
- A facility was just completed in The Dalles with about the same number of units and parking and it seems to be working adequately. It is currently one-half full and should be completely occupied by the end of November 1999.
- Presently, there are no plans for buses or vans to transport residents from the proposed Sherwood facility. Usually, once the facility is built and they can support the cost of a van, it could be provided.
- The Sherwood facility, at capacity, would have about eight full time employees on the day shift. The swing and graveyard shifts would have fewer employees. The facility would be staffed 24-hours a day, 7 days a week.
- They are very conscientious about taking care of the residents because this is their home.

Mr. Mays said there has been some concern about private driveways. This facility will have 38 units and a narrow driveway is a concern.

Mr. Smith said it took a year to negotiate an easement with the Church. One of the Church's concerns with the current private driveway is that it is not wide enough. The applicant will improve the access by widening the driveway to 24-feet with 4-foot sidewalk on one side. They have a forty-foot easement from Oregon Street to the beginning of their parking lot. There will

be 3-4 feet for landscaping along the driveway and the access to Oregon Street will be widened to 30 feet to make it safer. The Church parking is located right next to this facility and would be available for overflow on special days such as Mother's Day. The Church is a huge supporter of this project. The assisted living facility employees would park on site.

Mr. Keyes said the standard total width for a local street is 28 feet.

Mr. Shannon stated his concern about emergency access if a fire truck was trying to get to an emergency at the site and there were cars parked along the driveway. Mr. Smith said there is a secondary access to the assisted living facility located off of First Street. This is their legal access to the site. They had not planned to improve this access, but under emergency situations this access would be available.

Mr. Shannon said he drove out to the site and when looking at the driveway, the first thing he thought about was the very narrow street. A 24-foot wide driveway standard would be an improvement, but it is still a driveway standard. He thought the driveway should be built to a minimum street standard, maybe not with sidewalks on both sides and maybe with some type of payback in the future. He did not understand how a 38-unit facility was before the Commission with only one access being required. He used as an example the other assisted living facility being built in Sherwood with 60 units. It is required to have two accesses. The applicant may wish to consider First Street as another access to this site.

Mr. Smith said he thought the Development Code required a 24-foot wide street for a private driveway. Mr. Shannon said this was correct, but a Church and an assisted living facility are going to be using this long, private driveway. Also, what would happen when the adjoining property develops. Mr. Smith said that the Church owns most of the adjoining property.

Mr. Shannon asked if the applicant would object to a 28-foot wide street, with a 4-foot sidewalk on their side and if anything developed on the land to east there would some type of payback to them? Mr. Smith said they would have some concern, although he recognized what Mr. Shannon was saying. This little 38-unit assisted living facility is barely putting it together financially having to improve the driveway to 24-feet wide and running the sewer to the school property. They also lost some of the land because of the wetlands. He said it would be very prohibitive, financially, to be required to widen the driveway to 28 feet. He would have review whether this project could afford this additional cost. The Fire Department reviewed their plans to see that they met the fire code. The Fire Department has seen the plans and as far as he knows they are okay with them at this point. Mr. Shannon said these were just some of his concerns.

Chair Weeks asked if there was anyone else who wished to testify.

Myron "Mitch" Wash, 17746 SW Ballard Lane, Sherwood, Oregon 97140, addressed the Commission. He asked if he could ask Mr. Smith a question. He asked for clarification regarding the parking and whether the overflow would go into the Church parking lot.

Mr. Smith said the applicant has the option of working with the Church to allow some of the overflow parking to use the Church lot. The Church has talked to them about using some of the assisted living parking during their busier events. Both parties would be working together to accommodate parking in a safe manner.

Chair Weeks asked if there was any further testimony.

Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He noted:

- Periodically, these so-called assisted living facilities begin to resurface in large numbers. Twenty years ago he worked in asset transfer that protected the people who funded these facilities. A number of projections were made about how these facilities were going to work. He referred to a book written by Arthur Ginney in San Francisco that contained a large number of calculations and none of them turned out to be accurate.
- The Commission is being asked to issue, what is in effect, a conditional use. Someone is saying they want to change the zoning, parking and entrance requirements. Staff then quotes all of these figures relating to expanding population. The reality is that people do not want to leave their homes. This is the reason you get an older population that stay in these facilities for a shorter period of time than anyone guessed. People go to these facilities, not as an alternate living source, but as a last source.
- The Commission knows what happens because they previously had a hearing on another one of these facilities. The applicant comes in and talks emotion about how they are aiding the elderly, but the truth is, this is a profit-making venture. What they are trying to do is cut land costs.
- How they cut land costs is they take out parking spaces. Instead of having 1-1/2 parking spaces per person, the applicant is proposing less. By the time he parks his staff, it is less than 1/4 parking space per person. The applicant quotes Portland's ordinance and says this is their experiment.
- The applicant made the statement three times that they actually have 50% occupancy in the ones they have built. This is a formula for bankruptcy. These facilities do not break even at less than 85% occupancy.
- The Commission has someone asking for exceptions to the land use process of 40 parking spaces.
- HUD started this program 30 years ago and 10 years after that backed off of the entire program because it really contributed to the savings and loan bankruptcies.
- The clever person who builds these facilities tries to rebuild them as an apartment house or a hotel.
- The Commission needs to ask what the applicant's definition is of an assisted living facility. Will they put in the definition who they intend to move into the facility. What age are they going to be, what condition are they going to be in, and are they going to prohibit automobiles. Also, what is going to be the mix of these units and do they have to take all of the meals, or do they have their own apartment with a kitchen.
- If these facilities are not occupied, they go bankrupt. Then you will have someone taking them over and treating them like a non-conforming apartment. Then you are going to have

the Catholic Church saying we were sympathetic to this, but we never realized we were really building a non-conforming apartment house.

- The applicant is asking for a reduction in parking spaces without guaranteeing they will not burden the adjacent properties.
- A very good question is whether there was any other available site for this use. This is a self-imposed restriction because there are other sites and there are other high density ground.
- The applicant is asking to change the density and the parking.
- One criteria is that they will not burden the adjacent properties. The Commission needs to condition this applicant they not do this by defining who can be there and under what conditions.
- There is no justification for the request for a variance because it is self-imposed. The facility does not need two driveways because it is under 50 units. It will have 38 units and they use the term “congregate care” and this means something legally; that “assisted living” does not. It is a clever catch word to keep from telling you what they are really doing.
- This is exactly the problem the Commission is getting into with PUD’s. You have variances, conditional uses and PUD’s. People have used PUD’s in this town to buy zoning.
- He made reference to recommendation “C” where it does not say how they are going to enforce the covenants and agreements. He discussed CC&R’s and how they are enforced.
- The Commission should ask to see the administrative enforcement of these conditions and what mechanisms they have to enforce them. If this turns into a non-conforming apartment house and they begin to violate the assisted living conditions, the Commission should have an immediate way to close them down.
- The driveway is another variance. Why is the City giving a variance when there may be emergency vehicles using it. If they don’t want to build a wider driveway, tell them to find another site.
- He discussed the signage for the facility on page 12, Item D of the Staff Report. A sign is commercial or public expression. The courts say that sign codes must be time, place, manner and content neutral. It is protected speech by the courts.

Chair Weeks addressed a member of the audience. The unidentified audience member said the testifier had 5 minutes and that the Commission needs to follow the rules for public hearings as stated on the Agenda. Every time he has been in attendance, this testifier has been allowed to go over the time limits. Chair Weeks asked him not to disrupt the meeting again and then asked him to leave the building. Mr. Claus said the Chair had the right to call the time limit, could instruct him to leave the meeting, and not to interrupt him. Chair Weeks said if there was one more disruption he would be asked to leave the building.

Mr. Claus continued with his testimony. He addressed the Uniform Manual on Traffic Control Devices as the adopted control device in Oregon that regulates traffic control devices. If this is an assisted living, in emergency, you should go to that book and should use this manual as a guideline. He discussed the signage needed for emergency vehicles to find to facility. The Commission needs to watch this because if they don’t, they are negligent *per se* in this state where traffic safety is concerned. The City adopted the Uniform Manual on Traffic Control Devices as a compliance agreement *per se*. Facilities that have emergency care need to have this

manual as the guideline, not the sign code. He urged the Commission to take his comments into consideration and thanked them.

Chair Weeks asked the member of the audience to leave the building and directed the Commission Secretary to call an officer to have him removed.

Chair Weeks asked if there was any further testimony. There being none, Chair Weeks asked if the applicant wished to provide rebuttal testimony.

Craig Smith addressed the Commission. He noted:

- Senior Housing only owns one other facility which has just been completed in The Dalles. Their company has developed a number of assisted living facilities. He is the Senior Vice-President for Grayco Resources. Senior Housing is a company they manage.
- Grayco Resources has built all of these facilities which he previously outlined. The facilities they have built for other people, non-profit, are at 100% occupancy. There is a need for these facilities.
- Generally, the resident make-up is women in their late 70's to 80's. They usually need some assistance in their daily living activities such as bathing, dressing and taking medication. This is the kind of facility that will assist them.
- The facilities all have small kitchenettes; a microwave and small refrigerator. Three meals a day are provided in a common dining area of the facility. The facility also has an exercise room.
- It is important to note that this is not an institution. The residents are able to come and go as they please and they are able to have visitors. This is their home and they can leave for a month to travel if they wish. This facility is their home.
- The City of Sherwood does not have any specific regulations regarding parking for these facilities. What he attempted to do was demonstrate what other cities they have built in feel comfortable in approving and that has been one parking stall for every two units. He did not just dream up this amount. Other cities agree with this and have approved similar projects with that parking standard.
- They are not here to create a problem. They are here to create something that will work for everybody. He outlined that a close neighbor, the City of Portland, uses an even lower parking requirement. Greg Turner did not require them to do a traffic study. There is very little traffic generated by these facilities.
- The sign they will put up will be low and very moderate. It would have the facility name and address. It is usually on a rock base and not neon. They need a sign for safety and to identify the location.
- Their projects are well received in the community. They work very hard on them and they are proud of what they build.
- The agreement with the Roman Catholic Church is that the facility will have to be a senior project or the easement will go away. The assisted living facility is a special purpose building. You cannot go in and convert them into an apartment complex.
- This project costs about \$3 million and right now the numbers barely work. They are providing 20% of units for allocation at a minimum rate for Medicaid individuals.

- They are trying to balance a lot of needs and requirements and hopefully, they can gain the Commission's support for the project.
- For security, all the units will have a nurse call system and there will also be a monitoring system. All the doors will be monitored.
- The School District has fencing around its property on the west side of the building. They did not plan on placing any more fencing for this facility. The property owner to the south already has fencing. There is a vegetation berm between the Church property and this site.

The Commission asked if the applicant would object to a condition regarding the use of the facility remaining the same. Mr. Smith said he thought this was already contained in the easement agreement that specifies that this facility has to remain as some type of senior housing. He was willing to work with the City to assure that the facility will be an assisted living facility. It is a special purpose building and it does not convert into an apartment complex.

Mr. Smith said when they first looked at the property and discussed their proposal with Staff, Mr. Turner said the zone change was a reasonable request because he was getting directives from Metro to try to increase the density within the City. This plan map amendment would be a reasonable request to gain a higher density.

Chair Weeks closed the public hearing on PA 99-4/SP 99-9 Senior Housing NW Plan Map Amendment and Site Plan for discussion and deliberation by the Commission.

Chair Weeks reminded the Commission that the request for a zone change would be a recommendation from the Commission to the City Council. The final approval of the site plan is subject to the approval of the plan map amendment by the City Council. Staff advised the Commission that this request was applied for as a joint application; a plan map amendment and site plan.

The Commission discussed whether proposed driveway width would meet the necessary safety requirements, when considering cars being parked along the side of the driveway. Mr. Keyes said one problem with trying to condition the driveway to a public street standard is that they have a 40-foot easement and he was not sure you could fit everything in.

Mr. Mays said the Commission needs to address whether they would recommend the zone change from MDRH to HDR. The Commission discussed at length how this zone change would effect the Comprehensive Plan.

Mr. Schroeder said once you put a sidewalk along a driveway, it becomes a street and people will park on the road. His other concern is the number of parking spaces for the facility.

Mr. Keyes showed the Commission a map identifying the zoning of the surrounding area. The Commission reviewed the minimum lot sizes and densities for the LDR, MDRH and HDR zones.

There being no further discussion,

Keith Mays moved the Planning Commission continue PA 99-4/SP 99-9 Senior Housing NW Plan Map Amendment and Site Plan application to the November 16, 1999 Regular Commission meeting pending a response from Staff addressing the Commission's concerns regarding parking, driveway width, what effect the proposed zone change would have on the Comprehensive Plan, and how to condition that the proposed use would not be changed. Seconded by Adrian Emery.

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

Chair Weeks recessed the meeting at 8:30 PM for a break and reconvened the Regular Commission meeting at 8:45 PM.

5. New Business

The Commission reviewed a draft letter to the Mayor and City Council regarding planned unit developments meeting the conditions of approval. It was the consensus of the Commission that this letter should be sent to the City Council as written.

6. Community Comments

There were no comments.

7. Adjourn

The Commission did not adjourn to a work session. There being no further business to discuss, the meeting was adjourned at 9:00 PM.

Respectfully submitted,

Planning Department