

City of Sherwood, Oregon
Planning Commission Meeting
March 5, 1996

1. Call to Order/Roll Call

Chairman Birchill called the meeting to order at 7:05 PM.

Commission Members present:

George Bechtold
Gene Birchill
Chris Corrado
Rick Hohnbaum
Marge Stewart

Commission Members absent:

Susan Claus
Kenneth Shannon

Staff:

Planning Director Carole Connell
Assistant Planner Lisa Nell
Secretary Roxanne Gibbons

2. Minutes of February 20, 1996 Commission Meeting

Carole Connell advised the Commission that due to the City Hall move, the minutes were not available, but will be provided prior to the March 19, 1996 regular Commission meeting.

3. Community Comments

Chairman Birchill called for comments from the audience regarding any items not on the printed agenda. There were no comments.

4. Consent Agenda

Chairman Birchill asked for a motion to approve the Consent Agenda.

Rick Hohnbaum moved the Planning Commission approve the Consent Agenda as presented. Seconded by George Bechtold.

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

Approved SUB 94-1 Wildflower Phase 3 Final Plat a 46-lot attached single family subdivision on Borchers Drive.

5. Public Hearings

Chairman Birchill reviewed the public hearing process, 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.

Chris Corrado read a disclosure statement, which is attached to these minutes in its entirety.

Mr. Corrado said he hoped the Commission was comfortable with his statement and he would answer any questions. In the future he would summarize the previous statement.

There being no further disclosures, Chairman Birchill moved to the next agenda item.

Carole Connell announced that Agenda Item 6, PUD 92-1 Sherwood View Estates second request for a one-year approval extension had been withdrawn by the applicant, J.C. Reeves. They are proceeding with the development.

5A. CUP 96-1 & SP 96-1 Alexander Oil (continued from 2-20-96)

Chairman Birchill called for the Staff Report. Carole Connell advised that due to time constraints at the February 20 meeting this agenda item was not heard. This application is a two part request; a Conditional Use Permit (CUP) for a cardlock fueling facility, followed by a Site Plan approval for the site improvements. If approved, a Minor Partition must be approved segregating the parcel from Tax Lot 1400. The CUP must be approved prior to proceeding with the Site Plan. Ms. Connell referred the Commission to the Staff Report dated February 13, 1996, a complete copy of which is contained in the Commission's minutes book.

Ms. Connell reviewed the required findings for a conditional use permit. The burden of proof for compliance with the criteria is on the applicant. The proposed use is a conditional use in the RC zone and must be approved by the Planning Commission. It has not been determined that there is a public need for a cardlock facility in Sherwood. The applicant would need to provide a full market analysis relative to growth to demonstrate the need for a cardlock facility. Ms. Connell said the application stated this is a facility for traffic "passing through" Sherwood rather than being something necessarily relied on by the Sherwood residents.

Ms. Connell noted the following:

- The Sherwood School District, TVRFD and City Public Works Department have indicated support for the cardlock facility. Use of a cardlock facility would be much more convenient for these agencies.
- The facility would not provide any jobs for the community.
- It has not been demonstrated that the particular piece of property is the best location for a cardlock facility or is needed by the Sherwood community. It appears that any highway location in the Tualatin-Hillsboro hub would be satisfactory.
- The operation will be open 24-hours a day.
- The Washington County Traffic Analysis projected 699 average daily vehicle trips using this facility.
- There may be adverse effects and excessive environmental impacts if the use is approved and constructed on this site.

In conclusion, Ms. Connell reported based on the findings of fact and the criteria for a conditional use permit, Staff recommends denial of CUP 96-1 and does not believe the applicant has met the burden of proof.

Chairman Birchill asked if the applicant wished to testify.

Brian DeMarco, Planning Design Group (PDG), 122 SE 27th Avenue, Portland, Oregon 97214, addressed the Commission. PDG is the consultant for the owner, Alexander Oil Company. Mr. DeMarco stated he believed that the conditional use permit criteria requires evidence in support of three primary issues:

1. That there is a public need.
2. That the specific property is the best site compared to other available properties.
3. That the surrounding properties will not be adversely affected by the proposed use.

In support of the application, Mr. DeMarco noted:

- The cardlock facility is for the use of Sherwood cardlock customers. It is not solely for traffic passing through Sherwood. There are no cardlock diesel facilities in Sherwood at this time.
- A number of Sherwood residents currently use other cardlock facilities in Newberg and Tigard. These customers will now have the opportunity to utilize the Sherwood cardlock because of its convenience. He referred the Commission to Exhibit A, detailing some of the customers. The Sherwood School District currently uses Alexander Oil Company's cardlock facility in Newberg. A letter from the District's maintenance supervisor, identified as Exhibit B, states, "Currently these buses are shuttled, when necessary, to and from cardlocks in Newberg or Tualatin for fueling. A local cardlock would save taxpayers the cost of labor and mileage in this case."
- The cardlock will also service commercial and agricultural users in the Sherwood area. Approximately 13 major employers in Sherwood with 400 employees would be eligible. Other eligible occupational areas would include self-employed individuals.
- There is a direct correlation between the skyrocketing growth in residential housing in Sherwood and the need for a cardlock facility. Contractors and builders in the Sherwood area would not need to truck in needed diesel fuel to the site. The proposed use would reduce the need for temporary, portable fueling tanks and reduce unseemly and environmentally unsafe construction conditions.
- Construction of the facility will provide needed employment to a number of Sherwood residents.
- The subject property is designated Retail Commercial and is to provide areas for retail and service uses which are the type and size to serve community-wide needs.
- It is one of only a few possible sites in which a service station is allowed as a conditionally permitted use.
- The proposed partition of the property allows the utilization of retail commercially zoned acreage that lacks Highway 99W frontage - access for visibility. It still leaves a section of retail commercial area with frontage on Highway 99W.
- There are other available commercially zoned sites, but these are too wide. Potential sellers were not interested in partitioning a small half acre piece, particularly when the parcel has frontage on Highway 99W.
- Noise impacts are a consideration by everyone. He presented Exhibit D, graphs showing the average number of transactions per hour at the cardlock facility in Newberg during a two week period in August and November 1995. The graphs showed during the early morning hours there may be one fueling per hour during the early morning hours, midnight to early AM. Even

though the cardlock will be opened on a 24-hour basis there will not be a lot of fueling between 6:00 PM and 5:00 AM.

- The anticipated average daily trips which Washington County Traffic anticipates are really considerably less. The applicant's graphs indicate approximately 200 trips per day in November and 400 trips per day in August.
- There will be minimum noise impacts from large vehicles. One of the larger accounts at the Newberg cardlock site show vehicle types ranging from 1-ton Chevy trucks to pick-up trucks, as shown on Exhibit E. Most commercial vehicles are often salespersons cars. There will be no product delivery trucks stored at the site. "No Parking" signs will be posted to prevent overnight parking.
- Daily maintenance inspections will also be made.
- Perimeter landscaping around the site will provide an extra screen from the neighboring properties.
- The facility will be equipped with a vapor recovery system. There will be no more concentration of exhaust fumes than at any other retail facility. Alexander Oil is particularly concerned about spill prevention. Each fuel dispenser is equipped with a shear valve at its base and dispenser hoses are equipped with breakaway connections. Each gasoline dispenser will be limited to dispensing 50 gallons at any one time. Each diesel dispenser will be limited to 250 gallons at any one time. There will be a line leak detection system installed and emergency shut-offs at the dispensers.
- The applicant will maintain the landscaping and an employee will visit the site two times per day to pick up any litter and generally check things over.

Robert Alexander, President, Alexander Oil Company, 700 N. College Street, Newberg, Oregon 97132, addressed the Commission. Alexander Oil is a petroleum products distributorship in Newberg. They have served the area for the last 24 years. They first became involved in the commercial cardlocks in 1986 when they opened the Pacific Pride site in Newberg. This was done in response to a real need being expressed by commercial customers, but they are safe.

Mr. Alexander pledged to have at a minimum, two visits a day for site inspection. He would contract with landscaping services for a presentable, tidy, functional landscape. Pictures of the Newberg cardlock facility were shown to the Commission.

Mr. Alexander said all of the growth occurring in Sherwood creates a need for a cardlock facility. This was one of the few sites this size available and it is ideal from a size and location standpoint. The fact that it is on a secondary road and not Highway 99W makes it safer. It is safer for a truck with a trailer to turn at a controlled intersection, get onto a secondary road and make an easy turn onto the site.

Chairman Birchill asked if there was anyone else wishing to speak in favor of the application.

Norma Oyler, 3709 Coffey Lane, Newberg, Oregon 97132, addressed the Commission. Her mother is the owner of the property, it is in a trust and Ms. Oyler is the trustee. The property has been zoned commercial for over 30 years. After reviewing the Staff Report, Ms. Oyler wanted to discuss a couple of points. Originally the parcel was 5.4 acres, but after ODOT went through it became roughly 3 acres. This is a proposed half-acre site. The remainder of the parcel is 2.5 acres, not the total parcel area. There is a seasonal commercial use on the List property, "Grandma's Produce".

Chairman Birchill asked if there was anyone else who wished to speak in favor of the application. There being no further proponent testimony, Chairman Birchill asked if there was anyone who wished to speak in opposition to the application.

Lois Matz, 21235 SW Pacific Highway, Sherwood, Oregon 97140, representing the Lists, said they supported the Staff Report. They questioned whether the cardlock facility is the best use of the gateway up Edy Road into a residential area. If it is approved by the Commission, they requested that a fence be maintained between the List property and the cardlock property. The List property is still under contract for Grandma's Place and they do not want any more traffic back and forth across the property lines than is absolutely necessary.

Chairman Birchill asked if there was anyone else who wished to speak in opposition to the application. There being no further opponent testimony, Chairman Birchill asked if the applicant wished to provide any rebuttal testimony.

Mr. DeMarco offered nothing further.

Chairman Birchill closed the public hearing on this agenda item, unless a Commission member asked that it be reopened for additional testimony, for discussion and comments by the Commission.

Rick Hohnbaum said he did not notice in the Staff Report the name of the owner of the property as Norma Oyler. Therefore, he excused himself from any further participation in this agenda item.

Chairman Birchill asked if Staff considered the location of this site in relation to the long, sweeping curve on Edy Road with vehicles going west on Edy Road and making a left-hand turn onto the property and the potential of on-coming traffic problems. Ms. Connell responded the access spacing standards for Edy Road provided by the County is 100 feet. Sight distance is required to be 400 feet at the access locations. The County stated sight distance for the eastern access point is acceptable and sight distance for the western access point is limited due to vegetation in the right-of-way. Removal of the vegetation will make it adequate. Ms. Connell reviewed the landscaping corridor and the clear vision area. Staff relies on the County relative to access and site distance review. The County appeared to be satisfied with the application. Ms. Connell suggested if the Commission proceeds favorably with the conditional use permit, the sight distance should be certified before a building permit is issued.

Mr. Corrado said he did not have a problem with the apparent demonstrated need for this particular use, but he was not sure this site was the best location for this type of use. Mr. Bechtold said much of the testimony was about providing jobs for the construction business and provide fuel for the residential boom in Sherwood. The residential boom in Sherwood is not going to last forever. He was a little confused about the public and commercial use for this facility. Ms. Connell responded the cardlock would not be limited to commercial use..

Ms. Stewart said all of the trips currently being made by the school buses causes a lot of extra traffic. This facility could relieve some of the excess traffic. In response, Mr. Alexander stated there is no more damage to air quality from the cardlock facility than a regular service station. Ms.

Connell said a service station would also be a conditional use on this property. Ms. Stewart said she did not have a problem with the application and made reference to all of the letters of support from the various public agencies.

Ms. Connell advised the Commission, if they choose to approve the application, they need to base it on some findings. The Staff Report was not supportive of approval. The Commission could decide to base their decision on the applicant's testimony, request Staff to prepare new findings, or ask the applicant to prepare new findings. These are some of the options available to the Commission.

Chairman Birchill said he agreed with Mr. Corrado. There is a need in Sherwood for this service, but he was not convinced the property was the best location. Typically these types of cardlock facilities are located in a more commercial or industrial type of area. Mr. Alexander said only commercial applications will be using the facility. There are sales people or self-employed individuals who would also be eligible for this service. However, the statute defines that you must use 2400 gallons of fuel a year as one of the criteria. The only exception would be agricultural users.

Mr. DeMarco said the criteria is specific, "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." In the Six Corners area, it is primarily zoned commercial, retail commercial, or general commercial. These are the available properties for this type of use and referenced the zoning map. The half-acre site is the best available for this use in the commercially zoned properties. This is the essence of the criteria. Ms. Connell said general industrial zones also allow general commercial uses. This use could go in any industrial zone as well.

Chairman Birchill said if the facility was located next to a residential area, the possibility of complaints would increase.

Chairman Birchill also questioned the safety training requirement and what type of records are kept. He had not received any such information during his use of a similar cardlock facility, no orientation course or update. Mr. Alexander said annually they mail out a safety brochure to employees who are fueling vehicles. They ask that confirmation be mailed back to Alexander Oil Company. If they do not receive the confirmation after a second request, they invalidate the customer's card. Alexander Oil Company could produce these records if requested by the City.

Following further discussion:

Mr. DeMarco asked that the record on this application, CUP 96-1 and SP 96-1, remain open for seven (7) days to allow for additional findings. Chairman Birchill closed the hearing, but stated the record will be left open for seven (7) days. This application will be on the April 2, 1996 Planning Commission meeting agenda. No additional information will be submitted at that time, other than what was received within the seven days.

5B. CUP 96-2 Merrill Veterinary Clinic

Chairman Birchill called for the Staff Report. Carole Connell reported this application is a Conditional Use Permit (CUP) for a veterinary clinic in the Sherwood Market Center, Retail Building "D". The business will comprise about 2,210 sf. The clinic is for the medical and

grooming needs of small pets. There may be the need for some overnight boarding for medical reasons. Ms. Connell referred the Commission to the Staff Report dated February 27, 1996, a complete copy of which is contained in the Commission's minutes book.

Ms. Connell reviewed the main points of the report and criteria for a conditional use permit. Currently, the closest veterinary clinic is located in Tualatin or Tigard. The Sherwood Market Center is a good location for the small business. The use will be controlled by the center's management to ensure compatibility with adjoining uses. Because of the low impact of the use and the control of the center's management, the surrounding property would not be adversely affected by the use.

In conclusion, Ms. Connell said based on the findings of fact and the criteria for a conditional use permit, Staff recommends approval of CUP 96-2 subject to obtaining proper building permits.

Chairman Birchill asked if the applicant wished to provide testimony.

Dr. Robert Merrill, 8420 SW Power Court, Portland, Oregon 97225, addressed the Commission. Dr. Merrill has been a veterinarian for about 15 years and has a lot of experience in treating pets and other small animals. He noted that:

- The use is to provide veterinary care for small pets, primarily dogs and cats. The provided services will be routine, such as vaccinations, spays or neuters and the care of sick pets. This care would be primarily on an outpatient basis.
- The clinic will also have the ability to hospitalize a pet that needs continuous care overnight.
- They do not intend to do "pet boarding", but only to care for ill pets which should be in a clinic environment. The clinic will provide grooming and bathing services.
- They intend to become a certified hospital of the American Animal Hospital Association.
- The Sherwood Market Center is a good location for the clinic, in part due to the easy access. The closest veterinary hospital is located more than 3 miles away. There is currently no veterinarian in Sherwood and the service is very much needed.
- There will be odor and noise control for the clinic.

In response to Mr. Corrado's question, Dr. Merrill said his neighbors will be an optometrist, McMenamins and there is no tenant on the opposite side of the clinic space at this time. There is space between the clinic and McMenamins.

Chairman Birchill asked if there was anyone else who wished to speak in favor of the application.

David Copenhaver, Gramor Development, 9895 SE Sunnyside Road, Suite P, Clackamas, Oregon 97015, addressed the Commission. Mr. Copenhaver stated he was present to answer any questions regarding the shopping center management from the Commission.

Chairman Birchill asked if there was anyone else wishing to speak in favor of application. There being no further proponent testimony, Chairman Birchill asked if there was anyone who wished to speak in opposition to the application. There being no opponent testimony, Chairman Birchill closed the public hearing on this agenda item, unless a Commission

member asked that it be reopened for additional testimony, for discussion and comments by the Commission.

Mr. Corrado asked that Gramor be aware of the possible noise and odor control needs. Mr. Copenhaver said they have a similar situation with the same type of tenants at the Sunnyside Marketplace and there have not been any problems or complaints in 5-6 years. They feel comfortable that they can eliminate any noise or odor penetration to the adjoining spaces.

Rick Hohnbaum moved the Planning Commission approve CUP 96-2, Merrill Veterinary Clinic, based on findings of fact, Staff recommendations and applicant testimony, subject to obtaining proper building permits. This approval is valid for one year. Motion seconded by Marge Stewart.

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

5C. Revised SP 95-6 Sunfield Lakes Apartments

Chairman Birchill called for the Staff Report. Lisa Nell reported this is a site plan change from the approved Sunfield Lakes Apartment Site Plan, SP 95-6, a 200-unit apartment complex on Century Drive. Ms. Nell referred the Commission to the Staff Report dated February 28, 1996, a complete copy of which is contained in the Commission's minutes book.

Ms. Nell reviewed the changes to the Site Plan which include the addition of 0.4 acres to the site, due to an expansion of the property going east to incorporate the pedestrian pathway and the access to Langer Drive, the addition of one parking stall, a reconfiguration of the drive aisles, the elimination of the 1200 sf satellite recreation building in the center of the lake, the proposal of a 170 sf storage building for the lake equipment in the center of the lake, the addition of stairways on the 3 bedroom buildings, reconfiguration of the lake, the leasing building, pool and spa areas, the removal of two lake islands, the addition of pathways, a second tot lot, a bike rack, and a change in the landscape plan to accommodate the reconfiguration of the vehicular aisles. The overall layout of the revised site plan is an improvement over the original site plan. Ms. Nell referred the Commission to the layout map of the apartment complex.

In conclusion, Ms. Nell stated based on the Staff review and findings, Staff recommends approval of SP 95-6 (Revised) subject to the conditions contained in the report.

Chairman Birchill asked if the applicant wished to testify.

Alan Kravitz, NSP Development, PO Box 6059, Portland, Oregon 97228-6059, addressed the Commission. NSP Development is the consultant on this project. Mr. Kravitz said Ms. Nell did a good job of explaining the changes. He addressed a couple of the conditions. The sidewalks throughout the site as shown on the site plan are asphalt walks for public parking to the buildings and the redwood chip walks are the walks which connect the building to the community building and would be used less frequently. Both walks meet ADA requirements which state the transition between two surfaces can only be one-half inch. They prefer these two types of walks, but will leave it to the Commission's discretion. The applicant does not have any concerns with any of the other conditions.

Mr. Kravitz said per Staff's request, they did make changes to the original site plan. He identified the area where the additional 0.4 acres was added to the site plan.

Chairman Birchill asked if there was anyone else wishing to speak in favor of application. There being no further proponent testimony, Chairman Birchill asked if there was anyone who wished to speak in opposition to the application. There being no opponent testimony, Chairman Birchill closed the public hearing on this agenda item, unless a Commission member asked that it be reopened for additional testimony, for discussion and comments by the Commission.

Chairman Birchill said the Building Code, which tries to represent ADA requirements, would require that there be hard surface accessway between public transportation routes and all buildings on site. Ms. Nell said this has been provided by the applicant.

Following discussion and review of Condition #1 referencing concrete sidewalks, the Commission recommended removal of this condition.

Rick Hohnbaum moved the Planning Commission approve SP 95-6, Sunfield Lakes Apartments (Revised), based upon Staff recommendations, public testimony, findings of fact, the removal of Condition #1 as stated in the Staff Report, subject to the following conditions:

1. Provide a raised concrete crosswalk with a 2 ft x 2 ft grid pattern from the sidewalk at Building D to the tot lot near Building C.
2. Provide two benches near the Building C tot lot, provide one more bench near the tot lot at the northeast corner of the site, and provide benches throughout the entire landscape corridor along the pedestrian pathway.
3. Comply with all of the conditions of approval as detailed in the August 16, 1995 Decision Notice for SP 95-6.

This approval is valid for one (1) year.

Motion seconded by Marge Stewart.

Vote on Motion to Approve: 5-Yes, 0-No, 0-Abstain

6. PUD 92-1 Sherwood View Estates

This agenda item was withdrawn at the applicant's request.

7. Other Business

Ms. Connell announced the City has hired Garth Shull as City Engineer.

Ms. Connell said in response to a question raised at the last meeting, a copy of HB 2501 School Capacity, was included in the packet. The bill prohibits cities and counties from denying applications for residential developments solely on the basis of school capacity, unless the

application involves changes to the comprehensive plan or land use regulations. Mr. Hohnbaum said there are two exceptions, a certain number of students in the district and a certain percentage of growth.

Ms. Connell advised the Commission that Commissioner Birchill and Commissioner Ken Shannon terms will expire in March 1996. Anyone interested in applying should contact City Hall.

There being no further business to discuss, the meeting was adjourned at 9:15 PM.

Respectfully submitted,

Roxanne Gibbons
Planning Commission Secretary