

City of Sherwood
PLANNING COMMISSION MEETING
855 N. Sherwood Blvd
Tuesday, August 6, 1996
7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Approval of Minutes of July 16, 1996**
3. **Community Comments:** *Community comments are limited to items NOT on the printed agenda.*
4. **Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
 - A. **SP 96-5 Pride Disposal:** (continued from June 18, 1996) a request for site plan approval for expansion of an existing building at 13980 SW Tualatin-Sherwood Rd.
 - B. **PA 96-3 Fences & Clear Vision Areas:** a Plan Text Amendment amending Zoning Code Sections 2.301 Clear Vision Areas and 2.303 Fences, Walls & Hedges.
5. **MLP 95-7 Claus:** Staff discussion of proposed changes in improvements for Villa Road and how those changes could modify the partition plat.
6. **Other Business**
7. **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
August 6, 1996

1. Call to Order/Roll Call

Chairman Bill Whiteman called the meeting to order at 7:02 PM.

Commission Members present:

Allen Baker
George Bechtold
Susan Claus (7:05 PM)
Rick Hohnbaum
Angela Weeks (7:05 PM)
Bill Whiteman

Staff:

Sue Engels, Development Director
Jon Bormet, City Manager
Scott Spence, Asst to City Manager
Roxanne Gibbons, Recording Secretary

Commission Member absent:

Chris Corrado

2. Minutes of July 16, 1996 Commission Meeting

Chairman Whiteman asked if there were any corrections, additions or deletions to the minutes of July 16, 1996. There were no comments.

Rick Hohnbaum moved the Planning Commission accept the July 16, 1996 minutes as presented. Seconded by Allen Baker.

Vote for Passage of Motion: 4-Yes, 0-No, 0-Abstain

Following Susan Claus's arrival, she asked that the minutes be amended as follows (page 6, paragraph 4, after the first sentence), "The concern was that he has a current, active advertiser and the scope and the extent of the relationship was not disclosed." The Commission had no objections to this amendment.

3. Community Comments

Chairman Whiteman called for comments from the audience regarding any items not on the printed agenda. There were no community comments. Rick Hohnbaum advised a citizen had contacted him about perhaps attending this meeting or the August 20 meeting, to provide comments, but that they may not be able to make the 7:00 PM start time. The Commission did not have any problem in going back to Community Comments, if the individual arrived later during the meeting.

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.

4A. SP 96-5 Pride Disposal Expansion (continued from June 18, 1996)

Chairman Whiteman called for the Staff report. Sue Engels referred the Commission to the Revised Staff Report dated July 30, 1996, a complete copy of which is contained in the Planning Commission's minutes book. The major issues which caused the application to be continued were Commission questions regarding hard surface parking, landscaping and the biofiltration swale. The Commission received a revised site plan for this application and Ms. Engels noted:

- The revised site plan showed a detailed landscaping plan.
- The site plan illustrated paved employee parking in two locations. There will be a total of 37 parking spaces, including handicapped parking. The new parking lot will be hard surface, with striping and directional arrows.
- Based on the revised site plan, Staff recommends approval of SP 96-5 Pride Disposal Expansion.

Chairman Whiteman opened the public hearing for SP 96-5 Pride Disposal Expansion and called for proponent testimony.

Mike Leichner, Pride Disposal, 13980 SW Tualatin-Sherwood Road, PO Box 820, Sherwood, Oregon 97140, addressed the Commission. Mr. Leichner stated the latest proposal solved any questions and concerns of the Staff and Commission. He did not have any problems with the conditions as presented by Staff.

In response to Mr. Bechtold's question regarding the catch basin, Mr. John Boutinen, Sabre Construction, 7235 SW Bonita Road, Tigard, Oregon 97224, representing the applicant, stated the new catch basin would be located in the new parking lot. It will be completed to USA standards.

Susan Claus asked if and when Pride hires additional employees, whether they will extend the parking. Mr. Leichner said this would probably be the case.

Ms. Claus asked if Pride planned on increasing their current garbage or recycling rates. Mr. Leichner said the employee lunch room expansion is part of his investment and not part of the rates. The additional storage and parking areas will not have a big impact on rates. The City reviews any rate changes based on Pride's collection costs. Any rate increases would be submitted in March. In 1995 and 1996, Pride did not request a rate increase. Mr. Leichner said 1997 rates would be determined by the kind of growth and its impact. The biggest cost right now, as far as impacting fees, is traffic and the time it takes to get to customers.

There were no further questions from the Commission.

There was no further testimony from proponents or opponents.

Chairman Whiteman closed the public hearing on SP 96-5 Pride Disposal Expansion Site Plan for discussion by the Commission members.

Susan Claus commented that if the expansion was not going to make a dramatic increase in the garbage rates and with the revised site plan, she supported this application. There being no further questions or comments from the Commission,

Rick Hohnbaum moved the Planning Commission approve SP 96-5 Pride Disposal Expansion Site Plan based on staff recommendations, findings of fact, and public testimony, subject to the conditions contained in the Staff Report. Seconded by George Bechtold.

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

SP 96-5 was approved subject to the following conditions:

1. Provide engineered construction plans to the City and all applicable agencies for public and private improvements including costs, maintenance and bonding provisions in compliance with City, USA, WCDLUT and TVFRD standards. The plans shall include provisions for streets, street trees, on-site sidewalks, sanitary sewer, water, fire protection, storm water runoff, erosion control, grading, site lighting, landscaping and signage.
2. Extend the existing landscaping along Tualatin-Sherwood Road to the east of the driveway as shown on the site plan. Extend existing landscaping on both sides of the driveway to the corners of the sight-obscuring fences for the new parking lot and the drop-box storage area.
3. Provide a new parking lot with 26 spaces northwest of the office building. The parking lot is to be improved with a hard surface, striping, and directional arrows. The parking lot is to be surrounded with a 6' high sight-obscuring fence.
4. Provide a 6 foot high, sight-obscuring fence or plantings to buffer the storage area from the adjoining properties and the public right-of-way.
5. Provide a shielded 20' high pole light to illuminate the new parking lot.
6. Provide an additional catch basin which directs storm water to the existing biofiltration swale in accordance with USA and City standards.
7. Provide and label all utility easements per USA and City standards.

This approval is valid for one (1) year.

4B. PA 96-3 Fences and Clear Vision Areas

Chairman Whiteman called for the Staff report on the Plan Text Amendment amending Zoning Code Sections 2.301 Clear Vision Areas and 2.303 Fences, Walls & Hedges. Jon Bormet referred the Commission to the report which was distributed at this meeting. This document more closely follows proposed ordinance changes and text amendments. Mr. Bormet presented slides showing several examples of fences which comply to the current code, fences which do not

comply with the current code, and fences which will not comply with the current code or proposed code provisions. He noted specifically:

- The City does not want visual corridors with stockade or solid fences parallel to the public right-of-way.
- Fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety.
- There are two types of situations, back-to-back houses, where two corners lots back into each other and back-to-front houses, where the side yard is also someone else's front yard. He referred the Commission to the examples contained in the report.
- The standards apply to walls, fences, hedges, and screens of all type.
- The current code allows:
 - Fences up to 42 inches in required front building setbacks.
 - Fences up to 6 feet high in required side or rear building setbacks.
 - All fences shall be subject to the clear vision provisions of Section 2.301.

George Bechtold announced he may have a potential conflict of interest with regard to having an illegal fence in the City, but he did not feel that this would affect his vote on this matter.

Mr. Bormet stated the current code states you cannot have a fence over 42 inches high in your front yard. Susan Claus said if you use the argument that you cannot have your fence because you are affecting your neighbor's view, there will be a tremendous amount of people who say they do not care. Mr. Bormet noted:

- Some fences in the City do not work in conjunction with the City's street trees plan.
- The proposal being presented is the result of working with a citizens group formed at the request of the City Council.
- The proposal states:
 - If you back into another house (back-to-back) on corner lots in residential areas, a 6 foot fence may extend into the required second front yard in an amount not to exceed 50 percent of the distance measured between the house and sidewalk. Any reference to the right-of-way is removed.
 - If you have a corner lot in a residential area where a home is characterized as a back-to-front, a 6 foot fence may extend into the second required front yard in an amount no greater than 5 feet from the house. Said fence may not extend beyond 8 feet from the rear of the house to the front.
 - Fences in yards affecting cul-de-sacs are exempt from Section D, as previously stated.
 - The following conditions are applied to those fences constructed pursuant to Section D:
 - Landscaping is required for all fences to buffer the public from the fence. Said requirements shall be developed and administered by the City.
 - The clear vision standards of Section 2.30 apply and take precedence over these provisions in the event of a conflict between the sections.
 - wire/chain link fencing is not allowed along any street frontage.
 - In all cases, the following standards apply:

- Chain link fencing is not allowed in any required front yard setback.
- The finished side of the fence must face the street.
- A fence permit from the City is required for all fences.
- In those cases in which a clear and unique situation or hardship exists, the City Manager or his/her designee may grant an administrative variance to this Ordinance.
- Fences that do not conform to this Code must come into compliance when the house is sold, or by September 1, 1999, whichever is earlier, except that fences constructed affecting cul-de-sacs must come into compliance immediately, as that law has not been amended.

Mr. Bormet stated that to be effective, timely, and in the public's interest, the fence permit process should take 24-48 hours. The permit would be through the Building Division and probably cost about \$25.00. It would be nice if an individual could come in and receive a fence permit the same day. The Commission asked how effective the City could be in enforcing this ordinance. Mr. Bormet said the City is responsible and will need to have a system in place which will effectively enforce the ordinance. Ms. Claus asked for clarification regarding hedges in either the front or back yard. Mr. Bormet said hedges are considered the same as fences. Chairman Whiteman asked about areas where there may be 20-30 foot fir trees and whether they would need to comply with the height requirement for fences. Mr. Bormet said as this time, the 6 foot requirement pretty much applies. However, there will probably be several unique situations which will need review on a case-by-case basis.

Chairman Whiteman opened the public hearing on PA 96-3 Fences & Clear Vision Areas and called for any public testimony.

Gary Lite, 15863 SW Baler Way, Sherwood, Oregon 97140, addressed the Commission. Mr. Lite said he lives in Sherwood Village. He favored the current ordinance and would like to see it enforced. He did not understand how the City could have so many fences which are in violation. He asked why these fences were still up and how long they have been up. He asked whether the City had notified the homeowners that their fences are in violation and whether or not anyone has been fined. He has designed his own irrigation system and plans to build a fence to the current code. The proposed language could allow a fence to be built right next to the street trees. He did not agree with the proposed permit process and fees. Instead of charging people who want to follow the law, the City should fine the people who are in violation. However, he supported the City addressing these issues now.

Mr. Bormet said that up until the summer of 1995, the City did not really enforce fence code requirements. After the City began to enforce the code, many citizens became upset. The City Council directed Staff to work with a citizens group to review the fence ordinance. The results of this committee's review is the proposal being heard tonight. The recommendation of the Planning Commission will be heard in a second public hearing by the City Council on August 13, 1996.

Jim Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus made several suggestions to the proposal and noted that using the word amortization is not fair.

Mr. Bormet said it is a unique amortization proposal, because not a single one of these fences is legal under the current code. The City is not making a law that is more intense, they are liberalizing the law and saying they are amortizing illegal fences.

Mr. Claus made several suggestions for changes to the proposal. It was his opinion that:

- You can't dub something a public nuisance and then turn around and legalize it. Specifically, by statute, the moment you do that, you can't call it a nuisance and if you can't call it a nuisance you can't abate it and you can't amortize it. If the fences are a public nuisance, take them down.
- The ADA and Uniform Manual on Traffic Vehicle Devices specifically states if it is 5 feet and lower, it is dangerous.
- There are also cases where a hedge is in place for very specific environmental reasons.
- The ordinance needs more discretion.
- The word "exception" variance should be used in lieu of "administrative" variance. The word "hardship" should also be removed.
- It seems as though Staff has a tradition which they are trying to avert.

He discussed the Robinhood Theater and nonconforming uses in particular as an example. Mr. Claus said the City desperately needs a new tax base. The fence ordinance could possibly give people enough reason to vote against a new tax base.

There was no further testimony from proponents or opponents.

Chairman Whiteman closed the public hearing on PA 96-3 Fences & Clear Vision Areas for discussion by the Commission members.

The Commission discussed the proposal and specific changes to the wording. Mr. Bormet said anyone who has a legal fence at this time will not be adversely affected by the new code language. Chairman Whiteman said there may also be a problem with people who have arborvitae as a fence. Mr. Baker said a fence should be considered anything that is sight obscuring. He wondered if someone should have to wait three years before an illegal fence had to come down or be in compliance. Mr. Bormet said maybe there should not be a delay in abating an illegal fence when safety or inadequate sight distance is involved. The individuals on the fence committee will be personally notified of the August 13, 1996 hearing.

Susan Claus moved the Planning Commission amend the proposal as follows:

Item H. "Fences that do not conform to this code must come into compliance when the house is sold, when other permits are applied for, or by September 1, 1999, whichever is earlier, except that fences constructed affecting cul-de-sacs and fences creating inadequate sight distance must come into compliance immediately, as that law has not been amended." Replace the word, "Amortization" in the title with the word, "Abatement".

Item G1. Remove the words, “or hardship”. The City Manager will ask for legal counsel opinion whether the word, “administrative” or “exception” should be used in Item G.

Seconded by Rick Hohnbaum.

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

Susan Claus moved the Planning Commission recommend to the City Council approval of PA 96-3 Fences & Clear Vision Areas, as amended. Seconded by George Bechtold.

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

5. MLP 95-7 Claus Street Vacation

Susan Claus did not participate as a Commission member on this agenda item. Jon Bormet said this agenda item is being brought to the Commission for their information and would be handled administratively by Staff. The proposal would change the conditions of approval for MLP 95-7, as well as the recording of the plat. The City Council will need to take action to abate the 20 foot right-of-way.

Sue Engels provided a brief history of the application. In October 1993, a section of right-of-way was dedicated to the City along Villa Road, in most places 20 feet, by the Claus's. At that time it was anticipated that Villa Road would undergo significant improvements and would be connected to the Woodhaven development. A part of this improvement would be the need to significantly widen the street. Since that time, the City has decided Villa Road will not go through, but that Villa Road will be cul-de-saced at the end of Villa Road and on the Woodhaven side. This decision is based on the topography being too deep. It would not be possible to take the road through unless a bridge was built. The flood in February 1996 brought to light how much water can run through the Cedar Creek.

Ms. Engels said the City was recording a partition plat which was approved by the Planning Commission. One of the conditions was that the applicant (Claus) pay for the half-street improvements for the section of Villa Road which they own. Staff is proposing that the right-of-way is not needed because the City does not intend to do such major improvements to Villa Road. The money for the half-street improvements would be used for needed improvements for driveway access and to keep Villa Road basically as a lane. The proposal would be done as a street vacation to return the 20 feet right-of-way to the Claus's and retain the portion where a 5 foot easement would be needed by the City for sidewalks. The property owners on the other side of Villa Road were not required in the original conditions to give the City any property.

Jon Bormet stated all of the property owners on Villa Road would maintain their access. This proposal is part of an agreement which was reached by the City Staff and the Claus's. Susan Claus said the plan for Villa Road was put into the Transportation Plan in 1991. Mr. Hohnbaum said he was concerned about the lack of access to Stella Olsen Park. Mr. Bormet said the end of Villa Road will probably still have a bike or pedestrian path to the park.

Mr. Claus presented some background on the Villa Road and its access in relation to their property. Mr. Bechtold said the plan to dead-end Villa Road on both sides of the creek provides an enhanced, natural corridor.

The Commission did not voice any objections to the proposal as presented by Staff.

6. Other Business

Jon Bormet referred the Commission to a map showing the Highway 99W corridor through Sherwood. He lead an informal discussion of planning for this corridor. Mr. Bormet said the City's goal is to have no accesses to 99W except at traffic signals. The City, ODOT, and most recently Woodhaven, have been looking at the possibility of a local access road which would run parallel to 99W on both sides of the highway. This would alleviate the need for people to get onto 99W to go from the Sunset Boulevard area to the Sherwood Market Center. One reason for the development of this type of plan is because traffic projections for 99W show 55,000 cars per day using the highway by the year 2000 or 2001. Currently, there are 32,000 to 35,000 cars per day using the highway. The City still has an opportunity to provide a better transportation plan for this area. Mr. Bormet showed the Commission some possible realignment plans. The City plans to involve any property owners that would be affected, and within the next 45 days the City should be able to provide a more formal plan.

There being no further business to discuss, the meeting was adjourned at 10:00 PM.

Respectfully submitted,

Planning Department