

City of Sherwood
PLANNING COMMISSION MEETING
855 N. Sherwood Blvd
Tuesday, September 17, 1996
7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Approval of Minutes of August 20, 1996**
3. **Community Comments:** *Community comments are limited to items NOT on the printed agenda.*
4. **Consent Agenda**
 - A. **SUB 96-3 Woodhaven Phase 3 Final Plat:** a 49-lot single family subdivision in Woodhaven PUD.
5. **Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
 - A. **SP 96-4 Woodhaven Apartments Site Plan:** (Continued from August 20, 1996) for 140 multi-family units on the corner of 99W and Sunset Parkway in the Woodhaven PUD. Tax Lot 9100, Map 2S 1 32CB. **The applicant is requesting a continuance to the October 1, 1996 Planning Commission Meeting.**
 - B. **SP 96-11 Shields Manufacturing Site Plan:** for construction of a manufacturing facility on Galbreath Drive in the Industrial Park of Sherwood, Lot 5, Tax Lot 500, Map 2S 1 28BC.
 - C. **SP 94-2 Sherwood Market Center Site Plan Revisions:** a request by Gramor Development NW, to modify approved site plan by eliminating one proposed building, enlarging another proposed building and minor parking and landscaping revisions relating to these modifications, at 16068-16098 SW Tualatin-Sherwood Road, Tax Lot 600, Map 2S 1 29B.
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
September 17, 1996

1. Call to Order/Roll Call

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

Commission Members present:

George Bechtold
Susan Claus (7:12 PM)
Chris Corrado
Rick Hohnbaum
Angela Weeks
Bill Whiteman

Staff:

Sue Engels, Development Director
Jon Bormet, City Manager
Jason Tuck, Assistant Planner
Roxanne Gibbons, Recording Secretary
Jan Youngquist, Planning Intern

Commission Members absent:

Allen Baker

2. Minutes of August 20, 1996 Commission Meeting

Chairman Whiteman asked if there were any corrections, additions or deletions to the minutes of August 20, 1996. Rick Hohnbaum stated that on page 1 of the minutes, 4A should be SP 96-4. There were no further comments.

Rick Hohnbaum moved the Planning Commission accept the August 20, 1996 minutes as corrected. Seconded by Chris Corrado.

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

3. Community Comments

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

4. Consent Agenda

4A. SUB 96-3 Woodhaven Phase 3 Final Plat

Rick Hohnbaum moved the Planning Commission approve SUB 96-3 Woodhaven Phase 3 Final Plat with the conditions as presented in the September 10, 1996 Staff Report. Seconded by Chris Corrado.

Vote for Passage of Motion: 4-Yes, 0-No, 1-Abstain (Bechtold)

Chairman Whiteman asked if the City had any written communication regarding the status of signalization at Sunset Boulevard and Highway 99W. Jon Bormet responded that the most recent communications with ODOT have been verbal. Mike Monical, OTAK, Inc., said at this point the signal is being held up by the State Traffic Engineer. OTAK has been in contact with ODOT regarding this issue. Chairman Whiteman stated his concern for traffic safety at this intersection as development continues in the area. He intends to oppose any further development in Woodhaven or other surrounding developments until the signal is addressed.

Chairman Whiteman asked that any action by ODOT regarding the signal for this intersection be in writing . Mr. Bechtold said he supported the Chair's position.

5. 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.

5A. SP 96-4 Woodhaven Apartments Site Plan

Chairman Whiteman referred to a letter in the packets from the applicant's attorney requesting an extension until October 1, 1996, in order to permit further refinement of the conditions through negotiation between the City Staff and the applicant's representatives.

Rick Hohnbaum moved the Planning Commission continue SP 96-4 Woodhaven Apartments Site Plan, at the written request of the applicant, to the October 1, 1996 Commission meeting. Seconded by Chris Corrado.

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

5B. SP 96-11 Shields Manufacturing Site Plan

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated September 10, 1996, a complete copy of which is contained in the Planning Commission's minutes book. The applicant is requesting site plan approval for construction of a 9,109 sf manufacturing facility located in the Industrial Park of Sherwood. Mr. Tuck presented slides and highlighted the main points of the report.

- The site is 1.9 acres and the applicant is proposing to develop 0.78 acres. The remaining 1.13 acres will be left in its natural state.
- The site is zoned General Industrial (GI) and the use is permitted outright.
- There will be one 24-foot access to the site which meets code requirements.
- Twenty parking spaces are being provided which exceeds code requirements as well as meets current employee needs.
- Landscaping will be 28% of the site which meets code requirements. Some of the existing trees on the site will be removed. A tree inventory has been submitted and mitigation for the loss of all trees is required.
- The applicant has indicated that virtually all waste material is recycled. They propose to use a garbage container inside the building and one day per week place it in a location that is suitable for collection by Pride Disposal.
- Sewer and water are available to the site. There will be an on-site water detention, quality pond facility provided for the site.

In conclusion, Staff recommends approval of SP 96-11 Shields Manufacturing with the conditions contained in the Staff Report.

Chairman Whiteman asked if the applicant wished to provide testimony.

James Shields, Shields Manufacturing, 9396 SW Tigard, Street, Tigard, Oregon 97223, addressed the Commission. Mr. Shields showed a model of the building and site being proposed. One of the issues they would like to discuss is the recommendation for mitigation of tree loss. He asked for clarification of this issue. Additional information referencing the tree ordinance was circulated to the Commission. Mr. Shields noted:

- The applicant began their pre-application in May 1996 with Carole Connell and Lisa Nell. At that time the trees on the site were discussed. It was indicated to the applicant that the administrative review of the site immediately to the north had just been completed. Ms. Connell noted that the trees were in poor condition and would not need to be mitigated.
- The applicant provided a conceptual landscape design at this meeting. Ms. Connell indicated this plan would be adequate to address any loss of trees.
- The first exhibit was taken directly from the Northwest Fourslide Staff Report and in part stated, "According to the applicant, all trees within 40 feet of the rear property line are to be removed.....Preservation of as many trees as possible has been provided in this plan, although the trees are scraggly Maples and not necessarily worth saving."
- The applicant had an independent review done of the site which concluded the same thing; that the trees were not worth saving because they were in poor health.
- In reading the mitigation recommendations, he does not see the caliper inch to caliper inch replacement for tree mitigation. In Chapter 8 of the Code, referencing mitigation, "...Such mitigation shall not be required of the applicant when removal is necessitated by the installation of City utilities, streets and other infrastructure in accordance with adopted City standards and plans.In consideration of the foregoing factors, the City may require replacement trees to be replanted at greater than a 1:1 ratio."
- The majority of the trees which have to be removed are to accommodate site entrance and parking areas. The footprint of the building only requires six trees to be removed. A site plan of the trees was included with the exhibits.
- Two other exhibits were a March 27, 1995 letter from Halstead's Arboriculture Consultants regarding a tree inspection of the Industrial Park of Sherwood which stated in part, "...inspected almost all of the trees on this site and have found only a few trees which are healthy and/or structurally stable." May 20, 1996 letter from Cedar Landscape, Inc. which stated in part, "I would rate the overall health of these trees as low. The overall quality of these trees is low. These trees possess no commercial value. Their primary value would lie in their function as a natural screen."

Mr. Shields said these were all his comments at this time. The Commission asked Mr. Shields several questions regarding the tree mitigation. Mr. Shields said it is difficult to obtain nursery stock which exceeds two inches in diameter. The condition in the Staff Report requires a 9:1 tree replacement ratio if all of the trees need to be mitigated.

Mr. Bormet said the code allows the City to make the determination as to the appropriate mitigation. In all fairness to the applicant, the code is being enforced for the first time. The City has had a fundamental change in policy. Previous staff did not really enforce the tree ordinance. He referenced the Arbor Lane development which was reviewed by the Parks Board. It was determined that the best measure of mitigation was to simply take it on an inch-per-inch basis. The ordinance has been in effect for two years and is only now beginning to be enforced. The number one standard is tree retention, followed by mitigation of trees when retention is not

possible. The best way to accomplish this mitigation is on a caliper inch basis. The ordinance is specific in replacing removed trees with the same type of tree. Mr. Bormet discussed several cases when trees were removed prior to adoption of the tree ordinance.

Mr. Shields asked if the 1:1 ratio was now being interpreted to a caliper inch to caliper inch? Mr. Bormet responded where the code states 1:1 ratio or greater, this is the language which allows interpretation of what a rational trade would be. Mr. Shields said he was not at all opposed to replacing trees, but that he has a fundamental problem with the resulting interpretation. If you start out with a 9:1 ratio, in ten years it could be a 200:1 ratio.

Richard Bretherton, Project Manager, said their landscape designer was told by Lee Weislogel, City Staff, that he currently has more trees than he knows what to do with. Mr. Bormet responded that this was fundamentally just an error. Mr. Bretherton said part of their grievance is that they went through the initial process, made various plan changes, and at no time was tree mitigation mentioned. When they applied for a grading permit, tree mitigation became an issue. Now the City is asking them to replace 387 inches of trees at a cost of approximately \$15,000 to \$18,000.

Chris Corrado said he appreciated the applicant's concern as being the "first one" to have the tree ordinance enforced, but to please consider in the long term what would happen if the City continued to make exceptions with regard to tree mitigation. Mr. Shields said the site was logged of valuable fir trees prior to the land use application to create the industrial park. He does not have a problem with a 1:1 ratio or even a 2:1 ratio replacement, but a 9:1 ratio seems excessive to reasonable standards. No where in the ordinance does it state replacement at a caliper inch to caliper inch. This is an arbitrary decision by the City. Mr. Bormet said this was fundamentally not true and that the emphasis is retention of trees.

Mr. Shields said Sherwood's method of measurement of caliper of trees is slightly different than nursery standards. Mr. Bormet said when you do the tree inventory and measure the tree, it will be at the same height. Mr. Bechtold said when nursery stock is sold, it is measured diameter at the base of the tree.

Angela Weeks asked how the City could expect a developer to plant that many trees on the property. She felt that the applicant is trying to make a compromise and this one applicant should not be punished for the whole industrial park area. Mr. Bormet said the City is referring to the applicant's site only. There are far more trees missing from the total site. Ms. Weeks said if the applicant is willing to replant the same amount of trees he is taking out, it should be more than enough. There is also a question of the diseased trees on the site. Mr. Bormet said you have to determine the intent of the ordinance. The Parks Board has spent a lot of time discussing this issue. It is important to note the City will be enforcing the tree ordinance as the remaining sites in the industrial park are developed.

Chairman Whiteman asked Staff who made the interpretation of the 1:1 ratio and measurement of the trees. Mr. Bormet said the Parks Board and Staff made the interpretation. Chairman Whiteman asked for clarification regarding cash payments in lieu of replacing trees and who determines the fair market value of replacing trees. Mr. Bormet said this has nothing to do with the value of the trees on the site because it relates to mitigation.

Sue Engels said it would be virtually impossible to replace the trees which were logged. Mr. Bormet said the Parks Board considered this and it would be unworkable to try to determine the value of each tree which was logged for commercial reasons.

There were no further comments by the applicant or questions by the Commission.

Chairman Whiteman asked if there was anyone else who wished to speak in favor of the application. There was no further proponent testimony. Chairman Whiteman asked if there was anyone who wished to speak in opposition to the application. There was no opponent testimony, and therefore the rebuttal portion of the hearing was dispensed with. Chairman Whiteman closed the public hearing on SP 96-11 Shields Manufacturing Site Plan for discussion by the Commission.

Mr. Hohnbaum asked Staff for clarification regarding the traffic analysis report. Mr. Bormet said a signal would be warranted there except there is so little volume coming out of the industrial park. The signal is warranted because of the traffic on Tualatin-Sherwood Road. Mr. Bormet said this is primarily a Washington County process. Mr. Hohnbaum asked if the Commission wished to include something at this time which would deal with when a signal is warranted. Sue Engels said there are 15 lots in the Industrial Park of Sherwood and the Shields application is the fifth. Mr. Hohnbaum asked Staff to communicate with Washington County regarding a signal at this location in the future.

Mr. Hohnbaum suggested including Pride Disposal sign-off for the solid waste disposal as a part of the City recommendation. The Commission revised Condition #1 for this purpose. The Commission also added "to determine" to Condition 1C after the word "completed".

The Commission continued its discussion of the tree ordinance and the condition regarding tree mitigation. Chairman Whiteman asked that the Commission receive a copy of the Parks Board minutes relative to the tree ordinance. The applicant asked for a copy of these minutes as well.

Mr. Hohnbaum stated that a recommendation directly from the Parks Board would have been appropriate.

Chairman Whiteman said the applicant could take their questions and concerns regarding the policy issues to the City Council. The applicant could also appeal any decision to the City Council. He asked if Council took any action on the Parks Board stance concerning the tree fund. Mr. Bormet said he spoke to Council regarding this issue at the last meeting and Council supported this position. Chairman Whiteman wondered if there was a lot of aesthetic value to the trees on the Shields site. The applicant has arrived after someone has "destroyed the aesthetic value of the property." Mr. Corrado said if the solution by the applicant is to put money in the tree fund that there really should be some way to ensure the money is in relation to site improvements.

In response to Ms. Weeks's question, Mr. Shields said they would be more than happy to retract some of the monies for landscaping to be put into a tree fund. They went beyond code requirements for landscaping by putting in all native plants and species of shrubs for the bird

habitat. They have a problem with the fact that they are being asked to replace trees that may be gone by next Spring due to disease. It seems unreasonable to be asked to place \$20,000 into a tree fund. Susan Claus said the intent of the tree ordinance is to have a visual presentation of the site or contribute to a fund where it can go for some other public property. The Commission does not have a landscape plan which shows what the site would look like if the applicant were to replace the trees as recommended. Mr. Bormet said the number one purpose is not to get money for the tree fund. The emphasis is to reforest the site.

Chairman Whiteman said the Commission is aware that there is a tree ordinance and they have reviewed portions of it. Staff has recommended how the ordinance is to be applied and this was confirmed by the Parks Board and Council. The Commission does not have the ability, based on the information they have, nor does the City of Sherwood, to really do much else. The applicant's appeal would be to a policy-making Board, which the Commission is not. This board would be the City Council. There being no further discussion,

Rick Hohnbaum moved the Planning Commission approve SP 96-11 Shields Manufacturing Site Plan, based on Staff recommendations, findings of fact, public testimony, conditions as revised, and Commission discussion. Seconded by George Bechtold.

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

SP 96-11 Shields Manufacturing Site Plan was approved subject to the following conditions:

Prior to issuance of a building permit:

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, Pride, 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.

In particular:

- A. A water quality and quantity facility is required. Any outlet Riprap planned in the 10 foot storm drainage easement shall be vehicular accessible in the 60 foot easement also.
 - B. Sanitary Sewer / Water / Storm Drainage - These services will have to be reviewed by the Public Works Dept. and by the Engineering Dept. prior to building permit issuance.
 - C. A downstream storm analysis must be completed to determine what, if any effect will the development of this site have on downstream property owners and/or storm systems.
2. Mark and sign all loading areas, NO PARKING.

3. Mark driveways and circulation lanes for directional flow with painted arrows on the pavement, and signage if necessary.
4. Provide a final landscape plan for City approval prior to building permit issuance.
5. Obtain an administrative sign permit from the City of Sherwood prior to any sign installation.
6. Bicycle parking shall be provided which is accessible to the public.
7. Mitigate the tree loss according to city standards.

This approval is valid for one (1) year.

Mr. Bormet said it may be appropriate for the Parks Board, Planning Commission and City Council to meet and discuss some of these policy issues and how they are applied.

5C. SP 94-2 Sherwood Market Center Site Plan Revisions

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated September 10, 1996, a complete copy of which is contained in the Planning Commission's minutes book. The applicant is requesting approval for revisions to the approved site plan by eliminating one building, enlarging another building and minor parking and landscaping revisions. Mr. Tuck presented slides and highlighted the main points of the report.

- Pad A (3,000 sf) is being eliminated. Retail A is being enlarged to 9,659 sf. Minor parking and landscaping revisions will be made to accommodate the expansion.
- The proposed parking lot plan does not meet ADA requirements. Three spaces are required and this should be made a condition of approval.

Based on a review of the applicable zoning provisions, agency comments and staff review, Staff recommends approval of SP 94-2 Revised Sherwood Market Center.

Chairman Whiteman asked if the applicable wished to provide testimony.

David Copenhaver, Gramor Development, 9895 SE Sunnyside Road, Suite P, Clackamas, Oregon 97015, addressed the Commission. A rendering of the proposal was shown to the Commission. Mr. Copenhaver noted:

- They are requesting a minor modification to the current approved site plan.
- They are taking the 3,000 sf which was in the Pad A building and putting it into the expansion of the Retail A building.
- There will be store front facing Langer Drive.
- A large medical tenant is interested in occupying the expanded space.
- The applicant is in agreement with the conditions as proposed.

- They are not adding square footage to the shopping center. It is a minor adjustment. They are not introducing any new uses and additional traffic will not increase from the original site plan approval.

Barry Cain, Gramor Development, 9895 SE Sunnyside Road, Clackamas, Oregon 97015, addressed the Commission and noted:

- Referencing page 2 of the Staff Report regarding access to major roadways, “The City of Sherwood and ODOT agree that the right-in off Highway 99W should not be allowed.” They worked with ODOT for 1-1/2 years to receive ODOT’s approval for this access. They received approval and in the process of getting the plans approved, ODOT found some of their policies were inconsistent. As a result, this access was held up until now. The policy in question was if ODOT has an acquired right-of-way, they cannot give access through that acquired right-of-way. Gramor is still working with ODOT and feel this is something which can be worked out.
- Referencing Condition #5 in complying with previous conditions of approval, the previous conditions of approval included a condition that any access off of Highway 99W has to be approved by ODOT. They would like to leave the condition as previously approved without the inconsistency contained in the current Staff Report.

Mark Whitlow, Attorney representing Gramor, 222 SW Columbia, #1400, Portland, Oregon, 97201, addressed the Commission: Mr. Whitlow noted:

- Gramor was told that the planner at ODOT which stated, “Delete references to ODOT approval of access to 99W...” did not have authorization to issue this letter.

Jon Bormet reported that the City has been working for months on 99W. It is Staff’s belief that this right turn is not appropriate. This will be relayed to ODOT. There should not be any access to 99W unless you are at a traffic signal, have access to a traffic signal or unless there is a real hardship that only a right-in, right-out could take care of. He received a FAX from ODOT stating that all systems fail within 10 years on 99W.

George Bechtold said it was his recollection that it was Gramor’s position that “no we don’t have the access, but we will keep on until we do get it” and it was ODOT’s position that “they will never get it”. Mr. Bechtold thought this was a part of the record. He agreed with the City’s position regarding access to 99W.

The Gramor representatives stated that if this access does nothing to hurt the operation of 99W, which it definitely does not, that the City should be in support. They did not know how many cars the Center would be missing without this right-in access.

Mr. Copenhaver responded to Chairman Whiteman’s question regarding widening the road into the shopping center from Langer Drive at the southwest corner of the retail expansion of the old plan. The 90 degree turn does not exist with the new plan; it will be two 45’s and easier to maneuver.

Susan Claus asked if the video store could change the location of their drop box. The current location of the drop box is not on the driver's side for dropping off videos. This is a problem. She suggested that the drop box be relocated so that it is at the driver's side of the vehicle. Gramor agreed to look into the location of the drop box and possibly the box could be rotated.

Rick Hohnbaum asked for clarification regarding Condition #5 regarding complying with previous conditions of approval. He asked how this affected the amendments made administratively by Staff to the conditions. The Commission agreed to reword this condition.

Chairman Whiteman asked if there was anyone else who wished to speak in favor of the application. There was no further proponent testimony. Chairman Whiteman asked if there was anyone who wished to speak in opposition to the application. There was no opponent testimony, and therefore the rebuttal portion of the hearing was dispensed with. Chairman Whiteman closed the public hearing on SP 94-2 Revised Sherwood Market Center for discussion by the Commission.

Susan Claus recommended adding a condition to relocate the video store drop box because it's current location causes traffic problems. The Commission concurred.

There being no further discussion:

Rick Hohnbaum moved the Planning Commission approve SP 94-2 Revised Sherwood Market Center, based on Staff recommendations, findings of fact, public testimony, conditions as revised, and Commission discussion. Seconded by Susan Claus.

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

SP 94-2 Revised Sherwood Market Center 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. Comply with Handicapped parking requirements.
3. Comply with on-site bicycle parking requirements.
4. Apply for a sign permit if applicable.
5. Comply with the previous Conditions of Approval, as previously amended by Staff, established for SP 94-2, the original Sherwood Market Center approval.
6. Submit a Final Landscape Plan.

7. Mark driveways and circulation lanes for directional flow with painted arrows or stripes on the pavement, and signage is necessary.
8. Relocate or remove the video store drop box so that it does not impede traffic, as approved by Staff.

This approval is valid for one (1) year. Conditions must be met prior to issuance of building permit.

Other Business

The Commission reviewed the memorandum in the packets from Jon Bormet regarding the PGE Substation enlargement. The expansion is necessary to increase the capacity availability and reliability of electric power to the City of Sherwood, and in particular to the new residential and commercial developments in the northwest part of the City. Staff recommended the PGE substation plan review be handled administratively, based on the criteria set out in the code.

Susan Claus moved the PGE Substation Expansion be processed administratively by Staff, based on the code criteria. Seconded by Chris Corrado.

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

Sue Engels distributed figures received from the Sherwood School District for the school year. The Commission asked Staff to find out how these figures are arrived at by the District, including figures for school capacity.

Sue Engels introduced Jan Youngquist, Planning Department Intern.

Sue Engels reported that one of the sites the City is interested in for the proposed YMCA is the Woodhaven Apartments site. However, regardless of results for the YMCA ballot measure, the applicant for the apartments would like to continue with their site plan review.

There being no further business to discuss, the meeting was adjourned at 9:30 PM.

Respectfully submitted,

Planning Department