

City of Sherwood, Oregon  
**Planning Commission Meeting**

October 3, 1995

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**1. Call to Order**

Chairman Birchill called the meeting to order at 7:00 PM. He announced since there was not yet a quorum present, the Commission would hear the Director's Report.

**5. Director's Report**

Carole Connell referred the Commission to the report included in the packets. She reviewed the list of pending planning projects and ordinances. This list was not in any particular order as to priority. In response to Marge Stewart's question, Ms. Connell said the "Green Tweaks" references minor amendments to enhance the City's landscaping requirements. She is currently working on Historic Resources, the Transportation Planning Rule (TPR), the 2040 Plan Amendments, reviewing some Sign Code language and has some ideas regarding fences. The new land use legislation (HB 3065) which became effective in September should be added to this list. This legislation deals with expediting the planning process and decision-making. In response to Chairman Birchill's question, Ms. Connell said the TPR hearing has been scheduled with the City Council. Also, the Garrigus owner had asked for a second extension regarding the building's facade. Ms. Connell said she rejected this request. Allied Systems has appealed the Planning Commission's decision to the City Council. Ms. Connell said she plans to discuss prioritization of this list with the new City Manager.

Chairman Birchill called for the roll call.

**1. Roll Call**

Commission members present: Chairman Gene Birchill, Vice-Chairman Chris Corrado, George Bechtold, and Marge Stewart. Commissioners Susan Claus, Kenneth Shannon and Rick Hohnbaum were absent and excused. Planning Director Carole Connell, Assistant Planner Lisa Nell, and Secretary Roxanne Gibbons were also present.

**2. Minutes of September 19, 1995 Commission Meeting**

Chairman Birchill asked if there were any corrections or additions to the minutes of September 19, 1995. Chris Corrado referred to page 4 of the minutes, the sentence regarding his discussions with David Bantz should reflect they discussed Woodhaven advertising in the Sherwood Gazette and not the Woodhaven project in general. There being no additional comments or amendments,

**Marge Stewart moved the Planning Commission accept the  
September 19, 1995 Commission meeting minutes as amended.  
The motion was seconded by Chris Corrado and carried  
unanimously.**

### **3. Community Comments**

Chairman Birchill called for comments from the audience regarding any items not on the printed agenda. There being no comments, Chairman Birchill moved to the next agenda item.

### **4. 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.

George Bechtold said he may have a conflict of interest with Agenda Item 4A, SUB 95-3 Woodhaven Phase 2 and therefore would not be participating in the discussion. Chris Corrado reiterated that he had previously discussed Woodhaven advertising in the Sherwood Gazette with David Bantz and said he did not believe that this would impact his decision-making ability.

#### **4A. SUB 95-3 Woodhaven Phase 2**

Chairman Birchill announced that without Mr. Bechtold's participation there would not be a quorum of the Commission. Therefore, SUB 95-3 Woodhaven Phase 2 would be held to the October 17, 1995 Commission meeting as the first agenda item. Mr. Bantz said he would like to discuss a couple of things, which were not a part of this hearing, relative to the City Council's decision on September 26, 1995, regarding PUD 93-3 Phase 2 of the Woodhaven Final PUD Master Plan. He asked that this discussion be part of the record. Chairman Birchill advised Mr. Bantz that he could make his remarks as "Community Comments" following the Public Hearings.

In response to Ms. Stewart's question, Chairman Birchill said there are seven Commission members and four members are needed for a quorum. Ms. Connell asked the Commission to return or retain the Woodhaven packet information for the October 17, 1995 meeting. Commissioners Claus, Shannon and Hohnbaum will be so advised.

#### **4B. PA 95-3 Bischof**

Chairman Birchill called for the Staff Report. Ms. Connell reported this is a Plan Map and Zone amendment to rezone 8.67 acres at 21815 SW Pacific Highway, which is now High Density Residential (HDR) to General Commercial (GC). She referred the Commission to the Staff Report dated September 26, 1995, a complete copy of which is contained in the Planning Commission's minutes book. She identified the property on the Zoning Map and stated that the Plan and the Zone in the City of Sherwood are the same.

Ms. Connell reviewed the findings of fact contained in the report. The site is bordered by Pacific Highway to the south, a single-family residence and floodplain to the east and north, and vacant commercial land to the west. The site is within proximity of the proposed Meinecke Road intersection on Pacific Highway. The floodplain,

wetland and vegetation delineations will be required at the time of site plan review. There are no designated historic buildings on the site. The Plan designates the site for 139 apartments. The request is not subject to zoning uses or dimensional standards at this time, except minimum lot size for GC is 10,000 square feet, which this site exceeds. A proposed residential or commercial development on the site will be subject to future site plan approval by the Planning Commission.

Ms. Connell reviewed the required findings for approval of a Map Amendment, all of which must be satisfied. The first criteria is if the proposed amendment is consistent with the goals and policies of the Comprehensive Plan. The Plan outlines many community development objectives for the next 10-15 years. Often these objectives conflict with each other. The advantages and disadvantages of these objectives must be weighed. In 1980, the Plan designated this property for HDR zoning. This designation was arrived at by looking at the entire City, not just the particular site in terms of zoning and determining how to obtain a balance of various housing styles and costs. General Commercial is the most open-ended and lenient as far as uses are concerned when compared to Retail Commercial or Neighborhood Commercial. In this application, without a specific land use identified, it is difficult to predict what will happen after a zone change. The applicant has offered that this site might be combined with the adjoining commercial piece which is owned by the Handleys. If this were to occur, the site could be developed as a retail site for the surrounding residential developments such as Wyndham Ridge or Woodhaven. On the other hand, it could be developed for mini-warehouses or a motel.

Ms. Connell discussed housing trends, plan policies and objectives to consider when determining the best use for the subject site. Items to consider are whether the site should be commercial or housing, what the economic goals are and how this proposal meets these goals. Housing market trends are moving towards smaller housing units, apartments, row houses or condominiums. Sherwood's housing density and mix is predominantly single-family, owner occupied residences at about 85%. The Plan goals set a target of 65% single-family and 35% multi-family to meet the trends. The HDR zone allows for 16 units per acre and the site is permitted up to 139 multi-family dwellings. If the site is developed for apartments, there will be a 25 foot landscape buffer along the highway, probably adjoined by parking, with 2 or 3 story housing units set back from the road. Residents would be subject to persistent highway noise. The subject site is one of six remaining vacant HDR sites. Three of those sites are highly constrained by floodplain and one is Phase 2 of multi-family in Sherwood Village PUD. The subject site is the only large HDR site left to meet the future housing goals and market demands. Unless more land is allocated for multi-family units, it will be difficult for the elderly, small households, low-income and disabled to find a place to live in Sherwood. Ms. Connell identified each of the remaining vacant HDR parcels on the map.

Ms. Connell stated the site is close to all necessary services and a major arterial street. The site is constrained by it's size and shape, therefore housing will have a minimal buffer from the adjoining commercial site. However, residential

development will result in less signage, lighting and "strip" commercial development.

Ms. Connell reviewed the economic goals. With the increase in housing in Sherwood and national increase in service-sector jobs, there will be an increasing demand for commercial uses in Sherwood. Sherwood is a bedroom community whereby the vast majority of the labor force continues to work outside the community, perpetuating a lagging tax base. There is a need to balance the land uses in the community by providing more commercial and industrial jobs and services. At this time, there is a lot of vacant GC land in the City, including 325 acres of industrial land which allows general commercial in the northeast corner of the City. There is a growing trend for more commercial services to meet the demands of a growing population. The site is well located for highway access, especially if linked to the adjoining GC parcel and accessed by a signal at Meinecke Road and the highway. Aggregating the two parcels would increase the value of each. There are many uses permitted in the GC zone which cannot be easily restricted. The adjoining Cedar Creek greenway would provide a natural and effective buffer from residential uses. Commercial services would be convenient for Wyndham Ridge and other residences on the north side of Pacific Highway.

Ms. Connell said that Staff will require a traffic impact report with a site plan application. ODOT was provided notice of this request and responded in a letter dated October 2, 1995, which should be made a part of the record. The letter stated to meet the requirements of the TPR, the applicant must submit a traffic study to ODOT that analyzes the impacts of the proposed land use on Pacific Highway compared to impacts from the existing zoning. ODOT was also concerned with the impacts of the highway access. Based upon the above discussion, it can be determined that the commercial designation of the site meets many of the Plan policies relating to economic and commercial development. However, the proposal does not meet the City's housing goals. Further, the TPR Rule has not been addressed, nor has the difference in traffic impact between the two zone designations.

Ms. Connell reviewed the need for the particular uses and zoning proposed. According to the Plan and the applicant, there is a projected need for 363 retail and non-retail acres by 2005. In 1991, there were 111.8 acres of vacant commercial land and over 325 acres of vacant industrial land to meet the projections for 2005. After 2005, there may be a need for additional commercial and industrial land. Since a particular use is not proposed at this time, that aspect of the criteria as stated cannot be addressed. Due to the amount of vacant commercial and industrial land currently in the City, the proposal does not clearly satisfy this criteria.

Ms. Connell reviewed whether the amendment was timely, considering the pattern of development in the area, surrounding land uses, any changes or community changes which may have occurred in the neighborhood to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district. This year there has been a significant increase in the number of commercial and industrial applications. There is also sewer, water and highway

access available. When considering these factors, the proposed amendment can be considered as timely.

In regards to the fourth criteria, Ms. Connell said that the findings of fact do not indicate there is a lack of a available or suitable land zoned for general commercial use and therefore does not satisfy this criteria. In conclusion, there are clearly good physical reasons to zone the subject site general commercial. However, it is clear that the proposal does not meet all of the Plan Amendment criteria. The proposal also does not meet the City's multi-family housing goals. Based on the findings of fact and the applicant's report, Staff recommends denial of PA 95-3.

Ms. Connell clarified that the Commission decision would be a recommendation to the City Council.

**Chairman Birchill asked if the applicant wished to provide any comments.**

Mara Broadhurst, 28440 Ladd Hill Road, Sherwood, Oregon 97140, representing the applicant, addressed the Commission. Ms. Broadhurst said the applicant feels they have provided a strong case in satisfying the Plan amendment review criteria. The main issue they would like to stress is the imperative need for a traffic signal at Meinecke Road and Pacific Highway. There are definite safety problems now, but it will just get worse with the increase in population. There have been numerous accidents and miraculously no one has been killed. ODOT has denied requests to install a signal at this time, even though the City and residents have made it adamantly clear that this is their intent, and furthermore ODOT has withdrawn the designated funds to do so. Therefore, the burden of the costs of the traffic signal and the highway improvements will have to be tackled by the impacted property. If this site were rezoned commercial, it could be established that the developers would need to fund their share of the highway improvements. This could be assimilated as a development package much more feasibly than as an apartment site. The distinct commercial piece belonging to the Handleys is handicapped by it's lack of highway frontage to attract the type of businesses that Sherwood would like to see, as well as command the price needed to absorb the highway improvements. If both of the properties agree that the developers would pay for the road improvements, the much needed intersection could proceed and ODOT could logically address combined access to accommodate both parcels. Without the prime factors of an intersection and highway frontage the existing commercial piece would be more likely to be developed into mini-warehouses or strip development which is what the City is trying to avoid. To attract prime business you must have prime conditions and the lagging City tax base could best be benefited. The Comprehensive Plan denotes the need for 363 retail and non-retail acres by the year 2005, however, that was based on a projected population of 9925 and clearly the City shall reach that projection sooner and be nearer to the previously projected population of 10,600 by the year 2000. Therefore, the need for more commercial land will come much sooner, so why not designate it when it is available rather than settling for what may be left in the future.

Ms. Broadhurst said this is the best parcel Sherwood could hope to include in its commercial land inventory. Therefore, she believed the application does satisfy conditions #2 and #4 of the Plan amendment review criteria. The parcel is very much needed for the City of Sherwood to function properly. There is substantial high density zoned in the immediate vicinity of this land. The addition of Woodhaven's eight-plus acres of apartment sites seem to be an excellent trade-off for this site. There will also be high density sites already planned on the corner of Pacific Highway and Meinecke Road. With all the high density clustered here already with no nearby services, it does not appear to be feasible or in the best interest of the City to keep this as an apartment site. Years ago, Joseph Bischof, at his great expense, brought the sewer lines from the highway across his land to enable the orderly development of that part of the highway. It is the applicant's hope this evening that further foresight will be shown so that Sherwood can safely and proficiently move forward. Ms. Broadhurst identified the site and other HDR zones on the map and thanked the Commission.

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

Howard Handley, 22015 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Handley said he and his wife own the 11 acres of commercial property right behind this site. It seems that these two pieces of property need each other. He identified both parcels on the map. With both properties having a separate zoning there is a lot of property that is going to be virtually useless. However, they would all be able to use it, if it were all the same zoning and could be used in conjunction with each other. Mr. Handley said it was his opinion that it would be in the best interest of the City to have one big commercial site to serve most of Woodhaven and nearby developments.

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

Lloyd McFall, 21805 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. McFall said between Howard and he, they owned all the surrounding land to the site. In fact, he sold this piece of property 15 years ago. There has not been anything done to it, it is a mess with blackberries, it is a fire hazard and he has fought with the owner to get it mowed. This year they did not even mow it. He would like to see something there and his preference would be commercial. This is kind of selfish because he owns the property with both creeks and he could just imagine the trouble he would have with kids and dogs if the property was high density. Mr. McFall said he had lived there 40 years and you are not going to rent an apartment next to Pacific Highway.

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

**proposal.**

Clyde List, 21235 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. List said he had to say something. He lives across the fence on property which his Mother owns, contrary to people's beliefs. He wanted to clarify something in his own mind regarding high density residential. If you are going to take away HDR, it is definitely going to affect some decisions they are going to make on their property. He needs to know the City's policy and thought somebody needs to speak up, one way or the other, about high density residential. He heard the Mayor of Sherwood say he believes high density residential breeds crime. The Sherwood Police Department is saying the same thing, although if you push them they say well it's not HDR, it is the tenants. Renters seem to tolerate crime more than people who own property. Ms. Connell has said that Senate Bill 100 required the City to have a certain proportion of high density residential housing (65%). Mr. List asked if the Commission agreed with this. The Mayor does not agree with it and countless people, ever since the Plan was developed, don't seem to agree with it because they are eroding the Plan objective by their actions.

Mr. List said he would like to hear a clear statement from the Planning Commission, are they in favor of Senate Bill 100, are they in favor of expanding the urban growth boundary, which is a consequence of not accepting or enforcing the planning rules for high density residential. If the Commission is against it, then let's get it on the table and say it so people like him know where to go with their property. Somebody needs to take a stand. He does not like it when someone says one thing and then does something else. The Germans have a word for it, "Civil Courage". It means when a reluctant official stands up and does the right thing when everybody else is doing the wrong thing. Mr. List said the City needs someone with civil courage to speak on the issue of high density residential. What's the right thing to do. As for the other interesting points such as noise, he has lived along the highway for all but 15 years of his 51 years on the planet. He believes he suffers hearing loss because of the highway noise, so there is some validity to that point which was made. He believes the City needs to know how the measure noise. There is a minor issue that HDR zoning puts a strain on the Sherwood Police Department because they have to answer more calls per acre. This is another issue which must be raised.

Mr. List said the main point he would like to make is if the Commission exists for any reason at all. If they don't stand for SB 100 and its policies, why are they there. The Commission's whole purpose is to uphold that remarkable land use law. It is one of a few left in the world. Mr. List thanked the Commission.

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

Mara Broadhurst said the main point is a safety issue. It is also the responsibility of

the Commission to look out for the safety of the citizens here and it is very imperative the effect of this on the residents.

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

In response to Marge Stewart's question, Ms. Connell said Senate Bill 100 was passed in 1973. Mr. Corrado said it seemed to him that in the process of reviewing various applications the Commission has gone around and around on the density issue. He asked what the City's position was in trying to retain the 65% to 35% balance, what the Commission is bound by and what are the impacts. Ms. Connell responded that for the last 15 years the City has been bound by the Comprehensive Plan. There may be various opinions about what the plan states, but it is an adopted land use plan. This goal has not changed. The interesting issue will be if the City gets to the point where they must defend their decisions by stating they tried to achieve these goals, but the market and demand was going in the other direction. Ms. Connell said the Metro 2040 Plan is eventually going to mandate minimum density. In the future, it would be very difficult to try to increase density in existing neighborhoods. In addition, the next time the City goes before the LCDC for review, the supply of high density land will have changed quite a lot.

Ms. Stewart stated that as Sherwood adds more housing they are probably going to need more commercial. Some of the land which they are looking at as commercial is light industry or industrial. She was disappointed that McDonalds broke up a piece of property which would have been perfect for a larger commercial area. Maybe this application could add something back, if it is combined with the adjoining property. In reference to SB 100, this legislation was passed about 22 years ago and there have been a lot of changes since that time. In responding to Mr. List's concerns, just because something was set in stone 22 years ago, does not always mean that it is effective now. It is going to be very hard to extend more commercial property out with something that would work. She did not see anything adverse to this property becoming commercial and she would never want to live next to Pacific Highway.

In response to Mr. Corrado's question, Ms. Connell said the applicant could not be forced to state a specific use for this property at this time. Even if there were a specific use the Commission could not necessarily decide to rezone to that use.

Chairman Birchill said he had a few concerns. Aside from the concerns regarding signalization on Pacific Highway at Meinecke Road, the City does not have the required density when all of the land is built-out inside the UGB. There is also a need for low cost housing in the City which usually comes in the form of apartments. It is really too bad the two pieces of property are not together right now and the Commission was not looking at the front piece as the zone change. Regarding the light, ODOT has the final approval for signalization at this intersection of Pacific Highway even though it may be warranted at this time.



George Bechtold asked for clarification that when Wyndham Ridge was approved it was ODOT's position that there would be no more development because of the intersection which is needed. Ms. Connell responded signalization and intersection improvements would still have to be warranted through a traffic analysis and this would come through increased traffic volume. Mr. Bechtold said he felt bound to comply with the Comprehensive Plan.

Mr. Corrado said he had some of the same concerns, but it did seem pretty obvious to him that general commercial belongs on Pacific Highway. He wondered if there was something that the applicant or surrounding property owners, who may have an interest in this application, could present that would provide some trade-offs for some of the high density housing which would be lost. It was not the Commission's position to impose any development ideas. However, Mr. Corrado would support the Comprehensive Plan which is in place.

Ms. Connell said when Sherwood Village asked for a zone change, they came back with a PUD, mixed use development. This could apply to the application. Mr. Bechtold said the Commission has an application before them to act upon and it was not the proper time to be discussing other options.

Ms. Broadhurst said the trade-off would be with Woodhaven providing more apartment sites. The overall density is there and the Comprehensive Plan should be used as a guideline. This application is a prime commercial site. Ms. Connell responded, in referencing Woodhaven, it is not a direct trade-off. Woodhaven, alone, is allowed to have 1455 housing units and they are building 1258, 200 less than the land was allocated for. Secondly, there was an apartment site in Woodhaven which was shifted towards Pacific Highway. City-wide, there are two goals, one to is to have overall density of about 6 units per acre. The problem goal is the multi-family housing requirements of about 35%. If everything is added together, the City has lost housing for apartments.

There being no further discussion,

**Gene Birchill moved based on findings of fact, Staff recommendations, and public testimony, that PA 95-3 Bischof Plan Amendment to rezone 8.67 acres on Pacific Highway from High Density Residential (HDR) to General Commercial (GC) be denied. This is a recommendation to the City Council. The motion was seconded by George Bechtold and carried with Commissioners Birchill, Bechtold and Corrado voting aye and Commissioner Stewart voting nay.**

### **3. Community Comments**

Chairman Birchill reopened the Community Comments.

David Bantz, Genstar Land Company Northwest, 11535 SW Durham Road, Suite C-1, Tigard, Oregon 97224, representing the applicant (OTAK), addressed the Commission. Mr. Bantz said he did not want to be confrontational, but he did want to bring up that during the City Council's deliberations at the September 26, 1995 Council Meeting, after the public hearing was closed, the applicant did not have an opportunity to discuss some of the conditions (two conditions) the Council imposed which the applicant did not agree with. One of the conditions is that the corners lots in Phase 2 and all subsequent phases shall have a minimum lot size of 6500 square feet. The other condition is that since the applicant did ask for a change to provide a second access to Sunset Boulevard because of safety concerns, the Council imposed a condition reading, "The previously approved requirement for a second roadway connection to Sunset Boulevard may be constructed in Phase 2. However, due to the impact of the collector being built now rather than in a subsequent phase, the developer shall maintain the entire Sunset Boulevard streetscape for one (1) year after completion of the entire project." Mr. Bantz said the original condition was one year from the date that any landscaping was installed. The new condition is that as long as they are involved in Woodhaven, and for one year after they are not involved in Woodhaven, they are responsible for all of the landscaping. The applicant is opposed to this condition.

Mr. Bantz said the real concern he wanted to mention is if there are items which come up during deliberations that did not come up during the discussion of the public hearing where the applicant is able to give their side of the concerns, he believes if the new conditions are being considered, the public hearing should be reopened to allow the applicant to respond and/or oppose those conditions before a motion is considered. He asked that this be something the Commission consider before they make any motions in the future.

Mr. Bantz said they will ask the Council for some reconsideration to allow them to respond to these conditions. They are not necessarily opposed to these conditions, but they would like to give some suggestions as to what the Council is trying to get could be achieved without the imposition which was put on the applicant.

Mr. Bantz reported that the City Manager and the applicant met with ODOT today and made some good strides in trying to put a signal on Pacific Highway and Sunset Boulevard. ODOT may let them build the signal now and not activate it until it is warranted.

Chairman Birchill thanked Mr. Bantz for his comments.

### **Other Business**

Chairman Birchill asked if the Commission had any other issues to discuss. George Bechtold said he would like to again bring up the idea of a Hearings Officer. The comments made by Mr. Bantz bring up the same problem the Commission often goes through. The Commission is obligated to consider findings of fact and testimony and make decisions accordingly. However, because the Commissioners live in this City

they are involved with the applicants in some way or another and they sometimes get emotionally involved in the issues. A Hearings Officer would make decisions on those criteria he/she is obligated to make the decision on, which are sound planning decisions that are going to be upheld on appeal based on the plan. This process would be paid for by the applicant and it would free the Planning Commission to move forward and get on with the job of making policy by hiring someone else to implement it. This is his position.

Ms. Connell asked if any Commission members would have a conflict with the November 21 Commission meeting date. This is the week of Thanksgiving. Mr. Corrado said he would not be in town. If any Commission members have a conflict, please advise her.

There being no further business to discuss, the meeting was adjourned at 8:40 PM.

Respectfully submitted,

Roxanne Gibbons  
Planning Commission Secretary