

City of Sherwood, Oregon
Planning Commission Meeting

January 18, 1994

1. **Call to Order/Roll Call.** Chairman Birchill called the meeting to order at 7:30 p.m. Commission members present were: Chairman Eugene Birchill, Marty Ruehl, Chris Corrado, Marge Stewart, Glen Warmbier, Rick Hohnbaum and Susan Claus. Planning Director Carole Connell and secretary Kathy Cary were also present.
2. **Minutes of prior meeting.**

Minutes of November 30, 1993 Meeting:

Ms. Claus requested that the minutes of the November 30th meeting be corrected as follows:

1. Page 1, opening discussion on Item 3, insert the word "polled" in the first sentence between the words "the" and "members" and in the second sentence between the words "the" and "commissioners".
2. Include the following testimony provided by Mr. Gregg Kurahashi of OTAK where appropriate:

Chairman Birchill asked Mr. Kurahashi, "regarding the ponds, which are designed to hold 'x' type of summertime stormwater, where is winter time stormwater retained to avoid down-stream flooding?" Mr. Kurahashi responded that when he quoted the number in terms of the storage being provided on site during the summer time, he was talking about the amount of water that is captured to stop the silt and material from getting into the streams during the summertime event because that is when the streams are very slow and that is what is regulated by USA. In terms of retention or ponding to prevent winter storm flooding, the run-off was proposed to be handled on-site in a major detention facility that could be considered regional and was sized at approximately 300,000 cubic feet, and occurs just above the outer parcel that shows up on the map (pointed to location on map). Mr. Kurahashi noted that the proposed location was only a possibility but what ever is built, it will be built in the phase that will impact any downstream areas because sufficient amount of water must be stored for whatever phase is affected; one portion will be done in the first phase and additional arrangements will be incremental with

the appropriate building phases.

Ms. Connell clarified that the letter from Gary Krahmer was not part of the record since the hearing was not open at the time of distribution.

There being no further comments, corrections or additions, Chairman Birchill directed that the minutes of the November 30, 1993, stand approved as corrected.

3. **Public Hearings:**

Chairman Birchill read the hearing disclosure statement and requested that Commissioners advise of any conflict of interest or ex-parte contact they may have with regard to any of the items on the agenda. No Commission member indicated a conflict of interest or ex parte contact with any item on the agenda.

A. PA 93-7 Hitchcock: a Plan/Map Amendment requested by Al Benkendorf to re-zone 26 acres from Medium Density Residential High (MDRH) to Medium Density Residential Low (MDRL), located on the south side of Sunset Boulevard and adjoining Southern Pacific Railroad.

Chairman Birchill Called for a staff report.

Ms. Connell reported that the Commission is reviewing a Plan/Map amendment to rezone a 26-acre parcel from MDRH to MDRL, a two-lot parcel, on which the applicant plans to build a manufactured home park. She pointed out that the proposed development will have two accesses to Sunset, one of which is on Tax Lot 500, and one is an easement across Tax Lot 502. Ms. Connell stated that Cedar Creek drains through part of the property and there are considerable wetlands; however, a formal wetlands delineation has not been submitted and will be required when the applicant submits a formal request for the development.

Ms. Connell pointed out that the 26-acre parcel had been zoned MDRH during the 1990 periodic review of the City's Comprehensive Plan, at which time the City decided the wetland and floodplains should be preserved for public space.

Because of the floodplain constraints on the property, the parcel was assigned a higher density in order to encourage development and meet the City's goals regarding multi-family housing. Ms. Connell noted the parcel is identified as a vacant multi-family site, which has a potential for 286 apartments. For the records, Ms. Connell distributed a copy

of a letter from the Oregon Department of Land Conservation, copy attached as part of these minutes, which indicates LCDC's concern that rezoning the parcel might violate the Metro Housing Rule requiring an overall residential density of six dwelling units per acre and a single-multi family housing split of fifty-fifty. Ms. Connell pointed out that the applicant's request is to reduce the zoning in order to construct a 59-unit manufactured home park.

Ms. Connell reviewed the Plan/Zone Map Amendment criteria and noted that the findings in the Comprehensive Plan reveal a need for additional low-moderate multi-family housing to balance the single-family housing supply in Sherwood. Ms. Connell pointed out that down-zoning the property will force the City into further non-compliance with the City's stated goals. She noted that the applicant has pointed out that the City's Code defeats the intent of the Plan by allowing single-family housing in multi-family housing zones. Ms. Connell commented that if the applicant submitted a request for a single-family development on the site, the City would be obligated to approve the proposal.

Ms. Connell stated that the proposal provides more affordable housing, choice of location, and lower housing costs by utilizing smaller lot and manufactured homes, but it does not comply with the City's goal to provide more multi-family housing and reduces the amount of land available for apartment buildings. Ms. Connell pointed out that the City cannot meet its goals by down-zoning property.

Ms. Connell commented that the applicant has provided documentation of the limited supply of land in Sherwood and the urban growth boundary which is zone MDRL; however, the applicant has not provided information supporting the market demands for manufactured homes within the City. Ms. Connell noted that during the periodic review, the City zoned the properties containing floodplains and wetlands as MDRH rather than MDRL in order to preserve the wetlands. She noted that the MDRL zoning will preserve wetlands, but does not provide for multi-family housing. Ms. Connell pointed out that two other requests to down-zone multi-family land for a manufactured home park and a golf driving range had been denied by the City due to the reduction of multi-family land. She noted that there have been no changes in the City's policy, and LCDC recommends denial of the proposal being considered by the Commission at this time.

Ms. Connell stated that the applicant has submitted a report which indicates there is an inadequate supply of buildable land and an over-supply of single-family parcels. She noted

that the housing inventory of Sherwood does not comply with either the Metro Rules or the City's goals for housing mixes.

In conclusion, Ms. Connell recommended that PA 93-7 Hitchcock Plan/Map amendment be denied.

Chairman Birchill opened the hearing for testimony from the applicant and proponents. For the record, Chairman Birchill pointed out that after discussion of an item by the Planning Commission, any Commissioner may re-open the public hearing.

He directed attention to the agenda and reminded all attendees that any item not completed by 11:00 p.m. will be rescheduled until the next regularly scheduled meeting of the Commission. Chairman Birchill stated that testimony will be limited to not more than 15 minutes for proponent and opponent testimony, the applicant will have five minutes for rebuttal and the Commission's discussion time is unlimited.

Al Benkendorf, 552 SW 5th Avenue, Suite 605, Portland, addressed the Commission. Mr. Benkendorf advised that he was also the representative with the Carriage Park Manufactured Home Park. He noted that he had been involved in the periodic review of the City's Comprehensive Plan on several occasions over the past. Mr. Benkendorf reviewed Ms. Connell's remarks and pointed out that there is nothing in the City's Codes which limits development of the site for manufactured housing and at 6.6 units per acre, the over-all density requirement has been met. Mr. Benkendorf requested that the Commission not accept Staff's recommendation for denial of the application. He requested that the Commission approve the proposal and allow the applicant to work with staff to finalize a proposal to be resubmitted to the Commission.

Tim Voorhies, President, Steel Tek Industries, Inc., P.O. Box 908, Sherwood, addressed the Commission. Mr. Voorhies commented that he is in favor of the development because it is a good development for the area; however, he is concerned that residents will be disturbed by the noise generated at his manufacturing plant. Mr. Voorhies requested that a condition be imposed which will require that the developer be responsible for installation of a noise barrier and that leasees of sites sign agreements that will prohibit filing complaints over the noise created by his firm.

Sanford Rome, 1780 SE Willamette, Sherwood, addressed the Commission. Mr. Rome commented that he has been before the Commission many times, and thanked Mr. Alexander and Mr. Benkendorf for bringing a long-overdue park to the City. Mr. Rome stated that Ms. Connell and other high ranking staff

members have made dictatorial decisions as to how the City will develop. Mr. Rome commented that the manufactured home park will not impact the schools, since senior citizens usually reside in the parks, and will usually not vote for tax increases to support the schools. Mr. Rome commented that unless there is an opportunity to over-tax the citizens, a project is turned-down; he asked for Chairman Birchill's resignation; stated that the over supply of single family dwellings is because staff allows 5,000 square foot lots for single-family purposes, rather than 7,000 minimum; and he stated that staff has been allowed to run the City as they please.

Bob Bailey, Bailey Real Estate, 395 N. Sherwood Boulevard, Sherwood, addressed the Commission. Mr. Bailey commented that locally there is no interest by any developer in apartments because of the very high price of property, permit fees, and lack of availability of mortgages for apartment buildings. Mr. Bailey noted that there is an increasing number of persons looking for more affordable manufactured homes. He recommended that the Commission consider approving the project.

There being no further proponent testimony, Chairman Birchill opened the hearing for comments from opponents.

John Drennen, 11495 SW Greenburg, Tigard, addressed the Commission. Mr. Drennen commented that he owns property directly across the street from Mr. Hitchcock, which he purchased in 1980. He commented that the previous owner had the property rezoned to MDRH. Mr. Drennen stated that in 1990 he had been through the application process for down-zoning the property and his request was denied because of the flood plain area. He commented that he had also turn in another application for the same site, which included donation of approximately 13.2 acres to the City and that too was turned down. Mr. Drennen remarked that everyone should be treated the same.

John Seeley, 16425 Brookman, Sherwood, addressed the Commission. Mr. Seeley stated he owns Tax Lot 504 on Brookman Road, adjacent to and east of the proposed subdivision. Mr. Seeley commented that he is not against the proposal, but would like to point out that the floodplain as illustrated by the applicant appears to be too narrow. He pointed out that during the rainy season there is often two to six inches of water through the entire valley. Mr. Seeley stated that he had paid more than \$4,000 to put in the sewer trunk line from Sunset Boulevard to the highway, and he does not want to be charged another assessment for improvements.

Al Benkendorf, 522 SW 5th Avenue, Portland, again addressed the Commission. Mr. Benkendorf stated that: he had not submitted a marketing study; he agrees with Mr. Bailey's comments; he agrees with Mr. Drennen's statement that everyone should be treated the same and urged that the Commission approval Mr. Drennen's proposal; pointed out that based on the circumstances in the community today and in terms of the market and meeting SDC charges, zoning for multi-family is not feasible; and requested that the project be approved and the applicant be permitted to work with staff to meet the over-all density goals of the City.

There being no further testimony, Chairman Birchill closed the public hearing and opened the meeting for comments and questions among the Commissioners.

In response to Ms. Claus' questions, Mr. Benkendorf advised that some fill may be required, eight acres will be donated to the City, and less than one acre will have to be mitigated.

In response to Ms. Claus' question, Ms. Connell stated that the Commission has approved zone changes with and without conditions; however, a problem arises with a re-zone in that the plans and conditions can change significantly. Another problem is with the condition, when it is presupposed that someone will come in with a different plan, and then they are told they can't change the plan.

Ms. Claus inquired as to what is the penalty if LCDC decides the City is too far out of compliance? Ms. Connell commented that at the next periodic review, all multi-family housing will be forced onto whatever land is left undeveloped, rather than leaving the choice to the City.

In response to Mr. Hohnbaum's question as to why an MDRH density is located on the urban growth boundary, Ms. Connell noted that it was determined that there were many constraints due to the wetlands and flood plains and as a trade-off for donation of those areas, the City made the density trade-off as an incentive for development.

Mr. Warmbier expressed his concern that the area of the wetland is unknown at this time.

Mr. Ruehl commented that his concerns that the Code is being rewritten based upon what might happen.

Chairman Birchill commented that the applicant is talking about affordable housing, if the proposal is approved and

plans are submitted for development, will there be an extra charge for additional persons living in the home and does that negate affordable housing? Mr. Benkendorf responded that he did not believe so, and the "additional fee" is \$20 per person per month. He suggested that the Planning Commission table the application in order to permit him to prepare a wetland delineation report.

After further discussion, Mr. Hohnbaum moved that based on the findings of fact in the Staff report dated January 11, 1994, that PA 93-7 be denied. The motion was seconded by Ms. Stewart and carried with Mr. Warmbier and Ms. Claus voting no.

B. SUB 93-9 Sherwood Village Preliminary Plat: A 14.6 acre 60-lot single-family subdivision request on a portion of the Langer property on North Sherwood Boulevard.

Chairman Birchill called for a staff report.

Ms. Connell reported that the Commission is reviewing a subdivision request for a preliminary plat on a 14.6 acre parcel with 60 single-family lots on North Sherwood Boulevard. She noted that the Commission had previously approved a 53-lot single-family development in the area, but not on the same parcel or in the same configuration. Ms. Connell pointed out that the current submittal is a different configuration, there is a new applicant, and the proposal is for a different portion of Tax Lot 500, thereby voiding the previous approval for the Langer property.

Ms. Connell commented that Staff has had several discussions with the property owner, Clarence Langer, in which they discussed a master plan for the entire 200-acre parcel. She noted that the parcel being considered is within the master plan; however, the master plan has no legal status at this point and no legal approval.

Ms. Connell pointed out that the parcel consists of 14.6 acres on two tax lots, both owned by Clarence Langer, part of which is within the City limits, and part is outside the City and is currently farm land. She noted that there are no wetlands or floodplains, however there is a view of Mt. Hood to the east.

Ms. Connell indicated that the property is zoned HDR, and 233 dwelling units are allowed, and the application is for 60 single-family units with a minimum 5,000 foot lot. She noted that in order to meet the City's density goals, the

Commission could require multi-family sections in the over-all development of the 200 acres. Ms. Connell pointed out that all concerned agencies had been notified, and a traffic report had been received from Kittleson and Associates dated January 18, 1994, which indicates that the amount of traffic generated from the development will not have a negative impact.

Ms. Connell stated that in meeting the findings for a preliminary plat approval, it was noted the only existing access is North Sherwood Boulevard, which intersects with 12th Street. Staff recommended that all of 12th Street be paved to Sherwood Boulevard, an additional 10 foot dedication to Sherwood Boulevard is required for an 80-foot right-of-way, and the center turn lane may need to be re-stripped.

Ms. Connell pointed out that there is an access easement across Tax Lot 501, which the applicant does not intend to use since the apartment complex approval at that site has expired. She recommended that the easement be vacated.

Ms. Connell stated that the proposal includes partial alignment with 12th, however, the City's Plan designates 12th Street as a major collector with a bikepath, and if approved, the applicant will be required to prepare engineering alignment details for City review and approval. Ms. Connell noted that there are no private streets in the development, and the subdivision complies with the policies and zoning district regulations of the Comprehensive Plan. She pointed out that the Comprehensive Plan designates the parcel HDR for multi-family units and until changes are made to the zoning code, single-family units are allowed under the HDR. Ms. Connell commented that it is anticipated that the over-all Langer Master Plan will pick up additional multi-family units closer to the Shopping Plaza. She pointed out that the lots range in size from 5,500 to 9,000 square feet and other dimensional requirements will be met; all ingress and egress are required to be from public streets, and there will be no direct access to Sherwood Boulevard.

In conclusion, Ms. Connell reviewed the recommended conditions of approval, and entered into the record the memo from Dr. Hill dated October 1993, which indicates that school facilities are adequate. She recommended that the Commission approve the proposal subject to the conditions outlined in the Staff report dated January 11, 1994.

Chairman Birchill opened the hearing for comments from the applicant and proponents.

Len Schelsky, Westlake Consultants, 7340 SW Hunziker, Suite 204, Tigard, addressed the Commission. Mr. Schelsky advised that he is representing the property owner, Clarence Langer, and the applicant, Modern Homes Development, Inc. Mr. Schelsky remarked that he did not feel the applicant should be required to pave to the first intersection. Mr. Schelsky commented that the Fire Marshals Office requires two accesses from Sherwood Boulevard, to which the applicant agrees, but he does not feel there is a need for him to pave the east end of the street. Mr. Schelsky stated that he is also looking into a break-a-way gate to accommodate an emergency vehicle access.

With regard to Condition No. 4, Mr. Schelsky commented that the applicant could provide alignment engineering details; however, that is the high point of the street, and he did not believe alignment is feasible. Mr. Schelsky remarked that he is in agreement with the other Staff recommendations and offered to answer any questions the Commission may have.

Gary Katsion, Kittleson and Associates, 610 SW Alder, Suite 700, Portland, addressed the Commission. Mr. Katsion distributed a copy of a letter dated January 18, 1994, and requested that the letter be entered into the record, a copy is attached as part of these minutes.

Chairman Birchill opened the hearing for comments or testimony from opponents.

Sanford Rome, 1780 SE Willamette, Sherwood, addressed the Commission. Mr. Rome stated that the Commission had been addressing ideas for development which could be building within a standard subdivision, and once again the Commission is talking about transfer of units. This property has been proposed for two to three different plans before you, and now the City is going to 5,000 square foot lots, but the smaller the lot the more affordable the house and now you are building another Kathy Park. Mr. Rome stated that he did not want to pick up the costs of more mistakes by the City. Mr. Rome urged that the project not be approved.

There being no further testimony, Chairman Birchill closed the public hearing. He noted that the public hearing could be re-opened by a Commissioner at their discretion.

In response to Mr. Hohnbaum's questions as to whether there are guidelines for fencing, Ms. Connell pointed out that the Commission can require a fence if necessary. Mr. Hohnbaum commented that he felt it would be necessary for the safety of the students who will be using the paths to access

schools.

Ms. Stewart questioned whether the applicant could put in more apartments in the development; and suggested that fencing be incorporated in a later phase. Ms. Connell suggested that consideration of fencing be held until the master plan is available.

Ms. Stewart pointed out that when the original shopping center was built, the area drained into a storm drainage at the area where the Carriage Apartments now exists and a lot behind the Senior Center into an open drainage, which has become badly eroded. She suggested that staff explore the problem as soon as possible because there will be additional run-off from the proposed development.

Mr. Ruehl commented that he would like to review the entire master plan, and suggested that the applicant consider the first 15 lots on Sherwood Boulevard as an ideal area for apartments rather than 15 residential lots. He stated that he did not believe an apartment complex adjacent to one of the schools would be in the best interest of the City, the schools, or the students.

After further discussion, Mr. Warmbier moved, seconded by Mr. Corrado, that based on the findings of facts, SUB 93-9 be approved subject to the following conditions:

1. The previous approval for Langer Meadows Preliminary Plat (File No. SUB 92-2) is hereby null and void.
2. Dedicate ten (10') feet to North Sherwood Boulevard. Re-stripe the center turn-lane on Sherwood Boulevard at the 12th Street intersection as necessary. Ensure there is adequate sight distance at Sherwood Boulevard and 12th Street. Enter into a non-remonstrance agreement for future public street and utility improvements adjoining the site.
3. Provide a landscape corridor easement and plan on lots adjoining Sherwood Boulevard for City review and approval.
4. Provide the City with an engineered alignment of 12th Street for City approval. Construct 12th Street to City major collector standards from North Sherwood Boulevard to the westernmost local street in the subdivision, including a bicycle path on the south side and except for sidewalks on the north side, unless an alternative street design is approved by the City in

conjunction with an approved area master plan or plan amendment. Provide a landscape corridor plan and maintenance program along 12th Street for City approval.

5. Provide utility easements from North Sherwood Boulevard to the site across Tax Lots 501 and 502, as required by the City.
6. Provide engineered construction plans for streets, pedestrian paths, sanitary sewer, water, fire protection, stormwater, erosion control, lighting, street trees, and grading to City, USA, TVFRD standards. This shall include water line looping, easements, and extension of services to adjoining properties.
7. Provide street names in compliance with City street naming policies that do not duplicate other street names in Washington County.
8. Provide one street tree per lot, except for corner lots which shall have two street trees. Tree types and locations to be approved by the City.
9. Provide a six (6') foot fence along the common property line with the elementary school, except for at the trail location.
10. If the applicant proposes to revise the Phase 1 plan to incorporate multi-family housing, the Commission agrees to waive additional planning review fees.

Motion carried unanimously.

C. MLP 93-8 Wert: a two-lot Minor Land Partition request on Oregon Street.

Chairman Birchill called for a staff report.

Ms. Connell reported that the Commission is considering a request for a minor land partition to create a new lot at 1025 Oregon Street. She noted the existing owner is Mary Wert, and the purpose of dividing the lot is to create a lot on which a manufactured home will be placed. Ms. Connell pointed out that the subject parcel is 28,500 square feet and will not create a conflict with the zoning code. She noted that the adjoining land is a single-family dwelling area and is zoned MDRL. Ms. Connell commented that the site meets all setback and lot size requirements, and no new streets are

being created by the partition.

Ms. Connell remarked that there is a problem in that Oregon Street is designated as a minor arterial, requiring an 80-foot right-of-way. However, the street in front of the homes, including the Wert residence, along Oregon street is only 47 feet wide in some areas and there will never be sufficient land to meet the 80-foot requirement. She indicated that it would also be necessary to obtain a right-of-way dedication from the railroad company, and it will require a payback agreement to widen the street at some future date. Ms. Connell recommended that no more dedication be required. Ms. Connell stated that it would be her suggestion to the owner that consideration be given to an additional partition at some future time. She recommended that the partition be approved subject to the conditions outlined in the Staff report dated January 11, 1994.

Chairman Birchill opened the hearing for comments from the proponent.

John Hurt, 9735 SW Ventura Court, Gresham, addressed the Commission. Mr. Hurt stated that he is representing his father-in-law, Edward C. Wheeler, who is applying for the partition. He stated that a 1620-square foot manufactured home with a 30 by 23-foot garage has been purchased for placement on lot. Mr. Hurt commented that the home meets all requirements for size and setback, he has talked to the Public Works Department, and is ready to install the plumbing and PGE is ready to install the electricity. Mr. Hurt pointed out that he has a survey of the property and will be forwarding the survey to Washington County.

There being no further proponent testimony, Chairman Birchill opened the hearing for comments from opponents.

After a brief discussion, Mr. Warmbier moved, seconded by Ms. Stewart, that based on the findings of fact outlined in the Staff report dated January 11, 1994, MLP 93-8 be approved subject to the following conditions:

1. The owner shall enter into a non-remonstrance agreement with the City for future public facility improvements adjoining the property.
2. If Parcel 2 is occupied by a manufactured home, the home must comply with the standards for siting a manufactured home on an individual lot (Section 2.205).
3. Provide adequate separation between the existing home

and the new homesite to meet setbacks, and if possible provide for future re-division on the parcels.

4. Record the approved partition in accordance with Washington County partition recording requirements.

Motion carried unanimously.

4. **Planning Director's Report.**

Ms. Connell advised that the next Commission meeting, February 1, 1994, will be a presentation by City Manager Jim Rapp regarding SDC charges and the City's master plans.

Ms. Connell pointed out that a copy of the staff report to the City Council was placed on the table for informational purposes.

Ms. Claus inquired if there was something the Commission could do to expedite the process for a plan amendment. Ms. Connell responded that the Commission can initiate an amendment, which will be notified throughout the City, and is sent to the City Council. Ms. Connell suggested that the issue be discussed at a later meeting, and include the minimum density issues.

Ms. Claus stated that she is concerned about the floodplain property wherein an owner can up the density, but is that practical? After looking at it on paper, it does not appear to be practical, and perhaps the City is fooling itself saying one can get a density when in reality they can't. Ms. Claus commented that apartment developers have looked at property which she owns, but indications from the developers are that they cannot reach the desired density. Ms. Claus suggested that in the areas where there is a diversity of land; i.e., floodplain and uplifts, there are typically site constraints which also work against a project. Ms. Claus pointed out that interested developers are not becoming involved with multi-family because of the high SDC charges and costs incurred with some amenities when building around property constraints. Ms. Claus suggested that consideration be given to providing incentives for developers of multi-family units.

5. **Adjournment:**

There being no further items before the Commission, Chairman Birchill adjourned the meeting at 10:50 p.m.

Respectfully submitted,

Kathy Cary
Secretary