

City of Sherwood, Oregon  
Planning Commission Meeting

June 21, 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, Marge Stewart, Glen Warmbier, Chris Corrado, Susan Claus, Rick Hohnbaum, and George Bechtold. Planning Director Carole Connell and Director of Finance and Administrative Services Polly Blankenbaker were also present.

2. **Approval of minutes of previous meetings:**

Chairman Birchill asked for corrections or additions to the minutes of June 7. Mr. Corrado pointed out that in the last paragraph on page 7, intermediate school should read grade school.

Ms. Claus asked if the secretary is given direction in how to prepare the minutes. Ms. Connell said that legally the meetings only need to be taped and record any actions. Ms. Claus said she felt the minutes were too detailed. She wondered why some people get quoted at such length and others are summarized. Ms. Connell said that the minutes are used as a tool to communicate with the Council. Mr. Corrado commented that maybe we're trying to cover ourselves with those people that speak out the most vehemently and take stands on issues, and we need to make sure that it's put down properly because Sandy Rome and Jim Claus have a history of coming back and it may be better that their comments are recorded in more detail. Ms. Claus wanted to know what the policy of the preparation of the minutes will be. Ms. Connell suggested that she address her question to City Manager Rapp.

Mrs. Claus pointed out that the second paragraph on page 3 should read "In response to Ms. Claus, Mr. Leach advised that they have already purchased the building and that they have an option to purchase the land."

Mr. Hohnbaum moved, seconded by Mrs. Stewart, that the minutes of the June 7, 1994 meeting be approved as corrected. The motion carried with six yes and one abstention, Ms. Claus.

3. **SUB 94-2 Marquee Manor Final Plat: a 16 lot single-family subdivision on Division Street:**

Chairman Birchill called for a staff report.

Ms. Connell reviewed the staff report and reported on the remaining issues. She reported that the road improvements will be made as approved for the preliminary plat on March 15. Division Street. will be tapered at the west end. Lots 1 and 2 do not have the right dimensions; they need to be 80 feet in depth. Lots 7 through 12 don't have lot numbers marked on the map. Construction plans have been approved by the City. The subdivision compliance agreements have not been entered into. It was determined that the property was too small for a storm water quality facility, so storm water will be directed to the Murdock Basin. The street name has not been changed to meet our standards of local pioneers, floral or fauna. Street signs and street trees will need to be installed.

Ms. Claus asked if the developer installs no parking signs or if the no parking signs are provided to the City for the City to install at the appropriate location. Ms. Claus related parking problems have developed in other subdivisions where parking was permitted on one side only but the no parking signs were not installed and parking is taking place on both sides of the street. Ms. Claus pointed out that this requires no parking signs and street trees be installed prior to occupancy of any homes.

Ms. Connell informed the Commission that the Code allows for three different widths, 28 feet with no parking, 32 feet with parking on one side, and 36 feet with parking on both sides. Chairman Birchill commented that the Fire Code requires 20 feet of unobstructed driving surface. Chairman Birchill said that if the no parking signs are worded correctly, no parking fire lane tow away zone with the ORS number, the fire district can also ticket cars.

Ms. Claus suggested a policy should be established on installation of no parking signs, and requested Ms. Connell check into the problems arising in the other subdivisions that have not yet had the signs installed.

Mr. Hohnbaum asked about the letter dated June 1, 1994 from Mr. Mikolas, Northwest Civil Consultants Inc., which stated that the tree preservation requirement will be covered by the CC&Rs. Mr. Hohnbaum commented that he was not aware of any CC&Rs. Ms. Connell reported that the applicant said there were no trees on the property other than one in the right-of-way that can't be preserved, so she didn't know why he said that.

Chairman Birchill invited the applicant to speak. Jason Wiltbank, owner of the property, stated that he agreed with

all the recommendations. Mr. Wiltbank stated he needed direction on where to put the no parking signs. Mr. Wiltbank said he intended to leave any Madrone trees unless they are in the middle of a right-of-way or house.

Ms. Connell said she requires street trees to be placed uniformly in the middle of the lot. Chairman Birchill suggested the no parking signs should be marked on the construction drawings. Ms. Claus suggested the curb should be painted red as soon as it is poured. Mr. Warmbier said that past City policy has been that at completion of the subdivision, the developer contacts Public Works. Public Works determines the location, and if the signs are to be placed in the public right of way, Public Works installs them, if they're not in the public right of way, the developer installs them.

Mr. Corrado moved and Mr. Hohnbaum seconded that SUB 94-2 be approved based on the findings of fact with the following conditions:

1. Revise Lots 1 and 2 so that they have 80 feet of depth.
2. Revise the cul-de-sac name in accordance with City standards.
3. Provide "No Parking" signs and street trees prior to occupancy of any homes at a location determined by the City.
4. Enter into a subdivision compliance and maintenance agreement with the City guaranteeing completion of and bonding for the public improvements.

The motion passed unanimously.

4. **Public Hearings:**

Chairman Birchill read the hearing disclosure statement and requested that Commission members reveal any ex-parte contact, conflicts of interest or bias with regard to any issues on the agenda.

**A. Continued SUB 94-3 Novak: a three-lot Preliminary and final Subdivision Plat on Tualatin-Sherwood Road:**

Chairman Birchill called for a staff report.

Ms. Connell reviewed the staff report and informed the Commission that this is a three lot subdivision plat on Tualatin-Sherwood Road in a General Industrial zone. Ms. Connell advised the Commission that the subdivision had been previously approved with extensions but then got involved

with the expansion of the Tualatin-Sherwood Road and about 1-1/2 acres were lost along the road frontage to right-of-way.

A new street will be created between the adjoining lot, and will extend from Tualatin-Sherwood Road to the back of the lot and then cul-de-sac. The County provided a driveway access between the adjoining lots, unfortunately the driveway is not quite centered. The applicant will provide half street improvements for the new street and modify the driveway approach so that it does properly line up between the adjoining lots.

Water and sewer is available to the sites with some extension. There is no formal storm water system in this area. Ms. Connell had some questions about USA's comments on storm water. Ms. Connell pointed out that the site is heavily wooded in the front of parcel 1. The code does allow for preservation of the trees sized 4 inches or greater, and Ms. Connell recommended the applicant provide a tree survey now before the sites are sold or cleared.

Ms. Connell recommended approval with seven conditions.

Mr. Warmbier felt the tree preservation requirement was too stiff. There was a lengthy discussion regarding whether the tree survey should be required as part of the subdivision approval or as part of the site plan approval. Ms. Connell pointed out that the tendency has been to cut all the trees prior to application for a site plan. Mr. Bechtold remarked that this requirement doesn't preclude the applicant from cutting any trees, but that the applicant would have to get agreement from the City as to which trees will be cut. Mr. Warmbier pointed out that enforcement of tree preservation will become very expensive for the City to administer.

Chairman Birchill opened the public hearing for testimony from proponents.

The applicant, Richard Pike, Chairman of Sabre Construction, 7235 SW Bonita Road, Tigard, Or 97224, commented that saving trees had gone over board, and pointed to Mountain Park and Lake Oswego as examples. Mr. Pike felt tree preservation on this site would not be a problem since the site drops off so steeply and most of the trees are in the front as long as trees can be cut in the roadway and building site. In response to a question from Mrs. Claus, Mr. Pike said he had no problem with a tree survey which would identify those trees that should be left and the trees which are unsafe and should be cut as long as it didn't interfere with access or a building site.

Jim Claus, 22211 SW Pacific Hwy., Sherwood, I rise to a point of order. It is my understanding that any statements made here are quoted verbatim. Since we are now in a judicial forum I would request that any comments made back to me are in quotes. I don't want to go through the expense of getting the tapes.

Mr. Claus said that he supported this application and that talking about a 4-inch tree in this City is not only unrealistic but puts a silly burden on the property owner. Mr. Claus went on to say that we have a half time planner that in Kathy Park missed a regulated wetlands, a violation of the Navigable Rivers Act, in Whispering Firs we missed a collector, Kay Apartments allowed the diversion of a natural drainage area, Atley Estates allowed drainage areas to be shifted onto other people's properties. Last week in Chesapeake Park after a complete site review by our authorities, your building inspector allowed a property to be built on the wrong lot, never even looked at the plans. I heard today that the same thing has occurred in other subdivisions. We're hearing that we're going to have someone review significant 4-inch trees, I wish the Planning Commission would begin to recognize both the capacity of your staff and the difficulty of getting an accurate decision and act responsibly. Mr. Claus said he was referring to the 4-inch tree requirement on this application. Mr. Claus recommended a tree survey done by a properly licensed and certified person who will submit his resume to the City, the City would have 7 days to respond to the tree survey or the survey is deemed accepted. The City would then be removed from a potential litigious matter. Mr. Claus pointed out that the City staff does not have the depth or training to survey trees. The applicant should be made to hire an expert for the survey and the City respond. Other citizens could get a copy and write a letter if they object.

Mr. Bechtold asked Mr. Claus what information is provided in the tree survey. Mr. Claus responded that the surveys he's had done have included the varieties and types, relative merits, which trees should be trimmed, saved, or are of no practical worth. Mr. Claus felt strongly that a survey would show that there is nothing worth preserving in an area of second, third and fourth growth like this area. Mr. Claus reiterated that tree surveys on his properties have shown that he has one tree on one property that is clearly outstanding and worth saving and that his tree surveys were done before he put in the storm water facilities recommendation. Usually someone that's a responsible developer does that, and if there is anything significant on there, he's not going to tear it down because it's money in

his pocket.

Mr. Birchill pointed out that who is paying the expert may determine what the outcome of the expert opinion. Mr. Birchill suggested that as a positive contribution, that Mr. Claus put together a list of tree surveyors and submit it to the City so we can get a head start on this.

Mr. Pike commented that a certified forester will be used for the tree survey and felt that the forester is very anxious to save trees. Mr. Pike related an experience in another City which he felt created a hazard for wind, fire and to the building foundation.

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

There was no opponent testimony.

There being no further testimony, Chairman Birchill closed the public hearing and noted that the hearing could be reopened at any time at the request of one of the Commission members.

Ms. Claus inquired if the new half street would provide legal access to parcel three of the subdivision, and if the fire department would agree to this, especially when we have no assurances that the adjoining parcel will develop? Ms. Connell pointed out that an interim fire turnaround may be required for development, and that the only alternate was to require the applicant to put in the whole street. The owner of the adjacent property, Tax Lot #501, was aware of and concurred with this design. The County strongly supports shared access onto Tualatin-Sherwood Road.

Mr. Pike stated that Mr. Marshall, the adjoining property owner, has verbally agreed to his share of the half street improvement.

Mr. Hohnbaum asked whether the 10-inch water line would be dead-ended or looped. Ms. Connell said utility plans had not been reviewed.

Mr. Hohnbaum moved, and Mr. Bechtold seconded, that SUB 94-2 be approved based on the recommendations and findings of fact outlined in the Staff report dated May 31, 1994, and subject to the following revised conditions of approval:

1. Submit engineered construction plans for public street and utility improvements to the City, USA, TVFRD and

the County for approval. Extend a sanitary sewer easement into Parcel 1 for future City access. Determine the need for storm water detention and water quality facility in compliance with USA and the City. Enter into a subdivision compliance and maintenance agreement with the City to guarantee installation of utilities.

2. Dedicate Tract "A" to the public for road purposes, and indicate as such on the plat.
3. Provide a subdivision name, and a street name as approved by the City and the County.
4. Provide a tree survey prepared by a Certified Forester of all trees 4 inches in diameter and larger. Preserve those trees when not in public right-of-way or when unsafe, as recommended by the Forester and agreed upon by the City.
5. Payback the subject parcel's proportionate share for water line extension to the area, as described in the Water Refund Agreement dated November 12, 1986.
6. Comply with the following Washington County road improvement requirements:
  - a. Dedicate additional right-of-way to provide 45 feet from centerline of Tualatin-Sherwood Road adjacent to the site.
  - b. Establish a one-foot non-access reserve strip along the site's Tualatin-Sherwood Road frontage, except at the approved access location.
  - c. Sign a waiver not to remonstrate against the formation of a local improvement district or other mechanism to improve the base facility of Tualatin-Sherwood Road between Cipole and Oregon Streets.
  - d. Provide intersection improvements necessary to obtain access at the proposed intersection of the internal street and Tualatin-Sherwood Road.
  - e. Close all existing driveways to Tualatin-Sherwood Road.
  - f. Share access with Tax Lot 501.
7. Modify the existing driveway approach so that it properly aligns with a half street improvement on the subject parcel.

Mrs. Stewart moved to amend condition 4 to read "Provide a



tree survey prepared by a certified Forester of all trees 4 inches in diameter and larger. Preserve those trees when not

in public right-of-way or when unsafe as recommended by the Forester and as agreed upon by the City." Mr. Corrado seconded the motion the motion carried five yes, Hohnbaum no, with Bechtold abstaining.

It was agreed that the applicant will select the forester.

The main motion carried with six yes and Hohnbaum no.

#### **B. PA 94-4 Revisions to Chapter 9 Historic Resources**

Chairman Birchill asked if there was anyone in attendance to talk on PA 94-4. Mr. Claus indicated his intent to testify on PA 94-4. Since Mr. Claus intended to stay for the whole meeting Chairman Birchill announced this item would be taken up later in the evening.

### **5. Presentations:**

#### **A. Langer Farm development plans: Frank Wiegel**

Frank Wiegel, 6249 SW Canyon Ct., representing the Langer family, indicated he and Clarence Langer, Jr. were here to share what is being planned for the Langer property. The property has been owned by the Langer family for 115 years, and all the property has been annexed. The Langers understand the importance of a plan for the development of this property rather than the piecemealing out of the property as developers approached them over the years. The property boundaries are North Sherwood Boulevard, Langer Drive, and Tualatin-Sherwood Road. The logical development of the property is single family, multi-family, and commercial. The Langers hired several consultants to help them develop a village with an identity. The theme they came up with is the Front Porch Society in order to create a pedestrian friendly neighborhood.

Mr. Wiegel displayed the neighborhood park to be located along 12th Street which will be renamed Century Drive. The park plan has been accepted by the Park Commission. The sidewalks and bikepaths along 12th Street will be off the street. The sidewalks will be 8 feet rather than the standard 5 feet. Maple street trees and rod iron lamp posts will line 12th Street.

Mr. Wiegel explained the zone changes that will be required to accommodate this overall plan. They will be requesting commercial zones to be changed to high density residential and some light industrial zone changed to high density residential. The planned extension of Highland Street will connect to Tualatin-Sherwood Road.

Mr. Wiegel explained they will try to maintain architectural control over the area and require porches, wood siding, and arches to return to the older look. All the signage will be of the same style. The CC&Rs the Langers put on their property will require the developers to develop to this overall theme. The CC&Rs will apply to the light industrial and commercial parcels as well as all the residential properties.

Mr. Wiegel said that the Langers have no qualms about the CC&Rs being a requirement for the zone change, and that they are looking for a way to make the CC&Rs permanent.

Mr. Bechtold asked if there was any attempt to place apartments on top of the commercial development such as in Old Town. Mr. Wiegel said that it was considered but it is very costly to develop and difficult to finance, and it is also difficult to encourage people to live above commercial.

Mrs. Stewart asked if the retail would be varied enough to encourage people to shop in Sherwood. Mr. Wiegel said he did not know who the tenants were that Gramor had approached, but felt that Gramor would do a good job. Mr. Bechtold asked if the retail development will face the City. Mr. Wiegel said that he is hopeful that the retail development will have two faces. Beaverton Town Square is an example of a development with two faces, however one of the problems is the stores access through a central corridor and that's not good for delivery of merchandise.

Mr. Birchill asked if there were any park and ride lots being planned. Mr. Wiegel said that it has been discussed but they have not come up with an answer.

Mr. Wiegel said there are no wetlands on the property. There will be some on site water treatment facilities. Mr. Wiegel said the park will be public and will qualify for SDC credits, but the home owners through a home owners association will pay for the maintenance of the park.

Mrs. Stewart asked about the grove of trees. Mr. Wiegel said they did a tree survey of the significant trees, and there were little or none that were deemed significant. A lot of the trees were scrub trees. The Parks Commission felt that the area was not worth acquisition and approved the neighborhood park on 12th Street as the park for the area. Mr. Birchill asked that Mr. Wiegel get the criteria for significant trees from the surveyor.

In response to a question from Clyde List regarding how many acres were in the overall project, Mr. Wiegel said about 160 acres.

Mrs. Claus asked what kind of time line are you looking at for full development. Mr. Wiegel said things are happening very fast out here. The 200 single family homes should be complete in about two to three years. 120 units of multi-family will be starting this fall. The Langers will be co-developing everything but the single family, and they don't want to have units of multi-family competing with each other.

Barry Kennedy, 210 NW Gleneagle Dr., reported that Virginia Maffit, Park Board Chair, said there was strong disagreement with the findings of the arborist.

Ms. Claus asked if the lighting standards will be carried over to the other phases and zones of development. Mr. Wiegel said that the front yard setbacks will be consistent, and if a light industrial complex is built, the same landscaping requirements of grass, maples trees and white rail fence will apply.

Mr. Jim Claus questioned Mr. Wiegel regarding total residential density in the total plan and said that in terms of national density to parks they were way under what they should be.

**B. Proposed tree preservation standards: City Tree Committee:**

Barry Kennedy explained that this Committee was created due to an introduction he made to the City Council on April 13 to adopt a zone code change that would bring some kind of process to our review of tree preservation. Mr. Kennedy said that the Tree Committee, Lisa Nell, Larry Kelly, Marlissa Noblett and Janet Bechtold, had been doing a lot of research on this complex and controversial subject.

Lisa Nell presented two handouts "Why a Tree Ordinance?" and "The Purpose of the Tree Committee". Larry Kelly and Marlissa Noblett presented a slide show where some developments were making an effort to preserve trees and others where the trees were totally removed.

Mrs. Stewart and Mr. Warmbier recounted stories where trees had been left during development but the root systems were disturbed and later the new home owner was required to take the trees down. Mr. Warmbier said that planting for the future is more important than preserving existing trees during development.

Janet Bechtold informed the Commission that the first tree ordinances were adopted in the 1940s. The Portland Forester has offered to assist Sherwood in developing a tree program.

Mrs. Bechtold also told the Commission about other resources available to help cities develop tree ordinances. She said the Tree Committee wanted to do the homework to help and assist the Commission and the City of Sherwood come to a common ground where everyone wins.

Barry Kennedy informed the Commission that he wants preservation of appropriate trees to be a City Goal. A majority of the City Council, on April 13, authorized the writing of the ordinance. City Manager Rapp has expanded on the existing code and drafted language that is in the Commission packet. Mr. Kennedy said that when agreement is reached with the Commission, a public hearing on a proposed code amendment will be held. Mr. Kennedy said the Committee goal is to stop indiscriminate cutting of trees by anyone, recognizing that new codes could not be applied retroactively to developments. The Committee would like to see a permit process which would involve not just developers but anyone. Mr. Kennedy related the requirement for a Tree City. Mr. Kennedy was proposing 5 inches in diameter measured at 4-1/2 feet above ground level. The inventory of significant trees includes a definition of significant, i.e., 100 year old trees and trees preventing erosion.

Ms. Connell pointed out that the code does have some requirements for solar access and energy conservation that may be in conflict with tree preservation. Mrs. Stewart pointed out that trees may block views.

Mr. Kennedy invited everyone to attend the Tree Committee meeting, Tuesday night, 7:00 p.m. at the City Hall. The Arborist from Salem will discuss information needed to develop this ordinance.

David Bantz representing Inkster Blvd. Corp., Woodhaven developers, informed the Commission of some of his concerns with this proposal. Mr. Bantz said they would probably be removing more trees and planting more trees than any other development in the City, and they will be planting many more trees than are removed. Mr. Bantz said their primary concern

was that this ordinance not prevent them from removing trees on lots and therefore causing the loss of lots. Mrs. Claus pointed out that even though the total subdivision concept has been approved, each of the phases will have to meet whatever ordinances are in place when they apply for plat approval.

Jim Claus commented that the discussion was confusing tree preservation and required landscaping. Mr. Claus cautioned the Commission regarding taking away the privileges of property ownership.

August 2 was set as a date for a Public Hearing on the Tree Ordinance.

**B. PA 94-4 Revisions to Chapter 9 Historic Resources:**

Due to the hour, Ms. Connell asked the Commission how and when they wanted to review proposed changes to Chapter 9.

Mr. Bechtold explained that the City does not have a Comprehensive Plan approved by the State. Mr. Hohnbaum explained why the City's plan did not meet with State approval. He said our choices are to either change or language to meet with their approval or take on the State or court.

Mr. Corrado favored a work shop rather than a Public Hearing. The Commission discussed the fact that the property owners are not aware of this ordinance and how to get the information to the owners. Mr. Bechtold asked Mr. Claus to write up his concerns about the proposed ordinance so the Committee could address them. The Commission agreed to hold a work shop on July 12 and the hearing on July 19. The City Council will be invited to the workshop on July 12.

**6. Director's Report:**

None

**7. Adjournment:**

There being no further items before the Commission, the meeting adjourned at approximately 11:45 p.m.

Respectfully submitted,

Polly Blankenbaker

1Recorder