

City of Sherwood, Oregon
Planning Commission Meeting

September 20, 1994

1. **Call to Order/Roll Call.** Vice-Chairman Corrado called the meeting to order at 7:40 p.m. Commission members present were: Vice-Chairman Chris Corrado, Susan Claus, Marge Stewart, George Bechtold, and Rick Hohnbaum. Chairman Birchill and Ken Shannon were on vacation and excused. Planning Director Carole Connell and Secretary Kathy Cary were also present.

2. **Minutes of August 16 and 30, 1994 meetings:**

Vice Chairman Corrado pointed out that a draft of the August 30th minutes had been provided for informational and discussion purposes, and approval will not be considered until the next Commission meeting.

There being no corrections or additions, Mr. Bechtold moved, seconded by Ms. Stewart, that the minutes of the August 16, 1994, meeting be approved as submitted. The motion carried. Ms. Claus abstained due to absence at August 16th meeting.

3. **Continued PA 94-6 Tree Preservation: proposed Zoning Code provisions for the preservation and planting of trees:**

Vice-Chairman Corrado advised that the Commission would continue with their discussion of the Tree Ordinance. He pointed out that Staff was directed to take the Commissions recommendations and verbiage as discussed at the August 30th meeting and rewrite parts of the Ordinance to include those comments. Vice-Chairman Corrado commented that the Commission now has another draft and another opportunity to discuss further the changes that were incorporated. He asked that the Commission review the draft and, if appropriate, move the proposed ordinance to the City Council. Vice-Chairman Corrado called for a staff report.

Ms. Connell advised that City Manager Rapp had revised the Tree Ordinance, now called Draft No. 6, considering the comments made by the Commission at their last meeting. She pointed out that the amendments requested by the Planning Commission on August 30, 1994, are either in bold type or contain a line indicating deletions. Ms. Connell noted that additional changes had been made to the draft by Mr. Rapp as a result of a tree seminar presented by the Forest Service

and hosted by Pella Window Company, which Mr. Rapp and Mr. Barry Kennedy had attended. Ms. Connell commented that suggested changes made as a result of that work session are identified with italic type.

Ms. Connell provided an in-depth review of the proposed standards, a complete copy of which is contained in the Commission's minute book, and noted the addition of a definition of "Significant Woodland". She remarked that the definition was a result of the Forest Services workshop, at which the tree experts had recommended a tree diameter of two inches; however, Staff felt a diameter of five inches was more acceptable. Ms. Connell commented that the remainder of the changes are as recommended by the Planning Commission and include some lengthy cross references to assure continuity with the remainder of the Code.

Ms. Connell directed the Commission's attention to Sections 3 and 4 on Page 11. She noted that the requirement for written request for tree cutting or removal is too restrictive. Ms. Connell pointed out that Paragraph 3, required that trees be replaced by a tree selected from Appendix J of the City's Code which lists only street trees for public rights-of-way.

She said the list is too restrictive and many more tree species could be considered for replacement in areas other than abutting rights-of-way.

Ms. Connell remarked that Item 5 on Page 12 requires granting of a variance to re-site a building in order to retain trees.

She commented that a variance is time consuming and the cost is high, and suggested the applicant be granted some type of relief from the requirement. Ms. Claus suggested that verbiage be included that requires the applicant to work with staff to resolve that issue; and, if applicant and staff are not able to reach a viable solution, the applicant should proceed with filing a variance before the Planning Commission. Ms. Connell suggested that one option would be to require an administrative variance with an additional option of filing a variance before the Commission. Ms. Claus stated that a public hearing to consider only a tree issue is not justified and suggested that tree mitigation issues should be part of the landscaping requirements. Ms. Claus suggested that a cap be placed on the cost of a variance to consider a tree mitigation question. Ms. Connell pointed out that the actual cost to appeal to the Commission averages about \$500.00. Vice-Chairman Corrado suggested that the verbiage in Paragraph 5, page 12, be left as is and if the variance request because of tree mitigation becomes a problem, the Commission can address the issue at that time.

Ms. Stewart suggested that reference to Appendix J on Page 11 be replaced with the words "any tree not otherwise prohibited by this Code."

Mr. Bechtold commented that there has been a great deal of discussion about tree diameter. He produced a chart and suggested that the Commission think about how big a tree is. He requested that the Commission select a tree size from the chart and discuss the proposed 10-inch tree diameter being considered. The Commission concurred with an 8-inch trunk diameter.

Ms. Connell advised that there is a request from the audience to re-open the public hearing. She pointed out that the request is for discussion of a new paragraph being proposed under Code Section 1.202.139.A. Ms. Connell reminded the Commission that the hearing is a legislative function, not a quasi-judicial hearing, and recommended that the public hearing be re-opened. Vice-Chairman Corrado polled the Commission members, all of whom concurred that the meeting should be re-opened. He then read the hearing disclosure statement and re-opened the public hearing for comments from proponents and/or opponents.

David Bantz, Inkster Corporation, 11535 SW Durham Road, Suite C-1, Tigard, addressed the Commission. Mr. Bantz stated that he will direct his comments toward a proposed new Code Section 1.202.139.A, defining "Significant Woodlands". He stated that the purpose of the section is to come up with a definition that is more defensible for the City. Mr. Bantz pointed out that there are several locations in the ordinance where the word is mentioned, but the definition is for significant woodlands. He commented that the Commission either needs a definition for woodlands or wherever woodlands is mentioned, state "significant woodlands." Mr. Bantz pointed out that "significant woodlands" is defined as an area of land covering 20,000 square feet, which is less than one-half acre but the density of the trees is 100 trees per acre, and the Commission may want to raise the size of the significant woodlands to one acre, or say 50 trees per one-half acre. He stated that there could be instances where there would be problems with the definition if there are 50 trees on half an acre, it doesn't necessarily mean you have 100 trees on one acre. He asked if the Commission is going to be defining on a map these areas determined as a significant woodland or is it up to each developer to define for the City what is significant woodlands. Mr. Bantz pointed out that the Ponderosa pine forest on the Woodhaven development was defined as a significant natural area, which affects the manner in which the developer is reimbursed for

dedicating open spaces to the City. He noted that if the area is not buildable, there is one fee and a different fee for dedicated land that is buildable. Mr. Bantz commented that if the City is going to define all significant woodlands as also being significant natural areas, that will affect the rate of credit given toward system development fees. Ms. Claus commented that Woodhaven is grandfathered and this ordinance would not apply to Woodhaven. In response to Ms. Claus' question, Mr. Bantz stated that a developer is given a certain amount for areas that are not buildable, such as wetlands, buffers or significant natural areas, and if the trees are defined as significant woodlands, the developer is given significantly less credit than if the area is usable. He noted that currently the parcel is usable since there is nothing to prevent a developer from developing those areas unless defined as significant areas. Mr. Bantz stated that the Ponderosa pine forest is being given to the City for which the developer is receiving \$4,000 per acre; however, for the areas that are usable, the developer is receiving \$25,000 per acre against SDCs. Ms. Connell commented that the Parks Master Plan will also have to be amended. Mr. Bantz remarked that if the City does define significant woodlands under the Parks Master Plan the developer receives significant changes in the SDC credits.

In response to Ms. Claus' question as to whether the City will do an inventory of significant woodlands as a result of the ordinance, Ms. Connell stated that the requirements on Page 5 indicate what the applicant has to do the inventory. Ms. Claus asked, what about multiple parcel ownership that could be determined as significant woodland, and an application came in with a parcel that had part of the significant natural site on one owner's parcel? Ms. Connell stated that she did not believe the City would do an inventory; further, there were only a few natural areas within the City, all of which have already been identified. Ms. Connell commented that the issue could not be resolved until an applicant came forward with a proposal.

There being no further proponent testimony, Vice-Chairman Corrado opened the public hearing for testimony from opponents.

Barry Kennedy, 210 Gleneagle, Sherwood, addressed the Commission. Mr. Kennedy stated that he is assuming that the Chair is opening the public hearing for entire code for discussion, not just the woodland area. He remarked that he thinks there is some benefit in hearing his testimony and what he had learned from the tree conference, and we would all learn something. He noted that Mr. Rapp was not in

attendance to speak for himself; but one thing Mr. Kennedy learned is that it is very critical to realize that the Commission needs to operate from a point of knowledge when looking at trees. Mr. Kennedy stated that it is important to be able to understand that certain types of trees will not survive in a building situation, certain types will survive.

And one way to simplify the matter is that you take a tree out of a grove of trees, and especially a large tree, in most cases it will not survive because it has been supported by the other trees. Mr. Kennedy stated that that is why it is important, if the Commission decides to preserve trees within a grove, the grove should be retained as an entity. Another thing learned by Mr. Kennedy is that the City needs to be aware of the fact that the bigger the tree is the bigger the root system is, and different types of trees have different types of root systems, some are shallow and some are deep; but one thing shared at the Conference was that for every inch of diameter there should be one foot of diameter of the root; i.e., a tree with a 10-inch diameter, has a 10-foot root system, and there should be space for that. Mr. Kennedy stated that the reality is, that it is much easier to preserve small trees than it is big trees; quite the reverse of what one would think - a 5-inch sapling will not blow down; a 10-inch or 24-inch tree is more likely to blow down because it is more easily disturbed because it has a larger root system and is more susceptible to wind than a small tree. Mr. Kennedy requested the City's confirmation to really consider that when they go to the larger diameter that maybe the goal is not so much to preserve huge trees, but to preserve the environment that we have in Sherwood and that trees are part of that environment. Mr. Kennedy remarked that in many cases one will find it will be better to preserve smaller trees than larger trees because they will last better and maybe that is all there is in a particular area and it is better to have small trees than no trees at all. Mr. Kennedy stated that he also learned that different types of species have different diameter roots; a dogwood tree will not have the same root system as a Ponderosa Pine and when you do consider diameter, it includes the bark. Mr. Kennedy noted that the bark on a Ponderosa Pine is 3 inches; one-half on one side and one-half on the other so that one is talking about a significant amount of bark. He recommended that the Commission consider a diameter of less than 8 inches, and providing the City the opportunity in each situation to look at what is appropriate for each situation. Mr. Kennedy noted that the tree expert at the tree conference recommended a 5-inch diameter.

There being no further testimony, Vice-Chairman Corrado closed the public hearing and opened the meeting for

comments, questions and discussion among the members of the Commission.

Ms. Stewart suggested that the word "significant" be deleted from the definition of woodland." After further discussion, the Commission concurred that the word should remain. Ms. Connell pointed out that the word "significant" should be inserted in front of all references to woodlands.

After a brief discussion, Mr. Hohnbaum moved that Draft No. 6 dated September 9, 1994, be revised, and forwarded to the Council with a recommendation for approval. The following revisions were made:

1. All references to 10-inch trees be changed to 8 inches.
2. The word "significant" is to be placed in front of all "woodland" and "tree" phraseology."
3. In proposed Code Section 1.202.139A, the third line, change the density of trees to "50 trees per one-half acre" rather than 100 trees per acre.
4. On Page 11, change all reference to Appendix J to "tree types not otherwise prohibited by City Codes.

The motion was seconded by Vice-Chair Corrado. Discussion of the motion ensued. Mr. Hohnbaum and Vice-Chair Corrado amended their motions to include the following revision:

1. Item 5, page 12 - regarding the fee for a variance necessitated by location of a tree which prohibits the lawful siting of a building or use, the fee shall not exceed the administrative cost for processing the variance, with a \$1,200 cap.

The motion carried unanimously.

Ms. Claus suggested that a resume of the experts required to provide written reports be included in the Commission packets. She pointed out that it would be very helpful to know what kind of work the expert has done. Ms. Connell agreed to follow-up with that request.

4. **Public Hearings:**

- A. **SP 94-3 Cedar Creek Village: a 76-unit apartment complex on North Sherwood Boulevard.**

Vice-Chairman Corrado requested that Commissioners reveal any

ex-parte contact, conflict of interest or bias with regard to the proposed project. There being none, he called for a Staff report.

Ms. Connell reported that a site plan for the proposed project had previously been approved by the Commission; however the approval had expired. She noted that the project had been limited to 50 units because there was only one access. Ms. Connell pointed out that there are now two access routes to the project through the Sherwood Village project and North Sherwood Boulevard, and the applicant is now proposing 76 units, the maximum for the parcel.

Ms. Connell advised that there is an inaccuracy in the Staff report which she wished to bring to the Commission's attention. Ms. Connell commented that she has visited the site, and because of the Sherwood Village project, there is in place a five-foot chain link fence with green slats, and there is no longer a need to fence along the subdivision sides of the parcel. However, a fence should be required on the school side, as well as adjoining the proposed parking lot on the west side. Ms. Connell noted that there was also concern whether the water looping will be adequate for the entire project, which might require a change to one of the conditions. Finally, she pointed out a miscalculation in the required active recreation area.

Ms. Connell provided an in-depth review of the Staff Report dated September 13, 1994, a complete copy of which is contained in the Commission's minute books. Ms. Connell recommended that SP 94-3 be approved based on the criteria in the Staff report, the seven recommended conditions with a modification to include adequate water line looping, a sight-obscuring fence to be installed on the school side of the project, and a reduction in the required active recreation area to about 20,000 square feet.

Vice-Chairman Corrado opened the public hearing for comments and testimony from the applicant and/or proponents.

Jack Kohl, Familia Properties, P.O. Box 145, Wilsonville, addressed the Commission. Mr. Kohl advised that he is one of the property owners, and that he and the other applicants have reviewed the staff report and feel that they can comply with all of the requirements to staff's satisfaction and will work with staff. He advised that Mr. Randy Olszewski, Westlake Engineering, was also in attendance to answer any technical questions the Commissioners may have.

Ms. Stewart questioned what people do with their bikes, do

they carry them up three flights of stairs, or is the Commission asking for space for bikes that could be used for cars? Mr. Kohl responded that people do use the bike parking; however, he found that many also take them into their apartments for protection. Mr. Kohl commented that people between the ages of 18-35 years usually buy expensive bikes and do not put them in the racks. He noted that the applicant is providing the recommended 16 bike spaces.

There being no further testimony offered, Vice-Chairman Corrado closed the public hearing. He noted that the public hearing could be re-opened at any time at the request of a Commission member.

Mr. Hohnbaum commented that he had at one time read the City's Comprehensive Plan and noted that there is no standard regarding the amount of laundry facilities per units, the facilities are at the discretion of the developer. Ms. Connell responded that there are no requirements for laundry facilities, and many of the residents in the higher-end units have their own facilities. Mr. Kohl commented that the laundry facilities are designed in units because of certain diseases people prefer their own washer and dryer. He pointed out that they will also provide laundry facilities for those who do not have one.

Mr. Hohnbaum commented that he is concerned with the additional access onto North Sherwood Boulevard and questions if the increased number of trips generated from the apartments will eventually create traffic problems with people wanting to avoid traffic on Sherwood Boulevard. Ms. Connell remarked that ODOT did not respond to the standard inquiry, and noted that most people will indeed exit north towards Portland.

In response to Mr. Hohnbaum's question, Ms. Connell stated that the traffic impact analysis covered both accesses, and a traffic signal is not warranted. Mr. Hohnbaum asked if within the entire project will the traffic get to a point where the City will have to consider a signal? Ms. Connell replied that there are no provisions to retroactively require the developer to contribute to a signal.

Mr. Hohnbaum expressed concern about the portion of the private driveway for the project and the street intersection and inquired if there had been a traffic study? Ms. Connell pointed out that intersections must be separated by at least 100 feet and the developer has met that requirement.

Mr. Hohnbaum asked if parking will be restricted where the

street narrows from 32 feet to the 24-foot driveway. Mr. Olszewski pointed out that all streets in Sherwood Village are 36 feet wide and parking will be allowed on both sides. In response to Mr. Hohnbaum's question, Ms. Connell advised that

there had been no response from the Tualatin Valley Fire and Rescue (TVFR); however, the applicant must still meet the requirements of TVFR.

Ms. Claus questioned the status and ownership of the storm water facility ponds. Ms. Connell commented that she believed them to be privately owned. Mr. Kohl remarked that the other facilities generally end up being dedicated to the City. In response to Ms. Claus' question, Mr. Olszewski remarked that the applicant plans to keep the ponds, which will be about four to five feet deep, but the water level is usually less than one foot at peak flow. Ms. Claus inquired if the applicant will be retaining liability for the pond and whether it was the applicant's preference to have a fence. Mr. Kohl indicated that from an aesthetic standpoint, it looks better without a fence. He pointed out that Sherwood Village had fenced the pond and requested the Commission look at the pond. Mr. Kohl stated that whether fenced or not, it didn't matter. Mr. Hohnbaum suggested that the pond be fenced because of the location proximity to the school. Mr. Kohl indicated he was agreeable with fencing the pond. He pointed out that only water from the project will drain into the pond.

In regard to the tot lot, Ms. Claus inquired if the applicant would prefer the City specify the equipment to be installed. Mr. Kohl responded that the applicant will work with staff to acquire the most appropriate equipment for the tot lot.

There being no further discussion among the Commissions, Mr. Hohnbaum moved, that SP 94-3 be approved based on the findings of fact in the Staff report and subject to the conditions as presented and modified by Staff. The motion was seconded by Ms. Stewart. Upon discussion of the motion, Ms. Claus questioned the illumination of the site. Mr. Kohl commented that it is important for security reasons to have the entire parking lot illuminated. Mr. Hohnbaum amended his motion to include a condition that the entire site be adequately illuminated. Ms. Stewart amended her second. The conditions of approval are as follows:

1. Submit detailed construction plans for all streets and utilities for City, USA and TVFRD approval, including proper water line looping.
2. Revise the site plan to provide about 21,008 square feet of active recreational facilities in the open space. Document the rights and responsibilities attached to the common open space and recreation areas, including guaranteeing continued use and maintenance of

the areas as approved by the City.

3. Provide a minimum of 16 secured, conveniently located bicycle parking spaces.
4. Provide signage at the two access points indicating the driveway into the project is private.
5. Provide a six-foot sight-obscuring fence, wall or hedge between the westernmost parking lot and the west property line, and along the south property line adjoining the school. Increase the landscape strip adjoining the easternmost parking lot to ten feet wide.
6. Provide assurance that the entire project is adequately illuminated.

Upon call of the vote, the motion carried unanimously.

5. **Director's Report:**

Ms. Connell advised that there a training seminar for Planning Commissions in Portland on October 8. She urged anyone who wished to attend to contact her. Mr. Bechtold responded that he would like to attend.

For future meetings, Ms. Connell noted that there will be a meeting on October 4 to consider a request from the Baptist Church for a second one-year extension. Ms. Connell commented that the Sherwood Lumber did not build the wooden facade as approved and the applicant is asking that they be permitted to retain the facade as built. She requested that the Commissioners visit the site to form an opinion. Mr. Hohnbaum requested that a photograph or drawing of the approved facade be provided.

Ms. Connell advised that the Historic Preservation Ordinance had been delayed because of a copying error. She indicated that the Council requested that a presentation be made on October 12 with all owners of properties which have the potential to be designated as historical. She encouraged the Commissioners to attend the Council meeting.

Ms. Connell advised that the Tree Ordinance will be before the City Council on November 9; and Woodhaven will be in for a final plat for Phase 1 of the subdivision soon.

Mr. Bechtold commented that the Commission had discussed school area issues. He requested that Dr. Hill expand on his standard response. Mr. Bechtold commented that the District

is now entering a new school year and at school start-up the two lower schools are at capacity and in two to three years will be behind schedule. He requested that Dr. Hill be invited to attend a Commission meeting to provide an update on the schools statistics and projected statistics within and without the City limits. Mr. Bechtold also requested that the standard form letter sent to agencies be modified to require more extensive information. It was requested that Dr. Hill be provided with a list of questions to address during his presentation. I.e., What is the impact on schools of growth to 15,000 people in Sherwood between now and build out; growth of number of students from within City limits versus those in the School District; review of the school population last year and the actual after the housing projects were completed; are the projections valid and provide an analysis of Dr. Hill's statement "we are expecting x units and from those units, we are expecting x students, was the projection valid."; how much further over capacity can the City expect the school to be at buildout of units; what are other options?

6. **Adjournment:**

There being no further items before the Commission, the meeting adjourned at approximately 9:50 p.m.

Respectfully submitted,

Kathy Cary
Secretary