

City of Sherwood, Oregon
Planning Commission Meeting

June 1, 1993

1. **Call to Order/Roll Call.** Vice-Chairman Ruehl called the meeting to order at 7:30 p.m. Commission members present were: Marty Ruehl, Chris Corrado, Rick Hohnbaum, Marge Stewart, Glen Warmbier, and Chris Saxton. Chairman Eugene Birchill was absent and excused. Planning Director Carole Connell and Secretary Kathy Cary were also present.

2. **Minutes of previous meetings.**

Minutes of May 4, 1993: Ms. Stewart moved, seconded by Mr. Corrado, that the minutes of the May 4, 1993, meeting be approved with the following corrections:

- a. Page 3 - correct the width of Sherwood Boulevard.
- b. Page 1 - Mr. Hohnbaum requested that the words "with the City of Dundee" be deleted from the third paragraph under Item 3, Public Hearing.

Motion carried unanimously.

3. **Public Hearing:**

A. MLP 93-4 Nichols: a One (1) Lot Land Partition on Sunset Boulevard and Pine Street.

Vice-Chairman Ruehl read the hearing disclosure statement and requested that Commission members advise of any ex-parte contact or conflict of interest regarding this development.

Mr. Hohnbaum advised that he is an irregular attendee of a church which is a neighboring property of this lot. However, Mr. Hohnbaum stated that he did not plan to exclude himself from the hearing or from voting.

Vice-Chairman Ruehl requested that Ms. Connell provide a review of the Staff report.

Ms. Connell reported that the applicant has made a request for a land partition on Sunset Boulevard, creating two lots from an existing single lot. She noted that there are three tax maps converging on this particular parcel, of which 1.4 acres is proposed to be divided into two parcels. For

clarity of discussion the parcels are referred to as Parcels 3001-A, 3001-B, and a proposed right-of-way. Ms. Connell pointed out that the dimensions of each parcel are well over the 7,000 square foot minimum for the Low Density Residential (LDR) zoning in the area. Ms. Connell indicated that the applicant has proposed a flag lot using the back portion of the parcel with a 25-foot extension leading to Sunset Boulevard. She stated that the City would prefer no access to Sunset Boulevard; however, a land-locked lot would be created if the flag lot access to Sunset was not required.

Ms. Connell indicated that Parcel 3001-A has access by easement to Sunset and the applicant believes the existing easement is the preferred access to the proposed building site. Ms. Connell pointed out that no new streets have been created by this partition. She noted that the access for Parcel 3001-B fronts on Sunset and access to the existing building is from an easement, which appears to be in the same general alignment as Pine Street. Ms. Connell stated that Parcel 3003, a flag lot, and 3001, which is the applicant's lot, have access via the 25-foot pole of the flag, which will be Pine Street if Pine is ever extended. She noted that the applicant feels it is for the safety of a new resident to continue using access via the easement rather than to create a driveway onto Sunset. Ms. Connell noted the Comprehensive Plan could allow an easement if the parcel is over five acres or there is no reasonable access to the rear of an unusually deep parcel. However, Staff feels neither condition exists, since the parcel is less than five acres, and there is technically an alternative access from Sunset Boulevard.

Ms. Connell recommended that the parcel be approved as a flag lot so that the rear parcel is not land-locked, and if future access options are required there is one. She stated there needs to be a written easement agreement so that the new parcel could be assured of an access onto the existing gravel driveway.

Ms. Connell pointed out that future alignment of Pine Street has not been determined, and recommended that the Planning Commission include a requirement to dedicate right-of-way to Pine from these parcels as a condition of approval if it is determined that 25 feet from the future Pine Street centerline falls on the subject property. Ms. Connell noted the proposal also includes a 20-foot dedication to Sunset Boulevard, but the drawing does not show the dedication extending all the way across the property. The drawing needs to be revised to indicate the dedication extends across the entire frontage on Sunset. Ms. Connell indicated that improvement to Sunset Boulevard is not practical since there

may be road changes or realignment in that vicinity. Ms. Connell suggested the TIF fee in lieu of improvements to Sunset Boulevard be required. She also said there should be a landscape corridor 15 feet wide on Sunset, but a landscape corridor is not typically required for only one new house.

Ms. Connell noted that the Planning Commission should require a non-remonstrance for future public utility improvements. Water service in the area is provided by a 2-inch water line to Tax Lot 3003. However, Staff is not sure this is adequate for an additional new residence. She noted that connection to City water will be required. Ms. Connell noted the existing residence is served by a septic tank and drain field. She commented that the applicant did not provide the location of the drain field on the property and Staff needs to know the exact location so that the drain field does not end up on the new lot. Ms. Connell stated that a new residence is not required to connect to the City sewer system when the sewer line is more than 150 feet away, but it is preferred that a connection be made.

Ms. Connell indicated that storm water management and erosion control will be required at the time of building permit application. She noted that fire protection is adequate since there is a fire hydrant within 500 feet.

In conclusion, Staff recommends approval of the partition subject to the conditions outlined in the Staff report dated May 24, 1993, including a 20-foot dedication across the Sunset Boulevard frontage, determination of the centerline of Pine Street, and determination of the exact location of the septic drain field system, all of which must be determined prior to recording.

For the records, Ms. Connell stated that letters had been received from the School District and Unified Sewerage Agency, neither of which had any comments.

Vice-Chairman Ruehl opened the hearing for testimony from proponents.

Harold Nichols, 1345 Pine Street, Sherwood, addressed the Commission. Mr. Nichols stated that he lives on the property for which the partition is requested. He noted that the drain field is no closer than 25-30 feet to the new property and is laid out in a southerly direction. Mr. Nichols requested deletion of the flag lot since it messes up two pieces of property and is of no value to either piece of property. He indicated that a driveway onto Sunset Boulevard via a flag lot arrangement is not desirable either. He

indicated a more viable access would be Pine Street; however, even though the easement has been used by public as an access he did not feel the easement is a public street. Mr. Nichols did not feel access is an issue, and suggested that the City would like to see Pine Street developed as it is now, an additional 200 feet down the road. He stated that as long as both parcels have access on the continuation of Pine, which will be a future City street, it seems it would be a simple thing to obtain an easement from Mr. Adair and use Pine for access to both parcels and delete the flag lot.

Genevieve Nichols, 1345 Pine Street, Sherwood, addressed the Commission. Mrs. Nichols stated she is concerned that the flag lot, if permitted, will not be cared for and will become a weed patch.

Mr. Nichols, again addressed the Commission, and pointed out that the 25-foot strip from Tax Lot 3003 was laid out by Mr. Adair, and he thinks the corner of the Adair property was on Sunset and Pine. He noted that the 25-foot strip currently lines up with Pine. Mr. Nichols again stated that he is opposed to the flag lot.

There being no further testimony from proponents, Vice-Chairman Ruehl opened the hearing for testimony from opponents.

Lawrence Hanna, 1350 South Pine, Sherwood, addressed the Commission. Mr. Hanna advised that he is a member of the Board of Deacons of the Sherwood Baptist Church. Mr. Hanna advised that the Baptist Church has no objection to the partition as it is proposed. He noted the Church uses the frontage of the easement for access, which is jointly maintained. With respect to having it called Pine Street to the South of Sunset, he noted that 25 feet of the church property and 25 feet of Adair's property is legal for an easement. Sometime in the future the City proposes extending Pine. As it is now, it is not for public use, the Church members and visitors use the property, but that does not make it public and the Church objects to it being called public. It is two driveways. In the future the issue will be resolved. He noted that the Church has no objection to the partition and agrees there should be no flag lot.

Margaret Nicholls, 24788 SW Labrousse Road, Sherwood, addressed the Commission. Ms. Nicholls advised that she is representing Mr. and Mrs. Adair and read a letter from them, a copy of which is attached as part of these minutes. Ms. Nicholls stated that she had been advised by lenders that loans will not be approved if a road maintenance agreement is

not in place, which is what Mr. and Mrs. Adair are seeking. She noted that Clackamas County will not record a survey without such agreement.

There being no further testimony, Vice-Chairman Ruehl closed the public hearing and opened the proceedings for discussion and questions among the Commissioners.

Ms. Connell distributed a drawing which depicted how the applicant would like the parcels developed.

Mr. Hohnbaum question if the drawing was accurate as to the alignment of intersections. Ms. Connell responded that the drawing, which had been prepared by Mr. Nichols, has not been verified, but it is believed to be accurate. Ms. Stewart commented that the drawing indicates a 20-foot easement, five feet of which must come from the Adair property in order to properly align the intersections. Mr. Nichols stated that accuracy would depend on where the original stake was placed by Mr. Adair, and that it is his belief the stake is on Sunset and Pine at the northeast corner of the lot. Ms. Connell pointed out that, according to the map, the easement for Lot 3001-A is 25 feet and needs to be verified. Ms. Stewart indicated the only road easement for these parcels should be the extension of Pine, which is the only way to go since going to Sunset is not feasible. Ms. Stewart commented that requiring a dedication from Mr. and Mrs. Adair at this time, might be the start of resolving problems down-the-line and felt that half-street improvements should be part of the approval. Ms. Connell responded that Mr. and Mrs. Adair are not a party to the application. Mr. Nichols stated that it was his belief that, when he purchased the property in the 1960s, that Mr. Adair intended to give 25 feet to the City; and since the neighbors have driven on the easement for over 26 years, believes that the easement cannot be rescinded. Ms. Stewart responded that if use of the strip for one day was not closed off, it probably is legally a street. Ms. Nicholls stated that Mr. Adair was under the impression the easement had been recorded as a road dedication; however, Mr. Hohnbaum indicated that Mr. Adair had contradicted that statement to him and suggested that the recording be confirmed by the City after a survey has been made. Ms. Connell again pointed out that the Adairs are not a party to the application, and noted that if Tax Lots 3003 and 2002 develop, there is a good chance the developers will have to use Pine as access and at that time the road can be dedicated and developed.

Mr. Nichols commented that an informal road maintenance agreement currently exists, the road is better maintained by the three residents than most City roads, and he did not believe an official maintenance agreement is needed.

Vice-Chairman Ruehl responded that Mr. Adair apparently feels a fourth party is now entering into the agreement, and if the new parties are not part of the agreement, you run into problems. He indicated that all parties may be conscientious with street maintenance, but future residents might not be and it becomes difficult to enforce. He noted Mr. Adair is asking that the agreement be made legal.

Mr. Hohnbaum inquired if it is within the Commission's authority to grant approval of the partition with a flag lot since he felt the Commission's hands are tied without a clear, written understanding between all parties. He noted that should all parties come to an agreement regarding Pine access and dedication, the Commission could approve the partition with a provision to remove the requirement for a flag lot should Pine Street be dedicate. Ms. Connell responded that a simple lot line adjustment could be requested at a later date.

Mr. Corrado suggested that the applicant contact Mr. Adair and determine if a survey will resolve the easement situation, and that all parties split the cost of the survey.

Mr. Hanna stated that the Church will enter into a maintenance agreement if all of the owners are willing to enter into same.

Mr. Nichols suggested that the residents utilize driveways onto Sunset since he has an easement on his title and deed. Vice-Chairman Ruehl responded that would create more of a problem since one parcel will then be land-locked. He noted that the City is trying to clear up all of the questions surrounding the partition.

Mr. Nichols inquired if the problems would be resolved if the Adairs dedicated 25 feet and the Church dedicated 25 feet for a 50-foot right-of-way? Mr. Hohnbaum replied that the City cannot accept a right-of-way without accepting a street. Ms. Connell stated that it is uncertain if the graveled easement would be accepted as a street.

Vice-Chairman Ruehl stated that the Commission can either approve the partition with a flag lot, or the applicant must develop a road. Mr. Nichols responded that they would rather have a flag lot than build a street.

Ms. Connell recommended that the partition be approved with a flag lot, but allowing access on Pine Street by easement, with an additional condition to include a road maintenance agreement. She commented that the Pine Street right-of-way must still be verified.

Mr. Warmbier moved that based on the findings of fact, MLP 93-4 Nichols be approved subject to the following conditions:

1. The owner shall dedicate 20 feet to Sunset Boulevard road right-of-way, or otherwise guarantee 40 feet from the centerline. The dedication shall extend across the entire Sunset Boulevard frontage.
2. The owner shall dedicate to the City Pine Street road right-of-way guaranteeing 25 feet from centerline, if necessary.
3. The owner shall enter into a non-remonstrance agreement with the City for future public facility improvements affecting Parcels 3001-A and 3001-B.
4. When a new residence is proposed on Parcel 3001-B, the owner shall connect to City water as approved by the City. The owner shall connect to City sewer, or provide County Health approval of a new septic/drain field system.
5. Prior to partition plat recording, the owner shall guarantee easement access to Parcel 3001-B.
6. The owner of a new residence on Parcel 3001-B shall provide adequate storm drainage and erosion control in accordance with City standards.
7. Prior to plat recording, the owner shall enter into a road maintenance agreement with the owner of Tax Lot 3003 for Parcel 3001-A and 3001-B.

The motion was seconded by Mr. Hohnbaum and carried with Ms. Stewart abstaining.

4. **Director's Report.**

A. **Status of Historic Landmarks Advisory Board.** Ms. Connell reported that six members of the Historic Landmarks Advisory Board have been appointed by the Council. She noted that one additional volunteer is needed, and a meeting schedule is in process. Vice-Chairman Ruehl inquired if LCDC has been contacted. Ms. Connell responded that it has, and a very specific schedule has been imposed on the City.

B. **Work Program for Transportation Planning Rule.** Ms. Connell reported that a work program has been prepared for Commission review of the TPR, after which the Commission's recommendations will be presented to the City Council. She inquired if the Planning Commission wished to utilize outside assistance or input to develop a recommendation. Ms. Connell commented that ODOT has offered to become involved in preparing a plan, which if the LCDC grants an extension, must be completed by November.

Mr. Hohnbaum suggested that the school district should become involved as well as developers since the community is attempting to become pedestrian friendly.

Mr. Warmbier pointed out that some communities with surrounding bike paths are becoming concerned because of the vandalism and lack of police control of bike paths.

Vice-Chairman Ruehl suggested that input from ODOT would be valuable should the City become involved in controversy regarding what is practical or impractical.

Mr. Corrado suggested that the Police Chief as well as a bicycle group or association also become involved in the study.

Ms. Connell indicated that work will begin and information will be forwarded to Commission members as it becomes available.

C. **Stormwater Master Plan.** Ms. Connell reported that the City Stormwater Master Plan is scheduled for a public hearing in July.

Ms. Connell reminded the Commissioners that a training session has been scheduled for the June 15 meeting, which will include the City Council. She noted that the session will begin at 7:00 for a two-hour training session and end with a discussion of the City Council's goals.

5. **Adjourn:**

There being no further items before the Commission, Mr. Hohnbaum moved, seconded by Mr. Corrado, that the meeting be adjourned. Motion carried, and the meeting adjourned at 8:50 p.m.

Respectfully submitted,

Kathy Cary,
Secretary