

City of Sherwood, Oregon
Planning Commission Meeting
September 15, 1992

1. **Call to Order/Roll Call:** Chairman Birchill called the meeting to order at 7:35 p.m. Commission members present were: Marjorie Stewart, Marian Hosler, Marty Ruehl, and Eugene Birchill. Ken Shannon was absent. Planning Director Carole Connell and Secretary Kathy Cary were also present.

2. **Minutes of August 4, 1992, meeting:**

Corrected pages 6 and 7 were distributed to the Commission members. Mr. Ruehl stated that he would prefer to have more of the conversation regarding SP 92-4, Sherwood Baptist Church, Site Plan review, included in the August 4th minutes prior to approval. It was the consensus of the Commission that more dialogue should be added and the minutes mailed with a letter ballot.

Ms. Connell requested that the Commission review the section of the minutes involving Therm-Tec's Interpretation of Similar Use since they had requested a copy of the minutes. There being no questions regarding that section of the minutes, Ms. Connell was instructed to forward a copy of the section regarding ISU 88-1, Therm-Tec, to the proponents.

3. **Public Hearings:**

Inasmuch as there were no opponents or proponents of any issues in the audience, reading of the Hearings Disclosure Statement was waived.

A.SP92-6, Sherwood Business Park Site Plan review for an industrial business park on North Highway 99W:

There being no opponents or proponents in attendance, Chairman Birchill called for a staff report.

Ms. Connell advised that Mr. Brian Keicher, representing the Park's owner, called September 15, 1992, and requested that SP92-6 be held over until the October 6th or 20th meeting of the Commission. Mr. Keicher requires additional time to confer with ODOT to discuss ODOT's request for street improvements and shared driveways, and the owner is out of town and Mr. Keicher was hesitate to speak on his behalf. Ms. Connell recommended that SP92-6 be held over until the October

6 or 20th meeting of the Commission.

Mr. Ruehl moved, seconded by Ms. Hosler that SP92-5 be removed from the agenda and that the hearing be continued until October 6 or October 20th. Motion carried unanimously.

B.MLP 92-3, Claus/City, a Minor Land Partition creating three lots on Murdock Road, Tax Lot 2400 and 2500, Map 2S1 33.

There being no opponents or proponents in attendance, Chairman Birchill waived the reading of the Hearings Disclosure statement and called for a staff report.

Ms. Connell stated that this minor land partition is a fairly expedited attempt to try to separate a piece of property belonging to Mr. James Claus so that the City can purchase parcel 2. She noted that negotiations for the purchase are in process since the City needs the parcel to construct a stormwater facility. She pointed out that the parcels are very large and of irregular shape. The City proposes to buy parcel 2 and Mr. Claus intends to develop the remainder into residential property. She also noted that the City Council has given direction that no encumbrances, dedications, non-remonstrance agreements, improvements or floodplain dedication be attached to the approval of the land partitions. These items will be addressed when improvements are made and the stormwater facility is submitted for approval and the adjoining property is submitted for development.

Mr. Warmbier stated that in 1966 the State of Oregon had taken him to court on trying to cover over an open water way that is a natural causeway for drainage on property very near this site. He inquired as to where the change in state law occurred that will allow them to now come through this property to alter a natural water course?

Ms. Connell responded that staff has received state and USA approvals on this property.

Mr. Warmbier stated that the Fish and Wildlife and USA, brought in engineers who determined that this is a natural waterway. This water comes under the road and crosses onto that property.

- Ms. Stewart questioned whether fill dirt had already been put on the waterway. Mr. Warmbier responded that fill has already been put on both sides. He questioned whether anyone had addressed the issue of the natural water way to the State Water Resources Board.
- Ms. Connell presented a study of the "Stormwater Management Plan for the Murdock and Sunset Basins", and described how the partition complies with that plan. Mr. Warmbier stated that this issue came up at the time April Meadows was built. All water had been dumped over the back side of the property. That was when the State came in and advised that this is a natural drainage and you cannot alter, block or move it. He questioned whether this matter had been addressed in any of staff's studies.
- Ms. Connell responded that it had been.
- Ms. Stewart questioned if the City buys parcel 2, and they bought a piece of land that may be a water way and it has been filled in, what happens to the City for having this filled in; will the City be required to dig it out?
- Mr. Warmbier responded that this has happened to the Welches School Board on property that had been given to them. After five years, a lawsuit has been instigated, and the School District now has to remove fill and restore the area to a wetland. He questioned where the liability rests on the City getting permission to alter?
- Ms. Connell stated that all necessary agency permits have been received, but she will present this question to City Manager Jim Rapp.
- Ms. Stewart stated that we should know if parcel 2 has blocked a natural waterway before acting on this partition request.
- Ms. Connell requested that the Commission act on the partition request with a stipulation that the waterway/fill question be resolved.
- Ms. Stewart stated that action by the Commission without any of the standard stipulations would put the Commission in a position of being remiss.

- Mr. Ruehl stated that the issue is a land partition, not necessarily what will go in as far as trying to take care of the whole water treatment.
- Ms. Connell noted that this issue will be back before the Commission when the stormwater facility permits are submitted.
- Mr. Warmbier stated that his understanding is that if the Commission passes this, the City can proceed with the purchase of this property. If we give approval and the City purchases this piece of property, the City becomes liable for the clean-up.
- Ms. Connell responded that the Council is not concerned about that. David Newton and Associates, Engineers, prepared the plans and should know all of the rules. She asked how the natural drainage could be blocked if the water facility were placed in the middle of the parcel, which is a natural drainage?
- Mr. Warmbier expressed the belief that the Councilmembers may not be aware of the problems involving natural waterways. He indicated that he is in favor of the stormwater plan; but, when you disturb a wetland, an entirely different set of rules apply.
- Ms. Connell reminded the Commission that the issue in this matter is a land division for the purpose of purchasing a piece of property. Before any digging occurs, the City has to go to the Planning Commission to get permits to fill any floodplain and a conditional use permit to build a facility. At that time, all referral notices go to affected agencies and the hearings are held and that is when we will discuss the parcel in terms of any modifications.
- Mr. Warmbier stated that his concerns is whether anyone has check the wetlands since the issue is on record as far as the Water Resources Board is concerned. The entire area from Sandy Rome's property extending on down had been classified as a wetland.
- Ms. Connell responded that the area is still classified as a wetlands. We are now aware that Kathy Park contains more wetland that previously believed. We never had an inventory of wetlands until this time. However, the purpose of tonight's hearing is simply a separation of lot lines.

Ms. Stewart indicated that she is hesitant to grant approval since the City may be stuck with a white elephant and possibly having to remove all the fill dirt in the area.

Ms. Connell responded that the removal of the fill dirt has already began. The process for building the facility is not a subject for tonight, but the dedication of Murdock and the dedication of the floodplain and nonremonstrance of the sewer and water will be required at the time of the facilities' proposal on the parcel upon which the facility will be constructed. These will be discussed when Mr. Claus develops the remaining parcels, which are being planned for single family residences. At this time we are not discussing any dedication.

Mr. Warmbier questioned whether a permit had been issued for the demolition of the historic building which was on the Claus property. Ms. Connell responded that she would check into the permit issue.

Ms. Stewart questioned if the Commission would grant approval of this request without conditions from any other citizen? Ms. Connell responded that, in effect, we are giving the property to the City for a badly needed facility without encumbrances at this time. She noted that the City Council had discussed the purchase and adopted a motion that there would be no restrictions on the purchase of the property.

For the record, Chairman Birchill opened and closed the public hearing. Since there were no opponents or proponents, he opened the hearing for discussion by the Commission.

Mr. Warmbier stated that he is appreciative of what the City is doing. His concern is, after personally dealing with the wetlands issues, the City being put in a position of liability; specifically if the City purchases the property without the knowledge of all of the resource boards, the City becomes liable to return the area to a wetland.

Chairman Birchill responded that he feels the affected resource boards will be involved and permits will be required. If the work is not accomplished, someone might come back with a lawsuit because the wetlands are being

contaminated. He requested that the Commission take action on the request with an advisory comment to City Council to look into the questions that have been brought up by Mr. Warmbier.

Mr. Warmbier moved, seconded by Mr. Ruehl, that based on the findings of fact, that MLP 92-3 be approved with the provision that the City investigate the wetlands issue in past records of the Water Resource Board before actual purchasing the property and the following conditions: The owner shall submit the approved partition plat to Washington County in accordance with the County's partitioning requirements and within one (1) year of this approval date.

The motion carried with Ms. Hosler and Ms. Stewart abstaining.

C.PA 92-3, Wood, an official Plan Map Amendment designating recently annexed property on Sunset Boulevard Low Density Residential (LDR).

Chairman Birchill called for a staff report.

Ms. Connell reported that this request is basically the same as was approved for the Minor Property. This is a formality and a recommendation to the City Council, which makes all the decisions on map amendments. This property was involved in an approved partition last meeting and one condition of that partition was compliance with the Plan Map Amendment. The property will eventually be part of the Cascade View development. This is a plan amendment to officially zone annexed property in accordance with the planned low density residential zoning. The Boundary Commission has approved the annexation and notices have been sent to those property owners who will be affected. Staff recommends approval to the City Council with no conditions.

For the record, Chairman Birchill opened and closed the public hearing since no opponents or proponents were in attendance. He then opened the hearing to questions and comments by the Commissioners.

Mr. Warmbier questioned whether any of this property is located in the wetlands. Ms. Connell responded that she will find out when the development plans are submitted.

Mr. Warmbier also questioned if this property could be within the mineral and aggregate resource area. Ms. Connell responded this issue will also be explored when the plans for development are submitted.

Mr. Ruehl moved, seconded by Ms. Hosler, that based on the findings of fact that PA 92-3 be approved.

Motion carried unanimously.

Chairman Birchill instructed the Commissioners to retain copies of the staff reports on SP 92-6, Sherwood Business Park, which was removed from the agenda at the proponents request. Staff was instructed to provide extra copies at the hearing.

4. **Directors Report:**

Ms. Connell brought the following items to the attention of the Commissioners:

a. The Baptist Church appealed the Site Plan Review and the appeal will be on the agenda for the October 14th meeting of the City Council.

b. Therm-Tec's appeal time period has passed.

c. Ms. Connell advised that the State Periodic Review Board has the City's submittal slated to be finished by September 30th and they are just now reviewing where they think the City is. She felt that where the City is now is that everything submitted almost 18 months ago has been accepted, except the historic preservation section. The DLCDC has never commented on the City's submittal, and the deadline is almost here. The DLCDC has to make a presentation Sherwood's Periodic Review at the November meeting. Ms. Connell stated that she is taking a wait-and-see position.

d. An application for a building permit has been received from Fisher Roofing which raises a question as to whether a site plan review should be required. Ms. Connell requested that the Commission review the requirements for a site plan review and provide guidance.

Mr. Fisher proposes to add an 8-foot second story to his existing office building. There will be no other significant changes to the building and no change to the

parking lot or landscape. No trees will be removed. Ms. Connell reviewed Section 5.102 of the Zoning Code and indicated that she felt it would not be necessary to have a site plan review in this case.

After review of the plan submitted by Mr. Fisher and the zoning code, it was the consensus of the Commission that the requirement for a site plan review should be waived based on the fact that there would be no additional building coverage or a building height exceeding other buildings in the area. However, the Commission requested that Mr. Fisher contact neighbors within 100 feet to determine if they have any objections to the addition.

The Commission also directed Ms. Connell to research and review the zoning code and develop a set of proposed guidelines for determining whether a project should be sent to the Planning Commission for site plan review.

e. Ms. Connell reminded the Commissioners that a discussion had been held regarding a planning commission training program, and requested guidance regarding time and topics. It was agreed that the session should be held after new commissioners are appointed (January), and suggested subjects are: legal, role of the commissioners, and confrontation of angry citizens. Ms. Stewart requested that Commissioners be provided with a copy of the State Planning Commissioners Rules and Regulations.

Ms. Connell requested that suggested names for potential members of the Planning Commission be provided. Mr. Warmbier agreed to contact Mrs. Ruth Martin.

f. At Mr. Ruehl's request, Ms. Connell outlined the agenda for upcoming meetings: October 6 - will try to schedule the Business Park; October 20 - Cascade Columbia Distributing Company; Drennen Plan Amendment for a Mobile Home Park on Sunset.

Ms. Hosler and Mr. Warmbier indicated that due to previous commitments, they may not be able to attend the October 6th hearing. Ms. Connell was directed to consider optional days for future meetings; i.e., Wednesday.

7. **Adjourn:**

There being no further items before the Commission, Ms. Hosler moved, seconded by Ms. Stewart, that the meeting be adjourned. Motion carried and the meeting adjourned at approximately 9:15 p.m.

Respectfully submitted,

Kathy Cary,
Secretary