

City of Sherwood, Oregon  
Planning Commission Meeting  
December 1, 1992

1. **Call to Order/Roll Call:** Chairman Birchill called the meeting to order at approximately 7:30 p.m. Commission members present were: Eugene Birchill, Marty Ruehl, Marian Hosler, Marge Stewart, Ken Shannon, Christopher Saxton, and Glen Warmbier. Planning Director Carole Connell and Secretary Kathy Cary were also present.

2. **Minutes of November 17, 1992:**

Mr. Warmbier moved, seconded by Ms. Stewart, that the minutes of the November 17, 1992, meeting be approved as presented. Motion carried unanimously.

3. **Public Hearings:**

Chairman Birchill read the hearing disclosure statement and opened the hearing to consider the following items:

- A. **NCU 92-1 Boyle: Expansion of a Nonconforming residential use in a commercial zone on North Sherwood Boulevard.**

For the record, Mr. Warmbier stated that he would abstain from discussion regarding this item due to a possible conflict of interest.

Chairman Birchill called for a staff report.

Ms. Connell reported that the owner, William Boyle, is seeking permission to add a 550-square foot, two bedroom, one bath, addition to a private residence in a commercial zone. She noted the home is nearly 60 years old, and the access is via driveway on Sherwood Boulevard which does not have a full 80-foot right-of-way. Therefore, she recommended that a 10-foot right-of-way be dedicated to the City. Ms. Connell indicated that the residence is on the edge of Old Town in an area of mixed residential and commercial use with residential zones on two sides. She advised that the addition is for residential use to add a bedroom and bath to care for a handicapped family member. There will be no adverse effects or additional traffic, and

the addition is compatible in design with the present home.

Ms. Connell recommended that the Commission adopt the findings of facts and approve NCU 92-1, subject to the two conditions: a 10-foot right-of-way dedication and a non-remonstrance agreement for future improvements.

Chairman Birchill opened the hearing for proponent testimony.

Mr. William Boyle, P.O. Box 189, Sherwood, addressed the Commission. He advised that he had a correction to make to the report; that being there is no detached garage at the residence. There is currently a shed with a large door, which will be removed.

Chairman Birchill opened the hearing for opponent testimony. There being no opponents, Chairman Birchill closed the hearing and opened the hearing for questions and comments from the Commissioners.

There being no questions or comments, Ms. Stewart moved, seconded by Ms. Hosler, that NCU 92-1 be approved, subject to the following conditions:

1. The owner shall dedicate ten (10) feet, or otherwise provide forty (40) feet from the center line of Sherwood Boulevard.
2. The owner shall enter into a non-remonstrance agreement with the City for future public improvements adjoining the property.

Motion carried with Mr. Warmbier abstaining.

**B. PA 92-4 Drennan: Plan Map Amendment request from MDRH to MDRL for 26 acres on Sunset Boulevard.**

**C. SP 92-8 Drennan: Site Plan request for a 71-unit Manufactured Home Park on Sunset Boulevard.**

Chairman Birchill noted that a letter had been received from J. A. Bellomy, W & H Pacific, requesting that PA 92-4 and SP 92-8 be withdrawn.

Ms. Stewart moved, seconded by Mr. Warmbier, that applicant's request to withdraw PA 92-4 and SP 92-8 be approved, and that any unused fees be refunded. Motion carried unanimously.



**C. SP 92-7 Cascade Columbia Distribution Company: request for Site Plan Approval to construct a chemical distribution facility on Tualatin-Sherwood Road.**

Chairman Birchill noted that consideration of SP 92-7 is not an issue of land use under the Zoning Code because the use is permitted, but rather is a site plan review, and will be a decision on planning where the building will be located on the property and what the building will look like. In response to Chairman Birchill's question, the Commissioners concurred that they would like to review the Supplemental Staff Report dated November 24, 1992. The Commission also agreed there is a need to direct questions to the applicant clarifying conditions, but that no new testimony would be accepted from the public since the public hearing was closed on November 17, 1992.

Ms. Connell reviewed the items contained as part of the Supplemental Report and explained the criteria and objectives of the Zoning Code and how the use of the facility does or does not comply with these criteria. She said the Staff struggled with the review, and the need to balance resource protection with property rights.

Ms. Connell noted that the Supplemental Staff Report ends with a recommendation for approval, with the understanding that the facility can be safely built if a number of steps are taken. She indicated there are 24 conditions to ensure a safe operation. Those conditions are listed to assure that the Commission has looked at each issue individually and then may consider modifying, deleting or adding conditions should they find it necessary. Ms. Connell stated that some of the conditions are standard, some are new and some may set a new precedence. She indicated the decision for approval was based on a legal analysis of the permitted use, as well as the criteria associated with a site plan review. Ms. Connell then reviewed each condition and explained the logic of that condition, each of which arose as the result of testimony at the public hearings, opinions from the City Engineer, City Attorney, and local enforcement agencies as well as Richard Vial, legal counsel for the applicant.

After Ms. Connell's review of the report, Chairman Birchill polled the Commission and obtained concurrence that the Commission will discuss each condition in the same numerical order listed in the Supplemental Staff Report, as follows:

1. Delete in entirety, "The proposed facility shall be relocated to the northeast portion of the applicant's tax lot, closer to Tualatin-Sherwood Road and north of the BPA power line easement."

Reasons: There is insufficient elevation change between the front and rear site areas to affect drainage; containment of a spill should be given more consideration than distance from Rock Creek; most vegetation will remain intact near wildlife refuge, there is an advantage to limiting sight of the facility; unable to obtain commitment from the railroad owner regarding continued rail service; railroad owner dictates minimum distance required for rail berm.

2. Revise to require extension of roofing and skirting materials and siding.

Reasons: Reduce exposure of chemicals that should not be mixed with water; better control vaporization of chemical gases into atmosphere; reduce possibility of vandalism.

3. Delete requirement for vapor containment.

Reasons: Containment of some chemical vapors can be detrimental to safety of clean-up crew; ventilation of some chemical is required by codes, local, state and federal regulations; compliance with chemical manufacturer's recommendation should be sufficient.

4. Delete in entirety, "Pollution insurance protecting Rock Creek and its associated wetlands and floodplain, and indemnifying the City from contamination clean-up costs or other damage to the environment or adjacent properties shall be provided."

Reasons: Amount of insurance coverage versus amount of damage/clean-up cannot be calculated; City becomes liable if insurance (and/or bonding) lapses; state sets minimum liability insurance; sets City wide precedence which might even extend to new housing developments since increased automobile exhaust (gas vapors) create more air pollution than will be created by this facility; determination of source of pollution could cost more than clean up of a spill.

5. Revised for editorial clarity only.



6. Revise to guarantee annual review of materials should services of the fire agency be discontinued. Changed "semiannual" to "annual" to comply with standard inspection schedule requirements.
7. Delete the requirement for a 24-hour, 365-day, human security system.

Reasons: Electronic surveillance is more reliable than human guard; 24-hour, 365-day guard is unjustifiably costly; unable to uniformly enforce with existing/new facilities which handle more hazardous materials.

8. No change, requirement remains as is since it is a standard requirement.
9. Revised to require staff's approval of performance standards, choice of engineer, and clarifies owner will bear cost of such service, if determined necessary.
10. Revised to change "semiannual" to annual to agree with current inspection schedule; makes provision guaranteeing City inspection and analysis of chemicals should services of fire department be discontinued; clarifies owner will bear cost of such services.
11. Revised to clarify that the City of Sherwood and U.S.A. are approving agencies for storm water pollution plans.
- 12-15 No changes - all are requirements of Washington County.
16. No changes or comments.
17. No changes since future buildings at the site must be reviewed for site plan approval.
18. No changes; however, a traffic analysis will be required if the railroad spur is abandoned.
19. Omit requirement for a letter of commitment from the rail operator since rail operator will not commit.
20. Add the word "outside" between "on-site" and "storage".
21. No changes or comments.
22. No changes or comments.

23. No changes or comments.
24. Delete requirement for a railroad commitment letter since rail owner will not commit.

The applicant suggested adding a new condition No. 25 to read as follows:

25. To the extent that any of the conditions imposed herein conflict with the requirements of any oversight agency, including but not limited to OSHA, ODEQ, EPA, ODOT, and the Fire Marshal, the requirements of such agency shall prevail.

Reason: Eliminates conflict with any enforcing authority having jurisdiction.

After discussion of the Supplemental Staff Report and consideration of conditions, Mr. Warmbier moved, seconded by Mr. Saxton, that based on the findings of fact in the Staff Report dated October 12, 1992, the Supplemental Staff Report dated November 24, 1992, and the hearing testimony that SP 92-7 Cascade Columbia Distribution site plan be approved based upon the following conditions. Motion carried with Mr. Shannon voting no.

1. Roofing and skirting materials and siding, if necessary, shall be extended over covered storage areas, including Buildings B, C, and D, and the drumming area, to provide additional rain protection as approved by City Staff.
2. All chemical transfer activities shall be totally enclosed if recommended by the chemical manufacturers, except where the Fire Marshal determines such enclosures will be detrimental to the public or facility safety. If the manufacturing criteria cannot be adequately interpreted by staff, the owner shall provide and fund an expert analysis and recommendation by a consultant, who is to be approved by the City.
3. Proof shall be provided that facility personnel are trained at First Responder Operator level as certified by OSHA, and qualified at First Aid/CPR level.
4. If the Fire Marshal's annual review of the materials inventory list of all chemical substances stored on site is discontinued, at the owner's expense, the City may hire a chemical engineer to annually review the inventory to ensure compliance with State requirements.



5. An electronic surveillance system shall be provided to monitor all activity by a central station regarding the operation and security of this facility. This system shall provide for monitoring of the retention areas, tank levels, and intrusion by unauthorized personnel during non-operating hours. All electronic systems shall have battery back-up. Owner shall provide a plan for immediate response in the event of any alarm or intrusion. Alarm system and response program shall be reviewed and approved jointly by City Police, City Staff, and the Fire Marshal.
6. Proof of compliance with all applicable OSHA, ODEQ, EPA, ODOT and Fire Marshal regulations shall be provided.
7. Certification of compliance with City environmental performance standards, as required by Staff and following review of building plans and specifications, shall be provided by a professional engineer qualified to make such certification, at the owner's expense. To the extent the City determines necessary, the City may call in an outside consultant at the owner's expense to verify certification.
8. On an annual basis, the Fire Marshal reviews the facility's emergency response plan. If such service is discontinued, at the owner's expense on an annual basis, the City may hire a consultant to analyze the facility's emergency response equipment and materials program as required by state and local agencies responsible for monitoring safety.
9. As required by the City and USA, a storm water pollution prevention plan specifying physical features, and operational practices and procedures, to contain and manage contamination incidents shall be provided.
10. A driveway access permit to Tualatin-Sherwood Road shall be obtained from Washington County.
11. A non-remonstrance agreement with Washington County and the City for future public improvements shall be executed and recorded.
12. Additional right-of-way shall be dedicated along the full frontage of Tax Lot 200:2S128C to provide Tualatin-Sherwood Road with a right-of-way width of 45

feet from center line.

13. A one-foot deep non-access reserve strip shall be recorded along the full frontage of Tax Lot 200:2S128C, except at the County approved driveway access.
14. All City and Unified Sewerage Agency requirements and standards regarding water supply, erosion control, storm and sanitary sewers, and on-site water quality facilities shall be complied with.
15. The final approved site plan shall illustrate the specific use and functions of all buildings and tanks. Facilities identified as "future" on the site plan and not constructed as part of the initial building permit shall be subject to additional site plan review, and are not subject to this approval.
16. A traffic analysis and report shall be provided and the owner shall comply with any suggested modifications or improvements to the site plan, such as relocation of driveway access, construction of deceleration lanes, road widening, etc.
17. If rail service is to be abandoned, the traffic analysis shall be accordingly revised, and the owner shall comply with any suggested modifications or improvements.
18. Comply with, and submit appropriate plans where required, all City site development standards including landscaping, off-street parking and loading, on-site circulation, on-site outdoor storage, lighting, and signage.
19. Submit a plan or report indicating how existing trees or vegetation on the site will be impacted by the proposal and make provisions that retain as much of the existing tree cover as possible.
20. The City shall review and approve the preliminary design of the storm water drainage/treatment systems to ensure protection of Rock Creek.
21. All facilities for the containment and treatment of chemical spills shall be designed and operated to be drained by pumping rather than through gravity feed valved systems.

22. Revise the site plan in accordance with all the preceding conditions and resubmit to the City for review and approval along with the required traffic analysis.

23. To the extent that any of the conditions imposed herein conflict with the requirements of any oversight agency, including but not limited to OSHA, ODEQ, EPA, ODOT, and the Fire Marshal, the requirements of such agency shall prevail.

Chairman Birchill invited the applicant to attend the next Commission meeting to review the minutes.

Commissioner Ruehl said he hoped the Commission would not be put in this position again. He said the Zoning Code should be revised so that the noxious or hazardous uses could be made conditional or even prohibited. Planning Director Connell responded it would be appropriate to review the individual zoning sections with the wildlife refuge in mind. Commissioner Warmbier stated the City must be careful not to make the Code so restrictive that desirable high tech uses are prohibited, for instance. Further, he said, if the City restricts development next to wildlife areas, 65 percent of the land in Sherwood will be eliminated. Mr. Shannon requested that wildlife and wetlands be protected.

**5. Directors Report:**

Ms. Connell requested that the Commission consider a proposed resolution from the City Council to review the applicability of non-remonstrance agreement. After a review of the proposed resolution, Ms. Connell was directed to return the proposed resolution to City Council with the recommendation that the requirement for non-remonstrance agreements not be waived. The Commission feels the policy is valid and is useful to assure that future public improvements are made.

Ms. Connell noted that the subject of solid waste will be on the agenda at the next meeting.

**6. FYI:**

Planning Commission Journal

Ms. Connell noted that the above item was included for informational purposes.

7. **Adjourn:**

There being no further items before the Commission, Ms. Stewart moved, seconded by Mr. Warmbier that the meeting be adjourned. Motion carried, and the meeting adjourned at approximately 11:15 p.m.

Respectfully submitted,

Kathy Cary,  
Secretary