

CITY OF SHERWOOD
PLANNING COMMISSION MEETING

Senior/Community Center
7:30 p.m.

AGENDA

May 16, 1988

1. Call to Order
2. Approval of Minutes, April 18, 1988
3. Status Report for Bilet Products regarding noise violation.
4. Discussion:
 - a. Commercial Zoning
 - b. Prioritize Planning projects for 1988

MEMORANDUM

Date: May 4, 1988
To: Sherwood Planning Commission
From: Carole W. Connell, Consulting Planner *cwc*
Subject: Commercial Zoning and 1988 Planning Projects

The Planning Commission Chairman has requested that there be additional time to discuss the commercial zoning issues raised at the April 4 joint Council/Planning Commission work session. Please note this item is on the enclosed agenda. Staff will initially report on our meetings with the Department of Land Conservation and Development, the Department of Economic Development and the Department of Transportation being held between now and then.

We encourage that there be a related discussion regarding the Commission's priorities for planning issues that need to be undertaken this year. Ideas that come to mind to generate this discussion could include:

Early start on the commercial and industrial (LCDC Goal 9) element of the Periodic Review.

Transportation Plan Amendments

Open Storage and Display standards

Non-Conforming Uses

April 28, 1988

To: City Planning Commission
From: James Rapp, City Manager 
Re: Zoning Violations and Nuisance Abatements

City Planner Carole Connell indicates that at the April 18 Planning Commission meeting that some members of the Commission and the audience expressed dissatisfaction with the City's pace of abating zoning violations and other nuisances. Opinions were apparently expressed in both directions as to what or what shouldn't be done. I thought it would be helpful for the Commission to be updated on what has been ongoing in this area in the recent past, and to propose a method of keeping the Commission current from now on.

Last year, at the City Council's express direction, City staff began to take up a more aggressive approach to abatements. These abatements have ranged from junked cars left at curbside to violations of conditions of site plan approval. The City Police, City Public Works, the City Attorney, Carole and I have worked together to find and abate as many problems as possible, given the limits of budget and personnel. In one case Public Works crews actually entered private property to do a cleanup. We also get involved in some less apparent but just as time consuming and difficult "abatements" as is the case when individuals record plats that are contrary to, or without, City approvals. The City Police have devoted considerable time in the past year to acting as "abatement officers", delivering everything from verbal warnings to citations. For next year, the Building Inspection and Enforcement program budget includes specific line items for abatement actions. And of course the addition of a half-time staff planner will particularly strengthen our ability to keep up with site plan non-compliance and foot dragging.

Currently the City is at some stage in abatement procedures against Sproul Excavation, Bilet Products, Jim Wear T.V., Walt's Refrigeration, Therm-Tec, and a house at Third and Pine. In the last few months some form of zoning and/or nuisance abatements have also been taken up against Sherwood Feed and Garden, Pride Disposal, Fisher Roofing, Corders Shell, and a residence at Sunset Court, plus many other "dead" car and piled up garbage complaints. In the first instance we always attempt, time and staffing permitting, to issue a verbal request. And whenever possible we give the resident, property owner, or businessperson a liberal amount of time to correct the violation.

Verbal requests are followed by written notices that vary depending on the type of abatement and that, depending on circumstances, may be signed by Police Chief Laws, by Carole, or by the City Attorney. Notices can be followed by citations into Municipal Court or civil court action. Even court action does not always result in prompt abatement. In extreme cases the City or court may order the forced removal of the offending objects. For any Commissioner so interested I could tell you a great story about the time, as a Zoning Administrator in Alaska, I "abated" 85 pigs housed on a 15,000 square foot developed residential lot!

Typically once a problem is brought to the attention of a business owner or property owner, one of two things happen. The problem may be promptly corrected with an application for a new or amended plan or variance (such

as with Pride Disposal and Sherwood Feed and Garden). Or the issue may be resolved by the owner just "making it right" (as with Fisher Roofing). Alternatively the owner will ignore or attempt to circumvent the abatement, drawing out the process by many months and involving the City in increasing expense. A very common subset of this second response is the owner who corrects the problem, only to repeat the offence over and over within a few weeks or months. Individuals become quickly adept at this game. There are additional complexities when the City is citing a renter rather than an owner.

Due process does not allow the City to take "pre-emptive" action no matter how obvious or noxious the violation. Differing types of abatements entail differing remedies. The more an abatement can be construed as a life and safety issue the faster the alternatives. Most zoning violations are not life and safety related however. Usually it is the newly developing or potential violation (such as Sherwood Feed and Garden, Fisher Roofing, or Sproul Excavation) that gets the most immediate attention, even though there may be a long standing similiar problem just down the street. This is primarily a function of it being much easier to properly document a brand new occurrence then to recreate the past history of a long standing violation. And, whatever its visual impact, an open storage area, for example, usually represents an economic investment to the owner, making abatement by the City that much more practically and legally complex. In the case of Walt's Refrigeration the City could eventually haul away and dispose of the offending appliances. This could unfortunately be crippling financially to a small business.

Besides cost, available time, and legalities there are other practical limitations to what could or should be done with non-conformities and zoning violations. Just focusing on the issue of unscreened open storage and display, the following businesses are, at first glance, in technical violation of the Zoning Code: Wellons, Allied Systems, B-M Trading Post, Afges, Sherwood Rentals/True Value, Walt's Refrigeration, Thriftway, B & G Motors, Tualatin Valley Nursery, Cherry Tree, Chavez Lumber, Sherwood School District, Sproul Excavation, and Wilbur West Contracting. This is not necessarily an all-inclusive list, just one I developed with only a couple of minutes thought while drafting this memo. Similiar lists could be put together for many other Code requirements, ranging from land uses to signs to off-street parking to landscaping.

Several practical factors moderate both our ability and the advisability of applying the "letter of the law" in all cases of technical open storage violations. First, some open storage is more accurately open merchandise display. The merchandise generally (but not always - think of auto sales lots and plant nurseries) goes back inside the store after-hours. Thus, the nuisance is "abated" every day and any abatement action must be continually restarted. Technically, for instance, it is a zoning violation to display flowers for sale in front of Thriftway as the Zoning Code makes no distinction between storage and display (except in the NC zone).

A second problem confronted in abatements is that a non-conforming business may have been annexed into the City "as-is". "Grandfather" rights are often more imaginary then real but the general perception of such rights make voluntary abatements almost impossible. The other problem in these

cases is distinguishing and documenting any changes or modifications to the offending use that may afford an opportunity for the City to require compliance. Everything becomes a matter of degree.

A third, and in this City significant problem, is the great variation in site plan approval requirements. I'm not referring to non-conformities based on 1981 Comprehensive Plan standards that date from approvals given pre-1969 Comp Plan, pre-1974 Comp Plan, or pre-1981 Comp Plan, but to approvals that never even met the criteria of the original Plan version under which they were approved. It is, for example, hard to explain to Company X that they have to screen their construction equipment if their neighbor is Allied Systems. Allied Systems went through a multi-part approval process from 1979-1984, has literally acres of open storage, and yet not one foot of fence or landscape screening was required or installed.

Finally, technical specifics of the Code aside, what may be a reasonable, unobtrusive allowance for open display to one individual can evolve into something that another may not view as acceptable. For instance, flowers in front of Thriftway may be seen as a visual improvement. What if those flowers are succeeded by fertilizer, kitchenwares, firewood, garbage cans, etc.? What if the shiny new John Deere's in front of True Value become used resale equipment or equipment in for repair?

Within these many confines every effort is now being made to accelerate the abatements of zoning violations and nuisances. With Carole on-board 20 hours a week starting July 1 I anticipate that we will be able to respond to and followup on violations even more efficiently. To keep the Planning Commission up to date, all future abatement notices will be copied to the Commission, and I will be instructing Carole, Chief Laws, and Tad Milburn to catalog all their abatement "contacts" in their monthly staff reports.

cc: Mayor and Council
Police Chief Larry Laws
Public Works Director Tad Milburn
City Attorney Derryck Dittman
City Planner Carole Connell

City of Sherwood, Ore.
Joint City Council/Planning Commission Meeting
April 4, 1988

City Council members Present:

Mayor Norma Oyler
Marjorie Stewart
Walter Hitchcock
Alan Chavez
Laurie Birchill

Planning Commission members Present:

Chairman Glen Warmbier
Grant McClellan
Ken Shannon
Jim Scanlon
Clarence Langer, Jr.
Gene Birchill

Planning Commission members Absent:

Joe Galbreath
Marian Hosler
Glenn Blankenbaker

Staff Present:

James Rapp, City Manager
Carole Connell, Consulting Planner
Polly Blankenbaker, City Recorder

Mayor Oyler asked City Manager Jim Rapp to review the display map while the group waited for late arriving members. Mr. Rapp identified the properties that have shown an interest in rezoning to commercial, those already commercially developed, those currently zoned commercial but not developed, the "Old World" development, non-conforming uses, the approximate alignment of the Western Bypass, the Tualatin-Sherwood/Edy Rd. and 6 Corners intersection rebuild, and future road patterns called out in the City Transportation Plan.

Mayor Oyler called the formal meeting to order at 7:22 p.m. Mayor Oyler said for a period of 3 or 4 years, the City has not had a full time planner on board. The new tax base proposes a half time planner. The Council has taken the position that the City has to be open for development, and that the City wants people to think its reasonable to do business in Sherwood.

State required Comprehensive Plan Periodic Review was discussed. The current date to start Periodic Review is April, 1989.

Mayor Oyler referred to the information provided by the City Attorney regarding conflict of interest. Mayor Oyler explained the requirements for declaring conflict of interest for Planning Commission and City Council members.

Mr. Rapp explained that the City's land use plan must comply with State law. In 1981 the City completed the Sherwood Comprehensive Plan, and State law requires a Periodic Review every 5-7 years. There are very broad State land use goals which must be met, but there are no definite percentages of specific land uses required. Carole Connell also pointed out several administrative rules have been issued elaborating and clarifying the State goals. Mr. Rapp further explained that the 1981 Plan inventoried City property currently zoned institutional and public (IP) as residential land.

Mayor Oyler asked Mr. Rapp to explain what the term "Urban Reserve" means. Mr. Rapp said "Urban Reserves" are used in other states for large parcels where there is no basis on which to zone the land for an active use.

Mayor Oyler requested the City Manager research METRO and LCDC housing density requirements and get copies of any related documents.

Mr. Hitchcock commented that there are two major land use impacts on the City that are still up in the air, the rebuilding of Tualatin-Sherwood/Edy Rd. and the construction of a Western Bypass.

Mr. Scanlon said the group was assuming commercial property was going to be more profitable for current land owners. Mr. Rapp said industrial and commercial land is generally more valuable, but value also depends on a property's marketability. Gene Birchill commented that residential land is also a draw on public services, such as fire, schools, and police.

Mayor Oyler commented that, given upcoming transportation changes, that the City would consider expanding industrial zoning down Edy Road toward 6 Corners. Mr. Birchill said if Tualatin sets a trend for industrial development along Tualatin-Sherwood Road, it makes sense to expand the City's industrial zones.

Mr. Rapp said that the Oregon Department of Transportation will be developing access controls along Highway 99W. Mr. Hitchcock said he favored loosening zone change requirements.

Mayor Oyler said she favored holding any changes to the Comprehensive Plan's policy statements in abeyance until Periodic Review. Mr. Warmbier disagreed; he said he can't tell someone before the Planning Commission to wait until Periodic Review.

Mr. Rapp felt the Plan could be adapted without changing overall policies and goals by downzoning some existing commercial

property and upzoning other property. He also suggested making incremental adjustments by approving rezones as they are requested. Mr. Rapp requested direction from the Planning Commission and City Council as to how to proceed. The City Council and Planning Commission agreed massive up or down zoning would not be appropriate. Mr. Warmbier felt the City Transportation Plan would have to be looked at first. Mr. Rapp said he felt the two road issues would be settled within the next two months.

Mr. Scanlon asked how to go about adjusting City land use goals. He said he found the existing goals very reasonable and felt the goals can be made to work.

Mr. Rapp pointed out the areas serviced by City water and sewer on the display map.

Mr. Shannon said Highway 99W is a prime retail commercial area which would be supported by metropolitan area.

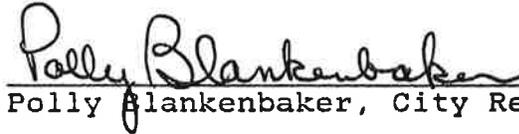
The Council and Planning Commission reviewed the list of options in the City Manager's memo dated March 23, 1988. Mr. Hitchcock moved the City proceed with the direction outlined in Option 3, inserting "conclusion of Periodic Review" in lieu of "1989" and adding "generally" to the end of the statement. Suggested Point "b" of Option 3, as drafted in the Manager's memorandum, was excluded by the motion. Mrs. Birchill seconded the motion. The motion passed 9 to 2 with Mr. Warmbier and Mr. Shannon voting no.

The revised option reads as follows:

3. Defer the addition of any large areas of commercial land until after conclusion of Periodic Review and in the interim only consider commercial rezones on a case-by-case basis if generally:
 - a. The area proposed for rezoning is relatively small (the Code defines a "minor" rezone based on area).
 - b. The zoning category proposed is the most restrictive practicable and the area the minimum needed.
 - c. There is no alternative land use action to a rezone (i.e. variance, conditional use permit, etc.)
 - d. The area is accessed by an arterial or collector status roadway and is adequately serviced by utilities for the uses contemplated.
 - e. The rezone otherwise meets all the criteria of the Comprehensive Plan.

Mr. Warmbier invited the City Council and Mr. Rapp to attend a Planning Commission meeting to discuss issues not addressed here tonight. Mr. Scanlon said that the group addressed an issue in a very limited fashion that may be creating problems down the road.

Mrs. Birchill moved and Mrs. Stewart seconded that the meeting be adjourned. Motion carried. Meeting adjourned at 9:40 p.m.


Polly Blankenbaker, City Recorder

APPROVED MINUTES

**City of Sherwood
Planning Commission Meeting
May 16, 1988**

1. **Call to Order:** Chairman Glen Warmbier called the meeting to order at 7:30 p.m. Those present were: City Planner Carole Connell, Grant McClellan, Ken Shannon, Marian Hosler, Glenn Blankenbaker, Gene Birchill, and Joe Galbreath.

2. **Approval of Minutes:** Grant McClellan moved to approve the minutes of April 18, 1988, Joe Galbreath seconded and the motion carried unanimously.

3. **Status Report for Bilet Products Regarding Noise Violation:**

Mr. Blakeslee was not present and there was some question as to whether or not he had been notified of the meeting. However, after lengthy discussion, the Planning Commission decided that Mr. Blakeslee has continued to work on getting his plant into DEQ compliance even though the Commission agreed that it was going to be very difficult to do so due to ambient noise and other factors. A 30-day extension was granted to Blakeslee. The Commission noted that Mr. Blakeslee is making every effort to bring his plant into compliance.

4. **Sunset Boulevard Annexation:** Mrs. Connell advised Commission members that an individual property owner desires to annex into the City. This annexation involves a 16.48 acre parcel. She advised that the Commission only needs to approve or oppose the petition. It was noted that the owners intend to apply for a rezone from LDR to MDRL if the annexation is approved as they plan to develop 70 individual homes. However the applicant has been informed that City endorsement of the annexation does not constitute a City commitment to approve the rezone. Commission members asked if sewer was available to the property. Mrs. Connell advised that the sewer line is close and the owners did plan to use City services.

Mr. Blankenbaker moved to approve the annexation request, Gene Birchill seconded and the motion carried unanimously.

5. **Commercial Zoning and 1988 Planning Projects:** Mrs. Connell advised the Commission members that she had been meeting with representatives of LCDC, DED and ODOT. LCDC and DED suggested starting early on updating the Plan's Economic Element (Goal 9). The consensus of these people was that they hoped Sherwood would endeavor to keep HWY 99W as it was intended, that is as a throughway to the Coast. They realized that there would have to be commercial development on the highway,

but they were concerned about access and egress. Carole advised that ODOT expressed a desire to work out an access plan for Highway 99W regardless of zoning and which they may subsidize. DED felt Sherwood might consider an area of light industrial where the two railways come in close proximity. Mr. Warmbier said he felt that would be too far north to be of help to Sherwood. LCDC said they would probably have little grounds to get involved in zone change requests on Hwy. 99W.

Mr. Shannon felt that Highway 99W should be developed commercially and it was the most desirable area for development. Mrs. Connell said that the way the Plan policies are written now and with the current supply of vacant commercial land, it would be difficult to show a need for more.

There was differing opinions as to what size plots should be zoned commercial on Highway 99W. Members generally agreed that there should be limited access and egress in order to keep from having stop lights which would interrupt the flow of traffic. Frontage roads and shared access were discussed. Mr. Warmbier noted that Highway 99W was already set up in such a way as to limit egress. Carole Connell said she would bring the commercial policies applicable to commercial development on the highway before the Commission to review as a part of the Goal 9 update.

After lengthy discussion the Commission agreed to direct Carole Connell to contact ODOT to set a preliminary meeting for working out an access program. In the context of 1988 planning projects, the Commission agreed there should be an early start on the Goal 9 Economic Element of the Plan and that the Transportation Plan should also be updated in 1988. When asked about revising the current outdoor display standards, Mr. Warmbier said that was not as urgent.

6. **Comments:** Marian Hosler noted that the Q-T Tavern had enlarged their signs which read "nude". Mrs. Connell said she would check the signage for violation.

Glenn Blankenbaker said that Walt's attempt to fence in the refrigerators behind his appliance store should not be considered sufficient for the abatement notice as the main problem with the refrigerators being outside is the safety hazard it represents to children. Mrs. Connell referred to Mr. Rapp's memo and the progress made to date and said she would check into the current status.

There being no further discussion, the meeting was adjourned at 9:00 p.m.

Rebecca L. Smith
Minutes Secretary