

City of Sherwood, Oregon

ORDINANCE NO. 88-890

AN ORDINANCE APPROVING A MINOR ZONING MAP AMENDMENT FROM MEDIUM DENSITY RESIDENTIAL-LOW (MDRL) TO GENERAL COMMERCIAL (GC) FOR A PORTION OF TAX LOT 31A : 900, AND FROM MEDIUM DENSITY RESIDENTIAL-HIGH (MDRH) TO GENERAL COMMERCIAL (GC) FOR ALL OF TAX LOT 30D : 900, THE ENTIRE REZONED AREA CONSISTING OF 2.52 ACRES MORE OR LESS, AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, application has been made by Stephen Weeks and Robert Rogers to rezone approximately 5.10 acres, including all of Tax Lot 30D : 900 and a portion of Tax Lot 31A : 900, from MDRH and MDRL to GC, to be combined with that 1.45 acre portion of Tax Lot 31A : 900 currently zoned GC, and

WHEREAS, City planning staff review of this application resulted in a recommendation differing from the original application in that a smaller area and a less intensive commercial zoning, Retail Commercial (RC), was proposed, including that portion currently zoned GC.

WHEREAS, the City Planning Commission received the City planning staff report reviewing the application, making proposed findings of fact, and recommending certain conditions, and the Commission conducted a public hearing on the rezoning proposal on October 17, 1988, and

WHEREAS, after full and due consideration of the evidence, reports, and testimony presented at the public hearing, and the planning staff report, the Commission was unable to reach a decision on a recommendation to the City Council after taking two split votes, and therefore forwarded this application to the Council with no recommendation, and

WHEREAS, subsequent discussions between the applicant and City staff resulted in a modified staff recommendation that slightly altered the acreage and shape of the area to be rezoned but did not modify the staff recommendation for an RC zoning, and

WHEREAS, the City Council has received the original City planning staff report, the revised staff recommendation, report, and findings of fact under the signature of the City Manager, dated December 7, 1988, the minutes of the Planning Commission, and the original application materials, and has reviewed the materials submitted and the facts of the proposal, and

WHEREAS, based on the review of the materials submitted and the facts of the proposal, the City Council has determined that the GC zoning was appropriate but the rezoned area should be the minimum necessary to accommodate the development proposed, and so modified the findings of fact, and

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Public Hearing: That a public hearing on the proposed zoning map amendment for Tax Lots 900 : 30D and 900 : 31A was held before the City Council on December 14, 1988, and all interested parties were afforded an opportunity to be heard, and to present and rebuff evidence.

Section 2. Findings: That, after full and due consideration of the application, the City staff reports, the record of the Planning Commission, and the evidence presented at the public hearing, the Council adopts the modified findings of fact dated December 14, 1988, and attached hereto as Exhibit "A".

Section 3. Approval: That zoning map amendment from MDRL and MDRH to GC for all of Tax Lot 900, Washington County Assessors Map 30D, consisting of .71 acres more or less, and a portion of Tax Lot 900, Washington County Assessors Map 31A, consisting of 1.81 acres more or less, is APPROVED subject to the conditions contained herein.

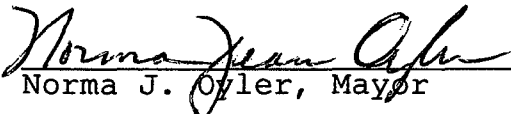
Section 4. Conditions: That the aforementioned approval is conditioned on the dedication to the City of fifteen feet (15') of right-of-way widening along the full frontage of Tax Lot 900 : 31A along Meinecke Road.

Section 5. Manager Authorized: The City Manager is directed to take such action as may be necessary to document this zoning amendment, including producing a certified modification to the official City Zoning Map, at such time as all conditions of approval have been fully satisfied in accordance with City ordinances and regulations, as determined by the City Manager.

Section 6. Effective Date: This Ordinance shall become effective coincident with the certification by the City Manager that all conditions of approval have been satisfied, but in any event this Ordinance shall not become effective earlier than thirty (30) days after passage and approval.

Passed by majority vote of the City Council this 14th day of December, 1988.

Approved by the Mayor this 16 day of December, 1988.


Norma J. Oyler, Mayor

Attest:

Polly Blankenbaker
Polly Blankenbaker, Recorder

	AYE	NAY	ABSTAIN
Oyler	_____	_____	<u> X </u>
Hitchcock	<u> X </u>	_____	_____
Stewart	<u> X </u>	_____	_____
Birchill	<u> X </u>	_____	_____
Chavez	<u> X </u>	_____	_____

Exhibit A

Findings of Fact (as revised by Council action) Ordinance No. 88-890 December 14, 1988

1. The applicants requested a rezone of approximately 5.10 acres from Medium Density Residential Low (MDRL) and Medium Density Residential High (MDRH) to General Commercial (GC). The request involves two abutting tax lots and two property owners: Mr. Stephen Weeks and Mr. Robert Rogers. Both tax lots are located on Highway 99W generally at the intersection of Meinecke Road. City staff recommended a rezoning of 4.44 acres of these two lots to Retail Commercial (RC) **inclusive** of the portion presently zoned General Commercial (GC). The City Planning Commission failed to make a recommendation on this issue after taking two split votes.
2. Tax Lot 2S1-31A:900, zoned MDRL and GC, is owned by Weeks and is 5.84 acres in size. Approximately 1.45 acres is presently zoned General Commercial (GC). This 1.45 acres was **not** included in the **original** application. The balance is zoned MDRL. The entire MDRL portion of Tax Lot 31A:900 was included in the original application. Tax Lot 2S1-30D:900, zoned MDRH, is .71 acres in size and is owned by Rogers. All of Roger's tax lot was included in the original application.
3. The Weeks' parcel is developed with the Cherry Tree Market, two single family residences, and a barn. The Roger's parcel is occupied by a single family residence.
4. Surrounding land use in the area consists of vacant land, single family residential housing, and a vacant plant nursery to the south; vacant land, agricultural uses, and single family residential to the west; Highway 99W to the north; and single family residential housing and a manufactured home park to the east.
5. There are no known soil or topographic limitations on either parcel. There are also no known historic or cultural resources on either site. There are a variety of large trees on the Rogers parcel.
6. The Cherry Tree Market as it currently operates includes both retail and wholesale trade. Retail uses are allowed in the Retail Commercial (RC) zone. Retail and wholesale uses are allowed in the General Commercial (GC) zone. However, based on information supplied by the applicant, City staff suggested that the wholesale portion of the Cherry Tree Market was incidental and secondary to the retail. Therefore, this secondary wholesaling business was recommended by staff to be found acceptable in the RC zone as per Code Section 2.108.03P.
7. Mr. Week's future plans include demolition of the existing market and barn and construction of a new facility. Based on preliminary drawings submitted by Mr. Weeks, the new facility is tentatively planned to have about 12,800 square feet of floor area. 3,600 square feet will be devoted to retail produce, 1,200 square feet to wholesale produce, and 8,000 square feet available for rent to other retail businesses.
8. City sewer and water is available to the site and will be required to be installed according to City specifications at the time of redevelopment. Storm drainage improvements may also be reviewed at that time.

9. Access to the Cherry Tree Market is available from Meinecke Road and Highway 99W. Access to the Rogers parcel is from Highway 99W. Meinecke Road in this vicinity is designated as a minor arterial roadway with an improvement standard requiring 70 feet of right-of-way. Currently, Meinecke Road consists of 40 feet of right-of-way. Therefore, 15 feet of widening shall be dedicated by the Weeks' on their side of Meinecke as a step towards achieving full right-of-way width. Physical improvements to Meinecke Road will be reviewed at the time of a development application. The City Long Range Transportation Plan designates a future highway crossing at Meinecke Road. Access alterations and restrictions may apply at the time of redevelopment.

10. The City Long Range Parks and Open Space Plan identifies a future bicycle/pedestrian trail on Meinecke Road, a portion of which has already been established on the south side of the road near the high school. Extension of the trail would not affect the subject properties.

11. ODOT and LCDC have been notified of this request and have not formally responded. The Tualatin Fire District responded with no concerns. Washington County responded with a concern about access to Highway 99W and the possible precedent being established for additional requests which may adversely impact the level of service on Highway 99W. Access controls shall be established at the time of an actual redevelopment application.

12. The conversion of these two tax lots from residential to commercial zoning will technically result in the loss of about 33 potential dwelling units. Practically speaking, however, the Rogers parcel is too small for a manufactured home park, condominiums, or row houses as permitted by the current MDRH zoning. If the Rogers parcel were to remain residential, only duplexes or single family units would be feasible. The residential portion of Weeks property is currently zoned for single family homes or duplexes, which would be compatible with the existing development pattern in the area. The present zoning precludes expansion of the existing business.

13. In the spring of 1988 the City Planning Commission and City Council established the following "Interim Guidelines for Commercial Zoning Amendments":

Defer the addition of any large areas of commercial land until after conclusion of the Comprehensive Plan's Periodic Review and in the interim only consider commercial rezones on a case-by-case basis if generally:

a. The area proposed 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.

14. In response to the "Interim Guidelines", the original proposal does not comply with the first, second, and last criteria:

a. The applicants are requesting that 5.10 acres be rezoned. A "minor" rezone as defined by Code as "four acres or less". The applicants proposal would result in a net increase of 5.10 acres in commercially zoned land. The staff proposal would result in a net increase of 2.99 acres.

b. The original proposal requests the rezoning of all of both tax lots, nevertheless, the applicants development plans indicate that only a portion of this area is contemplated for immediate redevelopment.

c. The proposed amendment is not consistent with all the goals and policies of the Comprehensive Plan as described in detail in Sections IV and V in the Staff Report dated September 28, 1988. The area of General Commercial (GC) zoning as proposed by the applicant is not compatible with the existing lower density residential pattern of development in the area.

16. The proposal is consistent with other standards contained in Code Section 4.203.02:

a. There is a need for the particular use and commercial zoning as evidenced by the successful Cherry Tree Market operation. The business cannot expand without commercial zoning on land adjoining the business.

b. The proposed amendment is timely to permit expansion of an existing business where City services are available.

c. Other similarly zoned land elsewhere in the City cannot better meet the expansion needs of the Cherry Tree Market.

17. The Council makes the following findings at variance with the applicants original request:

a. The entire area of Tax Lot 900:31A is not necessary for the purposes of expanding the existing Cherry Tree Market.

b. Based on the applicants proposed plans, the expansion of the Market can be accommodated by the rezoning of all of Tax Lot 900:30D (.71 acre), and the rezoning of an area of Tax Lot 900:31A defined by establishing a new north/south rear zoning boundary that is perpendicular to the rear lot line of Tax Lot 900:30D and drawn from a point seventy-five feet east of the southwesterly corner of Tax Lot 900:30D (1.81 acre)

c. Such a new zoned area will total 3.97 acres more or less, inclusive of that 1.45 acre portion of Tax Lot 900:31A already zoned GC

d. This reduced area mitigates the inconsistencies of the original proposal with the City Comprehensive Plan and conforms the request to the "Interim Guidelines".

18. The Council makes the following finding at variance with the City staff recommendation:

a. That the wholesale element of the Cherry Tree Market is not sufficiently incidental and secondary to permit an RC zoning and, therefore, the newly rezoned area should be designated GC.