



NOTICE OF DECISION

MAP/TAX LOT: 2S130AD15000
CASE NO: LU 2021-023 VAR / MM
DATE OF NOTICE: March 15, 2021

APPLICANT:

Timothy and Carla Hubbard
20055 SW Pacific Hwy #120
Sherwood, OR 97140

OWNER:

Timothy and Carla Hubbard
20055 SW Pacific Hwy #210
Sherwood, OR 97140

NOTICE

You are receiving this Notice of Decision because you are the applicant or because you provided testimony on the subject application. Notice is hereby given that on March 15, 2021 the City of Sherwood Hearings Officer **APPROVED with CONDITIONS LU 2021-013 ZIGGIS COFFEE**. The applicant is proposing a Class B Variance and Major Modification to an Approved Site Plan (SP 06-12 / VAR 06-12) at 21003 SW Pacific Hwy. For information on the decision go to <https://www.sherwoodoregon.gov/planning/project/ziggys-coffee> or contact Eric Rutledge, Associate Planner, at 503-625-4242 or rutledge@sherwoodoregon.gov

APPEAL

Pursuant to Sherwood Zoning and Community Development Code Section 16.72.010.B.3.c, an appeal of the Hearings Officer decision may be made to the Planning Commission. Pursuant to Section 16.76, any person who appeared before the local government, orally or in writing, on this matter may file a notice of intent to appeal to the City of Sherwood Planning Director not later than 14 days from the date of this notice. **An appeal of this decision must be filed no later than 5:00 PM on March 29, 2021.**

I, Eric Rutledge, for the Planning Department, City of Sherwood, State of Oregon, in Washington County, declare that the Notice of Decision LU 2021-005 VAR / MM ZIGGIS COFFEE was placed in a U.S. Postal receptacle, or transmitted via electronic mail, on March 15, 2021.

A handwritten signature in black ink, appearing to read "ER", is written above a horizontal line.

Eric Rutledge, Associate Planner
City of Sherwood Planning Department

**BEFORE THE LAND USE HEARINGS OFFICER
OF CITY OF SHERWOOD, OREGON**

Regarding an application by Timothy and Carla Hubbard for) **FINAL ORDER**
approval of a Class B variance and major modification to an) **Case No. CUP 19-03/**
approved site plan for alterations to an existing coffee stand at) **LU 2020-023 MM/VAR**
21003 SW Pacific Highway in the City of Sherwood, Oregon) **(Ziggi's Coffee)**

A. SUMMARY

1. The applicants, Timothy and Carla Hubbard, requests approval of a Class B variance and major modification to an to approved site plan to reconfigure the access and parking for an existing coffee stand located at 21003 SW Pacific Highway in the City of Sherwood, Oregon; also known as Washington County Assessor parcel 2S130AD15000 (the "site"). The site and all surrounding properties are zoned RC (Retail Commercial). SW Pacific Highway abuts the southeast boundary of the site.

a. The 0.16-acre site is currently improved with a 417 SF drive-thru coffee stand (former Coffee Cottage) and associated site improvements. The applicants request approval of a major modification to the approved site plan in order to reconfigure the on-site vehicle circulation, parking, and landscaping to accommodate a second ten-foot wide one-way drive-thru lane. The on-site stormwater detention pond will be removed and replaced with a cartridge system. Vehicle access will continue to be provided from two existing driveways along SW Borchers Drive. Two of the existing four (4) parking stalls will be re-located on-site. The remaining two stalls will be relocated off-site through a shared parking agreement. No building expansion is proposed at this time.

b. The applicants also request approval of a Class B Variance to reduce the required width of the one-way drive aisle by 8-percent, the parking drive aisle by 8-percent, and the visual corridor along Pacific Highway by 12.4-percent to accommodate the additional drive-thru lane. The site is part of the former right-of-way associated with Sherwood's "Six Corners" commercial area and the variance request is due to small lot size and narrow configuration.

c. Additional basic facts about the site and surroundings and applicable approval standards are provided in the City of Sherwood Revised Staff Report to the hearings officer dated March 2, 2021 (the "Revised Staff Report"), incorporated herein by reference, except to the extent modified by or inconsistent herewith.

2. City of Sherwood Hearings Officer Joe Turner (the "hearings officer") conducted a public hearing about the application. City staff recommended that the hearings officer approve the application subject to conditions of approval in the Revised Staff Report, as modified at the hearing. The applicant accepted those findings and conditions without exceptions. No one else testified orally or in writing.

3. Based on the findings and conclusions in this final order, and subject to the conditions of approval listed or incorporated by reference at the conclusion of this final order, the hearings officer approves the application in this case.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at the duly noticed public hearing about this application on February 24, 2021. At the hearing, the hearings officer received into the record and physically inspected the file maintained by the City regarding the application. All exhibits and records of testimony are filed at the City of Sherwood. The hearings officer made the declarations required by ORS 197.763. The following is a summary by the hearings officer of selected testimony and evidence offered at the public hearing.

2. City associate planner Eric Rutledge summarized the Staff Report and the proposed development.

a. He noted that the City approved a site plan for the existing coffee stand on the site in 2007. With this application the applicants request approval of major modification to the previously approved site plan to add a second drive-through lane, replace the existing on-site stormwater detention pond with a cartridge system, relocate existing on-site parking, and modify the existing landscaping. The applicants did not propose any changes to the existing coffee stand building or the size or shape of the existing lot.

b. The applicants also request approval of variances to the width of the drive aisle, parking drive aisle, and the Pacific Highway visual corridor.

i. The “drive aisle” is limited to that portion of the vehicle maneuvering area north of the building, where the two proposed drive-through lanes merge. The Code does not include a minimum width for drive-through lanes.

c. The applicants proposed to replace the existing surface stormwater pond on the site with an underground cartridge filter system. The applicant will locate two vehicle parking spaces on top of the underground stormwater facility.

d. Section 16.92.030.A of the Sherwood Zoning and Community Development Code (the “SZCDC”) requires a minimum ten-foot wide landscape strip between parking, loading, and vehicular use areas on adjacent properties. This area may be reduced to five feet if the adjacent property provides at least five feet of landscaping. In prior cases the City has required a five-foot on-site landscape buffer where the adjacent property is likely to redevelop and provide the remaining five-foot buffer. In this case the only way to provide two drive-through lanes as proposed is to reduce the on-site buffer to six-inches. There is an existing public access easement on the western portion of the south boundary, which precludes provision of the buffer in that portion of the site.

d. There is a typographical error in the “Analysis” paragraph on p. 35 of the Staff Report. This paragraph should provide, in relevant part, “This area of SW Borchers Drive does not appear to have a need for ~~onsite~~ on-street parking as aerial photos don’t show vehicles parking on-street.”

3. Steve Farnsworth and applicant Timothy Hubbard appeared on behalf of the applicants, Timothy and Carla Hubbard.

a. Mr. Farnsworth argued that the proposed second drive-through lane will provide additional on-site vehicle storage, eliminating concerns with vehicle queues extending onto SW Borchers Drive. He noted that the adjacent property south of the site is one-foot lower than the site, which provides some buffer between the on-site vehicle maneuvering areas and the adjacent property. He accepted the findings and conditions in the Staff Report without exceptions.

b. Mr. Hubbard testified that existing coffee stand primarily serves drive-through and walk-up customers. The on-site parking spaces are primarily used by coffee stand employees. If necessary, staff can direct traffic in the drive-through lanes to allow drivers to maneuver in and out of the western parking spaces.

4. At the conclusion of the hearing, the hearings officer held the record open subject to the following schedule:

a. For one week, until March 3, 2021, to allow staff and the applicant an opportunity to submit additional written testimony and evidence regarding the buffer requirement of SZCDC 16.92.030.A;

b. For a second week, until March 10, 2021, to allow the public an opportunity to submit written testimony about the application; and

c. For a third week, until March 17, 2021, to allow the applicant to respond to whatever was submitted during the second week and submit a final argument.

5. During the open record period the applicant submitted a revised site plan (Exhibit D.1) that includes an eight-foot wide landscape buffer along the portion of the south property line that is not encumbered by an access easement, a five-foot buffer along the portion of the north boundary of the site that is not encumbered by an access easement. The applicant also proposed to relocate two on-site parking spaces to an offsite parcel west of the site via a shared parking agreement (Exhibits D.2-D.8). Mr. Rutledge submitted a Memorandum dated March 3, 2021, and a revised Staff Report dated March 2, 2021. No other new evidence or testimony was submitted prior to March 10, 2021. Therefore, the applicant waived their right to submit a final argument and the hearings officer closed the record at the end of the second week, at 5:00 p.m. on March 10, 2021.

C. DISCUSSION

1. City staff recommended approval of the application, based on the affirmative findings and subject to conditions of approval in the Revised Staff Report, as modified at the hearing. The applicants accepted those findings and conditions without objections.

2. The hearings officer concludes that the affirmative findings in the Revised Staff Report show that the application does or can comply with the applicable standards of the

SZCDC, provided that the applicants comply with recommended conditions of approval. The hearings officer adopts the affirmative findings in the Revised Staff Report.

D. CONCLUSION

Based on the above findings and discussion, the hearings officer concludes that LU 2020-023 MM/VAR (Ziggi's Coffee) should be approved, because it does or can comply with the applicable standards of the Sherwood Zoning and Community Development Code, subject to conditions of approval necessary to ensure the resulting development complies with the Code.

E. DECISION

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves LU 2020-023 MM/VAR (Ziggi's Coffee), subject to the following conditions of approval:

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. The development shall substantially comply with the submitted preliminary plans and narrative except as indicated in the conditions of the Notice of Decision. Additional development or change of use may require a new development application and approval.
3. The developer is responsible for all costs associated with any remaining public facility improvements and shall assure the construction of all public streets and utilities within and adjacent to the plat as required by these conditions of approval, to the plans, standards, and specifications of the City of Sherwood.
4. This approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
6. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies even if not specifically required by this decision.
7. All new utilities to be installed for the development of the subject property shall be underground.
8. Retaining walls within public easements or the public right-of-way shall require engineering approval.

9. The developer shall comply with the CWS Pre-Screening Site Assessment dated August 8, 2020 (File #20-002066), the CWS memorandum dated February 15, 2021, and all CWS Design and Construction Standards (R&O 19-5).
10. A sign permit shall be obtained for any new or modified signs requiring land use approval. The Major Modification and Variance approval do not grant permits for any signage on the property.
11. The 30-inch pine tree located at the northwest corner of the site, adjacent to the northern driveway, shall remain and be protected through site development.

B. Prior to Final Site Plan Approval

1. Prior to Final Site Plan approval, revise the Landscape Plan to provide ground cover plants in all landscaped areas not covered by trees and shrubs.
2. Prior to Final Site Plan approval, a Landscape Architect of certified landscape professional shall verify the plantings are suitable for the Pacific Northwest climate. As an alternative, the applicant can revise the plans to provide native shrubs and ground cover as indicated in the Portland Plant List (June 2016).
3. Prior to Final Site Plan approval, provide planting specifications for new and relocated vegetation to ensure landscaping will be established and maintained in a healthy condition.
4. Prior to Final Site Plan approval, provide specifications for topsoil and subsoil preparations to ensure new and relocated plantings will be established and maintained in a healthy condition.
5. Prior to Final Site Plan approval, the on-site vehicle marking plan shall provide pedestrian striping that connects the parallel parking stalls to the front walkway of the existing building. The 24 foot wide access easement at the south end of the site shall be marked or signed for no parking or vehicle queuing.
6. Prior to Final Site Plan approval, provide a final on-site vehicle marking plan that provides the flow of traffic while maintaining vehicular and pedestrian safety. The 24 foot wide access easement at the south end of the site shall be marked or signed for no parking or vehicle queuing.
7. Prior to Final Site Plan approval, provide documentation to the City that demonstrates there is a sufficient number of parking spaces to accommodate the requirements of the individual businesses subject to the shared parking agreement; or that the peak hours of operation of such establishments do not overlap, and that an exclusive permanent easement over a delineated area has been granted for parking space use.
8. Prior to Final Site Plan approval, the applicant shall demonstrate that the two shared off-street stalls are a minimum of 20 feet in length by nine feet wide.

C. Prior to Approval of the Engineering Public Improvement Plans

1. Prior to Approval of the Engineering Public Improvement Plans, a Storm Water Connection Permit Authorization shall be obtained.

2. Prior to Approval of the Engineering Public Improvement Plans or Issuance of Building Permits, an Engineering Compliance Agreement shall be obtained from the Sherwood Engineering Department.
3. Prior to Approval of the Engineering Public Improvement Plans, the developer shall design for the installation of "No Parking" signs meeting the approval of the Sherwood Engineering Department.
4. Prior to Approval of the Engineering Public Improvement Plans, the proposed development shall design to provide storm water quality treatment in compliance with Clean Water Services' standards.
5. Prior to Approval of the Engineering Public Improvement Plans, if the amount of new/modified impervious area is 1,000 square feet or greater, then the proposed development shall design to provide storm water hydro-modification in compliance with Clean Water Services' standards or a payment-in-lieu thereof.
6. Prior to Approval of the Engineering Public Improvement Plans, if any water fixtures are to be added, water flows calculations (domestic, irrigation and fire) shall be provided by the developer.
7. Prior to Approval of the Engineering Public Improvement Plans, the proposed development shall design for the installation of a Backflow Assembly meeting Sherwood Engineering Department standards.
8. Prior to Approval of the Engineering Public Improvement Plans, the applicant shall demonstrate an appropriately sized grease interceptor/removal device exists as part of the site plumbing, or design to provide an appropriately sized grease interceptor/removal device.

D. Prior to Issuance of a Grading Permit

1. Prior to Grading Permit, the subject development shall obtain approval of a site erosion control plan from the Sherwood Engineering Department.
2. Prior to Issuance of Site Grading or Building Permits, the applicant shall obtain a Class B Variance for the two foot reduction in perimeter landscaping proposed for the southern property line.

E. Prior to Issuance of Building Permits

1. Prior to Issuance of a Plumbing Permit, the proposed development shall design for private storm water runoff within the subject property to be collected and conveyed in accordance with the current Oregon Plumbing Specialty Code.
2. Prior to Issuance of a Plumbing Permit, the applicant shall demonstrate an appropriately sized grease interceptor / removal device exists as part of the site plumbing, or design to provide an appropriately sized grease interceptor / removal device.

F. Prior to Acceptance of Public Improvements

1. Prior to Final Acceptance of the Constructed Public Improvements, any public water facilities located on private property shall have a recorded public water line

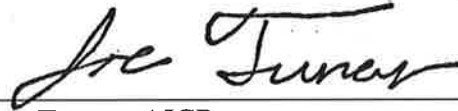
easement encompassing the related public water infrastructure meeting Sherwood Engineering standards.

2. Prior to Acceptance of Public Improvements, private water quality/hydro-modification facilities shall have a recorded Private Storm Water Facility Access and Maintenance Covenant. An Operation and Maintenance Plan for all private water quality/hydro-modification facilities is also required to be submitted to the Sherwood Engineering Department.

G. Prior to Receiving Occupancy

1. Prior to Occupancy, the subject development shall receive Final Acceptance of Public Improvements.
2. Prior to Final Occupancy, the site shall be marked to provide the flow of traffic while maintaining vehicular and pedestrian safety. The 24 foot wide access easement at the south end of the site shall be marked or signed for no parking or vehicle queuing.
3. Prior to Receiving Occupancy, all landscaping must be installed and have an irrigation system in accordance with SZCDC § 16.92.040(C).
4. Prior to Issuance of Occupancy, all mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets.

DATED this 15th day of March 2021



Joe Turner, AICP

City of Sherwood Hearings Officer