
City of Sherwood, Oregon
Planning Commission
November 10, 2015

Planning Commissioners Present:

Chair Jean Simson
Vice Chair Russell Griffin
Commissioner Alan Pearson
Commissioner Rob Rettig
Commissioner Lisa Walker

Staff Present:

Julia Hajduk, Community Development Director
Josh Soper, City Attorney
Brad Kilby, Planning Manager
Connie Randall, Associate Planner
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:

Commissioner Chris Flores
Commissioner Michael Meyers

Council Members Present:

Councilor Sally Robinson

1. Call to Order/Roll Call

Chair Jean Simson called the meeting to order at 7:02 pm.

2. Consent Agenda – None

3. Council Liaison Announcements

Council President Sally Robinson noted the failed annexation of the Brookman Road area and commented that there may be zone change requests in the future. She cautioned the Planning Commission to consider that the majority of the public want to maintain Sherwood's small town feel. Ms. Robinson reminded the Commission of the appreciation dinner scheduled for December 15, 2015.

4. Staff Announcements

Brad Kilby, Planning Manager, announced the following:

- Final Sherwood West Preliminary Concept Plan Community Advisory Committee meeting, November 19
- Cedar Creek Trail project public open house, December 3
- Planning Commission Work Session and Meeting, December 8
 - Sherwood West Preliminary Concept Plan (work session),
 - Parkway Court Plan Amendment and Zone Change,
 - Major Modification on SW Galbreath Drive for Endurance Products, 15,500 sq. ft. expansion
- Boards and Commissions Appreciation Dinner, December 15

Julia Hajduk, Community Development Director informed the Commission that field investigation for the Tannery site had taken place and the samples would be in process at the laboratory.

5. Community Comments

Tony Bevel, Sherwood resident, gave the Commission information on traffic calming devices (see record, Exhibit 1), said he lived on Lynny Way and had spoken with the Planning Commission, the City Council and a number of other city officials about the traffic on his street. Mr. Bevel commented traffic was bad throughout the city and explained that he was told by city staff that traffic calming devices would hamper emergency vehicles. He asserted that this was not the case and other jurisdictions such as Beaverton, Tigard and Lake Oswego had traffic calming devices. Mr. Bevel noted that the biggest obstacle was the cost and suggested the budget committee could find money. He said he had spoken to his neighbors and each had experienced confrontations resulting from drivers speeding on the street and gave examples of dangerous encounters and animal fatalities. He commented that there are likely other streets needing traffic calming protection and that he paid his taxes to have safe roads so he could walk across the street to his mailbox without feeling threatened. Mr. Bevel acknowledged that traffic would come through his street; he expected it would get worse, and it needed to be calmed. Mr. Bevel commented that Washington County had also told him to educate the public and to have law enforcement present. He predicted that traffic calming devices would make saints of people.

Chair Simson thanked Mr. Bevel for his comments and said they were noted for the record. She said the Commission has asked staff for updates on traffic calming and suggested the matter be placed as a future agenda item to have a conversation with City Council or to make a recommendation.

Julia Hajduk responded that the Planning Commission could be part of the discussion for the issues and development of a formal neighborhood traffic calming program.

6. New business

a. Public Hearing – PA 15-04 Mandel Property Plan Amendment and Zone Change

Chair Simson read the public hearing statement stating the City Council would make the final decision. She asked staff about ex parte, bias or conflicts of interest and was informed that it was a legislative decision and only conflict of interest would apply. Chair Simson asked for any Planning Commissioners that would like to declare a conflict of interest.

Commissioner Rob Rettig stated he would recuse himself, because of a potential conflict of interest in that the company he works for was also representing the applicant. Commissioner Rettig left the dais, leaving four commission members and maintaining a quorum.

Julia Hajduk affirmed the hearing at the City Council level would be a de novo hearing. Chair Simson clarified that proponent and opponent testimony would be accepted in full at the City Council level.

Connie Randall, Associate Planner, gave a staff report and presentation for PA 15-05 Mandel Property Plan Amendment and Zone Change (see record, Exhibit 2). She said the applicant was proposing a Comprehensive Plan and zoning map amendment for a three acre parcel of land located at the southeast corner of Edy and Elwert roads from Neighborhood Commercial to Medium Density Residential Low. The subject site was in active farming and had an existing single family residence and associated out buildings. Ms. Randall explained it was part of a larger 21.28 acre parent parcel and the site was bisected from north to south in an arched manner by the tributary to Chicken Creek which creates a pocket of developable land adjacent to Elwert Road. She identified the portion of land that was the subject property for the action and that it was zoned Neighborhood Commercial. Agricultural

and forestry zoned property in rural Washington County surrounds the site on the north and west. Ms. Randall said the subject property was in the city and adjacent to residentially zoned property; Medium Density Residential Low and High. The site was brought in to the Urban Growth Boundary in 2002 as part of Area 59 with the Area 59 Concept Plan being adopted by the City Council in 2007 when the current land use and zoning designations were applied.

Ms. Randall reported that public and agency notices were provided in accordance with the Sherwood Zoning and Community Development Code (SZCDC) and staff had received one public comment attached as Exhibit C to the staff report; Mr. Reynolds was concerned about the safety of accessing Elwert Road from the subject site. Ms. Randall commented that the request was legislative, about the land use designation of the property, and access to the site would be evaluated with a future land use application, such as a subdivision application, and any access would be required to meet all standards outlined in the Zoning and Community Development Code as well as the City's Engineering Design and Standard Details Manual. She pointed out that the anticipated traffic from future development of residential uses, associated with the proposed amendment, was expected to generate significantly less traffic than the commercial uses which were currently allowed.

Ms. Randall informed the Commission that staff had received agency comments from the Department of Land Conversation and Development (DLCD) and the City's Engineering Department (attached to the staff report as exhibits D & E), and Tualatin Valley Fire and Rescue (TVF&R) notified staff that they did not have any comments on the application. Ms. Randall said DLCD raised the concern that the applicant's narrative had not adequately addressed Statewide Planning Goal 9: Economic Development. The applicant's response to DLCD was attached to the staff report as Exhibit B.

Ms. Randall explained that there were five required findings in the SZCDC that needed to be made. The first was that the proposed amendment be consistent with the Comprehensive Plan and Transportation System Plan (TSP) policies. There are five chapters in the Comprehensive Plan that are applicable which will be covered at the end of the presentation.

Ms. Randall said the second finding was a demonstrated need for the proposed use and zoning and the importance of the use to the economy of the city, existing market demand, presence or absence of other similar uses in the area, and the general public good.

Ms. Randall reminded the Commission of the recent Residential Buildable Lands Inventory and the Housing Needs Analysis performed as part the Sherwood West Preliminary Concept Plan project and stated the studies showed that there were about 96 acres of buildable residential land in the city with an additional 79 acres in the Urban Growth Boundary in the Brookman Area. She continued that within the city 14 acres are zoned Medium Density Residential Low with the bulk of the other land available located in the Brookman Area which has 52 acres of land available for Medium Density Residential Low. Ms. Randall cited that the applicant had discussed in the project narrative, and staff agreed, that Sherwood had a need for a guaranteed land supply for residential uses which meant it could be developed in a timely, reasonable manner. She said the City's ability to annex available land in the Urban Growth Boundary has proven difficult in recent years, as evidenced by the three failed annexation attempts in the Brookman Area, and it was a concern to the City in the ability to meet the need for residential development. Ms. Randall reported that both the Housing Needs Analysis and the applicant's analysis concluded that the city will likely deplete the available residential land supply within the next five years. She noted the table in her presentation was out of date because of developments under way on Cedar Brook Way and Edy Road and an additional fourteen acres of Medium Density Residential Low on the parent parcel of this land use application was planned for development, further

depleting area's available land for residential Medium Density Residential Low uses. Staff believed there was a demonstrated need.

Ms. Randall said the third required finding was that the proposed amendment be timely and considered the development pattern in the area, changes in the neighborhood or community and the availability of utilities and services. She recounted that the two most recently completed residential developments in the city were immediately adjacent to the subject site; Daybreak Estates to the south and Renaissance at Rychlick Farms to the east. The city engineer has reported that existing water, sewer, and storm water facilities are available to serve the site and were planned to be extended to the site at the time of development in all three of the City's master plans.

Ms. Randall pointed out that there had been changes in the neighborhood and community to the adopted plan for Area 59 which called for a mixed use commercial and residential development on the subject site. She said the site was to have two points of access to Elwert Road with the southernmost access crossing the Chicken Creek tributary and connecting development to the surrounding neighborhood. The plan intended the Neighborhood Commercial to have commercial on the bottom floor, residential on top, with connectivity to the surrounding neighborhood so they could get their daily goods and services met at the site. However, crossing the Chicken Creek tributary has been found to be expensive financially and environmentally. Ms. Randall explained that the TSP identified the proposed crossing and associated environmental mitigation to cost more than \$2 million for approximately 700 feet of roadway. That has been determined to be excessive and would mostly fall on the city to pay for as you could not expect development to pay the cost to make the connection. Ms. Randall further explained that during the development of the Daybreak Subdivision south of the subject property, it was determined to move the connection between Elwert Road and Copper Terrace further south. The relocated connection did not have any connectivity to the Neighborhood Commercial site, leaving the site isolated and separated from the adjacent residential neighborhoods it would be intended to serve.

Chair Simson asked for clarification of where access to the remaining twenty one acres was. Ms. Randall replied that access to the residential neighborhood could be provided off of Copper Terrace, the proposed area would be accessed from Elwert Road.

Commissioner Pearson asked if Chicken Creek was a flood prone area. Ms. Randall responded that there are floodplains associated with the creek and the need for and width of the buffer would be determined with Clean Water Services. Staff did anticipate preservation and protection of the creek at the time of the concept plan. She commented that if you look at how Sherwood has developed over time, the City has consistently planned for and protected the natural areas and waterways nesting development to fit.

Ms. Randall said the fourth required finding was that other properties zoned Medium Density Residential Low were unavailable or unsuitable for immediate development considering the size, location and other factors. She noted the biggest factor for Sherwood was that there was not a lot of other property zoned Medium Density Residential Low in the City of Sherwood. Land was available in our Urban Growth Boundary, but has had challenges being brought into the City with a guarantee that it will be developed in the near future. For that reason staff believes this required finding has been met.

Ms. Randall stated the fifth required finding was related to the Transportation Planning Rule which requires consistency and findings that the proposed amendment will not negatively impact the functional classification of any of the local, county, regional or state transportation facilities. In looking

at the anticipated peak hour weekday trips generated from new neighborhood commercial (the allowed use) versus the proposed Medium Density Residential Low development trips, there would be a net reduction of 1,860 trips generated based on the proposed amendment.

In answer to a question from Chair Simson, Ms. Randall identified that the traffic analysis provided by the applicant's narrative used the likely types of businesses that could be developed on the site as a neighborhood commercial site. She said the Neighborhood Commercial zoning limited the types and sizes of uses that could be developed with a maximum of four. Ms. Randall explained that the analysis used their best guess on the four most impactful businesses that could be developed at the site.

Returning to the Comprehensive Plan criteria, Ms. Randall explained that Chapter 2, Planning Process outlined the process evaluating proposed amendments, which we are discussing. Chapter 3, Growth Management sought to ensure that the city grew in a manner that respected established growth limits, desired population densities, land capacity, environmental quality and livability; all those things that we talk about that make a good community. She described that the Chapter 4, Land Use goals aimed to accommodate a variety of housing types while preserving the integrity of the community and that the Chapter 6, Transportation goals called for connectivity between land uses. Lastly, Ms. Randall explained that Chapter 8, the Urban Growth Boundary section, summarized the adopted Area 59 Plan, because the Comprehensive Plan pre-dated the inclusion of the area.

Ms. Randall showed a map of the subject property with a circle around it representing a quarter mile. She said the exhibit solidified things in her mind during her review. She disclosed that she found the application to be challenging as her personal bias was that she lived in the area and was frustrated by the lack of easily accessible commercial in the area that could be walked to. She indicated her initial gut reaction was not to get rid of the commercial potential, because it was needed. Ms. Randall explained that as part of her review she took a look at growth and developing livable neighborhoods as discussed in the Comprehensive Plan where quarter mile neighborhoods are typically planned for, because the quarter mile was the established distance most people could and are willing to walk to within a fifteen minute period. She said most of the quarter mile neighborhood was undeveloped county land, which was not under the City's control to develop, limiting the neighborhood area that the property can serve. Ms. Randall set forward that the other contributing factor was the open space area and the bisection of the parcel by the chicken creek tributary. She questioned if the concept plan would have seen this as the best place for neighborhood commercial if the city had known there would not be a tributary crossing. Unfortunately, from staff's perspective, absent that crossing, Neighborhood Commercial was not the best zoning. She said it would be an isolated parcel oriented towards Elwert Road and at about 130 feet deep it would become a long strip commercial site. Ms. Randall commented that type of development was not the intent of the Neighborhood Commercial nor the right place for Neighborhood Commercial in the community and said staff thought it met the general plan policies and the TSP because of the eliminated connectivity.

Ms. Randall noted that Metro and State standards were discussed in detail in the staff report. She wanted to highlight Goal 9: Economic Development which needed to find that the proposed amendment did not negatively impact the City's ability to provide economic development opportunities as identified in the adopted Economic Opportunities Analysis. Ms. Randall said the Economic Opportunities Analysis was part of the City's Economic Development Strategy adopted in 2007. She pointed out that Area 59 was not considered as part of the Economic Development Strategy because it wasn't planned for yet. The concept plan was adopted later in the same year. She explained that the Analysis focused on commercial and industrial lands, the ability to provide jobs and to attract and retain

businesses and that the Neighborhood Commercial zone as a category was not identified or discussed in the strategy. The purpose and intent of the Neighborhood Commercial zone was to be small. Ms. Randall added that the Code limits developments to one acre in size, so per the code, this three acre parcel would have to parcel out and do separate developments. The Code limits the size of the businesses to one acre, the types of businesses, operational hours, and characteristics to make sure that what does go in Neighborhood Commercial was compatible with the residential neighborhood. She said Neighborhood Commercial was seen as a zone that supported residential development as opposed to contributing economically and that it was not intended to create jobs or to draw industry into the City; historically, Neighborhood Commercial was very underutilized in Sherwood with only 1.03 acres of land developed in the Neighborhood Commercial zone. Ms. Randall disclosed that the only other land designated as Neighborhood Commercial was this three acre parcel that has been vacant since it was brought into the city. She said about two acres in the Brookman Area were designated Neighborhood Commercial.

Ms. Randall said the commercial land supply in the Economic Opportunities Analysis determined that the city needed one parcel between one and four acres in size for commercial development. At the time the existing supply was eleven parcels that fit the description. She said removing one of the parcels was not going to be a detriment to the city's ability to provide jobs and services as identified in the Economic Opportunities Analysis. Ms. Randall stated that for all those reasons staff believed the proposed change met Goal 9. Ms. Randall added that she spoke extensively with the DLCD representative and they had acknowledged that it was challenging to do a review based on the old analysis. Ms. Randall revealed that city staff was in the process of applying for funding to update the Economic Opportunities Analysis.

Based on the findings discussed during the presentation and in the staff report, staff recommended that the Planning Commission forward a recommendation of approval of PA 15-04 to the City Council.

Chair Simson asked if any commission members had questions. Receiving none, she asked for applicant testimony.

Mimi Doukas, AKS Engineering, representing the applicant, Venture Properties, came forward. Ms. Doukas commented that staff's presentation represented a good outline for how the materials met the criteria for the application. She said the property was part of the Area 59 Concept Plan and brought into the Urban Growth Boundary primarily to allow the city to accommodate two new schools, which had been built. Ms. Doukas stated the concept planning worked hard to make the schools the top priority and the remaining land was defined by the community as a residential community with detached homes and included a small portion of mixed use commercial within it. She said the best zone for the commercial property was Neighborhood Commercial and it was understandable why the community would want to have a component like that; it leads to a walkable neighborhood and it's nice to have services nearby. Ms. Doukas said the designation was placed on the property in 2007 and the land has been sitting since. She said the land that has been designated Neighborhood Commercial, unfortunately, isn't functional for Neighborhood Commercial, and as pointed out by staff, it was not accessible to the community, fairly isolated in geography by being located at the far northwest corner of the city with community on only two sides, and separated by the Chicken Creek tributary.

Ms. Doukas commented that from a citywide prospective the city had an adequate supply of retail and a shortage of residential lands; there were two components to that. She said the city had a demonstrated need for residential land that had been exacerbated by the recent (Brookman annexation) vote. Ms. Doukas acknowledged Council's comment about remaining a small community and said there were two

sides to that equation. The other side was a demonstrated lack of need for the property to be Neighborhood Commercial, both in the location and functionality, but also in total quantity. Ms. Doukas expressed that Neighborhood Commercial was a special use that had specific locational factors, it was supposed to be small in scale, and have a small service area. She asserted that the site did not have those things; it was oversized for what it was described as, the location was awkward, the depth was awkward, access was awkward and it would end up as a strip commercial. Ms. Doukas stated the reason why the zone change was before the Commission was that the total site of the Mandel property was ready to move forward with development. Venture Properties wanted to move forward with a residential community for the remainder of the property and it was the right time to plan out the entire site to ensure it functions in totality and you don't end up with a remnant piece that sits for years into the future waiting for something else to happen. Ms. Doukas commented that perhaps with a future Urban Growth Boundary expansion in the Sherwood West Concept Plan Area there would be more community adjacent and it could be part of a bigger vision, but if the property was not rezoned at this point, then it may end up as an awkward piece that was left for a long time into the future. Ms. Doukas expressed appreciation for staff's presentation and said she had Kelly Ritz, president of Venture Properties and Bill Reid with PNW Economic available to answer questions.

Chair Simson asked for any questions from the Planning Commission. None were received. Chair Simson stated the applicant had 25 minutes remaining for rebuttal and asked for public testimony.

R. Claus, Sherwood resident, asked for and received confirmation that the City Council public hearing would be de novo. He requested to keep the record open for two weeks because he heard some things that he was confused about.

Mr. Claus said there were MSTIF funds on the site and he wanted to know how the MSTIF would be used going from commercial MSTIF funds to a residential site. He commented that it happened on Langer's property with lots of money available, but there was not any money for the rest of us. Mr. Claus commented that under 16.8.30.30b3 the city had to look at the pattern and asserted that there was no pattern in Sherwood. He cited Home depot as light industrial that was not to be retail commercial and the center across the street that was not supposed to be there, but was. Mr. Claus commented that the then city manager made the decision that the use was a lumber yard and Wendy's was not fast food. He spoke of a butcher shop that would bring things in from Carlton and said it was political decision and we all know that. Mr. Claus said the specific plan was changed and commented on \$10 million for Meinecke because the state knew they had come in and ruined the specific plan and bought us off with \$10 million which proceeded to put land into play that was supposed to be the prime retail commercial with a road running through it and conditions that would not allow development. Mr. Claus said that Langer and Mayor Hitchcock came back the latter owning forty two acres of Light Industrial that became residential which was matched by Sunset.

Mr. Claus said he was trying to tell the Commission of the political decisions. He said they were not the staffs' problem because they were not here when it happened. Mr. Claus stated that Bormet said he made enough money after Home Depot he did not need to worry. He commented he did not see a vacancy factor, although rents were going down for retail commercial, nor had he seen a number of things like absorption rates, yet staff was stating it complied with economic goals through the economic development director. Mr. Claus stated he did not believe it, he had more faith in the numbers. He commented that vacancy rates had come up, but they were not mentioned.

Mr. Claus commented on traffic and asked if the Commission knew how much money was being spent on Kruger, Edy and Sunset in order to turn that into the spoke it was supposed to be before Hitchcock needed residential zoning in his industrial area. He repeated that the specific plan was destroyed.

Mr. Claus said more and more of these kinds of decisions would come before the Commission, because the roads had effectively destroyed the zoning and there cannot be zoning without the infrastructure. He commented about Sunset Blvd being two lanes, instead of four, not allowing truck traffic on it, and leaving Light Industrial zone would fool nobody but yourself. Mr. Claus indicated he did not really care what happened out there, but wanted a history that these decisions are political and are not made on land use principles, but apparently this one was. He said what was disturbing about this action was it was more zoning on the fly, he commented on the MSTIF money out there; at least the county implied there was MSTIF money. Mr. Claus commented about rezoning it to residential, said it was as bad as Langer from Light Industrial and that he hoped that somebody listened that this was just the beginning of these. He commented that because the zoning was changed the infrastructure was changed. Mr. Claus asked again that the record be kept open so he could make that comment and then when we go de novo at the Council he really wanted to hit on it.

Tony Bevel, Sherwood resident, commented he thought the traffic problems needed to be addressed first, in the whole area there. He said he traveled Edy Road quite often and there had been a fatality when someone was crossing on Elwert Road. Mr. Bevel admonished to get the traffic problems right before starting development.

Chair Simson noted the request to keep the record open and asked staff for counsel. Staff responded that the code required a request must be granted for at least seven days during the first evidentiary hearing and to a *date certain*. Staff gave the commission options to consider. Discussion followed.

Commissioner Pearson commented on possible quorum issues and was reminded that absent Planning Commissioners could watch the recording.

Chair Simson noted that the action was legislative, was not subject to the 120 day rule, and acknowledged a full schedule at future meetings. The preferred option by present commission members was to keep the record open for seven days to accept written testimony, allow seven days for the public response, and allow the applicant to respond at the public hearing.

Brad Kilby explained that the public could respond to written comments at the hearing and the record could be kept open until November 17 at 5 pm.

After confirming the availability of Planning Commission members and the applicant, the following motion was received.

Motion: From Vice Chair Russell Griffin to keep the record open to accept written testimony for the next seven days and continue the hearing to a date certain of November 24, 2015 at 7 pm. Seconded by Commissioner Pearson. All present Planning Commissioners voted in favor (Commissioners Flores and Myer were absent).

Commissioner Rettig returned to the dais.

7. Planning Commissioner Announcements

Chair Simson reminded the commissioners and audience of the November 19th meeting for the Sherwood West Preliminary Concept Plan Community Advisory Committee.

Commissioner Pearson commented on the Disaster Preparedness Town Hall presented at the Police Station on November 9th and encouraged everyone to prepare for the next earthquake event. Commissioner Pearson suggested emergency preparedness be an agenda item for homeowner associations in Sherwood and advised that citizens may need to live on their own from two weeks to two years after a disaster.

Vice Chair Griffin announced the fall high school play, Our Town, which would be showing November 19-21.

8. Adjourn

Chair Simson adjourned the meeting at 8:13 pm.

Submitted by:

Kirsten Allen

Kirsten Allen, Planning Department Program Coordinator

Approval Date:

Dec 8, 2015