

**PLANNING COMMISSION MEETING MINUTES**  
**FOREST GROVE COMMUNITY AUDITORIUM**  
**August 2, 2004 – 7:00 P.M. Page 1 of 5**

1. **CALL TO ORDER:** Chair Tom Beck called the meeting to order at 7:00 pm.  
**Planning Commission Present:** Tom Beck, Al Miller, Elena Uhing, Victoria Lowe and Luann Arnott. Lisa Nakajima and Aaron Frye were not present.  
**Staff Present:** Jon Holan, Community Development Director and Adam Trimble, Permit Coordinator.
2. **PUBLIC MEETING:** Chairman Tom Beck began the meeting with formal reading of procedures. Mr. Holan was introduced to give the staff report and recommendation on the **variance # VAR 04-03**. Mr. Holan gave the staff report on the request, explaining the proposed variance to allow individual driveway access for a multi-family development. Mr. Holan discussed the impact of a planned development, Chantal Hamlets, located across 21<sup>st</sup> Avenue from the subject site. The access for this project would impact the site where the variance in question is located. He noted that increased traffic coming from Chantal Hamlet would conflict with this request to allow the driveways.

Mr. Holan gave the staff report on the variance for the Commission, staff found that there are alternative design options that would not require a variance for direct driveway access on to 21<sup>st</sup> Avenue. Staff found that alternative uses would make it unnecessary to have direct access, which would eliminate the need for a variance. It is also possible to develop the site in a manner that would not require a variance, by reorienting the condominium units so that there would be no need for direct access on to 21<sup>st</sup> Avenue. Mr. Holan noted that this would eliminate the open-space that is included in the proposed development plans. Mr. Holan also mentioned that the overall design could be revised as part of a Planned Residential Development (PRD), which would relax certain requirements to achieve the residential development. [Refers to exhibit D].

Mr. Holan returned to the zoning approval criteria for granting a variance. Criteria 1. Are there exceptional or extraordinary circumstances that apply to the applicant's property, that do not apply to neighboring or nearby properties, resulting from causes that are out of the applicant's control? Staff found that the parcel is zoned CC and can be used for a variety of commercial and residential uses. The site is flat and rectilinear without any unique development constraints due to topography or configuration of the parcel. It would be possible to develop the site in compliance with all standards and specifications in the zoning ordinance. The applicant has not demonstrated that the site cannot be developed within the zoning criteria. Thus, it is staff's position that this criterion has not been met.

Mr. Holan continued with Criteria 2, which is that the applicant faces or is now suffering a serious hardship which would be alleviated by the grant of the requested variance. Staff found that the applicant has not demonstrated that the hardship is the result of the physical characteristics of the site, or the standards of the zoning ordinance. This criteria has also not been met.

## **PLANNING COMMISSION MEETING MINUTES**

### **FOREST GROVE COMMUNITY AUDITORIUM**

**August 2, 2004 – 7:00 P.M. Page 1 of 5**

Criteria 3 rules that the hardship is not self-imposed, and the variance is a minimum request and would alleviate the hardship. Staff found that the site could be developed with other uses including residential uses in compliance. A variance is not justified by an improved open-space layout. The hardship is self imposed since it is not the result of the physical characteristics of the site or the zoning ordinance criteria.

Mr. Holan then went on to Criteria 5. Mr. Holan stated that staff analysis found that the purpose of the zoning ordinance is to lessen congestion on the street and in general promote public health and safety, convenience and general welfare. Mr. Holan notes that cars backing out on the proposed driveways would cause potential conflicts with general traffic on 21<sup>st</sup> Avenue, as well as traffic from Chantal Hamlets' primary exit. This indicates that this criteria has not been met. Further, based on the evidence submitted, staff finds that the applicant has not demonstrated that extraordinary or unusual circumstances are present, or that a hardship exists, that would be alleviated with the requested variance. Development without a variance could be achieved with a different design or through a PRD.

Mr. Holan outlined the alternatives for the Commission. Consideration of the variance hinges on the hardship, whether it exists or does not exist, and the nature of the variance. Questions for the Commission are as follows. Are market constraints a legitimate basis for determining hardship? Or is it a constraint simply because this is a development type appropriate for the site? To what degree should further development options be considered? The applicant argues that the open space that is incorporated into the design requires a variance. Does this desired open space area qualify as a legitimate hardship? Finally, to what extent is the zoning ordinance purpose of relieving congestion and promoting public safety to be considered? Depending on the answer to these questions, the Planning Commission may approve the variance as submitted, continue deliberations to a date set or deny the request pursuant to staff findings. Mr. Holan concluded the staff report and affirmed that the staff recommendation is for the denial of the variance request.

Commissioner Elena Uhing asked for clarification on the staff report page 4, referring to the designation of condominiums as a multi-family use by Forest Grove code.

Mr. Holan explained that condominiums are a division of airspace where the property remains an undivided interest among all those who live in the development. There is not an individual parcel for each unit.

Chairman Tom Beck asked for other questions and moved on to the presentation by the applicant.

#### **APPLICANT:**

**Howard Sahnnow 7534 SW Joshua Place, Gaston OR**

Applicant began by clarifying that condominium owners do own the physical building in which they reside and that the airspace is owned by them as well.

**PLANNING COMMISSION MEETING MINUTES**  
**FOREST GROVE COMMUNITY AUDITORIUM**  
**August 2, 2004 – 7:00 P.M. Page 1 of 5**

Applicant made clear the reasons for his choice of condominium development, which is an approved use for the site, because it is a more residential type of use. Mr. Sahnaw emphasized that since people will be buying the units, they must be marketable and attractive as condominiums. [Referred to site map]. Applicant illustrated the point that on the south side of 21<sup>st</sup> Avenue there are far fewer driveways than on the north side. He also added that four houses with direct access driveways had existed on the site in the past, so there will not actually be any new driveways added to the street. Mr. Sahnaw introduced his architect.

**Dale Mitcheltree 1506 Cedar Street, Forest Grove OR 97116**

Representing TRR Construction Engineers, hired to design the preliminary site and master plan for the 24 unit condominium project. Mr. Mitcheltree clarified the number of units being discussed as 24 rather than 26, as may have been indicated in the staff report. Mr. Mitcheltree explained that due to the constraints of Mr. Sahnaw's property, the design had to accommodate the site requirements. He elaborated that the design was also made to look more residential so they would 'go' with the environment of the area. Mr. Mitcheltree outlined the plan for parking and accommodation for fire truck lanes. [Referred to exhibit D]. Mr. Mitcheltree noted that applicant Howard Sahnaw provided the existence of four direct access driveways onto 21<sup>st</sup> Avenue as a qualifying factor for the site plan. Mr. Mitcheltree explained that the condominium units are facing outward because the design incorporates an open space courtyard in the middle of the parcel that is vital to the design and focus of the project. The alternative design [exhibit D] 'desecrates' the site and prevents the 22 minimum number of units (due to density requirements) from being built. Mr. Mitcheltree gave details of the aesthetic and conceptual elements of the design, referring to illustrations which showed possible colors and facades that 'kind of go with this area of Forest Grove'. Off of 21<sup>st</sup> Avenue you see kind of "arts and crafts style garages that come off there." Because of all the little intricate things including set backs and saving two trees, the only way that this would work is to create a little green space, so that it would be attractive enough to sell. Mr. Mitcheltree took questions from the Commission.

Commission chair Tom Beck asked about rotating the units. Mr. Mitcheltree responded that one unit would probably be lost. Mr. Beck inquired further about the hardship criteria – the ability to sell the units at market price and asked for a response based on the criteria. Commissioner Uhing stated that to her knowledge, this commission has never granted a variance based on economic reasons. It has always been habitat, wildlife, gradation or some type of issue that made the land difficult to develop due to things that were out of the applicant's control.

Applicant, Howard Sahnaw, responded that this project does not really hinge on whether he gets 2 more units or not. If the livability of the center courtyard is destroyed, there is nothing he can sell. Other combinations create more impervious surface and create even more congestion problems for the parking lots. If condominiums are an approved use, this is the only plan that is sellable. The hardship

**PLANNING COMMISSION MEETING MINUTES**  
**FOREST GROVE COMMUNITY AUDITORIUM**  
**August 2, 2004 – 7:00 P.M. Page 1 of 5**

is really created by the configuration of that lot and trying to put something on it that is aesthetically pleasing. To sell something in Forest Grove you have to overcome a lot of obstacles, because Hillsboro has a lot more to offer. “As a developer, I have to overcome those problems or I cannot sell them.”

Chair Tom Beck asked for proponents in the audience and heard none. Chair Tom Beck asked for opponents:

**Mark Cunningham 2020 Filbert Street**

Mr. Cunningham stated that he was located in house E on the attached maps. He purchased his home from Howard in 1991, and he granted Howard Sahnaw a 25 foot easement for parking for the Elms Retirement Center. Mr. Cunningham stated that Mr. Sahnaw led him to believe that a new project would be a retirement center and that there would be a parking lot behind his house. “Looking at the plans, it shows the 25 foot easement directly into the bay windows of these units.” Mr. Cunningham asserted that his easement is for parking only. He also added that he is concerned about paying property taxes on the easement after the condominiums are built.

Tom Beck asked the applicant if he would like to respond or add anything further. Mr. Sahnaw stated that he was confused somewhat by the opponents concerns and points out that the 25 foot landscape buffer will remain with the project. Mr. Beck stated that neither concern has any bearing on this variance hearing, and declared the formal testimony period of the public hearing closed. Mr. Beck asked for the commissioners comments or thoughts.

Commissioner Elena Uhing felt that the commission needed to get at the basics of what is being reviewed, in this case the variance. For consistency it has always been on the applicant’s plate to prove the hardships. Hardships have always come to us as something that was out of the control of the applicant. Ms. Uhing stated that in her opinion, this does not appear to be out of the applicant’s control. This appears to be more of a profitability issue. Ms. Uhing stated that she believes this project needs to be reworked and considered through a PRD, and that it could possibly make the 22 minimum number of units.

Commissioner Luann Arnott echoed Ms. Uhing’s concerns about lack of physical, insurmountable obstacles and stated that marketability alone was not sufficient for this request. Commissioner Elena Uhing drew attention to the public safety issues. In the code it is very clear, 9.831 subsection 4, “in no case shall we allow for vehicles to back up onto a street”. This particular issue has not received much discussion and this is what we would be allowing to happen by granting this variance. Ms. Uhing stated that this variance request also does not meet the code.

Chair Tom Beck gave his comments regarding the applicant’s assertion that the driveways for the variance in question are identical to single family residential ones. Mr. Beck expressed his concern that while the driveways do service single units they

## **PLANNING COMMISSION MEETING MINUTES**

### **FOREST GROVE COMMUNITY AUDITORIUM**

**August 2, 2004 – 7:00 P.M. Page 1 of 5**

are extremely close to the new entrance to an 18 unit development. “So it is no longer the street that it used to be.” Mr. Beck addressed the one hardship that he heard the applicant express, the configuration of the lot. He granted that it is an oddly configured lot, but does not rise to the level of making an exception, given that there are a number of ways that it could be designed without compromising too much of the design. Mr. Beck also expressed reluctance to grant this variance based on market Considerations, but added that if it was an overwhelming market issue that was well demonstrated there could be grounds for approval. A general market consideration is not a hardship. Mr. Beck did not find that this project met the criteria for a variance.

Vice Chair Al Miller pointed out that the commission can grant variances, but only when there are circumstances that go along with the property to justify a variance.

Commissioner Elena Uhing made a motion to deny the variance # VAR 04-03.

Victoria Lowe seconded that motion.

The motion went to a vote and passed unanimously.

Chairman Tom Beck concluded the public hearing.

#### **Business Meeting**

Al Miller made a motion to approve four sets of minutes for March 1<sup>st</sup>, March 15<sup>th</sup>, May 17<sup>th</sup> and June 7<sup>th</sup>. Tom Beck asked that minor editing changes be made. Minutes were approved unanimously.

Tom Beck adjourned the meeting at 8:34 pm.

Respectfully submitted by Adam Trimble, Permit Coordinator