



City of Sherwood PLANNING COMMISSION

Stewart Senior/Community Center
855 N. Sherwood Boulevard

November 19, 2002

Regular Meeting -7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
(Congratulations to Commissioner Lee Weislogel as City Councilor-elect)
2. **Consent Agenda – October 1, 2002 PC Minutes**
3. **Agenda Review**
4. **Community Comments** *are limited to items NOT on the printed Agenda.*
5. **Public Hearings:** (Commissioners declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the procedure identified in Resolution 98-743, adopted June 9, 1998 (copies available on table):
 - A. **PUD 02-02 The Bluffs at Cedar Creek Planned Unit Development & Preliminary Plat:** a request by Venture Properties for Roy & Nancy Armour for a 24-lot single-family residential planned unit development on a 10.77 acre site with lots sizes ranging from 5,000 square feet to 6,900 square feet. The western portion of the site is zoned Low Density Residential (LDR) and the eastern portion is zoned High Density Residential (HDR). The site is located at 17476 SW Edy Rd, further described as Tax Lot 3600, Map 2S 1 30DB.
(Keith Jones, Senior Planner)
6. **New Business**
 - A. **Report from Council Liaison**
7. **Adjourn**

**ITEMS NOT COMPLETED BY 11:00 PM WILL BE CONTINUED
TO THE NEXT REGULARLY SCHEDULED MEETING**

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
November 19, 2002

1. Call to Order/Roll Call

Chair Adrian Emery called the Planning Commission meeting to order at 7:00 PM.

Commission Members present:

Patrick Allen
Adrian Emery
Kevin Henry
Jean Lafayette
Ken Shannon
Lee Weislogel
Bill Whiteman

Staff:

Dave Wechner, Planning Director
Keith Jones, Senior Planner
Roxanne Gibbons, Recording Secretary

2. Consent Agenda – October 1, 2002 PC Minutes

Chair Emery asked if there were any additions or corrections to the minutes. There were no changes to the minutes.

Patrick Allen moved the Planning Commission accept the October 1, 2002 Planning Commission meeting minutes as presented. Seconded by Lee Weislogel.

Vote for Passage of Motion: 6-Yes, 0-No, 1-Abstain (Emery)

3. Agenda Review

The Commission added the following items to the Agenda under New Business:

- Review topics for discussion at the December 4, 2002 joint meeting scheduled with the City Council, Planning Commission and other City Boards.
- Report from Dave Wechner on status of Metro Urban Growth Boundary Expansion.

4. Community Comments

There were no community comments.

5. Public Hearings

Patrick Allen read the hearings disclosure statement and asked that Commission members reveal any conflicts of interest, ex-parte contact or bias.

There were no Commissioner disclosures.

Chair Emery recessed the meeting at 7:05 PM for a 10-minute break to allow the Commissioners to review the new material placed on the table. The meeting reconvened at 7:15 PM

5A. PUD 02-02 Bluffs at Cedar Creek Planned Unit Development and Preliminary Plat
Chair Emery opened the public hearing on PUD 02-02 and called for the Staff Report.

Dave Wechner noted that the following two memos were submitted to the Planning Commission tonight and will be made part of the record:

- November 19, 2002 memo from Jerry Offer, OTAK, Inc, representing the applicant. The memo contained an arborist report from Walter Knapp dated November 18, 2002. The report recommended seven (7) additional trees be removed from the site. The memo also discussed two alternative sites for storm sewer installation that would limit the removal or damage to existing trees on the site.
- November 19, 2002 memo from Mr. Wechner regarding the geotechnical engineer's report that was submitted on May 7, 2002 as a part of the packet. The memo referenced some issues that were not fully addressed in the report. Staff recommends the relevant condition be rewritten. The City Engineer is in agreement with this revised condition. This language will be read into the record.

Keith Jones referred the Commission to the Staff Report dated November 12, 2002, a complete copy of which is contained in the City Planning file for PUD 02-02. He noted:

- The site is located south of Edy Road and east of the Miller's Landing Subdivision. Cedar Creek traverses the site and there is a small tributary creek that enters at the south end of the site.
- There is a single family house on the north end of the site that fronts Edy Road. The site also contains an existing outbuilding that will be removed.
- The applicant is proposing to develop 23 new single-family lots. These lots will be accessed by both Wapato Street and Roellich Avenue from the Miller's Landing Subdivision. The existing single-family home will be sited on the 24th lot fronting Edy Road. This lot will be reserved for future development.
- The application is being processed as a planned unit development, Type IV review. The applicant is preserving about 6 acres of wetlands and floodplain on the site as open space. This tract will be dedicated to the City.
- The site has two zoning designations – Low Density Residential (LDR) and High Density Residential (HDR). The majority of the site is zoned LDR.
- The notice for this proposal was posted on-site, published in The Times newspapers, posted at various locations within the City and mailed to adjacent property owners within 100-feet. The list of property owners is contained in the City File for this project.
- The Planning Commission will be making a recommendation to the City Council for a final decision.
- The applicant originally proposed to put in a storm filter system. This is a smaller facility that is serviced regularly as opposed to a "swale" that would allow the water to be filtered through plants and grass before going into Cedar Creek. The geo-tech report states that part of this site contains land that was historically a landslide area. City Staff was concerned about sending water into this area. The City Staff would like the stormwater facility to be reviewed by a geotechnical engineer and the City Engineer.

- The Staff-recommended conditions of approval begin on page 16 of the Staff Report. He reviewed changes to the proposed conditions as follows:
 - Page 17, Condition B1, “Trees to be retained as shown on the tree plan prepared by Otak, Inc dated September 9, 2002 and amended by Walter H. Knapp in his letter dated November 18, 2002, and shall be fenced around the dripline.”
 - Page 18, Condition C2f, “A geotechnical report from a qualified engineer must be submitted approving site grading utility plans, the preliminary stormwater plans, and the final setbacks proposed. As the location of grading, structures, and stormwater facilities is critical to the success of the mitigation measures, the top of the slope and proposed setbacks must be surveyed and reviewed as a part of this geo-technical report. The recommendations of the geotechnical engineer must be incorporated into engineering and grading plans and structural foundation plans unless otherwise directed by the City Engineer.”
- In response to Mr. Allen’s question regarding variations to the street standards, Mr. Jones referred the Commission to page 11 of the Staff Report, Item A under findings. It reads, in part, the street will be 22 feet wide for about 120-feet, the remaining street would be 32 feet wide to allow parking on both sides of the street. Adjustments to standards are allowed through the PUD process. Staff requested the 32-foot width to allow parking on both sides of the street. The City standard is 28 feet, but the Fire District requires parking on one side if the street is 28 feet wide. Narrowing of the street will have a traffic calming effect.
- In response to Ms. Lafayette’s question regarding the arborist report, Mr. Jones noted that he and the City Natural Resources Specialist, Ken Huffer, looked at the trees on the site and requested an additional arborist report. This report is reflective of what trees will remain on the site. When the grading plans are submitted, the driplines of the trees will be delineated. Some of the trees will be in the right-of-way.
- Mr. Wechner noted that the City’s degree of liability would be no more than with any other trees on City property. Ken Huffer would monitor the status of the trees during construction of this subdivision.

Chair Emery asked if the applicant wished to provide testimony.

Jerry Offer and Mike Peebles, Otak, Inc, representing the applicant, 17355 SW Boones Ferry Road, Lake Oswego, Oregon 97035, addressed the Commission. Mr. Offer noted:

- They are very pleased with the Staff recommendation and are in agreement with the recommended changes to the conditions. They have prepared a few other changes to the conditions of approval that Mr. Peebles will address.
- He referred the Commission to the map of the proposed subdivision. The property is 10.6 acres and they are proposing to dedicate 6.6 acres to the City as open space and greenway along Cedar Creek.
- There will be 23 new single-family lots. The smallest lot will be 5,200 square feet and the largest lot is about 7,500 square feet. The lot sizes are the similar to the project to the west and other developments in the area. The setbacks are also fairly similar to what has been requested in other developments. The substantial amount of open space helps justify the density and reduced setbacks through the PUD process. As a part of the PUD, they are requesting some modification to the street widths. The reduced street width will narrow an

area where some trees could be saved. The street would be improved with curbs, storm drainage and sidewalks on both sides. There would be no parking where the street has a reduced width. The street would transition to 28-feet in width through the curb, with parking on one side, to a 32-foot wide street with parking on both sides, and then transition back to a 28-foot wide street to Roellich Avenue.

- The existing house will remain on the lot adjacent to Edy Road. This lot has two driveway accesses to Edy Road. They accept Washington County's condition to close one of the driveways. They also accept the condition requiring the applicant to go through the access spacing modification process.
- They would request that the City modify the conditions of approval that have been recommended by Washington County and the City Engineer with regard to the street improvements along Edy Road. Mr. Peebles will address this issue.
- He distributed a one page document that identified the changes they would like to have made to the proposed conditions of approval.
- The first change has already been dealt with by Staff tonight regarding the arborist report. They would like to remove the reference to the "September 9, 2002" report and include the current report date of November 19, 2002.

Mike Peebles, Otak, Inc, addressed the Commission. He noted:

- Geo-Pacific, the project geotechnical engineer, provided an additional report that addresses geo-technical information dated July 1, 2002. They will provide this report to the City Staff and include it with the final construction documents. This report includes the additional information that was requested by condition as a result of their discussion with Clean Water Services (CWS). They agree with the condition as reworded by Staff tonight.
- They would like to move Condition G3, referencing no parking signs and hydrants, on page 19 of the Staff Report, to Section I, under "prior to building permit."
- On page 18 of the Staff Report, Item C2, a through d:
 - Remove Condition C2.b and C2.c.
 - Revise Condition C2.d, by removing the words "trees and street", to read, "Street lights shall be provided on Edy in accordance with City standards."
- Lot 24 has an existing single-family residence with two driveway access points onto Edy Road. Between the existing Edy Road and this property, there is an abrupt grade change with several large trees along the frontage of this property. At this point, the development of the interior of the site (23 lots) has no effect on Edy Road in terms of access. They would propose that the conditions for improvements to Edy Road be based on the redevelopment of Lot 24 as noted.
- Revise Condition C2.e, by removing the words "biofiltration swale" and insert "by a stormwater quality facility" meeting the requirements of Clean Water Services and adding, "and the City of Sherwood." One of the benefits of a storm filter unit is that it is underground. They would hard-pipe from this treatment facility down to the toe of the slope so that there is no water on the surface. Based on maintenance concerns, the City is proposing a bio-filtration swale. They will expand on this design and look at options for eliminating the stormwater filter.
- Condition C2.j refers to the pedestrian trail access point and that the proposed Tract B be used for a biofiltration swale. They would like to have some leeway in terms of where this

pedestrian access be located and would recommend removing the last sentence beginning with the word, "Proposed Tract B.....".

- They believe that the proposed changes to the conditions will make them more specific to their needs.

Chair Emery asked if Staff would like to respond to the applicant's requests.

Mr. Jones responded:

- Staff concurs with moving Condition G3 to Section I.
- With regard to improvements to Edy Road, the frontage improvements would need to be made at some time. Because this is a County facility, Staff recommends the improvements be made at the time of development as conditioned by Washington County in their letter dated September 19, 2002.
- Staff would recommend that the proposed revisions to Condition C2.e, include a reference, "...meeting the requirements of Clean Water Services and approved by the City Engineer."
- Revised Condition C2.j is acceptable as long as there is a pedestrian access point for the trail and that the trail width is approved by the City Engineer."

Patrick Allen said smaller lot development is imminently feasible and workable and can be desirable. However, design is a critical component to whether it works. In reviewing the application, he could not determine, in the absence of any statements about the architecture of the structures, how design was dealt with. Specifically, part of the review criteria in Section 2.202.02, page 7 of the Staff Report or page 12 and 13 of the application, make reference to the standards of the underlying zone and exceptions to the standards are warranted by design and amenities incorporated into the development plan.....and architectural treatments." He could not find where this application meets these standards. He asked for clarification from the applicant.

Mr. Offer said the application did not contain any information with regard to the architectural treatments. The plans do identify the footprints of the intended homes. Typically, they do not submit plans for the homes with a single-family development. This was not requested by Staff, but they do have plans in mind. Venture Properties will be building all of the homes. He introduced Wendy Hemmen, Venture Properties to respond to Mr. Allen.

Mr. Whiteman asked how the five lots that will be affected by the 22-foot street and additional parking. The building footprints seem to fill up the lots and the applicant has not submitted information regarding architectural features.

Wendy Hemmen, Venture Properties, 4230 SW Galewood Street, Suite 100, Lake Oswego, Oregon 97035, addressed the Commission. She noted:

- With regard to the homes they plan to build, most of the homes in Millers Landing are approximately 28 feet wide. The minimum width of the homes they plan to build will be 40 feet wide to 50 foot wide homes. This will allow for better street appeal.
- The homes will range from 2000 to 3500 square feet and have a varied architectural face depending on specific homebuyers needs. Venture Properties is a semi-custom home builder.

They allow the homebuyer to review the plans and make sure the plans fit within the local setbacks. The homebuyer can customize the plans to fit their specific needs.

- They can provide the Commission with some of the home styles that include a cottage elevation, craftsman-style elevation and Americana-style elevation. They have several different home plans and each of these have about four different faces.

Jean Lafayette asked if the interior road that cuts across the site from the existing home over a culvert to the back portion of the lot was going to be abandoned.

Mr. Peebles said the access road that crosses a series of two culverts in the wetland area to an outbuilding will be abandoned. He identified this road on the map. The building will be removed, but the road will be left “as is” per the request of Clean Water Services to eliminate any further disturbance to the wetlands. It may be possible to use the road as a part of the trail system.

In response to Ms. Lafayette’s question, Ms. Hemmen said their standard deck sizes are a 10 ft by 10 ft deck. They allow the homebuyers to expand the deck based on their needs. They agree to the 5-foot setback from the property line as recommended by Staff. The standard decks are shown on the plans. Homes on the rear sloping lots will have decks and the flatter home lots will have patios.

Ms. Lafayette recommended rewording Condition C2.e, to include “Runoff from public streets and other newly created impervious surfaces.....”

Chair Emery asked if there was any other proponent testimony. There being none, Chair Emery called for opponent testimony.

Thomas Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140 and Doug Bragg, 26455 SW Grahams Ferry Road, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus asked that record be left open for 14 days for written comments. He also asked that verbatim minutes be prepared.

Chair Emery said the Commission would make a decision on the record based on the 120-day deadline.

Mr. Whiteman asked if it was in order to ask for a verbatim transcript of the meeting.

Mr. Wechner noted that a copy of the audio tape of the meeting is available for a fee.

Mr. Claus referred the Commission to the map of the proposed subdivision. There are two lines to the south of the site. One has been identified as the property line and the second line to the north is an existing fence line. He noted:

- They will be filing a “quiet title claim” tomorrow with the Oregon Circuit Court as there is now a dispute as to the ownership of the property. The fence has been in existence for over 48 years.

- The application represents the first formal contestation of that claim and as such it must be litigated. Therefore, under ORS 92.075, “Declaration required to subdivide or partition property; contents” is controlling law in this case and it states in pertinent part, Subsection 2, if the declarant is not the fee owner of the property, the fee owner shall also execute the declaration for the purpose of consenting to the property being subdivided or partitioned.
- If you are the owner of the property and a partition is being requested, you have to consent to it.
- He said they are contending that they are the owner of a portion of the property that is currently under consideration for a subdivision request. State law requires the consent of the applicant and owner.
- Currently, the application before the Commission is at best to be put on hold indefinitely or at worst is totally void. This is an issue, however, to be sorted out between the Staff and applicant, not him.
- He has imminent confidence in the Staff and applicant and one way or another this boundary issue will get resolved. Thus, the Armours will be back before the Commission asking for some type of development approval.
- The second issue is access.
- Under the required findings, of Sherwood Development Code Section 7.201.03F, states, “Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.”
- The Staff Report states that 23 lots would take access through Millers Landing and the 24th lot would have access onto Edy Road. The only thing that is mentioned about adjoining property is Cedar Creek and associated wetland and floodplains makes extending a road to the south and east unfeasible.
- If they are successful in their title action, they will be the owner by Staff acquiescence some small amount of developable property. Therefore, under the required findings of fact, they need access to this portion of the property even though directly to the south as the Staff Report did note there is an environmentally constrained area.

Mr. Bragg placed an aerial photo of property to the south of this proposed subdivision on the board for the Commission. The map identified property the Claus’s own and the Armour property was not actually shown on the map.

Mr. Claus continued:

- The applicant bears the burden of proving access or possibly the Staff. Staff accepts the proposition that past the fence line there is developable property.
- He made reference to a letter dated October 8, 2002, from ODOT, they are considering the ramifications of condemnation of the 99W access of the southern property to the Armour’s property. Having as much frontage on 99W as they have, they would be precluded from having access.
- The Commissioners may have seen a road connection between the Meinecke intersection transportation plan. To-date there is no road system called for in the TSP that would service their property. The question remains, where will this portion of their property get access.
- With ODOT taking the 99W access and with no access called out for under the TSP the only other property to give access for this portion of the particular in the Armour development.

Mr. Allen asked if ODOT has taken the access.

Mr. Claus responded ODOT is apologizing for the fact that it has taken them so long to get an appraisal. Apparently, they fired their last appraiser and are still in the process of deciding the value of the easement. Their ultimate plan is, yes.

Mr. Allen asked if ODOT had taken access as of this date.

Mr. Claus responded no, then yes, as of today ODOT has taken the access. The question is what impact does that have on the property. This is what ODOT is still ascertaining.

Mr. Allen asked if ODOT had gone through the process of condemning the access.

Mr. Claus responded not formal condemnation. What ODOT takes now, and he does not fully understand the regulations, they don't give deeded accesses or ingresses any more. What they give or take is a controlled easement. It appears what they have taken along 99W and where they have put in an intersection is a controlled easement. He did not know if they have completed this process.

Mr. Wechner said he did not know much about the controlled access permit process Mr. Claus is referring to. He was not aware of the specific efforts on 99W to control, take or buy accesses. There is one residential access right now to a house that is shown on the aerial photo, the McFall property.

Mr. Claus said that is the subject of the letter from ODOT. They are appraising the impacts to the access and they have not completed this process.

Mr. Whiteman asked Mr. Claus to clarify when he is talking about access to the contested property between the barbed wire fence and identified property line and access to their property along 99W.

Mr. Claus said he is asking two separate questions. The Code is not phrased in such a manner as it makes a distinction between property that has an environmental constraint. It merely states how a finding must be made on how the adjoining property can be independently serviced.

Mr. Shannon said he is dealing with the same thing Mr. Claus referenced with regard to his driveway. ODOT is trying get accesses off of 99W and they are going to give the property owner a revocable permit. They are also saying the property owner has the right to use the access you have now until there is another way onto your property.

Mr. Claus said ODOT wanted to make an appointment with Mr. McFall, who has property that accesses 99W, for the purpose of having Mr. McFall sign some paperwork that states the access he has now does not have any value and ODOT would work out some type of accommodation at a later date. Mr. Claus did not have copies of the paperwork identifying what ODOT is giving in replacement.

Mr. Allen said it seems there are a couple of issues and those disputes are about facts.

Mr. Claus said the applicant has to prove that adjoining lands to be developed can either be accessed independently of their subdivision or they have to provide access to that contiguous property.

Mr. Allen said he did not have enough information in front of him, other than Mr. Claus's statements to determine the facts.

Mr. Claus said he agreed. In response to Ms. Lafayette's question, he said the disputed piece of property throws the application into a tizzy because you have an application where you have one owner that does not want a subdivision.

Mr. Whiteman asked how this becomes the Commission's problem. The Commission has an application that identifies the property lines. The Commission is not in the position to contest every property line that is put before them.

Mr. Claus responded they are filing a suit and after it is filed it becomes the Commission's problem because the Commission cannot approve the application.

Mr. Whiteman said if the Commission approved the application and the Claus's were successful in their property line dispute, it would set the Commission action aside.

Mr. Claus this was true.

Mr. Whiteman said then it is not the Commission's problem.

Mr. Claus said if the Commission took that position, he could find no action other than perhaps a 1983 action whereby Mr. Whiteman would be personally libel, given Mr. Claus has made his presentation and given him the lawsuit papers.

Mr. Whiteman asked for the lawsuit papers.

Mr. Claus said this is why he was asking that the written record be kept open for 14 days. If they can't, he will provide the papers tonight.

Mr. Allen said another way to resolve Mr. Claus's concerns would be a condition that requires establishment of clear ownership prior to recording the plat.

Mr. Claus said the problem is a large portion of the ground that is in dispute is subject to dedication to the City in which case it alters the character of the application and the building area of the lots.

Mr. Shannon asked if Mr. Claus had a way off of 99W into the property right now from the McFall property.

Mr. Claus said their property is adjacent to the McFall property, but they are not sure the access is legal. If this access is legal, then the applicant does not have to give them access.

Mr. Shannon stated that ODOT will not take away an existing access from 99W with no other way into it. They cannot land-lock a property. ODOT is very careful about not doing this.

Mr. Claus said ODOT can land-lock a property owner, it comes to how much they have to pay you to do this, because at that point it becomes a temporary moratorium on development.

Mr. Shannon said this would need to be resolved between the property owner and ODOT.

Mr. Wechner said the Commission decision would be a recommendation to the City Council. The City Council hearing is a de novo hearing, therefore, new evidence can be submitted at that hearing. The hearing is scheduled for the December 10, 2002, Council meeting. The Commission may want to leave the written record open to allow Mr. Claus time to submit the documentation that they have referred to tonight. He said the City would also need time for a legal review of the documents regarding the quiet title action.

Mr. Wechner read a part of the required findings for preliminary plat Section 7.201.03, Item F, "Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code." If the opponent's property to the south has existing access, then this property is probably not burdened with any obligation to provide any additional access. Right now, it sounds like the property is accessed from the McFall property. He is not sure of the division of these two properties. There are lot lines there and the history of the tax lot division needs to be known. They appear to be small enough that they should have gone through some land use approval or land division process before they were divided.

Mr. Wechner said the City has always established a policy that they would not create a road stub to a wetland buffer and slope of this grade. There is a physical issue that would need to be considered when discussing access. The policy of creating a road through a wetland buffer would also need to be considered. Mr. Claus has not identified where he wants to access to be from a physical location standpoint. If the City is going to require a stub, they need to evaluate the location of the stub access from the site.

Mr. Whiteman asked Mr. Claus how long this boundary line dispute has been an issue. He wanted to know why it was only now being brought up tonight.

Mr. Claus said Venture Properties was made aware of the boundary line dispute. This has been an on-going issue for six years since they put the Armours on notice. The Armours never took any action to contest this dispute. Venture Properties said they made Staff aware of this issue. It is his understanding that Staff position has been what they said tonight that they don't give roads through wetland buffers and it is an inappropriate place to put a road.

Mr. Whiteman said he had the feeling that Mr. Claus was suggesting that if he did not act the way he thought he should that Mr. Whiteman may be personally libel for something down the

road. He took offense at this and the fact that they have not been able to resolve this issue for six years. He agrees there is a situation that needs to be addressed.

Mr. Shannon said when the D.R. Horton application for Miller's Landing was reviewed by the Commission, this property line dispute was brought into the record. He did not know why it had not been resolved.

Mr. Claus said Mr. Whiteman had been a little bit insulting. They have been in negotiations. He said he did not threaten the Commission with personal liability.

Chair Emery asked if there was any other opponent testimony. There being none, Chair Emery asked if the applicant wished to provide rebuttal testimony.

Mike Peebles, Otak, Inc, addressed the Commission. He noted:

- Regarding the testimony about ownership of the property, their application submittal includes a preliminary subdivision report that identifies the owners of the property as the Armours.
- Otak's professional surveying staff has reviewed the proposed boundaries. The surveyor assigned to the project has resolved the boundary, but has not filed a boundary survey yet with the County. His resolution of the boundary agrees with the proposed boundary shown on the plans (the solid property line).

Mr. Whiteman asked if there was still a conflict, would it have some potential litigation.

Mr. Peebles said the Otak surveyor has resolved the boundaries.

Mr. Allen said based on what has been submitted in regard to design standards, he would vote that the application does not meet these standards. He asked if the applicant would be willing to toll the 120-day deadline to allow time to submit this information.

Ms. Hemmen said they could provide the information this week and it would not be necessary to extend the 120-day deadline. The materials would be available prior to the December 3, 2002 meeting.

Mr. Wechner said a condition could be included that states the development would be in substantial compliance with the proposed design elements of the homes subject to review by the Planning Director.

Chair Emery closed the public hearing on PUD 02-02 The Bluffs at Cedar Creek Planned Unit Development and Preliminary Plat.

Patrick Allen moved PUD 02-02 The Bluffs at Cedar Creek Planned Unit Development and Preliminary Plat be continued to the December 3, 2002 Regular Commission meeting for the purpose of receiving from the applicant proposed design standards for the homes to be built. The written record will remain open until 5:00 PM, December 2, 2002.

Vote for Passage of Motion: 7-Yes, 0-No, 0-Abstain

Mr. Whiteman clarified that the public hearing may be re-opened by motion at the December 3, 2002 meeting, if the Commission determines it is necessary to hear additional testimony.

Chair Emery recessed the meeting at 8:45 PM and reconvened the meeting at 9:00 PM.

Mr. Whiteman said he was concerned about developers downsizing lots while upsizing buildings to go on these lots. He did not know if this was for the good of the community, but knows that the market is driving these types of developments.

Mr. Wechner said it is not unusual for jurisdictions to adopt lot coverage minimums or maximums. These could be in the form of lot coverage or square footage minimum or maximum. This is a design package where design standards could be used such as lot coverage. Going beyond that for single-family residential, he would suggest using design “guidelines” and not “standards”.

Mr. Allen said it is not how much you put on the lot, it is what you put on the lot. Any time the Commission can ask to see what is going to be built would allow them to incorporate that into the criteria on how this impacts the surrounding area.

Chair Emery recommended the Commission add design guidelines to their work program, if it is not already on the list.

Mr. Allen noted that other than the design issue for this application, he would recommend Staff provide the Commission with a copy of the revised conditions for the December 3, 2002 meeting. The Commission concurred.

Chair Emery said two additional points would be a homeowner’s association, CC&R’s and the water quality feature. Mr. Wechner said the City Engineer has recommended that the stormwater facilities be maintained by City crews. Generally, City crews have been maintaining these facilities.

Mr. Allen stated that as property ownership has been represented to the Commission by the applicant, there are no access issues. The Commission concurred.

Ms. Lafayette asked how the Staff was able to transfer the HDR calculations onto the LDR property. She asked if this was because the property has dual zones. She did not agree with taking units from the high density portion and transferring them to the low density residential portion of the site. She asked if this was setting a precedent or whether this has been common practice.

Mr. Jones said he took the net acreage of what was developable and determined the maximum density transfer for the whole development. He did not know if this issue had come up before.

Ms. Lafayette said the LDR portion of the site should be allowed to build based on the LDR acreage and the HDR portion should be allowed to build based on the HDR acreage. She reviewed her calculations. The 3 acres of LDR would be allowed less than 15 units. The HDR portion would be allowed 10 units. The Staff Report calculations allow the applicant to transfer their high density onto the low density property. The application does not identify how many units are planned for the HDR portion of the site when it is developed.

Mr. Jones noted that none of the lots can be less than 5,000 square feet. Single-family use is allowed in LDR and HDR. The Commission could include a condition that would identify the number of units that could be built on the HDR portion of the site. The Commission concurred that finding on page 9 of the Staff Report, under Development Standards (Section 2.202.05B) be amended to include the number of units on the HDR portion and a condition of approval.

The Commission asked Staff to prepare the revised conditions for their review at the December 3, 2002 meeting.

6. New Business

6A. Report from Council Liaison

Ms. Lafayette reported that the City Council approved the minor modification to the Langer PUD. These modifications include moving the road and placement of the large retail building. The applicant was directed to bring back a design for the large retail building that is closer in appearance to what the Planning Commission originally approved. This has been done.

Mr. Wechner reported that Newland Communities has filed an Alternate Writ of Mandamus in Washington County. They claim that 120-days have passed since they first submitted their engineering plans in preparation of the final plat. They were required to do a downstream analysis and it has not been done. The question for the Court is whether the submittal of engineering plans is subject to the 120-day deadline. They also submitted the final plat for Woodhaven Phase 9, which is a land use action, and this action is subject to the 120-day deadline. Because they did not submit the downstream analysis that was required to approve the final plat, City Staff denied the final plat. They appealed the denial of the final plat and this appeal is scheduled for public hearing at the December 10, 2002 Council meeting.

Mr. Henry noted that parking along Pinehurst Drive in Woodhaven, next to the Woodhaven Park, should be looked at because it is becoming more dangerous as children cross the street. Mr. Wechner said the next phase of the park will include 17 parking spaces.

6B. December 4, 2002 Joint Meeting with City Council, Planning Commission and other City Boards

The Planning Commission reviewed the list of potential discussion items that had been prepared by Ms. Lafayette for this meeting. The Agenda for this meeting allows 45-minutes for the Planning Commission.

Mr. Allen said he would like to clarify how the Commission and Council can discuss complicated or sensitive issues, whether this be in a work session prior to a Council meeting or other avenue. He would like confirmation from the Council on the Commission Work Program, which he thought the Council accepted.

The Commission discussed providing a copy of the Planning Commission meeting minutes to the Council. Mr. Whiteman suggested the Council receive a one page document that summarizes the actions of the Planning Commission from each meeting. The Commission agreed that this was a good idea. It was noted that the complete Planning Commission meeting minutes are being placed on the City of Sherwood web page.

The Commission agreed to reduce the number of items on the list. Two or three issues should be presented to the Council and the other items on the list will be dealt with in the future. The items for Council will include:

- Discuss providing a one-page summary report to the Council on Planning Commission actions.
- Reconfirm understanding about work sessions as the way to deal with complex or controversial issues between the Council and Commission. Maybe send one Commission member on a rotating basis to Council work sessions, as necessary.

Ms. Lafayette will prepare an updated list for discussion at the December 3, 2002 Commission meeting.

6C. Report on Metro Urban Growth Boundary Expansion

Mr. Wechner referred the Commission to map and identified the areas Metro Executive Officer Mike Burton is now considering to include in the Urban Growth Boundary. City Staff will be attending the Metro Council meeting on November 21, 2002 to make another presentation on the proposed expansion sites.

7. Adjourn

There being no further business to discuss, Chair Emery adjourned the regular meeting at 10:15 PM.

Respectfully submitted,

Planning Department