



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, May 18, 1999
7:00 PM**

A G E N D A

1. **Call to Order/Roll Call**
2. **Approval of Minutes - May 4, 1999**
3. **Agenda Review**
4. **Work Session to discuss the Land Use Application Review Process**
5. **Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the following procedure (Resolution 98-743, adopted June 9, 1998):
 - Staff Report--15 minutes
 - Applicant--30 minutes(to be split, at the discretion of the applicant, between presentation and rebuttal.)
 - Proponents—5 minutes each (applicants may not also speak as proponents.)
 - Opponents—5 minutes each
 - Rebuttal—Balance of applicant time (see above)
 - Close Public Hearing
 - Staff Final Comments—15 minutes
 - Questions of Staff/Discussion by Body—no limit
 - Decision (Note: Written comments are encouraged, and may be submitted prior to the hearing, at the hearing, or when the record is left open, after the hearing for a limited time. There is no limit to the length of written comment that may be submitted)
- A. **(Continued from May 4, 1999) PA 99-3 Hearings Officer Plan Text Amendment** to the Community Development Code, Part 3, amending Section 1.202.01 to include a definition for “Hearing Authority” and Zoning Code Chapter 3 to establish a Hearings Officer for the review of Type III decisions which include conditional uses, variances, major site plans (greater than 15,000 sf of building area) and major subdivisions (greater than 3 acres of land area).
- B. **SUB 99-3 Woodhaven Phase 8C Preliminary Plat** a request by Genstar for a 55-lot sf residential subdivision, lot sizes 5,000 sf to 9,603 sf in the Woodhaven PUD. Tax Lot 300, Map 2S 1 31.
6. **Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
7. **Other Business**
8. **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
May 18, 1999

1. Call to Order/Roll Call

Vice-Chair Angela Weeks called the meeting to order at 7:05 PM.

Commission Members present:

Adrian Emery
Sterling Fox
Keith Mays
Ken Shannon
Angela Weeks

Staff:

Greg Turner, City Planner
Jason Tuck, Associate Planner
Roxanne Gibbons, Secretary

Commission Members absent:

Bill Whiteman

2. Minutes of May 4, 1999

Vice-Chair Weeks asked if there were any additions or corrections to the minutes of May 4, 1999. There were none.

Sterling Fox moved the Planning Commission accept the May 4, 1999 minutes as presented. Seconded by Adrian Emery.

Vote for Passage of Motion: 4-Yes, 0-No, 1-Abstain (Mays)

3. Agenda Review

The Commission agreed to hear Agenda Item 5B SUB 99-3 Woodhaven Phase 8C Preliminary Plat prior to Agenda Item 5A and the work session.

4. Work Session to discuss the Land Use Application Review Process

This item is discussed later in the minutes.

5. Public Hearings

Vice-Chair Weeks read the hearings disclosure statement and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda. There were no Commissioner disclosures.

5A. PA 99-3 Hearings Officer Plan Text Amendment

This item is discussed later in the minutes.

5B. SUB 99-3 Woodhaven Phase 8C Preliminary Plat

Vice-Chair Weeks called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated May 18, 1999, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- The site is located south of Sunset Boulevard and west of the railroad tracks, identified as Tax Lot 300, Map 2S 1 31.
- Previously, the applicant requested an amendment to the Woodhaven PUD to increase the number of lots in Phase 8C. On November 17, 1998, the Planning Commission denied the request. A second public hearing before the City Council was scheduled for January 26, 1999. The applicant withdrew the request prior to the public hearing.
- Now the applicant is requesting a 55-lot single family subdivision with lot sizes ranging from 5,000 sf to 9,603 sf. This plan is largely as shown on the Modified Final Master Plan approved on March 26, 1997, with the exception of the two cul-de-sacs which were previously shown as a loop road.
- The site is approximately 12.92 acres. There is a wetland on the site, along the railroad tracks and this will be dedicated to the City. The site is zoned Low Density Residential (LDR) with a PUD overlay and the use of single-family residential lots is permitted outright in the LDR zone.
- The required findings for preliminary plat approval are contained in the Staff Report.
- The front yard setback will be 20 feet.
- The cul-de-sac length on Galewood did not meet Code requirements. The applicant has reduced this length to 594 feet and included some additional landscaping.
- He referenced the March 26, 1997 Woodhaven Conditions of Approval, Condition 1.I regarding the sound attenuation wall and/or berm along the rear of Lots 719 and 720. A condition has been added which states that the overall design of the wall and landscaping shall be subject to the approval of the City's Engineering and Planning Departments.

In conclusion, Staff recommends approval of SUB 99-3 Woodhaven Phase 8C Preliminary Plat with the conditions contained in the Staff Report.

Mr. Tuck identified the following additional information that was provided to the Commission:

- May 18, 1999 letter from Steel Tek Industries regarding their concerns about Woodhaven Phase 8C Preliminary Plat.
- May 18, 1999 letter from Derryck Dittman regarding the hearing for Phase 8C and the Final Order and Opinion from LUBA on Case No. 98-096 Woodhaven Phase 7A Preliminary Plat.

Vice-Chair Weeks asked what the consensus of the Commission was regarding continuing with the public hearing on SUB 99-3 Woodhaven Phase 8C Preliminary Plat. Within the next couple of weeks a revision to the Woodhaven PUD, in particular to Woodhaven Phase 7B, will be submitted for review. Greg Turner said the applicant would be bringing back an application to change the park location. This would be a major amendment to the PUD. Vice-Chair Weeks said one of the original conditions of the PUD is that the plats not be approved out of numerical order. The Commission is in a position to continue the public hearing tonight. They could place

a condition on Phase 8C which states approval of the revisions to Phase 7B must be resolved prior to proceeding; or continue the public hearing pending resolution of the park property location. The 120-day deadline is August 24, 1999 and this would probably not be a problem.

Mr. Turner said the park issue would come back before the Commission. Once this is resolved, then the final plat could be recorded and the Commission could hear Phase 8C. In response to Mr. Shannon's question, Mr. Turner said the probable location of the park would be at Pinehurst and Sunset. He identified the area on the map. Mr. Shannon questioned whether this needed to be final before the Commission proceeded. Vice-Chair Weeks again reviewed the options.

Mr. Turner thought the new location is pretty certain because there was discussion at the Council level regarding moving the location and because the School District is interested in property where the park is currently being proposed. The park has to be located north of Sunset Boulevard and this is the only option at this point. No one knows for certain until the PUD modification has gone through the process and is approved. Mr. Tuck identified both locations for the park on the map. Mr. Turner said the letter from Mr. Dittman states the Commission can either go ahead with the hearing tonight and impose a condition that this not be finalized until 7B or the park location is resolved, or the Commission could continue Phase 8C to the next meeting or a future meeting.

The Commission discussed the options. Mr. Shannon said the park issue should be totally cleared up and rectified. The condition of the PUD was to hear the plats in numerical order. Vice-Chair Weeks said there was an issue regarding this park property when the Commission heard Phase 7B. The Commission referred Phase 7B to the City Council without a recommendation. Mr. Turner said Phase 8A and Phase 8B were approved by the Commission. Now the Commission is hearing Phase 8C which isn't really tied to Phase 7B.

Mr. Mays asked Staff if they knew that the phases had to be heard in numerical order, and that Phase 7B was going to be resubmitted as a major change to the PUD, how could the Phase 8C preliminary plat be deemed complete. Mr. Turner said at the time Phase 8C was submitted, Staff was basing their decision off of what was done regarding Phases 8A and 8B. At that time, the Commission thought these phases were far enough away from the park that there would not be a problem.

Robert J. Claus asked for a point of information. He noted:

- What the Commission was hearing is not accurate. The statements in front of LUBA were falsified. LUBA was told the park was going in its present location and the road was going there and this Staff put it in a finding of fact when they knew it not to be true. In the next hearing, when LUBA found out this was a falsified finding of fact and neither Mr. Orchard or Mr. Dittman would dispute him, they passed Phase 7A conditional on nothing being passed until the park and road issues were resolved, with the assurance that the park was staying where it is when we all knew it was being sold. The Commission is not getting what happened at LUBA and the statement is not accurate.

- When LUBA asked if he was right that the park and road issues were not settled as they were supposed to be after Phase 6, both lawyers could not respond. This is when LUBA stopped it and said nothing will go forward after Phase 7A until these issues are solved. This is the reason Mr. Dittman wrote the May 18, 1999 letter.
- The Commission can condition it, but then they have a dilemma. If it is a major PUD amendment, there is a new public hearing. Would they put any conditions on Phase 8C such as the Tree Ordinance?
- This information was not in the Staff Report. If you look at the report, the Staff implies that the very conditions that were set at LUBA were not set at LUBA.

Vice-Chair Weeks said she had a difficult time making a decision on an assumption. She would rather see the issues resolved. There being no further discussion,

Adrian Emery moved the Planning Commission continue SUB 99-3 Woodhaven Phase 8C Preliminary Plat until the finalization of Phase 7B regarding the location of the park is resolved. Seconded by Keith Mays.

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

The Commission agreed to hear Community Comments next.

6. Community Comments

Susan Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. She noted the following:

- On May 19, 1999, a Washington County Hearings Officer will hear the proposal for the Sherwood Farms Project (the ballfields on the Stein property). She presented a copy of the County Report to the Commission. The City of Sherwood has made an application to the County to approve the ballfields in the AF 20 Zone. The May 19, 1999 report is recommending denial of the City's request for some very specific reasons. The meeting will be held at 2:30 PM in Washington County and this will be a public hearing. The County Report states Special Recreational Use (SRU) is absolutely not allowed in the AF 20 Zone.
- City Council Resolution 99-789 designates a different location for the park in the Woodhaven PUD. If the current park site were not to occur, the default was that it would be residential lots with a collector road going up to Meinecke. The School District is still interested in this property. She was concerned that the City and Commission track two conditions of approval in the March 26, 1997 Woodhaven PUD Amendment.
- One of the conditions is #2A7, "Thirty-foot dedication from centerline and half-street improvements to City standards along the PUD's Meinecke Road frontage."
- The second is condition #2A9, "The applicant shall fund a share of the cost of rebuilt approaches to, intersection improvements and signalization for Meinecke Road at Highway 99W....."
- These two conditions have not been amended since the March 26, 1997 PUD amendment and she wanted this noted for the record.

- The Planning Commission did not make a recommendation when they moved Woodhaven Phase 7B Preliminary Plat to the City Council.

She thanked the Commission for allowing her to provide comments.

Mr. Turner said Reed Rainey is the Staff contact for any issues relating to the Parks Board, the ballfields, or the City parks system.

Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He noted:

- When you don't follow the rules, i.e., you let some people get away with skating and other people don't, that is not permissible in Oregon. Across the board in Oregon, they insist on fair treatment. He is worried about several things in the City and the application tonight and the Stein "farm" ruling is another part of it. When he found out the City was going to try and take the Stein property, he talked to the Steins. Things were said such as, "We're going to have a bulldozer at your front yard within 2 weeks." If you said that to him, you had better have the cat running because if he could he would stop you cold. He called Washington County and went through the law. Amazingly, the planner from the County said he was right and that the County was not told the facts. The ruling from the County planner is pretty negative. He would contend this is a little bit of a hit back for what the City Staff did on projects like the theater. They tried to shove 16 screens down the throats of Washington County and ODOT. It didn't work and they appealed it. Now every time the City moves, the other agencies are looking at the law.
- He does not wish Genstar any bad luck. He stood in front of the LUBA referees and got thrown out of the first hearing because he refused to accept the finding of fact the City Staff had provided. At the second hearing, LUBA wanted to hear an answer to what he was saying and there wasn't an answer. The site had been sold and everybody knew it, but the findings of fact were falsified to move 8A and 8B. There was a clear condition saying that after Phase 7, you will not advance until the park and road issues are settled.
- The Commission needs to make sure they read the PUD Code. The park is a major change, it is a boundary change and a density change. It requires a major amendment to the PUD. Phase 8A and 8B were moved forward because they were misrepresented to a State agency that the park was coming out. You can't blame Genstar for that, you can blame the City Staff. Just like the park, sooner or later the people who own land in this town are going to pay for that kind of nonsense.
- If fact, if they were members of a professional organization and the Staff wrote that, you could ask for their membership to be taken away.

Mr. Emery said the Staff did not move the park, they were asked to find another spot for the park. He was at the meeting. Mr. Claus said this was not true. The park was moved because the School District said they wanted it and they went into negotiation and said we get it or we sue. In order to keep a park in there, the City sat down in negotiation with the School District and Genstar at the YMCA and said let us propose a way to keep the PUD somewhat in tact and meet its most elementary conditions. They proposed a park off of Sunset to replace the lost park. It

was a trading mechanism and it had been going on, knowingly, for over six months. Until he sued, nobody would talk about it in public. It was a back door deal. Mr. Emery said he understood people sitting down and trying to work through a problem rather than suing each other. Mr. Claus said there is a record. Mr. Emery said he felt Mr. Claus was implying that these people were purposely trying to break the law by trying to resolve an issue that was holding up Genstar, an issue that the School District had and an issue that the City had in trying to get a park. Mr. Claus said he is saying that exactly and the record supports his conclusion.

Mr. Claus said they went to LUBA when they knew full good and well an agreement had been cut with the School District to let them have that 7 acres. It was a cut and dried deal and under state law they had been in negotiation, had offered prices and they had followed the law to the letter. He discussed the condemnation process and the fact that the School District could not condemn without going through six months of procedure. All of this occurred in a back room, without coming to the Planning Commission and saying a negotiation was going on and that park is going to the School District one way or another.

Mr. Emery said they sat down as responsible parties and tried to work out something. He did not see this as devious or illegal. He did not believe there was any intent to do something that was so devious. Mr. Claus asked why the record was falsified. Mr. Emery said he did not know the record was falsified. Mr. Claus said you have a meeting with City Council people and say you are going to sell it and you come back to the Commission and say you are not going to sell it. If that is not devious, what is it? There is a District Court record, a LUBA hearing and whole series of newspaper articles. Mr. Emery said he planned to review the record.

Mr. Claus said his point is the Commission had a report in front of them tonight that he went to the City Attorney and said he had better tell the Commission about the LUBA findings because if he didn't and did not stop this, this was going right back up to LUBA. If the Commission looks at the Staff Report, it does not imply for a moment that there is a LUBA Order that none of this is to go forward until the park and road issues are settled. He told Mr. Dittman to get it stopped and this is why the memo was written to Mr. Turner. To take this one step further, when you go in and ask, on your next PUD and it moves forward, the Commission is going to get the same treatment that we just got on the parkland. You are going to have a State agency that does not look at this town as being straightforward and the citizens will lose. This is his whole point tonight. The next time you take a PUD forward where somebody fails to mention boundary changes, time changes, and density changes, somebody is going to pay in this town and it is always the citizens. This needs to be brought to a rapid halt and it should have been brought to a halt by the City Staff, not by a citizen going to the City Attorney.

Vice-Chair Weeks asked Mr. Claus if the report included with the May 18, 1999 letter from Mr. Dittman was the same report. Mr. Claus said there is some supplemental information. The Commission asked Staff to provide the second LUBA report to the Commission.

Mr. Claus said somebody tried to run over the Steins. The County turned very negative when they found out the facts about the Stein property proposal. The City may end up like Lake Oswego with their case going to the Supreme Court and where real money was lost because

somebody didn't follow the rules. It is not the Staff that is going to pay or the developer, it is the citizens. The City has been undercutting its credibility with State agencies and as a result, the ability to go to the next step. The Commission needs to look at the findings of fact. There is no discussion that if the park is gone this should not have gone forward without a major amendment. There was no discussion about two conditions by LUBA regarding the road and the park. Somebody wanted to push Phase 7A forward and the Staff followed his orders. We are all going to pay for that and it has got to be stopped. He spent a lot of his family's money trying to get that 7-acre park. If Phase 8C and Phase 7B would have been passed, they would not be talking about parks. He spent a lot of time and money in trying to keep a park for the kids in this town. He does not expect any thanks from anybody, but when he knows there is going to be further anger with State agencies and somebody twisting the non-conforming use law into non-conforming zoning law, it is time to slow down. The citizens are the ones who will lose. There was a way to get the soccer field, to paint by the numbers, and the City decided not to play by the rules. This is all systemic.

Mr. Claus said he went to a meet at USA today and they are talking about a huge bill because the City broke the law. Why would they have been that vindictive? Because the City was breaking the rules and the citizens pay for it. The place to start following the rules it with this PUD.

Dan Leonard, PO Box 1088, Sherwood, Oregon 97140, addressed the Commission. About six years ago he, his wife and other citizens were involved in stopping a soccer complex on Scholls-Sherwood Road. This is also a piece of large agricultural land. He said it is very disgusting that the City would try to go into agricultural land, outside the UGB and put in a ballpark. He is glad to see the Washington County Staff is recommending to the Hearings Officer that the proposal for the ballfields be denied. He is not saying the City does not needs parks, they do. Now is the time when there is going to be a new School Superintendent and City Manager for the City and School District to start working together and use existing facilities to the best possible way.

Barbara Leonard, PO Box 1088, Sherwood, Oregon 97140, addressed the Commission. Ms. Leonard said she is on the Washington County Planning Commission. They had a hearing regarding piece of property outside the UGB which was a request for an extension of the UGB area. This property was located by the Sherwood Business Park. There was no one at the hearing representing the City. It was appealed by ODOT and it was not written well. It had a lot of faults with it and the Washington County Staff automatically recommended denial. This recommendation was immediately approved by the Planning Commission. Her point is that the City is paying good wages for the personnel working for the City. The citizens are not getting their due desserts from this payment for their.....

Mr. Turner said this was not a City application. It was a private individual who wanted.....Ms. Leonard said it was also by the City of Sherwood. Mr. Turner said the City of Sherwood looked at it, but it was not a City application. Ms. Leonard said the City put a recommendation for this proposal with the application. Mr. Turner said there was something from the City Council recommending that the Mayor send a letter to them. Ms. Leonard said it was Jon Bormet. Mr. Turner said he would have to look at this, but he believed it was taken to the Council.....Ms. Leonard said this was citizen comments and Mr. Turner should not interrupt her. Mr. Turner

said he just wanted to correct some things because she was talking about Staff, and he was Staff, and what she was saying...Ms. Leonard said yes and Staff is not doing their job.

The Commission asked the comments to cease. At this point, Mr. Turner left the meeting.

Ms. Leonard said this is not a personal issue. The citizens are not getting the amount of work they need to get or the correct information. When you go before the Washington County Commission, the County Staff knows their topic. When you ask the City Staff, they do not know what they are talking about. They are putting in recommendations for ridiculous things and she does not know why. Her whole point is the fact that Washington County already has it in their minds to watch out for Sherwood because of the ridiculous recommendations and complete lack of following the law or not making recommendations that are based on the law.

At this point, Mr. Tuck left the meeting.

The Commission asked Ms. Leonard why she was bringing this to them. The Commission does not have the authority to hire or fire City Staff. Ms. Leonard said there is a pattern going on in Sherwood right now. There are several proposals out there and the one to Washington County makes the City of Sherwood look bad. Vice-Chair Weeks said the information on the ballfields did not come from the Commission. She said Ms. Leonard would better serve Sherwood by attending the Washington County hearing and not making personal attacks. Ms. Leonard said she did not mean it as a personal slam, she meant it as an overall slam. Vice-Chair Weeks said this is not how anything gets accomplished and she asked for restraint in the future.

Mr. Shannon said you can say don't slam the City Staff, but when he was not on the Commission and read all of the newspaper articles out there, this City Staff was plain pathetic in talking to the newspapers and how they talked to the Steins. Mr. Bormet being quoted as saying you better give me the land now because if you don't I will take more later. He had three meetings with Bormet and after the third one he told Mr. Bormet he would have to go out and buy more land because he was being told to give him the land now. When you get a man who says give me the land now or I will take more later, who gives him that right. This is what the citizens were getting out of this town.

Mr. Emery said these are City Council issues. Mr. Shannon said the City embarrassed itself by the quotes in the newspaper from Mark Cottle and Jon Bormet. Now the City wants to go outside the UGB for ballfields and a park and you can't even run a restroom out there. This does not make any sense.

Tim Voorhies, PO Box 908, Sherwood, Oregon 97140, addressed the Commission. He is the owner of Steel Tek Industries. It sounds to him like there are a lot of things going on in the way the City deals with the developers and what the developers are saying. He identified where Steel Tek Industries is located on the map in relation to the Genstar development. Genstar advertised all of the housing in this area as being on a greenway. He called Jon Bormet about this and was told that Genstar could advertise it any way they want. He asked the City engineers and Genstar engineers what they were doing on his property. They said what do you mean your property, this

is a greenway. We are going to run the water from this development through your property. Why can't the City tell the facts on what it really is. Once his property was rezoned from industrial to commercial without a letter or notice. At one meeting Mr. Bormet took him aside and said, "Tim, hang on, we are going to run your ass out of town." Now there is a water issue. It will be between him and Genstar on how this will be done. He has been threatened to be run out of town and everything else. He is really getting upset about how the City calls his land a greenway. No one told the homebuyers that there was an industrial site, Steel Tek, behind their property. He discussed a situation where someone had been driving along the back of his property. Why isn't there any communication between the City and the citizens of Sherwood? He said he would provide further comments at the next hearing for the Woodhaven phases.

The Commission asked Mr. Voorhies to list his concerns in writing for them to review prior to the next public hearing on phases of Woodhaven. He asked if he could receive notice of these hearings and the Staff Reports. The Planning Secretary will be able to provide this information.

Vice-Chair Weeks responded to Mr. Claus's question about community comments becoming personal attacks.

Mr. Claus said if the Commission wanted to find out how personal he could make this with the Staff, he would do it. It is the responsibility of the Commission to stop the Staff when somebody tells the Commission what is going on. When a citizen can't come before the Commission and talk about something that is going on, and the Staff knows it, and it is considered to be false, when you have the attorney for the people telling you, no, and Jack Orchard is the one who said we made a back room deal over that and you have a Commission who says we don't want to hear, then what you need to do is sue, because your democracy has failed.

Mr. Emery and Mr. Claus made several more comments.

Mr. Claus said before somebody can sue, they have to exhaust their administrative remedies and you have to have a forum you can do it in. If the Commission had listened to what he had said, he went to Mr. Dittman and said you have a LUBA ruling, read it. When he talked to Mr. Turner, he said, no, we are going forward. He asked Mr. Turner if he had talked to Dittman about it and he said, no. This is the kind of conversation that went on. He asked Mr. Turner why he didn't talk to Dittman about it and Mr. Turner said because we didn't think it was necessary. We had orders to go forward. He asked who told them to go ahead with 8C and Mr. Turner said administration. Mr. Claus called Mr. Dittman and said there is one thing he knew and that is nothing is to go forward with 7B without the park and road issue being settled. Mr. Dittman did not know what Mr. Claus was talking about and he was not aware that Phase 8C was going ahead of 7B. Doesn't this mean anything to the Commission?

Mr. Claus explained how you re-phase something. You must say that all of the conditions have been satisfied. He discussed the LUBA hearing and how the School District filed in Court to take the proposed park property. None of this was disclosed at the LUBA hearing. By the time LUBA heard Phase 7A, he had newspaper articles and District Court records and Mr. Bly saying we've been in negotiations for months and Dr. Hill saying they were always going to sell that.

The City sets the finding of fact and the Court accepts it as true and only litigates the law. The same Staff that did the short strip report to LUBA, did the short strip report the Commission heard tonight. The ruling states that nothing happens after Phase 7A until the park and the roads are finalized. If he had not gone political and gone to Mr. Dittman, and gone after this Staff, the Commission would not have known that. It was a personal confrontation with the Staff. The Staff didn't come forward on this. The most they can do is make it conditional and they can't do anything on that until they are done with Phase 7B. He is trying to alert the Commission because it will happen worse and worse. The PUD has a major amendment now. Phase 8C should never have come forward and the Staff should not have brought it forward. This should have been in the Staff Report. The Commission is the triers of the fact. Why should he have to get an attorney to write the true finding of fact for the Commission to make a decision when the Staff would not do it. Until this is done, the Commission is not going to run the town.

Vice-Chair Weeks said the Commission did the only thing they could do and that was to continue Phase 8C until Phase 7B is resolved. Ms. Weeks said the remark about criticizing the staff was an attack on the two planners that was not necessary and it was disruptive to the meeting.

Mr. Claus talked about what happened at USA today. He had to threaten a lawsuit because the Staff had not told them the facts. This is all he is trying to tell the Commission. If the citizens are getting angry and they have documentation, the Commission should not cut them off.

Mr. Emery said, in his opinion, what the Commission was asking for is the appropriate people to act on this would be the City Manager or City Council. He understood both sides, but the majority of the issues have to be dealt with by the City Council. Mr. Claus said that is why he went to the Government Standards & Practices Commission (GSPC). The GSPC is considering the first evidentiary hearing in three years because the Council was not watching these people. The GSPC asked Mr. Claus if there was a record to show that he was not using them politically. The GSPC would not allow someone to be vindictive. This is why there are three people under investigation. Some of the things that have happened are silly such as illegal notices of executive sessions. The State of Oregon is a very strict procedural state.

Mr. Claus said the Commission is excellent at allowing citizen comments. When the Commission gets the facts, they have been the best decision-making body in the City. He even told this to the GSPC.

Vice-Chair Weeks said the Commission is not the hiring and firing body. They need to keep the meetings in control and often times he is given the whole right arm, but some times things get out of hand and they need to stay in control. The City Staff does not need to be run out of a meeting. If the Commission does not like the information received from Staff, they let them know. The pot was boiling over and it was beginning to get out of hand.

Mr. Claus said please bear in mind, if the citizen really thinks they have a beef, they've got to start here. If he had not made a very good administrative record, they would not be investigating Mr. Boyle, Ms. Turner and Mr. Cottle right now. The Commission is doing a better job than they may think. He said the Commission needs to be put back in control. The Staff forgets who they

work for, the City Manager tells them to do something and they do it. The Commission has an opportunity with the hearings examiner proposal. He would like to have a professional hearings examiner writing the report and reporting to the Commission, and who works for the City Council. It is evident, in his opinion, that the Staff is not letting them do it. He has some suggestions which he will discuss with Chairman Whiteman. The Commission should be in total control, including lot line adjustments and all Type I applications.

Vice-Chair Weeks said as far as City Staff, there have recently been some improvements and they are on-going. There are issues that need time to heal and they are getting better. Mr. Claus said there is at least one City Council member that is adamantly opposed to the Commission because, "they refuse to do their job." The first time Mr. Claus heard this, the Council member would not talk to him following their discussion. He told the Council member that the things he was talking about, the Commission didn't have any information. He is talking about the information flow the Commission gets and how they get it. Get a hearings examiner in and get the facts. Any time the facts are not completely neutral, deal with it. Assuming the hearings examiner is an attorney, any misrepresentation of the facts, you can go to the Oregon State Bar. If you misrepresent the facts or law as an attorney, you are in trouble in Oregon. If you think he is condemning anyone, you are wrong. He is applauding the decision, but trying to give the Commission some of the inside of what went on. He discussed the LUBA hearing and how he was kicked out by Referee Hanna. He was very concerned that in this state, the citizens make wonderful decisions, how, when they are given the right facts.

Mr. Turner and Mr. Tuck returned to the meeting while Mr. Claus was speaking.

Barbara Leonard spoke again about her frustration. She has been before City Council and has been told personally by Mark Cottle that he will not listen to her. He turns off his hearing the minute she begins to speak. As a Planning Commissioner herself, she knows that you have the right to question any and all items that are coming through Staff. As a Commission, they individually have the right to ask the Staff to answer any questions and ask for written documentation. The Commission is, in effect, the Staff's boss at this level.

Vice-Chair Weeks said Staff is pretty good about answering the questions from the Commission.

Dan Leonard spoke again. He said he worked for USA for 26 years and he had to go to many Commission meetings. If he would have done what Staff did tonight, walking out, he would have seen this on his next evaluation report.

5A. PA 99-3 Hearings Officers Plan Text Amendment (cont'd from May 4, 1999)

Vice-Chair Weeks said Chairman Whiteman asked if the Commission could continue this item to the next meeting because there are issues he wanted to discuss.

Keith Mays moved the Planning Commission continue PA 99-3 Hearings Officer Plan Text Amendment and the Work Session to the June 1, 1999 Regular Commission Meeting. Seconded by Sterling Fox.

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

7. Other Business

Mr. Shannon asked Staff where the City was in acquiring the Stein property. Mr. Turner said Planning Staff has not been directly involved. Reed Rainey would be the Staff contact. The Commission questioned if Mr. Rainey talked to the other City Staff about this project. Mr. Turner said Staff was aware of the application being submitted to Washington County. The Parks Advisory Board is involved with this project. Mr. Turner said a consultant has been hired to master plan the area and the first meeting will be June 8, 1999 at the Senior Center prior to the City Council meeting. He did bring back the locational adjustment letter which was signed by the Mayor regarding the application to the County that Ms. Leonard was referring to.

Vice-Chair Weeks asked if this was why Mr. Turner left the meeting. He said this was part of the reason. Mr. Tuck said when someone says he is not doing his job, it is time to leave the meeting.

Mr. Fox said he was the Superintendent of Schools in California for 18 years. They had an agreement that if anybody started to slam personnel they were out of order. These issues would be discussed in a closed session. He did not understand slamming people in public. Vice-Chair Weeks said they have been trying to make an effort to control things.

8. Adjourn

There being no further business to discuss, the meeting was adjourned at 8:45 PM.

Respectfully submitted,

Planning Department