



City of Sherwood PLANNING COMMISSION

Stewart Senior/Community Center
855 N. Sherwood Boulevard

October 19, 1999 - 7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Approval of Minutes – September 21, 1999 & October 5, 1999**
3. **Agenda Review**
4. **Discussion re:** a Federal Emergency Management Agency (FEMA) Conditional Letter of Map Revision (CLOMR) application for the Drennan property located on the north side of Sunset Boulevard east of the railroad tracks.
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. **PUD 88-1 Atley Estates PUD Modifications:** a request by Pat Stout for modifications to the approved Atley Estates PUD. The modifications include eliminating the original requirement for landscape Tracts A, B, C and D and the ownership and maintenance provisions for those tracts. Tax Map 2S 1 32AA.
 - B. **PA 99-4/SP 99-9 Senior Housing NW Plan Map Amendment & Site Plan:** a request for a plan map amendment from Medium Density Residential High (MDRH) to High Density Residential (HDR) and site plan approval for construction of a 25,000 sf, single-story, 38-unit assisted living facility with vehicular access to Oregon Street. Tax Lot 4400, Map 2S 1 32BA.
6. **Community Comments** *are limited to items NOT on the printed Agenda.*
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
October 19, 1999

1. Call to Order/Roll Call

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

Commission Members present:

Adrian Emery
Sterling Fox
Keith Mays
Jeff Schroeder
Ken Shannon
Angela Weeks

Staff:

Greg Turner, City Planner
Carole Connell, AICP, Planning Consultant
Roxanne Gibbons, Recording Secretary

2. Minutes of September 21, 1999 & October 5, 1999

Chair Weeks asked if there were any additions or corrections to the minutes of September 21, 1999 or October 5, 1999. There were no comments.

Adrian Emery moved the Planning Commission accept the September 21, 1999 and October 5, 1999 minutes as presented. Seconded by Sterling Fox.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

3. Agenda Review

Greg Turner referred the Commission to a letter dated October 15, 1999 from Craig Smith, Grayco Resources (Senior Housing NW), requesting a continuance to the November 2, 1999 Regular Commission meeting. They would like to meet with the Engineering Staff to begin the process of resolving some of the issues regarding the sanitary sewer. This request would automatically extend the 120-day deadline. Mr. Shannon asked if there was any discussion regarding the driveway entrance off of Oregon Street. Mr. Turner said the applicant is required to have one driveway to the site and to provide certain improvements to the driveway. The applicant has come to an agreement with the Roman Catholic Church for an easement on the private driveway that belongs to the Church.

Keith Mays moved the Planning Commission continue Agenda Item 5B, PA 99-4/SP 99-9 Senior Housing NW Plan Map Amendment and Site Plan to the November 2, 1999 Regular Commission meeting, per the applicant's request. This will extend the 120-day deadline. Seconded by Adrian Emery.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

4. Discussion of FEMA Conditional Letter of Map Revision (CLOMR)

Mr. Turner introduced John Drennan, the owner of the property they will be discussing. This discussion is for information only and no action needs to be taken by the Commission.

John Drennan, 11675 SW 91st, Tigard, Oregon 97281, addressed the Commission. He noted:

- The engineering firm he hired, Entranco, and he met with the City Staff to discuss the request to lower the 100-year flood plain elevation on his property.
- An individual cannot submit the request to FEMA. It has to be submitted by a City.
- This discussion was to acquaint the Planning Commission with the project.
- Everyone says the 100-year flood plain elevation around Sunset Boulevard is too high, but no one has wanted to do anything about it.
- The current 100-year flood plain elevation on Sunset Boulevard assumes during a 100-year event that Sunset Boulevard would be under 10 feet of water. We all know this is not true. The 1996 flood was something like a 200-year event and Sunset Boulevard was not flooded. The water did not go over the top of the culvert on Sunset Boulevard during the 1996 flood.
- They plan to submit to the Federal Emergency Management Agency (FEMA) a Conditional Letter of Map Revision (CLOMR/LOMR) application.
- The evaluation will assess a more up-to-date flood elevation of the 100-year flood plain in the vicinity of the property he owns adjacent to and just north of Sunset Boulevard.
- All of the analysis is done by FEMA. The applicant has to gather the technical information and survey to show where the existing 100-year flood plain elevations are too high. He would pay the cost of approximately \$3,000.00 for FEMA to review the request.
- The current 100-year flood plain elevation on his property is 178 feet, but on the other side of the railroad tracks it is 168 feet.
- The Commission reviewed the copy of the letter and synopsis.
- He owns three tax lots that total just less than 27 acres. The creek located on the middle parcel is about 9.5 acres.
- If he is successful in changing the 100-year flood plain elevation, he would develop the property. He always wanted to develop a manufactured home park for adults 55-years and older on this property. However, to be more with what the City would prefer, he would develop a single family subdivision on the property. The City has never told him why they would not like to have a manufactured home park on this property, but he does not wish to fight with the City.
- He discussed the topography of his property and how it could be developed.
- He feels that the current 100-year flood plain elevation is too high. He has been working on this project for about 18 months now.
- Entranco would be able to answer any technical questions the Commission or Council may have.

5. Public Hearings

Chair Weeks introduced Carole Connell, who is providing planning consulting services to the City. Ms. Connell is working on several specific land use applications.

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. Angela Weeks said she had spoken to several community members and other Commissioners regarding the Atley Estates application. She did not feel she had any bias and these conversations would not affect her decision on this application. Keith Mays advised he had briefly spoken with Roxanne Gibbons, Planning Department, regarding some planning issues in general. He did not feel he had any bias and his decision-making would not be affected. There were no other Commissioner disclosures.

5A. PUD 88-1 Atley Estates PUD Modifications

Chair Weeks called for the Staff Report. Carole Connell referred the Commission to the Staff Report dated October 12, 1999, a complete copy of which is contained in the Planning Commission's minutes book. She highlighted the main points of the report and noted:

- This is a request for modifications to the final development plan and subdivision plat for the Atley Estates PUD, City File No. PUD 88-1. She identified the attachments that were included with the report.
 - CC&R's for Atley Estates recorded in 1991.
 - August 5, 1997 letter from City Attorney Derryck Dittman.
 - Tax Map 2S 1 32AA which identifies the Tracts and Lot numbers.
- This development was originally approved in 1981 as a two-phase residential development identified as Orland Villa PUD. Clark Mattson owned this property and he wanted to create smaller lots than the City zoning allowed. In order to get the PUD he offered to provide a common tract in the middle between Orland Villa and Atley Estates and a landscape buffer around the perimeter.
- In addition to the smaller than standard lot sizes, four commonly owned tracts were platted, primarily for landscape buffering between the manufactured homes and the surrounding area. The only amenity is a 1.05 acre common open space located between Orland Villa and Atley Estates PUD's and landscape buffer around the development.
- If you look closely at the PUD Ordinance you realize that this really did not qualify as a PUD with unusual natural features or irregular shape. This was the first PUD to occur in Sherwood, there was no other development occurring in the City at that time, and there was a real interest in putting in some manufactured homes.
- Mr. Mattson developed Phase I. Prior to developing Phase II he sold it to Patrick Lucas. Mr. Lucas proposed to complete the project as originally approved under the Orland Villa application. He received approval from the City in 1990 under the name of Atley Estates PUD. The development was to lay out the lots similar to Orland Villa, but to make the lots larger, to share in the maintenance of the common open space in the middle, and to put the landscape strip around the back.
- She reviewed and identified the four tracts:
 - Tract A, a 10-foot landscape buffer behind Lots 1-23;
 - Tract B, a landscape buffer on Oregon Street adjoining Lots 35 and 36 which is required on every arterial in the City;
 - Tract C, a triangular corner parcel at G&T Drive and Orland Street, adjoining Lot 18 Orland Villa; and

- Tract D, a 15 ft by 105 ft access path to common area adjoining Lots 28 and 29, clearly intended to be a pedestrian connection from G&T Drive into the Tract A open space.
- For this property to continue to function as a PUD, the City required Mr. Lucas, and eventually the residents of Atley Estates, to share in the maintenance of the common tracts as well as have access to it. This was accomplished through the CC&R's for Atley Estates.
- The CC&R's contain a legal description of the Tracts. The CC&R's also state the tracts are to be maintained by homeowners in Atley Estates through the homeowner's association.
- The applicants are asking to extinguish Tract A, Tract B, Tract C and Tract D. The property owners are frustrated by these tracts because they state the tracts are not maintained and the procedures have not been followed in the CC&R's which require an annual fee for the maintenance of these tracts. There was a homeowners association Board, but there has not been any financial participation.
- If the Atley Estates homeowners want to omit the original requirements they must come before the City for modifications to the original PUD approval.
- The Staff Report recommends two options. The legalities of this request are complicated and she was not sure the applicants could get from point A to point B even if the tracts were removed. Mr. Dittman's letter said basically the same thing.
- If the City agrees to omit the tracts, the homeowners still have to unanimously agree to convey the tracts to the adjoining properties. How this would be done is not really clear. Washington County thought they may have to go back and replat the subdivision. A title company thought the property could be quit-claimed.
- Mr. Dittman's letter made a point that even if the tracts were omitted, the homeowners may not accomplish the conveyance of the tracts and the City would end up with abandoned land.
- She reviewed the criteria for a PUD, modifications to the final development plan and subdivision plat approval.
- The adjoining Chesapeake Subdivision has a 20-foot utility easement adjoining part of the 10-foot landscape buffer of Atley Estates behind Lots 1-11. Under this easement is a 12-inch major waterline which is buried pretty deep. Staff believes this is the only utility located in this easement. The other private utilities stated their utilities are in G&T Drive. The Engineering Department was concerned about the potential for repairing a waterline that is not really identifiable. The common tract of 10 feet would not make this any easier. The Water Master Plan indicates this line is planned to be replaced in the current Murdock Road right-of-way. This will be a very extensive process and the City does not have a timeframe for this happening. Therefore, Staff does not believe the utilities are an imminent problem.
- A proposed major change to a final development plan shall be considered the same as a new petition. This is why the recommendation from the Commission will go to the City Council for a final decision. The request would change the boundaries, uses, and amount of land devoted to specific uses of the Atley Estates PUD.
- She reviewed the criteria for PUD's and subdivision plats as stated in the Staff Report.
- Without the common tracts, the development becomes just a subdivision and not a planned unit development. Tract A was intended to provide a landscape buffer between the manufactured homes and the neighboring properties. Some Pine trees were planted in the common tract, but they died. The CC&R's state very clearly that if anything dies, it is to be replaced. This has not happened. Initially, the landscape plan was not very well executed

and from then on it has gone downhill. Fences and decks have been built into this common area and enforcement by the City has not occurred.

- If this common area had been landscaped, maintained properly, and had a functioning homeowners association to which dues were paid, it might have been a good amenity.
- Tract D was meant to be a convenience to the Atley Estates homeowners to have easy access into the open space (Tract A). At some point in time, the homeowners may want to have access to Tract A and this would be provided by Tract D.
- Staff believes the general objectives of the PUD concept may not have been adequately met at the review and approval stage of Orland Villa and Atley Estates PUD's. Tract A could have been an aesthetic amenity if it had been properly maintained as set forth in the CC&R's. Elimination of the tracts (except for the Oregon Street landscape corridor) may not be detrimental to owners in or adjacent to the development.
- It is unfortunate that no money has been collected from the dues because a few people have shared in the burden of paying the taxes on these tracts. The homeowners who live in the development now are not interested in landscaping the strip, the access pathway to the common area or the maintenance of any of the tracts.
- The CC&R's are a legal, recorded document and in order to dissolve it, you have to change the CC&R's. The homeowners association is still there, but it does not function. Cities are not in a position of enforcing private CC&R's. The City of Sherwood does not enforce CC&R's. The homeowner's association Board of Directors would have the enforcement power.
- If the tracts are eliminated, it is clear to the City that it is the homeowner's responsibility to proceed with dissolving the homeowners association. If this occurs, what happens to the shared maintenance of the open space in the center?

In conclusion, Staff suggests one of two options for the Commission to recommend to the City Council:

- Deny the request and mandate the original approval and CC&R's be enforced, or
- Approve the request to eliminate Tracts A, C and D in Atley Estates PUD subject to certain conditions.
 - Tract B, the Oregon Street landscape corridor, shall remain as platted, to be maintained by the owners of Tax Lot 9900 (Lot 35) and Tax Lot 10000.
 - The portion of Tract A adjoining Oregon Street for landscape corridor shall remain as platted and be maintained by the owner of Tax Lot 6500 (Lot 1).
 - Conveyance of the land associated with the elimination of Tracts A, C and D is the responsibility of the property owners.
 - The Atley Estates PUD CC&R's provision that Atley Estates PUD owners share in the maintenance and use of the Orland Villa PUD Common Area Tract A, and all other provisions in the CC&R's shall remain as a requirement.
- This approval is valid for three (3) years.

Ms. Connell said she had never experienced any other PUD homeowners association trying to dissolve the association. The ownership of all of the tracts is commonly owned by everyone in the Atley Estates Homeowners Association (36 property owners). The CC&R's state that to

convey any of these tracts all 36 owners have to agree. Mr. Mattson, who owns the one Tract A on Oregon Street, did not sign the petition. He also owns Tax Lot 10000, which is a part of Atley Estates. The signatures received with the application were not notarized, but they did show the intent of the Atley Estates homeowners to eliminate the subject tracts.

Chair Weeks opened the public hearing on PUD 88-1 Atley Estates PUD Modifications and asked if the applicant wished to provide testimony.

Pat Stout, 1740 SE G&T Drive, Sherwood, Oregon and Keith Howe, PO Box 126, Sherwood, Oregon, addressed the Commission. Mr. Howe said he agreed to help Ms. Stout present testimony. He was doing this as a personal favor and was not receiving any consulting fees. He distributed plat maps of Atley Estates and noted:

- The property owners in Atley Estates want to do away with the homeowners association. The person involved in handling this association was Mr. Robert Bailey who recently passed away. A lot of the records are no longer available and they have not been able to locate the bank account set up for the homeowners association. However, they do believe a bank account did exist. They do have the deeds for all of the properties.
- The City could do something to enforce the homeowners association, but it would be a very costly court action. Homeowner's associations really only function if you have an active body or Board of Directors that enforce the rules of the association.
- The Atley Estates homeowners association is a totally ineffective association and no one has any interest in it and there have been no dues paid into it for a number of years.
- He made reference to the plat maps. The yellow highlighted properties are owned by Mr. Mattson. These are rental properties and there are no association fees charged to anyone on these properties. There is no money to share in the maintenance of the open spaces, including Tract A in the center of the property.
- The pink highlighted properties are Tracts A, B, C and D.
- If you drive on G&T Drive, Atley Estates, you would find that these properties are extremely well maintained. If you look at Orland Villa, including Lot 36, Tax Lot 10000, the weeds are as high as his hips. The property is not being maintained.
- Mr. Mattson is charging rental fees on all of the properties in Orland Villa.
- The applicant has reviewed the conditions contained in the Staff Report. The applicant and the other homeowners want to do is dissolve the Atley Estates homeowners association.
- He has talked to several title companies; Fidelity, Chicago Title and Pacific NW Title. It is like talking to the IRS and he received three different answers on how to deal with this. The title officer from Chicago Title told him she knew how to deed all of these tracts over to the property owners.
- They agree with Carole's recommendations that they should move ahead with this to try to dissolve the association.
- Let the homeowners take ownership in these various tracts and they will maintain them better than as an association. It certainly will be better maintained than it is right now.
- The information included with the application identified how they would like to deed the tracts to the adjacent property owners.

- With regard to Tract B, they would suggest the Commission recommend to the Council that this property be deeded to the City.
- The property owners of Tax Lot 9900 are taking very good care of their landscape.
- With regard to Tract A, the common area, Tax Lot 6200, the 1.06 acre site, the deed does state it is common property. This property is in the name of Mr. Mattson. They feel it should be his responsibility to maintain it.
- There is only one house along G&T Drive that does not have a fence along this common area.
- All of the homes on Orland Street were supposed to have carports and none of these have been built. There are violations to the conditions of approval in the Orland Villa PUD which have never been enforced.
- The title companies are still charging fees for potential property buyers for the Atley Estates Homeowners Association that is currently not functioning.
- If these tracts are eliminated, it would have to be a concerted effort of all of the homeowners to get the properties quit claimed.

Mr. Shannon asked how Mr. Mattson was the owner of Tract A when it is a common area of the PUD? Mr. Howe said Orland Villa was built prior to Atley Estates and the Tract A buffer was in place prior to the Atley Estates PUD. Mr. Mattson and Mr. Lucas basically put this thing together on a handshake.

Ms. Connell said the reason Mr. Mattson still owns Tract A is because he still owns more than 50% of the lots in Orland Villa. He is, indeed, the homeowners association of Orland Villa.

Mr. Howe said he has not had any feedback from Mr. Mattson. The applicant would like the Commission to approve the elimination of Tracts A, C and D and deed Tract B, Tax Lot 10200, owned by the Atley Estates homeowners association, to the City.

Ms. Connell clarified that Lot 36, Tax Lot 10000, is platted as a part of the Atley Estates PUD.

Mr. Mays asked why the Atley Estates homeowners don't just continue to do what they have been doing. Mr. Howe showed the Commission a copy of the deed for Tract A.

Chair Weeks asked if there was any further proponent testimony. There being none, Chair Weeks asked if there was any opponent testimony.

Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He asked Ms. Connell to correct him as he testified because he said there are some facts that are not being mentioned. He noted:

- He objected to a certain developer named Patrick Lucas being given anything. Look at his track record a part of which is being looked at tonight.
- He discussed the philosophy in Sherwood several years ago, which he vigorously objected to, called, "Let's give away the town and start developing it." This was due to the City Manager at the time creating LID's and bankrupting the City.

- The Staff decided to start development at any cost; with no stormwater management plan and allowing PUD's where they should not have existed.
- The application tonight is a PUD, a planned unit development.
- In 1929, the Supreme Court said, "You have to have exceptions". He cited the case and the three primary exceptions; variances and conditional use permits. For instance, you might allow a lumber yard, but you would certainly never allow a retailer in an industrial zone with a conditional use without attaching a great level of conditions.
- PUD's came along because they were an exceptional way to get around everything and this is what happened here.
- Mr. Mattson came in and said he could not develop unless he had smaller lots. He also said he could not develop unless you give me Murdock. He said Ms. Connell remembers differently than he does. But since he was the one who put in Murdock at \$89,000 and he was given back \$17,000, he does not think the waterline will ever be put in Murdock because they can't get down the four feet.
- They gave twenty feet of the forty foot right-of-way to what was the Cochran property and they gave forty feet over here, ten to the subdivision and ten for the landscape corridor. They had to come up with some kind of fiction to get a PUD.
- Patrick Lucas put in the landscape corridor after he bought out Mr. Mattson.
- He asked Ms. Connell if he had missed anything.
- Patrick is one of those guys who develops and then leaves town. Everyone knows this.
- There has already been encroachment into this ten feet by Patrick's ex-partner, Bob Bailey. Mr. Bailey was the first one to go back there and build his deck into this ten foot buffer knowing full well they had an agreement to put in a landscape buffer.
- Now you have a locational and boundary change and it is a major change to the PUD. This calls for a new amendment for the PUD. How can this still be called a PUD when you take away all of the reasons they had for the PUD originally.
- Now it is just a subdivision with a group of non-conforming lots and very carefully omitted, with a forty foot right-of-way into the street. They need to ask for a variance to the forty-foot right-of-way. How can you have a variance when it is a self-imposed hardship? You can't, it is against state law.
- There is a third alternative, get a lawyer and sue Patrick Lucas. Put the ten foot buffer back in, keep the homeowners association and treat this like a PUD.
- The problem is very simple, the act being taken cannot be taken because this is a major amendment to the PUD and therefore, it is a new application.

Ms. Connell said this is being called a major change to the PUD and that is why it will be heard before the Commission and City Council. She said that was why it was being recommended to keep the homeowners association in place in order to maintain the center open space.

Mr. Claus asked how this was going to be dedicated back and have the condition to the PUD be met. Or at some point are we going to call these fictions to a halt and start saying Sherwood is a worthwhile place to live, we can live with our zoning and we don't need to find exceptions that don't exist. This is a PUD and there is really a simple way to deal with this, simply get an attorney and sue to have the original terms of the PUD enforced. You really don't know that the waterline can be relocated up Murdock because you can't get it deep enough. You don't even

know where the waterline is and without the ten-foot common strip, given the depth it is buried and the survey work has not been done. As sympathetic as he is to this, he is also equally irked at the exception process being used in Sherwood and being used improperly. He had his quarrels with Mr. Lucas over this at the time they were doing it. They encroached and this was supposed to be the water swale. How in good conscience can you allow this PUD to pull out and not turn around when Woodhaven comes in and starts the same charade. Some of these developers are going to have to find out what happens and that is they get sued. He has never gotten an exception in this town that had not been real. He addressed Ms. Connell about what he had been made to pay for and that it should be the same thing with every other developer.

Mr. Emery said he was not sure Mr. Claus needed to go into these details.

Mr. Claus said all of these dedications occurred around the other subdivision. Mr. Emery said Mr. Claus had five minutes and he was well over that time limit. If there was anything else Mr. Claus wanted to submit, he personally, would like to have it in writing. He said the other Commissioners could disagree with him.

Mr. Claus said if Mr. Emery was saying it was irrelevant that when the rules have been applied one place and not another, he would suggest Mr. Emery recuse himself. Mr. Emery said he appreciated Mr. Claus' comments. Mr. Claus said there is a noted hostility here. The homeowners are coming here without even bringing in the responsible parties.

Cathy McNeill, 1579 SE G&T Drive, Sherwood, Oregon 97140, addressed the Commission. When she bought her property she went through the CC&R's. The one reason she bought her property was the CC&R's stated that as a homeowner, once all the properties are sold, the homeowners have the right to discontinue the homeowners association and deed the easements.

Ms. Connell said the CC&R's state in order to dissolve the association, all the homeowners must agree to deed the land.

Chair Weeks asked if there was any further opponent testimony. There being none, she asked if the applicant wished to provide rebuttal testimony.

Keith Howe addressed the Commission. He said a lot of what Mr. Claus testified to is correct. Because this is a PUD, it is more complicated because hearings must be held. There is another fence which has been built behind there between Chesapeake and this subdivision. Mr. Bailey did build out onto the open space, but there are other fences as well as on the Chesapeake subdivision. Based on what has happened, he asked the Commission to recommend approval of this application to the City Council, as discussed in the Staff Report as the second option, with the exception of deeding the property labeled as Tract B to the City.

Chair Weeks closed the public hearing on PUD 88-1 Atley Estates PUD Modifications for discussion and deliberations by the Commission.

The Commission discussed whether this application would set some precedent for other PUD's and their homeowners associations. They also discussed the conditions of the PUD. The common areas were required as a tradeoff for the substandard street width of G&T Drive. The common areas are what make Atley Estates a PUD. The elimination of the common areas may set a precedent for other PUD's in Sherwood to make the same request. The CC&R's should be enforced as approved, if not by the City, then by the association. Tract A behind Lots 1-10 may allow easier access to an existing City waterline buried in the old Murdock Road right-of-way. The same portion of Tract A may be a storm water runoff area.

Ms. Connell said the 120-day deadline for this application is December 2, 1999. This will be heard by the City Council either way the Commission may vote.

Keith Mays moved the Planning Commission recommend to the City Council denial of the application for modifications to PUD 88-1 Atley Estates. Seconded by Adrian Emery.

Vote for Passage of Motion: 5-Yes, 1-No (Ken Shannon), 0-Abstain

Chair Weeks recessed the meeting at 8:55 PM for a 10-minute break and reconvened the regular Commission meeting at 9:05 PM.

6. Community Comments

There were no comments.

Chair Weeks asked if the other Commission had received the E-mail from Keith Mays. Mr. Mays said he had developed a list of items which he thought should be addressed regarding the Development Code. He noted:

- For all residential lots, exclude garages as being counted as a parking space.
- Address the minimum lot size of 5,000 square feet for single-family detached regardless of the circumstances (geography, PUD, etc).
- Address density transfers.
- Manufactured housing being treated the same as single family housing.
- Driveways with multiple housing units attached or detached should not exceed a maximum number of feet in length. If it does exceed the maximum length, the driveway should be built to street standards.
- Address private streets having public street standards or City street standards.
- Address increasing the minimum side-yard setbacks for multi-family housing.
- Address whether PUD's should use the old or current version of the Development Code.
- Address parking requirements and number of accesses for assisted living facilities.
- What does the Code allow a property owner to do if there are two different zones on one property; i.e., HDR and MDRH.
- New developments being required to do half-street improvements increased to three-quarter street improvements. Should this be full street improvements with some type of payback.
- Holding future PUD's to higher standards.

The Commission asked Mr. Turner to begin preparing draft language for these Development Code changes. Mr. Turner explained the process for Plan Text Amendments to the Development Code and notification to the Department of Land Conservation and Development.

Mr. Turner said there was a representative from the Avamere Assisted Living Facility in attendance to answer any questions from the Commission. The Commission did not ask this representative any questions.

7. Adjourn

There being no further business to discuss, the meeting was adjourned at 9:40 PM.

Respectfully submitted,

Planning Department