



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, March 17, 1998
7:00 PM**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - March 3, 1998**
- 3. Agenda Review**
- 4. Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
- 5. Consent Agenda:** No items scheduled.
- 6. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
 - A. SUB 98-1 Woodhaven Phase 7A Preliminary Plat (cont'd from 3-3-98):** a request by Genstar for approval of a 63-lot subdivision. TL 100, Map 2S 1 31.
 - B. SUB 97-7 Charles Burck Hts #2 Preliminary Plat:** a request by CES, Inc for approval of a 26-lot single family subdivision located south of Sunset and east of Murdock Road. Tax Lots 100, 200, Map 2S 1 32DD.
 - C. SUB 98-3 Woodhaven Phase 8A & 8B Preliminary Plat:** a request by Genstar for approval of a 97-lot subdivision located in the Woodhaven PUD. Tax Lot 300, Map 2S 1 31.
- 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
March 17, 1998

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:03 PM.

Commission Members present:

George Bechtold
Susan Claus
Scott Franklin
Angela Weeks
Bill Whiteman

Staff:

Greg Turner, City Planner
Jason Tuck, Assistant Planner
Sue Engels, Development Director
Jon Bormet, City Manager
Roxanne Gibbons, Recording Secretary

2. Minutes of March 3, 1998 Regular Meeting

The minutes for March 3, 1998 were not available, but will be presented at the April 7, 1998 Regular Commission meeting.

3. Agenda Review

Chairman Whiteman referred the Commission to a memo from the City Planner regarding Agenda Item 6B, SUB 97-7 Burck Heights 2 Preliminary Plat. City Staff received a letter dated March 17, 1998 from the applicant late this afternoon. Due to the time this was submitted, Staff did not have an opportunity to properly review and respond to this letter from the applicant. Staff was recommending SUB 97-7 be continued to the April 21, 1998 Regular Commission meeting.

Chairman Whiteman asked if the applicant or their representative wished to respond to the recommendation for a continuance.

Scott Franklin advised he is employed by CES, Inc. and would not be participating in the discussion for this application.

Carl Jensen, CES, Inc, representing the applicant, addressed the Commission. Mr. Jensen said the applicant felt the conditions Staff placed on approval for SUB 97-7 had a number of items which needed clarification. There were minor wording changes and other issues dealing with drainage which the applicant felt were of a minor nature and should not have been included in the conditions of approval. The City has already constructed the storm system downstream, put in the regional water quality facility and detention. The City is asking the applicant to do a redesign on something the City has full control over and already installed. This seems to be a waste of time. The applicant thought some of the conditions could be worded a little better. These recommendations were listed in the letter. The applicant would like to go through the public hearing process tonight and get approval, if possible.

Chairman Whiteman referred to another letter from CES, Inc. requesting the Director of Engineering be present at this meeting. Mr. Jensen said at the time the letter was sent it looked

like it would be beneficial to have this individual present. A continuance to April 21, 1998 would be a month delay and the applicant would prefer not to miss the summer construction season. Since Mr. Bormet is present tonight and he is very familiar with the conditions of approval, the attendance of the Engineering Department Staff member was not necessary.

Jon Bormet said City Staff is not prepared to address the additional comments received from the applicant this afternoon. The letter contained a number of significant items which Staff needs to review.

Chairman Whiteman said the Commission would deal with the City's request for a continuance when this Agenda item is heard tonight.

Chairman Whiteman said a FAX memo dated March 17, 1998 from Richard Bailey, Big Meadow Realty, regarding Woodhaven Phase VI and VII was placed on the table. Greg Turner said these comments are addressed to Woodhaven Phase 7B only. Chairman Whiteman said this would be discussed under Other Business, unless the Commission decided it should be discussed during the public hearing for Woodhaven Phase 7A.

Greg Turner advised a letter and background material dated March 16, 1998 from Marilyn Sorenson and residents of the Wildflower Village regarding Bond's Automotive had been placed on the table. Chairman Whiteman said the Commission would review this material under Other Business. Mr. Turner said Ms. Sorenson has approached the City Council regarding this issue.

There were no further comments.

4. Community Comments

Chairman Whiteman called for comments from the audience.

Phil Nachbar, Genstar Land Company NW, 11515 SW Durham Road, E-9, Tigard, Oregon 97224 addressed the Commission. Mr. Nachbar said it may be reasonable for the Commission to limit testimony for a period of 5-10 minutes and to points which relate to specific issues of the applications under consideration.

Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus advised he has a meeting scheduled with the US Fish & Wildlife Service and Metro regarding water clean-up, flood control and eventually wildlife restoration. The Commission may have an altered plan brought before them in the future. He discussed the specifics which included charging a higher SDC in the corridors and buy the drainage corridors themselves. This would require a change in the City's Stormwater Management Plan. The information could be received by the City within 60 days.

5. Consent Agenda

There were no items scheduled.

6. Public Hearings

Chairman Whiteman 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.

Chairman Whiteman advised regarding SUB 98-1 Woodhaven Phase 7A, he had ex-parte contact with a couple of members of the public and City Staff. He had a conversation with Mr. Nachbar, he met with the City Manager, talked to the City Planner and Director of Engineering. These conversations were strictly for informational purposes.

Susan Claus advised she would not be participating in SUB 98-1 Woodhaven Phase 7A Preliminary Plat.

Scott Franklin advised he would not be participating in SUB 97-7 Charles Burck Heights 2 Preliminary Plat.

George Bechtold advised he had a potential conflict of interest being a builder in Woodhaven. He planned to participate in only the discussion for the Woodhaven applications.

6A. SUB 98-1 Woodhaven Phase 7A Preliminary Plat

Chairman Whiteman advised this public hearing was continued from the March 3, 1998 Commission meeting.

Mr. Turner referred the Commission to memo which responded to the Commission questions. These questions related to Phase 7A and 7B. A copy of the sewer line expansion plan and water system plan maps were included in the packets. He noted:

- The sewer lines are adequate to serve the properties to the north of Woodhaven.
- The water lines are adequate to serve the properties to the north of Woodhaven.
- Regarding condition 3.R. Staff recommends adding the wording, "unless as approved otherwise by the City Engineer during construction plan review." The 25-foot turning radius requirement is to insure that the turning radius for school buses can be accommodated at each intersection.
- Regarding the street lighting change, the City does not believe this will make a significant impact within the remaining phases of the Woodhaven PUD. The City has gone to a new lighting standard which has been placed in the Arbor Lane Subdivision and the Woodhaven Townhome phase. The City would like to continue with this type of street light. The applicant would respond to this request.
- Condition 3.M. requires storm lines be serviced using the main line in the street and not weep holes or long collection lines behind the curb.
- Regarding Condition 3.O., City Staff is recommending this condition be removed.

Mr. Turner said Staff is recommending the followings changes to the conditions of approval:

- Remove Condition 3.O and 3.S.
- Modify Condition 3.R. as stated previously.

Chairman Whiteman asked for clarification regarding the March 26, 1997 adopted conditions of approval for Woodhaven. Some of these conditions refer not only to Phase 7A, but Phase 7B. He asked what role these conditions would play during the public hearing for Phase 7A.

Mr. Turner said the March 26 conditions do not conflict with the Staff's recommended conditions of approval for Phase 7A.

Chairman Whiteman referred to the March 26, 1997 conditions, specifically Condition 3.C.9, "The City reserves the right as per Code Section 2.202.04(A.1a), to stage or delay additional plats or to modify the size and sequence of approved phases.....Any changes to the sequence of these phases, except for minor adjustments to phase boundaries, shall be subject to further Council review and approval." He called attention to the fact the Commission continued Phase 7B to April 7, 1998 and the Commission would be reviewing Phase 8A, 8B tonight. He asked if Conditions 14A and 14B would still be conditions under these public hearings. Mr. Turner said this was correct.

George Bechtold pointed out the Sherwood School District 88J capacity, after remodel. The remodels the District makes reference to have not happened yet. He did not feel this information was proper for consideration. Chairman Whiteman said he had been trying to contact the Public School Superintendent. He will continue to try and make an appointment with him to discuss school district capacity.

Chairman Whiteman said the connection to Meinecke Road should really be considered with Phase 7B. He had no objections to waiting for the public hearing on Phase 7B. He had specific questions regarding this connection as well as the proposed park property. He met with the Mayor and City Staff about these issues. The answers he received were to his satisfaction, at this point in time, not that he agreed with them, but at least his questions were answered. He would share this information when Phase 7B was heard.

Chairman Whiteman asked if the applicant wished to provide further testimony regarding SUB 98-1 Woodhaven Phase 7A Preliminary Plat.

Phil Nachbar, Genstar, 11515 SW Durham Road, E-9, Tigard, Oregon 97224, addressed the Commission. Mr. Nachbar noted:

- Condition 3.G. had been removed from Phase 7A, per Staff recommendations.
- Condition 3.K. which indicates the water lines shall be 14 inches along Villa Road, the existing water line through Phase 6C has a 14 inch line. It is the applicant's understanding the water line is sized at this particular size in order to service the property to the north. The applicant will follow this size, and they understand they would be eligible on this basis for any crediting for oversizing.

Mr. Bormet said this was correct, for the oversizing.

Mr. Nachbar continued:

- Regarding Condition 3.L the use of ornamental street lights, the applicant differs with the Staff's decision on this. Submitted with the original PUD was the type of shoe box lighting which is currently installed. He discussed a transmittal from Rouse Electric that discussed this street lighting. He read, "When we spoke about shoe boxes, I had forgot that the developer had special permission to use shoe boxes throughout the Woodhaven subdivision. I do not know all of the details, but the developer agreed to install decorative, ornamental street lights on Sunset Boulevard under the condition that they be allowed to install bronze poles and shoe boxes fixtures to replace the standard gray poles with a six foot aluminum arm and a Cobra head fixture. This agreement was worked out between the late Dale Johnson, David Bantz and the City." The applicant's main objection to the different type of ornamental lighting have a fair amount of light pollution related to them. They are quite bright and could have a negative impact on the homes adjacent to them. The shoe box type of lights work very well and the light spreads very evenly. The ornamental type of lights are also twice the cost of the shoe box type lights and for Phase 7A would be another \$40,000.
- The OTAK engineer, Mike Monical, said the shoe box lights adequately provide the lighting along the surfaces of the street and sidewalk.
- The revised March 26, 1997 conditions of approval did not address any new type of street lighting.
- The applicant agreed that the change to Condition 3.R would allow for additional flexibility.

Mr. Nachbar said with respect to Condition C.9 of the March 26, 1997 conditions of approval regarding the phasing sequence, if the applicant asked for a phasing sequence change, it would have to be approved by the City Council. The applicant's intent is to go ahead with Phase 7A, 7B and then 8A and 8B in terms of construction. If the Commission approves Phase 8 before Phase 7B, this does not mean they are going to construct Phase 8 before Phase 7B, it just means they have approval. It does not mean they will construct the phases out of sequence. If the applicant chose to construct out of sequence, they would go to City Council.

Mr. Nachbar said it was the applicant's interpretation that the issues regarding the proposed park and connection to Meinecke Road relate to Phase 7B. He recommended the City Staff provide the Commission with some kind of staff report related to these conditions prior to the April 7, 1998 Commission meeting. He had no further information to present.

Mike Monical, Civil Engineer, OTAK, Inc, read his name into the record.

Chairman Whiteman asked if there was any further testimony, either proponent or opponent regarding SUB 98-1 Woodhaven Phase 7A.

Robert J. Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He distributed a "Letter of Understanding" signed by Genstar, 5-27-97; the City of Sherwood, 5-27-97; and Robert & Lila Salisbury, 6-4-97.

Chairman Whiteman said this letter primarily speaks to Woodhaven Phase 7B. Mr. Claus said his son and the other attorney were very careful not to be willing to separate Phase 7A and 7B. He said Mr. Bechtold should recuse himself from the discussion. He noted:

- The Commission is asking linear questions. Water dynamics are linear questions; you either have the capacity or you don't have the capacity.
- What has been submitted tonight as an exhibit by the Staff, the Master Sewer Plan, shows the sewer line going through Mr. Salisbury's property.
- Apparently Mr. Bormet and Mr. Hill have talked about whether or not the proposed park property will be turned over to the school district to develop. If it is, the PUD has had a material change and a very serious change.
- This has not been a PUD for a long time. The Commission is being asked to vote on something that is not a PUD.
- When the proposed park property was included, the entire sewer plan was shifted.
- There is also a letter from Mr. Bailey saying the road has been shifted onto the Whitesell property and they have not been given adequate notice. How can the Commission say this is not a change of the Transportation Plan.
- Mr. Bormet very much wants a frontage road. Legally, he is in a very precarious position. He is in Oregon where a series of steps are required to get to this stage and the City has not gone through these steps. The Commission is being asked, in effect, to endorse a frontage road.
- He asked the Commission to send this to City Council and let them decide. Mr. Bormet has further demonstrated a pattern on his fees to charge something that clearly is meant to obstruct somebody's ability to get a fair hearing. The fees are high enough that they are a deterrent and not based on anything seen in the City prior to his becoming City Manager.
- The City is getting close to a Title 1983 violation of the surrounding property owners.
- What is shown on the maps is not what Woodhaven is building. Neither the City nor Woodhaven are going to pay for the sewer coming up to the Salisbury property.
- The Letter of Understanding states the Salisburys are to get certain guarantees which are not in this application.
- The map is clearly inaccurate.
- Exactly what is happening now, was not to happen. They went with a PUD so these things would not happen.
- He asked the Commission to reject the whole thing. There are too many changes. The applicant is clearly impacting other people's property. Notice was not given.

Chairman Whiteman asked if there was any rebuttal testimony.

Phil Nachbar, Genstar, addressed the Commission. He responded to the previous comments regarding Phase 7A.

- There were a lot of accusations about whether this PUD meets the conditions of a PUD, with reference to a park and a road through a park, and SDCs. All of these are the responsibility of the City of Sherwood to administer and insure that they are properly incorporated into the PUD or carried out as a result of the PUD.

- The existing PUD has a park. This was modified in March of 1997 and placed in the current location. A lot of the smaller mini-parks were incorporated into a larger park. This was reviewed and approved by the Commission and City Council.
- The comments regarding the applicant not adhering to the map, means they have a PUD with a basic layout and the roads and utilities are not in conformance. This is not an accurate statement.
- The current map shows the roads nearly the same to what was incorporated in the modified development plan adopted in March of 1997.
- Nowhere in the PUD does it call for the applicant to install a road through the proposed park. It is not a condition of their approval.
- The statements being made are just not accurate.

Mr. Nachbar said he would be glad to discuss any of these comments.

Mr. Franklin asked where the current sewer line, either being constructed or a part of the Sewer Master Plan, is located. It appears the sewer line for Phase 7A is being picked up from its present location and being run north to Phase 7B. Mr. Turner said this was correct.

Chairman Whiteman read the "Letter of Understanding" signed by Genstar, Robert and Lila Salisbury and the City of Sherwood, into the record. The second page was a copy of a letter from Genstar to Conrad Claus concerning construction of a 6 foot high fence on the south boundary of the Salisbury property. This fence would be constructed at Genstar's expense.

Mr. Nachbar said the letter and attachment are more specifically related to Phase 7B. Mr. Claus did not agree with this assessment.

Chairman Whiteman advised that the City Council approved Phase 7 being separated into Phase 7A and 7B.

Mr. Nachbar said all of the conditions in the letter of understanding have been met, with the exception of the fence for which construction has not yet taken place. The applicant has no intention of not meeting any of the obligations of the letter of understanding.

Chairman Whiteman said he received a copy of the letter earlier. After discussing it with City Staff, he found there have been no direct conversations, at this point in time, with Mr. Salisbury with regard to the location of the road.

Mr. Nachbar said it makes sense to him that prior to construction the specifications for Phase 7 would be reviewed. The City can modify specific requirements based upon what they find as being necessary with regard to improvements.

Angela Weeks said it was her opinion that the conditions for Phase 7A and 7B are identical, this includes the road connection and the proposed park property. The applicant should comply with all of the conditions of approval.

Mr. Nachbar said these two conditions are directed at the City. The decision as to the location and acquisition of a park needs to be made prior to Phases 7A, 7B and 8. The location of the road to Meinecke must be determined and the condition states the applicant will provide a letter of credit in an amount sufficient to complete the collector street from Sunset Boulevard to Meinecke Road as part of Phase 6 conditions. The applicant has provided this.

Ms. Weeks said the Commission still has not received information regarding the park.

Mr. Nachbar said the letter of understanding does not involve the Commission, it is between the City, the applicant and the Salisburys. The City has made it very clear that the Salisbury property is being served.

Mike Monical, OTAK, Inc. said he discussed the utilities with the City Engineering Department, he has talked with AKS Engineering, and they have all looked at the Sanitary Sewer Master Plan, and agree there are no additions here. There is sufficient capacity in the line. The calculations are really very trivial. He can provide these calculations. The water lines are sized adequately and the storm drainage is sized adequately. There are no issues with the water, sewer or storm drainage.

Mr. Claus said the City, according to Phil, is one entity. If this application is approved, the parties have 21 days to appeal the decision. There is an entirely different question and then it is a breach of contract. He read from the Development Code that the City reserves the right per Code Section 2.202.04A.1a to stage or delay additional plans or modify the size of future phases based on the evaluation of the infrastructure....Prior to final PUD development plan consideration, the applicant shall submit a final phasing plan. Any changes to the sequence of these phases, except for minor adjustments to phasing boundaries, shall be subject to further Council review and approval. The City Council has not made any changes to the approved phasing.

Chairman Whiteman said the location of the Meinecke Road connection from Sunset Boulevard has not yet been debated.

Mr. Nachbar asked if the City Manager would like to make any comments with regard to the issues being discussed.

Mr. Bormet said Staff would answer any questions subsequent to the public hearing.

Chairman Whiteman closed the public hearing on SUB 98-1 Woodhaven Phase 7A for discussion by the Commission.

Chairman Whiteman noted some of the following questions had been raised:

- What role the Letter of Understanding should play, other than just general information to the Commission.
- How does the Commission address the revised conditions of approval dated March 26, 1997.

Mr. Bormet noted:

- Since the letter of understanding was signed, things are moving faster than previously expected. The letter of understanding was related primarily to the interests of the Salisbury property to make sure that as much of their property as possible could be served by a sewer from the back through Woodhaven.
- The plans submitted by Woodhaven for Phase 7A meet City standards and will be built in compliance with the City's sanitary sewer plan. It is his understanding that a portion of the Salisbury property, adjacent to Meinecke Road, is probably served by a sewer that needs to be extended down Meinecke Road.
- The letter of understanding was a settlement to the appeal of the previous PUD.
- The City does not yet know where the road connection is going to be.
- The City is taking a hard look at the proposed park. The School District is looking at this parcel. The City does not want to make any final plans until the School District makes a final decision. There may be merit in working together.
- According to the City's Transportation Plan, there needs to be a connector from Sunset Boulevard to Meinecke Road. Woodhaven has stubbed some different locations where this connector will work. The Commission will not be processed out of any discussion regarding the connection being placed next to the proposed park or in any other location.
- At this time, Staff does not know where or when this road needs to be placed.
- The City is in the process of planning the Meinecke Road intersection and connection.
- Woodhaven Phase 7A is not affected by the Meinecke Road connection or the proposed park property.
- The direction from City Council is that Woodhaven needs to have a park accessible to them. The City is trying to keep all options available.

Chairman Whiteman said the Mayor has assured him that there will be a park equal to the proposed park property in Woodhaven. He is satisfied that the integrity of a park in Woodhaven will be maintained.

Scott Franklin asked for clarification regarding Phase 7 being broken into phases, Phase 7A and Phase 7B. Mr. Bormet said the letter of understanding was under much more general terms in making reference to Phase 7. The Commission received the application in two parts, Phase 7A and Phase 7B as referenced in the March 26, 1997 revised Conditions of Approval. Chairman Whiteman said the main questions to be resolved are between the Commission and the City, rather than the Commission and the applicant.

Angela Weeks said when the revised PUD was approved, the conditions stated a park would be in a certain area. Would this change be a change to the PUD and would this need to go through the hearings process. Mr. Bormet responded with the City's ownership of this property, it in effect removes it from the PUD. The property would be dedicated with the final plat. It would be similar to the process used for the YMCA property.

Chairman Whiteman recessed the meeting at 8:50 PM for a brief reception for George Bechtold, whose term on the Commission was expiring. The meeting was reconvened at approximately 9:05 PM.

Chairman Whiteman read a letter dated March 6, 1998 from AKS Engineering to Mr. Claus into the record. The letter referenced storm, sanitary and water for the Salisbury property. The last paragraph read, "In conclusion, I think we have solutions to the storm, sanitary and water issues. The next step would be to perform a detailed site survey, and continue the preliminary design in order to get an application layout that works for us and Woodhaven." Attached to the letter were two drawings of Phase 7 showing the utilities.

Mr. Bormet reiterated that it is the City's responsibility to assure there is space for a park in the Woodhaven area. Woodhaven has met their responsibility by conveying this proposed park property to the City.

Mr. Bormet said the City is comfortable removing the condition regarding ornamental lighting.

There being no further discussion,

Bill Whiteman moved based on findings of fact, agency comments and public testimony, the Planning Commission approve SUB 98-1 Woodhaven Phase 7A Preliminary Plat with the conditions as revised. Seconded by Scott Franklin.

Vote for Passage of Motion: 3-Yes, 0-No, 1-Abstain (Bechtold)

Conditions 3G, 3L and 3S were removed and Condition 3R was modified.

Susan Claus did not participate in the discussion or the vote on this application.

6B. SUB 97-7 Charles Burck Heights #2 Preliminary Plat (Revised)

Scott Franklin did not participate in the discussion or vote on this application.

Mr. Bormet advised that during the break and a brief discussion with the applicant, the City may be in a position to move forward on this application. Carl Jensen, CES, Inc, said they would withdraw the letter to the City dated March 17 if it was going to cause the application to be continued. The purpose of the letter was only to clean up some of the conditions. They did not wish to have a continuance because someone from the City Engineering Department was not in attendance. Mr. Bormet said the City can handle the questions contained in the letter at a Staff level, prior to final plat submittal.

Chairman Whiteman opened the public hearing on SUB 97-7 and called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated March 17, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He reviewed the report, showed slides of the site, and specifically noted:

- The site is located south of Sunset Boulevard and west of Murdock Road. Tax lots 100 and 200, Tax Map 2S 1 32DD.
- The application is for a 26-lot subdivision. The site contains a total of 6.16 acres. The lot sizes are in compliance with the Low Density Residential (LDR) zone.
- The site has areas of very steep slopes.
- The City is in the process of realigning Sunset Boulevard to connect with Murdock Road. The old portion of Sunset Boulevard will be vacated to the property owner.
- There are several existing trees on the site and several trees which have been removed. The trees have been inventoried in accordance with the Code. Mitigation will be required for trees which are removed unless removal is due to public improvements.
- A condition has been included to allow compliance with the 25 foot lot width at the front property line.
- Sunset Boulevard and Murdock Road are currently substandard in improvements. These roads need to be improve to acceptable levels as required by the Code. The City is in the process of improving this section of roadway. The applicant is responsible for reimbursing the City for the sidewalk / bikepath improvements along Sunset Boulevard and is required to dedicate 5 feet of right-of-way along Murdock Road to future improvements.
- This subdivision will have a direct impact upon the public sidewalk in this area. The applicant shall be responsible for their fare share of the sidewalk improvements. A condition of approval has been included in the Staff Report.
- The applicant will be required to pay their fair share of the improvements to the sanitary system and laterals. A condition of approval has been included in the Staff Report.
- A condition of approval has been added which requires participation in the cost for upper level pumping zone improvements.
- The applicant shall participate in the cost as determined by the City Engineer of a regional facility which is located north of Sunset Boulevard. The facility was designed to accommodate the flow from the subject property.

Staff recommends a revision to Condition #15 to add, "..... The existing house located on Tax Lot 200 shall be relocated or demolished. If relocated within the subdivision, the house placement shall meet all applicable zoning standards.

In conclusion, based on the findings of fact and agency comments, Staff recommends approval of SUB 97-7 Charles Burck Heights II Preliminary Plat (revised) with the conditions contained in the Staff Report.

Chairman Whiteman asked if the applicant wished to provide testimony.

Carl Jensen, CES, Inc, 15256 NW Greenbrier Parkway, Beaverton, Oregon 97006, representing the property owner, Rod Loewer, addressed the Commission. Mr. Jensen said the applicant agreed with the modification to Condition #15. They did not have any further comments and would answer any questions from the Commission.

Chairman Whiteman asked if there was any further proponent testimony for SUB 97-7. There was no further proponent testimony. Chairman Whiteman asked if there was any opponent testimony. There being no opponent testimony, Chairman Whiteman dispensed

with the rebuttal portion of the hearing and closed the public hearing on SUB 97-7 Charles Burck Heights II Preliminary Plat for discussion by the Commission.

Mr. Bormet said the Sunset Boulevard and Murdock Road connection is anticipated to be complete by May 1, 1998. The vacation of the old portion of Sunset Boulevard would not take place until the realignment of Sunset and Murdock is completed.

Bill Whiteman moved based on findings of fact, agency comments, and public testimony, the Planning Commission approve SUB 97-7 Charles Burck Heights II Preliminary Plat subject to the conditions in the Staff Report and the revised Condition #15. Seconded by Angela Weeks.

Vote for Passage of Motion: 4-Yes, 0-No, 0-Abstain

6C. SUB 98-3 Woodhaven Phase 8A and 8B Preliminary Plat

Scott Franklin advised he had a project across the railroad tracks from this application. This project was completed about two years ago. There would be no economic gain for him and would not have an impact on his decision-making process. He planned to fully participate in the public hearing for this application. He did not believe there was any conflict of interest.

Chairman Whiteman opened the public hearing on SUB 98-3 and called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated March 17, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- The site is located within the Woodhaven PUD and is further described as Tax Lot 300, Tax Map 2S 1 31.
- The application is for preliminary plat approval of a 97-lot single family subdivision. Phase 8 contains a total of 30.13 acres; with 17.1 acres in Phase 8A and 8B only. The applicant will submit Phase 8C at a later date.
- The site is zoned Low Density Residential (LDR) with a PUD overlay which allows lots to be a minimum of 5,000 square feet. The application meets these requirements as well as setback requirements.
- Sunset Boulevard is currently substandard in right-of-way and improvements from the railroad tracks to Pinehurst Drive. The proposed phases 8A, 8B and 8C will access directly to Sunset Boulevard. The proposed phases will generate 970 vehicle trips per day. Based on code requirements and the proposed subdivision, a condition has been added which requires full street improvements on Sunset Boulevard from Pinehurst Drive to the railroad tracks.
- A previous condition regarding the natural Ponderosa Pine area states that at the time of development the applicant could remove more than 5% of the Ponderosa Pines in this area. The applicant has submitted a tree inventory which indicates only 1.9% of the Ponderosa Pines will be removed.
- He showed slides of the site.

In conclusion, based on the findings of fact and agency comments, Staff recommends approval of SUB 98-3 Woodhaven Phase 8A and Phase 8B Preliminary Plat with the conditions included in the Staff Report.

Chairman Whiteman asked if the applicant wished to provide testimony.

Phil Nachbar, Genstar Land Company NW, 11515 SW Durham Road, E-9, Tigard, Oregon 97224, addressed the Commission. Mr. Nachbar noted:

- Regarding Condition 3F, the applicant understands the City's position and concern to complete construction and reduce the amount of in-construction roadways within the City limits. The applicant is concerned that they are being asked to make an improvement which essentially fronts an area of development which they are not currently developing and there is no development on either side of Sunset Boulevard in this area. He identified the area on the map.
- The applicant is being asked to complete full road improvements from Pinehurst Drive going east to the railroad tracks. The development to the north, the second town home site and the commercial development and Phase 8C are not being considered for preliminary plat at this time. Yet the applicant is being asked to make the improvements from Pinehurst Drive to the railroad tracks. The applicant is not directly causing the need for that road at this point in time.
- The applicant does see the need for sidewalks, the bike path, and street lights. They will install these as a part of the current road plans for Sunset Boulevard to the railroad tracks. The City asked the applicant to do this even though it was not a condition of approval.
- Within two months the entire road improvements in front of the town home project will be completed, including street lights and sidewalks to the railroad tracks. The applicant is making these improvements in good faith and it is not a written condition of approval.
- The applicant is not sure how much of Phase 8 will be built this year. This decision has not been made at this time and for them to commit to a road improvements of about \$420,000, is a big decision which would be made well ahead of any projected income from the sale of these lots.
- It is reasonable for the City to ask for this improvement at this time, but the applicant cannot say at this time it is warranted and they should go ahead with it for Phase 8A and 8B.
- He showed the Commission what the applicant is proposing to do now with regard to road improvements.
- Mike Monical advised the applicant was conditioned on Phase 1B to make the Sunset Boulevard improvements to Pinehurst Drive.
- The applicant is not developing Phase 8C at this time nor the commercial site and second town home site. Phase 8C may include more affordable housing in the \$130,000 to \$160,000 range for detached units. At this time there is no firm schedule for Phase 8C.
- It may cost more money to put in the sidewalks now and then come back and do the road improvements.
- The 8 foot concrete path should refer to the south side of Sunset Boulevard.

- Regarding Condition 3I, the water line shall be 12 inches in diameter within Inkster and Pinehurst. The applicant understands this to be oversizing, due to the need to serve future developments.
- Regarding Condition 3L, this has been addressed with the previous application and this should be removed or specify ornamental lighting on Sunset Boulevard to the railroad tracks.
- The applicant is not developing either side of Sunset Boulevard from Pinehurst Drive to the railroad tracks at this time. It does not make sense to widen that part of the road at this time.

Mr. Bormet said it seems that whole town is under construction. The applicant will be digging up Sunset Boulevard some time this year and they would propose to come back some time later with Phase 8C. In the meantime, Phase 8C has at most 73 homes. The need for Sunset to be widened is not this number of homes; it is the first 1100 homes in the other part of the development which require these road improvements at this time. This improvement is important enough for the community that it should be done now. As time goes by, construction costs rise. These road improvements from Pinehurst to the railroad tracks is the safe thing to do.

Mr. Bechtold said this same argument could be used for the connection from Sunset to Meinecke Road.

Mr. Turner said regarding the 12-inch water line, the City would agree that this would be oversizing.

Mr. Nachbar asked what is fair to the developer. Should they complete all of their public improvements now. Should they complete the Meinecke Road connection and other items, merely because the City and the citizens want it now. The whole point of staging construction is so the construction that is staged is connected in some way with the need for that construction. One standard used in the past is when you develop a property, you develop the adjoining road to it. This is a major improvement which requires extensive engineering and will service the entire development through build-out. This type of condition has not been required to date. The Transportation Plan calls for a 35 MPH road. The City wants skinnier streets. This condition to complete Sunset to the railroad tracks, prior to any development commencing on either side of Sunset in this area, may be setting a precedent.

Chairman Whiteman asked if there was any further proponent testimony for SUB 98-3. There was no further proponent testimony. Chairman Whiteman asked if there was any opponent testimony. There was no opponent testimony. Chairman Whiteman dispensed with the rebuttal portion of the hearing and closed the public hearing for discussion by the Commission.

Susan Claus asked if the Commission could clarify the sequence of phasing of the development. Chairman Whiteman said the Commission acknowledged the testimony of Mr. Nachbar, earlier, when he advised the Commission that Phase 7A and Phase 7B would be resolved prior to any construction in Phase 8A and Phase 8B, unless approved by the City Council. Ms. Claus said there is a conflict with the modified conditions of approval.

Chairman Whiteman asked if the applicant was indicating that in recognition of this chronological order of phasing, before any building takes place in Phase 8A and 8B that all of the preliminary planning would be complete in Phase 7A and 7B.

Mr. Nachbar said before they would construct Phase 8, if the sequence of phasing is changed or done out of order, the applicant would go back to the City Council for approval.

Chairman Whiteman suggested the motion include some recognition if the phasing is built out of sequence, it would go before the City Council for approval, prior to construction beginning.

In response to Mr. Franklin's question, Mr. Nachbar said Phase 8A and 8B are one plat and would be reviewed as such with the final plat submittal.

Chairman Whiteman asked if the phasing was only for construction phases and not for platting phases. Mr. Nachbar said this was correct. Mr. Monical indicated Phase 8A and 8B would come back as one plat.

Mr. Nachbar said the new phasing, including Phases 7A, 7B, 8A, 8B and 8C, went before the City Council and was approved. Susan Claus asked when these went to City Council and were divided out. Staff said about two months ago this was presented to the City Council.

Susan Claus asked how the Commission could approve Phase 8, if all of Phase 7 is not approved yet. It sounds like the Commission can do an approval, but the applicant cannot begin construction until all of Phase 7 is approved. She asked for further clarification.

Chairman Whiteman said the applicant cannot begin construction on Phase 8 until all of Phase 7 has gone through the process. Susan Claus read from the conditions of approval adopted on March 26, 1997, Condition #9, "Any changes to the sequence of these phases, except for minor adjustments to phase boundaries, shall be subject to further Council review and approval."

Chairman Whiteman said the applicant, in an effort to overcome this condition, has tried to placate the Commission by saying they would not begin construction in Phase 8 until the process on Phase 7 was complete. If they did choose to do so, they would go to the City Council for approval.

Mr. Bormet said if the Commission approves Phase 8, it is with the understanding that the applicant cannot do anything with Phase 8, until Phase 7A and 7B are approved, or go back to the City Council for approval of a change in phasing. If the Commission approves Phase 8A and 8B, the applicant would need to go back to the City for approval of a change in the sequence of the phasing.

Mr. Nachbar said if the Commission does not approve Phase 8A and 8B tonight, the next step would be for the applicant to go to the Council requesting a modification in the sequence of phasing.

Susan Claus said two important issues are the completion of the road improvements to Sunset Boulevard and approval by City Council to allow phasing out of sequence.

Mr. Bormet said any change in the phasing by City Council would not be through a formal public hearing process. It would be by motion of the Council.

Mr. Nachbar said the remaining phases would be the two town homes sites, one off of Sunset and one south of Inkster, Phase 7B and Phase 8C and the commercial site. Phase 7B and Phase 8C would be the last of the single family dwelling sites.

Mr. Franklin said he was a little uncomfortable with the requirement to have the applicant build the remainder of Sunset improvements to the railroad tracks on a portion of frontage not approved or as a part of this phase. Phase 8C has the remainder of the Sunset frontage to the railroad tracks. Chairman Whiteman said these improvements are the kind of infrastructure items the City should be concerned with. Mr. Franklin said this could set some type of precedent. These reservations are not enough for him to vote to deny the project.

Chairman Whiteman said the record would reflect the concern of the Commission for setting some type of precedent, recognizing that this is a PUD rather than a subdivision.

Bill Whiteman moved based on findings of fact, public testimony and Staff Report, the Planning Commission approve SUB 98-3 Woodhaven Phase 8A and 8B Preliminary Plat, subject to revising Condition #3L and the other conditions as contained in the Staff Report. In addition, Phase 8A and 8B be sent to the City Council for consideration of allowing this phase to progress out of sequence. Seconded by Angela Weeks.

Vote for Passage of Motion: 3-Yes, 0-No, 2-Abstain (Bechtold, Claus)

A roll call vote was made.

7. Other Business

Chairman Whiteman referred the Commission to a letter from Richard Bailey, Big Meadow Realty, speaking to the owners of Tax Lot 100 and 201 that are impacted by the Woodhaven approval. Staff advised this will be dealt with at the Phase 7B hearing on April 7, 1998.

Chairman Whiteman asked for information regarding the letter dated March 16, 1998 from the Wildflower Village residents. Staff recommended the Commission review the materials and bring this up for discussion at the next Commission meeting. Chairman Whiteman asked if the Commission had a role in this process. Mr. Turner said the only role for the Commission would be if Bond's Automotive asked for a plan text amendment or an interpretation of a similar use.

Mr. Tuck advised public hearing notices have been sent to the appropriate adjacent property owners regarding Phase 7B. One of the properties referred to in the letter from Mr. Bailey was outside of the noticing area and the other property owner was sent a notice.

Chairman Whiteman again thanked George Bechtold for his service on the Planning Commission.

There being no further business to discuss, the meeting was adjourned at 11:10 PM.

Respectfully submitted,

Planning Department