



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, September 15, 1998
7:00 PM**

A G E N D A

1. **Call to Order/Roll Call**
2. **Approval of Minutes - September 1, 1998 (will be available 10-6-98 PC Mtg)**
3. **Agenda Review**
4. **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. **SP 98-7/CUP 98-2 Ice Hus:** a request by Janet/Brent Birkemeier for conditional use permit and site plan approval of an approximately 45,000 sf public ice skating facility which includes an arcade and restaurant. Tax Lot 11200, Map 2S 1 30AD
 - B. **CUP 98-4/SP 98-12 Renaissance @ Sherwood Conditional Use & Site Plan:** a request by Genesis Assisted Living for a conditional use permit and site plan approval for construction of an approximate 48,000 sf assisted living facility to be located at the northeast corner of Century Drive and N. Sherwood Blvd. Tax Lot 1500, Map 2S 1 29C.
 - C. **PUD 94-1 Oregon Trail PUD Modifications & SUB 98-5 Oregon Trail Phase 4 Preliminary Plat:** a request by Farwest Properties for modifications to approved PUD and preliminary plat approval of a 12-lot subdivision (Phase 4). Tax Lot 4500, Map 2S 1 30BD, Phase 4 and Tax Lot 201, Map 2S 1 30BD, Phase 3.

5. **Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
6. **Other Business**
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
September 15, 1998

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:05 PM.

Commission Members present:

Susan Claus
Adrian Emery
Scott Franklin
Keith Mays
Paul Stecher (7:10 PM)
Bill Whiteman

Staff:

Greg Turner, City Planner
Jason Tuck, Associate Planner
Scott Clark, Assistant Planner
Roxanne Gibbons, Recording Secretary

Commission Members absent:

Angela Weeks

2. Minutes of September 1, 1998

Chairman Whiteman announced that the September 1, 1998 minutes would not be available until the October 6, 1998 Regular Commission meeting.

3. Agenda Review

There were no comments.

4. 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.

There were no disclosures.

4A. SP 98-7/CUP 98-2 Ice Hus Conditional Use and Site Plan

Chairman Whiteman advised this was the second public hearing for this application. The Commission approved the application at the August 18, 1998 Regular Commission meeting. However, following this meeting, it was found the public notices had listed the incorrect meeting location. Interested parties which were affected by this notice participated in an informal meeting with Chairman Whiteman, members of Staff and the applicant. As a result of this meeting and on advice of the City Attorney, a second public hearing was noticed for this application. A letter in opposition to the application, dated August 22, 1998, was also received from Mr. William Dahn. Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated September 15, 1998, a complete copy of which is

contained in the Planning Commission's minutes book. He identified the site location on the map and noted:

- The site is located off of SW Borchers Drive near the intersection of Edy Road, Tax Lot 11200 of Tax Map 2S 1 30AD. The site consists of 5.50 acres.
- The applicant is proposing to construct an approximately 45,265 sf ice skating rink which includes an arcade, and restaurant in Phase 1. The site plan includes a building pad for future development of Phase 2. The proposal has two vehicular site accesses, one to the south and one to the north to a parking lot of 190 off-street parking stalls. General landscaping has been provided around the perimeter and within the site.
- The site is zoned Retail Commercial (RC) and the proposed use is a Conditional Use within the current zoning designation. The use would be categorized similar to a "sports club".
- A landscape strip of at least 10 feet in width is provided between rights-of-way and abutting off street parking, loading or vehicle use areas.
- The total required parking is 174 stalls. The applicant is providing 190 stalls in order to accommodate future development of Phase 2. The applicant provided information on the national average for similar rinks which is 5.9 stalls per 1,000 square feet. They anticipate the parking facilities will be highly unused based on the trends at other ice rinks.
- The solid waste storage facility has been located to minimize the noise to the residential area near the back of the site. The area will be screened with a wall and plantings.
- The applicant is dedicating 35 feet of right-of-way from the centerline with an improved width, curb to curb of 36 feet. This should be corrected from the 33 feet listed in the Staff Report conditions of approval.
- An 8 foot bike path will be located on the proposal side of the roadway, separated by a planter strip. On the east side will be a curb with driveway cuts to existing properties.
- There were concerns discussed at the informal meeting about the noise. The applicant has stated the noise from the facility would be about the same level as his voice. The noise level meets the standards and is relatively quiet.

In conclusion, based on a review of the applicable code provisions, agency comments and Staff review, Staff recommends approval of SP 98-7/CUP 98-2 Ice Hus with the conditions included in the Staff Report. He also referenced the August 22, 1998 letter from Mr. Dahn which was entered into the record.

Chairman Whiteman opened the public hearing on SP 98-7/CUP 98-2 Ice Hus and asked if the applicant wished to provide testimony.

Patrick Haugen, 5920 SW 176th Avenue, Aloha, Oregon 97007, addressed the Commission. Mr. Haugen asked that the meeting minutes from the August 18, 1998 Commission meeting be included as part of the record.

Greg Turner said a draft of these minutes were mailed to the adjacent property owners.

Mr. Haugen noted the other items the applicant wanted to include or clarify:

- The proposal does include an arcade and pro shop. They are not sure about the restaurant or athletic club. These items are an allowed use in the zone.
- The issue they really need to address is “ice”.

He said he would answer any questions.

Chairman Whiteman asked if the Development Code included a definition of “arcade”. Staff responded the Code did not include a definition. Chairman Whiteman said during the informal meeting with the residents of the area there was a lot of discussion about the term “arcade”. It was acknowledged by those concerned that a few machines in the building would be fine, but the connotation of an arcade, that is an attraction by itself, could possibly attract a different clientele than those using the ice. He asked if the City had any permit fees for arcade machines. Mr. Turner said he did not know, but essentially this would fall under the accessory use category.

Chairman Whiteman discussed his idea of what an arcade would mean such as a separate room or store front that would not necessarily have any visibility or access to the ice area.

Mr. Haugen said the pro shop has expressed an interest in having more square footage for their pro shop. When they are talking about an arcade, he thought this would be what you might see in a pizza parlor. They are not in the arcade business, they are in the ice business. The arcade is for extra entertainment for the kids there. They mentioned the arcade because they wanted the City to know what each piece of the floor area of the facility would be designed. Mr. Turner said they are dealing with a term where the applicant was only going to put in a couple of machines. Mr. Haugen said this was correct and they are not opening up an arcade facility.

David Seward, 14001 NW Ford Road, Gaston, Oregon 97119, addressed the Commission. Mr. Seward said when they have a public skate, normally these periods of time are 3 hours long. What you have is people needing a break, getting something to eat and possibly playing a game. They are trying to capture the audience for a 3 hour period of time. Within the foyer there would be some machines set up. It would be an additional type of entertainment device. They are not going to have, at this point in time, a delineated room called “arcade”.

Chairman Whiteman mentioned the new rink in Vancouver, Washington in which the newspaper said would have an arcade. Mr. Seward said he planned to visit the facility this weekend. Chairman Whiteman said his connotation of the word arcade would be something like those at Clackamas Town Center. The people that are there really don’t care about the ice and have different motives for being there. He could understand why the residents would have a concern over the connotation of the word arcade for this project. Mr. Seward said he visited a rink in Medford which had machines along the three walls basically for the same reason, to capture the audience so that they don’t burn out on skating for 3 hours. He said they do not plan to enclose the machines in a separate room in the proposed facility. Mr. Franklin noted the plans show quite a large area, 32 feet by 40 feet, for the arcade. Mr. Haugen said this goes back to the fact that the pro shop would like more square footage and this space would come from the previous arcade area. Mr. Seward said they do not want to become arcade operators. He would estimate they would have a wall of 4 to 10 machines. They will not be a gathering center for those people

just wanting to play machines. The machines would be located in an area near the skating rink where you could walk on a matted floor with skates. It is being moved from the back room area and they are changing the location of the restrooms by facing them into the foyer. Mr. Franklin asked if Staff had seen these changes. Mr. Haugen said the changes are being prepared at this time and Staff had not seen them yet.

Chairman Whiteman read the August 22, 1998 letter from William J. Dahn, 16518 SW Daffodil Street, Sherwood, Oregon 97140, into the record.

Chairman Whiteman asked if there was any one else who wished to testify.

Glenn Ferris, 32680 NE Corral Creek Road, Newberg, Oregon 97132, addressed the Commission. He said he represented himself as a member of the family that owns the property where Six Corners Motel, Sherwood Auto Parts and Feed Store are located. They have owned and operated this property since 1942. He identified the location on the map. Their concerns are related to two issues, transportation and drainage. These accesses have been there for over 50 years. They would like to maintain the back access to the garage parking for the motel units and maintain the existing access to the back of the store for service bays, product and delivery of inventory and access to the parking at the north end of the store. They also are concerned about the drainage. Since the elevation of 99W has been raised approximately 6 feet, the water which used to drain south to Chicken Creek, now drains to the front of the store area which they pump to the back of the store area and drains to Chicken Creek on the west side. He thought the applicant had addressed this adequately in their prior testimony. He just wanted to make sure these concerns were in the record.

Chairman Whiteman asked if Staff wished to respond. Mr. Turner said the 33 feet should have been corrected to 36 feet in the Staff report. They have looked at the location of Mr. Ferris' businesses. They talked to the applicant about putting a curb on that side of the road and provide driveway cuts for existing services. Mr. Ferris said this would take care of his concerns, as long as the curb cuts are for existing services. Chairman Whiteman clarified curb cuts for each access. Mr. Franklin said this could become an issue considering the current residential driveway standards having a maximum width. This maximum width may not be wide enough to cover all the driveways. Mr. Turner said they are talking about three commercial driveways and one residential driveway. Mr. Ferris said they are not really residential, they are motel units. Mr. Turner said the intent of the residential driveway standards are for dwellings. Mr. Franklin said he understood this. Mr. Ferris explained what each existing access is currently used for and their location.

Mr. Ferris asked if there were minutes from the informal meeting. Chairman Whiteman said this was an informal meeting, there was not a quorum of the Commission and this was not a public hearing. There were no minutes taken.

Chairman Whiteman asked if there was any further proponent testimony.

Mark Flint, 320 SE Taylor Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Flint said there are important issues for the Commission to deliberate, such as traffic flow, noise abatement and the overall effect this facility will have upon the community. He asked the Commission to please don't lose sight of the fact that this facility is a sporting complex, a place where young and old can spend their energy on fitness, camaraderie, social fun and growth, and even music and artistry. He has a 6-1/2 year old daughter who figure skates. He thought it would be really great if she could spend her time in Sherwood skating every day and not having to drive a long way to one of the other rinks. She has a professional coach that lives in McMinnville and the Sherwood location would be more convenient. There are a lot of kids of his neighbor talking about ice skating and hockey, the types of things that would get them off of the streets and give them something else to do in this community. As a resident and homeowner, he could not think of a single obstacle that can't be overcome by creativity and desire or why Sherwood would be anything less than honored to be selected to house such a positive environment for the citizens and those who would travel miles to enjoy such a unique facility. If he could vote on this board, he would vote for approval of the application. Right now his wife has taken his 6 and 3 years olds to Lloyd Center to skate. This facility is an opportunity that he could not see the City turning down. He has been to Valley Ice in Beaverton late at night and he has never seen any gang activity in that area. He can't say this about Lloyd Center or Clackamas Town Center because these are shopping malls. Valley Ice does have some video machines and he sees parents use them more than the kids.

Chairman Whiteman asked if there was any further testimony, proponent or opponent. There being none, Chairman Whiteman asked if the applicant wished to provide rebuttal testimony.

David Seward, 14001 NW Ford Road, Gaston, Oregon 97219, addressed the Commission. He discussed the argument of gang activity. He has been affiliated with hockey since 1961 and helped start the Clackamas Town Center Hockey League. The gang activity at Clackamas Town Center and Lloyd Center are not affiliated with the ice rink. These individuals are there to pick up women and to steal. They did not have any gang activity, whatsoever in conjunction with the ice rink at Clackamas Town Center. He has been going to the Valley Ice Arena since the 1960's at all times of the day and he has never seen any gang activity in the parking lot. If the McDonald's and Shopping Center in Sherwood have been tagged, then they must ask the question should we have built these facilities. You cannot prevent one individual from coming in and spray painting a building. They have fought to design their building in such a manner so that any paint on the building can be immediately cleaned, primed and painted. This will be a private facility and not like a shopping mall with thirty different entities which is very difficult to keep certain people out of. This is going to be an ice rink. He will run the hockey programs and if they have any trouble whatsoever, they will deal with them first of all. However, they do not plan on taking the law into their own hands, but they can go out and personally tell an individual to leave their property. It is going to be a very unhealthy place for gang activity and there is going to be nothing for them there. To be somewhat candid, he did not think he would want to mess with twenty or thirty hockey players going in and out of a parking lot if they think there are gangs in the lot. He is not saying confrontation or police shootings or beatings. This is not going

to be a healthy environment for gangs. It is going to be a healthy environment for real people, real kids that want to do something other than belong to gangs.

Chairman Whiteman closed the public hearing on SP 98-7/CUP 98-2 Ice Hus for discussion by the Commission.

Chairman Whiteman said he would like to have the Commission consider a condition regarding the curb cuts. The Commission discussed the appropriate wording for this condition. The Commission agreed to include another condition that states, "The applicant shall maintain curb cuts to all existing vehicular access points along the east side of Borchers Drive."

Mr. Seward asked if they could have the cooperation of the owner to identify what he wants. The applicant would be willing to meet with the owner in this regard.

The Commission discussed including a condition regarding the drainage. Mr. Franklin said it is not incumbent on the applicant to correct any existing drainage problems, but they would be responsible to correct any problems caused by this project. They agreed to include another condition which states, "The applicant shall ensure that the proposed road improvements do not further aggravate existing drainage problems on adjacent properties along Borchers Drive."

It was the consensus of the Commission that they did not have the authority to monitor or regulate the number of coin-operated video entertainment machines in this facility.

Ms. Gibbons advised the Chair there were two additional cards filled out by people wishing to speak on the Ice Hus. However, after polling the audience, it was found these two individuals had left the meeting.

Susan Claus moved based on review of Code provisions, agency comments, public testimony, and Staff review the Planning Commission approve SP 98-7/CUP 98-2 Ice Hus with the conditions outlined in the Staff Report, changing improved width from 33 feet to 36 feet and adding two conditions, #8 and #9 as read by Greg Turner. Seconded by Paul Stecher.

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

Chairman Whiteman said the previous minutes noted the Commission's concern regarding noise to the residential area in the back of the site. If the noise level is not maintained, the Commission would ask the City Council to review the matter. This will remain a part of the record.

Chairman Whiteman recessed the meeting at 8:10 PM for a break and reconvened the meeting at 8:15 PM.

Chairman Whiteman announced he knows the applicant, Clarence Langer, and they both recently attended the same social function. However, they did not discuss the assisted living facility

application. He did not feel this would affect his decision on this project and he planned to fully participate in the discussion and vote on the application.

4B. SP 98-12/CUP 98-4 Renaissance @ Sherwood Conditional Use & Site Plan

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated September 15, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He identified the site location on the map and noted:

- The applicant is proposing to construct an assisted living facility at the corner of North Sherwood Boulevard and Century Drive. The proposed facility is approximately 48,000 sf in size and consists of approximately 65 units.
- The site consists of 2.29 acres and is zoned Retail Commercial (RC). It has been designated as Phase 2 of the Sherwood Village PUD. The proposed use requires a conditional use which is categorized as an assisted living facility.
- The site is within 100 feet of a High Density Residential (HDR) zone and the maximum height allowed would be 40 feet. The application includes a building with a maximum height of 40 feet with the exception of the tower as shown on the drawings. This is an architectural feature which is allowed to go up to 20 feet above the 40 feet. The proposed tower exceeds the forty feet by an additional five feet which is within the requirements of the zone.
- The Code does not include parking requirements for assisted living facilities. Staff based the parking requirements on the applicant's description of other areas which is one parking stall for two units. This was based on the facilities in Hillsboro and Newberg. Typically the residents in these facilities do not rely on automobiles for travel. Fourteen of the units will be used for Alzheimer's care. The proposed ratio of one parking space for every two dwelling units will provide ample parking spaces.
- The applicant will be required to build an 8 foot sidewalk along North Sherwood Boulevard as well as a 5 foot pedestrian path over the adjacent mound area. He identified the area on the map. This mound will be incorporated into the landscape area. The Engineering Department said this mound has helped keep the lights from cars traveling down Langer Drive from shining directly into cars traveling west on North Sherwood Boulevard. The City will maintain ownership and the applicant will landscape and maintain it.

In conclusion, based on a review of the applicable code provisions, agency comments and Staff review, Staff recommends approval of SP 98-12/CUP 98-4 Renaissance @ Sherwood with the conditions included in the Staff Report.

Chairman Whiteman opened the public hearing on SP 98-12/CUP 98-4 and asked if the applicant wished to provide testimony.

Alan Kravitz, 4380 SW Macadam Avenue, Portland, Oregon 97201, addressed the Commission. Mr. Kravitz said their landscape architect and a representative from Genesis Heath Care were also in attendance. He noted:

- They participated in the code change which allowed them to locate the facility in this zone and they are very excited about being able to place this facility in Sherwood. They have

received a lot of interest already from the community. They would hope to begin construction as soon as possible.

- He said he would answer any specific questions about the facility or the Staff report.

Chairman Whiteman asked for clarification regarding the fenced garden area for the Alzheimer's units area. Mr. Kravitz said the fence would be green vinyl and the white vinyl fence is a part of the PUD at the forty foot buffer. The six foot high green vinyl fence is a code requirement from the State for the security of the Alzheimer's residents. He identified where the fence would be located. They are planning to have 14 Alzheimer's units and fifty other units for a total of 64 units.

Chairman Whiteman applauded the landscape architect for the presentation.

Peter S (could not hear last name) from Genesis Assisted Living, 1790 SW Blaine Drive, Aloha, Oregon 97006, addressed the Commission. There is an Alzheimer's unit under construction just east of 99W towards the Tualatin area. Their market study was based on a one mile radius and felt there was an appropriate number of senior population that could fill the facility. The unique feature of having an Alzheimer's unit attached to the other space is you can have both family members living in the same unit without being separated from each other. Assisted living facilities promote "aging in place". This facility will have a full time Registered Nurse and a Licensed Practical Nurse. One of the components of an assisted living facility is having this type of care. If there is something that is beyond their means and ability, the resident may be moved to a nursing facility. However, the decision would be based on the legal guardian or family members to come to an agreement. The ultimate constant is the care for the resident as best as possible. Their company manages and owns sixteen nursing facilities near the I-5 corridor in Washington and Oregon.

Chairman Whiteman asked if there was any further testimony, either proponent or opponent. There being none, Chairman Whiteman dispensed with the rebuttal and closed the public hearing on SP 98-12/CUP 98-4 Renaissance @ Sherwood Site Plan and Conditional Use for discussion by the Commission.

Susan Claus asked if there were any comments from Tri-Met. Mr. Turner said Tri-Met did not have any comments. The applicant also provided a traffic impact analysis.

Adrian Emery said his only comment would be the parking situation on the south side of Century Drive. Mr. Turner said most of this parking is due to the apartment complex.

Chairman Whiteman said the quality of the design and architecture will look good and the people putting this together should be commended. This is a very positive entrance into the community.

Adrian Emery moved based on findings of fact, Staff review and recommendations and public testimony the Planning Commission approve SP 98-12/DCUP 98-4 Renaissance @ Sherwood Site Plan and Conditional Use with the conditions contained in the Staff Report. Seconded by Scott Franklin.

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

4C. PUD 94-1/SUB 98-5 Oregon Trail PUD Modifications and Phase 4 Preliminary Plat
Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated September 15, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He identified the site location on the map and noted:

- The site is located north of Edy Road and west of 99W, further described as Tax Lot 4500, Map 2S 1 30BD for Phase 4 and Tax Lot 201, Map 2S 1 30BD for Phase 3.
- Phase 3 has areas of steep slopes which is reflected in the design which was previously approved. The narrow road and smaller lot sizes allows the developer to maximize the buildable area on the site while preserving the steep slopes.
- Phase 4 is an island of land surrounding by natural area which was dedicated with the original approval. The areas located at the back of the lots are steeply sloped toward the natural area. The vegetation in both phases is primarily grasses. There are a few trees located at the rear of the lots along the natural area in Phase 4.
- The site is within the Oregon Trail Planned Unit Development which was previously approved. The underlying zoning on the west side (Phase 1 and 2) is Low Density Residential (LDR) and Medium Density Residential Low (MDRL) on the east side (Phase 3 and 4). Single family residential units and attached units are allowed outright within the zone and in accordance with the PUD.
- He showed the Commission the original approved Final Development Plan which was approved on April 4, 1995. The plan included four phases of development. Phases 1, 2 and 3 received preliminary plat approval as a part of the April 4, 1995 Commission decision. Phases 4 was approved in concept only.
- To-date the developer has nearly completed the construction of Phases 1 and 2 and modifications are being requested to the approved preliminary plat for Phase 3 and concept approval of Phase 4.
- Phases 1 and 2 are not under review tonight. He referred the Commission to a sheet identified as Sheet 1, Oregon Trail Planned Unit Development, PUD 94-1. This sheet showed Phase 3 and Phase 4, what was approved, what was being requested and the staff recommendations. He reviewed each of these for the Commission.
- Phase 3 was approved for 22 lots, single family attached. This is basically a duplex with lot line running down the center, each separately owned. The south street portion was within a 46 foot right-of-way and 32-foot paved width. The north street portion was within 35-foot right-of-way and a 28-foot paved width. On the north portion there is a sidewalk only on the east side.
- The applicant is requesting 22 lots, single family detached. They are requesting a 20 foot front setback with the exception of Lots 145-152 which would be 15 feet. The rear setback would be 20 feet with the exception of Lots 145-152 which would be 10 feet. The side setback reduced to 3 feet from 5 feet. They would like a 46 foot right-of-way with a 26 foot paved width on the south street portion and a 28 foot right-of-way with a 26 foot paved width on the north portion and a sidewalk on the east side only.

- Staff is recommending setbacks at 20 feet from the front of the garage from the back of the sidewalk and 15 feet to the house from the back of the sidewalk, rear setback 15 feet for Lots 131-144, and 10 feet for Lots 145-152. The north street portion a 28 foot paved width and sidewalks on both sides.
- Phase 4 was approved for 20 single family attached units in concept only. The applicant is requesting that Lots 1, 11 and 12 have the option of being a duplex and Lots 2-10 be single family detached. The setbacks would be 20 feet for the front and rear and 3 feet for the side. They are requesting the street have a 30 foot right of way, 26 foot paved width and 10 foot easement on both sides for the sidewalks.
- Staff is recommending the setbacks be 20 feet from the back of the sidewalk to the front of the garage and 15 feet to the house from the back of the sidewalk.
- The minimum side setback would be 3 feet and this is consistent with the fire code.

Keith Mays asked how many developments have been approved with the 3 foot side setback. Mr. Tuck said he did not have this information, but there are three in the preliminary planning stages.

Susan Claus asked why Staff was requesting sidewalks on both sides. The original approval for Phase 3 was a sidewalk on the east side only and part of this was due to the topography. Mr. Turner said they are trying to achieve the same street standard that they have in other developments. This is why the setbacks to the rear of these lots have been reduced to allow for the sidewalk area. The applicant is requesting no sidewalk on the east side as originally approved. Ms. Claus asked what the elevation change for this portion would be and having a public sidewalk with a tremendous topography change. Mr. Tuck said houses would be in front of this portion and he identified the location on the map.

Mr. Stecher asked about the 20 foot pedestrian pathway between Lots 144 and 145 with the original approval. Mr. Tuck said Staff is recommending a condition that requires a connection to the Cedar Creek development. There is an existing access which is a private drive and at the end of this drive there is a sidewalk which goes to the south and is on City property. The recommendation is to connect that to this development through that area, basically as previously approved.

Mr. Franklin asked if the sidewalk on both sides on the north street would go all the way up the hammerhead and connecting to the sidewalk. Mr. Turner said it would go all the way up both sides of it.

Mr. Tuck continued his review of the Staff Report:

- Proposed major changes in a Final Development Plan shall be considered the same as a new petition and shall be made in accordance with Section 2.202 of the Code. Because the proposed changes taken together constitute a major change as well as revise the conditions of approval by the Commission and Council, the changes must be reviewed by both the Commission and City Council in public hearings.

- The required findings for PUD approval and modifications to the final development plan are in the Staff report as well as the required findings for the subdivision approval of the preliminary plat for Phase 4.

Mr. Tuck reviewed the proposed changes to the Staff Report as follows:

- Condition #13, side yards 3 feet and corner lots, street side, 15 feet.
- Change Condition #8F to, “Water quality is required. Provide analysis and sizing calculations including basin maps and supporting documents. Prior to permit approval, provide documentation of permits required by other jurisdictional agencies to the City’s Engineering Department for review.”

Mr. Tuck said there is a letter dated September 14, 1998 from Tim and Cammie Grace, 20582 Duckridge Place, Sherwood, Oregon 97140, expressing their concerns, for the record.

In conclusion, based on the findings of fact, Staff recommends approval of the modifications to PUD 94-1 Oregon Trail Final Development Plan and SUB 98-5 Phase 4 Preliminary Subdivision Plat, subject to the conditions as revised.

In response to Mr. Stecher’s question, Mr. Tuck said the buffer area is outside of the lot, so the whole area is dedicated or placed into a separate tract. This should have been done with the original PUD approval. In response to Mr. Mays question, Mr. Tuck said the 10 foot setback for Lots 145-152, Phase 3, would allow enough flexibility on the lots as possible because the lots are relatively small. These lots do drop off in the back. There was no minimum lot size indicated with the approval of this PUD. Basically, you have to show there is some kind natural constraint on the property that allows you to densify and alter the standards of the Code, and in exchange there is usually a dedication of natural land or park land. Susan Claus said the underlying lot sizes for the zoning is MDRL or 5,000 sf. Mr. Tuck said the lot sizes have not changed drastically from what was originally approved. In response to Mr. Stecher’s question, Mr. Tuck said connecting path adjacent to Lot 144 would be 5 feet in width and is referred to in Condition #8I. The property immediately to the east of this PUD is outside of the City of Sherwood and the IP zone is the Lutheran Church. There are no requests for annexation of this one parcel at this time. The subdivision findings require you to provide access to adjacent properties. Approval of this application would still be subject to the underlying conditions for the PUD, as modified.

Mr. Franklin said part of the original conditions of approval was that any street improvements would not exceed a 10% grade. This might be a little difficult to do at the entrance. He did not know if this was being addressed. The current City engineering standards do not require this for a local street. If this needs to be modified, now would be the time to modify that condition. Mr. Turner said the applicant has not requested this condition to be revised. Mr. Franklin said if the application is approved, then their maximum grade would be 10%.

Chairman Whiteman opened the public hearing on PUD 94-1/SUB 98-5 Oregon Trail and asked if the applicant wished to provide testimony.

Len Schelsky, Westlake Consultants, 15115 SW Sequoia Parkway, #150, Tigard, OR 97224, representing the applicant, Farwest Properties, addressed the Commission. Mr. Schelsky noted:

- They are proposing to amend the original PUD for Phase 3 and would like subdivision approval for Phase 4.
- The original PUD was approved for 174 living units. If the application is approved as submitted tonight, the actual number will be down to 166 units. When Phases 1 and 2 were platted two lots were deleted to make some of the lots in these phases larger and they are also removing 5 units in Phase 4. They have reduced the density for the whole PUD by 6 or 7 units.
- They had lengthy hearings on the PUD from the Commission to the City Council and back to the Commission. There was a lot of discussion about setbacks and useful, etc. They were granted, at that time, that the sidewalks only be on one side of the north end of Parkman Terrace. They would like to retain that condition. If the condition is approved as recommended by Staff, the upper two lots may be unbuidable.
- In general, they concur with the conditions of approval. He clarified a couple of the conditions.
- The other issue with the sidewalks, after meeting with Staff, to try an convince them that the sidewalks at the front end of the project, where there are no lots abutting the street should be adjacent to the street, the primary concern is there is a lot of cut and fills on the entry and slopes that cut in. They felt if the sidewalk is adjacent to the curb in those area, it would have less impact on the cuts and fills.
- The other issue discussed with Staff is the maintenance of these areas. There are no houses adjacent to this open space for the park strip and who is going to maintain it. The Staff Report requires the homeowners' association to maintain the strip. Right now the only thing maintained by homeowners association is the entry way on Phases 1 and 2. They would like to have the sidewalks adjacent to the curb at the front part with no planter strips.
- The 3 foot setback meets the building code requirements. You can have 6 feet between buildings as long as they have a one-hour fire wall. This is beginning to become more common due to the density issues and building style.
- All of the units in Phase 3 could be duplexes and be attached. Having the option of doing detached units would be more in conformance with the neighborhood.
- Phase 4 was approved for 20 units and the original plan was to put in three or four 4-plexes or 5-plexes which would make it look like an apartment complex. Now they are proposing all single family detached units.
- The 10% grade, he thought they had already designed a street and this has been reviewed by the City's Engineering Department.
- With regard to Condition #7, no fences or walls may exceed 6 feet in height measured from the low side of the wall. They would like to delete "walls" from that condition. They anticipate having to build some rock walls or retaining walls at the entry and along the back of the lots next to the creek that may exceed the 6 foot maximum. They may be 8-10 feet, but they do not know yet, it depends on the type of housing. The intent of this condition is no fences may be over 6 feet in height from grade.
- Prior to this meeting, he has a discussion with an adjacent property owner, Mrs. Burris, who attended the original PUD hearing. She reminded him that the developer promised to build a

fence along her property line. The City Council removed this condition at the time, but the developer gave her a verbal agreement they would build a fence and they still intend to do this.

Mr. Schelsky said the conditions of approval are adequate, but they would like to change the sidewalk locations per the original application.

Mr. Schelsky said the last time he heard about the 25 foot buffer, there is some additional land they have to dedicate to the City during Phase 3 that was not included in original platting of the open space because of the wetland location. He identified the area on the map.

Mr. Stecher asked for clarification regarding the housing plans included with the packets. He identified Lot 135 with a lot width of 40 feet with a 15 foot side yard would only leave 25 feet less the 3 foot side yard. What could a developer build on these lots. Mr. Schelsky said the housing plans were provided by the builder. They are requesting a modification to the original approval to build "either/or." They could possibly place a duplex on Lots 135 and 136. Lots 138 and 139 could be detached.

Chairman Whiteman asked if there was anyone else who wished to testify.

Lorraine Burris, 17363 SW Edy Road, Sherwood, Oregon 97140, addressed the Commission. Ms. Burris said her concern was the fence along her property. She lives on the east side of Phase 3. She would like to have a fence along her whole property line to the street stub. The applicant addressed this issue, but she wanted to be sure this is included in the record. She did not know why the City Council previously removed this condition. On another point, she would prefer single family detached units rather than duplex units in the development. The applicant has said they would put a fence in which would be a 6 foot good neighbor fence. She identified the area on the map.

Chairman Whiteman asked if there was anyone who wished to testify.

Timothy Grace, 20582 Duckridge Place, Sherwood, Oregon 97140, addressed the Commission. Mr. Grace said he lives in the Cedar Creek Estates development, the third house up off of the private drive, just north of Phase 3, Oregon Trail. He identified the area on the map. He asked for clarification regarding the Decision Notice which states the approval for the original PUD is valid for one year. There has been no work done on Phase 3, so is this an expired PUD for Phase 3. Mr. Turner responded based on the Code, there is a five year provision for PUD's when they are put into phases. Mr. Tuck said typically, with the decision notices for subdivisions and PUD's the statement, "This approval is valid for one year" within this 12-month time the applicant must submit a final plat. The applicant is developing Oregon Trail in phases and within the one year time the applicant built Phase 1 and then Phase 2. Now Phase 3 is being modified. The applicant has met the condition of being valid for one year. The one year approval is only for submittal of the final plat. Mr. Turner said the issue is the phase development. Chairman Whiteman said Phase 1 and 2 met the one year deadline and now they

are modifying Phase 3. This has all been within the 5 year time frame for the PUD. The whole project was started within the first year.

He said he had lived in his house for 2-1/2 years and he did not receive any notice of any plat submissions, final or other, until receiving the notice for the PUD amendment being heard tonight. The decision notice said this is only valid for one year and he did not understand how the PUD could still be valid. Mr. Turner said when the PUD is broken down into phases the applicant is allowed up to 5 years to complete the final phases within the PUD. This PUD was originally approved in 1994 and that is within the 5 year time frame.

In response to Chairman Whiteman's question regarding noticing surrounding property owners for final plats, Mr. Turner said the current process for final plats is reviewed by Staff. The Code does not require a public hearing and therefore, noticing of surrounding property owners is not required. Chairman Whiteman said this is probably the first thing that has happened with this PUD in the last 2-1/2 years. Mr. Turner said the last part of the development occurred in 1996 which would have required public noticing. Mr. Tuck clarified that the applicant received preliminary plat approval for Phase 1, 2 and 3 in 1994. Final plats do not require a public notice, then or now, so any action for notification would have been in 1994.

Susan Claus said if someone has a problem with the final plat, there is the ability to object to it, but there is no public hearing notification process for final plats. The only way you would know is to see an agenda for the meeting. All of the conditions of approval need to be met with the submittal of the final plat.

Mr. Grace said he did not know if the Commission had read his written comments, but basically what he heard is based on the zoning if this was not a PUD, they would not be looking at 5,000 sf lots. In Cedar Creek Estates the minimum lot size is 7,000 sf and up to 13,000 sf. Just driving from 99W to his neighborhood and looking at the concentration of the housing which has been put in there, it is a little bit alarming. To see that the applicant is requesting reduction of the setbacks so that the houses can be within six feet of each other, that's not the neighborhood that he spent money to live in. He thought there was going to be a serious consequence in regard to what is going to happen to property values. They live on a private street off of Duckridge and one person is ready to move. They are not interested in living there. He is not looking to see at this point, but if he does sell, he knows the value is going to be severely diminished. He did not understand, there was an indication tonight that the applicant is requesting this approval, but that they can still go back at any time, it is an option, to attached units. This is very vague as to what is going to put in there. He has also heard that Farwest or whoever owns the property is going to sell it. Is the Commission going to approve an open-ended PUD where a contractor can come in and build either duplexes or single family dwellings or whatever they decide they want to put in there. There was an item in the Staff Report that the quality of the houses would be of high quality. At this point there are only floor plans and no definitions of the quality of the finishes or landscaping, who the contractors would be, etc. It is so open-ended there is nothing there as far as knowing what the Commission is actually approving.

Mr. Grace said there were items in his letter which brought out some questions. In reading the original decision by the Commission, there was talk about a park. It discussed the developer building a five foot concrete path that would traverse the park. It was not clear what the word "traverse" meant. He understands the wetland itself is intended to be kind of a park, but is there a park in the development.

Mr. Tuck said there was a designated park which has subsequently been removed, but that was the original plan. The Commission asked how this park got removed. Mr. Tuck said it is in the process of being removed. He did not know the details and it was a City directed item because the City did not want to pay for a pocket park. Mr. Grace said his understanding was the contractor, who is the developer, was to seed the park and put the concrete path in and they were to plant it. Mr. Tuck said this was the condition. Mr. Grace asked were the expense to the City would have been. Mr. Tuck said the expense would have been to purchase the land. Mr. Grace asked if this means the City park shall be traversed and this has no connection at all to the wetland area. Susan Claus said on the original PUD it was designated as a park. What Jason is talking about now is there is discussion outside of this hearing for that particular piece of ground not to be a park and convert back over to a lot or something, but that is not the way the PUD was approved. Chairman Whiteman said the Commission did not have anything to do with this. This is still open space right now.

Mr. Grace said Duckridge Place is a public street, has a little cul-de-sac and there is a private road that comes off of this. There are five houses there, one of which is his. He bought the house and was aware they were responsible for the maintenance of the private road. Several months after they moved in he found out they were also responsible for paying the lighting for the street. In talking with some people, there is a liability of the public coming onto this property and something happening. As landowners they could be liable if someone were to be hurt and all kinds of lawsuits could happen. They were concerned about the private road being attached to Phase 3 from the pedestrian path. There are no sidewalks on the private road, it is just curb and asphalt. His wife is very adamant that she does not really want there to be a connection. He believes that the neighbors are of the same opinion that they really don't want this connection to Phase 3. They would actually like to have some type of natural barrier or buffer that would actually prevent any type of accident.

Mr. Grace said he had questions on Phase 4 regarding the existing trees. A pond exists which is really nice. They are on Duckridge Place and they see large birds land on the pond and often they fly past the pond and land in the large trees. The trees are beautiful, even from a distance. His concern is there are a lot of large trees on Lots 6 and 7. He asked how these trees would be protected. They seem to be a natural part of the wetland or buffer area. Mr. Turner said the applicant provided a map identifying where the existing trees are located. The developer will be responsible to bring in a tree mitigation plan that shows what trees will be removed, but they cannot remove any trees in the wetland area. If they are removing a tree to place a house, they need to replace the trees on an inch-per-inch caliper. There will be some tree mitigation, but the applicant could address which trees they plan to remove. Mr. Tuck said the applicant stated the proposed lot pattern will allow for the preservation of the maximum amount of existing trees as possible. The applicant could respond to this during the rebuttal. Mr. Stecher said he thought the

50-inch tree would be gone because if you crush the roots it never recovers. Susan Claus said the tree mitigation requires replacement on an inch-per-inch caliper or payment. Mr. Stecher said he would find it highly unlikely that a developer would come in and remove all the trees because it could diminish the value of the property. The 50-inch tree would most likely be mitigated. Some of the other larger trees as shown look like they could be spared. If the developer wants to mitigate more trees than not, he has the right to do so. Chairman Whiteman asked since this is a PUD and they found this to be a resource to the natural habitat of the area and outside the building pad as identified on the plot, could they put conditions on it. Mr. Tuck said they need to be careful that the City does not end up having to pay for the land in some way. Mr. Franklin said in other words, naming it as a significant natural resource may be a taking and the City would have to pay for it.

Mr. Grace summarized his concerns:

- In the process overall, where the PUD started and where it is today, his understanding is the decision that is being made tonight is the same as if this were the first time this was being seen. The lot sizes in Phase 3 are not consistent with what it on the ground out there, neither in Phase 1 or 2 or Cedar Creek Estates. It troubles him that this development would be approved as shown.
- He was also requesting that the pedestrian path not go through.
- They would like to have some type of natural buffer along Lots 141-144.
- The Fishbacks have a beautiful view right now, but he can't imagine what it is going to look like within a year.

Chairman Whiteman asked if there was anyone else who wished to testify.

Matt Fishback, 20618 SW Duckridge Place, Sherwood, Oregon 97140, addressed the Commission. He said Mr. Grace is really representing the people in their development. He thought there were about 30 houses and it is really very small and self-contained. This is what attracted them to it. There is no through traffic as well as they have the church property behind them and the wetland in front of it. He said the maps being shown tonight are different than what he looked at in City Hall, prior to them purchasing their home last August. He was shown a map with townhouses and single family homes. They knew eventually something would be developed and are very concerned, as everybody is in their development, as to what is going on there. He was very surprised and upset when he saw the recent maps that now they would be getting four neighbors. He also has concerns because his property slopes about 6 feet down and there was some drainage built off of the slope down into a fairly deep ravine. They would like to see some natural buffer between a development like theirs which is low density and the other developments. Especially, in their case, the value of the property would decrease, he did not think it was going to do anything for any of the property owners in their development. He said they are looking at probably moving. He does not want townhouses, but what is being presented now is not what he saw when he moved in. He would like some clarification from the builder about what the plans are and how this is going to affect the drainage by his property. He entered a plot map of his neighborhood into the record.

Chairman Whiteman asked if there was anyone else who wished to testify.

Angela Fishback, 20618 SW Duckridge Place, Sherwood, Oregon 97140, addressed the Commission. She said Tim and Matt addressed the issue, but she thought none of the neighbors want the connection. If this does happen, they are really concerned about their liability. They have to pay to keep the road up and they pay for the lights. If the connection were done, would the City consider paying for the lights and upkeep of the road. Now the property owners would have liability with the public access and amount of people traveling on the pathway connection. She said their deck is about 30 feet above the ravine. They have a 3-story house and their driveway is very steep and the deck is off of the main level. They absolutely look down into the ravine. She was told there was no plans to fill the ravine in. They have talked to the farmer who farmed the land for 20 years and he has no idea how they will build with the natural drainage from the church that goes into the creek and the pond. They are concerned about their drain off because their yard is about 6-7 feet above. They would be above a 2-story townhome.

Mr. Franklin asked if the applicant could clarify the existing contours on the maps.

Tim Grace suggested with regard to the connection of the Phase 3 to Cedar Creek Estates, that if the connection was to be made from private street to Phase 3, that this be set aside as a separate issue because of the private property issues with the private street.

Chairman Whiteman read into the record the September 14, 1998 letter from Tim and Cammie Grace, 20582 Duckridge Place, Sherwood, Oregon, regarding concerns and objections to PUD 94-1/SUB 98-5 Oregon Trail Modifications and Phase 4 Preliminary Plat.

Chairman Whiteman asked if there was any further testimony, either proponent or opponent. There being none, Chairman Whiteman asked if the applicant wished to provide rebuttal testimony.

Len Schelsky, Westlake Consultants, addressed the Commission. He reiterated that the PUD was approved in 1994 and again in 1995. The exhibits and maps have been on record with the City since that time. He was not sure where the property owners looked at a different site plan. The lots were approved with the original PUD for 3,000 sf, 4,000 sf, and 5,000 sf lots. With regard to the proposal being in harmony with surrounding property, they are taking the option to do some single family detached rather than put all duplexes in that cul-de-sac. He would propose that on Lots 141-144 they could limit those to single family detached with five foot side yards and a 20 foot rear yard setback. If you look on the map, above Lot 144, the two tick marks is the Fishback lot and they are only impacted by one lot. They may not be sure where the lot are going because most of them are adjacent to the church property. With regard to item #4 in the Grace's letter, there was a park planned in Phase 1 and 2, but he thought this was going away and that is where the concrete pathway would have been placed. That was never completed. His understanding is the City's Master Plan for the park has a pathway to go through the wetlands, but this is a City project and is a significant permit process to build a pathway through a wetlands. This was not required of the original PUD.

Chairman Whiteman asked Mr. Schelsky if he was aware that the park land was being removed. He understands the City, or more specifically the City Manager, was removing this park property. Susan Claus asked if he knew when this was supposed to be done. Mr. Schelsky said he did not. There is some discussion going on between the City Manager and the developer. Mr. Stecher asked when he was first aware of it. Mr. Schelsky said several weeks ago he became aware of this.

Mr. Schelsky said with regard to the large trees, the builders are sensitive to trees and in Phases 1 and 2 they saved a lot of trees. It is his guess that the 50-inch tree would go because of the large tree canopy and they would mitigate this tree. He did not remember any discussion about townhomes being along that part of the property, it has always been shown as 50 x 100 lots and right now they are 50 x 95. They are committed to the fence for Mrs. Burris. He thought a tree buffer would be better than a fence along Lots 143-144 back line. The contours on the original plans are not correct. He thought their grading plans do show some fill with a culvert going underneath with an easement. They are just getting started with these plans. He was not aware of the pedestrian path coming through Cedar Creek and he did not remember the pedestrian path. He did know they have to make a water connection to Cedar Creek right at the end of the street.

Mr. Tuck said there is about a 15-20 foot section in front of the last house for the path connection. Someone from the audience said they were told the path would be finished and then go down into a park.

Chairman Whiteman closed the public hearing on PUD 94-1/SUB 98-5 Oregon Trail Modifications and Phase 4 Preliminary Plat for discussion by the Commission.

Susan Claus asked if there were code requirements for buffers between Low Density Residential (LDR) and High Density Residential (HDR). Mr. Tuck read a portion of the Code regarding a minimum 6 foot high fence, sight obscuring wooden fence, decorative masonry wall or evergreen screen shall be required along the property line separating single and two family uses from multi-family uses or along property lines separating residential zones from commercial or industrial.

Susan Claus asked how the park could be pulled from the PUD without a public hearing process. The PUD is set. She asked if the Staff was planning to have a separate hearing on the park. Chairman Whiteman said he had the same question.

Mr. Stecher discussed the pathway from Phase 3 and the access issue and it seemed to him like this was a private street. Chairman Whiteman said he agreed, if the condition is not eliminated there should be something about entry to private roadway area would need an access easement. Scott Franklin said he had a problem with a public access across a private road. The property owner concerns about liability are valid. The Commission concurred and eliminated Condition #8I.

Chairman Whiteman advised the audience that the decision by the Planning Commission on this application tonight would be a recommendation to the City Council. There would be a second hearing with the City Council to make the final decision.

The Commission discussed at length the setbacks, in particular the 3 foot side yard setback in Condition #13b. They discussed the request by the applicant to either do single family detached or attached units. It was the consensus of the Commission to change Condition #13b. to a 5 foot side yard setback. They discussed the front and rear yard setbacks for various lots using a 5 foot side yard setback.

Mr. Turner advised the Commission that Conditions #1 through #6 deal with Phase 3 and Conditions #8 through #14 address Phase 4.

After discussing retaining walls at length, the Commission did not change Condition #7 regarding fences and walls not exceeding 6 feet in height measured from the low side of the wall.

The Commission discussed sidewalks and where they should be located in Phase 3. They determined that no sidewalk should be required on the north side of Lot 140. A 5 foot sidewalk should be located on both sides of the street except for in front of Lots 141-149 where no sidewalk is required.

The Commission added a condition regarding the good neighbor fence being provided along the easterly property line from Edy Road to Lot 138.

Scott Franklin asked if updated grading and utility plans were submitted. Mr. Turner said the grading plan is not a requirement of the Code to be submitted with the application at this stage. The utility plan is required. With regard to any fill work, Condition #8 requires the applicant to provide engineered construction plans to the Engineering Department. This would apply to both Phase 4 and Phase 3. Mr. Tuck said he could get the original file from City Hall.

Chairman Whiteman recessed the Commission discussion on this item while Mr. Tuck retrieved the file from City Hall and the Commission continued with the Agenda.

5. Community Comments

Chairman Whiteman asked if there was anyone who wished to provide comments.

Joe Broadhurst, 395 N. Sherwood Boulevard, Sherwood, Oregon 97140, addressed the Commission. Mr. Broadhurst said he would like to have the Commission consider removing a condition from the final plat for the Edgewood Subdivision which was previously approved over one year ago. He has not been able to do anything with this condition for over a year. This condition is holding up approval of the final plat for the subdivision. This condition is ODOT approval of cleaning out a ditch on the State highway. No one at ODOT will okay the work he did, except for verbal comments saying thank you for cleaning out the ditch. Staff has tried to get the approval from ODOT with no response from ODOT. He asked if the Commission could review this condition. Mr. Turner said the Engineering Department may want confirmation from ODOT. There is a letter in file from the Engineering Department. Mr. Broadhurst said this letter was written after the conditions were approved by the Commission. Chairman Whiteman asked

Staff to provide information for the Commission to review at the October 6, 1998 Regular Commission meeting.

Timothy Grace, 20582 Duckridge Place, Sherwood, Oregon 97140, addressed the Commission. He made a reference to the Code regarding the expiration of a Planned Unit Development. He asked for clarification, in particular, with regard to PUD 94-1/SUB 98-5 Oregon Trail. He said if the PUD is not valid, this would put the hearing tonight in a different perspective. He asked for further information from the Staff and where PUDs are referenced in the Code.

Chairman Whiteman continued the Commission deliberations on PUD 94-1/SUB 98-5 Oregon Trail Modifications and Phase 4 Preliminary Plat.

Mr. Franklin referred to Chapter 4 in the Code under Transportation, Section 5-8, "Street Profiles - Map profiles and indicate cuts and fills for roads with grades of 15% or more." These are the submittal requirements for preliminary plat approval. The applicant has talked about keeping the grades under 10% and this may address this requirement. There is a requirement for the applicant to show the preliminary utility layout. The original PUD application does show a utility plan. His concern is at the north end where the culvert situation was talked about and this has not been addressed. He was comfortable with Condition #8, but in the interest of completeness with what was submitted, he did not know if a continuance was warranted. Mr. Turner noted beginning of Chapter 4 states the City Manager is authorized to waive information requirements that are clearly not material or relevant to the specific proposal being made. This information was submitted with the original PUD submittal. The Commission may require updated information if they feel the plans have changed substantially.

The Commission agreed to note on the Decision Notice that they had not received an updated utility and grading plan prior to recommending approval to the City Council. This information should be a part of the review by the City Council at the second hearing. The Commission asked Mr. Franklin if he could attend this hearing. He agreed.

Chairman Whiteman moved based on findings of fact, Staff recommendations, public testimony and agency comments PUD 94-1/SUB 98-5 Oregon Trail Modifications and Phase 4 Preliminary Plat with the conditions in the Staff report dated September 15, 1998 as revised and the original decision notice dated April 5, 1995 conditions of approval. Seconded by Keith Mays.

The Commission made the following changes to the conditions:

- Revised Condition #1 referencing the notice of decision dated April 5, 1995 and Phases 3 and 4 shall be in compliance with this decision notice as well as the plans date stamped July 27, 1998, except as modified herein.
- Revised Condition #5 to remove the sidewalk from Lots 145-149 and the bend around the corner of Lot 140.
- Revised Condition #6 to maintain the 20 foot rear setbacks of Lots 131-144, 10 foot rear setbacks for Lots 145-152 and side yard setbacks shall be 5 feet.

- Add Condition #8 regarding the good neighbor fence along the easterly property line from Edy Road to Lot 138.
- Revised Condition #F to the Staff recommendation.
- Removing Item #I from the recommended conditions contained in the Staff Report.
- Revised Condition #13 to side yard setbacks to 5 feet, rear yard setback to 20 feet and corner lot (street side) to 15 feet.
- The original PUD conditions of approval dated April 5, 1995 from the PUD will be maintained. The Commission noted this includes the City Park.

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

7. Adjourn

There being no further business to discuss, the Commission meeting was adjourned at 11:50 PM.

Respectfully submitted,

Planning Department