



**City of Sherwood  
PLANNING COMMISSION**

**855 N. Sherwood Blvd**

**Tuesday, May 6, 1997**

**7:00 PM**

**A G E N D A**

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes of April 15, 1997**
- 3. Community Comments:** *Community comments are limited to items NOT on the printed agenda.*
- 4. Consent Agenda - No applications scheduled.**
- 5. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias)
  - A. SUB 97-3 Woodhaven Phase 4 Preliminary Plat:** (continued from April 15, 1997, public hearing open) a request by Genstar for preliminary plat approval of an 83-lot single-family subdivision in the Woodhaven PUD. Tax Lot 100, Map 2S 1 31.
  - B. SUB 97-4 Woodhaven Phase 6 Preliminary Plat:** (continued from April 15, 1997) a request by Genstar for preliminary plat approval of a 180-lot single family subdivision in the Woodhaven PUD. Tax Lot 100, Map 2S 1 31.
  - C. CUP 97-2/SP 97-3 Archer Glen Modular Classroom Buildings (2):** a request by Sherwood School District 88J for a conditional use permit and site plan approval to place two modular classroom buildings at Archer Glen Elementary School. Tax Lot 1300, Map 2S 1 32CB.
  - D. SUB 96-9 Wyndham Ridge #3 Preliminary Plat:** a request by Centex Homes for preliminary plat approval of a 69-lot single family subdivision located south of the existing Wyndham Ridge PUD. Tax Lots 1000, 1101, Map 2S 1 31B.
- 6. Other Business**
  - A. Election of Planning Commission Chair and Vice-Chair.**
- 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**  
**May 6, 1997**

**1. Call to Order/Roll Call**

Chairman Whiteman called the meeting to order at 7:00 PM.

Commission Members present:

Allen Baker  
George Bechtold  
Susan Claus  
Scott Franklin  
Angela Weeks  
Bill Whiteman

Staff:

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

**2. Minutes of April 15, 1997 Commission Meeting**

Chairman Whiteman asked if there were any corrections, additions or deletions to the minutes of April 15, 1997. There were no comments.

**George Bechtold moved the Planning Commission accept the April 15, 1997, Planning Commission meeting minutes as presented. Seconded by Allen Baker.**

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

**3. Community Comments**

Chairman Whiteman called for comments from the audience regarding any items not on the printed agenda.

Conrad Claus, representing Bob and Lila Salisbury, 125 NW First Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus asked the Commission to consider hearing Agenda Item 5D, SUB 96-9 Wyndham Ridge #3 Preliminary Plat as the first application under the Public Hearings. He was concerned that the 120-day deadline would not be met for this application. City Staff responded that the application was received on November 13, 1996, deemed complete on March 11, 1997 and the 120-day deadline would be July 11, 1997.

Chairman Whiteman advised that the two Woodhaven applications were continued from the April 15, 1997 Commission meeting and were scheduled first. Unless Mr. Claus had information which would indicate the applications scheduled before Wyndham Ridge #3 Preliminary Plat were going to take an inordinate amount of time, the land use applications would be heard in the order printed on the Agenda. There was no motion to revise the order of the applications under Public Hearings. Chairman Whiteman denied Mr. Claus's request.

There were no other community comments.

#### **4. Consent Agenda**

There were no land use applications scheduled.

#### **5. 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.**

Susan Claus announced she had ex-parte contact with two people regarding Agenda Items 5A and 5B, SUB 97-3 Woodhaven Phase 4 Preliminary Plat and SUB 97-4 Woodhaven Phase 6 Preliminary Plat. She advised them of the hearing date and that they should attend the meeting if they had any questions. She would not be participating in Agenda Item 5D, SUB 96-9 Wyndham Ridge #3 Preliminary Plat, because she is an adjoining property owner with a conflict of interest.

George Bechtold announced he had a potential conflict of interest regarding Agenda Items 5A and 5B and would not be participating in the hearing process for the two land use applications.

Scott Franklin announced he had a potential conflict of interest regarding Agenda Item 5D. Centex Homes is a client of the firm he works for, however, this is not one of his projects. He did not feel this would affect his decision-making process and he planned to fully participate in the discussion and hearing for this land use application, unless there were some objections. There were no objections from the Commission.

There were no other Commissioner disclosures.

#### **5A. SUB 97-3 Woodhaven Phase 4 Preliminary Plat**

Chairman Whiteman advised that unless members of the Commission who were not in attendance at the April 15, 1997 Commission meeting wished to hear the entire Staff presentation, he would allow them to ask questions of Staff. There was a previous question from the Commission regarding the current Tree Ordinance or tree inventory being applied to this application.

Sue Engels reported the City Attorney had advised that it would not be appropriate to apply the current Tree Ordinance to this land use application, SUB 97-3 Woodhaven Phase 4 Preliminary Plat. The application is based on the approval of the original PUD as well as the amendments recently approved. The Tree Ordinance was not in effect at the time of approval of the original PUD. Changing the status of the tree inventory was not a part of the amendments to the PUD.

Susan Claus thought some of the greenway boundaries had been changed from the original PUD, as well as in the particular Ponderosa Pine area. Ms. Engels said with regard to the Ponderosa Pine area, the condition still requires the same percentage of trees. The wetlands and buffer areas have been delineated and were not changed. Chairman Whiteman said lots have been moved into open space, but not into designated wetland areas.

Allen Baker asked for clarification regarding the open space that previously had trees and now would have houses, and how the tree mitigation was resolved. Ms. Engels explained that any of the changes to the open space areas would basically be offsetting or a trade-off relative to tree mitigation. She emphasized the City Attorney had advised it would not be appropriate to apply the current Tree Ordinance to this application or the amended PUD application which was approved on March 26, 1997.

Chairman Whiteman said there is some protection because the conditions state that individual lots will be reviewed at the time of building permit issuance. Staff confirmed that this was correct.

Susan Claus asked for an update regarding the water pressure upgrades being done in the Woodhaven area. Greg Turner said the area has been designated for an upgrade for water pressure. This upgrade is to meet firefighting capabilities and due to the amount of development in the area. The applicant will be paying for their share of any water pressure upgrades. These upgrades will service the whole district. The upgrades will increase the pressure to the district.

Ms. Claus asked if there were some areas in Woodhaven that did not have the right pressure. Mr. Turner said this would be a question for the City Engineer. However, if this is the case, these water pressure upgrades will correct any problems.

Scott Franklin asked about the status of the regional water quality facility. Mr. Turner said it had been determined that a regional water quality facility would not be feasible, but he would verify this with the City Engineer. Ms. Engels said the applicant has submitted the information and USA would determine if the regional facility would be feasible. The condition does not require a regional facility, but only a review to determine if a regional facility would be feasible.

**Chairman Whiteman opened the public hearing on SUB 97-3 Woodhaven Phase 4 Preliminary Plat and asked if there was anyone who wished to testify. New testifiers would speak first, followed by anyone who previously testified and wished to present further information, followed by rebuttal testimony and Commission deliberations.**

Robert James Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus said he is having increasing difficulty following Staff remarks. He asked if any of the Planning Staff were certified planners or carried the AICP certification. There was no response. He said planning is a profession and he was sorry if you are an accountant, you are not a planner. If you are a planner, there is testimony that you won't give and you do not throw around particular terms loosely. Mr. Claus specifically noted:

- There are things in the Woodhaven testimony that baffle him because it is not land use planning.
- You have exactly what you were not supposed to have in the City, a community within a community.
- When you do an origin/destination study you get answers that frankly, are not answers.

- Even if the people who earlier appealed the Woodhaven PUD amendments to LUBA decide to withdraw the appeal, he is very close to taking it to LUBA himself. Terms like benefit cost analysis do not mean anything the way they are being used.
- He has not heard information about the impact on properties when the development could, in effect, put someone out of business. You do not have a PUD so that can you handle it when you get there.
- The Woodhaven applicant is a very large conglomerate. The British American Tobacco is the core of this company. He discussed cigarettes, R.J. Reynolds and Phillip Morris.
- The Woodhaven applicants do not come down here in the context as someone like Centex Homes. Centex are developers, they are not contractors.
- The Woodhaven PUD is a stretch of the imagination of a PUD. They do not build houses, they turn around and block sell the property or sell individually to contractors. In the beginning they did not even have a homeowners association.
- The Woodhaven people do not have the same kind of tail following them as Centex. Centex puts things up and the homeowners can get together and sue them. There is no layer in-between.
- The City has not measured the impact of the Woodhaven development on the Salisburys or the impact on Meinecke Road. There are studies which need to be done and need to be more current than studies done two or three years ago.
- The City is planning a major destination oriented activity, the YMCA on one end of town and the potential 16-screen multiplex theater on the other end of town. No one is saying that any of the studies should be redone. No one is saying we need to talk about the impact on the Salisburys. He offered to do a benefit cost analysis.
- The Woodhaven boundary lines have been changed.
- If their transportation map changed their general plan, which it does, the City needs to tell them to go back and get it done.
- The Commission is listening to a City Staff, none of whom are even AICP certified.
- Imperial Tobacco Company will do the subdivision, they are not going to build it and they are not going to be responsible for the architectural design. They are not going to be responsible for any runoff problems, they are just going to leave. They will have every builder in the State of Oregon that has built in the subdivision between them and any litigation.
- He is tired of hearing somebody tell him that you can plan a frontage road without having origin destination, you can discontinue the roads they are talking about connecting to Meinecke Road and say that this will not have any impact.
- When Centex submitted their demands for SDC's and TIF's, they met the book.
- We now know that Woodhaven's submittal of SDC's and TIF's did not meet the book.
- This contrasts the difference between the developer and the developer/contractor.
- The Woodhaven boundaries have been changed, the wetlands have been changed, the stormwater mix is not working, they have changed the transportation plan, and none of these changes went through the proper public hearing process.

In response to Chairman Whiteman's question, Mr. Claus said AICP is "American Institute of Certified Planners." He also explained the American Planner's Association (APA). There are



8,000 APA members who carry the AICP certification. This certification is obtained through a testing process and exam. Mr. Claus said he is not a member of the APA.

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

Sanford Rome, 1780 E. Willamette, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome said most of the concerns were pretty well covered by Dr. Claus. He noted:

- He testified before the Commission and City Council in the early stages of the Woodhaven project. He presented a slide show which said, “Don’t be misled by what you see.” Mr. Yoshida helped put together the land which is now being built as Woodhaven.
- If the developers come to town to develop and the City is going to help them, then have the developers not hurt the City.
- He has lived in the City for more than 20 years.
- He asked that Sunset Boulevard be taken care of when the original Woodhaven plan was being developed. This included from the 99W intersection to Murdock Road. A master plan should have been put together so that it could have been taken care of incrementally. Carole Connell made assurances that this would happen. You can look at Sunset Boulevard today and see that it did not happen.
- Originally there were supposed to be three real traffic lanes into the entrance for Woodhaven. This did not happen.
- The original Woodhaven plan called for 1085 homes. He did not know what the current number of projected homes is now.
- He discussed the price of the lots when the original Woodhaven plan was developed and what the price of the lots are now. Someone is making a profit and that is good. He is not against profit, but who is getting hurt? Everybody that lives in this town, everyone that is building or buying a house in this project. Why? Because the City did not take care of destination planning.
- The City has the same traffic problems trying to get onto Highway 99W or Tualatin-Sherwood Road or Murdock Road. The point is that these problems are not being taken care of, while hundreds of new home lots are being approved.
- He did not know what it would take, other than lawsuits, to get somebody’s attention.
- If you don’t have all of the facts in order, let’s get the City where it needs to be.
- He previously testified to the Commission regarding the Fair Oaks subdivision.
- If you change the boundaries of the Woodhaven PUD, move one lot, move one house, move one inch of anything other than what was planned, then it is time to revisit the PUD. This is the Commission’s opportunity to do this.
- The City now has two Sherwoods. He asked that the Commission takes these things into consideration when deliberating this land use application. It is time to get these things onto the table for continued positive growth in the City.

Chairman Whiteman asked Mr. Rome if he was familiar with the March 26, 1997 revised conditions of approval for the Woodhaven PUD. Mr. Rome said he had not seen the revised conditions of approval.



Chairman Whiteman asked Mr. Rome if he could relate specifically what he would like the Commission to do.

Mr. Rome said Mr. Claus brought up the points very well, a current traffic impact study, the impact against the Salisbury's, financial impacts, traffic study and where the destinations are going to go, improvements for Sunset Boulevard being completed before more lots are built. Mr. Rome said he disagreed with the City Manager's decision not to expand the width of Sunset Boulevard. Chairman Whiteman said the Commission did not have any control over this decision and that it was a policy established by the City Council.

Mr. Rome discussed the Murdock Road LID. He and his neighbor were the only two people who paid the full amount for their share of the LID that put in Murdock Road when it was originally two lanes. Then the City comes back and forgives other developers hundreds of thousands of dollars and he never got reimbursed for the \$78,000 he paid. All the other people got off the hook. There was a mandate from the previous Mayor and Council that there will be no more give-aways. Woodhaven has been given and given and now it is time to have them give a little back.

**Chairman Whiteman asked if there was anyone else who wished to testify regarding SUB 97-3 Woodhaven Phase 4 Preliminary Plat, or if there way anyone who spoke at the last meeting who had new information they would like to share with the Commission. There was no further testimony.**

Conrad Claus, 125 NW First Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus asked that the record be left open for seven (7) days for submittal of written material. Chairman Whiteman said he would take this request under consideration.

**Chairman Whiteman advised the Commission keep in mind Mr. Claus's request to keep the record open for an additional seven (7) days.**

**Chairman Whiteman closed the public hearing on SUB 97-3 Woodhaven Phase 4 Preliminary Plat for discussion by the Planning Commission.**

Susan Claus asked if a study or impact on adjoining property was required or if it was part of the Planning Commission's responsibility to call for this study. Mr. Turner said the impact on adjoining property is something that would apply with each phase, but was actually done with the original PUD. Each time a phase comes in, Staff reviews it by looking at the approved PUD and the amendments that were made. If there are impacts over what was presented with the original PUD, Staff would study this. Phase 4 is within the realm of the whole PUD. Based on the study of the original PUD there would be no further impact.

Ms. Claus asked about the impact of the frontage road, its relation to the original PUD, and whether the Commission should consider the impact of the frontage road with this phase. Mr. Turner said this is something that would be done when the frontage road comes before the Commission. Ms. Claus said her point is that this would be adjoining property to this phase and

how the property would be impacted with each phase of the project coming before the Commission.

Mr. Turner said the reason for changing the plan with the PUD amendment was to allow for what could be a frontage road. There are no lots going into the corner area of Phase 4 to allow for the potential frontage road. This corner is a triangular piece called Tract A.

Susan Claus raised the concern that Tract A will be a landlocked parcel. In light of potential access problems to the parcel if the frontage road is not built there, was it the intention of the City to take control of the parcel.

Sue Engels questioned the appropriateness of the City taking Tract A at this time because the location of the frontage road has not been determined, the Woodhaven PUD is frontage road neutral, it does not need the frontage road for access, and no other property owners have been required to dedicate property for the frontage road. The City did ask Genstar to leave Tract A vacant until it is known if it will be needed for the frontage road. Tract A was created by shortening the back yards of the Phase 4 lots adjacent to it. Perhaps the simplest way to deal with Tract A if it is not needed for the frontage road is to condition the applicant to add it back to the rear yards of the adjacent lots.

Susan Claus asked for clarification regarding the pedestrian and emergency vehicle access that was originally planned with the previously numbered Phase 9. Mr. Turner referred the Commission to the current development plan map dated March 26, 1997. There are tracts in Phase 4A which allow for access through to the commercial property.

The Commission discussed at length conditions which would require the pedestrian/emergency vehicle access lane in the vicinity of Lots 31 and 32 (Tract B), and the dedication of Tract A for the purpose of the proposed frontage road right-of-way. These two conditions would be numbered Conditions #8 and #9.

Mr. Turner read the proposed two conditions as follows:

#8 Construct a pedestrian pathway/emergency access lane in the vicinity of Lots 31 and 32 (Tract B) for future access to the parcel to the north. The lane shall be 20 feet of unobstructed driving surface. The emergency access shall meet the requirements of the Tualatin Valley Fire & Rescue District.

#9 Dedicate to the City properties identified as Tract A for the purpose of the proposed frontage road right-of-way.

**Bill Whiteman moved the Planning Commission add two conditions to SUB 97-3 Woodhaven Phase 4 Preliminary Plat, as read by Mr. Turner. Seconded by Angela Weeks.**

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

Mr. Bechtold did not participate in the discussion or vote on the motion.

**Chairman Whiteman recessed the Commission meeting at 8:50 PM and reconvened the meeting at 9:00 PM.**

Chairman Whiteman advised that the hearing for SUB 97-3 Woodhaven Phase 4 Preliminary Plat was continued from the April 15, 1997 Commission meeting. It has been determined by the Chair that Mr. Claus's request to leave the record open for an additional seven (7) days was not valid based on the Community Development Code Section 3.205.03, Hearing Record. The public hearing on SUB 97-3 Woodhaven Phase 4 Preliminary Plat was closed.

Allen Baker said there were some valid concerns in the public testimony heard tonight, that unfortunately seemed to be a little too late. These concerns should have been brought up during the PUD amendment process and there is not too much the Planning Commission could do about it tonight.

Chairman Whiteman said the Commission addressed some of the concerns. There are a lot of emotional issues in the community towards development as well as concerns for the future of the City. The Commission tries to measure the emotion and find where it fits within the requirements of the Code. The Commission makes its decisions based on findings of fact and the requirements of the Code as well as what is in the best interest of the community.

**Bill Whiteman moved the Planning Commission approve SUB 97-3 Woodhaven Phase 4 Preliminary Plat based on the Staff Report, findings of fact, public testimony, Staff recommendations and conditions as revised. Seconded by Scott Franklin.**

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

SUB 97-3 Woodhaven Phase 4 Preliminary Plat was approved subject to the following conditions:

1. The final development plans shall be in substantial compliance with the plans date stamped March 26, 1997, except as modified herein.
2. The developer shall comply with the conditions as contained in the Notice of Decision for the Woodhaven Modified Final PUD Master Plan dated March 26, 1997.
3. Prior to the submittal of plans for building plan check, provide engineered construction plans to the City and applicable agencies for public and private improvements including costs, maintenance and bonding provisions in compliance with City, Pride, USA, WCDLUT and TVFRD standards. The plans shall include provisions for streets, street trees, on-site sidewalks, sanitary sewer, water, fire protection, storm water runoff, erosion control, grading, street lighting, landscaping and signage.

In particular:

- A. Each lot within the development must be provided with a means of disposal for sanitary sewer. The means of disposal shall be in accordance with the Resolution and Order 96-44 (Unified Sewerage Agency's Construction Design Handbook, July 1996 edition). Engineer shall verify that public sanitary sewer is available to up-hill adjacent properties, or extend service as required by R&O 96-44.
- B. Each lot within the development shall be provided with access to public storm sewer. Engineer shall verify that public storm sewer is available to up-hill adjacent properties, or extend storm service as required by R&O 96-44. Hydraulic and hydrological analysis of storm conveyance system is necessary. If downstream storm conveyance does not have the capacity to convey the volume during a 25-year, 24-hour storm event, the applicant is responsible for mitigating the flow.
- C. The developer shall provide a water quality facility to treat the new impervious surface being constructed as part of this development.
- D. The developer shall preserve a 25-foot corridor as described in R&O 96-44 separating the sensitive area from the impact of development. The wetland/sensitive area shall be identified on the plans.
- E. A joint 1200-C erosion control permit is required.
- F. The typical pavement sections shall indicate underdrain and storm sewer collection line from the downspouts.
- G. A drainage map for the pre and post development condition and drainage shed areas shall be provided by the developer. Also indicate the area for water quality and detention ponds.
- H. Provide sanitary and storm sewer stubs for the future phases.
- I. A 25 foot radius is required at the right-of-way of all corner lots per City standards.
- J. The developer shall make provisions for gravity drainage for roofs, foundations and low point drains to the collection line behind the curbs.
- K. The developer shall apply for DSL (or DEQ) permit from the Division of State Lands for wetland areas. Provide the City with all appropriate documentation.
- L. The developer shall participate in a water pressure upgrade for the site.
- M. The cul-de-sac diameter at the pavement shall be 80 feet.

- N. The developer shall make a provision to maintain a positive drainage flow where two property lines abut each other at side and rear.
  - O. All building elevation pads are required at the time of construction plans review.
  - P. All weather access is required for the sanitary sewer and storm sewer manholes.
4. Provide a street tree planting plan to the City for approval. Each lot shall be provided with a minimum of two (2) street trees (or a minimum of three (3) street trees for corner lots) in the planter strip in accordance with City specifications. Trees are to be uniformly planted 25 feet apart and 3 to 5 ft. from sidewalks and driveways. The trees shall be two (2) inches in diameter at Breast Height (DBH- 4.5 ft. above mean ground level) and at least six (6) feet in height. Tree species to be in accordance with City approved street trees. Street trees shall be planted by the developer prior to occupancy of 75% or more of the houses.. The street trees shall be planted in substantial conformance with the approved street tree planting plan unless other circumstances prevail which may alter the plan slightly.
  5. All bike paths shown as part of Phase 4 on the Woodhaven Modified Development Plan shall be constructed or bonded for prior to final plat approval.
  6. Street names need to be in accordance with City standards and approved by Washington County.
  7. Submit 15 copies of the Subdivision Final Plat for the Planning Commission consent agenda approval prior to recordation with Washington County.
  8. Construct a pedestrian pathway/emergency access lane in the vicinity of Lots 31 and 32 (Tract B) for future access to the parcel to the north. The lane shall be 20 feet of unobstructed driving surface. The emergency access shall meet the requirements of the Tualatin Valley Fire & Rescue District.
  9. Dedicate to the City properties identified as Tract A for the purpose of the proposed frontage road right-of-way.

This approval is valid for one (1) year.

#### **5B. SUB 97-4 Woodhaven Phase 6 Preliminary Plat**

Chairman Whiteman called for the Staff Report. Greg Turner referred the Commission to the Staff Report dated April 15, 1997, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- On March 26, 1997 the City Council approved revisions to the Woodhaven Final Development Plan and original conditions of approval. The changes involved an updated phasing plan, revised conditions of approval and allowed uses for sensitive areas of the PUD.

- The applicant is requesting preliminary plat approval of a 180-lot single family subdivision located on Tax Lot 100, Map 2S 1 31. The site contains 42.46 acres and the proposed lot sizes vary from 5,165 sf to 9,760 sf which is in compliance with the minimum square footage requirements of the PUD overlay.
- The proposed roads in Phase 6 will connect Phase 4 with Villa Road and future Phase 7.
- The zoning for Phase 6 is Low Density Residential (LDR).
- The application meets all of the required findings for preliminary plat approval.
- Villa Road will contain no sidewalk on the north side of the entire length of the PUD as stated in Condition 3F of the Notice of Decision dated March 26, 1997.
- A condition has been added that states the Villa Road improvements include a paved pedestrian/bicycle path and bridge at the end of Villa Road to the opposite bank of Cedar Creek shall be completed as part of Phase 6.
- A condition has been included which requires the applicant to provide a surety for the construction costs to complete the collector street from Sunset Boulevard to Meinecke Road as part of Phase 6.
- There are no private streets within Phase 6.
- The Woodhaven PUD was approved prior to the adoption of the Tree Ordinance on January 10, 1995. The applicant is not required to submit a tree survey as part of Phase 6. However, individual lots will be reviewed at the time of building permit issuance to determine which trees shall remain and which trees shall be removed.
- The three lots located south of Villa Road in the northeastern corner of Phase 6 may contain a minimum rear yard setback of 15 feet.

In conclusion, based on the findings of fact and agency comments, Staff recommends approval of SUB 97-4 Woodhaven Phase 6 Preliminary Plat with the conditions as stated in the Staff Report.

Chairman Whiteman asked when Villa Road will be cut off access from Railroad Street. Mr. Turner said this would be a part of Phase 6.

Chairman Whiteman asked if the Planning Commission would review the design for the bridge/pedestrian/bicycle connection over Cedar Creek. Mr. Turner said the design has not been finalized and it could be brought back to the Commission for review. The applicant is still trying to work out the steep grade and final design. The Commission had several questions regarding whether it was going to be an elevated structure or dirt over a culvert. Scott Franklin said the “term” bridge as used in the condition, may not be correct. It was the consensus of the Commission that the final design be presented for their review.

In response to Ms. Claus’s question regarding the surety, Sue Engels said a surety is a letter of credit.

**Chairman Whiteman opened the public hearing on SUB 97-4 Woodhaven Phase 6 Preliminary Plat and 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 stated:



- The applicant has been meeting with the City to design a pedestrian bridge over the Cedar Creek ravine. The term bridge as stated in the conditions is more generic. The attempt is to “bridge” from one side of the ravine to the other side, although part of the connection may turn out to be a raised portion. They are working on the design.
- Phase 6 is in compliance with the PUD amendments adopted on March 26, 1997. It also meets all of the criteria required by the Development Code for a preliminary plat.
- With regard to Condition 3L stating the developer shall participate in the water pressure upgrade for the site, after meeting with the City Engineer and Staff, it is still a little unclear as to what this means. There may be some water pressure problems in the future. This does not refer to volume of water, but refers to water pressure. The City will conduct a study with an outside consultant to determine the specific needs of pressure in a zone. This zone would include part of Woodhaven and other improved areas outside of Woodhaven. Some type of proportional share will be determined as to the financial obligation, if any.
- Staff has done some testing, but no date for completion of the study has been determined. This will be made a part of the Water System Master Plan Update.
- He encouraged the Planning Commission to approve SUB 97-4 Woodhaven Phase 6 Preliminary Plat.

**Chairman Whiteman asked if there was anyone who wished to testify regarding SUB 97-4 Woodhaven Phase 6 Preliminary Plat.**

Sanford Rome, 1780 E. Willamette Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome thanked the Chair for the comments regarding the previous subdivision. In response to Mr. Baker’s comments, he does not feel it is ever too late. It may be too late to change the Commission’s mind or someone else’s opinion, but the facts still remain and are still the same. He noted:

- The developer has said maybe after the fact, that the water system needs to be improved, they are not sure yet, they just don’t know. He asked the Commission to condition tonight that Genstar put some money in escrow to cover the costs for these upgrades.
- It is the Commission’s job to say when enough is enough. There are rules on both sides. You can’t go back and pay for a fire after the building is burnt down.
- If you are going to use more pressure, or you think you are going to need more pressure, why not build for more pressure. Why think it and then do it later. Isn’t Sherwood better than marginal or okay. He appealed to the Commission to make one of the conditions of approval that the applicant will participate now before Phase 6 is complete.
- He asked that his remarks from SUB 97-3 Woodhaven Phase 4 Preliminary Plat be made a part of this testimony.
- The schools need help and the water system needs help. There are already enough problems with the water in the City. The connection to Bull Run is a mistake. Let’s take care of this now.

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



Robert James Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus said he had not discussed this with Susan Claus, but he will take this phase to LUBA. He asked that his specific testimony made earlier be incorporated into the testimony for this phase. He asked that Staff's remarks be made a part of this testimony. He noted:

- A lot is the most basic building unit you have. You then have a parcel of ground. The underlying zoning on that parcel tells how you can break it up legally in Oregon. It is clear the Commission is missing this and it is also clear they are now trying to do to him what they did to the Salisburys.
- If the zoning allows a lot can be parceled three times in the state of Oregon. If it is sold to an individual, if the zoning allows, they can parcel it three times. If it is not sold or there is a change of ownership, you have to wait for one year. If it is not parceled, it has to be subdivided. Lot, parcel, subdivision.
- The applicant chose not to go subdivision. The Commission is making the most basic mistake possible. The applicant went through a PUD and planned the entire area. They have threatened the City with going back to the original PUD if they do not get what they want.
- This becomes buying zoning. The City is taking parcels with inside parcels and suggesting they have the distinction of a lot. These have never been broken up. They came in with a PUD, they planned the entire PUD and the PUD must meet the elements of the general and the specific plans. They do not.
- The City asked the Claus's, in the prior administration, for land to finish Stella Olsen Park. They told the Claus's they would cul-de-sac Villa Road and it would not be a major thoroughfare to the school. He appealed to the school and stopped them because this was not a part of the general plan.
- The City is creating an attractive nuisance, namely deep water, putting a bridge over it and putting the burden on his property just like the Salisbury's trees are being ruined. The City is putting the burden on him to control the children and he won't do it.
- The City is letting the applicant buy zoning and infringe on somebody's property. They are calling Phase 1, Phase 2, Phase 5 and Phase 6 a parcel and the parcel does not have any effect on the parcel, therefore, it does not have any effect on the adjacent properties.
- The PUD was to be written so the City would look at the adjacent property and assess the impact. This internal, micro-programming needs to stop and it stops at Villa. He will not assume the liability for the children trespassing. This is a major change.
- He is hearing about a bridge, he is not hearing fencing, he is not hearing children's safeguards and the City is trying to tell him that after they got conned by Mr. Rapp out of the Stella Olsen Park property, it is not going to impact the remaining land, the City has to be kidding and the Commission has to be asleep.
- He told Mr. Bormet if the City comes in with a bridge and there is not a definite statement how it affects the Claus's to prevent trespassing of children running up and down the railroad tracks. The children come up the draw, cross the Claus's property in dry weather and then proceed go to the railroad tracks and scatter in both directions.
- The last group was going to run a path where the bridge is to be placed with no safeguards for the adjacent properties.

- If the Claus's property is not safeguarded, they will first go to the City Council and then he will simply take this to LUBA. He will not take the responsibility for this.
- The applicant makes enough money selling cigarettes and they are not going to leave the tail for him to pick up.
- He is not going to pick up these children in an attractive nuisance area without some detailed plan for fencing or something to screen them from the Claus's property and the railroad tracks. Staff is not even thinking about these things.
- He does not want the liability for children walking in an area where the water can be 8-12 feet deep, morally, ethically or legally.
- He has had enough of Woodhaven saying, "Trust me."
- He identified the property he owned near Cedar Creek on the map.
- The bridge area will be the avenue children take out of Woodhaven and that children use for the foot path to the school and downtown.
- He can win this on the fact of public safety. The City will be funneling children where there won't be an elevated street, there won't be a sidewalk and the applicant is saying, "Trust me."
- If you tell someone not to cross your property, you get vandalism.
- The Claus's property can't develop and won't develop until this mess is finished. They have water and sewer on their property, but nothing can be done until it is determined how Woodhaven wants to further mess the town up.
- Placing a footbridge for funneling the children to the school is placing a burden on the adjacent property. Adjacent does not mean 6C to 6B, it means the adjacent property. You go to a PUD to bypass the subdivision stage and you pay attention to the Oregon land use laws and do the general plan.
- He would do his best to delay the project more than 6 months.
- The burden keeps falling on someone else to protect the applicant.
- The applicant made the mess with Villa Road, they chose to hammerhead it, they proposed these things to Mr. Rapp and Ms. Connell. Now it is the applicant's problem to find the solution. This is part of their obligation because they went PUD.
- It is not Staff's obligation to argue for the applicant. Staff should assure the City gets what the applicant has undone, the transportation plan, the sewer plan, the parks plan and stormwater plan. A PUD should meet the underlying principles of these documents. That is what a PUD is all about. It is not a series of changes, because that is buying zoning.
- The statutes of Oregon state that Land Use Planning shall promote and protect the health, safety and welfare of the community.

Chairman Whiteman said Mr. Claus's testimony regarding the bridge and safety issues needs to be given strong thought. The developer may not be wearing the entire "bad hat" for the concept of this particular bridge; the City Staff has to share in this.

Susan Claus said in view of the previous testimony, she would remove herself from participation in the public hearing for SUB 97-4 Woodhaven Phase 6 Preliminary Plat.

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

Conrad Claus, representing Bob and Lila Salisbury, 125 NW First Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus asked that the hearing record be left open for seven (7) days on SUB 97-4 Woodhaven Phase 6 Preliminary Plat. He asked that all of his prior testimony be incorporated into the hearing record. He noted:

- The City's legal counsel may have a degree of ignorance when it comes to PUD law. A PUD is not a simple subdivision, it is zoning change. This means that the siting of this phase or the prior phase is clearly improper.
- There have been two separate appeals to LUBA regarding PUD 93-3 Woodhaven Amendments.
- In the next few days he will probably be moving for a stay regarding the appeals. He had not done this previously because he needed to have a decision on this issue.
- He believed he reserved his appeal rights with this testimony.

**Chairman Whiteman asked if there was anyone else who wished to provide testimony.**

Chairman Whiteman advised the Commission that based on Mr. Claus's request to leave the record open for seven (7) days, he would call a Planning Commission meeting for Tuesday, May 13, 1997, to consider a final decision on SUB 97-4 Woodhaven Phase 6 Preliminary Plat.

The Commission discussed the time and date to hear SUB 97-4 and the public hearing process. It was the consensus of the Commission that SUB 97-4 Woodhaven Phase 6 Preliminary Plat be continued to the May 20, 1997 Commission meeting. The hearing record will remain open for seven (7) days for written testimony and the public hearing will be closed.

Mr. Nachbar asked for clarification regarding the public hearing process. He asked the Commission to contact him or Staff if there was any further information they needed prior to making a decision. He did not know how the improvements for Villa Road were made prior to his taking the position with Genstar. After that time, anything that has happened with Villa Road has been driven by City Staff. With reference to the Salisbury situation, the property they are dealing with is not in any adjacent to the property that is being questioned with respect to this development nor road that would be going through to the north. He did not know how this would have any bearing on approval for Phase 6. Mr. Baker said he would like to see more information regarding the safety concerns about fencing and the "bridge" over Cedar Creek.

Mr. Conrad Claus said the seven day period would not conclude until May 13, 1997, therefore, the meeting should not be held until May 14, 1997 or later.

George Bechtold, 1185 S. Pine Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Bechtold referenced the hearing record. If the hearing is continued, then there is no reason to grant the seven days because the hearing record would be left open to the next date. If the Commission and public testimony concludes business tonight on SUB 97-4, the record can be left open for seven days. If the Commission chooses to continue the application, then this negates the record being left open for seven days. You can't continue the hearing and leave the record open for seven days.

**Chairman Whiteman asked if there was anyone else who wished to testify. There was no further testimony. Chairman Whiteman closed the public hearing on SUB 97-4 Woodhaven Phase 6 Preliminary Plat.**

**Angela Weeks moved the Planning Commission continue SUB 97-4 Woodhaven Phase 6 to the May 20, 1997 Commission meeting and keep the record open for seven (7) days for additional written material. Seconded by Scott Franklin.**

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

Susan Claus and George Bechtold did not participate in the vote on this motion.

**5C. CUP 97-2/SP 97-3 Archer Glen Modular Classroom Buildings (2)**

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated May 6, 1997, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- Sherwood School District 88J is requesting conditional use and site plan approval to place two portable classroom buildings at the Archer Glen Elementary School. Each building unit contains two classrooms. Each classroom has a maximum capacity of 30 students. The total proposed added capacity is 120 students.
- The units are portable, however, the District anticipates the units will remain at the proposed location indefinitely.
- The modular units will be placed behind the school approximately 235 feet from the north property line on a portion of the existing asphalt playground area.
- The size is zoned Institutional Public (IP) which requires a conditional use within the current zoning designation.
- The application meets all of the required findings for a conditional use permit.
- Capacity for Archer Glen School is 600 students. The estimated enrollment is 628 students and the modular units will relieve the over capacity issue.
- The application meets all of the required findings for site plan approval.
- The modular units will have pedestrian access through the existing school.
- The existing parking lot contains 96 off-street parking stalls which is adequate for the existing school as well as for the proposed portable classrooms.

In conclusion, based on a review of the applicable code provisions, agency comments and staff review, Staff recommends approval of CUP 97-2 and SP 97-3 with the conditions as stated in the Staff Report.

Allen Baker asked if the two modular units would have restrooms. Mr. Tuck thought there would be restrooms. The representative from the School District said there would not be any restrooms in the two portable classroom buildings.

Mr. Baker asked how the public need was being best served by the location of modular units. Mr. Tuck said there is no particular way to measure this. Staff reviews the application and interprets the Code based on the approval criteria and makes findings based on this criteria. Moving the boundaries for the two elementary schools was not a part of review process for this application.

**Chairman Whiteman opened the public hearing for CUP 97-2/SP 97-3 Archer Glen Modular Classroom Buildings and asked if the applicant wished to provide testimony.**

Pete Miller, Principal, Archer Glen Elementary School, 16155 Sunset Boulevard, Sherwood, Oregon 97140, addressed the Commission. Mr. Miller noted:

- The site for the modulares was the original site the architect anticipated needing at some time in the future, not necessarily this early.
- In looking at the surrounding districts and previous experience, it is anticipated that these buildings will be somewhat permanent.
- Access to the modulares meets Code, ADA requirements, and Fire District requirements.
- There are no restrooms planned for these two modulares because it is a very easy access to the rest of the Archer Glen School building. Just inside the doors are accessible both boys and girls restrooms. It is about 30-40 steps from the modular classroom doors to the inside of the building.
- Each modular will have a large porch that extends from the end of the unit to the middle where the doors are located. There is approximately 30-40 feet of uncovered area between the modulares and the school building.
- The location of the modulares is the best for access from the outside to the rest of the school building.
- They have looked at the possibility of extending the hard surface play area, but this is not part of this application.
- The modular classrooms will not be sprinklered.

Mr. Bechtold said the Commission is required to consider school capacity for subdivisions. He asked if the School District representatives could help in obtaining up-to-date information.

Mr. Miller said there is available space at Hopkins Elementary School which is not at capacity at this time. In response to Ms. Claus's question, he said the boundaries for attendance are based on the projected build-out for the community. The District has not considered altering the current attendance boundaries at this time. The District believes the two modulares will pretty much satisfy build-out within the current boundary for the near future.

Ms. Claus said a 20% increase is significant. Mr. Miller agreed with this assessment. The increase is a cross section of school age children. It is difficult to determine the percentage of parents who drop their children off. On a wet, rainy day there may be 100 cars dropping of children. A normal day would be 40-65 cars. They have not had any problems with the school crossing areas, but there are concerns with crossing a busy street. At this time, they have not considered adding any additional school crossings on Sunset Boulevard. They have trained

crossing guards, employed by the School District as teacher's assistants, who direct traffic each morning at the intersection of Sunset and Sherwood Boulevard.

Ms. Claus asked if the School District would be adverse to a condition which required a cover from the modular to the school building. Mr. Miller said the applicant would be adverse to this condition because he did not know if a full cover was necessary. It has not been a serious problem for children in the past to transfer 30-40 feet with no cover.

In response to Ms. Claus's question, Mr. Miller said the School District does not anticipate any parking problems with the 20% increase. There are parking problems for special events, which all schools face the same problem.

**Chairman Whiteman asked if there was anyone else who wished to testify concerning CUP 97-2/SP 97-3 Archer Glen Modular Classroom Buildings. There was no further testimony and Chairman Whiteman closed the public hearing on CUP 97-2/SP 97-3 for discussion by the Commission.**

Sue Engels discussed the Transportation Growth Management (TGM) Grant for which the City will be applying.

The Commission discussed how they could get more up-to-date information from the School District and what is going to be required by the schools within the Urban Growth Boundary. This information would include location, type, enrollment, capacity, and distance from the schools. The Commission agreed they needed some type of conduit between the Commission and the School District. Chairman Whiteman said, as a representative of the Commission, he would attend a School District Board meeting for this purpose. The Commission concurred.

**George Bechtold moved the Planning Commission approve with conditions CUP 97-2/SP 97-3 Archer Glen Modular Classroom Buildings (2) based on the Staff Report, findings of fact, and public testimony. Seconded by Bill Whiteman.**

Allen Baker said he would like to see restrooms in both of the modular classroom buildings. Chairman Whiteman said the application showed there would be an additional cost of \$6500.00 per restroom, plus loss of classroom space, and the noise factor of having a restroom in the modulars.

**Allen Baker moved to amend the original motion to include providing restrooms in each of the modular classroom buildings. Seconded by Susan Claus.**

**Vote for Passage of Amendment to Motion: 1-Yes (Baker), 5-No, 0-Abstain**

In response to Angela Weeks' question, Mr. Miller said current plans are that the two modulars will house fourth grade classes. Ms. Weeks said her children attended Hopkins Elementary which had modulars without restrooms and she was not aware of any problems. Mr. Miller said this was correct. Chairman Whiteman called for a vote on the original motion.



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

CUP 97-2/SP 97-3 Archer Glen Modular Classroom Buildings (2) was approved subject to the following conditions:

The following conditions were placed on approval of the application:

1. The final development plans shall be in substantial compliance with the plans date stamped April 1, 1997, except as modified herein.
2. Provide engineered construction plans to the City and all applicable agencies for public and private improvements including costs, maintenance and bonding provisions in compliance with City, USA, WCDLUT and TVFRD standards. The plans shall include provisions for streets, street trees, on-site sidewalks, sanitary sewer, water, fire protection, storm water runoff, erosion control, grading, site lighting, landscaping and signage.
  - A. All piping shall be insulated to prevent freezing.
  - B. A complete set of construction documents shall be reviewed and approved by the City's Building Department prior to the installation of the portable classrooms.
  - C. Provide the Building Department with adequate information about area separation walls in existing structure and location.
  - D. The development should be provided with a means of disposal for sanitary sewer. The means of disposal should be in accordance with R&O 96-44 (Unified Sewerage Agency's Construction Design Standards, July 1996 Edition).
  - E. The development should have access to public storm sewer. Hydraulic and hydrological analysis of storm conveyance system is necessary. If downstream storm conveyance does not have the capacity to convey the volume during a 25-year, 24-hour storm event, the applicant is responsible for mitigating the flow.
  - F. The developer shall provide a water quality facility to treat the new impervious surface being constructed as part of this development, or utilize the existing facility if possible.

This approval is valid for one (1) year.

**5D. SUB 96-9 Wyndham Ridge #3 Preliminary Plat**

Chairman Whiteman announced that due to the time constraints for this meeting and as stated on the agenda that items not completed by 11:00 PM would be continued to the next regularly scheduled meeting. Jason Tuck advised that the 120-deadline for this application was July 11, 1997. Chairman Whiteman announced that SUB 96-9 Wyndham Ridge #3 Preliminary Plat



would be continued to the May 20, 1997 Commission meeting. He thanked the applicants for staying through this meeting and advised them of the May 20, 1997 hearing date.

**6. Other Business - Election of Chair and Vice-Chair**

Chairman Whiteman continued this agenda item to the May 20, 1997 Commission meeting.

Chairman Whiteman announced that he had contacted the Mayor regarding a joint meeting of the Commission, Council and any other appropriate City Board. He sent a copy of this letter to the Commission.

There being no further business to discuss, the meeting was adjourned at 11:25 PM.

Respectfully submitted,

Planning Department