

City of Sherwood, Oregon
Planning Commission Meeting

August 1, 1995

1. Call to Order/Roll Call

Chairman Birchill called the meeting to order at 7:02 PM. Commission members present: Chairman Gene Birchill, Vice-Chairman Chris Corrado, George Bechtold, Susan Claus, Rick Hohnbaum, Kenneth Shannon and Marge Stewart. Planning Director Carole Connell, Assistant Planner Lisa Nell, and Secretary Roxanne Gibbons were also present.

2. Minutes of July 18, 1995 Commission Meeting

Chairman Birchill asked if there were any corrections or additions to the minutes of July 18, 1995. There being none,

Rick Hohnbaum moved the Planning Commission accept the July 18, 1995 Commission meeting minutes as presented. The motion was seconded by Ken Shannon and carried unanimously.

3. Community Comments

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

Marge Stewart reported the 66-lot subdivision on Parrett Mountain that was approved by the County and subsequently appealed, was overturned. On appeal, the County's approval was denied. The applicant, Manke Lumber Company, is protesting the decision and a hearing is scheduled for August 8, 1995. Ms. Stewart said the City should take a position on this issue. Chairman Birchill asked Carole Connell to discuss with City Manager Larry Cole a Council review and/or position on this matter.

4. SP95-1 Allied Systems Site Plan (Continued from July 18, 1995)

Chairman Birchill announced this is a continued hearing from the July 18, 1995 Commission Meeting and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda.

Rick Hohnbaum announced he would be excusing himself from the discussion as he did previously on July 18, 1995.

Chris Corrado explained that prior to opening the hearing on July 18, 1995, he made a comment regarding a conversation he had in a meeting with Mr. George Burns, Allied Systems. Mr. Burns reflected in his comments that he did not know Mr. Corrado was on the Planning Commission and mentioned that Mr. Corrado had come

to see him to get money from him. Mr. Corrado stated for the record Mr. Burns' comment was "off the cuff" per se. He met with Mr. Burns to discuss Allied Systems participation in supporting the Sherwood "Gazette" as a community newspaper. Allied Systems is not the type of business which would take out display ads, however, in the past they have supported the paper simply by paying for a space which states, "Support your local advertisers..." or some other generic type of message. Mr. Corrado said this was the content of his meeting with Mr. Burns. They did not talk about the Allied Systems SP 95-1 Site Plan. Mr. Corrado said he wanted to be sure that everyone understood the concept of this meeting.

Marge Stewart again clarified that she had not called Allied Systems or spoke to Mr. Burns.

Chairman Birchill announced he met with Jim Hirte, P.E. today, on the site, to discuss the location and requirements of a secondary access between the Allied Systems site and Columbia Cascade. He did not feel this meeting would prejudice his opinion on this project. The meeting was to pass on facts and the requirements of the TVFRD. There being no further disclosures, Chairman Birchill continued the public hearing.

Carole Connell reported significant correspondence had been received since the last meeting. Ms. Connell had a very productive meeting with Allied Systems (Allied) today. As a result, several changes had been made to the recommended conditions of approval. Two recent reports received from Washington County were distributed to the Commission. One report from the Washington County Planning Staff discussed their recommendations for improvements on the NE Oregon Street frontage of the site. The report stated the County needs to be provided preliminary certification of adequate sight distance in accordance with County Code, prepared and stamped by a registered professional engineer at the access point to NE Oregon Street and provide a detailed list of what improvements are necessary to provide adequate intersection sight distance. The report also recommended complete engineering plans for the construction of a concrete sidewalk to County standard along NE Oregon Street frontage at ultimate line and grade (or as approved by the County Engineering Division), one-half foot off the ultimate right-of-way line, provide commercial access to NE Oregon Street to County standards, improvements within the right-of-way as necessary to provide adequate intersection sight distance at NE Oregon Street access point, close all existing driveways to Oregon Street, provide any additional off-site safety improvements found to be required for compliance with the report upon completion of the County Traffic Analyst's review, provide adequate roadway drainage along NE Oregon Street frontage and provide a slope easement along the frontage of the site as approved by the County Engineering Division.

Ms. Connell said the report identified that the following documents shall be executed and recorded with Washington County, 1) Dedicate additional right-of-way to provide 33 feet from centerline of NE Oregon Street frontage and 2) Provide a one-foot non-access reserve strip along NE Oregon Street frontage, except at the approved access

point.

Ms. Connell advised the Commission that the Traffic Impact Statement (TIS) from Washington County was received today. A comparison of the two County reports showed there were some conflicting conditions between the Washington County Planning Department report dated July 25, 1995 and the TIS report. Ms. Connell clarified the differences. The TIS development conditions, supported by findings of fact, will be the basis for recommendations to the review authority or hearings officer regarding the land use application. The conditions included signing a non-remonstrance agreement for the formation of a LID or other mechanism to improve the base facility of NE Oregon Street to County standards between SW Murdock Road and SW Cipole Road. The County realized the City's right-of-way plan was to be 45 feet from centerline, not 33 feet in accordance with the County-wide plan. The County designated the street as a minor collector and the City designated the street as a minor arterial, which caused the difference in the right-of-ways. Other recommendations included establishing a non-access restriction along the site's frontage of NE Oregon Street, except at the approved access location(s). Establish a slope easement along the site's frontage of NE Oregon Street. Sight distance (500 feet required in both directions) at the proposed access of NE Oregon Street will be adequate upon minor vegetation removal. NE Oregon Street is a major collector, with a minimum access spacing standard of 100 feet, measured from access on both sides of NE Oregon Street. The proposed accesses meet this standard. Ms. Connell said 100 feet is consistent with City standards.

Ms. Connell said the TIS also recommended constructing a concrete sidewalk to County standard along the frontage of NE Oregon Street at the ultimate line and grade. Provide adequate drainage along NE Oregon Street. Close the existing access to the site with sidewalk and ditching upon completion of the proposed access. Obtain a Facility Permit from the Department of Land Use and Transportation for construction of all required public improvements. The TIS stated the development generates approximately 259 trips based on the ITE Code 140. Additional requirements, such as off-site improvements, may apply to specific development at the development review stage.

Ms. Connell distributed a description of the Washington County MSTIP 3 program to the Commission. The report identified the Oregon Street improvements from Tualatin-Sherwood Road to Murdock Road Phase 1, signal only, estimated for 1997-98 construction. The Tualatin-Sherwood Road to Murdock Road Phase 2 estimated project design 1999-2000, right-of-way purchasing in 2001 and construction in 2001-2002. This is when Washington County plans to build road improvements from Tualatin-Sherwood Road to Murdock Road based on the recent MSTIP 3 measure passage. In response to Ms. Claus's question, Ms. Connell said the road improvements include curbs, gutters, sidewalks, and widening to at least 3 lanes.

Ms. Connell stated when the County receives an application such as Allied's, in advance of the MSTIP, they do require improvements even though MSTIP may

anticipate making those improvements, which in this case is 4 to 5 years from now. Ms. Connell said it is appropriate to require the sidewalk and right-of-way dedication now. This dedication will help Washington County meet their long term goals.

Ms. Connell entered into the record a letter from Attorney David B. Smith, 6975 SW Sandburg Road, Suite 130, Tigard, Oregon 97223, dated July 24, 1995, representing the applicant, Allied Systems. The letter discussed site design plan review, SP 95-1. Ms. Connell said the letter stated the City may not require Allied to make street improvements when the City has not first quantified the traffic and other impacts of the proposed off-street parking and open storage of equipment, and shown those street improvements to be roughly proportional to the traffic and other impacts of Allied's proposed development (Site Plan SP 95-1). Ms. Connell said the letter points out that Dolan v. City of Tigard makes it clear that the burden is on the City to make those findings and not on the land owner. Mr. Smith's letter questioned whether the City can make such findings and that what Allied proposed has any traffic impacts whatsoever. The City may not predicate demanding those improvements on past increases in employment, or past developments of Allied. The City, has not, in the past, required street improvements of businesses merely because they expanded or hired new employees. It cannot justify the street improvements on any development except the one under consideration in the referenced application. The rough proportionality test of Dolan prohibits the City from imposing such dedication conditions on the approval of the instant application for site plan design review, without first making findings regarding impervious surface and storm water runoff from the instant proposed development. The application that is before the City now cannot be used to demand consent to dedications that cannot now be justified under Dolan, and may not be capable of justification when the new building is proposed on Tax Lot 501. At best, such conditions must await the submittal of an application for the new building. In summary, the conditions discussed above violate the Fifth and Fourteenth Amendments of the US Constitution, and Article I, Section 18 of the Oregon Constitution, by unconstitutionally demanding private property for public use without just compensation.

Ms. Connell said there are two tax lots, Tax Lot 201, which Allied's current operation is located and Tax Lot 501, where the parking has spilled onto and the outside storage area is located. The site plan process will address outdoor storage and a parking lot. The outdoor storage is required to be screened and the parking is required to be paved and approved to full parking standards. Ms. Connell reminded the Commission, that as contained in the Staff Report, the parking Allied proposes in the site plan, is still 69 spaces short based on their number of employees.

Ms. Connell stated that at the July 18, 1995 meeting, there was some confusion due to the fact there had been some additions to Allied through the years without any review. The last review was in 1989 when Allied came before the City for an addition. In 1993, Allied added office space and now Allied is adding a small addition for some equipment. A review of building permits showed the permits did not require paying a traffic impact fee. The reason the TIF was not exacted at the time of the

building permit was because the City was told there would not be any new employees. Subsequently, the TIF was not applied. As stated in the Staff Report, in trying to rectify some of the past actions, Ms. Connell said Allied's attorney points out that the City cannot go back if a mistake is made and retroactively demand some type of fees.

Ms. Connell reported the owner of the existing Allied facility on Tax Lot 201 is Howard Brune and his wife. Tax Lot 501 is owned by Mr. Brune, Howard Burns and the Allied employees. Ms. Connell said it gets complicated when requiring Allied to pay for street improvements on property which is co-owned.

In conclusion, Ms. Connell reviewed the revised recommended conditions of approval in the Staff Report dated August 2, 1995.

Ms. Connell suggested deleting item 7.c. and adding a non-remonstrance agreement and access restrictions to the conditions. The stated conditions take care of the County's concerns, the City's needs for right-of-way, and compromises the original requirement for half-street improvements and instead requires sidewalks in accordance with both County reports and to defer street improvements until horizontal and vertical alignment changes can be made on the entire street. This draft no longer requires half-street improvements in front of Tax Lot 501. It would be more appropriate to require sidewalks improvements in front of Tax Lot 501 at the time Allied submits for their building permit for Tax Lot 501. At this point just require sidewalks in front of Tax Lot 201.

Ms. Connell suggested the Commission next receive input from Greg Miller, Washington County Engineer.

Greg Miller, Engineer, Washington County Department of Land Use and Transportation, Suite 350, Hillsboro, Oregon 97124, addressed the Commission.

Ms. Miller provided background information on the MSTIP 3 project and additional details. The County plans to construct a three lane road with bike lanes and sidewalks from the Oregon Street, Tualatin-Sherwood/Edy Road intersection down to the Murdock Road intersection. This will involve revising both horizontal and vertical alignment of Oregon Street. Mr. Miller said that NE Oregon Street will not be in the exact same location it is now. The project is scheduled for construction in fiscal year 2001-2002. This means construction may begin mid-to-late summer of 2001 and continue into the next construction season. This is a tentative schedule, it may be later, but probably will not be any earlier because it is based on the amount of cash flow the County has in the MSTIP serial levy. The project will also involve a traffic signal improvement at the intersection of NE Oregon Street and Tualatin-Sherwood/Edy Road. In response to Ms. Stewart's questions, Mr. Miller said if the sidewalk is put in now, it would have to be torn out, which would be a waste, when it comes to the MSTIP 3 project. If Allied puts in the sidewalk now, they would get about 5 years use out of it. Mr. Miller said the way the County prefers to handle this type of situation is for a developer to dedicate the easement for the roadway and sidewalk and deposit the money for what the sidewalk would have cost into a "trusted

agent's account" at the County. The County would use this for project funding when the County builds it.

Mr. Miller said the plans call for NE Oregon Street to be 50 feet wide, curb to curb, which would include the two travel lanes, center turn lane, two bike lanes and outside the 50 feet would be two 6 foot sidewalks. The total width of the street itself would be 62 feet. The County standard for right-of-way on a minor arterial street would be 45 foot from centerline, 90 feet total.

Ms. Connell asked why the two County letters required sidewalks. Mr. Miller responded the County states you must build the sidewalk, but if the sidewalk is installed and the ultimate line of grade is going to differ from the current line of grade of the road, then a decision must be made whether you need the sidewalk right now or you say the sidewalk is going to fit in there somewhere, instead of building a sidewalk and throwing it away, you take that money and put it in a trusted agency account and save it for use in building a sidewalk when you build the project. A decision has to be made on how badly you need the sidewalk at the present time. In response to Ms. Connell's question, Mr. Miller said ultimate line of grade refers to the right-of-way issue. Sometimes it is almost a physical impossibility to know this information.

Susan Claus asked if it is the County's position that any development along NE Oregon Street, until the year 2001-2002 when the improvements are scheduled, for the City to require that those monies be turned over. Mr. Miller said this is correct, either the sidewalk be built and right-of-way easement be dedicated, or if the sidewalk cannot be built or it does not make sense to build it, then the money be deposited in a trusted agency account. Mr. Miller said ultimately there will be curbs and gutters. In response to Ms. Connell's question, Mr. Miller said the MSTIP 2 program, for example, had a number of developments where the current grade of the road is vastly different from the grade of the final road and alignment of it, that the monies are dedicated in a trusted agency account. In response to Ms. Claus's question, Mr. Miller said the County prefers to have the facility or improvements built. The purpose of the Code is to protect the health, safety and well being of the citizens at large. The way to do this is require at the time people get building permits, they also get a permit to build a sidewalk on the frontage of their property. This is common in most jurisdictions. Only in those cases where it is physically impossible or does not make common sense to build that facility, the County will take the money in lieu of that and deposit it in a trusted agency account.

Ken Shannon asked Ms. Connell if the Commission could require the applicant do the sidewalk on Tax Lot 201 and not Tax Lot 501 at this time. Ms. Connell said she thought they could show the impact that the increase in the number of employees would require a sidewalk on Tax Lot 201. It would be more appropriate to talk about the sidewalk on Tax Lot 501 at the time Allied applies for a building permit.

In response to Ms. Claus's question, Mr. Miller stated there is some money included

in the project cost estimates for purchase of right-of-ways. In response to Mr. Bechtold's question, Ms. Connell said the County is requiring sidewalk dedication for the entire project on both Tax Lots 201 and 501.

Chairman Birchill called for comments from the applicant.

Howard Brune, President, Allied Systems, 2300 Oregon Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Brune said it was very helpful to have Mr. Miller present testimony. Mr. Brune said he would like to respond to the report, but that he really did not fully understand Mr. Miller's comments regarding the roadway. He received the report from Washington County this morning and the other report tonight and had not had an opportunity to fully consume this information. Mr. Brune said Allied has always tried to be a good neighbor, always tried to work with the City and they are not present tonight to be obstinate. Allied paid very dearly for the valuable piece of property and every five feet or three feet of the property is just another three to five feet Allied cannot use. On the other hand, Allied is prepared and willing to comply with the ordinances and laws of the County and City. Mr. Brune said he was opposed to agreeing to things when he really did not fully understand the implications.

Mr. Brune responded to each condition and explained Allied's position. As such, some of the responses would be subject to limitations because Mr. Brune did not understand the ramifications of the newly incorporated matter. Mr. Brune asked for clarification from Mr. Miller regarding dedication of 35 or 45 feet from the centerline of NE Oregon Street. Mr. Miller responded the County has roadway standards for right-of-ways on different types of roads. The City's classification of NE Oregon Street is minor arterial. The County's standard for minor arterials is a 90 foot right-of-way. The road itself is 50 feet wide, the sidewalks are 12 feet which would be 62 feet. There are 14 feet on each side of the sidewalks which would be unused at that time. The reason the County asks for the 90 feet is these roads historically end up needing widening as the area is developed. Mr. Miller said when the County condemns the property, 45 feet from the centerline is the normal procedure.

Mr. Brune reviewed each recommendation by number. Item #1, Mr. Brune said Allied does not own Tax Lot 201, Mr. Brune and his wife own the property, so Allied cannot make this type of commitment. Therefore, Mr. Brune said he would make the commitment to dedicate additional right-of-way adjoining Tax Lot 201 to provide 45 feet from centerline on the Oregon Street frontage.

Mr. Brune stated that because there was so much new material to review, the applicant (Allied Systems) would like to make a formal request to have the hearing remain open for the next seven (7) days to prepare a written response. However, he would like to explain Allied's position as much as possible.

Mr. Brune continued to comment on the specific recommended conditions as follows:

Item #2, Mr. Brune said Allied would make a commitment to go ahead with the 45 foot easement. Item #3, Mr. Brune said every square foot of property is valuable. Allied's Attorney checked the City Code and the Code required a 10 foot landscape corridor. Mr. Brune proposed the 15 foot landscape corridor be changed to 10 feet. Item #4, if Allied has to move the fence to do the landscaping they would take a positive position on this recommendation. Item #5, Allied proposes to comply with the City regulations, however, they might propose putting the parking lot close to the existing fencing as opposed to where the new building will be to avoid having to rip out the new asphalt, if and when Allied obtains a building permit from the City. Allied agreed to Item #6 referencing SWM fees. Item #7a. and #7b., Mr. Brune said he presumed these were appropriate recommendations. Item 7c., Mr. Brune said Allied would comply, but would like their attorney and engineer to review this condition. With regard numbers 1) through 7), Item 7d., Mr. Brune said he would like an opportunity to review several of these items further. Item #8, Allied had no problem with landscape buffering and screening. Item #9, Allied would agree to providing a wetland delineation, traffic impact report and noise analysis at the time of site plan submittal for a new building on Tax Lot 501. Item #10, Allied would agree to providing additional landscaping materials along the floodplain boundary. Item #11, Allied would install landscaping improvements illustrated on Sheet L1 by November 1, 1995 or provide a bond for 100% of the landscaping materials if not installed by November 1, 1995. Item #12, Allied agrees to provide a key to TVFRD to the entry gate. Allied has given a key to the Bonneville Power Administration for emergency situations relative to their power lines. Mr. Brune asked Mr. Smith if he wanted to make any comments.

David B. Smith, Attorney, 6975 SW Sandburg Road, Suite 130, Tigard, Oregon 97223, representing the applicant, Allied Systems, addressed the Commission. Mr. Smith said he believed the site certification had been taken care of with the report received by Washington County (Item 7c.). Ms. Connell said this was correct and that was why she recommended deleting this condition. Mr. Smith asked a question dealing with the 15 foot landscape corridor. Mr. Smith said in reviewing the Code, corridors 10 feet in width are for collectors and 15 feet are for arterials. The City has categorized Oregon Street as an arterial in spite of the fact that Washington County considers it a collector, therefore the City requires 15 feet of landscape. Mr. Smith asked the Commission, considering the plantings that have already been agreed, what is the 15 feet for. There is already 45 feet of right-of-way and another 15 foot wide landscape corridors did not seem to serve any beneficial or productive purpose of public interest. Mr. Smith said a 10 foot wide corridor would seem a more reasonable condition. Mr. Smith said the third question, which he did not feel anyone could answer and he found very troubling was Item 7.d.7), to provide a slope easement along the frontage of the site as approved by the County Engineering Division. Mr. Smith said the County Engineering Division does not know what the grade of Oregon Street is going to be and in 2000-2001, how can anyone grant a legally valid slope easement either to the City or Washington County, when they don't know the width of the easement and depending upon the grade how wide the easement is going to have to be. Mr. Smith said in talking to Washington County, they do not know what

the grades are going to be. How can the City require dedication of a slope easement of indeterminate width? Mr. Smith said he did not feel this would be legally enforceable. It may be at the time the site design on the building on the site goes through that Washington County may be smarter than they are now. That being the case, it might be advisable to defer the slope easement criteria until such time as the building site design comes along.

Mr. Smith said with regard to what Carole Connell said about the concrete sidewalk to County standards, that the concrete sidewalk is probably best left for future site design review rather than coming in at this time. Mr. Smith said sidewalks are normally required adjacent to frontage on residential subdivisions. He found it hard to believe there would be any pedestrian impacts associated with this particular site design review. The comments provided by Mr. Smith in writing to the Commission about dedication of the land and the floodplain and half-street improvements apply equally to construction of the sidewalks. There are no documented pedestrian impacts. Mr. Smith suggested the Commission ask the City Attorney to read some of the language in the Dolan decision which Mr. Smith referred to. Mr. Smith said before the City can require the construction of a pathway there has to be some quantifiable pedestrian impacts. Mr. Smith said he would agree with Ms. Connell to hold this requirement until the next site design review for Tax Lot 501. Mr. Smith said engineers have advised him that it would cost about \$38,000 to install a sidewalk for both tax lots and for \$38,000 they should at least wait until they have something that might possibly have some pedestrian impacts and it is certainly not this application. Mr. Smith said he would be happy to answer any questions from the Commission and that he felt Ms. Connell did an excellent job of summarizing his letter.

Chairman Birchill called for any further proponents wishing to testify. There being none, Chairman Birchill called for any opponents wishing to testify.

Sanford Rome, 1780 E. Willamette, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome said he did not know where to speak, for, in-between or against this application. The difficulty comes in that Allied has been a reasonably good neighbor to the City. They have brought people in and have provided jobs, they have developed a piece of property and the City has an industrial tax base. For this, Mr. Rome wanted to commend Allied. Allied has not come before the City and asked the City to make any give-aways, such as the silicon industry has, a lot of tax things. Mr. Rome said he almost felt bad coming in and admonishing some of the Staff. The Staff tries hard and he realizes Sherwood is a small City, but there are not a lot of people like him that are willing to come down for 23 years to speak out and buck heads with the City. Sometimes he gets rambling, sometimes ranting and sometimes he gets thrown out, but sometimes somebody sees some of the points he has made.

Mr. Rome said he had in front of him a copy of construction plans which show what he was trying to get to that reflected the Kay Apartments, for site, sidewalks, fencing,

parking spaces, for streets and sidewalks. Mr. Rome said while the Kays were putting on their proposal while they brought their big guns in and their administrators and were going to hold us all hostage on their five acres, they even proposed a "health trail" as the plans show. To this date, when Mr. Rome jumped on Carole about this, what about this, and she said well we've made them do everything we can do and they are not going to put it in. Mr. Rome said that was the point of why he is coming before the Commission in guarded opposition to Allied. When they ask about slopage, since we have a problem on my property about slopage, it never even was brought up 22 years ago and yet he has put the City into a lawsuit. Mr. Rome said he did know that if you don't deal with it now that you won't because they have their lawyer already in line, so he would probably lose. Mr. Rome said 2002 sounds like a long time away, it is only 5-1/2 years or less away. Anyone who has been in Sherwood for 23 years or as long as Marge or Ken has, understand that change is slow, but when it takes off, it runs away from us, not to us, away from us. We saw it in the Fair Oaks Subdivision, that he so vehemently fought. Not to stop the project, but for sidewalks, curbs, drainways and street lights. We got street lights. Mr. Rome said if you let something get away from you, \$38,000 probably doesn't constitute the expenses for organizational..., but if sidewalks are \$38,000 on this project, if they don't pay it or put them in now because they are going to be torn out 5 years from now, then they need to be bonded or sent into one of these funds the City maintains, so that when I come down, that they don't cost me more money. They don't cost you who live in this town more money and I can go right on down the line with problems when we gave away the Woodhaven, we had the nice two entryways, yet they are single lanes. There's going to be 1200 homes out there which is 5000 people give or take a 1000, which is as many people as we currently have in Sherwood and we have a single lane street entering Woodhaven. We have the same problem on Sherwood Tualatin Boulevard when we had to fund. I'm telling you that the \$38,000 may not even maintain the sidewalk, but you can't let sidewalks get away. You can't let bicycle paths get away. You can't let slope easements, if you have to define something or maybe they have to do something that's as easy as nonremonstrance and at such time as slope easement is needed they will work diligently to reduce the financial impact to the City. Mr. Rome said those are words that come up. Everyone one of us that live in the City has had to pay the consequences. We have water problems today. Mr. Rome discussed hooking up to the City of Tualatin. The well water in Sherwood far beats any water that he has had. Mr. Rome said the City should have wells. Do we need brown water from Bull Run? Mr. Rome said he is not saying stop growth, stop connecting, what he is saying if it be water, if it be engineering plans, if it be attorneys, if it be slope easements, nonremonstrance agreements, bike paths, whatever it may be, if the City did get caught and it did not get in the final requirement, that the he and everyone further down the line pays for it. Business makes money when things are given to them. Business makes money on things they don't have to pay for that they can get by with. Mr. Rome said they are getting hammered now for a joint of Sunset to Murdock at \$750,000, yet when he came the Council and said don't let Mr. Fasano and Mr. Reeves off without paying for that pile of rock, the City got \$100,000, they sold all their lots and they are long gone. If you throw something away or don't deal with it directly in numbers or in

terminology so it doesn't come back to haunt us, we, the citizens of this town, pay. Mr. Rome discussed a subdivision across the street with a green chain link fence that looks awful or no landscaping because the Commission said they asked for it here and it went to City Council and Council threw it out, then we haven't protected the you's and me's of this City. So I ask you before you go ahead and send this on down to the next phase, whether or not you have been threatened that you handle all the situations that all could come back to haunt us.

Mr. Rome said he had been before the Council too many times and said no more. He only wished he could come back to the Council and every one before him and every member and make them pay the dollar costs that have been attributed to their mistakes, errors and ways. Mr. Rome asked the Commission not to let down the citizens. The building factors are up to the City administration, the give-aways are where he is concerned.

Chairman Birchill asked if there was anyone else wishing to speak in opposition to the proposal.

Greg Miller, Washington County, asked if he could clarify a couple of issues. Mr. Miller said regarding sidewalks, the County's approach has been it is in the best interest of the citizens to require, when people come in for a building permit to do any kind of development on a piece of property they will be required to put in sidewalks. On the vertical and horizontal alignments of the slope easements, in fairly short order, Mr. Brune's engineer and Washington County can get together to work out where those slope easements need to be.

Chairman Birchill asked if there was any rebuttal to the opposition testimony.

Dave Smith, representing Allied Systems, asked to respond. Mr. Smith said he appreciated Mr. Miller's comments with regard to slope easement and if this could be quantified to know what they are talking about it would be a lot easier to adopt a solid position. Mr. Smith said he was reluctant to commit, absent knowing what the slope easement is going to look like when they are finished. Mr. Smith said some of this slope easement might offset some of the landscape corridor as well. The last point was what the County said about sidewalks and pedestrians is correct. It was articulated in a film called, "Build it and they will come." Unfortunately, that's not what the US Supreme Court says that the rule is. The rule is that the pedestrian impacts generated by the specific development must be roughly proportional to the requirement to put in the siding. Mr. Smith said he certainly agrees with the gentleman who spoke about subdivisions going in, requirements for sidewalks, he just did not believe this sort of site design before the Commission now have anything to do with pedestrian impacts. There may very well be some pedestrian impact associated with it, that include building codes on Tax Lot 501, so he would support the City Planning Director in that it may be more appropriate to defer this until an application for that building comes in.

Chairman Birchill closed the public hearing and opened the floor for Commission discussion, comments and questions.

Ken Shannon asked Ms. Connell for clarification on the parking lot and storage area. Ms. Connell responded the Staff Report notes the reason Allied has a parking problem which has spilled over onto Tax Lot 501 is because there are 320 employees and 109 parking spaces. The plan proposes adding 92 new parking spaces. The problem is that it is still 69 spaces short of meeting the minimum requirement. The 69 spaces relates to the Code requirement that there be a parking space for every employee for the largest shift. Ms. Connell stated the 320 employees are not on the site at one time, the largest shift is 270 employees. Ms. Connell said Staff is recommending Allied meet the minimum requirement.

Chairman Birchill asked Dave Smith for clarification on his interpretation of the US Supreme Court's interpretation of the laws relative to if the pedestrians come out of the property being developed, then the sidewalks would be developed to that number of people. Mr. Smith responded this would be a real good approximation of what the US Supreme Court said. With regard to the Dolan case, the Court specifically said for the City of Tigard to justify requiring the Dolans to dedicate land for and build a pedestrian and bicycle pathway they would have to show that the pedestrian and bicyclist traffic that is generated by the proposed development is roughly proportional to the requirement to put in that pathway. Mr. Smith said he was not suggesting that this standard can't be met. He was recommending to the Commission that on the Allied site plan there are no additional employees being added, there are no additional cars being generated, notwithstanding what the standard traffic reports say that an industrial facility ought to be, all it really is doing is putting parking and open equipment storage on Tax Lot 501. There aren't any impacts this time; that doesn't mean there won't be impacts next time. It is extremely difficult to ask Staff to attempt to justify a requirement for a concrete sidewalk now and it may be a lot easier the next time around when Allied's new building is proposed. Chairman Birchill said he drives out NE Oregon Street about 4 times per week and on those times he usually sees a bicyclist going out that road, from time to time he sees a pedestrian on that road. It has always been between Murdock Road and Allied. Chairman Birchill said in this case they are dealing with people walking and bicycling along a hazardous path to travel and that's where the laws of the county come into play, protecting people from dangers. Chairman Birchill said he thought that's where the Commission needs to be cognizant. Mr. Smith responded there is no question there are safety concerns and where developments have an impact on both pedestrian and traffic safety that it is more than legitimate of government to require public improvements to be in place as conditions of development approval to avoid those safety hazards. To the extent that traffic goes between the Tualatin-Sherwood Road and Allied, of course, nothing that goes on with regard to Tax Lot 501 is going to have any impact upon any pedestrian or bicycle traffic that's on the other side of the property, going the other way. So there is nothing that could be done on this particular development that will mitigate those particular impacts.

Mr. Smith said the second thing is the mere fact that there is existing traffic there, pedestrian and bicycles, unless that traffic is an impact that is the result of this proposed development, it is not really relevant to the calculus unless you conclude that there is going to be additional traffic, pedestrian and bicyclist, that is generated by approval of this particular site plan that will make a bad situation worse.

Mr. Shannon asked if the sloping under item 7.d.7) was taken care of. Mr. Miller responded that he thought the County Engineer and Allied can define the slope easement fairly easily. In response to Ms. Claus's questions, Mr. Miller said the County would not recommend landscape within the easement area, unless Allied agreed to replant it after the County put fill on top. Once the parties identify where the slope easement is, a lot of these things will be resolved. The Commission continued the discussion regarding the slope easement.

In response to Mr. Shannon's concern regarding the sidewalks, Ms. Connell said Staff is recommending as currently written that Allied install a sidewalk to County standard along NE Oregon Street frontage at ultimate line and grade, or as approved by the County Engineering Division, one-half foot off the ultimate right-of-way line. This requirement would be for Tax Lots 201 and 501.

The Commission agreed to change item 7.d.4) to read, "Close all existing driveways to NE Oregon Street, except at City approved access locations. The Commission agreed to delete item 7.d.5).

In response to Ms. Claus's question, Chairman Birchill said he did not feel the Commission could require Allied to provide anything other than the agreement to allow the fire trucks to cross their property. Then there would have to be some type of mutual agreement between Allied and Columbia Cascade to construct a physical access road between the two properties. Chairman Birchill said he thought the City could require Columbia Cascade to provide emergency vehicle access, because they never did fulfill the intent of that specific item.

Marge Stewart asked for clarification on Item 3. regarding the 15 foot landscape corridor and what the City Code requires. Ms. Connell said the Code requires 15 feet. The landscaping on the Allied site, at this time, is designed to screen. Allied has a point to the extent that to achieve this, it could be achieved with less than 15 feet. Ms. Connell said it was Staff's opinion that to change it from 15 feet to 10 feet, would require a variance.

Susan Claus asked if the Commission should discuss the lighting and whether a lighting plan should be submitted with this site plan. Ms. Connell said the lighting on the existing building is the problem, not the lighting being proposed. Ms. Connell said it would be appropriate to discuss the lighting effects. Mr. Burns said Allied's two shifts work from 6:30 AM to no later than 2:30 AM the next morning. Mr. Corrado said his concern about the lighting was that when the trees disappeared the

lighting became an issue. He asked if there was some way to direct the lighting so that it lights up the parking lot and does not light up the sky. Ms. Connell recommended adding a condition that assures all outside lighting is directed downward. Mr. Burns said Allied would be more than willing to cooperate.

At the Commission's request, Ms. Connell reviewed the changes to the recommended conditions of approval. The amended conditions were to:

1. Dedicate additional right-of-way adjoining Tax Lot 201 to provide 45 feet from centerline on the Oregon Street frontage.
2. Dedicate additional right-of-way adjoining Tax Lot 501 to provide 45 feet from centerline on the Oregon Street frontage.
3. Revise the site plan by widening the landscape corridor to fifteen (15) feet adjoining Oregon Street, extending to the 100 year floodplain elevation. Install five (5) gallon Photinia spaced five feet apart.
4. Relocate the existing chain-line fence to no closer than 45 feet from the Oregon Street centerline, and extend to the 100 year floodplain elevation adjoining Oregon Street.
5. Provide a total of 270 parking spaces and a parking lot to City specifications. Estimate the costs of a fully improved parking lot to City specifications for City approval. Provide a bond covering 125% of those costs. Install the parking lot within six (6) months of this site plan approval date, as approved by the City.
6. Calculate the land area currently being used for parking and cooperate with the City in adjusting the SWM fees accordingly.
7. Submit to Washington County Land Development Services (Public Assurance Staff, Tracy Stone/Carolyn Cook 648-8761):
 - a. Completed "Design Option" form.
 - b. \$750.00 Administration Deposit.
 - c. Two (2) sets of complete engineering plans for the construction of the following improvements:
 - 1) Concrete sidewalk to County standard along NE Oregon Street frontage at ultimate line and grade (or as approved by the County Engineering Division), one-half foot off the ultimate right-of-way line, for both parcels.
 - 2) Commercial access to NE Oregon Street to County standards.

- 3) Improvements on the site and within the right-of-way as necessary to provide adequate intersection sight distance at NE Oregon Street access point.
 - 4) Close all existing driveways to NE Oregon Street except at County approved access locations.
 - 5) Provide adequate roadway drainage along NE Oregon Street frontage.
 - 6) Provide slope easement along the frontage of the site as approved by the County Engineering Division.
 - 7) Sign and record a waiver not to remonstrate against the formation of a local improvement district (LID) or other mechanism to improve the base facility of NE Oregon Street to County standards between SW Murdock Road and SW Cipole Road.
 - 8) Establish a non-access restriction along the site's frontage of NE Oregon Street, except at the approved access location(s).
8. If landscape screening and buffering is deemed inadequate after installation, the City may require additional screening.
 9. At the time of site plan submittal for a new building on Tax Lot 501, the applicant shall provide a wetland delineation, a traffic impact report and a noise analysis.
 10. Provide additional landscaping materials along the floodplain boundary including adding clusters of native evergreen trees, and interspersed native evergreen shrubs, as reviewed and approved by City Staff.
 11. Install the landscaping improvements illustrated on sheet L1 by November 1, 1995. If the applicant has not installed landscaping by November 1, 1995, a bond for 100% of the landscaping materials and installation shall be provided to the City.
 12. In the event that emergency vehicles need access into the facility, provide the TVFRD with a key to the entry gate.
 13. Ensure all outside lighting is directed downward and shines only onto the subject site.

This approval is valid for one year.

The Commission directed Staff to prepare revised conditions for review at their next meeting.

Chairman Birchill tabled SP 95-1 Allied Systems Site Plan to the August 15, 1995 Planning Commission meeting as the first item. The hearing is closed and the record will remain open for 7 days at the request of the applicant.

Chairman Birchill recessed the meeting at 9:02 PM and reconvened at 9:08 PM.

5. SUB 95-3 Oregon Trail Phase 1 Final Plat

Chairman Birchill called for the Staff report. Lisa Nell reported this the Final Plat for Phase 1 of Oregon Trail, a 68-lot single-family development north of Edy Road. Ms. Nell referred the Commission to the Staff report dated July 25, 1995, a complete copy of which is included in the Commission's minutes book.

Ms. Nell reviewed the minor changes to Phase 1 Final Plat from the Phase 1 Preliminary Plat. Two lots have been deleted south of Nels Drive. Tract A was 10 acres and is now 10.85 acres.

Ms. Nell highlighted the main points of the report. The plat complies with the MDRL zoning district and other applicable standards. The cutting of vegetation in the designated open space area is prohibited, except as necessary for utility extensions and right-of-way improvements and as agreed upon by the City. All lots are at least 5,000 square feet. All of the public local rights-of-way are 46 feet wide and all other local road improvements must meet City standards. No street may exceed a 10% grade. According to the City Engineer, an on-site storm quality facility is planned for Phase 1. There is no storm water detention. When completed, the detention pond will be maintained by the City. The City and USA have no plans for a regional storm water treatment facility for this site. On-site water quality facilities are not permitted within the wetlands or the 25 foot wetland buffer, unless the buffer is widened to compensate for the encroachment, in no case shall the facility be closer than 15 feet from the wetland boundary. The applicant shall provide an all-weather maintenance road to the water quality facilities. Each lot shall have a separate connection to public storm and sanitary sewer. The applicant shall obtain a permit from USA for connection to the 24 inch main in Cedar Creek.

As a part of Phase 1, the applicant shall provide a half-street improvement to Edy Road from the west boundary of Phase 1 to the easterly side of Lot 1. Additional half-street improvements to Edy Road shall be completed with Phase 2. Rather than providing a one foot non-access reserve strip along Edy Road, the applicant will need to indicate on the plat that access is restricted along any Ed Road frontage as required by the County. The applicant will need to submit a landscape corridor plan prior to final plat approval. The applicant has provided the City with certification by

a registered P.E. that adequate sight distance is available at the proposed easterly and westerly accesses for Oregon Trail. According to the City Engineer, the construction plans illustrate fire hydrant locations which have been approved by TVFRD. The applicant will need to submit project CC&R's for City approval. The City park shall be traversed by an improved 5 foot concrete pathway, be graded and seeded and dedicate to the City. Pathway improvements shall be completed by the applicant.

In conclusion, Ms. Nell reviewed the recommended conditions of approval.

Chairman Birchill asked if the applicant wished to make any comments.

Len Schelsky, Westlake Consultants, 15115 SW Sequoia Parkway, Suite 150, Tigard, Oregon 97224, addressed the Commission. Mr. Schelsky said the applicant has met all the requirements as stated, all the permits have been picked up from the City for construction and they are pretty well along. The applicant has also complied with Washington County's requirements and these permits will be picked up this week. Mr. Schelsky said he would be happy to answer any questions from the Commission.

In response to Ms. Claus's question, Mr. Schelsky said the credits for Tract A are still being discussed. The applicant submitted a letter to former City Manager Jim Rapp requesting credits of approximately \$140,000 on Tract A and Tract C for the park. This is currently being reviewed by City Manager Larry Cole. Ms. Connell said Larry Cole will be reviewing the credits issue as a whole. In response to Mr. Bechtold's question, Mr. Schelsky identified the location of the storm water facility. Ms. Nell said the reduction in lots will not affect the density requirements. In response to Mr. Hohnbaum's question, Mr. Schelsky stated the applicant is currently building half-street improvements in front of lots 1, 42, 54 and 55. They are currently placing fill along Edy Road and these improvements will be done during Phase 2, the curb and sidewalks, as agreed to in the prior conditions of approval.

Rick Hohnbaum moved based on findings of fact outlined in the Staff Report dated July 25, 1995, and recommendations as noted, that SUB 95-3 Oregon Trail Phase 1 Final Plat, a 68-lot single family development on Edy Road, be approved subject to the following conditions:

Prior to submittal of the Final Plat, the following conditions must be satisfied:

1. Dedicate the open space to the City in the Phase 1 Final Plat, specifically Tract A, the floodplain, and Tract C, the park.
2. The cutting of vegetation in the designated open space area is prohibited, except as necessary for utility extensions and right-of-way improvements and as agreed upon by the City. Replant native vegetation in the wetlands and the wetlands buffer where disturbed by infrastructure improvements.

3. All public local road right-of-way width may be reduced to 46 feet and parking is allowed on both sides of the street. All other local road improvements must meet City standards.
4. No streets may exceed a 10% grade.
5. Provide engineered construction plans for public and private improvements including costs, maintenance and bonding provisions in compliance with City, USA, Washington County and TVFRD standards. The plans shall include provisions for streets, pathways, sanitary sewer, water, fire protection, storm water runoff, erosion control, street lighting, landscaping, street names and signage. Provide utility extensions to all adjoining properties. In particular:
 - A. Storm water runoff:
 - 1) On-site water quality facilities are not permitted within the wetlands or the 25 foot wetland buffer, unless the buffer is widened to compensate for the encroachment. In no case shall the facility be closer than 15 feet from the wetland boundary.
 - 2) Provide an all-weather maintenance road to the water quality facilities.
 - 3) Each lot shall have a separate connection to public storm and sanitary sewer. The private lines connecting each structure to the public main must be on the lot being served.
 - 4) Obtain a permit from USA for connection to the 24 inch main in Cedar Creek.
 - B. Edy Road:
 - 1) Comply with WCDLUT road dedication, improvement and traffic safety recommendations. Obtain necessary roadwork permits from the County.
 - 2) As a part of Phase 1, provide a half-street improvement to Edy Road from the west boundary of Phase 1 to the easterly side of Lot 1.
 - 3) Indicate on the Phase 1 Final Plat that the access is restricted along any Edy Road frontage as required by Washington County.
 - 4) Provide a landscape corridor plan for lots adjoining Edy Road frontage.

- 5) Provide all necessary lane striping, including a bicycle path.
 - 6) Adequate intersectional sight distance be certified by a registered P.E. to meet Washington County CDC requirements after completion of the construction of the three proposed accesses from Edy Road.
6. Submit project CC&R's for City approval.
 7. The City park shall be traversed by an improved 5-foot concrete pathway and be graded and seeded and dedicated to the City. Pathway improvements and park grading and seeding shall be completed by the applicant.

This approval is valid for one (1) year.

The motion was seconded by Marge Stewart and carried unanimously.

6. PUD 95-1 Sherwood Village Final Development Plan

Chairman Birchill called for the Staff report. Carole Connell reported this is the Sherwood Village PUD Final Development Plan, an eight phase mixed-use Planned Unit Development on Tualatin-Sherwood Road and Century Drive. Ms. Connell referred the Commission to the Staff report dated July 25, 1995, a complete copy of which is included in the Commission's minutes book.

Ms. Connell said this would be a fairly brief review in that there are 8 phases and it is not residential so much as commercial and industrial. Each phase will come back before the Commission for site plan review. This submittal includes final land use and phasing, master utility layout and pedestrian circulation plan. At this point, the Commission is reviewing the final conceptual plan for the eight phases. A site plan for Phase 1 has been submitted to the City and is pending Commission review. On April 25, 1995 the City Council approved by Ordinance #95-997 Sherwood Village PUD Preliminary Development Plan. According to the applicant, all other conditions of approval will be addressed by the individual site plans.

Ms. Connell reviewed the conditions. The final Council decision to change was Phase 6 from residential to Light Industrial (LI) and Phase 5 shall be designated Retail Commercial (RC) rather than industrial. They also removed the Century Drive extension east of Adams Avenue. Prior to issuance of any permits for Phase 1, the City and the applicant shall execute a parks maintenance agreement. The owner shall dedicate to the City the wetland and wetland buffer, delineated in the applicant's wetland delineation report, prior to issuance of permits for Phase 8 of the development. Each phase of the development will require a traffic impact analysis. The Design Guidelines will need to be revised for all residential and commercial development to increase the number of structures required to have porches and

recessed garages. Adams Avenue shall be constructed from Century Drive north to Tualatin-Sherwood road prior to completion of Phase 3. Tri-Met comments will be incorporated, as necessary. Prior to Final Plan submittal, modify the plan to the City's satisfaction so that the pedestrian link to the Sherwood Plaza is a sidewalk built to City standards. The pedestrian circulation plans shows this link. In Phase 1, water service shall be looped to Tualatin-Sherwood Road from Century Drive via a public easement in the Adams Avenue alignment. The pathway linking Phase 3 to Phase 5 is conceptually illustrated on Sheet 3 and will be reviewed more closely at the time of site plan review for that phase. As a part of the Phase 1 Site plan submittal, provide a 40-foot wide pedestrian easement from Century Drive to Langer Drive. Provide and construct a 24-foot wide public vehicle access easement from Phase 1 to Langer Drive. Sheet 3 conceptually illustrates a stubbed driveway access from Langer Drive to the south end of Phase 2. Ms. Connell stated Council did not agree with the Commission who recommended minimum density requirements for the HDR land. The Council agreed to leave it as stated in the zone, with no minimum density.

In conclusion, Ms. Connell referred the Commission to the recommended conditions of approval.

Chairman Birchill asked if the applicant wished to make any comments.

Len Schelsky, Westlake Consultants, 15115 SW Sequoia Parkway, Suite 150, Tigard, Oregon 97224, addressed the Commission. Mr. Schelsky stated the applicant had a lengthy review with the City Council and would be happy to answer any questions from the Commission. The apartments have been submitted for 200 units developed at about 16 units per acre.

In response to Mr. Corrado's question, Mr. Schelsky stated the width of Adams Avenue will be 40 foot pavement and 8 foot pedestrian/bicycle path, identical to Century Drive. Rick Hohnbaum asked if this was normal for industrial. Ms. Connell said the City does not have an industrial road standard, however, there is an arterial standard. She later clarified that Adams Avenue is designated as a major collector. Mr. Schelsky said this allows for 3 lanes with no parking. Mr. Hohnbaum said he was concerned about truck traffic on Adams Avenue. Chairman Birchill said if this becomes a problem, the City Council could limit the truck traffic by ordinance. Ms. Stewart said she was concerned that the pedestrian pathway should be a road. Ms. Connell said this was addressed extensively in previous meetings and there is a roadway access to the shopping center which does not run directly through the middle of the apartment complex.

Susan Claus moved based on findings of fact outlined in the Staff Report dated July 25, 1995, and recommendations as noted, that PUD 95-1 Sherwood Village Final Development Plan, an eight phase mixed-use planned unit development on Tualatin-Sherwood Road and Century Drive, be approved subject to the following conditions:

1. The owner shall dedicate to the City the wetland and wetland buffer delineated in the applicant's wetland delineation report, prior to issuance of permits for Phase 8 of the development. Any wetland modifications shall be submitted by the developer for review and approval by the Division of State Lands and the Corps of Engineers.
2. Prior to Phase 1 approval, revise the Design Guidelines for all residential and commercial development to increase the number of structures required to have porches and recessed garages.
3. Adams Avenue shall be constructed from Century Drive north to Tualatin-Sherwood road prior to completion of Phase 3. Those improvements shall include curbs, gutters and sidewalks and 28 feet of paving on the west side of the street. Adams Avenue shall be constructed by the developers to connect to Oregon Street (not across the railroad tracks) upon completion of Phase 6, and where necessary the City will acquire road right-of-way to complete the connection. Sidewalks on all portions of Adams Avenue shall be constructed in the same meandering design as approved for Century Drive.
4. At the time of individual site plan review, consider the comments from Tri-Met recommended in their letter dated March 27, 1995.
5. In Phase 1, water service shall be looped to Tualatin-Sherwood Road from Century Drive via a public easement in the Adams Avenue alignment.
6. As a part of the Phase 1 Site Plan submittal, provide a forty (40) foot wide pedestrian easement from Century Drive to Langer Drive that includes pavements width, landscaping and street furniture for City approval. Align the pathway so that it coincides with the adjoining phase lines. The pathway shall be constructed by the developer with the completion of Phase 1 development.
7. Provide and construct a twenty-four (24) foot wide public vehicle access easement from Phase 1 to Langer Drive, alignment and specifications to be determined at the time of Phase 1 Site Plan submittal. Upon a subsequent evaluation, this access may be abandoned when the connection to Tualatin-Sherwood Road via Adams Avenue is constructed.
8. At each phase of development, and with each site plan submitted to the City, the applicant shall provide a traffic impact analysis for City, County and ODOT review and approval. Recommended traffic safety and road improvements shall be considered by the City and may be required with each phase.

The motion was seconded by Marge Stewart and carried with 6

ayes and Commissioner Bechtold abstaining.

7. Public Hearing

Chairman Birchill 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.

Chris Corrado said he had a brief conversation, through a telephone call from the applicant, regarding placing an advertisement announcing the opening of the Montessori Preschool. George Bechtold said the location of the preschool is directly across the street from his residence. He would like to participate in the conversation, but would not be voting on the application.

7A. CUP 95-1 Schofield/Montessori Preschool

Chairman Birchill called for the Staff report. Lisa Nell reported this a Conditional Use Permit application, CUP 95-1 Schofield/Montessori, for a preschool in the Baptist Church on Sunset Boulevard. Ms. Nell referred the Commission to the Staff report dated July 25, 1995, a complete copy of which is included in the Commission's minutes book.

Ms. Nell reviewed the findings of facts in the Staff Report. The Sherwood Baptist Church is requesting City approval of a conditional use permit to operate a Montessori Preschool on their land located on the southeast corner of Sunset Boulevard and Pine Street. The proposed preschool will be housed in the church and will provide educational services to an estimated maximum of 40 students, two times per weekday for a morning sessions and an afternoon session. The school is planned to be opened in September of 1995. A change has been made from the original site plan that was submitted. The front property line shifted 20 feet south due a purchase of land by the City for sidewalks. The subject site is zoned Institutional/Public (IP). The site currently has a septic tank with a drainfield. Staff was informed by Washington County that the increased use of the Montessori Preschool will make an impact on the existing septic system and recommended that the applicant apply for and obtain an "Authorization of Use an On-Site Disposal System" and meet all the requirements. The church is connected to City water service by an 9 inch line. The TVFRD has no comment on the application.

Ms. Nell said the traffic generated by the Montessori Preschool for a total of 40 students per day creating 4 trips for a total of 160 trips per day. Tom Harry from Washington County stated the applicant will not have to submit any access report, but will still need to provide adequate certification of adequate sight distance by a registered professional engineer. The City Engineer has stated the City was offering to purchase the land required to do necessary sidewalk improvements to Sunset Boulevard, therefore, no additional improvements are required. There are no additional driveways or accessways proposed for the site. There are 62 unimproved parking spaces. There are no proposed pathways on the site plan. A bicycle rack should be provided. The applicant does not anticipate any significant impact from

storm water runoff. There are no parks or open space on the site. The site plan indicates there is a fence around the proposed play area which is located 15 feet south of the church building. The applicant indicates there will be either a fence all the way to the primary building or a fenced pathway to the play area with a gate on the west side providing access to the parking lot. Adequate fencing should be made a condition of approval. According to the applicant, one more exit door may be required in one of the rooms. Due to the rapid increase of population in Sherwood, there is a demonstrable public need for a licensed Montessori preschool with the capacity to serve 40 children. The closest preschool to the subject site is in the Old Town area of Sherwood.

In conclusion, Ms. Nell reviewed the revised copy of the recommended conditions of approval which was handed out to the Commission.

Chairman Birchill announced this is a public hearing, reviewed the hearing process and asked if the applicant wished to make any comments.

Mitzi Schofield, 32057 SW Willamette Way, E., Wilsonville, Oregon 97070, addressed the Commission. Ms. Schofield said according to the Oregon State Children's Services Division, 9 of the 11 licensed daycare providers in Sherwood are in-home facilities. Of the 11 licensed daycare providers in Sherwood, only 2 are actual centers; Washington Head Start and the Sherwood Day School. The other two daycare preschool facilities in Sherwood are not licensed by the Child Care Division; St. Paul Lutheran and Sherwood Playschool Coop. Currently, there is no Montessori educational facility in Sherwood. The closest facility is in Wilsonville. With the growth Sherwood is experiencing, the preschool availability will need to be met. The proposed preschool will provide the residents of Sherwood the high quality Montessori education at an affordable cost. The preschool will be staffed with certified Montessori instructors. They plan to be licensed by the Child Care Division by November 1996, barring any unforeseen circumstances.

Ms. Schofield said the Sherwood Baptist Church is located on 3 acres and the surrounding properties will not be adversely affected by the operation of the preschool. The building is thirty feet from the closest property line, which is to the east. The building is over 145 feet from the west property line, 130 feet from the front property line and 350 from the rear property line. They have spoken to a number of the neighbors and the response seems to be quite favorable. The preschool will be providing the appropriate fenced play structure behind the church building and with the exception of the possibility of one additional exit door, there are no plan changes to the outside of the building.

Chairman Birchill called for any further proponents wishing to testify in favor of the application.

Keith Arnold, Pastor, Sherwood Baptist Church, 1350 S. Pine, Sherwood, Oregon 97140, addressed the Commission. Pastor Arnold said they have really worked well

with the Montessori people. He said there is really a definite need for a Montessori school, the applicant can fill that need and the church can provide the facility.

Chairman Birchill called for any further proponents wishing to testify. There being none, Chairman Birchill called for any opponents wishing to testify

Steve Eck, 14919 SE Brook Court, Sherwood, Oregon 97140, addressed the Commission as a concerned party. Mr. Eck said he would like to say one thing and it was not really a negative or a positive condition. Mr. Eck said he purchased a piece of property at the end of the access, gravel driveway. He had some concern there is a maintenance agreement that has four parcels to maintain the gravel driveway. He felt with the added traffic, even if it is cut in half from the initial report, with the dust, it is a safety and health issue for residents that live off of the gravel driveway. He said there needs to be something, a hard surface or something, a mutual agreement with those property owners, not putting the burden on the church or this particular applicant, but something that all parties would benefit, but to restrict the safety issue and the dust concerns for that access. Mr. Eck said this was all he had to say.

Susan Claus asked Mr. Eck if he had talked to the other people that are involved in the maintenance. Mr. Eck said he had, he did not know their names, but the people that live in the house closest to Sunset Boulevard, don't have a problem with the dust. Ernie Bighaus, whom Mr. Eck bought the property from, has a problem with that, but Mr. Eck knows Ernie and he probably wouldn't have a problem with anything. Mr. Eck said the issue is there is a real concern and he did not think the people at the front of the driveway access realize what the additional traffic flow is they are talking about. Mr. Eck said to him it is like adding sixteen more homes on that driveway, if you take ten trips per house. They are going from basically three houses, or right now there are only two houses on that driveway, Mr. Eck's house is not complete, so there are only two houses with a total of four autos plus the church which is only Sunday. So if you take that into consideration and add the daily traffic of half of this, Mr. Eck said you adding more than sixteen to twenty houses of additional traffic on a gravel road which to him is not suitable for a gravel road.

Marge Stewart asked for clarification on how many houses were on the driveway. Mr. Eck identified the affected houses on the map. He said the length of the property where the access for the church is about 320 feet off of Sunset Boulevard. Mr. Eck said he was not against the Montessori preschool, he thought the community could use this facility and the church is the perfect place for it, but he does have a strong concern with the gravel driveway and the dust and that this is an issue which needs to be addressed. In response to Ms. Stewart's question about the property line, Mr. Eck said the existing driveway is not the church's property, it belongs to Cypress Ventures, which is a developer who acquired the easement when they built Crestwood Heights. Mr. Eck identified on the map the two houses and church which have been using the driveway. In the near future, Mr. Eck will also be using the driveway, as

well as the school.

Ms. Claus asked if Mr. Eck was suggesting if there was a requirement to hard surface the driveway, as part of the maintenance agreement, that everyone would participate.

Mr. Eck responded yes, even putting the cost of the hard surface he thought could be distributed to all parties concerned, pro-rated out by their particular usage by how far you go back in. Mr. Eck said he did have a concern with the added traffic leaving the existing gravel driveway for safety reasons. When he comes out for a stop, you slide a little when you come to Sunset Boulevard. The gravel sitting on that low shirt apron asphalt is just a hard thing to maintain that driveway, especially with the added concern of additional traffic. Any time you have a maintenance agreement between homeowners it is difficult enough, but when you incorporate a business, when he considers Montessori Preschool to be a business, then you have a very hard, compounding issue to deal with of who is actually going to maintain it and keep it up with a safety fashion.

Ms. Connell asked Mr. Eck if an oil surface would work. Mr. Eck said the oil which is allowed now would not be satisfactory as the oil would dissipate with the rain so it would be a constant process of oiling. Mr. Eck said he felt it needs to be addressed in some type of hard surface. Ms. Connell asked Mr. Eck if he was going to get the signature of the other parties. Mr. Eck said he would be happy to do this, Ernie Bighaus and he agree with the hard surface approach. From what Mr. Eck has heard, or at least the initial response from the husband and wife up front, like the dust or they don't have a problem with the dust so he did not know if they would be interested. So the problem with the church is they may not be interested in spending the money to do this. Ms. Connell asked Mr. Eck if he realized this is what it would take. Mr. Eck said he agreed and that's the concern he has, it will probably remain a gravel driveway which to him is a safety and health concern.

Pastor Arnold commented the neighbors across the driveway, want it to remain a gravel driveway and the church didn't look into paving the driveway or having the work done in the past because of the fact they wanted it to stay a gravel driveway. On top of this, the church is not financially able to do a hard surface at this moment.

Mary Lou Porter, 28440 SW Boberg Road, #49, Wilsonville, Oregon 97070, addressed the Commission. Ms. Porter said she is a member of the church and has been for the last 3-4 years, she has seen the traffic at really high levels and knows that as a congregation they have tried to be a good neighbor. They are concerned about safety, the dust issue on the driveway and that it be used appropriately. They are careful and use it carefully. If you are on a gravel road going onto a paved road, you know that you need to slow down before you come to the stop and be considerate of the neighbors that live in the area.

Chairman Birchill asked if there was anyone wishing to speak in opposition of the proposal. There being no one really speaking in opposition, Chairman Birchill dispensed with the rebuttal portion of the hearing and

temporarily closed the public hearing for discussion by the Commission.

Mr. Hohnbaum said the driveway issue is an old one which has been dealt with in the past. While there may be a maintenance agreement, he did not think there was an ownership agreement as to who owns what and whose property the line is on and whose property the driveway is on. He said he had concern for Staff and the applicant, because of the word "applicant". The perception he received from reading the report considers the Baptist Church to be the applicant. The applicant is the Montessori School and yet some of the requirements deal with the church organization. Mr. Hohnbaum asked if they were crossing some lines which were legally questionable. Ms. Connell responded the first page of the Staff Report states the applicant is Mitzi Schofield representing the Montessori Preschool and the owner is the Sherwood Baptist Church. There are some conditions which should probably be the applicant's responsibility, however conditions regarding the roadway should be the responsibility of the owner. Chris Corrado asked who the owner was. Ms. Connell said the church is the owner.

Ms. Connell said the land itself on the back portion of the flag lot is Crestwood's and Crestwood developers, as a condition of approval, were directed to give the property to somebody. Ms. Connell said she thought they were going in the direction of giving the property to the church, but this has not been completed. Crestwood will receive a donation credit for this. Considerable discussion followed regarding ownership of the driveway, access to the church and the feasibility to locate another access to the church.

Mr. Corrado said he knew it had been a huge issue with the number of people in this whole area regarding children safety and walking distance to the new school on Sunset Boulevard. He shared Mr. Eck's concern about people coming down a gravel road to the Sunset Boulevard intersection with the number of children being present. Ms. Connell clarified the Montessori Preschool would be for preschool age children. Ms. Claus suggested posting a "caution" sign for vehicles approaching the Sunset Boulevard intersection. The Commission discussed who would have liability for the driveway.

Pastor Arnold said he had been in contact with Cypress Ventures representatives and a decision would not be made on the dedication of the property until Phase 3 of Crestwood Heights.

Randy McDonald, the applicant's husband, showed the Commission the construction plans for the sidewalks which are going to be constructed along Sunset Boulevard by the City adjoining the property. The City will be purchasing 20 feet of right-of-way land for road improvements, including bikepaths and sidewalks.

Chairman Birchill asked if there was any further discussion and if not, he would entertain a motion.

Commissioners Corrado and Hohnbaum recommended adding a condition which would require the applicant provide a written agreement between the affected parties for Planning Commission review which guarantees a hard surface access road from Sunset Boulevard to the church driveway within a certain time period. Mr. Hohnbaum said he is looking for a resolution to a long term problem.

Rick Hohnbaum moved based on findings of fact outlined in the Staff Report dated July 25, 1995, and recommendations as noted, that CUP 95-1, Schofield/Montessori Preschool, operated at the Sherwood Baptist Church, be approved with the six recommendations provided by Staff and the addition of condition #7 referencing providing a hard surface driveway, time specific. The motion was seconded by Ken Shannon.

Susan Claus recommended adding a condition to provide a "caution" sign for vehicles approaching the Sunset Boulevard intersection.

Susan Claus moved to amend the original motion by adding a condition which would provide a "caution" sign to the City's satisfaction as determined necessary for vehicles approaching the Sunset Boulevard intersection. The amendment to the motion was seconded by Chris Corrado and carried with 6 ayes and Commissioner Bechtold abstaining.

Mr. Bechtold asked for clarification on the speed limit on Sunset Boulevard. Following further discussion of the time specific to provide a hard surface driveway:

Rick Hohnbaum moved to amend the amended motion by adding verbiage to provide a written agreement by August 1, 1996 and installation of a hard surface driveway by August 1, 1997. The amendment to the amended motion was seconded by Chris Corrado and carried with 6 ayes and Commissioner Bechtold abstaining.

The question was called for,

The amended original motion was voted on and carried with 6 ayes and Commissioner Bechtold abstaining, subject to the following conditions:

Prior to occupancy, the applicant shall:

1. Apply for and obtain an "Authorization to Use an On-Site Disposal System" from the Washington County Department of Health and Human Services and meet all the necessary requirements. Enter into a non-remonstrance agreement with the City for future connection to City sanitary sewer.

2. Provide certification of adequate sight distance in accordance with County Code, prepared and stamped by a registered professional engineer, upon completion of necessary improvements.
3. Provide a five (5) foot soft or hard surface pathway connecting from the building to the new Sunset Boulevard sidewalk, as approved by the City.
4. Provide a secured bicycle rack near the building entry.
5. Provide adequate fencing around the play area, as approved by the City.
6. Limit the enrollment to 40 students per day for all sessions.
7. By August 1, 1996, the applicant shall provide a written agreement between the affected parties for Planning Commission review which guarantees a hard surface access road from Sunset Boulevard to the church driveway will be installed by August 1, 1997.
8. Provide "caution" signage to the City's satisfaction as determined necessary for vehicles approaching the Sunset Boulevard intersection.

This approval is valid for one (1) year.

8. Director's Report

Carole Connell advised the Commission that a copy of SUB 95-2 Woodhaven Phase 1D Decision Notice has been provided in the packets because she sensed there was some concern about the traffic signal on Highway 99W and Sunset Boulevard. These items were highlighted in the notice. The decision notice ensures a report will be received by the City regarding signalization at the time of final plat submittal. The Commission agreed with Ms. Connell's modification to the condition.

The Commission agreed to defer discussion on ORS 197.195 Limited Land Use Decision to a future meeting.

9. FYI

Susan Claus announced the "Wildlife Refuge Annual Meeting" will be held at the new Archer Glen School on September 1, 1995, time to be announced. The plans call for Senator Hatfield and Robert Wagner to be in attendance. All of the Planning Commissioners are invited to attend. An update will be provided at the August 15, 1995 Planning Commission meeting.

Crestwood Heights Phase III

Carole Connell reported one of Crestwood's conditions of approval was to provide a collector street from Sunset Boulevard or Ladd Hill Road to the adjoining Highpointe Subdivision on Highpointe Drive. The problem is when you get to Highpointe Drive

you don't have a collector, but the regular local 50 foot wide street. There are about 200 feet which would be better to have 50 foot wide, local street width, to this access. Ms. Connell identified the area on the map.

Rick Hohnbaum moved the Planning Commission approve Staff recommendation to change the width of the street in Crestwood Phase III at the intersection of Cascade Terrace and Highpointe Drive to 50 feet wide. The motion was seconded by Chris Corrado and carried unanimously.

The condition was modified to, "Provide a collector street from Ladd Hill Road to Highpointe Drive," not to Highpointe Subdivision.

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

Respectfully submitted,

Roxanne Gibbons
Planning Commission Secretary