

City of Sherwood, Oregon  
**Planning Commission Meeting**

September 19, 1995

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

Chairman Gene Birchill called the meeting to order at 7:00 PM. Commission members present: Chairman Gene Birchill, Vice-Chairman Chris Corrado, Susan Claus, Rick Hohnbaum, and Marge Stewart. Commissioners George Bechtold and Kenneth Shannon were absent and excused. Planning Director Carole Connell, Assistant Planner Lisa Nell, and Secretary Roxanne Gibbons were also present.

**2. Minutes of August 15, 1995 Commission Meeting**

Chairman Birchill asked if there were any corrections or additions to the minutes of August 15, 1995. Rick Hohnbaum stated for the record, referencing page 21 of the minutes, that the presiding officer did not say, behave or do anything inappropriate as interpreted by the speaker. There being no further comments or changes,

**Rick Hohnbaum moved the Planning Commission accept the August 15, 1995 Commission meeting minutes as presented. The motion was seconded by Marge Stewart and carried unanimously.**

**3. Community Comments**

Chairman Birchill called for comments from the audience regarding any items not on the printed agenda. There being no comments, Chairman Birchill moved to the next agenda item.

**4. SUB 94-8 Whistler Phase 1 Final Plat**

Chairman Birchill called for the Staff Report. Lisa Nell reported this is a request for Whistler Final Plat Phase 1 approval, a 53-lot single-family subdivision phase on the south side of Sunset Boulevard and east of Southern Pacific Railroad. This is the first of two phases. Ms. Nell referred the Commission to the Staff Report dated September 12, 1995, a complete copy of which is included in the Commission's minutes book. On December 13, 1994, the Planning Commission approved the Whistler Preliminary Plat with the conditions attached in the decision notice. As required, the applicant has been working towards meeting the conditions.

Ms. Nell highlighted the main points of the report. There have been a few changes since approval of the preliminary plat last year. The changes were listed on page 2 of the Staff Report. Staff does not believe any of the changes to be significant. On page 7 of the Staff Report, Item 12d, the condition requires the applicant's engineer review adjacent parcels of property to ensure that public storm and sanitary sewer are available and that no adjacent lots are land-locked as a result of this development. Ms. Nell clarified that according to the construction plans the sanitary sewer

connection to Steel Tek is provided in Phase 1. According to the applicant, the connection West via Marion Court will be provided in Phase 2. The construction plans also show that the storm water service is extended to the Steel Tek property in Phase 1 and to the south in Phase 2. Modifications to the access road to Sunset Boulevard have been made so that no land is land-locked as a result of the development.

Ms. Nell clarified 12f on page 7 of the Staff Report, the condition requiring the appropriate state and federal permits should be in-hand before issuing construction permits. The applicant states that no permits are required to construct the improvements because they are not located within the wetlands. Staff agrees with this statement. In view of the additional information received from Lee Walker, Unified Sewerage Agency, Staff recommends condition #6 be revised to reflect that the storm water pond be placed 10 feet from the wetland area and 15 feet from the lot line and that the pond locations be approved by USA and the City. Ms. Nell said this information was received by Staff during a telephone conversation. Initially, the requirement was if the storm water pond was placed within the wetland, Ron Hudson agreed the applicant could do this as long as they adhered to USA's advice in expanding the boundaries of the wetland buffer.

Ms. Nell concluded by reviewing the conditions of approval, as revised in the oral report.

**Chairman Birchill asked if the applicant wished to provide any comments.**

Scott Franklin, CES, Inc., 15256 NW Greenbriar Parkway, Beaverton, Oregon 97006, representing the applicants, addressed the Commission. Mr. Franklin asked for further clarification of Condition #6 regarding the storm water run-off. He stated the applicant was told if they were to widen the wetland buffer to provide for the intrusion of the storm water pond this would be acceptable. The new restriction by USA would require the applicant to redesign the pond. The project is in construction now with the approved plans and being required to go back and redesign the project based on this new condition would seem somewhat unreasonable. Mr. Franklin said USA did approve the plans the applicant was currently working from. Ms. Connell said Staff wanted to assure the condition was being met.

Susan Claus asked if USA approved the plans in writing or whether the approval was conditional. Mr. Franklin responded the product the applicant received in the approval process for the plans resulted in two sets of comments, one from the City and one from the USA. The USA did have a question regarding widening of the buffer. Mr. Hohnbaum asked if USA provided written approval on any set of plans. Mr. Franklin responded he did not know if they received written approval from USA on the plans. The applicant received approval from Ron Hudson, former City Engineer. Ms. Connell referred to Mr. Hudson's letter dated July 24, 1995, which referenced the applicant's request to place a small portion of the water quality facility within the 25 foot wetland buffer. The letter stated the approval was conditioned

upon the drawings presented during the redline review which shows only a small portion of the water quality facility within the 25 foot buffer and significant buffer compensation in other areas of the development.

Mr. Hohnbaum said from a Planning Commission perspective, approval is required from City Staff and USA as a condition. He recommended moving ahead with the application, including the condition of pond locations being approved the USA and the City. Mr. Hohnbaum asked Mr. Franklin if the applicant had any problems with any of the other conditions. Mr. Franklin responded there were no other concerns, except for Condition #6.

Chairman Birchill asked if the Planning Commissioners had any further comments. As requested, Ms. Nell read the conditions as revised. Ms. Connell reviewed Conditions A and B of the original conditions of approval. Chairman Birchill stated the applicant proceeded with construction under their own cognizance. Ms. Connell said Staff was not changing the conditions, but were only trying to verify if the applicant was going into the corridor, where this would be compensated. Mr. Franklin said the applicant could accept the wording of Condition #6, including acceptance by the USA and the City. Following a brief discussion,

**Rick Hohnbaum moved based on findings of fact outlined in the Staff Report dated September 12, 1995, Staff recommendations, and revisions to the conditions as noted, that SUB 94-8 Whistler Final Plat Phase 1, be approved subject to the following conditions:**

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

1. If there are no changes to the wetland delineation, dedicate the 7.8 acres of open space to the City. The applicant is prohibited from cutting any vegetation in the open space area, unless necessary for utility extensions and as agreed upon by the City Staff.
2. Verify adequate sight distance by a registered engineer, and obtain a driveway spacing modification from Washington County. Comply with traffic safety improvements recommended by Washington County as a result of the County completing a Traffic Impact Analysis.
3. Provide for adequate access and maintenance guarantees for the private roadway serving Lots 7 through 12.
4. Provide the City with a water well abandonment plan.
5. Retain the existing vegetation adjoining the north and south property boundaries where feasible. Construct a six (6) foot cedar fence along those

boundaries, completion to coincide with the subdivision phasing plan. Require fence maintenance in the project's CC&R's.

6. The storm water run-off from this project must be treated for nutrient removal in accordance with the requirements of R&O 91-47. The facility is not to be placed in a sensitive area. Pond locations to be approved by USA and the City.
7. Confirm that the emergency accessway is constructed of an all weather surface capable of supporting a gross vehicle weight of 50,000 pounds and a 12,500 pound wheel load.
8. Signage shall be posted prohibiting parking within the emergency accessway.
9. If the emergency access is ever locked, it must be supplied with a "Knox" padlock to which the TVFRD has a master key.
10. Determine street tree types in compliance with the City's street tree list. Provide street names in compliance with City naming standards.
11. Comply with the requirements of the water payback agreement between Steel Tek and the City.
12. Provide stop signs in locations approved by the City.
13. Comply with all City grading and fill requirements.

This approval is valid for one (1) year.

**The motion was seconded by Marge Stewart and carried unanimously.**

## **5. Public Hearings**

Chairman Birchill reviewed the public hearing process, 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.

Ms. Claus asked for clarification on Item 5A PUD 93-3 Woodhaven, in this particular phase, where the storm water run-off goes. Mr. Bantz said it is the same as in Phase 1, north of Sunset and east. It does not go through Chimney Creek. Ms. Claus said she would not be participating in Agenda Items 5B, 5C, and 5D. Ms. Claus stated with reference to Woodhaven, she had a conversation with the Mayor regarding the overall aspects of the definition of a PUD. She did not feel this conversation would affect her decision on Agenda Item 5A.

Chris Corrado stated for the record, as Editor of the Sherwood Gazette, he had conversations in the past with David Bantz regarding advertising in the Sherwood

Gazette. The Gazette published a story on Woodhaven and Mr. Bantz had also inquired about using the paper for advertising purposes.

Sanford Rome asked Chairman Birchill for a point of order since Mr. Corrado was the publisher of the paper and receiving advertising dollars, if this could be construed as a possible conflict of interest. Chairman Birchill said this could be the case. Mr. Rome said he was not asking Mr. Corrado to remove himself from the Woodhaven discussion, but was only raising the issue.

Mr. Corrado said as any business person who participates in the community it is nearly impossible to extract yourself entirely from what is happening. He stated he would never compromise himself in a position of integrity. There have been many advertisers in the Gazette that have, at one time or another, been before the Planning Commission or at some time in the future may be before the Commission. He referenced the Sherwood Village advertisement as an example. Chairman Birchill asked Mr. Corrado if he would stand to have any direct financial gain by his action on this agenda item. Mr. Corrado said he would not directly gain financially by his actions on this agenda item. He did not believe the Commission's action or decision would affect Woodhaven's willingness to use the one vehicle in town for advertising their grand opening. Chairman Birchill said this was the primary measurement, if there is potential for direct gain financially from any action. Mr. Corrado said he would not gain anything if this agenda item was passed. Mr. Bantz said Woodhaven's conversations regarding advertising with the Gazette began before Mr. Corrado's ownership of the newspaper. None of the other Commissioners had any concerns regarding Mr. Corrado's participation in Agenda Item 5A Woodhaven.

#### **5A. PUD 93-3 Woodhaven**

Chairman Birchill called for the Staff Report. Ms. Connell said this request for changes to Phase 2A-C of the Woodhaven PUD 93-3 Final Master Plan would be a recommendation from the Planning Commission to the City Council. This was before the Commission because the Code is not very clear on the definition of a "major" or "minor" change. Ms. Connell reviewed these definitions. In taking a conservative position, Staff believed this request should come before the Commission with a recommendation to the City Council. This procedure will also help the Staff, Commission and Council track any changes in the Woodhaven project as well as provide notice to the public. In this particular case, City Council asked to review this request at their September 9, 1995 meeting.

Ms. Connell referred the Commission to the Staff Report dated September 12, 1995, a complete copy of which is contained in the Planning Commission's minutes book. Staff reviewed the application and determined there were some changes made to Phase 2 from the Woodhaven PUD Master Plan. The Phase Boundaries have changed to encompass the area originally taken up by Phase 2A-B. There were 187 lots within the original Phase 2 boundaries. The preliminary plat for Phase 2 proposes 116 lots in the same area where 107 lots were platted originally. Consequently, the sub-phases are smaller than those proposed in the Woodhaven

PUD Master Plan. There is a slight change in density, going from 107 lots in this area to 116 lots. The overall PUD density will not be changed from the originally planned 1,268 single-family and multi-family units. It is important to note that the Woodhaven site has a maximum allowed density of 1,455 units, although the Master Plan was approved for 1,268 units. The third change is in the location or amount of land devoted to specific uses. In this case they are increasing the amount of open space in Phase 2 by 60%. The applicant will provide a map identifying the changes. The other changes include the pedestrian paths that are located between Lots 43 and 44, 62 and 63, 79 and 80 and 108 and 209 which do not line up as originally agreed upon. Staff believes that the pedestrian path must align to improve visibility and provide more safety. The applicant has suggested a compromise that the trail be aligned, but allow flexibility in the 25 foot easement which the trail is located in. Staff felt this was a reasonable request. Additionally, a second street connection to Sunset Boulevard has been provided per the TVFRD recommendation. Staff would need documentation on this issue.

In conclusion, Ms. Connell said City officials and Staff have agreed that due to its size and long term development timeframe, changes to the Woodhaven PUD are inevitable. Any changes that occur over several years must be clearly documented. Ms. Connell reviewed the recommended conditions of approval.

**Chairman Birchill asked if the applicant wished to testify.**

David Bantz, Genstar Land Company Northwest, 11535 SW Durham Road, Suite C-1, Tigard, Oregon 97224, representing the applicant (OTAK), addressed the Commission. Mr. Bantz said when the applicant submitted these changes they did not consider any of the changes "major". They did not think they needed to address these changes or they would have. They had an application for Phase 1D which did have a change in phasing and an increase in the number of units within the envelope of that phase. The phasing was determined by both the City Council and the Planning Commission not to be a major change; at least the majority of the Planning Commission. The increase in units was not determined to be an increase in density because they were not requesting an increase in the overall project. With regard to the change in the open space, the Code states you can't change a boundary of any uses and they did not see increasing the amount of open space as a negative or major change that would require approval by the City Council. Mr. Bantz stated this is the same with the pedestrian paths. He would have suggested to the Staff if they did not like the pedestrian paths being realigned that it not be considered a major change, but they just deny this modification rather than going to the Commission and Council for a separate hearing. When OTAK was reviewing this phase with TVFRD it was suggested that a second access be installed. This access is about a \$450,000 expenditure, of which, for the record the applicant gets no credits. They have accumulated enough credits for collector streets that they will not be able to use them over the life of the project unless the amounts of charges for collectors is greatly increased by the Building Department. The entire cost of this road and other minor collectors in Woodhaven are non-creditable items. Mr. Bantz said if it was seen here

tonight that this road was not a reasonable request, the applicant would not build it and it would save them some capital to build it at a later phase.

Mr. Bantz said the change in phasing is requested because when the Master Plan for Woodhaven was laid out two years ago they had taken the best guess and assumptions of what a phase would look like. He said they have been using a misnomer in saying "Phase 1, 2, 3...", it is really "Neighborhood 1, 2, 3..." and they have sub-phases or phases in those neighborhoods. It was never contemplated they would build all of Phase 2, Phase 3 or Phase 5 at one time. They showed sub-phases, "A, B, to C". There were about 60-70 lots in each phase. Now they need to bring in a phase because they are sold out of every lot in Phase 1 (163 lots). This includes all of Phase 2A and a small portion of Phase 2B.

Mr. Bantz said the increase in the number of units is based on two facts. The market (builders) have approached the applicant asking for smaller lots. These particular lots are adjacent to the Tualatin Valley Nursery which is zoned for Office/Commercial. If and when this re-develops would have the potential for an office project, so they have put smaller lots next to this boundary. There is a market for smaller lots which are less expensive and the applicant felt this was an appropriate place to put smaller lots. It is not an appropriate place to put larger lots, such as the area which backs onto the wetlands. Mr. Bantz said he had an aerial photo which showed the overlay and referenced the areas on the map. They anticipate Neighborhood 3 to have larger lots and this will make up the increase they received in 1D and hope to receive in this phase.

Mr. Bantz said the open space request was partially dictated by the Master Plan approval which required construction of a trail in Phase 1 along the north edge of the wetlands, around the wetlands over to Villa Road. Lots were originally shown down to the wetlands buffer. He concurred that they are not allowed to develop in the wetlands or wetlands buffer. The lots that back onto the wetlands have gone from 136 feet deep to an average depth of 104 feet. They also had lots 175 feet deep that are now 105 feet deep. They have created a much larger open space where the heavily wooded areas are located. This accounted for 1.7 acres of additional open space in this just this phase.

Mr. Bantz discussed the alignment of the pathways and that they did not feel this was as major change. Previously, there was some discussion where one of the Council members was concerned about having aligned pathways which would facilitate children on bicycles or other modes of transportation to cut right across the street. The Councilor even suggested stop signs on the pathways. This was one of the reasons the applicant felt the change of pathway alignment was a reasonable request. The pathway alignment was originally dictated by the lot widths. The pathways could be aligned if this was the recommendation of the Commission. They would like to have a modified condition that the 25 foot tracts can be offset somewhat so they are not just strictly in alignment, but the pathways as they intersect the streets are in alignment so they can put a painted crosswalk at right angles to the curbs. This

would be fine if it is agreeable with the Commission. Mr. Bantz said the lots are not in a straight grid and when you have streets that are not parallel you end up with non-rectangular lots. They also have to deal with a well that is used by Tualatin Valley Nursery that occurs in one of the access tracts further north. They need to align these so that that well will be within one of the 25 foot wide tracts.

Mr. Bantz said they certainly did not mean to mislead anyone in their application. They feel this project has been under more scrutiny than any other project, at least residential project, in the City, and has had more hearings. The applicant is trying to create a nice neighborhood and they think they succeeded in doing that in Phase 1. This phase has been well received by the builders and the users. They expect to continue their standards for the homes and feel Woodhaven is a unique environment for the City of Sherwood. One thing the applicant does want to suggest is that they have a variety of lot sizes, home sizes and price ranges. It is not their intent at this time to increase the number of lots. They are not intending to increase the density, but there may be a case 5-6 years down the road where if they continue to have a market for smaller lots they may come back to the Commission for more lots. They have 200 lots that they did not include in the original approval that they have the density for. At this time they are certainly not requesting this and do not anticipate this type of request.

**Chairman Birchill asked if there was anyone wishing to speak in favor of the application. There being no proponent testimony, Chairman Birchill asked if there was anyone wishing to speak in opposition to the application.**

Scott McAuley, 490 W. Villa Road, Sherwood, Oregon 97140, addressed the Commission. Mr. McAuley discussed keeping the traffic out of the City and not overtaxing the streets with a lot of traffic. He understood the fire department appreciates an easier access, but his concern was there was going to be more traffic in downtown Sherwood from using the second entrance. He asked if this could be a fire access only. Chairman Birchill responded the road they were talking about putting in is going to be a public street which goes out to Sunset Boulevard. Anyone driving will have the option to turn left or right toward Highway 99W or downtown Sherwood.

Sanford Rome, 1780 E. Willamette Street, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome discussed the points he brought up when Woodhaven was being planned. With regard to density, Mr. Rome said the applicant may in 5-6 years, if the market is there, ask for the 200 additional lots. When Genstar made their proposal the City said if it goes the way they have looked at it, it could be a pretty good thing. There may be some modifications, but in concept this is what we have. Mr. Rome said the reason Genstar was back before the Commission is because somebody, several of us, made some comments and they said well next time changes are requested, Carole, we would really like to see it come here. Even if the changes may be minor, there may be public outcry. Mr. Rome said it is too bad in the City, as it has grown to 6000 plus residents, that there are only a couple people who take the time to say something.

Mr. Rome said item two comes around, the former Mayor, City Manager, City Engineer or staff members, all saw the applications and brought up a lot of questions. He did not see a problem with shifting a path around. When you come into the Woodhaven complex it looks like a pretty nice neighborhood. One of the big concerns Mr. Rome brought up when it was being developed was a lot of traffic will be moved up Sunset. There is a nice exit to Highway 99W, but there is still only lane with a turn lane. They will have doubled the size of the City of Sherwood when Woodhaven is built out and they still only have a one lane road. When he brought this comment to the Mayor, the response was that's what our original plan shows Sunset to be. Mr. Rome said people do not go down Highway 99W to get to I-5. There will be hundreds of more houses built with a road that has a wait right now getting onto Highway 99W.

Mr. Rome said the applicant is asking for 116 lots versus 107 lots. This does not sound like much, about 4%. When they last went to City Council they got more than 4%. Now they are saying they have got 200 lots left, 200 lots five years from now at \$30-50,000 per lot is millions of dollars. Who hurts for all of this? It is pretty obvious who profits. In less than two years they have sold out in the first phase and now they are talking about the costs, if we could ask them to wait to put in this street. If they are going to put it in, why not do it so the fire department has their say so and do it now. Mr. Rome said he vehemently fought Kathy Street and now he is buying homes on Kathy Street. In 34 months there are currently 7 houses for sale in Kathy Park and none have sold except for the one he just rebought. Talking about remarkability, talk about Kathy Street and small lots. If you talk to every person who had a 5000 square foot lot on Kathy Street the reason they are selling is the small lot. It is what they thought they could buy, the price they could afford when they moved in, but the reason why they are moving is the neighbors fighting, the dog barking too loud or whatever it may be. Mr. Rome continued to discuss the people who own houses on Kathy Street and the small lots.

Mr. Rome said it is Woodhaven's right to do what they are doing. It is the same right he wants when he wants to put 15 or 20 units on property he owns which is zoned for that on Murdock Road. He also discussed how the City failed with the Fair Oaks project. He asked the Commission make it a condition that there be no ultimate change and that 1,268 units is the density. Mr. Rome said this is not a shopping center mecca and Sherwood will always be a bedroom community. He said he does not want the citizens to have to pay for future changes in Woodhaven.

**Chairman Birchill asked if there was anyone else wishing to speak in opposition to the application. There being no further opponent testimony, Chairman Birchill asked Mr. Bantz if he wanted to make any rebuttal statements.**

David Bantz said the fact people have to wait to get onto Pacific Highway 99W and Sunset Boulevard or have difficulty in making a left or right-hand turn he did not

believe is because it is a one lane road in each direction. It is designed so there is more than one lane from the first intersections into the Woodhaven project from Highway 99W. The reason people have to wait is because there is no signal. The applicant has requested in writing to ODOT to allow them to pay for a signal at that intersection. ODOT does not believe a signal is warranted. The applicant will be meeting ODOT again next week to show there are other ways the signal is warranted. The applicant wants to build the signal.

**Chairman Birchill told Mr. Rome he had an opportunity to speak and asked that he refrain from speaking during someone else's testimony, otherwise he would ask him to leave.**

Mr. Bantz said they are not proposing to build any apartments near Meinecke Road or other commercial sites. Because there is the potential of having office/commercial on Highway 99W it is less likely to sell lots backing onto those lots. In response to 200 units, Mr. Bantz said if someone else is using this as an example of Woodhaven's ability to get more units, someone else may not have that ability because they have already used up all of their density. Woodhaven has not used up all of their density and they are not saying today that they will be. This option is available to them, the condition states they will not have more than 1268 units and they respect that. Mr. Bantz questioned the comment regarding the public outcry because of these changes. He did not see a public outcry here tonight when only one person comments in opposition to the changes. If there is any public concern, Mr. Bantz asked that they let the applicant know or call him at his office to remedy their concerns. He clarified that they are asking to build the road, contrary to the previous comments made. In conclusion, Mr. Bantz said he did not believe the Woodhaven project would be detrimental to the community.

**Chairman Birchill closed the public hearing on Agenda Item 5A, PUD 93-3 Woodhaven, for comments and discussion by the Commission.**

Mr. Hohnbaum asked Staff if the pathway realignment was new information and the reasoning for straight line paths. Ms. Connell responded straight line paths allow for more safety and security, where each path intersects with the road there will be street lights, all entrances to the paths will be well lit and easy to follow. The applicant has mentioned they will provide crosswalks over these street crossings. In response to Ms. Stewart's question, Ms. Connell said stop signs would help at these crossings.

Ms. Stewart asked what harm it would do to have more than the 1268 units in Woodhaven. Personally, she would rather see smaller lots than a lot of apartments. Ms. Connell said if the applicant wants to apply for a density change to the 291 acres they must have approval from both the Commission and the City Council in a public hearing process. Chairman Birchill clarified the 200 units which could be allowed would be in addition to the 1268 dwelling units. Mr. Corrado said his initial reaction to the pathways was the straight line would be asking for trouble from a safety

standpoint. However, after further discussion, he felt the straight line pathway would be easier to monitor. Ms. Connell reviewed the wording which was added to this condition.

Susan Claus stated concern regarding how the number of units would be specifically tracked and how this could be tied back to the applicant. Within the last month there have been two phases that increased approximately 14 lots. Mr. Corrado said this would be tracked with Condition #2 which states the density of Woodhaven PUD may not exceed a total of 1268 dwelling units. Mr. Bantz reiterated it was the applicant's intent to build larger lots in Phase 3. They would not wait until the last phase to ask for more units. The Commission discussed additional wording for Condition #2. Ms. Claus suggested adding wording that at least 50% of the added number of lots approved in Phase 1 and 2 must be compensated for in Phase 3A-C.

**Rick Hohnbaum moved the Commission recommend approval of PUD 93-3 Phase 2 conditions of approval with the removal of Condition #2. The motion died for a lack of a second.**

**Susan Claus moved the Commission recommend approval of PUD 93-3 Phase 2 Woodhaven Final Master Plan to the City Council, based on the findings of fact, Staff recommendations as revised, and public testimony, subject to the following conditions:**

1. Provide the City with an updated Woodhaven Phasing Plan for file records.
2. The density of Woodhaven PUD may not exceed a total of 1,268 dwelling units. Fifty (50) percent of the added 19 lots approved in Phase 1 and 2 must be compensated for in Phase 3A-C as identified in the original Woodhaven PUD Final Master Plan.
3. The addition of 1.7 acres of open space in Phase 2 does not warrant reducing open space in other phases of the development, unless approved by the City. Provide a map which specifically identifies the open space.
4. The pedestrian path must be aligned as originally approved, however, the twenty-five (25) foot wide tracts containing the pathways may be off-set by up to ten (10) feet in either direction.
5. The previously approved requirement for a second roadway connection to Sunset Boulevard may be constructed in Phase 2.

This approval is valid for one (1) year.

**The motion was seconded by Marge Stewart and carried with 4 yes and Commissioner Hohnbaum voting no.**

**Chairman Birchill recessed the meeting at 8:45 PM for a 10 minute break and reconvened the Planning Commission meeting at 8:55 PM.**

**5B. MLP 95-6 Claus**

Chairman Birchill moved to the next agenda item which was another public hearing. Ms. Connell reported the applicant had requested a continuance while trying to find a way to save the Chestnut Trees on this parcel.

**Marge Stewart moved to table MLP 95-6 Claus, a two-lot Minor Land Partition on Sherwood Boulevard, to the October 17, 1995, Planning Commission meeting. The motion was seconded by Rick Hohnbaum and carried unanimously.**

**5C. MLP 95-7 Claus**

Chairman Birchill moved to the next agenda item and called for the Staff Report. Ms. Connell reported this is a request for a three-lot minor land partition on West Villa Road, Tax Lot 7200, consisting of 3.88 acres. She referred the Commission to the Staff Report dated September 12, 1995, a complete copy of which is included in the Commission's minutes book. The second partition is on Tax Lot 7400 (Agenda Item 5D, MLP 95-8). This is a part of the West Villa Estates Subdivision which has been continued indefinitely at the request of the applicant. The applicant has stated action will be taken on this subdivision following a determination on MLP 95-7 and MLP 95-8.

Ms. Connell said the subject parcel was originally part of Tax lot 7300 which was partitioned in 1993. The purpose of that partition was to sell to the City 2.32 acres for inclusion in the adjoining Stella Olsen Park. The sale was completed this month. The proposed new lot dimensions are Lot 1, 6,680 sq ft; Lot 2, 87,613 sq ft; Lot 3, 74,719 sq ft. Access to Lot 1 is proposed from Villa Road. Access to Lot 2 and Lot 3 is also from Villa road because each lot has 25 feet of frontage and both are flag lots. One driveway is all that will be needed. The simultaneous proposal for a partition requests use of the driveway for a third lot be a dedicated access easement across the first 103 feet. The proposed parcels meet the minimum 50 foot width requirement and the 80 foot lot depth requirement, although Lot 1 is a triangle and does not have standard dimensions. Standard MDRH setbacks will apply to the three new residences. No new roads or streets are created by this proposal. No additional right-of-way is required for West Villa Road.

Ms. Connell said the City is interested in the future of Villa Road. The Transportation Plan identifies that Villa Road will dead-end at both ends before it drops down to the street. The street will be slightly realigned where it crosses the railroad and does need to be widened. The applicant states that adequate right-of-way was dedicated with the prior partition. No additional park land is required from the subject parcel. Each building site will be required to pay a Parks SDC at the time of a building permit request.

Ms. Connell reported with reference to the Cedar Creek 100-Year floodplain, all three parcels are above the 168 foot elevation, except at the road crossing for Lots 2 and 3 which were not included on the park land sale to the City. No additional floodplain dedications will be required. She discussed the utility and roadway easements. Staff recommends the sewer easement be modified so that it is 15 feet wide and unless required by USA, it should be entirely private across Lot 2. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land. The City and USA do not require a public stormwater system in the case of a minor partition for single-family residences. A wetland delineation is necessary to determine if a buffer is necessary. USA also identified the need for an erosion control plan at the time of home construction and will be required with each building permit. Staff recommends "No Parking" signs on Villa Road from Park Street to the intersection with the proposed subdivision roadway (now defined as an access easement). Villa Road is a City Street and subject to standard conditions. The Transportation Plan anticipates changes to Villa Road in the future, including cul-de-sacs both ends, to be connected by a pedestrian path through the Stella Olsen Park section of the roadway in the middle. The Commission may require street improvements with a partition and may also require a non-remonstrance agreement for a future LID to improve the roadway, instead of half-street improvements. Ms. Connell discussed several options for Villa Road improvements. It cannot be improved with City TIF funds because it is a local street. If approved, Lot 1 cannot be divided again. Lots 2 and 3 are large and could be divided again, but only if the Commission approves a variance to the lot frontage requirements at a later date and access is approved to be shared with Lots 2 and 3.

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

**Chairman Birchill asked if the applicant wished to testify.**

Jim Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus said they did not sell the referenced property to the City, they have a letter from Mr. Dittman saying it was a gift. It was not little because \$8,000 is a joke for 2 acres, especially when Mr. Claus had to do the floodplain, the wetlands delineation and the engineering. Then he had to spend \$15,000 convincing Mr. Dittman he did not have a case if Mr. Claus did not want to give it to him. Mr. Claus said they gave this parcel to the City and they made an agreement with former City Manager Jim Rapp that these could be parceled and built on. It is important to understand the two MLP's are already buildable lots. When they gifted the land to the City, the applicant received a density transfer. They can build more than 12 units an acre, it is between 16-20 units per acre. Mr. Claus reviewed the 100 year floodplain. He stated, contrary to Mr. Kennedy's approaches, he does not believe in landscaping, he believes in tree preservation. He identified where they took a 50 foot buffer that is a permanent non-use area. All of the trees in this section, some of which are old growth, can't be cut down. There is a buffer, next to the City Park, but this is in effect a tree preservation buffer.

Mr. Claus explained the parcel's dimensions and identified the specific areas on the map. The easement was engineered exactly where it has to go. This was with USA and everyone else's concurrence and they also talked to the Division of State Lands. This piece of ground has been studied half to death. There is a very severe drop-off down to the wetlands. He pointed out other important aspects of the parcel. The only reason there is an adequate street here now is not because the property owners agreed to do anything, it is because the applicant agreed to exceed their dedication. They gave up 3/4's of the width of the street in order to put it in. Without those giveaways by the applicant, they could not put this road anywhere. Mr. Claus said in terms of any benefit cost analysis, this certainly was an enormous benefit. This gift finished the park and this is the first tree preservation act for the City of Sherwood.

Mr. Claus said all they are asking, and this is the flip side, obviously, of Woodhaven, is to put low density development on this property. If anyone objects to this low density development, what they will get there is 8 to 9 townhouses and he will build them and he will not put in the street because he will fight them on that. He summarized what the proposal would provide to the neighbors and the City.

Mr. Claus said he would recommend the City sit down with his engineer, Jim Stormo of Pinnacle Engineering, to determine the type of road that is needed. Then the applicant would contribute their share of money for the road and the City wait until they see what Woodhaven and everyone does before they develop this. The cost of this is about \$15,000. However, every time this is surveyed there are very different ideas on how the road should be built. Mr. Claus said he did not care if there was a hammerhead, although he did not feel this is what the City wants. He recommended, as a condition, the City Staff and Mr. Stormo determine the type of road which is needed, hammerhead, cul-de-sac, etc.

Jim Stormo, Pinnacle Engineering, 625 SW 6th Avenue Court, Portland, Oregon 97219, addressed the Commission. Mr. Stormo said Mr. Claus pretty much covered everything. He agreed with Jim that until there is a little more thought and design put into the street you really can't condition any type of improvement.

Chairman Birchill asked Mr. Claus to identify Tax Lots 7200 and 7400 on the map. Mr. Claus identified these lots and discussed the various transactions involved with this property. He also discussed the difference between landscaping and tree preservation.

**Chairman Birchill asked if there was anyone else wishing to speak in favor of the application. There being no further proponent testimony, Chairman Birchill asked if there was anyone wishing to testify in opposition to this application.**

Jack Johnson, 620 W. Villa Road, Sherwood, Oregon 97140, addressed the Commission. Mr. Johnson said he did not like being put in a category of being in

favor or against. He has lived on Villa Road for over 40 years and he is concerned about the hammerhead. He realized there is not room for a cul-de-sac on the other side, so he is not arguing that they can't have a turnaround or cul-de-sac. He would like a reasonable turnaround, but he does not want the entire turnaround in his front yard. He is willing to share. He was also concerned about what was going to happen to Villa Road. Mr. Claus did not create the problems on Villa Road, they were there before he bought the property. For 40 years he has paid taxes for a road that he maintained himself. For 40 years he has paid for a street light, the nearest one being down 1-1/2 blocks. He also paid a big share of Woodhaven's utility and sewer that went through on the creek. Mr. Johnson said he was there to protect his interests now so that he does not end up paying for all of Villa Road too.

Bob Reynolds, 450 W. Villa Road, Sherwood, Oregon 97140, addressed the Commission. Mr. Reynolds said he has lived on Villa Road for about 18 years. When he moved there he had small children so he built a fence. The City told him he had to build the fence back from his property line 12 feet. This constituted no parking in his yard except for the carport for two cars. He has a large family and large family gatherings. Parking becomes an issue. If there are no improvements done on Villa Road and "No Parking" signs are put up, where will his family park. He said there should be some way there could be parking on at least one side of road or both sides. A lot of the water problems accumulated from this road wind up in his yard. He is another citizen who pays for patching the road. He said his house is located on the north side on the corner of Villa Road.

Ms. Connell clarified the recommendation is no parking on just one side of the Villa Road.

Mr. Reynolds said he was under the assumption that the fire department said the road was too narrow to get down and this could constitute no parking on either side.

Scott McAuley, 490 W. Villa Road, Sherwood, Oregon 97140, addressed the Commission. His concern was the street widening and he was interested in seeing the plans for this. He identified the location of his house. When this property was petitioned in 1992, they dedicated 5 feet of property for the street improvements. His concern was that the drainage system be improved because the neighbors have maintained the drainage and made minor road surface improvements. They need to see how the cul-de-sac, hammerhead and drainage system will affect all of the property owners on Villa Road.

Sanford Rome, 1780 E. Willamette, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome said the opposition is really not against Mr. Claus's program as much as he would like to hear from the Commission. Woodhaven was there earlier. He brought up the point of the subdivision when Woodhaven came about, what they were going to do way back when about Villa Road. He brought up the improvements that all of these people have to pay for. The City owes the people and needs to help them. When the City improves this program, hopefully, they will not

punish those asking for partitions or the people who are trying to protect their land. Help the taxpayers. These are the very people who helped to pay, mortgage their houses and their land to put that subdivision in where you folks have let Woodhaven in to profit. You folks let Woodhaven developers, Genstar, make a profit and you are punishing the homeowners. Mr. Rome said the citizens of Sherwood gave Genstar an opportunity to literally make millions of dollars by you folks giving to them. It is time to start giving back to the citizens.

**Chairman Birchill asked if there was anyone else wishing to speak in opposition to the application. There being no further opposition testimony, Chairman Birchill asked Mr. Claus if he had any rebuttal testimony.**

Mr. Claus said the neighbors were not listening to what he was saying. He was not about, after dealing with Mr. Rapp for a number of years, to get where he can't move. He said both lots are buildable now. He does not have to agree to improve the street. He can go down to the building department and get a permit. He said he was doing his usual good neighbor routine and if anyone had called him they would have found this out. He is giving the neighbors a chance to say I'll pay for my over half of that street. He is paying way more than his fair share and if people don't meet him half way he will just build on it. He is giving the neighbors an opportunity to sit down and solve the problem. Everybody is benefiting because of what he has done up there. He is telling the neighbors tonight to put on their thinking caps. Nobody put the strong arm on him to give the property to the City. They have a chance as neighbors to get together, meet with City Staff and resolve the issues and talk about what they want. He thought the neighbors portion would be roughly \$5,000 each, maybe as high as \$8,000. Mr. Claus said his portion could be as high as \$15-20,000. Now the neighbors have a buffer and tree preservation that benefits everyone. Mr. Claus said he could tell Ms. Connell she could notify the neighbors they could all sign non-remonstrance agreements and then the City would build the road improvements and it would really be expensive. Or the neighbors could decide the type of street they want and put the money in a fund for these improvements.

Mr. McAuley said his concern was what the City's plans are for West Villa Road.

**Chairman Birchill closed the public hearing for MLP 95-8 and opened the floor for comments and questions of the Commission members.**

Chris Corrado said he was somewhat confused about the argument from the residents and Mr. Claus's comments about his road and Villa Road. Mr. McAuley identified the location of the road they were talking about. The road slopes to the north and drainage ditch is on the south. If the City does improvements on one portion and not the other side, this will do nothing for the road.

Chairman Birchill said he heard Mr. Claus saying, please work with him and do the whole thing at once and whole problem will be solved at one time. If they chose not to work with him at this time, he is going to go ahead and do it anyway and they will

have the problem. Mr. Claus responded he is saying three things. He has the absolute right to build on those lots as they are, he gave the twenty foot strip so Villa Road could be usable, he is more than willing to take on his fair share and to tell Jim Stormo to sit down with Carole and the neighbors and have them say this is the road we want. If the City does not build it, he will put the money in a fund and when the City gets the road money they can build it. If, on the other hand, the neighbors all get together and the City says we have the money to build it, then he will pay his share of that. It is much more complicated, especially when you get out there are look at the road.

Ms. Stewart said she read the Transportation Plan anticipates changes to Villa Road in the future, including a cul-de-sac at both ends to be connected by a pedestrian path through Stella Olsen Park section of the roadway. Ms. Connell said this is correct. The people on this road would prefer this option as to making Villa Road a thoroughfare. Chairman Birchill asked for clarification on Condition #5 regarding the driveway width being 10 feet. Ms. Connell said she anticipated one driveway for the two lots. Mr. Birchill said usually 10 feet is in violation of the fire code and for two single family dwellings would be 15 feet. Ms. Connell agreed it should be at least 15 feet wide. There being no further comments,

**Chris Corrado moved the Commission approve MLP 95-7 Claus two-lot Minor Land Partition on Sherwood Boulevard, based on the findings of fact, Staff Report, recommendations as revised, and public testimony, subject to the following conditions:**

Prior to Partition Plat recording:

1. Provide a wetland delineation for review and approval by the City, USA and DSL. If it is determined that there is wetland on or adjoining the subject parcel, provide a publicly-owned 25 foot wide buffer adjoining the wetland boundary.
2. In accordance with City standards, construct a half-street improvement adjoining Lot 1, or money in-lieu of, to be placed in reserve for future Villa Road improvements.
3. Modify the plat so that the private easement across Lot 2 is fifteen (15) feet wide. Unless required by USA, the entire easement shall be private.
4. No structures, decks or fences may be placed within the utility easement.
5. Provide a joint driveway access and maintenance agreement for all lots utilizing the private driveway from West Villa Road. The driveway must be at least fifteen (15) feet wide and all-weather surface.
6. Install a "No Parking" sign on Villa Road along the frontage of Lot 1.

This approval is valid for one year.

**The motion was seconded by Rick Hohnbaum and carried unanimously.**

**5D. MLP 95-8 Claus**

Chairman Birchill called for the Staff Report. Ms. Connell reported this is a three-lot Minor Land Partition, MLP 95-8, on West Villa Road, Tax Lot 7400. She referred the Commission to the Staff Report dated September 12, 1995, a complete copy of which is contained on the Commission's minutes book. The background information for this partition is the same as MLP 95-7. There are three parcels, Lot 1, 7,942 sq ft; Lot 2, 5,131 sq ft; Lot 3, 6,148 sq ft. She identified the location of the partition on the map. Lots 2 and 3 must a minimum of 80 feet deep and depending on the engineer's definition, corrected as necessary. Standard setbacks will apply. There are two easements illustrated on the plans, access and utility. The proposed 20 foot wide roadway easement provides the only access to Lot 3. Lots 1 and 2 have frontage on West Villa Road. The same issues apply with this partition proposal in that the Commission may require street improvements with a partition. No additional park land is required with the partition proposal. The dimension and shape of Lot 1 could be changed with the engineer's recommendations for the final road improvements.

Ms. Connell reviewed the recommended conditions of approval.

**Chairman Birchill asked if the applicant wished to speak.**

Jim Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. Mr. Claus said he has told Carole and he is trying to tell the neighbors, they figure out what to develop and everybody agrees to pay for it or we figure what to develop, nobody agrees to pay for it, except him, and City is provided money for half-street improvement and the City does what they want to do with the rest of it. Now is the time for the neighbors and property owners to decide what they want to do. If they don't do it this time, they only have themselves to thank. They have the 20 foot dedication.

Mr. Johnson said they should get as close to the center of the road as they can. Jim Stormo asked a question about the minimum lot depths. The layout was given by the surveyor after the concessions made on the right-of-way dedication. They really can't add any more lot depth to Lot 3 without taking away from the minimum width of the other partition. Discussion followed regarding the layout of the lots in the partition.

**Chairman Birchill asked if there way anyone else wishing to speak in favor of the application.**

Sanford Rome, 1780 E. Willamette, Sherwood, Oregon 97140, addressed the Commission. Mr. Rome said what they have seen here tonight, Jim Claus comes to

the forefront. This is a difficult piece of property, there are concerns from the neighbors and there is Villa Road which the City won't pay to fix, no money up front and now you have a developer who says he is more than willing to meet these people half way. Mr. Rome said in his heart (Mr. Claus), the Commission and he knows if the City sends this out to have someone do some preliminary studies and drawings, that the City will spend a lot of money and they are going to go to court. Mr. Claus's engineer has some rough ideas on how to make Villa Road work for all the neighbors and a very reasonable basis. When the City had a chance to make Willamette Street complete they chose to have a barrier wall and now a lawsuit. He recommended the Commission, as part of the findings of fact to the Staff, try to have the man who has already done half the engineering or half the study for this proposal, here's a simple way to make this street work, put in a simple street and drainage and be done with the part of Villa Road for the first end. If you make this part of the conditions, it works for Mr. Claus and every one of his neighbors. The Commission has the opportunity to solve a neighborhood problem that was created on the Woodhaven fiasco. Mr. Rome said they have a chance to do it with no money to the City and very small impact on the neighbors.

**Chairman Birchill asked if there was anyone else wishing to speak in favor of the application. There being no further proponent testimony, Chairman Birchill asked if there was anyone wishing to speak in opposition to the application. There being no opposition testimony, Chairman Birchill dispensed with the rebuttal and closed the public hearing on MLP 95-8 for discussion by the Commission.**

Rick Hohnbaum asked Ms. Connell why there was a separate driveway using the utility access rather than using the driveway off the third lot. Ms. Connell responded if it was taken out of the two lots they would not be big enough for a house because those lots need the easement area for building setbacks. The access to Lot 3 needs to be at least 20 feet.

Chairman Birchill said the Fire District has a plat which shows several configurations of turnaround. He suggested the applicant or his engineer contact the Fire District to see if any of those options would work for Villa Road. Ms. Connell said she had shown Mr. Johnson these options today. Marge Stewart asked how the road improvements would be accomplished. Ms. Connell said right now the conditions state half-street improvements or provide money in lieu of and they could add verbiage to provide a turnaround and modify Lot 1 to include necessary roadway dedication for the turnaround. Ms. Stewart said it looked like Mr. Claus was making such a good proposition, she did not know how anyone could turn it down. Chris Corrado said if he understood Mr. Rome's comments, it was the Commission's obligation to include something in writing that they heard the public testimony and wanted the neighbors to work together. The Commission concurred.

The Commission also discussed the feasibility of a block grant for this purpose. Mr. Hohnbaum said the cycle for block grants would be 1-1/2 years out, since the City

is currently not even half way through a 3 year cycle. There being no further comments,

**Rick Hohnbaum moved the Commission approve MLP 95-8 Claus, a three-lot Minor Land Partition on West Villa Road, Tax Lot 7400, based on findings of fact, Staff recommendations, public testimony and Commission discussion, subject to the following conditions:**

Prior to Partition Plat recording:

1. Revise the Partition Plat so that all three lots have the minimum 80 foot depth and 50 foot width.
2. Revise the Partition Plat so that the existing residence on Lot 2 has a minimum rear yard of 20 feet.
3. Provide a wetland delineation for review and approval by the City, USA and DSL. If it is determined that there is wetland on or adjoining the subject parcel, provide a publicly-owned 25 foot wide buffer adjoining the wetland boundary.
4. Provide "No Parking" signs on West Villa Road in locations approved by the City.
5. In accordance with City standards, construct a half-street improvement on the Villa Road frontage, or provide the City money in lieu comparable to the value of the improvement, to reserve for future Villa Road improvements. If feasible to provide a turnaround, modify Lot 1 to include necessary roadway dedication for the turnaround.
6. No structures, fences or decks may be constructed in a utility easement.
7. For Lot 3, enter into a joint access and maintenance agreement with the adjoining Tax Lot 7200 and provide a minimum driveway width of twenty (20) feet of an approved all weather surface.

This approval is valid for one year.

**The motion was seconded by Marge Stewart and carried unanimously.**

## **6. Director's Report**

Ms. Connell reported she asked the City Council to review the list of planning projects and help her prioritize it. She said she will also request additional staff to help the Planning Department catch up on projects.

Ms. Connell advised that Allied Systems has appealed the Commission decision to the City Council. No date has been set for this hearing.

Ms. Stewart asked Mr. Hohnbaum to check the grants relating to "hazards" or "hazardous conditions" in relation to the Villa Road matter. Mr. Hohnbaum agreed to research this request.

There being no further business to discuss, the meeting was adjourned at 10:35 PM.

Respectfully submitted,

Roxanne Gibbons  
Planning Commission Secretary