

City of Sherwood, Oregon
Planning Commission Meeting

December 13, 1994

1. **Call to Order/Roll Call.** Chairman Birchill called the meeting to order at 7:35 p.m. Commission members present were: Chairman Eugene Birchill, Chris Corrado, Marge Stewart, George Bechtold, Susan Claus, Ken Shannon, and Rick Hohnbaum. Planning Director Carole Connell and Secretary Teresa Minor were also present.

2. **Minutes of November 15, 1994 meetings:**

There being no correction or additions, Chairman Birchill advised that the minutes of the November 15, 1994, meeting will stand approved as presented.

Chairman Birchill commented that there will probably be some lengthy debates. He directed everyone's attention to the note at the bottom of the agenda which states "items not completed by 11:00 p.m. will be continued to the next regularly scheduled meeting". Chairman Birchill stated that if it appears that an item can be completed shortly after 11:00, the meeting will be continued; however, if significantly more time is required, the item will be held until the December 20th meeting.

Chairman Birchill advised that the Commission will receive a staff report, after which the applicant and proponents as well as opponents will provide testimony, the applicant will be given an opportunity to provide rebuttal, then the public hearing will be closed and the meeting opened for discussion among the Commission members. He requested that proponent and opponent testimony time periods be limited to 15 to 20 minutes each for each item, and if there are several attendees who wish to make the same comments regarding the same issue, please form a group and appoint a spokesperson. Chairman Birchill asked that the spokesperson identify the persons in the group so that it will be understood that the speaker is representing all of the individual group members.

3. **Public Hearings:**

- A. **SUB 94-6 Burck Estates Preliminary Subdivision Plat: a 17-lot single-family subdivision on Sunset Boulevard:**

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.

Regarding Agenda Item B, SUB 94-8, Whistler Preliminary Subdivision Plat. Mr. Hohnbaum stated he has had no ex-parte contact or feelings of bias, but he considers himself to be a personal friend and acquaintance of the property owner, Walter Hitchcock.

Chairman Birchill agreed, and pointed out that all of the Commission members should make the same disclosure because they all know Mr. Hitchcock since he is the Mayor of Sherwood.

There being no additional disclosures, Chairman Birchill called for a staff report.

Ms. Carol Connell reminded the Commission that SUB 94-6 had been delayed from a previous meeting since the property had not been completely annexed into the City. She noted that the annexation has now been completed. Ms. Connell provided an in-depth review of the Staff Report dated November 29, 1994, a complete copy of which is contained in the Commission's minute book.

In response to Ms. Claus' question, Ms. Connell stated that the applicant owns only Tax Lot 100, and that Tax Lot 200, which was recently annexed into the City, is a future phase of the project, and will be one step of the development.

In conclusion, Ms. Connell stated that the application complies with the appropriate criteria; however, there are several items that require correction and are listed in the 12 conditions outlined in the Staff report.

Ms. Connell reviewed the conditions and recommended that SUB 94-6 be approved subject to those conditions.

Chairman Birchill next opened the public hearing for comments from proponents.

Jim Fisher, owner of Jim Fisher Roofing and Construction, 1100 W. Sheridan, Newberg, addressed the Commission. Mr. Fisher introduced his associate Scott Houck and explained that their goal is to build a quality subdivision consistent with Whispering Firs. He commented that the property was annexed December 6, and the applicants are in agreement with the changes to Lot 6. Mr. Fisher corrected the misunderstanding regarding the second parcel and noted that they did not own the second parcel. He remarked that the property was presently being held in escrow. Mr. Fisher stated that the applicant will preserve as many trees as

possible on the parcel, are in agreement with the conditions outlined in the staff report, and assured that all conditions will be met.

There being no further proponent testimony, Chairman Birchill opened the public hear for comments from opponents.

There being no further testimony, Chairman Birchill closed the public hearing and opened the meeting for comments, questions and discussions among the Commissioners. He pointed out that the hearing may be reopened at any time at the request of one of the Commissioners.

In response to Mr. Shannon's question, Mr. Fisher remarked that it was his understanding that Lot No. 6 could be a flag lot with the lot coming out to the street between the lots on each side of it. Mr. Fisher indicated that a portion of the lots around it could be used to provide sufficient space for this. Chairman Birchill commented that on the plat it appears that the applicant is trying to provide an easement access between Lots 4 and 6. Ms. Connell agreed with Mr. Birchill's comment and added that it wasn't the case in this situation.

Ms. Stewart expressed concern with Condition No. 7 regarding the trees located where a house would be built and inquired whether those tree would be excluded from the conditions. Ms. Connell responded that she had taken those things into consideration when she wrote the condition because there are not many trees on the property and the ones there could create a problem in the center of Lot 12 and should be taken out. Ms. Connell suggested that the condition state "preserve all existing Douglas fir trees except for those in the building footprint of any lots or in the utility easements, etc."

Ms. Claus asked if Ms. Connell had seen a preliminary drawing for the adjacent parcel. Ms. Connell replied that she had, and the applicant had spent a considerable amount of time with the City discussing their ideas for the parcel and is in the process of purchasing the property. She pointed out that during pre-application reviews of this property the applicants were advised that they would have to provide access to Murdock Road. Ms. Connell commented that if the applicants did not believe the access was feasible, they would not be in the process of purchasing the parcel. Ms. Claus commented that if the Commission approved the plan tonight, they were locking in the other parcel as far as access is concerned. Ms. Connell added that the other parcel would have access onto Sunset and Murdock. Ms. Claus

pointed out that as designed, there will be a sight distance problem on Murdock at Tax Lot 100. Ms. Connell responded that they had designed it to their own satisfaction. Ms. Claus pointed out that if the applicants do not purchase the other parcel what the Planning Commission has done to the other parcel is taken a portion of their land or and locked the applicant into some kind of configuration and they do not have a lot of space. Ms. Claus questioned the reconfiguration of the Sunset-Murdock intersection and noted that the intersection might need to be moved. Ms. Connell commented that was one of the reasons the applicants decided not to start the project now with the uncertainties of where the road will be and where access will end up. Ms. Connell stated that one of the ideas was to cul-de-sac the road for the existing houses, and if that parcel never developed and access was needed old Sunset could be used for alignment.

Ms. Claus commented that there is a considerable problem with the drainage via the open ditch along Sunset Boulevard. Ms. Connell explained that the drainage ditch will eventually be enclosed by half-street improvements.

Ms. Claus inquired as to whether the pedestrian path between Lots 11 and 12 will be paved, who is responsible for maintenance of the path, and can it then become an emergency access? Ms. Connell responded that the path will be paved and maintained by the City; however, the City would not normally require that the path be an emergency access since the path would have to be a minimum of 20 feet, all weather construction and compacted to 50,000 pounds.

Ms. Claus requested that the Commission be provided with a sketch of the alignment of Sunset and Murdock as developed by David Evans and Associates.

In response to Ms. Claus' questions, Mr. Fisher advised that there will be CC&Rs and will be similar to those of the Whispering Firs development.

Mr. Corrado moved that SUB 94-6 Burke Estates preliminary subdivision plat be approved based on the findings of fact and the staff report, which a change to condition No. 7 to state that trees in the footprint of a building on any lot may be removed. The motion was seconded by Mr. Hohnbaum.

Upon discussion of the motion, Ms. Claus expressed several concerns with regard to Lot 100 and how it will function prior to consideration of the final plat. She pointed by the time of final plat, extensive work has already been done and any changes should be required before the final plat stage.

Mr. Bechtold expressed agreement with Ms. Claus' concerns.

Mr. Hohnbaum inquired if a dead-end street that is over 660 feet in length? Ms. Claus commented that entire site is 823 feet. In response to Mr. Hohnbaum's question, Ms. Connell noted that TVFR had responded to the City's inquiry, and TVFR did not raise that concern in their initial referral. She noted that lack of access to Sunset creates a problem.

Upon call of the question, the motion lost with Ms. Stewart and Mr. Corrado voting yes, and Ms. Claus, Mr. Shannon and Mr. Hohnbaum voting no. Mr. Bechtold did not vote.

Ms. Connell suggested that ties final plat approval to development of an appropriate circulation plan, which should resolve Ms. Claus' concerns.

After discussions, Chairman Birchill suggested that an Mr. Corrado's motion be amended as follows:

1. Revise Condition No. 1 to ensure adequate emergency vehicle access.
2. Require that a conceptual circulation plan for tax lot be required prior to final plat approval.

Mr. Corrado agreed with the amendment to the motion, and Mr. Hohnbaum agreed to amend the second to the motion.

Upon call of the question, the motion to approve SUB 94-8 carried unanimously, subject to the following conditions:

CAROLE....PLEASE ASK ME ABOUT THE ABOVE....KATHY

Prior to submittal of a final plat:

1. Submit for approval by the City, USA, TVFRD and Washington County engineering construction drawings for sanitary sewer, storm water runoff, erosion control and grading, water service and fire protection, streets, street lighting and landscaping and pathways. Provide the City with bonding for 100% of the approved construction costs. Ensure adequate emergency vehicle access is approved by the TVFRD.
2. Revise the plat so that no lot is land-locked (Lot #6).
3. Provide a water well abandonment plan for the existing well.

4. Secure a demolition permit from the City for removal of the existing buildings.
5. Verify that no portion of Sunset Boulevard, right-of-way is on Lot #12.
6. Submit to the City a landscape corridor plan and include on the plat a 15 (15') foot landscape corridor easement for the Sunset Boulevard frontage. Denote landscape maintenance responsibilities in the CC&Rs for Lots 9 through 12.
7. Preserve all existing Douglas Fir trees except for those in a lot building footprint, or in utility easements and road rights-of-way. So note on the builders plot plan which trees are to be preserved.
8. Provide street names in accordance with City street naming standards.
9. Provide a 15-foot wide pedestrian access easement between Lots 10 and 11 or between Lots 11 and 12. Construct an 8-foot wide asphalt or concrete pathway to City standards.
10. Comply with the following City and County road improvements for Sunset Boulevard:
 - a. Provide 40 feet or right-of-way from centerline.
 - b. Provide half-street improvements to City standards.
 - c. Provide a one-foot non-access reserve strip adjoining Sunset Boulevard.
 - d. Obtain a Facility Permit from Washington County for improvements on Sunset Boulevard.
11. Install "No Parking" signs on the east side of Brooke Court and on the south side of the unnamed street. None parking restrictions in the subdivision's CC&Rs.
12. Submit subdivision CC&Rs to the City.
13. Provide a conceptual circulation plan for Tax Lot 100 with the final plat submittal.

This approval is valid for one year, at which time final plat shall be submitted to the City for Planning Commission review and approval.

B. SUB 94-8 Whistler Preliminary Subdivision Plat: a 103-

**lot single-family subdivision on the south side of
Sunset Boulevard:**

Chairman Birchill called for a staff report.

Ms. Connell reported that the applicant is proposing to build 103 single-family homes on a 26.9 acre parcel on the south side of Sunset Boulevard. She provided an extensive review of the Staff report dated November 29, 1994, a complete copy of which is contained in the Commission's minute book.

Ms. Connell pointed out that a calculation error had made when estimating the slope, which should be about 40 percent rather than 60 to 66.

For the record, Ms. Connell pointed out that subsequent to mailing of the Commission's packets, the following letters had been received:

1. Gerald Ouelette, who is concerned about the size of the lots and suggesting that the lots be larger to ease transition between urban and rural land uses.
2. Rosemary Rubsan, who is concerned about the disastrous environmental impact on the floodplain, which will be damaged by the construction and grading; the small lots backing up to her property; the incompatibility between children and their animals.
3. Barbara _____, who is concerned about the impact of the development on the wildlife, wetlands, and overall effect on the urban growth boundary. Ms. _____ also suggested that 7,000 square foot lots.
4. Steel Tek Industry, who requested that a sound barrier wall be required by the developer between the development and the Steel Tek plant.
5. Letter from Inkster Blvd., who is requesting that the Planning Commission require a sanitary sewer stub to the railroad, which could be extended to the Woodhaven development.

(Copies of the above correspondence are attached as part of these minutes.)

With regarding to street improvements, Ms. Connell pointed out that Condition No. 4, which requires the applicant to make half-street improvements needs to be revised since the

applicant does not own Tax Lot 505.

Ms. Connell commented that there is some discrepancy with regard to the exact locations of wetlands. She noted that a second opinion had been obtained by the application, and that information had been received just prior to the meeting. Ms. Connell remarked that a copy of the report from _____ had been placed on the table for review by the Commissioners. She pointed out that there are still conflicting opinions, and additional testing is needed.

Ms. Connell commented that the wetlands consultant is concerned about the southwest area of the property, which has been disturbed, and has suggested that additional testing be made in the spring. Ms. Connell noted that DSL could also make a determination of the wetlands.

In conclusion, Ms. Connell reviewed the conditions outlined in the Staff report, with revisions to the following conditions:

1. Condition 1 - Require wetland approval and delineation from DSL and the Corp of Engineers, and to require the applicant to obtain permits for all utilities.
2. Condition No. 9 - add the words "and a 15-foot easement."
3. Condition No. 2 - change to require access directly to Tax Lots 505 and 506.
4. Condition No. 12 - and the words "if required by the City".
5. Condition No. 12 - add subsection "i" to read: "Extend the sanitary sewer at the west end of Merion Court to the property line for future access to Woodhaven."

She recommended that SUB 94-8 be approved based upon the conditions outline in the Staff report with the foregoing revisions.

Chairman Birchill called for a 10-minute recess, after which he opened the public hearing for comments from proponents. He advised that it is unlikely that Items 3 C or D would be considered by the 11:00 p.m. deadline and encouraged those with an interest to remain.

John Godsey, Consulting Engineering Services, Inc., 15256 NW Greenbrier Parkway, Beaverton, addressed the Commission. Mr. Godsey pointed out that the address given is different from

that on the application since their office had recently moved. Mr. Godsey stated that would like to review the application and then answer any questions the Commissioners may have. Mr. Godsey commented that staff had done a very thorough job of review. He provided a sketch which provided a contrast of the wetland and floodplain areas as well as a proposed buffer area around the site. Mr. Godsey stated that the buffer will consist of existing trees, which may not be native or natural since some were planted and will provide a buffer to the site. Mr. Godsey pointed out that the City had formed their comprehensive plan about 15 years ago, then followed up with zoning, which placed the uses on the sites as discussed earlier. Mr. Godsey noted that the proposal being considered is for about one-third of that allowed by the Codes. He stated that the compatibility issues had been resolved by providing a comprehensive plan use of the site and by the zoning placed on the site for specified densities.

With regard to mitigating the impact between the development and the urban growth boundaries and the development outside of the UGB, Mr. Godsey commented that the City has set the stage and indicated that is to be expected for the site. Mr. Godsey indicated that the proposal has helped to mitigate those issue by reducing the use to one-third of the allowable use, and the applicant believes those mitigation issues as well as the buffering will provide the separation of use as discussed by Ms. Connell.

Mr. Godsey reviewed the sketch of the wetland and floodplain areas and pointed out that most of the trees in the area were planted as Christmas trees, and were allowed to grow; some of which have been removed, and others allowed to grown. He pointed out that the slopes on the property are 4 to 10 percent, but some areas adjacent to the corridor are greater; specifically lot No. 30, which has a slope or approximately 40 percent, or about 12 feet. Mr. Godsey commented that no additional grading will be necessary other than the removal of soil for a foundation. He noted that the drop in slope is typical for a daylight basement and does not feel that there will be gross impacts discussed earlier. With regard to access, Mr. Godsey commented that small lots with a cul-de-sac, the provisions which require 25 foot of frontage is not feasible; therefore the Code does not allow the density allowed by the underlying zone. He pointed out that there is a conflict with the frontage and what is provided on the cul-de-sac. Mr. Godsey suggested that Lot 30 be allowed and tied to access via lot 31. He stated that the development density, one-third of the allowable, addresses the impact on the site and with respect to the slope, the applicant does not feel that the buffer area will be affected nor will the trees in the area be affected by constructing a home with a

daylight basement on the sloped area.

In response to Ms. Claus' regarding Lot No. 28, which needed a 25-foot frontage, Mr. Godsey commented that a sketch had been provided which illustrated a 25-foot frontage on Lot 28; however, it is not part of the original application. He commented that in attempting to provide minimum lot frontages for Lots 27 and 28, will result in a strange looking sketch.

Mr. Godsey pointed out that by adjusting the lines between Lots 26 and 27 will not result in a 25-foot frontage of all of the lots in the area and there will be lines which are skewed for the remainder of the lots. He stated that he felt it would be better to address access for all lots rather than adjusting the lines. Mr. Godsey commented that the City's code talks about the definition of flag lots and minimizing frontage, but does not identify what the minimum frontage would be except in the zoning part, and it appears that something is missing from the Code. Mr. Godsey remarked that the proposal is to use a joint access for the two lots and the grading issue is not detrimental to the lot.

Mr. Godsey commented that discussions were held with Dr. Hill, Superintendent of the Sherwood School District, who felt that the general citizens have demonstrated their support for the school district by providing for additional schools and the students from the development can be accommodated.

Mr. Godsey stated that after receipt of Staff's report and conditions, he raised some questions which resulted in the revisions made earlier. With regard to the phasing plan, Mr. Godsey noted that the plan is being presented at the hearing as part of the exhibits. He pointed out that the proposal is for four phases, which are tied to how the utilities and access will be provided to the development and will allow two accesses from the beginning of development.

Regarding Tax Lot 505, which abuts Sunset Boulevard, Mr. Godsey commented that Staff recommended a lot line adjustment. He noted that the tax lot is not owned by the applicant, and the applicant has requested that Staff allow some flexibility. Mr. Godsey pointed out that the properties already have access via an easement. He indicated that the applicant will consider a lot line adjustment if the owner of Tax Lot 505 is agreeable, or if that is not possible, the right-of-way strip can be moved to abut the Steel Tex property line. Mr. Godsey distributed a revised sketch which demonstrated the various options of the landscaping of the 75-foot frontage.

Regarding the wetlands, Mr. Godsey commented that the wetlands evaluation prepared by the City was somewhat broad-brushed, and indicated areas where the City might have wetlands and placed the burden on the applicant to do the actual field delineations. He noted that the first delineation was done by the developer and the Resource Company. Mr. Godsey commented that staff review that report and requested additional information, which was provided through an independent wetland consultant. He stated that the consultant collaborated by the Resource Company, and staff again requested additional information, which has been provided by the independent wetland consultant. Mr. Godsey commented that Staff's suggestion that DSL is the determining body for the wetlands and for the permit activity required, so if the work done thus far is allowed and the DSL is the permit authority, then the applicant would agree to that. Mr. Godsey indicated that Wetlands Consultant Mr. Phil Scoles is available to answer any questions the Commissioners might have. Mr. Godsey confirmed that staff's indication that there are hydric soils on the site is correct; however, there are four classification on site, three of which are non-hydric as determined by the Consultant.

Mr. Godsey briefly reviewed the conditions and questions whether water looping. He commented that discussions with the City Engineer resulted in an agreement that the water looping would be reviewed at final design and a decision made at that time.

With regard to Condition No. 13, a, Mr. Godsey commented that the word "deeded" is redundant since the applicant is only securing an easement for permanent use and requested that the word "deeded" be removed from the Condition.

With respect to Steel Tek, Mr. Godsey commented that the noise levels had been measured at the boundaries and indicated that the noise levels are acceptable would should not create a problem for residential uses. He stated that the report indicates that buffering is not necessary for the lots adjacent to Steel Tek. Mr. Godsey offered to answer any questions the Commissioners might have. He pointed out that Mr. Howard Stein is also available to answer any questions regarding traffic impact.

Ms. Claus pointed out that the recent letter from Steel Tek also discusses a visual barrier. Mr. Godsey responded that the existing trees will provide a better visual barrier than will a six-foot fence.

Walter Hitchcock, 16990 SW Sunset Boulevard, Sherwood,

addressed the Commission. Mr. Hitchcock commented that Mr. Godsey had made a very complete review of the proposal, and he would like to point out that the zoning on the land is substantially beyond what is being proposed. Mr. Hitchcock commented that he is going to continue to live there and feels the development is very positive and he looks forward to a very nice subdivision. He noted that the alternatives under the zoning code are very difficult and not entirely compatible with the urban growth boundary to the degree of the current proposal. Mr. Hitchcock remarked that for the neighbors on the urban growth side, the proposal is as positive as it can get. Mr. Hitchcock addressed the issue of wetlands and the City's "wetlands inventory". He pointed out that the report was developed a number of years ago as the direct result of the City having approved a development on top of a wetland, which was graded over. He remarked that the City contracted with David Evans to develop a "flagging" study, not a wetland inventory of the City. Mr. Hitchcock stated that the purpose of the study was to look at areas within the City that might be a wetland and as a result a screening document was developed by the staff with the anticipation that the applicants would have the burden of proof of determining whether there was a wetland. He pointed out that the document had never received a formal, or informal, review by the Planning Commission, City Council or the Public. Mr. Hitchcock indicated that had the document been reviewed, there would be a very different title and verbiage. He pointed out that the developer have retained two wetland consultants, both of which have come to the same conclusion: it could be a wetland, but in fact it is not. Mr. Hitchcock commented that after a very heavy rain, a test hole was dug and they did not find that there was a wetlands. He requested that the applicant delay turning the information into the City until tonight since it had become very clear to him that the person who did the David Evans screening study is now in a position to say, "no, this is right", the study has fulfilled its purpose. Mr. Hitchcock commented that when someone without any basis says, "I don't care what they say, I'm certain there is something there", that's the time to not turn the information in until you have an impartial third party, which is what the Planning Commission is. He requested that the first sentence of Condition No. 1 be removed since the burden of proof in the comp plan has been met, and does not require that the DSL be called in on every project to determine whether there is a wetland, the Plan requirement has been fulfilled.

Regarding the 15-foot buffers on the urban growth boundary, Mr. Hitchcock commented that that specific requirement would be the first time the requirement has been applied within the

City. He stated that 15 feet is excessive and 10 feet would be more appropriate as well as allowing the home owner the full use of a back yard. Mr. Hitchcock stated that he felt it was a good plan and urged that the Commission approve the project with reasonable conditions.

Glen Warmbier, 140 Hall Street, Sherwood, addressed the Commission. Mr. Warmbier stated that when David Evans was retained to do a wetland study, he had raised the issue that David Evans should be drilling cores; however, the money was not available and that was not required. Mr. Warmbier stated that David Evans had identified what looked like wetlands and it was written up at that time that it was up to the applicant to hire people to identify, as well as drill cores, etc. He commented that the City still had to go to DSL for final determined, and he did not know where one would draw the line to determine how many studies are to be done to and how many people are to be brought in, it all gets costly. Mr. Warmbier remarked that at the time the study was done, there were no cores taken and it was a planning study to identify what the staff should look for.

John Drennan, 11660 SW Greenburg Road, Tigard, addressed the Commission. Mr. Drennan commented that he did not know whether he should speak for or against the proposal; he is for the concept of a subdivision on that piece of land versus high density apartments, and asked, "if you have sensitive floodplain, why put more people in the area?" He remarked that he felt the "i" must be dotted and the "t" crossed as far as the wetlands go. Mr. Drennan pointed out that some grading has been done on the site and asked where the grading had been done and whether a permit had been obtained. Ms. Connell responded that there had been some vegetation removed at the south-west corner of the parcel and noted that it has been pointed out that the location of the wetlands is not known and staff is unable to confirm that there has been a wetland violation. Mr. Drennan stated that the horse had been placed before the cart, in that there is a specific development, but there has been no specific, formal delineation of a wetlands. He remarked that on November 24, 1993, the Plan Zone Map amendment on the same piece of property when it was to be rezoned for a manufactured home park, and there are a few things in the plan: one an official environmental services who did a wetland study and they thought there was a wetland on the property and shows a significant amount of wetlands on the property as well as a channel, on which homes have been constructed. Mr. Drennan stated that the City's wetlands inventory does not correspond well with the development, but one can see that a lot of the City's wetland inventory has been covered. He remarked that

the Staff report for the same zone change request on January 11, 1994, stated that a formal delineation has not yet been made, but the applicant's report illustrates potential wetland, and justifies his statement that the horse has been put before the cart. Mr. Drennan suggested that the City find out if a formal delineation has been made and who makes the delineation. Ms. Connell confirmed that two had been made, however, would prefer not to drag the meeting out. In response to Chairman Birchill's question, Mr. Drennan stated that there is the study by David Evans and Fishman Environmental both of which identified a lot more wetland on the subdivision than what is proposed by the applicant. Chairman Birchill stated that the reports had been turned in and requested that Mr. Drennan clarify his point. Mr. Drennan stated that there are differences between the reports of the applicant and the consultants. Chairman Birchill stated that his point has been noted. Mr. Drennan commented that he had talked to people at the DSL and Fish and Wildlife, who all say a wetland delineation should be done first to see how a property can be developed; not the other way around, and the City does not have a formal delineation. He stated that he has an identical piece of property across the road, and has to make the same studies. Ms. Claus pointed out that Mr. Drennan's point is that the delineation has not been approved by DSL. Chairman Birchill responded that DSL approval is one of the conditions for approval of the proposal.

Mr. Drennan remarked that the minutes of the January Planning Commission also states that a formal delineation has not been submitted and will be required when the applicant submits a formal request for development. He pointed out that the Commission was not considering the Whistler development at the January meeting, and it seems like even the City says a formal delineation should be done and if the exact location of the wetlands is currently known fine; however, if you don't know, how can you approve something that may be wetlands if the City's wetlands inventory turns out to be valid, a lot of the subdivision will be undevelopable. Also, Ms. Connell pointed out that the applicant's request is to reduce the zoning in order to construct a 59-unit manufactured home park, however, he recalls that there were 119 unit mobile home park, but is now a 103 lot subdivision and appears to be so much difference of opinion. He urged that the proposal be tabled until additional clarifying information is received and the exact location of the wetlands has been determined. Mr. Drennan stated that he is for the use of a subdivision on the parcel.

David Bantz, Inkster Blvd. Corporation, 11535 SW Durham Road, Suite C1, Tigard, addressed the Commission. Mr. Bantz stated

that he is the development manager for Inkster Blvd. Corporation, the developer of the Woodhaven Site. Mr. Bantz commented that he is in agreement with the application, and feels it is a suitable site for a single-family subdivision, and is much more suitable than a multi-family development on the property. He remarked that the access to the site is not visible from the property and believes it would be a poor marketing decision to develop a multi-family development on the site, and its proximity to the UGB would lessen the desirability for multi-family. Mr. Bantz commented that he would like the conditions outlined in his letter added to the Staff's conditions for approval. He pointed out that sewer access would reduce the maintenance on the very deep sewer, approximately 19 feet, crossing Sunset Boulevard, which would have to be constructed for the Woodhaven project. He noted that the lowest area on the site is immediately adjacent to the railroad tracks and provides a more shallow sewer in the ground. Mr. Bantz stated that one of the conditions imposed on Woodhaven, would also be appropriate for the Whistler Development: "no trees will be removed until that phase is under construction". Regarding wetlands, Mr. Bantz stated that there have been changes in the wetlands definition, which impacted Woodhaven. He remarked that a wetlands delineation had been done in 1969 for the Steeplechase golf course (now Woodhaven) that discovered 24 acres of wetlands on the site and DSL had insisted that a new delineation be made because the old delineation was more than three years old. Mr. Bantz pointed out that the City is now under the new rules of 1987 and only 14 acres of wetlands are on the site. He noted that the standards for wetlands are now fewer than those of 1987.

Regarding the noise buffer, Mr. Bantz pointed out that a noise buffer was imposed on the Woodhaven lots across the railroad tracks, at the insistence of Steel Tek because their doors open to the west and the noise could be emitted towards those lots and there are not a lot of trees on the west side.

Mr. Bantz noted that there is a large number of trees on the east side of Steel Tek and those lots may not be affected the same as were Woodhaven's.

Phil Scoles, Consulting Soils Scientist, Post Office Box 3558, Portland, addressed the Commission. Mr. Scoles stated that he was in attendance to clarify any questions the Commission may have. He pointed out that the Commission is dealing with different levels of wetlands inventory, and the first was a cursory analysis, an identification of where there is a potential for a wetlands, and a resource company who was hired to do a field study and flag the wetland boundary and make a survey. Mr. Scoles pointed out that that

was what the resource company had done and he had been brought in to provide additional information and either concur or object. Mr. Scoles stated that he agrees with the report of the Resource Company, he has done additional investigation, which had been provided to the Commission tonight. He noted that he had data information from eight different locations, seven of which are non wetlands locations and the eighth point was an area previously identified as wetlands. Mr. Scoles commented that he spoke with representatives who did the first wetlands delineation, who had no documentation for some of the locations, but had described the central area as Douglas fir and blackberries within the swales. He pointed out that such an area would not be considered a wetland event if it had hydric soils, but without a hydro-critic community cannot qualify as a wetland. Mr. Scoles commented that the boundary shown as wetland is the most accurate that can be defined at this time. He remarked that the applicant has agreed with the City to have the delineation report and his information submitted reviewed by DSL and the Corp of Engineers for a final decision.

In response to Ms. Connell's question, Mr. Scoles stated that the area is mapped as having a wetland soil type, and did have an agricultural history. He remarked that during his work he had found evidence of drainage tile, which indicates the parcel had been drained and a tree farm had planted. Mr. Scoles stated that the trees on top were growing as well as those planted in the swales. He remarked that there is evidence that the parcel has been effectively drained and would not be considered jurisdictional wetlands. Mr. Scoles commented that waiting until March or April to again review the site that had been disturbed would have no benefit over giving DSL the available information since the current disturbance will force the consultant to review the site as if it has not been disturbed.

Jerald Ouelett, 17045 Brookman Road, Sherwood, addressed the Commission. Mr. Ouelette stated that he is on the border line of the urban growth boundary. He remarked that it is a good to put a subdivision on the parcel; rather than apartments. Mr. Ouelett indicated that he was not concerned with the buffer lines since there is a 25-foot setback and people would not have any back yard. Mr. Ouelette stated that he is concerned that his land will flood when construction for foundations begins. He noted that the water is deep and the horses will not go into the pasture when it rains. Mr. Ouelette commented that he has also seen water bubbling from the ground and does not understand why the earth was moved around since not too many trees were removed, only swamp grass. Mr. Ouelette identified his property on

the map and pointed out what he believed to be wetlands. He remarked that he has horses and would like to keep as much of his pasture as possible without it being flooded with water from the construction. Mr. Ouelette requested that the drainage of the water be clarified. He stated that the developer had advised that the problem would be resolved; however, it has not yet been addressed before the Commission.

There being no further proponent testimony, Chairman Birchill opened the public hear for comments from opponents.

Theresa Lockwood, 17495 SW Brookman, Sherwood, addressed the Commission. Ms. Lockwood stated that her property lines up with the proposal from Lots 41 to 58, and she is on 13.5 acres and the Commission is proposing lots sizes of 5,000 square feet. Ms. Lockwood commented that she attended the Georgetown Estates hearing and there was a proposal that the lots closer to the UGB were larger to be compatible, which set a precedent that should be continued with the Whistler development. As far as the buffer goes, Ms. Lockwood suggested that it be a common greenway, and the lot owner has the right to remove or limb the tree which will destroy the buffer. She pointed out that on the southwest corner, there are no trees growing because it is wet, and she is unable to get a tractor to the area until June or July and out of ten years, one year she was able to get a tractor int he area in May. Ms. Lockwood stated that the area is currently a lake, the land is so water saturated. She remarked that if the developer puts in a drainage system, her well water might be affected in the future, especially when the restrictions are lifted off of Parrett Mountain. Regarding the wetland delineations, Ms. Lockwood suggested that the consultants look across the fence where there is a swamp. She pointed out that reseeding the pasture has been unsuccessful because of the standing water. She invited anyone with an interest to visit the property/lake. Ms. Lockwood stated that she is does not mind the development, however, objects to the small size of the lots, which should be larger along the UGB and the Lots 50 through 58 are being built on wetlands. Ms. Lockwood advised that she has an aerial photo of the parcel which was taken in July 1990, which shows the area as brown, except for the wetland area.

There being no further testimony, Chairman Birchill opened the hearing for rebuttal from the applicant.

John Godsey, Consulting Engineering Services, Inc., 15256 NW Greenbrier Parkway, Beaverton, again addressed the Commission. Mr. Godsey stated that he was unable to detect a supporting statement in Mr. Drennan's testimony, he will

address only the comments received from opponents to the applications. He indicated that Mr. Scoles' comments adequately responded to Mr. Drennan's concerns. Mr. Godsey advised that the two concerns he heard was water and how it stands on the property and the issue of buffers. He directed Commission's attention to the map and commented that the applicant proposes to provide an inlet at the boundary of the swales and channel the water through the property and discharge the water through the stream corridor and will effectively address concerns of water backing up onto any property. Mr. Godsey remarked that Mr. Scoles had addressed what constitutes a wetland and pointed out that water in only one item which constitutes a wetland. Regarding the buffer, Mr. Godsey commented that the development will consist of only one-third of what is allowed on the parcel and the question of buffer should be the same as that being done at this time: provide a vegetative screen, one-third less the development density allowed. Hr commented that the buffer and mitigation are in fact mitigation the use because of the minimal use on the property. Regarding the bubbling water, Mr. Godsey commented that the existing drain tile could be causing the water to bubble. With regard to Ms. Lockwood's concern that her well will be affected, there is an aquifer from which she is drawing and the drainage channel illustrates that there should be no effect on Ms. Lockwood's well.

Phil Scoles, Scoles Associates, Inc., Post Office Box 3558, Portland, again addressed the Commission. Mr. Scoles stated that the bubbling water is related to the broken drainage tile, the heavy equipment basically caused the tile to unplug because the tile had been abandoned some time ago. He pointed out that the water is coming from the upper slopes and bubbling up because a new cut has been exposed. Mr. Scoles remarked that there is standing water on the site because of the disturbance of the hard pan created by the heavy equipment. He noted that one sample from the neighbors property indicated that there had been contained wetland vegetation but had a water table of only 12 inches, which is too deep and had soil conditions suggesting that the soil is not antirobic and did not quality as wetland. Mr. Scoles suggested that the Ms. Lockwood's pasture seed were not compatible with the area. Regarding the water table, Mr. Scoles indicated the standing water is due to the hard pan, is not percolating through the soil, and is not recharging a well, and whatever happens will not have an adverse effect on the well. Mr. Scoles offered to answer any questions the Commission members may have.

Walter Hitchcock, 16990 SW Sunset Boulevard, Sherwood, again

addressed the Commission. Mr. Hitchcock stated that he had lived on the site for 17 years, has planted all of the Christmas trees there. He pointed out that there are three drain tile systems on the site that have been for a long time; and water bubbles up in the area indicated because the tiles have been broken. Mr. Hitchcock remarked that the trees on the entire back of the site was planted in trees in the early 1980s, the trees lived for a number of years before they died and they died because the grasses were not removed, and there was a needle disease that attached the trees. He stated that the drying trees do not indicate a wetland, only that they were not properly cared for. Mr. Hitchcock pointed out that over the years, the trees had slowed the drainage of the water; however, he did not send a cat into the trees for the purpose of removing them, and there were pockets of native vegetation remaining. He remarked that it is highly unlikely that any wetlands were destroyed. Mr. Hitchcock remarked that Mr. Drennan possible misread and misinterpreted the wetlands map.

Mr. Drennan suggested that the City retain an arbitrator to ascertain the existence of a wetland.

There being no further testimony, Chairman Birchill closed the public hearing and opened the meeting for comments, questions and discussions among the Commissioners. He pointed out that the hearing may be reopened at any time at the request of one of the Commissioners.

Ms. Stewart commented that, unfortunately, Cedar Creek does not show on the map, since it would answer the questions of where the wetlands are. She stated that she is concerned about David Evans' study having been done without enough money to finish the job and what the Commission is reviewing as gospel may or may not be. Ms. Stewart remarked that if this is the type of studies the Commission uses, she is really concerned. Chairman Birchill agreed there is a great deal of confusion over the study by David Evans. He again explained the intent of that the study was intended to be a guide and that two studies had been received beyond the David Evans report.

Commissioner Bechtold pointed out that the study by David Evans is very clear and it explains how the discrepancies will be resolved. Ms. Claus stated that the problem is that Ms. Cunningham is contending that her assessment is correct, which is incorrect since the document is to be used only as a guide and is not an inventory. Ms. Claus suggested that if the Commission consistently requires that Ms. Cunningham's comments may not be relevant since she is using dated

information to make a determination. Ms. Connell responded that the document is only a guideline and if a dispute requires clarification, additional information is requested.

After extensive discussion on the wetland reports, the Commissioners concurred that DSL is the final authority for the decision of wetland delineations, and the conditions so state; further that DSL should be invited to investigate the site.

Regarding a buffer zone, Mr. Bechtold pointed out that the code specifies minimum requirements; however, there are no maximum and if a lot is bigger around cul-de-sacs, the Commission should consider that inconsistency. Ms. Connell noted that detailed specifications have not been submitted, but will clarify several points

In response to Mr. Corrado's question, Ms. Connell advised that there are requirements for on-site water treatment and retention and are part of the condition of approval. She noted that the details were not submitted with the application but have been discussed with the applicant and will be submitted with the construction drawings.

Ms. Stewart suggested that fencing be required along the UGB to prevent children from crossing into the urban area. Mr. Shannon suggested that fencing between contrasting uses, i.e., industrial vs. residential, would be more appropriate.

Ms. Claus inquired whether a stub would be required at the UGB as had been done for other projects? Ms. Connell responded that a stub at the UGB had not been considered for this specific project. Mr. Fisher commented that that requirement may not be enforceable.

Howard Stein, 13340 SW Hansen Road, Beaverton, Oregon, addressed the Commission. Mr. Stein stated that he is the traffic consultant on the project and his experience has been that any action that has the appearance of encouraging extension of the boundary is in violation of Oregon's Transportation Law. Chairman Birchill pointed out that a street stub had not been required, only that the water line be stubbed.

Ms. Claus questioned the limitation on use of back yard easement and asked if the drainage point would affect only one or two lots. Ms. Connell pointed out that if back yards contain utilities lines, it may be necessary to disturb patios and back yard landscaping in order to service a

utility, and the preference is to have utilities in the street for ease of maintenance. Mr. Fisher pointed out that the slope of some of the lots and the depth at which some of the sewer lines would have to be placed in the street necessitated use of easements in the back yards.

Ms. Stewart urged that, in addition to the vegetation barrier, an adequate and effective noise barrier be required between Steel Tek and the lots which abut the Steel Tek plant. In response to chairman Birchill's question, Mr. Hitchcock commented that Steel Tek generally works during the day hours, and on occasion will work into the evenings and sometimes there will be a night shift; however, when those hours are worked, the doors are not open. He stated that Steel Tek is also considering a ring of warehouses around the plant, which will reduce noise.

Ms. Claus stated that something should be done about the local wetlands inventory. Ms. Connell explained that conflicts regarding wetlands are normal with many jurisdictions.

Mr. Hohnbaum expressed concern with the limited number of accesses for the 103 single-family homes, and questioned approval of a private street within a development with public streets. He stated that problems have arisen with the necessity of providing services for private streets that do not exist with service of public streets. Mr. Hohnbaum suggested that staff check the franchise agreements with the utility companies when dealing with private streets.

Mr. Hohnbaum commented that he thought a precedence had been set where in a development adjacent to the UGB are required to have larger lots. Ms. Connell concurred that the precedent had been set, but not strictly enforced. Ms. Connell pointed out that the condition had been placed on a PUD, but the City Council did not concur with the requirement.

Ms. Connell reviewed the suggested revisions to the conditions for approval, after which Mr. Corrado moved that based on findings of fact, Staff report, given the additional changes and amendments offered by staff, SUB 94-8 be approved subject to the following conditions:

Prior to submittal of the final plat for Commission review:

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. Obtain wetland delineation approval from the Division of State Lands and wetland delineation approval from the Division of State Lands and the Corps of Engineers, and necessary permits for utility extensions in the Cedar Creek floodplain or wetlands.

2. Complete a legal lot line adjustment for Tax Lots 505 and 506 so that they are no longer land-locked and have direct access to the proposed public street intersecting with Sunset Boulevard. If a lot line adjustment is not possible, modify the entry road to provide direct access to those tax lots, as approved by the City.
3. Minimize the grading on Lot 30 to protect the existing trees in the proposed buffer, and provide a joint driveway access and maintenance agreement between Lot 30 and Lot 31.
4. Dedicate 10 feet to Sunset Boulevard right-of-way, along the site's Sunset Boulevard frontage. Provide a half-street improvement to City specifications.
5. Verify adequate sight distances 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. Obtain a Facility Permit for the roadway improvements.
6. Provide for adequate access and maintenance guarantees for the private roadway serving Lots 7 through 12. Widen the private road to provide twenty-eight (28') feet of paving and a sidewalk on one side.
7. Provide the City with a water well abandonment plan.
8. Minimize the number of rear yard utility easements.
9. Construct an 8-foot wide asphalt or concrete pedestrian pathway from the public street to the wetland boundary in a fifteen (15') foot easement.
10. 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&Rs.

11. Ensure that all lots are 5,000 square feet in size and have a 50-foot width at the building line.
12. Provide engineered construction drawings for all public and private utility improvements including sanitary and storm sewer, water, streets, pathways, easements, erosion control, grading, street lighting, street signage, and fire hydrants in compliance with City, TVFRD, Washington County and USA. Specifically for water, loop a water line from the end of Merion Court back to Whistler Court, if determined necessary by the City. For purposes of storm water:
 - a. 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.
 - b. A 25 foot undisturbed corridor shall be planted adjacent to the sensitive area. The undisturbed corridor shall not be a part of a buildable lot. The water quality facility shall not be placed in the undisturbed corridor unless the corridor is widened to compensate for the intrusion.
 - c. Each lot within the subdivision should have a separate connection to public storm and sanitary sewer. The private connection between the building and the public main should not be placed on an adjacent lot.
 - d. Applicant's engineer should 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.
 - e. Water quality facilities are viable in the 100-year floodplain. The type of facility proposed should be closely scrutinized relating to its impact to the floodplain.
 - f. Appropriate state and federal permits should be "in-hand" before issuing construction permits.
 - g. Detailed grading and erosion control plans should be part of the site development application.

Plans should reflect the comments in the February 1994 edition of the Erosion Control Handbook.

- h. Provide on-site storm water detention in compliance with City standards.
 - i. Extend the sanitary sewer at the west end of Merion Court to the property line for future access to Woodhaven.
13. The emergency access through Steel Tek must meet the following specifications:
- a. The access must be by a recorded easement.
 - b. The access way must be a minimum of 20 feet, all weather surface capable of supporting a gross vehicle weight of 50,000 pounds and a 12,500 pound wheel load.
 - c. Signage shall be posted prohibiting parking within the access way.
 - d. If the access is ever locked, it must be supplied with a "Knox" padlock to which the TVFRD has a master key.
14. Locate fire hydrants as required by the TVFRD.
15. Determine street tree types in compliance with City's street tree list. Provide street names in compliance with City naming standards.
16. Comply with the requirements of the water payback agreement between Steel Tek and the City.

This approval is valid for one year, at which time final plat shall be submitted to the City for Planning Commission review and approval.

The motion was seconded by Ms. Stewart and carried unanimously.

Due to the lateness of the hour, Chairman Birchill advised that Agenda Items 3 C, D and Item 4 will be tabled until December 20, 1994.

Mr. Hohnbaum moved, seconded by Mr. Bechtold, that Agenda Items 3 C (PUD 94-1 Asterbook) and PA 94-8 (Code Amendments) be tabled until the December 20, 1994 meeting. The motion

carried unanimously.

4. **Director's Report:**

Mr. Bechtold inquired whether Pacific Lumber intends to comply with the Commission's request to rebuild their facade according to Commission's directive? Ms. Connell stated that the owner had recently inquired as to whether there was any alternative.

In response to Mr. Bechtold's question, Ms. Connell replied that Dr. Hill has been verbally requested to make a presentation to the Commission; however, a date has not been selected.

5. **Adjournment:**

There being no further items before the Commission, the meeting adjourned at approximately 12:30 a.m.

Respectfully submitted,
Teresa Minor, Secretary