

City of Sherwood, Oregon
Planning Commission Meeting

August 3, 1993

1. **Call to Order/Roll Call.** Chairman Birchill called the meeting to order at 7:30 p.m. Commission members present were: Chairman Eugene Birchill, Marty Ruehl, Chris Corrado, Marge Stewart, Glen Warmbier, and Rick Hohnbaum. Planning Director Carole Connell and secretary Kathy Cary were also present.

2. **Minutes of previous meetings.**

Minutes of July 20, 1993 Meeting: Ms. Stewart advised that she had no corrections, but did wish to remark about the easement in Cedar Creek Estates across the floodplain to the land-locked parcel. She noted that the Planning Commission had extended the access easement across the property, but that it should also provide for water.

Mr. Hohnbaum moved, seconded by Ms. Stewart, that the minutes be approved as presented. The motion carried unanimously.

3. **SUB 93-2 Cinnamon Hills (formerly Sherwood Heights) Final Plat for Phase 1, a 43-lot single-family subdivision on Sunset Boulevard.**

Chairman Birchill called for a Staff report.

Ms. Connell reported that the Planning Commission is reviewing the final plat for Phase 1 of the development formerly known as Sherwood Heights, a 43-lot single-family subdivision with a name change to Cinnamon Hills. Ms. Connell pointed out that at the April 20th meeting, the Commission approved the preliminary plat with the conditions stated on the Decision Notice, a copy of which was included in the Commission's packets. Ms. Connell commented that the first of the two planned phases will have access to Sunset Boulevard, and the later phase will have access via Pine Street and Madrona Lane.

Ms. Connell stated that a public hearing is not required for final plat approval and directed the Commission's attention to the conditions contained in the Staff report dated July 26, 1993. Ms. Connell noted that all private utilities have been notified of the subdivision, there are no floodplains and no private streets in the development, and the only required dedications are for road right-of-way and utility easements.

Ms. Connell remarked that the development complies with the zoning of the district and all lots meet or exceed the 5,000 square foot minimum. Ms. Connell noted that the required 20-foot dedication to Sunset is illustrated on the plat.

Ms. Connell pointed out that the applicant provided a traffic report and analysis to Washington County, however, Washington County has not yet completed their analysis. She noted that the required reports had been submitted to Washington County approximately two months ago. Ms. Connell pointed out that the traffic analysis prepared in May 1993 is included with the Staff Report. Ms. Connell noted that lack of response from the County makes it difficult to determine what might be required from the County versus proceeding with the plat approval. She commented that the items could be dealt with among the staff, engineer and applicant when the response is received from Washington County. Ms. Connell requested that the Commissioners review the available information and proceed with review of the report and address the lack of response from Washington County later in the meeting.

Ms. Connell reported that a one (1) foot wide non-access reserve strip has been included on the tract along Sunset Boulevard and should also be provided behind lots Nos. 27 through 30.

Ms. Connell stated that, as a result of statements made by surrounding neighbors, the applicant did a more in-depth sight distance analysis and determined that there is inadequate sight distance from the new street entering onto Sunset looking to the east. She noted that the sight distance is deficient by about 35 feet and the traffic engineer recommends lowering the crest of the vertical curve on Sunset to the west of Pine Street by approximately one and one-half (1-1/2) feet. Ms. Connell commented that the County has not confirmed the findings, this is a follow-up of the applicant's traffic engineer. She suggested that the reduction of the curve be made a condition of approval.

Ms. Connell noted that the remainder of the County's concerns are related to further off site improvements this particular project might necessitate and further degradation of the streets at intersections in the overall neighborhood. She noted that the applicant might be required to make other improvements which will not impact the plat and can be dealt with at a later date.

Ms. Connell directed the Commission's attention to the conditions in the Staff report and noted that approval should be subject to completion of Washington County's analysis and compliance with their requirements.

Ms. Connell reported that the applicant has submitted a separate landscape plan for the Sunset Boulevard visual corridor adjoining Lots 27 through 30, which includes an arborvitae hedge, street trees, and ground cover; however, she recommended that the trees be spaced closer together in accordance with the City's recommended spacing. Ms. Connell also recommended that the corridor be extended along Lots 1 and 19 in order to provide more privacy for those lots.

Ms. Connell stated that there is a small parcel owned by PGE within the plat, and the condition that the applicant purchase the parcel should be continued as a condition of this approval.

Ms. Connell noted that the applicant had previously renamed streets in the development in accordance with the City's street naming criteria. She pointed out that the applicant changed the name of the subdivision to Cinnamon Hills since Washington County would not permit additional developments using the word "Sherwood". Therefore, she recommended that the street named Sherwood Heights Place be renamed Cinnamon Hills Place. Ms. Connell noted there is a requirement for a pedestrian easement from Orchard Heights Place to Pine Street and a utility easement for adjoining properties, which will be covered during review of the second phase of the development.

In conclusion, Ms. Connell recommended that SUB 93-2 final plat be approved subject to the conditions outlined in the Staff report dated July 26, 1993.

Chairman Birchill opened the hearing for comments from proponents.

Bill Peterson, Peterson Engineering, 1155 - 13th Street, SE, Salem, addressed the Commission. Mr. Peterson indicated that Mr. Burghardt was also present and noted that Ms. Connell had done a good job in presenting the details and conditions of the Staff report. He reminded the Commission that prior to the hearing on the subdivision, the applicant had been told they would have to work with Washington County to resolve the access issue. Mr. Peterson noted that Washington County had issued a letter stating that access approval from Washington County would be a condition of approval. He noted that the applicant had worked with Washington County for two to three

weeks prior to the hearing, but the County has not yet completed a review of the project. Mr. Peterson commented that after the conditions were placed on the subdivision, the applicant took another look at the traffic safety of the area and commissioned a licensed traffic engineer who has prepared a report which has also been submitted to Washington County.

Mr. Peterson indicated that the applicant's intent is to make the area safe for persons entering or exiting the subdivision. He stated that he is concerned about the time it is taking to get a response from Washington County and noted that the applicant is not requesting they be relieved of the responsibility to lower the road, which will cost approximately \$50,000, and pointed out that the road should be lowered whether or not the subdivision goes in since it is not safe. Mr. Peterson requested that Item 2 of the conditions be deleted from the report since the applicant is aware they must comply with all requirements of all agencies listed in Condition No. 1, and he feels it is an extra step, in that the condition states "compliance with Washington County analysis of the Report" and he is not certain deleting the condition will change anything. The applicant prefers the condition not be included since they will still be required to comply with Washington County's requirements. Mr. Peterson felt deleting Condition 2 would serve notice to Washington County that they need to be more responsive. He noted that the examiner assigned to the analysis is not available, is on vacation and will not be available for another week. Mr. Peterson commented that the applicant agrees with and has met all conditions and would like to move along with construction of the development.

Mr. Ruehl asked if Tract A and B noted on the original preliminary plat, coming from Cinnamon Hills Place, are detention ponds? Mr. Peterson responded that when the applicant met with Unified Sewerage Agency, that was the applicant's goal. Since then, however, USA is not recommending storm water retention, they are recommending treatment of the water and diverting the flow around the subdivision to the west. He stated that as soon as the applicant gets Washington County's approval of the plan and determines the actual visual clearance triangle needed for landscaping, the applicant will take those two tracts and make them part of the two adjoining lots, which will not be maintained by the City, and will just become part of the two lots.

Mr. Ruehl inquired as to what is the solution to prevent water from flowing into the adjoining subdivision? Mr. Peterson responded that the water will be diverted around the subdivision and the applicant will put in deep storm drain

pipe which will be turned at acceptable areas until it reaches the intersection of Sunset and the existing storm water system which needs to be improved.

Mr. Ruehl questioned if there was any baffling needed to slow down the pressure. Mr. Peterson responded that the applicant will implement steps to treat water, will create a baffled step-down pipe system, then go to a double pipe system, which goes immediately from that location. Mr. Peterson noted that the applicant's plan will resolve some major storm water problems in the area.

There being no further proponent or opponent testimony, Chairman Birchill opened the meeting for comments and questions among the Commissioners.

Mr. Ruehl asked if Ms. Connell had any comments about removing Condition No. 2 versus leaving the condition as is.

Ms. Connell responded that the applicant is correct in that he can't do any construction without County compliance, but that the condition is included as a means of assuring that Staff does not overlook a critical issue. Chairman Birchill agreed that the redundancy is not critical. Mr. Burghardt commented that if the County takes another two months to complete their analysis, the construction season will be over. Ms. Connell noted that she is aware of the slow response with Washington County and will follow up with and attempt to obtain the necessary report. She stated that if Washington County determines there is a significant issue, Staff can handle any changes requested by Washington County during Phase 2.

Ms. Stewart noted that the applicant has provided a traffic analysis. Ms. Connell commented that the traffic analysis report provided by the proponents is very favorable, except for sight distance, and noted that she did not expect any drastic changes.

Dale Burghardt, Post Office Box 20458, Salem, addressed the Commission. He inquired, "if I have a positive response tonight, do I assume I can draw final plans for Sunset Boulevard and submit it to Washington County for their approval? This is putting the horse before the cart. I am out of time and need a design to put in front of them." Ms. Connell responded that there could be something the Commission needs to know of and City is not willing to hurry up an approval without all the traffic issues being considered. Ms. Stewart suggested that Ms. Connell attempt to expedite Washington County's response.

Mr. Corrado inquired whether including Item 2 in the condition will have an effect on Mr. Burghardt's willingness to proceed. Mr. Burghardt indicated it would have no effect.

Mr. Corrado pointed out that if Washington County is going to find something wrong, they will find it wrong. He suggested that perhaps if Mr. Burghardt proceeded with providing plans, Washington County will be under more pressure to respond. Mr. Burghardt conceded that the effort is to send a message to Washington County from City of Sherwood that Washington County needs to be more responsive.

Mr. Ruehl moved, seconded by Mr. Corrado, that based on the findings of fact, SUB 93-2, Phase I of Cinnamon Hills, final plat be approved based on the following conditions:

1. Engineered construction drawings in compliance with City, TVFRD, Washington County, and USA requirements for streets, sanitary sewer, stormwater runoff, erosion control, water service and fire protection, street lighting including illumination on Sunset Boulevard, signage, visual landscape corridor and street tree landscaping, shall be submitted and approved in conjunction with a subdivision compliance and maintenance agreement, and bonding for 100% of the public improvement costs.
2. Compliance with Washington County traffic safety requirements as per their analysis of the Access Report.
3. Provide a one (1) foot non-access reserve strip adjoining Sunset Boulevard in the rear of Lots 27, 28, 29, and 30.
4. The crest vertical curve located on Sunset Boulevard, west of Pine Street, shall be cut approximately one and one-half feet (1.5) feet to provide adequate site distance while exiting Cinnamon Hills Place.
5. Provide additional street trees to meet the City spacing standard of 35 to 50 feet. Extend the visual landscape corridor along the south side yards of Lots 1 and 19.
6. Complete the purchase of Tax Lot 900 prior to final plat recording.
7. All site fill shall be engineered to City specifications.

The motion carried unanimously. Mr. Corrado encouraged Ms. Connell to expedite response from Washington County, if possible.

4. **Public Hearings:**

Chairman Birchill read the hearing disclosure statement and requested that Commission members advise on any conflict of interest or ex-parte contact.

A. PUD 92-1 Sherwood View Estates Preliminary Development Plan and Preliminary Plat for a 76-lot single family development on Murdock Road.

Chairman Birchill determined there were no conflicts of interest or ex-parte contact and called for a Staff report.

Ms. Connell distributed an updated drawing which identified the floodplains and location of the ponds in relation to the new lot design. She also distributed a FAX letter dated August 3, 1993, from Washington County regarding Murdock Road.

Ms. Connell noted that the Commission packets contained the original Staff report dated February 1992, consisting of 25 pages of in-depth analysis of the project and the facilities encompassed in the plan. Ms. Connell indicated that she would not review the previous plan at this time. She noted that the Commission packets also contain the original report from the Division of State Lands, City Engineer, Clackamas County, Washington County, the School District and the Fire District, all of which did not receive a new notice of the development since the location of the lots and the layout are similar to the one previously submitted. She noted that their original concerns and comments are in the supplemental Staff report.

Ms. Connell commented that the supplemental report is an attempt to get to the issues without going through the entire Staff report and includes concerns previously expressed as compared with the new design. Ms. Connell noted that also included with the report is a letter from LCDC advising that the agency felt the review and conditions attached to the project in 1992 were, in some cases, too restrictive or too much of a burden on the applicant.

Ms. Connell reported that a notice had been sent to U.S. Fish and Wildlife, but a response has not been received. She then summarized the main points in the Staff Report dated July 26, 1993. Ms. Connell pointed out that the property is zoned

very low density residential, which permits one dwelling unit per acre. She noted the zoning will allow two units per acre if the project is presented as a planned unit development, and all floodplains, wetlands and all natural resources are dedicated to the City or remain as common open space. Ms. Connell noted that the applicant is proposing two dwelling units per acre through a planned unit development. She noted that the original development had 68 lots with 13% open space; the revised version has 76 slightly smaller lots, which have been shifted slightly east, with 16% open space dedicated to the public. Ms. Connell pointed out that the dimensions are not shown on the plans, but the minimum lot size is 10,000 square feet and should be verified on the Final Plan.

Ms. Connell noted, for the new Commission members and surrounding neighbors, that a great deal of time had been spent discussing what a PUD is, when it is appropriate and how it is reviewed. Ms. Connell noted that the two dwelling units per acre provides incentive for development of public facilities, which may not be economically feasible for a project density of one dwelling unit per acre. She pointed out that the development does not provide diverse, innovative living environments, but does encourage efficient use of land and preservation of natural resources. Ms. Connell stated that the development will contain single-family dwellings and there will be no apartments, cluster housing, commercial or industrial areas, and is, therefore, not a typical PUD. She noted that the applicant will reserve a extensive amount of valuable landscape and terrain since he is dedicating 16% of the parcel as open space.

Ms. Connell stated that the site is constrained by prior partitioning by the County, thereby limiting and isolating access to the parcel, urban growth boundaries, terrain, natural ponds and extensive natural resources. She commented that considering all aspects, the parcel is a PUD.

Ms. Connell noted that in a PUD many developers request exceptions to the standards of the underlying zones; i.e., smaller lots or narrow streets, different kinds of storm drainage. She noted that the original proposal requested several variations; however in the current version, no variations to the standards have been requested. The applicant proposed a split access at Murdock which tapers to a standard width street, allowing emergency vehicle alternatives at the entry. Ms. Connell noted that there is a looped interior street system at the entry, which eliminated previously proposed long cul-de-sacs. Ms. Connell directed the Commission's attention to correspondence from Washington

County outlining problems on Murdock, of which the applicant is aware. Of concern are the sight distances both north and south, and the future Sunset Boulevard and Murdock Road intersection. She noted that Staff has requested that intersection changes to Murdock be made a high priority. Ms. Connell also noted that another concern of the County is the need for a full traffic report. She noted that there will be approximately 650 cars in and out of the complex. She stated that Washington County was agreeable to approval with the condition that all of their concerns be resolved prior to final construction drawings. Ms. Connell noted that Murdock Road is the most serious issue of this review.

Ms. Connell reported that USA had particular recommendations regarding storm water run off last year and those same recommendations in their letter of April 6, 1992, apply to the re-submittal.

Ms. Connell noted that the Fire Department objected to the 2100-foot cul-de-sac, which has been deleted from the proposal, and the single access which has been resolved with a split entry.

With regard to water service, Ms. Connell noted that there were some corrections to the Staff report. She noted the water is coming from Sunset, not Murdock. She pointed out that the previous submittal required the water be moved through the wetlands, which would necessitate a permit from the State Division of Lands. Ms. Connell indicated that the water is now looped in the project itself and the previous looping requirements no longer apply. Ms. Connell noted that there are no planned parks in the area and the applicant is eligible for Parks SDC credits due to dedication of the floodplain. She suggested that a trail be constructed between and to the rear of Lots 65 and 66.

Ms. Connell noted that another major issue is the location of the building lots adjoining the natural area and ponds, lots 66 through 76. In order to maintain the integrity of the natural area, Staff still recommends that private ownership not exceed the ridge of the downward slope on lots 66 through 76.

In conclusion, Ms. Connell recommended that PUD 92-1 Revised be approved subject to the conditions outlined in the Staff report dated July 26, 1993, with the following amendments:

1. Item 1 - delete the second sentence which requires proof of a wetland fill permit.

2. Condition No. 3 change the words "traffic impact" in the first sentence to "traffic access" report. Add "submit plans, obtain engineering approval, obtain a facility permit and provide financial assurances for all Murdock Road improvements deemed necessary by the County" immediately before the last sentence.
3. Condition No. 5 add Tax Lot 2100 to the condition.
4. Condition 6, item b, delete "including looping back to Murdock Road, and substitute "including a 25 horsepower pump to be installed beside the reservoir.
5. Condition 6, item f add: In accordance with their letter dated April 6, 1992, and the City Storm Water Management Master Plan.
6. Condition 5, add new item g: A pedestrian trail be constructed in the open space between Lots 65 and 66.

Chairman Birchill opened the public hearing for comments from proponents.

Jerry Reeves, J. C. Reeves Corporation, 4850 SW Scholls Ferry Road, No. 302, Portland, addressed the Commission. Mr. Reeves stated that he submitted the proposed project more than one year ago and has worked with staff and different agencies to resolve all questions. He stated that it is important to remember that this project as now designed is a product of compromise, and it is hoped that the project is close to where it needs to be. Mr. Reeves pointed out a couple of differences of opinion: one is the location of the western-most lots. He feels the objective standards have been met by keeping back 25 feet from the wetlands. Mr. Reeves stated that he had heard that City Manager Jim Rapp wants the lots moved farther up the hill, and he doesn't know where the clear and objective standards are for this requirement. He stated that the lots have been shifted, but the ridge goes away as one moves to the south and there is no longer a defined ridge. "We would like to hold the lots where we have them laid out."

Mr. Reeves stated the other major issue is the intersection of Sunset to Murdock Road, and as an engineer, he has looked at the intersection and does not believe it is economically feasible to build the road there. He indicated he did not believe the road would ever be built. Mr. Reeves noted that City Engineer David Evans has been studying the project over a year. He noted that projects are still being approved (Cinnamon Hills), which have an impact on that intersection,

yet there are still no answers. Mr. Reeves noted that most of the traffic from this development will travel north rather than towards Murdock and Sunset.

Jim Fox, 24348 SW Baker Road, Sherwood, addressed the Commission. Mr. Fox asked where the sewer is coming from and where it will end, and is wondering if there is water and/or sewer availability to adjoining lots outside the urban growth boundary. Ms. Connell described the route of the public services, and asked Mr. Fox if he wished the facilities extended to his property. Mr. Fox responded that eventually he would like it extended since he has 106 acres adjoining the development upon which he has contracts and will eventually sell. He stated he eventually would like the services. Ms. Connell pointed out that the area is outside the urban growth boundary and that services are not planned to go beyond the boundary. Mr. Fox indicated that it was his belief that he had a right to request that the services be brought to his property line. He asked that his request be considered with the proposal. Mr. Fox stated that, in his opinion, the City is restraining the development of the ridge lots for the scenery benefit of the residents on Baker Road. He suggested that the lots be developed as they are with backyard restrictions for fences, or a conservation easement. He would like to see sewer and water provided for by a public easement. Mr. Fox asked if there had been any impact statements required for people downstream since his property could become a big lake. Ms. Connell responded that the storm water will be controlled, before the water flows south.

There being no further comments from proponents, Chairman Birchill opened the hearing for comments from opponents.

David Crawford, 23959 SW Baker Road, Sherwood, addressed the Commission. Mr. Baker stated that he is concerned with the traffic and speed on Baker Road, since many drivers consider the road to be a freeway. He noted that improvements on the road should have been done when Whispering Firs was built.

David Green, 24042 SW Baker Road, Sherwood, addressed the Commission. Mr. Green stated that he owns 7.5 acres abutting the proposed development. He stated his family is upset since they should have been notified of this development since ground zero, yet did not get a notice of this re-submittal. He stated he does not know why he had not received notice, but that he had talked to Ms. Connell. Mr. Green indicated he heard in the presentation that anyone could request an extension or postponement of this hearing, and would like to do that to get copies of the Staff report. He noted that he had not seen the proposal until the

hearing. Mr. Green pointed out that this property was originally zoned very low density residential -- one house per acre. He noted that all the surrounding properties exceeds that requirement substantially. Mr. Green conceded that he is in Clackamas County and realized that with a PUD the applicant can increase the density to two per acre; however, it is unknown how many acres are being developed and how much is being given to the City. He noted that the Codes state that if the applicant gives land to the City, the applicant can increase the dwellings to two per acre; if there is no land dedicated, the applicant could only do 38 houses on the entire 38 acres. Mr. Green inquired as to how many acres are being given to the City, and Mr. Reeves responded there are about seven. Mr. Green quoted from Chapter 8, page 17 of the Code, which states density transfers may be authorized to other portions of the site in exchange for a dedication. He noted that the code does not specify the City has, will or shall grant density transfers; it states it may. He stated that he did not believe this development is the proper type for the property because of the density and is not consistent with the size of properties in the area. He urged that there be only 45 houses on the 38 acres.

Chairman Birchill inquired if Mr. Green's request for an extension has to be date specific. Ms. Connell responded that a motion to extend should include a date to which the hearing has been extended. Ms. Connell also pointed out that a Staff report, which was available one week prior to the hearing, was available for review, and for the record, a copy of the notice had been given to Mr. Green approximately one week prior to the hearing. Mr. Green responded that he had not been given a copy of the proposal nor was he given the Staff's Report.

Jeff Beasley, 24050 SW Baker Road, Sherwood, addressed the Commission. Mr. Beasley indicated that he owns property adjacent to the proposed development. He noted that he is not opposed to the development, but has been trying to work with the City for more than 10 years to educate staff to the importance of the Tonquin Significant Geologic Area (TSGA), which is not just a wetland. Mr. Beasley commented that the property has been designated by Washington County as one of the eight most important natural geological areas in Washington County and it is the highest elevation at the top of the ridge of the scabland area which is the most important geological formation. He stated that the Planning Commission's responsibility is to ensure that the area is preserved, not just the wetlands. He urged that the Commission include a conservation easement to protect the

ridge and ensure that the integrity of the area not be destroyed. Mr. Beasley stated that he has preserved the wetland on his property and has invited any one who wishes to visit the area.

Ms. Carol Green, 24052 SW Baker Road, Sherwood, addressed the Commission. Ms. Green stated that her property has the most continuous boundary with the Reeves property and is most impacted. She commented that she had known for several years that the adjacent property had always been low density zoning, and the people who put that zoning into effect did so for a very good reason. They did it for all of the reasons you are dealing with now, it is a very fragile ecological system, the terrain is such that portions are unbuildable, and they did so because of the access onto Murdock. Ms. Green then read a letter she had prepared and requested that it be read into the record. A copy of the document is attached as part of these minutes.

Ms. Green stated that she is working with the Oregon Heritage Society to preserve the large Madrone trees, some with a circumference of 11 feet and a height of 75 feet. She stated the trees are close to the property line and she is concerned about preservation and the damage which might be caused by any excavation. Ms. Green stated that people from Reeves have already trespassed on their property and requested a buffer between their property and the urban growth boundary.

Ms. Green recommended that all properties in the development have covenants which state that they will not have pollutants, that persons will not erect structures or do trenching or excavation that will damage the entire area, a system where what happens above affects those below. She noted that there have been two years of noise, dirt, property damage, traffic construction accidents, being late to work because the road is blocked at Whispering Firs. Ms. Green requested that the Commission recognize that the long-time residents of the area oppose increasing density beyond the current standards.

Ms. Green commented that she is delighted that land will be dedicated to the City, but the land is unbuildable and that Mr. Reeves is simply turning responsibility for maintaining the land over to the City. She stated that Mr. Reeves will not be available after the property is developed, the City will have the responsibility of maintaining the wetlands, and the citizens will have the consequences. Ms. Green expressed disagreement with Ms. Connell's statement that this is a PUD issue, she feels it is a land-use planning issue which was settled long ago; one house per acre and urged that only one house per acre be permitted. She also stated that as far as

extending utility lines to the property, that line is the most fragile ecological line in the system and she does not want any kind of disturbance of the root zones in or below the area. Ms. Green objects to the 16% open space, and stated that this percentage does not fit a traditional PUD, Mr. Reeves is only getting rid of the land upon which he cannot build and calling it a PUD. She noted that the public service utilities were originally taken into consideration when the Planning Commission said one house per acre; it is unique only because the area is unique; the density does not have to go any higher; the Planning Commission does not have to approve the development just because there is a plan...you may approve it. Ms. Green urged that the plan not be approved and invited the Commission to visit the area. She noted that she will be at each hearing to oppose the development since the system, roads, and terrain, cannot support the increased population.

Mr. Fox again addressed the Commission and stated that he takes exception to Mr. and Mrs. Green saying that all of the long-time residents of the area agree with their thoughts and concepts. He stated that he owned property several years before the Greens arrived and that he had sold several parcels to neighbors. He noted that he could not sell the same parcels today. Mr. Fox noted that the Greens had purchased parcels that were fully forested and overgrown with Madrone trees which had been cleared for planting of Christmas trees. He noted that his land was developed in accordance with the dictates of Clackamas County, including a gridwork of road which was designed for future use, some of which are used by the Green family. Mr. Fox stated that he does not wish to see any more taking of land in the guise of public benefit.

David Green again addressed the Commission. He stated that Mr. Fox no longer lives in the area, but lives in Tigard. Mr. Green confirmed that seven trees were removed from his property in order to plant Christmas trees, and there are hundreds of remaining trees some of which are more than 80 feet tall. He noted that the trees were removed in compliance with county requirements. Mr. Green stated that the road is now owned by a neighbor and the Greens have access to their property via the road. He noted that Washington County had advised people that utilities may not be taken across adjacent properties.

Doug Lind, Tax Lot 2200, Map 2S1 23, Sherwood, addressed the Commission. Mr. Lind indicated that his property does not have an address in the area, but he does own property adjoining the development. Mr. Lind indicated that he is

concerned about the easement going into his property and inquired as to how wide it will be. Ms. Connell had informed Mr. Lind that the easement would be 15 to 20 feet. Mr. Lind stated that the Fire Department would require a 20-foot easement, and requested that verification be provided.

J. C. Reeves again addressed the Commission. He stated that most of the issues raised are covered in the Staff report in the packets, but would like to comment on a couple. He noted that under Washington County land use plan, the land is zoned R5, or 6.5 units per acre. He noted that discussion with LCDC regarding the matter resulted in a letter of reprimand to the City of Sherwood about the zoning, and the reason is because it is urban land which is meant for development and as such LCDC's goals are to obtain 6 units per acre. He noted it has not been proved that the scabland exists, there has never been a report that explored the issue. Mr. Reeves stated that they are not applying for a zone change, just a density transfer. He noted that services are not required to be extended outside the urban growth boundary, but easements are appropriate to assure residents can obtain them. He noted that the development will comply with USA standards and the sight distance will be corrected to industry standards; water will be provided from the urban growth boundary to the farm land side; and, if there are state laws, the applicant will comply with those laws; Tax lot 2200 is outside the UGB and is in the Clackamas County and the Washington County Fire District, but we will comply with all requirements. Mr. Reeves stated that he believes he has met all of the requirements and all issues have been addressed.

Mr. Ruehl inquired if Mr. Reeves would be adverse to a conservation easement on Lots 66 through 76 adjoining the wetlands? Mr. Reeves replied that he is opposed to anything where he does not understand what he is agreeing to. He stated that he didn't believe one could open a dictionary and see what a conservation easement is and he did not want to limit the owners of the lots to a situation where they can't enjoy their rear yards; but if there is something that we are trying to protect or there are some reasonable standards, he would not be against a conservation easement. Mr. Reeves felt a conservation easement would be more restraining on Lots 72 through 76, where one can see a defined ridge and it might be more appropriate to deal with those if in a design we have a little extra room to crowd the lots more to the east in that area we will; at this stage we do not feel we have the room to take more width out of these areas.

In response to Ms. Connell's questions regarding a deed restriction, Mr. Reeves stated that a deed restriction would

be agreeable, but a restriction to what, that people could only view the area through their windows, but cannot go out on their patio, mow their grass or prohibit dumping clippings over their fences? Ms. Connell noted that a deed restriction could include prohibition of a fence, no sheds or buildings or tree cuttings. Mr. Reeves suggested there be a balance, possibly with a CC&R, to try to keep trees, but what happens when an owner becomes fearful that a tree might fall on their home while others insist the tree is safe. Mr. Reeves commented that he did not see how he could control what someone did in their back yards. He pointed out that he is attempting to protect the wetlands through a bio-filtration system and comply with industry standards.

At 9:15 p.m., Chairman Birchill called for 15-minutes recess. The Commission reconvened at 9:30 and took the following actions:

Chairman Birchill granted a continuance of the public hearing until August 17, and opened the hearing for comments and questions among the Commissioners.

Mr. Warmbier asked, if we require a 25-foot buffer zone from wetlands, from what level has it actually been established? Ms. Connell responded that David Evans has prepared a wetlands report and it is not to site specific scale. She recommends that the wetlands be delineated site specific in this case so that the City can be certain that the 25-foot buffer is provided. She noted that DSL does not object to the proposal, but they may also require wetland verification. Ms. Connell noted that USA also requested the wetlands be delineated before beginning construction of facilities.

Ms. Stewart inquired if the lots were out of the wetland and if the 25 foot buffer is provided, they would not need deed restrictions on the back sides of the lots. Ms. Connell pointed out that the lots are out of the wetland and the questions is, because the lots drop down the ridge to the ponds, Staff is saying "leave the area below the ridge in tact." Ms. Stewart noted that if the lots are out of the wetlands, there would not be a need for a deed restriction of any type.

Ms. Stewart commented that it appears the PUD achieves the City's objective of protecting the greenway, preserving the floodplain and allowing density transfer. The lots are 20 to 60 feet higher in elevation and 80 to 100 feet from the wetlands and meet the 60-foot setback from the wetland. She noted the back 10 to 50 lots have slope over 20 percent; however, the conservation easement or deed restrictions to

preserve that area would mitigate some of the impact. Ms. Stewart asked where is the code authority to not have emergency access over the wetlands. She noted that bridges and culverts can cross wetlands.

Mr. Warmbier inquired as to what is the status of the improvements on Murdock Road. Ms. Connell responded that the improvements to Murdock Road are at the engineering stage at this time, on the top of the list of transportation improvements for arterial streets. She noted that at the top of the list is a request for DEA to determine in the near future where the new intersection project should be.

Mr. Reeves pointed out that the Commission had earlier at the hearing approved a subdivision which will have a greater impact on Murdock Road than will Sherwood View Estates. Mr. Ruehl responded that the intent was that the traffic flow back to the west and out of town and because the other tie-in to another subdivision would come down to South Sherwood Boulevard, so that there is flow that comes out to Sunset and flow that will go to Sherwood Boulevard. Mr. Reeves stated that the rules encourage getting traffic onto the major arterials through local streets. He commented that the traffic impact of Cinnamon Hills analysis was being done by Washington County, but they should be looking at projections of traffic and try to figure out which way traffic will go, east or west on Sunset, and come up with how to deal with an unsafe intersection today. Ms. Connell stated that Washington County is considering the impact, and that is what staff is waiting for.

Mr. Corrado inquired if the total buildable acreage is 38 acres, and an estimated seven will be dedicated to the City, it leaves approximately 31 acres, two houses an acre means 72 houses, will the actual lot sizes be over 10,000 square feet? Mr. Reeves responded that the lots will all be over 10,000 square feet.

Mr. Ruehl asked if the FAX letter from Washington County could be addressed before the next meeting. Mr. Reeves stated he would.

Chairman Birchill announced that the Commissioners will now continue with the agenda items as follows:

4. **Visual Preference Survey Report.**

Ms. Connell reported that the results of the Visual Preference Survey were included in the Commission packets. She noted that there are two reports, one for the entire region and a summary of the City of Sherwood. She reviewed the Sherwood results and possible recommendations.

5. **Planning Director's Report.**

Ms. Connell reported that on the August 17th agenda will be a partition request by Mr. Charles Handley for a land partition on Highway 99 and a 36-lot subdivision preliminary plat and plan map amendment on Sunset Boulevard. She noted that Genstar/Steeplechase is working to complete a proposal for the October 5th Commission meeting and that the 1100 unit development may not be built with a golf course.

Chairman Birchill and Mr. Hohnbaum stated they will be on vacation during the next meeting.

Ms. Connell noted that the September 7th meeting had been canceled and the only September meeting of the Commission is scheduled for September 21.

6. **Adjournment:**

There being no further items before the Commission, Chairman Birchill adjourned the meeting at 10:15 p.m.

Respectfully submitted,

Kathy Cary
Secretary