



COPY

**Resolution No. 2000-870**

**A RESOLUTION DECLARING THAT THE CONDITIONS OF APPROVAL FOR PHASE 7B WOODHAVEN ESTATES (No. 18) HAVE BEEN MET (SUB 98-2)**

**WHEREAS**, The Genstar Land Company requested City approval for the Final Development Plan and Subdivision Plat for Woodhaven Planned Unit Development, Subdivision Phase 7B (recorded as No. 18); and

**WHEREAS**, that land measuring 6.07 acres, known as tracts MM and NN of Woodhaven PUD, subdivision phase No. 8 is to be dedicated to the City of Sherwood for a municipal park, as required by the subdivision approval; and

**WHEREAS**, the Planning Commission and City Council held a public hearing on January 18, 2000, and considered public testimony, and the Staff Report dated January 10, 2000; and

**WHEREAS**, the City agrees to approve the plat of Woodhaven 7B (No. 18) with the condition that the subject park site known as tracts MM and NN shall be released from escrow by Genstar land Company to the City of Sherwood.

**NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:**

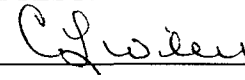
**Section 1. Adoption:** Escrow Instructions attached hereto, along with the exhibits hereto {Exhibit A (1), (2) and (3)}, and Deed (attached hereto as Exhibit B) are hereby approved and adopted, and the City Manager is authorized to sign name and tender said instructions, plat and funds to escrow.

**Section 2. Effective Date:** This Resolution shall become effective May 9, 2000.

**Duly passed by the City Council this 9<sup>th</sup> day of May 2000.**

  
Walt Hitchcock, Mayor

ATTEST:

  
C.L. Wiley, City Recorder

**Escrow Instructions**

**Escrow No. 664678eo  
Re: Park Site/City of Sherwood**

1. The City of Sherwood tenders to Oregon Title Insurance Co., 1515 SW 5th Avenue, Suite 840, Portland, Oregon 97201, the following documents:

A. City check payable to Oregon Title Insurance Co. (representing the net amount due Quinkster) pursuant to the terms and provisions of the agreement between the City and Genstar as set forth in the letters dated November 5, 1999, November 9, 1999, and November 9, 1999 (attached hereto as Exhibits A(1), A(2) and (A3).

B. Final plat for Woodhaven Subdivision Phase 7B.

2. Oregon Title is hereby authorized and instructed to pay said funds to Genstar/Quinkster and to cause said final plat to be recorded only when Oregon Title has from Genstar/Quinkster unconditional authority to record an executed deed to the City of Sherwood to Tract MM and Tract NN, Woodhaven No. 8, filed January 22, 1997, in plat book 109, pages 19 and 20, Records of Washington County, State of Oregon. Said land consists of approximately 6.19 acres. The form of and wording of said deed shall conform to Exhibit B hereto. It is further a condition to said delivery of said funds and plat for recording that Oregon Title commit to insure title to said Tracts MM and NN in the City of Sherwood upon recording of the deed thereto, subject only to existing easements of record, the rights of the public in streets and roads, and the conditions set forth on the face of Exhibit B.

3. These instructions are intended to ratify, consummate and confirm the agreement set forth in Exhibits A(1), A(2) and A(3), and by execution of these instructions, the City is reaffirming the terms of the agreement yet to be performed outside this escrow with respect to credits against systems development charges.

Executed this 7<sup>th</sup> day of June 2000, pursuant to Resolution 2000-870 passed by the City Council May 9, 2000.

*Original  
Signed doc.  
Sent to OR  
Title Co.*

CITY OF SHERWOOD

By: *Terry Keyes*  
~~John Morgan, City Manager~~

Terry Keyes, City Manager  
Pro Tem

**Escrow Instructions**

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B. Final plat for Woodhaven Subdivision Phase 7B.

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3. These instructions are intended to ratify, consummate and confirm the agreement set forth in Exhibits A(1), A(2) and A(3), and by execution of these instructions, the City is reaffirming the terms of the agreement yet to be performed outside this escrow with respect to credits against systems development charges.

Executed this \_\_\_\_ day of May, 2000, pursuant to Resolution 2000-870 passed by the City Council May 9, 2000.

CITY OF SHERWOOD

By: \_\_\_\_\_  
John Morgan, City Manager

**BALL JANIK LLP**

A T T O R N E Y S

ONE MAIN PLACE  
101 SOUTHWEST MAIN STREET, SUITE 1100  
PORTLAND, OREGON 97204-3219

JACK L. ORCHARD

TELEPHONE 503-228-2525  
FACSIMILE 503-295-1058

jorchard@bjllp.com

November 5, 1999

**By Telecopy**

Mr. Derryck H. Dittman  
City Attorney, City of Sherwood  
Anderson & Dittman, LLP  
Tigard Professional Center  
8865 S.W. Center Street  
Tigard, OR 97223

Re: Woodhaven Park Site Settlement

Dear Derryck:

This letter will recap Quinkster's/Genstar's understanding, based on Monday's Hitchcock-Draper discussions, of how we can advance the Woodhaven park site settlement without creating legal or practical disadvantage to either Quinkster/Genstar or the City. Quinkster/Genstar is willing to move forward, as indicated below, on the express understanding that it remains their position that any Woodhaven park site-related conditions to the PUD or individual Woodhaven phases, have already been satisfied by Quinkster's escrow of the deed to the Sunset-Pinehurst parcel.

However, to move forward on a compromise basis, the following points were covered during the recent Hitchcock-Draper conversations. At your suggestion, the list of these items has been expanded to incorporate the previous elements of the settlement agreements.

1. The City will immediately initiate whatever land use processes it deems appropriate to redesignate the Sunset-Pinehurst parcel from its current commercial-multi-family residential zones to a zone consistent with municipal park usage. Quinkster/Genstar, as the fee title holder, will fully cooperate with such an application on the understanding that the application is limited to the issue of the redesignation for the Sunset-Pinehurst parcel and will not implicate any other property or aspect of the Woodhaven PUD, including any modification or addition of PUD or phase conditions.

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Mr. Derryck H. Dittman  
City Attorney, City of Sherwood  
November 5, 1999  
Page 2

2. Concurrently with the City's initiation of such an application, the City Council will formally affirm the settlement of the park site issues as set forth herein, thereby directing the following:

- (a) All technical reviews of the Phase 7B final plat will be completed by City staff;
- (b) Delivery of the final plat for technical review by Washington County will occur; and
- (c) Return of the final plat to the City for final signature. However, the City shall not be required to sign the plat for recordation purposes until Quinkster/Genstar has released the Sunset-Pinehurst deed from escrow or the deadline for final City action on the park site application (February 1, 2000) has been reached, whichever first occurs.

3. As to the pending Phase 8C preliminary plat appeal, scheduled for Council hearing on November 9, 1999, the Council will remand the application to the Planning Commission with instructions that the Council has determined that the park site conditions under the amended 1998 Woodhaven PUD and Phase 7B plat approval have been satisfied, allowing the processing of Phase 8C on its merits. The Planning Commission shall then immediately docket the Phase 8C preliminary plat application for public hearing on the merits. (Please note that the City is long-past the 120-day processing requirement on Phase 8C.)

4. Appropriate Findings relating to the Phase 7B final plat and the Phase 8C remand shall be adopted by the Council indicating the Council's determination that a binding commitment for the Sunset-Pinehurst park site from Quinkster/Genstar has been provided, consistent with the Council's February 22, 1999 resolution, designating that site as the substitute park site for the former Phase 7B park site. The Findings will also specifically indicate that the agreement between the City and Quinkster/Genstar satisfies the PUD conditions and Phase 7B conditions relating to a Woodhaven park site.

5. All actions by the City shall be final and complete at the local level by February 1, 2000. If not complete by that date, Quinkster/Genstar can withdraw from the process described above without prejudice to any of its legal rights. Likewise, if any action is taken by the City which implicates other property or aspects of the Woodhaven PUD (or modifies or adds conditions) beyond the simple redesignation of the Sunset-Pinehurst parcel, Quinkster/Genstar may withdraw from the process described above, without prejudice to any of its legal rights.

# BALL JANIK LLP

Mr. Derryck H. Dittman  
City Attorney, City of Sherwood  
November 5, 1999  
Page 3

6. The following consideration shall be provided by the City as a pre-condition to delivery of the Sunset-Pinehurst park site deed:

- (a) The City shall recognize by binding agreement, park systems development charge credits in the amount of \$304,000, which if not received by Quinkster/Genstar by December 31, 2000, shall require the City to pay on January 2, 2001 the difference between the dollar amount of the credits received prior to January 2, 2001 and \$304,000;
- (b) The City shall pay Quinkster/Genstar the amount of \$43,084 as additional financial consideration for the Sunset-Pinehurst park site conveyance;
- (c) At the time of release of the deed, Quinkster/Genstar shall pay to the City the sum of \$31,782.26 in exchange for a release signed by the City to the effect that Quinkster/Genstar are totally released from any financial or construction obligation relating to any improvements at, or in the vicinity of, the Meinecke Road - Highway 99W intersection. This amount can be netted against the amount which is due from the City to Quinkster/Genstar;
- (d) The provisions in the deed (earlier provided to you) relating to the reversionary clause, the requirement that the City commit to expenditures of \$25,000 for the Sunset-Pinehurst park site and the utility easements (temporary and permanent) will be a part of the settlement.

Please review these matters with Mayor Hitchcock and indicate whether he concurs with this method of proceeding. I look forward to talking with you as soon as possible so that we can make a determination as to how matters should proceed on the Phase 8C appeal hearing.

Sincerely,



Jack L. Orchard

JLO/crs  
cc: Doug Draper

ANDERSON & DITTMAN, LLP  
ATTORNEYS AT LAW  
TIGARD PROFESSIONAL CENTER  
8865 S.W. CENTER STREET  
TIGARD, OREGON 97223

P.O. BOX 23006  
TIGARD, OREGON 97281-3006

TELEPHONE (503) 639-1121

FAX (503) 639-4097

DERRYCK H. DITTMAN  
ROGER F. ANDERSON  
DELORIS B.N. WARD

FRED A. ANDERSON, DECEASED  
(1910-1991)

November 9, 1999

Via Facsimile 295-1058

Jack L. Orchard  
Ball Janik LLP  
101 SW Main Street, Suite 1100  
Portland, Oregon 97204

Dear Jack:

I've reviewed your 11/5/99 fax with Mayor Hitchcock. The first paragraph of your letter adequately sets forth the purpose to move this matter forward without creating disadvantage to either Quinkster/Genstar or the City. The City understands Genstar's position that the park site related conditions to the PUD have been satisfied by the escrowing of the deed to the Sunset-Pinehurst parcel. The City, however, does not consider the park condition satisfied until the park deed has been released for recording.

To get us closer to the point where that can be done on a compromise basis, the City would go along with the outline in your letter with some clarifications which, in the interest of time, I've included in the revised version of the numbered paragraphs of your letter as follows:

1. The City will immediately initiate whatever land use processes it deems appropriate to redesignate the Sunset-Pinehurst parcel from its current commercial-multi-family residential zones to a zone consistent with municipal park usage. Quinkster/Genstar, as the fee title holder, will fully cooperate with such an application on the understanding that the application is limited to the issue of the redesignation for the Sunset-Pinehurst parcel and will not implicate any other property or aspect of the Woodhaven PUD, including any modification or addition of PUD or

03/07/2000 14:00 000000001 ANDERSON & DEITMAN PAGE 00  
Jack L. Orchard  
November 9, 1999  
Page 2

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phase conditions. The City agrees that it will proceed to complete its final action on the application for redesignation by March 1, 2000. The time for final action shall be extended by the additional time required, if any, for appeal of the Council's action.

2. Concurrently with the City's initiation of such an application, the City Council will formally affirm its intent to proceed with the settlement of the park site issues as set forth herein by directing the following:

- (a) All technical reviews of the Phase 7B final plat will be completed by City staff;
- (b) Delivery of the final plat for technical review by Washington County will occur; and
- (c) Return of the final plat to the City for final signature. However, the City shall not be required to sign the plat for recordation purposes until Quinkster/Genstar has released the Sunset-Pinehurst deed from escrow. If the deadline for final City action on the park site application (March 1, 2000, except as may be extended by appeals) has been reached and not completed, either the City or Quinkster/Genstar may elect to terminate this agreement.

3. As to the pending Phase 8C preliminary plat appeal, scheduled for Council hearing on November 9, 1999, the Council will remand the application to the Planning Commission with instructions that the Council has determined that the park site conditions under the amended 1998 Woodhaven PUD and Phase 7B plat approval will be satisfied, allowing the processing of Phase 8C on its merits. The Planning Commission shall then immediately docket the Phase 8C preliminary plat application for public hearing on the merits. The final plat for 8C will be released for recording when the deed to the park site has been released for recording, provided all other requirements for recording of that plat have been met.

4. Appropriate findings relating to the Phase 7B final plat and the Phase 8C remand shall be adopted by the Council indicating the Council's determination that a binding commitment for the Sunset-Pinehurst park site from Quinkster/Genstar has been provided, consistent with the Council's February 22, 1999 resolution, designating that site as the substitute park site for the former Phase 7B park site. The Findings will also specifically indicate that the fulfillment of this agreement between the City and Quinkster/Genstar satisfies the PUD condition and Phase 7B condition relating to a Woodhaven park site.



Jack L. Orchard  
November 9, 1999  
Page 3

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5. All actions by the City shall be final and complete at the local level by March 1, 2000. If not complete by that date, Quinkster/Genstar can withdraw from the process described above without prejudice to any of its legal rights. Likewise, if any action is taken by the City which implicates other property or aspects of the Woodhaven PUD (or modifies or adds conditions) beyond the simple redesignation of the Sunset-Pinehurst parcel, Quinkster/Genstar may withdraw from the process described above, without prejudice to any of its legal rights. The City likewise will not be prejudiced by this agreement and its attempt pursuant hereto to resolve this matter, and both parties will be returned to their preagreement positions.

6. The following consideration shall be provided by the City as a pre-condition to delivery of the Sunset-Pinehurst park site deed:

- (a) The City shall recognize by binding agreement, park systems development charge credits in the amount of \$304,000, which if not received by Quinkster/Genstar by December 31, 2000, shall require the City to pay on January 2, 2001, the difference between the dollar amount of the credits received prior to January 2, 2001 and \$304,000;
- (b) The City shall pay Quinkster/Genstar the amount of \$43,084 as additional financial consideration for the Sunset-Pinehurst park site conveyance;
- (c) At the time of release of the deed, Quinkster/Genstar shall pay to the City the sum of \$31,782.26 in exchange for a release signed by the City to the effect that Quinkster/Genstar are totally released from any financial or construction obligation relating to any improvements at, or in the vicinity of, the Meinecke Road-Highway 99W intersection. This amount can be netted against the amount which is due from the City to Quinkster/Genstar;
- (d) The provisions in the deed relating to the reversionary clause, the requirement that the City commit to expenditures of \$25,000 for the Sunset-Pinehurst park site and the utility easements (temporary and permanent) will be a part of the settlement.

Apart from the foregoing, Mayor Hitchcock mentioned that he and Mr. Draper had discussed the need for the City to take action to finally designate one of the route options for the collector/connector between Woodhaven and Meinecke. That will be done separately from this park redesignation action. That action is mentioned here so that there should be no question that it is not considered in any way in contravention of or as inconsistent with the course of action

Jack L. Orchard  
November 9, 1999  
Page 4

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pursuant to this agreement to resolve the process for getting the alternate park site transferred to the City in fulfillment of the park related plat and PUD conditions.

Mayor Hitchcock didn't think that he and Mr. Draper had set a deadline for getting the decision through the City. He and I both think the February 1 date is too tight timewise. The City Planning staff is short, Greg Turner is on family leave, and Carole Connell has been hired on a contract basis to help with the mounting work. Given the approaching holiday season, etc., it's not at all inconceivable that the redesignating simply can't be done in that time frame, though the City will try to do it as quickly as it can.

Very truly yours,

ANDERSON & DITTMAN, LLP



Derryck H. Dittman

DHD:sr  
c: Walt Hitchcock

NOV-09-1999 16:45

GENSTAR LAND CO. NW

P.02



Genstar Land Company Northwest  
11515 S.W. Durham Road  
Suite E-3  
Tigard, OR 97224  
Tel: (503) 968-2323  
Fax: (503) 968-1849

November 9, 1999

Mr. Derryck Dittman  
Anderson & Dittman, LLP  
8865 S.W. Center Street  
Tigard, OR 97223

Re: Woodhaven Phase 8C  
File: WH7B/3-5 & WH8C/3-5

Dear Derryck:

Jack Orchard has forwarded to us a copy of your letter of this date in response to his letter of November 5, 1999. Please be advised that we accept the terms of your letter. The approach outlined therein seems to be a reasonable compromise that will allow both the City and Genstar to move forward with the ultimate objective of having the Sunset-Pinehurst park parcel decided to the City. In particular, we acknowledge and accept that City Council, rather than hearing our appeal of the Woodhaven Phase 8C preliminary plat tonight, will remand the application to the Planning Commission to allow its processing on its merits.

Yours truly,

A handwritten signature in black ink, appearing to read "Doug Draper".

Doug Draper  
Vice-President

cc: Mayor Walt Hitchcock - City of Sherwood  
Jack Orchard - Bali Janik LLP

TOTAL P.02

EXHIBIT A(3)

FORM No. 902 - BARGAIN AND SALE DEED - STATUTORY FORM (Corporate Grantor).

STEVENS-HESS LAW PUBLISHING CO., PORTLAND, OREGON

NT

**Quinkster General Partnership**  
 11515 S.W. Durham Road, #B-9  
 Tigard, OR 97224

Grantor's Name and Address  
 City of Sherwood; Att'n Recorder  
 20 N.W. Washington  
 Sherwood, OR 97140

Attorney's Name and Address  
 After recording, return to (Name, Address, Zip):  
 City of Sherwood; Att'n Recorder  
 20 N.W. Washington  
 Sherwood, OR 97140

Until requested otherwise, send all tax statements to (Name, Address, Zip):  
 City of Sherwood; Att'n Recorder  
 20 N.W. Washington  
 Sherwood, OR 97140

SPACE RESERVED FOR RECORDERS USE

STATE OF OREGON, ) ss.  
County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book/reel/volume No. \_\_\_\_\_ on page \_\_\_\_\_ and/or \_\_\_\_\_ as fee/file/instrument/microfilm/reception No. \_\_\_\_\_, Records of said County.

Witness my hand and seal of County affixed.

NAME TITLE  
By \_\_\_\_\_, Deputy.

BARGAIN AND SALE DEED - STATUTORY FORM

**Quinkster General Partnership**, by **Genstar Land Company Northwest**, its Managing Partner, being a ~~corporation~~ <sup>partnership</sup> organized and existing under the laws of the State of Oregon, Grantor, conveys to City of Sherwood, Oregon, a municipal corporation

the following real property situated in Washington County, Oregon, to-wit: Tracts MM and NN, comprising approximately 6.07 acres, according to the duly filed plat of Woodhaven No. 8 in the City of Sherwood, filed January 22, 1997 in plat book 109, pages 19 and 20, inclusive, Official Records of Washington County, Oregon subject to the following conditions:

- (1) Said real property shall be utilized exclusively for a City of Sherwood municipal park. If not so utilized, title to said real property shall revert to Grantor, its successors and assigns.
- (2) Said real property shall be conveyed "as is" in its present physical condition without warranty or representation, including but not limited to, the existing storm drainage system and the existing sanitary sewer easement.
- (3) Said real property shall be maintained in perpetuity solely at municipal expense, including the obligation by the Grantee to expend \$25,000 for improvements to the municipal park to be located on the real property.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

The true consideration for this conveyance is \$ 347,084 (Here, comply with the requirements of ORS 93.030.)

~~Executed by \_\_\_\_\_~~ September 17, 1999

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.830.

**QUINKSTER GENERAL PARTNERSHIP**  
By GENSTAR LAND COMPANY NORTHWEST  
Its Managing Partner  
By Doug Draper, its Vice President

STATE OF OREGON, County of \_\_\_\_\_ ) ss.  
This instrument was acknowledged before me on September, 1999, by Doug Draper, Vice President of Genstar Land Company Northwest, the Managing Partner of Quinkster General Partnership

Notary Public for Oregon  
My commission expires \_\_\_\_\_