

CITY OF SHERWOOD, OREGON

Ordinance No. 714

AN ORDINANCE ADOPTING FINDINGS WITH RESPECT TO THE APPLICATION OF KEITH WHITMORE FOR APPROVAL OF A CHANGE OF ZONE CLASSIFICATION FROM A-1 (AGRICULTURAL), TO R-1 PD (LOW DENSITY RESIDENTIAL-PLANNED UNIT DEVELOPMENT, WITH RESPECT TO TAX LOT 1200, WASHINGTON COUNTY ASSESSOR'S TAX MAP NUMBER 2S1W31AA AND APPROVAL OF A GENERAL DEVELOPMENT PLAN FOR SAID LAND PURSUANT TO §3.09 OF THE CITY OF SHERWOOD ZONING ORDINANCE; GRANTING APPROVAL OF SAID APPLICATION, AND FIXING AN EFFECTIVE DATE.

THE CITY OF SHERWOOD DOES ORDAIN AS FOLLOWS:

Section 1: The Council finds that the lands hereinafter described have heretofore been and now are classified A-1 (Agricultural) pursuant to the City of Sherwood Zoning Ordinance. The lands which are subject of the application consist of 4.85 acres and lie on Meinecke Road between Lee Park residential subdivision on the east and Sherwood High School on the west. The land is presently undeveloped except for a single family residence, barn, and mobile home accessory outbuildings. Approval of the application would have the effect of changing the existing zoning to R-1 Low Density Residential, and pursuant to §3.09 of the Sherwood Zoning Ordinance, of super-imposing a special district over the new zone for this property, thereby permitting, in addition to the uses and development standards permitted in the underlying zone, uses approved by the Planning Commission as consistent with an approved development plan. The standards and criteria by which the application is to be reviewed are set forth in subsection B, 3, a, of Section 3.09 and the "Fasanao" criteria. The subject property is more particularly described on Exhibit A hereto attached and by this reference incorporated herein.

Section 2: The Council further finds that pursuant to prescribed procedures, the application for the zone change and planned development classification of said land, was the subject of review and public hearing by the City Planning Commission. Subsequent to that hearing and review the Planning Commission voted to recommend that the Council approve the changes in zoning classification on June 5, 1979. The Planning Commission, as a part of that proceeding, approved, subject to conditions, site review and other requirements, the general type and interrelationships of uses for the development plan of the property.

Section 3: The Council further finds that after due and legal notice a public hearing was held on July 11, 1979, before an impartial Council, and at said hearing all parties interested were afforded an opportunity to be heard and to present and rebut evidence. At said hearing the Council received in evidence, among other documents and testimony, the City staff report dated May 4, 1979, (marked Exhibit B, attached hereto and incorporated herein), and the Planning Commission recommendation (marked Exhibit C hereto attached and by this reference incorporated herein).

Section 4: After due consideration of the application, the recommendations of the Planning Commission, the staff report and evidence adduced at the hearing before the Council, the Council makes the following findings:

- (a) The zone change from A-1 to R-1 is justified. Existing conditions have greatly impacted the desirability of the parcel for agricultural use. It is a small parcel, less than 50 acres, surrounded by uses incompatible with agricultural uses, Lee Park was planned and approved with the outlook that N.W. Travis Court would be extended into this parcel incident to subdivision of same. The improvements on the premises leave little space for agricultural uses that would be compatible with single family residences on one side and a public high school on the other.
- (b) The application, if allowed, will conform to the comprehensive plan. The application will allow substantial changes in use or development standards from those required by existing zoning, but those changes are justified by the requirements, amenities and benefits obtained by imposition of the development plan. The change applied for conforms with the Comprehensive Plan Policy goals set forth in Ordinance 689.
- (c) The proposal is in harmony with the surrounding area. The development plan will make it more harmonious with surrounding property than would development under existing zoning, due to additional controls and requirements of the planned development concept. The development as approved will not result in greater density for the tract than would be permitted in the R-1 zone without P.U.D. controls.
- (d) There is a public need for the kind and location of the use proposed.
- (e) The system of ownership and means of development, preserving and maintaining the open spaces are suitable. The recordation of covenants and restrictions running with the land will assure that plan requirements be carried out with respect to development and that maintenance of the plan features after the property is developed will be provided. These controls, restrictions and covenants will be imposed as a part of the site review and subdivision process required to develop the property, and as conditions to this approval.
- (f) The development can be substantially completed within one year or within any continuation which may be allowed at discretion of the Council pursuant to §3.09, subsection F.
- (g) The findings in the staff report, Exhibit B, are adopted as findings of the Council except where inconsistent with any other findings of the Council set forth in this ordinance or inconsistent with any conditions to approval set forth in this ordinance.
- (h) The Council does not adopt the additional conditions recommended by the Planning Commission.
- (i) The planned unit development is approved subject to site review and subdivision requirements.

(j) The following conditions to approval are appropriate conditions required to carry out the purposes and objectives of the Planned Development District classification for the subject property and are requirements of this approval:

1. That a name for the street be indicated and approved on the final plat and it be revised to show a 50 foot right of way with 34 feet of pavement.
2. That the applicant record a non-remonstrance covenant to run with the land for any future local improvement district providing water, sewer, storm drainage, street and bikepath improvement to Meinecke Rd.
3. That the applicant dedicate an additional 10 feet of right of way on Meinecke Rd.
4. That the applicant record a conservation easement in form and contents acceptable to the City along 10 feet abutting Meinecke Rd. The easement area should be planted with trees and landscaped in conformance to the provisions of the Sherwood Street Tree Ordinance. The easement shall run in favor of the public but the underlying fee title to the strip may vest as an area owned in common by lot owners within the development.
5. That the applicant install a culvert pipe (size approved by City) in the existing ditch on Meinecke Rd.
6. That building permit issuance on the units in this development be conditioned on the availability of water supply as determined by City engineer.
7. That the applicant provide an additional hydrant at the intersection of the proposed street with Meinecke Rd.
8. A 5 foot walkway be developed on the drainage easement between lots #7 and #8.
9. Site plans shall be reviewed and approved prior to issuance of building permits, by the Site Review Board.
10. The attached covenants, marked Exhibit D and by this reference incorporated herein, reviewed by the Site Review Board, shall be recorded as approved by the Site Review Board with the final plat. The Council specifically requires that it be stated in the recorded covenants that "no duplex unit (2 joined dwelling units) shall have less than 2200 square feet of combined living area.

Section 5: The lands described on Exhibit A and as indicated on the plat attached as page 2 of Exhibit A are hereby zoned R-1-PD for use in accordance with an approved general development plan to be completed and followed as required by Section 3.09 of the Sherwood Zoning Ordinance. This approval is granted subject to the requirements that each of the conditions approved above in Section 4 of this ordinance shall be conditions to this approval including

adherence to the covenants to be reviewed and approved, which covenants shall ultimately be recorded in the real property records prior to approval of the "Final Plan and Program" as called for by the zoning ordinance, including adherence to the site plan as finally approved pursuant to the site review procedure, and including adherence to the requirements of the subdivision ordinance.

Section 6: The zoning map is hereby amended with respect to the property described in Exhibit A and the recorder is hereby directed to cause a copy of the plat on page 2 of Exhibit A or other suitable plat to be made indicating thereon the area previously zoned A-1 to be now zoned R1-PD, and the recorder shall keep said plat bearing the number of this ordinance on file in the book of zone map amendments, said book being kept and maintained as a part of the permanent records of the City of Sherwood.

Section 7: This ordinance shall become effective on the 31st day after its enactment by the City Council.

PASSED:

By the Council, by Unanimous vote of all Council members present, after being read by caption three times this 12 day of September, 1979.

Polly Blankenbaker
Polly Blankenbaker
Recorder - City of Sherwood

APPROVED:

By the Mayor this 12 day of September 1979.

Marjorie Stewart
Marjorie Stewart
Mayor - City of Sherwood

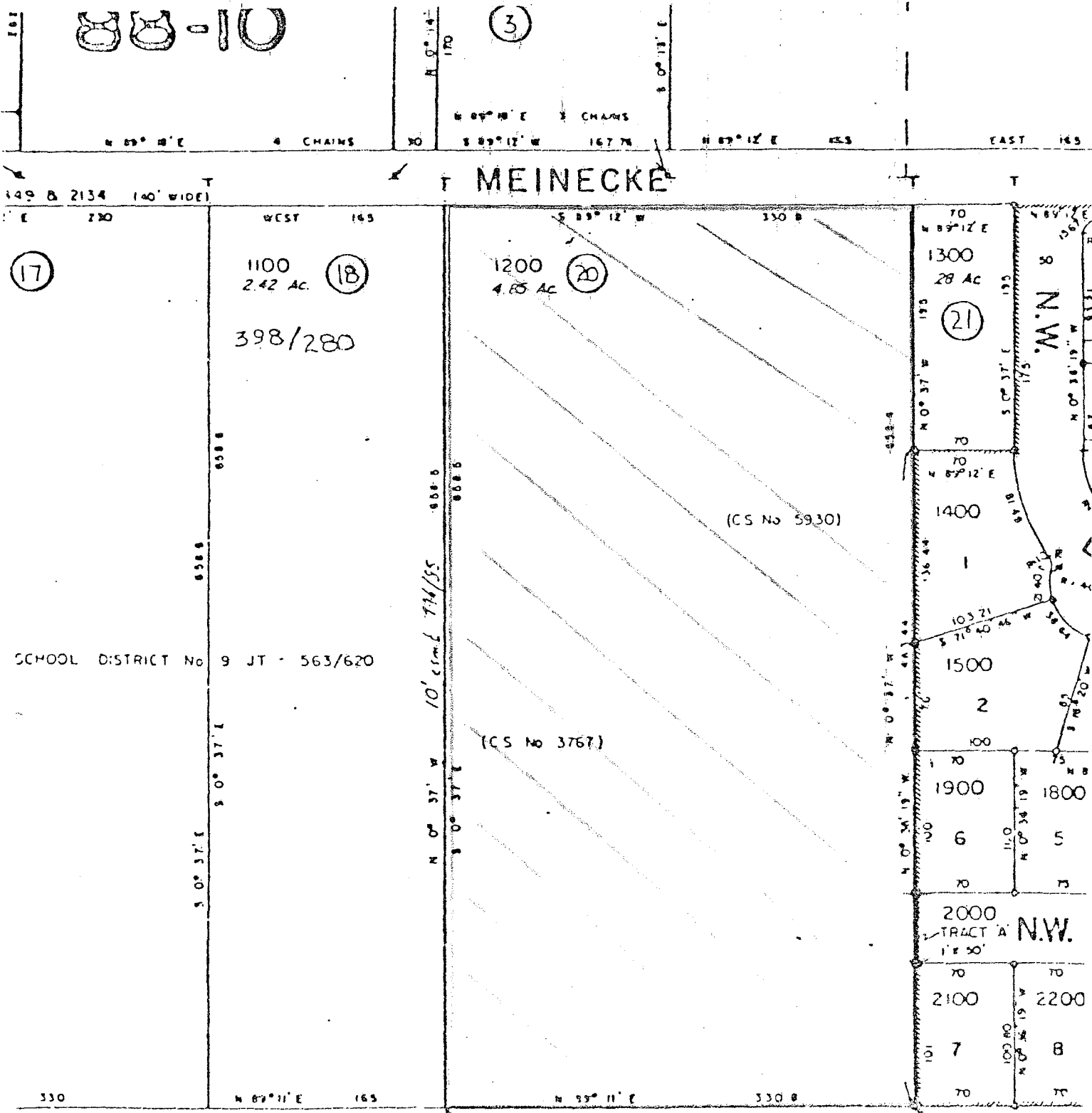
Order No. 4645

EXHIBIT "A"

BEGINNING at the quarter section corner on the East line of Section 31, Township 2 South, Range 1 West, Willamette Meridian, Washington County, Oregon, and running thence North $0^{\circ}37'$ West along the East line of Section 31 for a distance of 1313 feet to an iron pipe at the Southeast corner of that certain tract of land conveyed to Irene A. Harlow by deed recorded on page 20 of Book 296, Washington County, Oregon Deed Records; running thence South $89^{\circ}11'$ West along the South line of the Harlow tract for a distance of 494.2 feet to an iron rod which is the true point of beginning of the hereafter described tract:

Running thence from said true point of beginning, North $0^{\circ}37'$ West along a line parallel to the West line of the Harlow tract for a distance of 658.4 feet to a point on the North line thereof from which an iron rod bears South $0^{\circ}37'$ East 20 feet; running thence South $89^{\circ}12'$ West 330.8 feet to the Northwest corner of the Harlow tract; running thence South $0^{\circ}37'$ East 658.5 feet to an iron pipe at the Southwest corner of the Harlow tract; running thence North $89^{\circ}11'$ East 330.8 feet to the true point of beginning.

is furnished to help you
 the property. It is not a survey
 and the company assumes no liability
 for errors.
 Northwest Title Company. 472-4627



STAFF REPORT
May 14, 1979

CASE NO: PD-79-02
SUBJECT: General Development Plan and Program, Preliminary
Plat and Zone Change (A-1 to R-1-PD) for a Low
Density Planned Unit Development
LOCATION: Meinecke Rd.
APPLICANT: Keith Whitmore

DESCRIPTION OF PROPOSED ACTION

The applicant proposes a 24 unit low density residential planned unit development on a 4.85 acre site on Meinecke Road. The proposal includes 14 duplex units and 10 single family units. Specifically, pursuant to Article III section 3.09 in the Sherwood Zoning Ordinance, the applicant seeks approval for:

1. An amendment to the Sherwood Zoning ordinance map changing the present A-1 (agricultural) to R-1-PD (low density planned unit development.)
2. A general development plan, program and preliminary subdivision plat.
3. The general type and interrelationship of the uses proposed. Approval of items #2 and #3 are contingent on the approval of the zone change. Site review action is not required in the R-1 zone but subdivision procedures must be followed.

APPLICABLE STANDARDS FOR REVIEW

A decision to approve or recommend approval of a planned unit development district shall be based on criteria and standards in Attachment A and applicable portions of the Sherwood Subdivision Ordinance.

BASIC FACTS

1. Current zoning is A-1 (agriculture)
2. Parcel data 2S 131AA : 1200 = 4.85 acres
3. Existing Structures/Uses:
 - Single Family home
 - Mobile Home
 - Barn
4. Access: The proposed site is served by Meinecke Rd. (40 RW 21' PV) and NW Travis Ct. (50' RW 32' PV).
5. Public Services:
 - Water: 8" main on Travis Ct. and 10" main on Meinecke Rd.
 - Sanitary Sewer: 8" line on Travis Ct. and 8" line 400' east along Meinecke Rd. at its intersection with Lee Drive

EXHIBIT B

5. Storm Sewer: 24" storm sewer on school site south of site and an open ditch on Meinecke Rd.
Electrical Power, Telephone Service, Police Services are available.
Parks and Recreation: The proposed development adjoins Stella Olson Park and the Sherwood School Athletic field.
Schools: The development would be served by Sherwood School District 88J.
Fire District: The development would be served by the Tualatin Fire District.

FINDINGS

1. Conformance with the Sherwood Zoning and Subdivision Ordinances and the Comprehensive Plan to the extent that it has been adopted.
- A. Permitted uses: The proposed single family uses are allowed in the R-1 zone. The proposed duplex units allowable upon planned development approval.
- B. Permitted density: Section 3.09 Article II of the Sherwood Zoning Ordinance provides for the following dwelling unit density on the site:
- | | |
|--------------------------|-----------------|
| Gross Development Area | 211,266 sq. ft. |
| Street and Easements | 54,450 |
| Net Development Area | 156,816 |
| Minimum Per/Unit Area | 7,000 |
| Units Allowable (R-1) | 23 units |
| 10% PD allowance | 3 units |
| Units Allowable (R-1 PD) | 26 units |
- C. Subdivision design standards:
The proposed design meets ordinance requirements. Lot #16 should show frontage on the proposed street. The street should show the proposed name.
- D. The proposed conform to the Comprehensive Plan Policy Goals.
- E. Subdivision Improvement Standards (see Section 4 below)
2. PUD Design Concept
- A. Use-Mix: The applicant proposes 24 units; 14 duplex units on 10,000+ sq. ft. lots and 10 single family units on 7,000+ sq. ft. lots.
- B. System of Ownership and Management:
Single family units are intended for homeownership. Duplex units are intended to be available for rent. Lots along Meinecke Rd. should show a ten (10) foot conservation easement to be landscaped by the developer and maintained by property owners.

2. C. Relationship to the Neighborhood

The proposed development shows compatible single family uses along its common boundary with Lee Park Subdivision. Duplex uses are proposed as a buffer to the adjacent high school grounds on the western boundary of the project. The design of duplex structures should show variety and yet be compatible with the adjoining single family units.

D. Exceptions From Underlying Zone Standards:

Duplex uses seem appropriate to the overall design and do not increase total site density beyond that permitted in an R-1 zone due to large single-family lots included in the project. Duplex uses serve a beneficial buffering effect.

E. Open Space/Landscaping:

A 10' conservation easement is suggested adjacent to the future right-of-way. The easement should be planted consistent with the Sherwood tree ordinance. Fencing and/or landscaping should be provided along the site's boundary with the school property.

3. Public Need for the Kind and Location of the Use Proposed:

A public need for a variety of affordable home ownership and rental opportunities exist in the City based on results of a 1978 Housing Survey. In addition the current vacancy rates of approximately 1% to 2% indicates the need for additional units of all prices and styles. The site is favorable for the use proposed considering other available sites.

4. Adequacy of Services/Service Plans

A. Water: Recent projections of water supply and demand indicate that Sherwood's water supply will be adequate to serve a high 1981 population growth rate level of 2800 at maximum per capita demand levels. Currently the City has existing and approved development representing an estimated 1981 population based on approved construction schedules of 2,841 persons. Water service would be adequate to serve the proposed development assuming additional supply capability was available by 1981. Issuance of building permits for approved plans should be conditioned on the availability of water service as determined by City staff based on an analysis of current information on system delivery capacity, ground water supply and the timing of the completion of necessary system improvements. An additional fire hydrant is needed at the intersection of the proposed street with Meinecke Rd.

4. B. Sewer: Sewer service is adequate via Lee Park and the Cedar Creek pumping station. The approval of additional hookups to the station is subject to approval by USA (see attached letter)
 - C. Drainage: Drainage facilities proposed include a 12" storm sewer channeling street runoff to an existing 24" storm sewer in the school property. The extreme northern portion of the site would drain to an existing ditch in Meinecke Rd. The applicant should install a culvert (size to be determined by staff) in the ditch and cover it. Future permanent facilities should be developed by a Local Improvement District when all necessary improvements can be installed simultaneously.
 - D. Police protection, electrical distribution and telephone service are adequate
 - E. Solid waste disposal will be provided on a unit by unit basis.
 - F. Fire Protection (see attached Fire District findings)
 - G. Parks and Recreation - Adjoining park facilities and open space in Stella Olsen Park and the School grounds are available to the site. A future combination bike path and sidewalk section on Meinecke Rd. is planned as a park of a future Local Improvement District.
 - H. Schools (see attached letter)
5. Access Circulation and Parking
 - A. Proposed circulation is provided by a 60 foot street. A 50 foot standard street section (24' of pavement) is required.
 - B. Off street parking is not indicated. Two spaces per unit should be provided.
 - C. Street improvements to Meinecke Rd. will be required and should be installed when full improvements can be made. A non-remonstrance covenant should be recorded to assure future participation by benefitting property owners.
 6. Timing

The applicant intends to complete the project in one phase.

STAFF RECOMMENDATIONS

The staff recommends approval of the zone change, general development plan, program and preliminary subdivision plat with the following conditions:

1. That the applicant revise the plat to show proposed lot #16 with frontage and access on the proposed street.
2. That a name for the street be indicated and approved on the final plat and it be revised to show a 50 foot right of way with 34 feet of pavement.
3. That the applicant record a non-remonstrance covenant to run with the land for any future local improvement district providing water, sewer, storm drainage, street and bikepath improvement to Meinecke Rd.
4. That the applicant dedicate an additional 10 feet of right of way on Meinecke Rd.
5. That the applicant record a conservation easement in form and contents acceptable to the City along 10 feet abutting Meinecke Rd. The easement area should be planted with trees and landscaped in conformance to the provisions of the Sherwood Street Tree Ordinance.
6. That the applicant install a culvert pipe (size approved by City) in the existing ditch on Meinecke Rd.
7. That building permit issuance on the units in this development be conditioned on the availability of water supply as determined by City staff based on an evaluation of groundwater inventories, and ~~distribution system adequacy.~~
8. That the applicant install a fence or other visual buffer along the site's boundary with the High School property.
9. That the applicant provide an additional hydrant at the intersection of the proposed street with Meinecke Rd.



P.O. Box 167
Sherwood, Oregon 97140
625-5522 625-5523

June 11, 1979

NOTICE OF DECISION

To: Keith Whitmore
24948 SW Ladd Hill Road
Sherwood

The Planning Commission of the City of Sherwood, Oregon decided to recommend approval of your application for a Planned Unit Development on June 5, 1979.

The decision was based on the following major findings:
Findings contained in the attached staff report dated May 14, 1979.

The following conditions were placed on approval of the application:

Conditions contained in the attached staff report dated May 14, 1979 with the following exceptions:

1. Condition #1 be amended to read: That the applicant revise the plat to show the merger of proposed lots #16 and #17.
2. A condition #10 be added to read: That the applicant extend the sanitary sewer to Meinecke Rd. in the proposed street with a manhole to be constructed at a depth to serve the Meinecke Rd. sewer service area.

Clyde List
Chairman
Planning Commission

EXHIBIT C.

EXHIBIT D

SUBDIVISION COVENANTS

WARD RICE WHITMORE
and IRENE M. WHITMORE

FOR WHITMORE ESTATES

The Grantor hereinabove is the fee owner of that certain real property which is the subject matter of a residential planned unit development project brought before the City of Sherwood, which property is described in Exhibit "A", which is attached hereto and made a part hereof as though fully set out herein. Said property is and shall be held and conveyed upon and subject to compliance with the covenants, restrictions, and uses set forth in the final development plan filed in the office of the City Recorder of the City of Sherwood. Further, it is hereby declared that the said property shall be subject to the covenants and restrictions herein-after set forth:

1. Protective screening areas shall be established on an approved and recorded final plan and program as submitted to the City of Sherwood and shall include:
 - a. A 10 foot conservation easement along Meinecke Road frontage landscaped consistent with the Sherwood Street Tree ordinance.
 - b. A six foot Cedar fence along the common boundary with the Sherwood High School grounds.
2. All landscaping materials including shrubs, plants, trees, and lawns shall be maintained in a healthy, attractive, and effective manner at all times.
3. No structures including dwellings, signs, fences, walls and accessory uses shall be erected, placed or altered unless they conform with the size types and quality of workmanship, materials, harmony of the external design of the existing structures as has been approved by the City of Sherwood.
4. No duplex unit (two joined dwelling units) shall have less than 2200 square feet of combined living area.
5. All structures including dwellings, fences, walls and accessory uses shall be maintained in an attractive manner. Exterior walls which have been painted or otherwise chemically treated shall not be allowed to become cracked, chipped or faded or in any way seriously deteriorated. Damaged or deteriorated exterior members of structures shall be repaired or replaced promptly.

6. All tenants or lessees within the area shall be subject to the provisions of the covenants herein set forth.

These covenants are given by virtue of the planned unit development allowed by the City of Sherwood and shall run with the land and be binding on all parties, including tenants of the premises, when appropriate, and all persons claiming under them until the covenants are changed, amended or removed upon application of any of the parties affected or their successors to and approval of the appropriate agency of the City of Sherwood, Oregon, or its successors. Further, the covenants may be removed by the City of Sherwood, or its appropriate designated agency in the event it is determined that the covenants are no longer necessary.

These covenants and conditions shall be for the benefit of the City of Sherwood, property owners within sign and sound, the premises described on Exhibit A, the grantor, its successors, heirs and assigns, and any tenants thereof. Any of said persons may prosecute and initiate any proceedings at law or in equity against the person, persons or entities violating or attempting to violate any such covenants and conditions to recover damages, enjoin violation, or for such other remedies as law or equity may provide. The prevailing party in any such suit or action shall be awarded such sum as the court may determine reasonable for attorney's fees and on appeal the prevailing party's reasonable attorney's fees shall be fixed by the appellate court.

In addition to all other rights and remedies, the City of Sherwood, in the event the property owners fail to keep and maintain the conservation easement area consistent with the requirements of covenant #2 above, may, at its option, from time to time take action to bring the conservation easement area into conformity with covenant #2 and apportion the cost thereof equally to each lot owner within the Whitmore Estates Subdivision, bill said assessment with the water billing or separately and shall have a lien against each lot until same is paid.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

DATED this _____ day of _____, 1979.

STATE OF OREGON)
County of Washington) ss

_____, 19____

Personally appeared the above named _____

_____ who acknowledged the foregoing
instrument to be his voluntary act. Before me:

Notary Public for Oregon
My Commission Expires:

Approved by the City Council of the City of Sherwood, Oregon,
this ____ day of _____, 19____.

By: _____
MAYOR