

City of Sherwood, Oregon
Ordinance No. 2003-1147

AN ORDINANCE APPROVING A RESIDENTIAL PLANNED UNIT DEVELOPMENT (PUD) OVERLAY ZONING DISTRICT FOR TAX LOT 1300 WASHINGTON COUNTY ASSESSORS MAP 2S 1 30D, CONSISTING OF 6.65 ACRES MORE OR LESS, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the subject property contains approximately 1.3 acres of sensitive wetland and natural areas identified in the City's wetland Inventory; and

WHEREAS, the subject property is within the urban growth boundary and City limits, and is zoned for residential development; and

WHEREAS, the Community Development and Zoning Code Section 2.202.02A specifies that "PUDs shall only be considered on sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of natural features such as floodplain or extreme topography...". The Sherwood City Council finds that the subject PUD complies because the site contains significant natural areas identified on the City Parks and Open Space Master Plan Map dated July 24, 1991, which would be dedicated to the City; and

WHEREAS, the Sherwood Planning Commission received the PUD application (City File No. PUD 02-03) and report of the City's Planning Staff and the Commission fully considered said materials; and

WHEREAS, the Sherwood Planning Commission conducted a public hearing on the proposed PUD 02-03 on March 4 and March 18, 2003 adopted findings recommending approval with conditions of the proposed Planned Unit Development to the City Council; and

WHEREAS, the Sherwood City Council has received the original application materials, the City's Planning Staff report, the Planning Commission and the Council has reviewed the materials submitted and the facts of the proposal and conducted a public hearing on March 25, 2003.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Commission Review & Public Hearings. That the application for a Planned Unit Development (City File No. PUD 02-03) Overlay District for Tax Lots 1300 of WASHINGTON COUNTY ASSESSORS MAP 2S 1 30D was subject to full and proper review, and public hearings were held before the Planning Commission on March 4 and March 18, 2003 and the City Council on March 25, 2003.

Section 2. Findings. That after full and due consideration of the application, the City Staff report, the record, findings, and of the evidence presented at the public hearing, the Council finds that, due to the unique natural features, the site is unusually constrained in development potential as compared to other land with the same underlying zoning designation, and therefore, the Council adopts the findings of fact contained in the staff report dated February 25, 2003 and the Planning Commission Notice of Decision dated March 18, 2003.

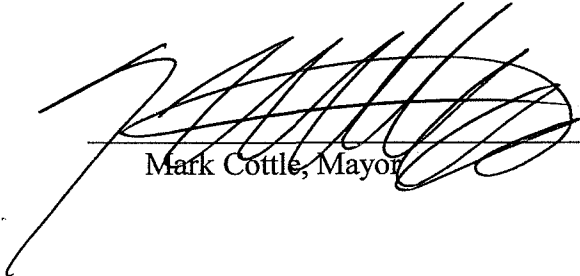
Section 3. Approval. That a request for a PUD Preliminary Plat and Development Plan is hereby APPROVED subject to the conditions contained in Exhibit A.

Section 4. Manager Authorized. The City Manager is directed to take such action as may be necessary to document this amendment, including preparation of a certified modification of the Official City Zoning Map, at such time as all conditions of the approval have been fully satisfied in accordance with City ordinances and regulations, as determined by the City Manager.

Section 5. Effective Date. This ordinance shall become effective the 30th day after its adoption by the City Council.

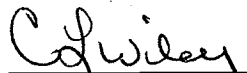
Duly passed by the City Council this 22nd day of April, 2003.

Approved by the Mayor this 22nd day of April, 2003.



Mark Cottle, Mayor

Attest:



C.L. Wiley, City Recorder

	AYE	NAY
Weislogel	✓	—
Grant	✓	—
Heironimus	absent	—
Durrell	✓	—
Mays	✓	—
Fox	✓	—
Cottle	refused	—

Exhibit A: City Council Notice of Decision dated April 22, 2003

Exhibit A
ORDINANCE NO. 2003-1147

CITY COUNCIL
NOTICE OF DECISION

TAX LOT: 1300
MAP NO: 2S 1 30D
CASE NO: PUD 02-03 Madera PUD
DATE OF DECISION: April 22, 2003
DECISION TYPE: TYPE IV – Legislative (PUD)

Applicant:

John Wyland
Centex Homes
16520 SW Upper Boones Ferry Road, Suite 200
Portland, OR 97224

Owner:

Lois Matz
Estate of Emilie S. List
4831 20th Avenue South
Salem, OR 97302

Applicant's Representative:

Kirsten Van Loo
CES/NW Inc.
15573 SW Bangy Road, Suite 300
Lake Oswego, OR 97035

I. DECISION

On April 22, 2003 the City Council of the City of Sherwood, Oregon **approved with conditions** PUD 02-03, a 59-unit single-family attached townhome Planned Unit Development (PUD) and a preliminary subdivision plat, located on tax lots 1300 of Tax Map 2S130D in the High Density Residential (HDR) zoning district.

II. FINDINGS

This decision was based on the findings of fact contained in the Staff Report addressed to the Planning Commission dated February 25, 2003 and the Planning Commission Notice of Decision dated March 18, 2003.

III. REVISED FINDINGS

The following additions and/or changes were made to the findings of fact in the February 25, 2003 staff report:

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V. PLANNED UNIT DEVELOPMENT (PUD) - REQUIRED FINDINGS (SECTION 2.202)

Findings: The applicant is proposing a Planned Unit Development (PUD) which allows flexibility in development regulations to contend with site constraints while providing for innovative design. In this case, the applicant is asking for a limited number of adjustments to the dimensional standards of the code. These adjustments are as follows:

- 1. Required Road Paved Width:** 36 feet (Section 2.204.01-E.5.a)
Proposed: 28-foot wide public street and three 24-foot private access drives are proposed.
- 2. Required Garage Width to Unit Width:** 60% Maximum (Section 2.204.01E.3.b)
Proposed: All townhome units will meet this standard with the exception of the one 2-plex unit proposed. The 2-plex unit will have a maximum garage to unit width of 65%.
- 3. Maximum Allowed Canopy Projection into Rear Setback:** 2.5 feet (Section 2.305.04)
Proposed: 5 feet

The site is constrained by a wetland area located on the southwestern boundary of the site and by the irregular shape of the parcel that narrows from approximately 270 feet to 160 feet at the center of the parcel. In exchange for flexibility on these development standards, the applicant is proposing to preserve and enhance the wetland area and buffers. The wetland area would be conveyed to the City of Sherwood and become part of the greenway/open space area along Cedar Creek. A privately maintained basketball court and private open space area for the future residents is also proposed.

The Fire District restricts parking to one side of the street when the paved width of the street is 28 feet. To provide additional parking space, the applicant is proposing to access the townhomes on the east side the road with three 24-foot wide private drives. The private drives would limit the access points onto the east side of the proposed public street (shown as Madera Terrace on

the preliminary plans). The limited access would allow for additional parking on the east side of the street then would be allowed if each town home had its own access to the public street.

Page 9 to 10 of the Staff Report

- B. *Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.*

Findings: Proposed Tract C, D and H are private access streets. These streets should be maintained by the Home Owners Association. Agreements for maintenance of these streets must be approved by the City and recorded with Washington County for maintenance of these streets and should be done prior to approval of the final subdivision plat.

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- a. *When garages face the street, the garage doors shall be recessed behind the front elevation (living area, covered porch, or other architectural feature) by a minimum of one (1) foot.*

Findings: ~~Garage doors are recessed, however it is difficult to tell from the elevations submitted how the garage is recessed a minimum of one foot behind an architectural feature. The Plans indicate some brick treatment along the front of the garage but does not cover the entire front of the garage. The applicant must address this in more detail or revise the plans to meet this standard. As indicated on the plans submitted, the garage doors are recessed by at least one foot behind the brick treatment and architectural feature along the front of the garage.~~

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- b. *The maximum allowable driveway width facing the street is two (2) feet greater than the width of the garage door. The maximum garage door width per unit is sixty percent (60%) of the total building width. For example, a 20-foot wide unit may have one 12-foot wide recessed garage door and a 14-foot wide driveway. A 24-foot wide unit may have a 14-foot, 4-inch wide garage door with a 16-foot, 4-inch wide driveway.*

Findings: Garage door widths on single garage units are shown as 9 feet wide, the garage width on these units is 8 feet. Double car units will have a 16 foot wide door and 16 foot wide driveway. The driveway width standard is met. As demonstrated by the matrix provided by the applicant, all of the townhomes, except a single 2-plex, include garages that are less

than 60% of the width of each building. That chart is herein incorporated into the findings. The single 2-plex building (units 27 and 28) includes 2 units that are 24-foot, 9-inch wide each, and a 16-foot wide garage, which is 65% of the building width. Although the proposal does not meet the sixty percent (60%) standard in the Townhome Code, the City finds that since the development is a PUD it is appropriate to afford the development some flexibility. Furthermore, the 2-plex building is oriented towards a private driveway, not the street, so the slightly larger garage will not be visible from the street. Finally, allowing the slightly larger driveway for the 2-plex building will provide 4 additional off-street parking spaces, which will help alleviate the demand for on-street parking. As indicated on the floor plans for the units, some units will be 24 feet wide and have a 16-foot wide garage door that results in 66 percent of the building width, in excess of the requirement. The applicant must demonstrate how this townhome unit meets this requirement or revise the plans to meet this standard.

- b. *The roofs of each attached townhome must be distinct from the other through either separation of roof pitches or direction, variation in roof design, or architectural feature. Hipped, gambrel or gabled roofs are required. Flat roofs are not permitted.*

Findings: ~~The applicant's was asked by staff to revise the elevations to meet this standards. revised elevations received by the Planning Department on February 24, 2003~~ March 10, 2003 indicate that units would be separated by roof peaks at the front. The floor plans indicate that the units would be staggered to highlight separation between units. The City finds that requiring additional separation or variation in the roof would require increasing the height and mass of each building, which would cause the townhomes to be less compatible with the neighboring single-family homes. The individuality of each unit will be enhanced by architectural and design features on each building's rear façade.

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- C. *Covenants, agreements, and other specific documents are adequate, in the City's determination, to assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and other on-site features.*

Findings: Proposed Tract C, D and H are private access streets and proposed Tracts E, F, G and I are private open space tracts. These tracts should be maintained by the Home Owners Association. Private agreements for the maintenance of these streets must be approved by the City and recorded with

~~Washington County for maintenance of these tracts and should be done prior to approval of the final subdivision plat.~~

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- F. *Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.*

Findings: Public road stubs are provided to the north and east to allow for access to future development. So that as much open space can be preserved for as long as possible, the public right-of-way stub to the east (to map 2S 1 30D, Tax Lot 1200) need not be constructed until the easterly property re-develops. Therefore, it is appropriate for the applicant to provide a fee in lieu of constructing the future street improvements.

IV. CONDITIONS OF APPROVAL

The following conditions of approval are placed on this development approval:

A. General Conditions:

The following applies throughout the development and occupancy of the site:

1. Compliance with the Conditions of Approval and the engineering compliance agreement is the responsibility of the developer.
2. This land use approval shall be limited to the submitted plans prepared by CES NW dated October 01, 2002, revised elevations received March 10, 2003 and revised grading plan received February 24, 2003 except as indicated in the following conditions. Additional development or change of use may require a new development application and approval.
3. The developer is responsible for all costs associated with public facility improvements.
4. **This approval is valid for a period of one (1) year from the date of the decision.** Extensions maybe granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. The developer shall comply with Service Provider Letter #2517 issued by Heidi K. Berg, Site Assessment Coordinator, Clean Water Services.
6. Substantial retaining walls (walls in excess of 6 feet) are prohibited unless approved under a future land use application. Backfilling the retaining wall to make the face of the wall shorter is not an acceptable method of reducing wall height. Proposing additional walls and/or substantially increasing the height of walls is considered a substantial change and would require a new land use review. The majority of the walls proposed do not exceed four feet in height.
7. Unless specifically exempted in writing by the final decision, the development shall comply with all applicable City of Sherwood, Clean Water Services, Tualatin

Valley Water District, Tualatin Valley Fire & Rescue and other applicable agency codes and standards except as modified below:

B. Prior to Grading the site or the demolition of structures:

1. Trees to be retained as shown on the tree plan prepared by CES NW dated October 01, 2002 shall be temporary fenced around the dripline.
2. Obtain City of Sherwood Engineering Division approval of grading plans and erosion control including a Joint 1200-C permit. Plans shall be submitted to the Sherwood Engineering Division and routed to Clean Water Services for review and approval.
3. A Building Permit shall be obtained from the Building Department for the proposed retaining walls that are in excess of four feet tall from the bottom of the footing to the top of the wall, retain a surcharge or otherwise require a permit as determined by the Building Official. The Planning Department shall verify that the walls proposed are consistent with the proposed grading and walls shown on the preliminary grading plan submitted to the Planning Department on February 24, 2002 from CES NW.
4. Any existing wells, septic systems and underground storage tanks shall be abandoned in accordance with Oregon state law.
5. A demolition permit shall be obtained from the Sherwood Building Department prior to demolishing any structures.
6. Comply with the Clean Water Services, Service Provider Letter #2517 including but not limited to the following conditions:
 - a. Service Provider Letter #2517, Condition #5 - *Prior to any site clearing, grading or construction the vegetated corridor and water quality sensitive areas shall be surveyed, staked, and temporarily fenced per approved plan. During construction the vegetated corridor shall remain fenced and undisturbed except as allowed by Section 3.02.4.b.4., and per approved plans.*
 - b. Service Provider Letter #2517, Condition #6 – *Prior to any activity within the sensitive area, the applicant shall gain authorization for the project from the Oregon Division of State Lands (DSL) and US Army Corps of Engineers (USACE). The applicant shall provide the District with copies of all DSL and USACE project authorization permits. No activities in the Sensitive Area are proposed at this time.*
 - c. Service Provider Letter #2517, Condition #12 – *Protection of the vegetated corridors and associated sensitive areas shall be provided by the installation of fencing between the development and the outer limits of the vegetated corridors.*

C. Prior to Development of the site and connection to public utilities:

1. Each lot in this development shall connect to public water, sewer and stormwater.
2. Receive approval of engineering plans for all public improvements (water, sewer, stormwater and streets) from Sherwood Engineering Division. The engineering

plans shall conform with the Sherwood Public Works, Clean Water Services, Tualatin Valley Water District, Tualatin Valley Fire & Rescue and other applicable standards. The plans shall be in substantial conformance with the approved plans prepared by CES NW dated October 01, 2002, revised elevations received March 10, 2003 and revised grading plan received February 24, 2003.

3. Construction plans to include an interim access to Edy road, through the adjacent property to the north (Washington County Deed Records, Book 213, Page 39). Accessway design to be approved by the City Engineer. Accessway may be relocated upon future development of the property to the north.

D. Prior to placing a temporary construction trailer on-site

1. A temporary use permit shall be obtained from the City of Sherwood per SZCDC Section 4.500.
2. The construction trailer shall be located within an existing or future lot in the development and not within the existing or future public right-of-way and shall not interfere with City of Sherwood inspection of public utilities.
3. Appropriate permits for water, sewer and electrical shall be obtained from the Building Department and Washington County.
4. The construction trailer shall be removed before a building permit can be issued on the lot the trailer is located on.

E. Prior to submitting for Final Plat to the City of Sherwood:

1. The minor partition plat, Planning Case File MLP 02-07 shall be recorded and three copies of the recorded plat returned to the Planning Department.
2. The applicant shall receive Engineering Division Approval of Engineering Plans as stated above and the Sherwood Engineering Compliance agreement shall be signed by the City Manager and the Developer.
3. The applicant shall submit a final plat application and fee. The final plat application shall include a response to these conditions of approval.

F. Prior to Final Plat Approval:

1. All public improvements shall be constructed and accepted unless otherwise covered by a performance bond, financial guarantee, or fee in lieu of improvement approved and accepted by the City Engineer and Clean Water Services.
2. Provide financial guarantee or fee in lieu of improvement acceptable to the City Engineer for the construction of the future street improvements within the right-of-way stub to the easterly property (map 2S 1 30D, Tax Lot 1200).
3. Provide a 2-foot access easement along the rear of proposed lots 1 through 10.
4. Proposed Tract A, a stormwater and water quality facility tract and Tract B, an open space and sensitive area tract as indicated on the preliminary plans prepared by CES NW dated October 01, 2002, shall be conveyed to the City of Sherwood.
5. The final CC&R's shall be reviewed and approved by the Planning Department

for consistency with the zoning code. The CC&R's must include provisions for the protection and maintenance of required street trees by the HOA.

6. Agreements for the maintenance of the private streets and open space areas shall be approved by the City and recorded with the subdivision plat.
 - a. A final development plan, as required by Section 2.202.03 shall be prepared for review and approval by the Planning Commission. The plans shall indicate in detail the location final building plans for each townhome, final landscaping, tree mitigation and street layout.

G. Prior to the Building Department Accepting Building Permits

1. The Building Department may accept (but shall not issue) a limited number of building permits to be determined by the Building Official, if the public improvements are close to completion as determined by the Building Department.

H. Prior to issuance of building permits, including model home permits, temporary sales offices; and sign permits

1. The Engineering Department shall inspect and approve all public improvements.
2. Building plans shall comply with the letter from Eric T. McMullen, Deputy Fire Marshal, Tualatin Valley Fire & Rescue dated December 31, 2002.
3. A compaction test shall be completed for each lot in the development as required by the Building Official.

I. Prior to receiving an occupancy permit

1. All appropriate agency conditions shall be met.
2. Once 75 percent of the subdivision has been occupied the developer shall install street trees.

J. On-going Conditions

1. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code.
2. Decks, fences, sheds, building additions and other site improvements shall not be located within any easement.
3. The sensitive area shall continue to be protected as required by Clean Water Services, Service Provider Letter #2517.
4. No parking shall be allowed on the west side of the proposed public street.
5. Trees proposed to remain on the Landscaping Plan prepared by Robert Foster H. Consultants dated 10-29-02 shall not be removed unless it is determined by the Sherwood Planning Department that the tree would interfere with utilities, streets, proposed buildings or cause a safety hazard. Trees removed shall be mitigated per SZCDC Section 8.304.07-D.

V. ATTACHMENTS (Not included with Ordinance)

1. Preliminary Plat
2. Preliminary Floor Plans
3. Revise Preliminary Elevations Received by the Planning Dept. March 10, 2003
4. Letter Eric T. McMullen, Deputy Fire Marshal dated December 31, 2002
5. Clean Water Services, Service Provider Letter #2517 dated December 4, 2002
6. Letter from Edy Village Neighborhood dated February 24, 2003 and entered into the record at the March 4, 2003 Planning Commission Hearing
7. Fax from John Wyland, Centex Homes dated March 4, 2003
8. Letter from Kevin E. Mayne dated March 11, 2003

Signed: _____
Dave Wechner, AICP
Planning Director