

TO: HEARINGS OFFICER
FROM: PLANNING DEPARTMENT

Pre-App. Meeting: NA
App. Submitted: April 16, 2009
App. Complete: June 12, 2009
120-Day Deadline: November 30, 2009
(extended from original 10/10/09 date)
Hearing Date: October 5, 2009



Ben Schonberger, Winterbrook
Planning, consultant for City

Proposal: The applicant proposes to subdivide 8.42 acres into 10 lots. The applicant proposes 9 residential lots ranging in size between 5,079 square feet and 18,752 square feet, and one "remainder" lot of approximately 6.67 acres consisting of floodplain, wetland areas, vegetated corridor and isolated upland area to be dedicated to the City. An existing home will remain on one of the nine lots. The applicant is also proposing to adjust the property line between the subject site (tax lots 1000 and 1001) and the adjacent development on tax lot 1002 to combine isolated pieces of property created by the right-of-way dedication of Cedar Brook Way. For purposes of addressing density standards, tax lot 1000 is also included in the proposal but is not being developed further. The applicant's proposal dated March 30, 2009 is included as Exhibit A and the applicant's revisions dated September 11, 2009 are included as Exhibit B.

I. BACKGROUND

A. Applicant Information:

Applicant: Owner of tax lots 2S130D1001 and 2S130D1002:
Jim and Susan Claus
22211 SW Pacific Highway
Sherwood, OR 97140
Contact: Eric Postma, (503) 228-6277

Parcel(s) size: 8.42 acres

Co-Applicant: Owner of tax lot 2S130D1000:
Sean Keyes, Woodhaven LLC
17933 NW Evergreen
Beaverton, OR 97006

Parcel size: 7.71 acres

Life Estate Holder: Lloyd and Irene McFall

- B. Location: The property is located on the west side of SW Pacific Highway. The property address is 21805 SW Pacific Highway and the property is identified as tax lots 1000, 1001 and 1002 on Washington County Assessor Map 2S130D.
- C. Parcel Size: The subject property consists of three tax lots totaling 17.02 acres.
- D. Existing Development and Site Characteristics: The site is situated in the west central part of Sherwood. Metro's inventory of regionally significant habitat indicates that the area of the site proposed for development is predominantly Riparian Corridors/Wildlife Habitat Class I. A smaller area of the site is designated as Riparian Corridors/Wildlife Habitat Class II and Upland Wildlife Habitat Class C. Proposed development is not located on any Class 1 resources. A portion of the proposed development will be located on Class II and Class C resources, with the majority of development located in non-resource areas. The area proposed for development has relatively flat topography with the rear portions of lots more steeply sloped outside the building envelope; the "remainder" lot is moderately to steeply sloped with sloped areas of twenty-five percent or greater. Vegetation on site includes deciduous and evergreen trees interspersed with grass and shrubs.
- E. Site History: For purposes of this application, the "site" includes two properties: the 8.42 acres of Dr. and Mrs. Claus and the 7.71 acres of Woodhaven Crossing II (name changed to Creekview Condominium after approval and file references changed accordingly). The Woodhaven property is currently developed with a 183-unit residential development ("Creekview Condominiums" - file number SP 06-02). The Claus property is currently developed with a single-family residence, built in 1978. The existing home will remain on one of the developed lots; the proposed lot lines will be adjusted to fit this existing house. The proposed change in lot patterns is limited to the 8.42-acre Claus property.
- F. Existing Classification and Comprehensive Plan Designation: The existing zone is high density residential (HDR). Per section 16.20, the purpose of the HDR zone is to provide for higher density multi-family housing and other related uses, with a density not to exceed twenty-four dwelling units per acre and a density not less than 16.8 dwellings per acre.
- G. Adjacent Zoning and Land Use: The subject site consists of both the Woodhaven Crossing II site and the McFall subdivision site. The properties to the south are zoned General Commercial. The properties to the north are zoned Low Density Residential in a PUD and High Density Residential and developed with single family homes. The properties to the west are zoned LDR Planned Unit Development and developed with single family homes and general commercial with an approved assisted living facility not yet under construction. The properties to the east, across Highway 99, are predominantly zoned High Density Residential (HDR) and contain multi-family homes. The development site (McFall property only) is bordered to the east by SW Pacific Highway (99W), a principal arterial, and to the south by Cedar Brook Way, a local street, which terminates at the western boundary of the development site. To the northeast, across Cedar Creek and the floodplain, are properties zoned High Density Residential and developed with single and multi-family housing.
- H. Review Type: Subdivisions less than fifty lots require a Type III review with a public hearing decision made by the Hearing Officer after consideration of public comment (16.72.010.1.C). Any appeal would be heard by the Planning Commission.

- I. Public Notice and Hearing: Notice of the application was mailed to property owners within 100 feet, posted on the property and in five locations throughout the City on September 15, 2009. The notice was published in the Tigard/Tualatin Times on September 24th and October 1st in accordance with Section 16.72.020 of the SZCDC.
- J. Review Criteria: Sherwood Zoning and Community Development Code, 16.20 (HDR), 16.58.010 (Clear Vision), 16.58.030 (Fences, Walls and Hedges), 16.92 (Landscaping), 16.94 (Off-Street Parking), Division VI - 16.104-16.118 (Public Improvements), 16.122 (Preliminary Plats), 16.126 (Design Standards), 16.128 (Land Partitions), 16.142 (Parks and Open Space), 16.144 (Wetland, Habitat and Natural Areas).

II. PUBLIC COMMENTS

Public notice was mailed and posted on the property on September 15, 2009. Notice was published in The Times on September 24th and October 1st. To date, staff has not received any public comments.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on June 23, 2009. The following is a summary of the comments received. Copies of full comments are included in the record unless otherwise noted.

Sherwood Engineering Department: The Engineering Department submitted the following comments:

Grading and Erosion Control:

1. Retaining walls greater than 4 feet in height shall have a geotechnical engineer provide stamped design calculations and details drawings required for the retaining wall construction. The retaining wall detail drawings shall include at a minimum; wall profile, wall cross section at highest point of wall, wall reinforcing geotextile requirements, wall drainage system, and wall backfill requirements. Retaining wall drainage systems shall either discharge to a public storm drainage system, or discharge on such a manner as to not negatively impact adjacent properties. Retaining walls within public easements or the public right-of-way shall require engineering approval. Retaining walls with a height of 4 feet or higher located on private property will require a permit from the building department.
2. Prior to commencing site construction, the applicant's contractor shall notify the engineering department erosion and sediment control inspector who will inspect the installed erosion and sediment control measures. Deficiencies in either the installation of, or the omission of required erosion and sediment control measures, shall be corrected before commencing any construction activity.
3. City policy requires that prior to site grading, a permit is obtained from the Building Department for all grading on the private portion of the site.
4. The Engineering Department requires a grading permit for all areas graded as part of the public improvements. The Engineering permit for grading of the public improvements is reviewed, approved and released as part of the public improvement plans.

5. In the event that there is engineered fill within any public roads right-of-way, the applicant's geotechnical engineer and testing lab shall obtain and record compaction tests and submit results for the review and approval of the City Engineer.
6. Since the total area disturbed for this project exceeds 1 acre, an NPDES 1200-C permit will be required. The applicant shall follow the latest requirements from DEQ for NPDES 1200-C permit submittals. A copy of the approved and signed permit shall be provided to the City prior to holding a pre-construction meeting or commencing any construction activity.
7. That the Erosion and Sediment Control Plan shall include a plan to implement and maintain wet weather measures within 14 days of the final grading and between the months of October 1st and April 30th.
8. The applicant's engineer is required to provide a site specific drainage plan to temporarily collect, route, and treat surface water during each construction phase. The construction plans shall specifically identify how the storm drainage system and erosion and sediment control measures will be phased during construction, such that at any time during construction the approved plans shall be capable of providing full erosion and sediment control collection, routing, and treatment of storm water runoff. No site construction will be allowed to take place if the storm water drainage system and erosion and sediment control measures are not installed per plan and functioning properly.
9. The Engineer shall submit a geotechnical report for the proposed development site, which shall include an analysis of the potential for soil liquefaction and slope stability. The geotechnical report shall also include recommendations and design parameters for retaining wall designs, and for footing and retaining wall drainage discharge.
10. The final plans shall include grading contours for each lot at 1 foot intervals, retaining wall locations and heights, top and toe of any fill or cut slopes, and details on how footing and retaining wall drainage will be discharged from the site.

Other Engineering Issues:

1. Public easements are required over all public utilities outside the public right-of-way. Easements dedicated to the City of Sherwood are exclusive easements unless otherwise authorized by the City Engineer.
2. An eight-foot wide public utility easement is required adjacent to the right-of-way of all street frontage. (Reference code 16.118.020.B).
3. All existing and proposed utilities shall be placed underground.
4. Obtain a right-of-way permit for any work required in the public right-of-way, (reference City Ordinance 2006-20).
5. All public easements must be in submitted to the City for review, signed by the City and Applicant, recorded by the Applicant with the original recorded easements on file at the City prior to the release of public improvement plans.

Miscellaneous:

1. At the City's discretion Applicant may be required to install infrastructure for Sherwood Broadband as noted in City Ordinances 2005-17 and 2005-74.

2. The construction noise shall be kept at the minimum level possible during construction. The applicant shall agree to aggressively ensure that all vehicles working on the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times on construction equipment and contractor vehicles.
3. That the construction site shall be maintained in a clean and sanitary condition at all times. Construction debris, including food and drink waste, shall be restricted from leaving the construction site through proper disposal containers or construction fencing enclosures. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the Code Enforcement Officer.
4. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
5. The design of public infrastructure and development of final construction plans shall comply with the requirements delineated in the City's Engineering Design and Standard Details Manual, current edition.

Clean Water Services (CWS): Jackie Sue Humphreys provided written comments on July 7, 2009, included as Exhibit C. Jackie noted that a Clean Water Services Storm Water Connection Permit Authorization must be obtained prior to plat approval and recordation. Application for the District's Permit Authorization must be in accordance with the requirements of the Design and Construction Standards, Resolution and Order No. 07-20, (or current R&O in effect at time of Engineering plan submittal), and is to include the items listed in the letter. CWS must approve final construction plans and drainage calculations.

Kinder Morgan Energy: Ron Metcalf provided written comments on June 24, 2009, included as Exhibit D. He expressed that Kinder Morgan Energy had no conflict with the project.

ODOT: Seth Brumley provided written comments on July 6, 2009, included as Exhibit E. He stated that ODOT did not have any issues with the McFall subdivision at present, but would like to submit comments at the Site Plan phase.

Pride Disposal: Kristin Leichner provided written comments on July 3, 2009, included as Exhibit F. She stated that Pride Disposal did not have any comments on the lot partition and that all residents will be required to bring their receptacles to Cedar Brook Way for collection.

Tualatin Valley Water District: Tualatin Valley Water District provided written comments on July 13, 2009, included as Exhibit G. TVWD stated that the existing service for lots 3 and 7 may need to be relocated and that new service would be required for lots 1 and 2, 4 through 6, and 8 and 9.

Portland General Electric: Lorraine Katz provided written comments on June 24, 2009, included as Exhibit H. She noted that if the homes are to be accessed from the frontage along SW Cedar Brook then PGE will require a minimum of an 8' easement behind the property line running parallel with Cedar Brook. PGE will also need to see an easement specified on the final plan.

Tualatin Valley Fire and Rescue District: John Wolff provided written comments on July 6, 2009, included as Exhibit I. John stated that Tualatin Valley Fire & Rescue endorses this proposal predicated that the applicant resubmit plans to ensure compliance with the standards and criteria called out in the July 6 letter.

IV. APPLICABLE CODE PROVISIONS

The applicable zoning district standards are identified in Chapter 16.20 below.

A. Division II– Land Use and Development

The applicable provisions of Division II include: 16.20 (Zone Classification) and 16.58 (Visual Clearance). Compliance with the standards in these sections is discussed below:

16.20.010 Purpose

The HDR zoning district provides for higher density multi-family housing and other related uses, with a density not to exceed twenty-four (24) dwelling units per acre and a density not less than 16.8 dwellings per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement.

The applicant is proposing the creation of ten (10) lots for residential purposes with one of the ten lots serving as dedicated natural open space (approximately 6.5-acres). Residential development is permitted by-right under the HDR zone. The “site” includes the 8.42-acre Claus property (the area proposed for the McFall Subdivision) as well as the adjacent Woodhaven development (7.71 acres). The total site area is 17.02 acres.

Of the 8.42-acre Claus property, only 1.75 acres is “buildable” per the city code definition (absent of environmental constraints). Woodhaven Crossing is currently developed with a 183 multi-family residential development. All 7.71 acres of that site is considered buildable. The applicant provided a map showing the buildable and unbuildable areas of the site. The total net buildable area on the site is 9.46 acres. The applicant is proposing the creation of a 9-unit residential subdivision, combined with the 183 units on the Woodhaven property. This results in a project density of 20.30 dwelling units per acre (183+9=192 units/9.46 acres). Staff notes that the applicant could build multi-family housing on one or more of the proposed lots, since this housing type is allowed by-right in the zone, and up to 44 dwelling units could be added before maximum density limit is reached. The construction of more than two dwelling units on any single lot would require site plan review.

FINDING: Based on the above discussion, the applicant meets this criterion.

16.20.040 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84.

16.20.040.A. Lot Dimensions

Except as modified under Chapter 16.68 (Infill Development), Section 16.144.030, Chapter 16.44 (Townhouses), or as otherwise provided, required minimum lot areas and dimensions shall be:

1.	Lot area:	5,000 sq ft
2.	Lot width at front property line:	25 feet
3.	Lot width at building line:	50 feet
4.	Lot Depth	80 feet

As discussed, the applicant proposes nine residential lots with a tenth “remainder” lot (6.5 acres) proposed as dedicated natural open space. Staff has reviewed the submitted site plan and confirmed that each of the lots meets the minimum dimensional requirements in Section 16.20.040.A.

FINDING: Based on the above discussion, the applicant meets this criterion.

16.20.040.B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

1.	Front yard:	20 feet
2.	Side yard:	
	a. Single-Family Detached:	5 feet
	b. Corner Lot (street side):	15 feet
3.	Rear yard:	20 feet

The proposal includes “typical” building footprints for each of the nine proposed residential lots. The proposed building footprints satisfy the minimal setback requirements with both front and rear yards having 20-foot front and rear setbacks and side yards of five feet on each side. Compliance with setbacks will be verified at the time of building permit issuance.

FINDING: Based on the above discussion and submitted materials, the applicant will meet this criterion and full compliance will be verified at time of building permit issuance.

16.20.040.C. Height

Except as otherwise provided, the maximum height shall be three (3) stories or forty (40) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet.

The applicant has not provided elevations of the houses for this submittal; therefore this will be reviewed at the time of building permit submittal.

FINDING: Compliance with this section can be reviewed at the time of building permit approval.

16.58.010- Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.

The setback requirements preclude building of homes in the clear vision areas on any corner. The proposed general development plan does not show street trees or structures within the clear vision area. Compliance with Section 16.58.010 will be determined at the time of site plan review.

FINDING: Compliance with this section can be reviewed at the time of site plan review.

16.58.030. Location

Fences up to six feet (6') high are allowed in required side or rear building setbacks, except fences adjacent to public pedestrian access ways and alleys shall not exceed forty-two inches (42") in height, unless there is a landscaped buffer at least three (3) feet wide between the fence and the access way or alley.

The applicant is not proposing any public pedestrian access ways. The applicant has not proposed fences associated with the lots nor are they required to meet this standard. It appears that CWS will require fencing to be shown on the public improvement plans between the proposed lots and the vegetated corridor. Staff will confirm at that time that no proposed fence exceeds six feet in height.

FINDING: This section does not apply at this time. Compliance with fencing standards will be required when fencing is proposed.

B. Division V- Community Design

16.94.020- Off Street Parking

Section 16.94.020 indicates single family dwellings require one off-street parking space per dwelling unit.

This standard is typically met with the installation of garages and driveways. Compliance is confirmed during plot plan review for individual building lots.

FINDING: Compliance with this standard will be verified at time of building permit issuance.

16.96.020.1.A- Minimum Standards- Single-Family Driveways

One (1) driveway improved with hard surface pavement with a minimum width of ten (10) feet, not to exceed a grade of 14%. Permeable surfaces and planting strips between driveway ramps are encouraged in order to reduce storm water runoff. Driveways serving two residences, the minimum is one (1) shared driveway improved with hard surface pavement with a minimum width of twenty (20) feet; or two (2) driveways improved with hard surface pavement with a minimum width of ten (10) feet each.

The plans do not show driveway aprons for the proposed lots because the exact location is often not determined at this preliminary stage. Generally, compliance with this standard is confirmed during plot plan review for individual building permits.

The topography of the site does not indicate driveway grades are likely to exceed 14%; however, this will be confirmed during plot plan review for individual building permits.

FINDING: Compliance with this standard will be confirmed during plot plan review for individual building lots. Based on the analysis above, it appears that the applicable Community Design and Appearance standards can be met with the following condition.

RECOMMENDED CONDITION: Prior to issuance of the building permit, the applicant shall show that driveways conform to Section 16.96.020.1.A of the Sherwood Zoning and Community Development Code, with individual driveway slopes not exceeding a grade of 14%. A shared driveway providing access to two lots shall be a minimum of twenty (20) feet in width.

C. Division VI - Public Improvements

16.108- Streets

16.108.030.01 – Required Improvements

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

The proposed site development fronts an existing fully developed City road (Cedar Brook Way). No modifications to the existing road right-of-way alignment or section are planned. Any proposed public or private utility installations within the road section shall require the applicant to obtain a right-of-way permit.

The proposed plan indicates water service laterals, storm sewer laterals, and sanitary sewer laterals being installed within the City street right-of-way. Because Cedar Brook Way is a newly constructed road, installation of trench patching alone will not be sufficient. The applicant has acknowledged in their narrative that either pavement grinding or pavement removal and repaving will be required and will be done by the applicant to City standards.

FINDING: To maintain the newly constructed City street pavement section (Cedar Brook Way), the applicant will have the option of either grinding a full width road section long enough to encompass all grouped utility trenches, or removal and replacement of the entire affected road pavement surface long enough to encompass all grouped utility trenches. These options are provided to maintain the service life of the newly constructed road to meet City standards.

RECOMMENDED CONDITION: Installation of standard trench patching on newly installed utility laterals within the Cedar Brook Way right-of-way will not be accepted. The method and physical limits of the asphalt pavement restoration must receive approval by the City Engineer prior to any utility service lateral work being performed within the public right-of-way.

16.108.040.03 - Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

The proposed site development fronts an existing fully developed City street (Cedar Brook Way). No modifications to the existing road right-of-way alignment or section are planned. Any proposed public

or private utility installations within the road section shall require the applicant to obtain a right-of-way permit.

The proposed plan indicates water service laterals, storm sewer laterals, and sanitary sewer laterals being installed within the City street right-of-way. This section requires that underground utilities be constructed prior to the surfacing of the streets. The final surface of the street has been completed, therefore the applicant will need to ensure the installation of the utilities do not diminish the level of street improvement currently existing. Therefore installation of trench patching will not be sufficient.

FINDING: See previous finding and condition for utilities under 16.108.030.01.

8. Buffering of Major Streets

Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties shall be provided and through and local traffic shall be separated and traffic conflicts minimized. In addition, visual corridors pursuant to Section 16.142.030, and all applicable access provisions of Chapter 16.96, shall be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.

FINDING: No residential lots directly abut Highway 99. The only lot that abuts Highway 99 (lot 10) will remain as undeveloped open space dedicated to the City. Site plan review will ensure compliance with Section 16.142.030 and access provisions of Chapter 16.96. This standard is met.

12. Traffic Controls

For developments of five (5) acres or more, the City may require a traffic impact analysis to determine the number and types of traffic controls necessary to accommodate anticipated traffic flow. Such analysis will be completed according to specifications established by the City. Review and approval of the analysis by the City, and any improvements indicated, shall be required prior to issuance of a construction permit.

Although the development site is 8.42 acres, the applicant is only proposing to subdivide 1.8 acres into 9 residential lots. The "remainder" lot will be preserved as undeveloped open space. Cedar Brook Way, which fronts the proposed lots, is fully improved to City standards.

FINDING: Due to the lot size and environmental constraints, most of the proposed lots will be developed with single-family houses. Cedar Brook Way was constructed to accommodate the levels of traffic from full build-out of the area. Based on the negligible anticipated increase in traffic from the proposed development, and the capacity of the new city street, no traffic impact analysis has been required from the applicant and no traffic controls are recommended.

14. Vehicular Access Management

All developments shall have legal access to a public road. Access onto public streets shall be permitted upon demonstration of compliance with the provisions of adopted street standards in the City of Sherwood Transportation Technical Standards and the standards of this Division.

A. Measurement: See the following access diagram where R/W = Right-of-Way; and P.I. = Point-of-Intersection where P.I. shall be located based upon a 90 degree angle of intersection between ultimate right-of-way lines.

1. Minimum right-of-way radius at intersections shall conform to city standards. Where city standards

do not exist, the County Road Standards shall apply.

2. All minimum distances stated in the following sections shall be governed by sight distance requirements according to County Road Standards.

3. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.

4. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.

5. Minimum spacing between driveways shall be measured from Point "C" to Point "C" as shown below:

B. Roadway Access

No use will be permitted to have direct access to a street or road except as specified below. Access spacing shall be measured from existing or approved accesses on either side of a street or road. The lowest functional classification street available to the legal lot, including alleys within a public easement, shall take precedence for new access points.

1. Local Streets:

Minimum right-of-way radius is fifteen (15) feet. Access will not be permitted within ten (10) feet of Point "B," if no radius exists, access will not be permitted within twenty-five (25) feet of Point "A." Access points near an intersection with a Neighborhood Route, Collector or Arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than ten (10) feet.

FINDING: All of the lots within the subdivision have adequate access onto Cedar Brook Way which intersects with Highway 99. Compliance with distance and access requirements will be determined at building permit review.

4. Principal Arterials, Arterials, and Highway 99W - Points of ingress or egress to and from Highway 99W, principal arterials, and arterials designated on the Transportation Plan Map, attached as Figure 1 of the Community Development Plan, Part II, shall be limited as follows:

a. Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W, principal arterials, and arterials. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.

b. Other private ingress or egress from Highway 99W, principal arterials, and arterial roadways shall be minimized. Where alternatives to Highway 99W, principal arterials, or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress. Alternatives include shared or crossover access agreement between properties, consolidated access points, or frontage or backage road. When alternatives do not exist, access shall comply with the following standards:

FINDING: Access to the subdivision will be provided via Cedar Brook Way, a public street, which intersects with Highway 99. Individual lots will take access from Cedar Brook Way. While the "remainder" lot has frontage along Pacific Highway it is undevelopable and will not have vehicular access to the arterial road. This standard is met.

16.108.060 - Sidewalks

Except as otherwise provided, sidewalks shall be installed on both sides of a public street and in any special pedestrian way within new development. Arterial streets shall have a minimum eight (8) foot

wide sidewalks and local streets shall have a minimum of five (5) foot wide sidewalks, located as required by this code.

FINDING: Cedar Brook Way is fully improved with a sidewalk and planting strip in accordance with City standards. At this time, ODOT has not requested sidewalk improvements to Highway 99. This standard is met.

16.110 - Sanitary Sewers

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Sanitary Sewers shall be constructed, located, sized and installed at standards consistent 16.110.

The proposed plan indicates that sanitary sewer service laterals will be run from the existing sanitary mainline running along the back property line of Lots 1 through 6. Lots 8 and 9 shall take their sanitary service from the existing mainline located in Cedar Brook Way. Lot 7 already has a sewer service connection.

Since Lots 8 and 9 sewer service connection is in Cedar Brook Way, the asphalt pavement repair delineated above shall be required in this case.

FINDING: The sewer service lateral locations shown on the plans appear to comply with City standards; however the following conditions are recommended to ensure compliance.

RECOMMENDED CONDITION: Installation of the sanitary sewer service laterals shall comply with City and Clean Water Services standards.

RECOMMENDED CONDITION: The asphalt pavement repair for the sanitary sewer service lateral connection from Lots 8 and 9 to the sewer mainline in Cedar Brook Way shall comply with the options noted above.

16.112- Water Supply

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development in compliance with 16.112.

Plans call out for the installation of water service laterals from the existing public waterline located in Cedar Brook Way, to the individual lots. The line is sized appropriately to adequately provide water service and fire protection to these 9 lots. The public water system is owned, operated, and maintained by the City. Installation of the service laterals must comply with the requirements delineated in the City's Engineering Design and Standard Details Manual. The applicant will need to coordinate with City Public Works to obtain a water service meter and installation of the service lateral.

FINDING: The water service laterals shown on the plans generally conform to the City's standards for location. The plans will need to reflect the change from TVWD to the City Public Works for obtaining water service meters and installation. The plans will also need to reflect the requirements to comply with the City's Engineering Design and Standard Details Manual.

RECOMMENDED CONDITION: The construction plans shall include a note that states the design and installation of the water service laterals shall comply with the requirements delineated in the City's

Engineering Design and Standard Details Manual, current edition.

16.114 - Storm Water

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage system consistent with the Comprehensive Plan, the requirements of the Clean Water Services water quality regulations and section 16.114.

The proposed storm drainage conveyance and treatment calculations and plans are based on the premise that the existing conveyance and treatment system, constructed by the adjacent development, has adequate capacity to allow the addition of the proposed development, without the need to expand the existing facility. Review of the calculations provided by the applicant indicates compliance with Clean Water Services (CWS) design and treatment requirements.

FINDING: Based on review of the provided calculations and CWS conveyance and treatment requirements, no additional expansion of the existing treatment facility is required. CWS has also provided review comments and requirements as part of the Service Provider Letter issued to the project. The applicant will be required to comply with those requirements, included as Exhibit J in order to ensure full compliance with this standard.

RECOMMENDED CONDITION: Comply with the requirements specified in the Service Provider Letter issued by Clean Water Services (CWS File Number 08-003092), issued on November 10, 2008, and which will expire on November 10, 2010.

16.116.010 - Fire Protection

When land is developed so that any commercial or industrial structure is further than 250 feet or any residential structure is further than 500 feet from an adequate water supply for fire protection, as determined by the Fire District, the developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety. In addition capacity, fire flow, access to facilities and number of hydrants shall be consistent with 16.116.020 and fire district standards.

John Wolff of Tualatin Valley Fire and Rescue (TVFR) provided comments and review of the preliminary design proposal summarized in Section III, Agency Comments. In his letter (included as Exhibit I), John identified specific issues that must be addressed. Staff has evaluated the letter and the plan and finds it feasible to address these issues; however conditions will need to be in place to ensure compliance. Of specific concern is the requirement that the furthest point of a structure must be within 150 feet of an access road. It appears that all portions of an exterior wall of a structure on lots 1-6 will be within 150 feet of Cedarbrook Way because of the lot width and lot depth. Lots 7, 8 and 9 however may not meet this requirement depending on where a structure is located on the lot. In addition to requiring compliance with TVF&R standards to be shown on the public improvement plan, a specific condition is recommended to ensure full compliance for these lots at time of building permit approval.

FINDING: To ensure full compliance with fire criteria and standards, the applicant will need to comply with the following conditions.

RECOMMENDED CONDITION: Submit plans complying with TVF&R standards to the Engineering Department for review and approval.

RECOMMENDED CONDITION: Prior to issuance of building permits for lots 7, 8 and 9, submit verification from Tualatin Valley Fire and Rescue that the location complies with the standards regarding the fire apparatus access road distance from building.

16.118.030 – Public and Private Utilities Underground Facilities - Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, and cable television, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the Commission.

The applicant has not shown any proposed above ground utilities on the submitted plans. There are no above ground utilities other than a PGE powerline along Pacific Highway which meets the exception criteria for undergrounding due to the voltage.

FINDING: The applicant will be able to meet this criterion with the following condition.

RECOMMENDED CONDITION: All existing and proposed utilities must be placed underground.

D. Division VII – Subdivisions and Partitions

16.122.010.3- Required Findings for Subdivision Preliminary Plats

No preliminary plat shall be approved unless:

A. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.

FINDING: No new streets are proposed within this proposal.

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.

FINDING: There are no new private roads or streets proposed within this development.

C. The plat complies with Comprehensive Plan and applicable zoning district regulations.

FINDING: The applicant has proposed residential dwelling units that meet density requirements of the HDR zone, corresponding with the purpose of the HDR zone. The proposal also meets the intent of comprehensive plan policies designed to preserve and maintain natural features. This standard has been met.

D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.

FINDING: As discussed in this staff report, this standard has been met.

E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.

FINDING: There are no additional, contiguous properties under the same ownership; therefore, this standard does not apply.

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

Adjoining property is developed with residential housing units. The nine proposed lots will have access via an existing street. The remainder lot does not have access to a public street, however it is undevelopable due to floodplain and wetland and dedication to the public is proposed; therefore, access is not compromised with this development proposal.

FINDING: All developable lots within the subdivision and adjoining are provided access, therefore this standard is met.

G. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.

FINDING: Tree and woodland inventories are discussed and conditioned, if necessary, below in Section 16.142.060.

16.126.040- Lots

1. Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision, and shall comply with applicable zoning district requirements, with the following exceptions:

a. Lots in areas not served by public sewer or water supply, shall conform to any special Washington County Health Department standards.

FINDING: Each of the nine residential lots is largely designed with the same dimensions and shape. All of the lots meet the minimum dimensional requirements for HDR zoning as described above. This standard has been met.

2. Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under Chapter 16.68.

All proposed residential lots in this subdivision abut Cedar Brook Way and have direct access to Highway 99. The "remainder" lot has frontage to Pacific Highway but will not be granted vehicular access, however it is encumbered with floodplain and wetland and is undevelopable. The applicant has proposed dedicating this parcel to the City for open space.

FINDING: All lots in the subdivision abut a public street, therefore this standard is met.

4. Side Lot Lines

Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

FINDING: The side lot lines of this proposed development generally run at right angles to Cedar Brook Way. This standard is met.

5. Grading of building sites shall conform to the following standards, except when topography of physical conditions warrant special exceptions:

- A. Cut slopes shall not exceed one and one-half (1 1/2) feet horizontally to one (1) foot vertically.
- B. Fill slopes shall not exceed two (2) feet horizontally to one (1) foot vertically.

The applicant has not submitted a grading plan to show that the grading of the building sites will conform to these standards. Staff is concerned about how the grading of this site may affect storm drainage, slope stability and whether a retaining wall sharing common property lines may be required. The Engineering Department has requested that a grading and drainage plan be submitted with the public improvement plan to ensure that additional easements are not needed on the plat for drainage, slope stability or retaining walls.

FINDING: As discussed above, because a grading plan has not been submitted, staff cannot confirm that the grading will be done in accordance with the standards. This standard can be met through compliance with the below condition.

RECOMMENDED CONDITION: Prior to public improvement plan approval, submit site grading and drainage plans to the Engineering Department for review and approval.

16.130.010 GENERALLY

The City Manager or his or her designee may approve a property line adjustment without public notice or a public hearing provided that no new lots are created and that the adjusted lots comply with the applicable zone requirements. If the property line adjustment is processed with another development application, all applicable standards of the Code shall apply.
(Ord. 86-851 § 3)

16.130.020 FILING REQUIREMENTS

If a property line adjustment is approved by the City, it does not become final until reviewed and approved by Washington County in accordance with its property line adjustment recording requirements.

The applicant is requesting a front property line adjustment for proposed lot 1 and a portion of proposed lot 2. The existing lot line was created prior to the development of Cedar Brook Way. When the road was constructed it followed a slightly different curve than what had been planned for, creating a void "triangle" area between the property line and the Cedar Brook right-of-way. Thus, the proposed lot line adjustment will move the existing lot line slightly south so that it is contiguous to the Cedar Brook right-of-way, eliminating the "triangle" area. The area being adjusted is approximately 650 square feet and both lots involved will continue to meet minimum dimensional standards.

FINDING: The proposed property line adjustment will not create any new lots or result in the inability to comply with HDR zone requirements. As discussed in this report, the proposed land division will comply with all applicable Code standards. This standard is met.

D. Division VIII – Environmental Resources

16.142.030.A Visual Corridors

A. Corridors Required

New developments with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section 5 of the Community Development

Plan Part 2, shall be required to establish a landscaped visual corridor according to the following standards:

	Category	Width
1.	Highway 99W	25 feet
2.	Arterial	15 feet
3.	Collector	10 feet

In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk.

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 16.142.050, shall be planted in the corridor by the developer. The improvements shall be included in the subdivision compliance agreement.

C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit.

D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited or trees be removed from within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 16.44.010(E)(4)(c).

FINDING: The only lot that abuts Highway 99 is the “remainder” lot which the applicant has proposed to dedicate to the City as undeveloped open space. The applicant has indicated the area will be left in its current native state and will not be developed or landscaped. The applicant has proposed dedication to the City to ensure that the property will remain undeveloped in its natural state. The City will accept this dedication on the plat.

16.142.050. Trees along Public Streets or on Other Public Property

Trees are required to be planted consistent with the standards in 16.142.050.A by the land use applicant. These standards require a minimum of one (1) tree for every twenty-five (25) feet of public street frontage within any new development. Planting of such trees shall be a condition of development approval. The trees must be a minimum of two (2) inches DBH and minimum height of six (6) feet.

FINDING: Cedar Brook Way is already improved with sidewalks and street trees in compliance with City

regulations. The applicant has not shown trees along Highway 99 in accordance with this section. ODOT has not requested sidewalk improvements along Highway 99. Additionally, the only part of the proposed development that abuts Highway 99 is a "remainder" lot that is unbuildable because of environmental constraints. The applicant has proposed to dedicate this remainder lot to the City as undeveloped open space. Because there is no ODOT request for improvements along the 99W frontage, and the site's entire 99W frontage is on an unbuildable lot, and the applicant has proposed dedicating this lot to the city, requiring street trees at this location is inappropriate. Any future development on the "remainder" lot will be subject to this standard. This standard is met.

16.142.060 - Trees on Property Subject to Certain Land Use Applications

All site developments subject to Section 16.92.020 shall be required to preserve trees or woodlands to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. Review and mitigation shall be consistent with 16.142.060 A, B, C and D.

Division of the site for residential building purposes will require minimal tree removal. The applicant has noted in the narrative that every reasonable effort will be made to protect and preserve existing vegetation and that it is not expected that trees over 5" DBH will be removed. The plans indicate trees within the building footprint of lot 6, 8 and 9. The applicant has not provided an inventory to confirm the size, species or health of trees. As the typical building footprints are simply a demonstration of the maximum extent a structure can be located on a given lot, it is anticipated that the actual construction may not require the removal of all of the trees identified within the building envelopes.

FINDING: Because the applicant has not provided a detailed inventory of tree sizes and health and because it is not known at this time which trees within the typical building footprints on lots 6, 8 and 9 may need to be removed to accommodate construction, staff cannot confirm of this standard has been met. This standard can be met by compliance with the following conditions:

RECOMMENDED CONDITION: Prior to final plat approval provide a detailed inventory of all trees within the building footprints an initial assessment of whether trees will require removal and a proposed mitigation plan for trees identified for removal.

RECOMMENDED CONDITION: Prior to issuance of building permits on lot 6, 8 or 9, submit a final tree removal and mitigation plan. If mitigation is required for a specific lot, the mitigation must be complete or assurances provided for completion prior to occupancy.

16.144 .010- Wetland, Habitat and Natural Areas

Unless otherwise permitted, residential, commercial, industrial, and institutional uses in the City shall comply with the following wetland, habitat and natural area standards if applicable to the site as identified on the City's Wetland Inventory, the Comprehensive Plan Natural Resource Inventory, the Regionally Significant Fish and Wildlife Habitat Area map adopted by Metro, and by reference into this Code and the Comprehensive Plan. Where the applicability of a standard overlaps, the more stringent regulation shall apply.

As part of this application, the applicant submitted a sensitive lands report dated September 2008, which includes wetland delineation. The preliminary plans indicate that no development will occur within the 50-foot wetland setback. The applicant has submitted a Clean Water Services Service

Provider Letter (CWS File Number 08-003092), issued on November 10, 2008. This service letter sets forth requirements to ensure protection of wetlands, vegetated corridors and natural areas. In addition, the applicant has indicated throughout the narrative that the "remainder" tract will be dedicated to the City as open space. The preliminary plat does not reflect this dedication or the easement required by Clean Water Services, therefore a condition is recommended.

FINDING: The applicant can comply with this section as conditioned.

RECOMMENDED CONDITION: Comply with the Clean Water Services Service Provider Letter throughout the development of the site.

RECOMMENDED CONDITION: Prior to Final Plat approval, submit a revised plat that dedicates the "remainder" lot to the City as proposed and dedicates an easement to Clean Water Services as required by the Service Provider Letter.

RECOMMENDATION

Based upon review of the applicant's submittal information, review of the code, agency comments and consideration of the applicant's revised submittal, staff finds that the proposed site plan does not fully comply with the standards but can be conditioned to comply. Therefore, staff recommends approval, with conditions.

V. CONDITIONS OF APPROVAL

A. General Conditions

1. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
2. Development and construction on the site shall conform substantially to the preliminary plat development plans submitted by the City of Sherwood and dated September 11, 2009 except as modified in the conditions below, and shall conform specifically to final construction plans reviewed and approved by the City Engineer, the Building Official, Clean Water Services, Tualatin Valley Fire and Rescue, Tualatin Valley Water District and Washington County. All plans shall comply with the applicable building, planning, engineering and fire protection codes of the City of Sherwood.
3. This approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
4. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code and Municipal Code.
5. Placement of construction trailers on the subject property shall require a Temporary Use Permit per Section 16.86 of the SZCDC.
6. This approval does not negate the need to obtain permits, as appropriate from other local, state or federal agencies even if not specifically required by this decision.

7. Retaining walls within public easements or the public right-of-way shall require engineering approval. Retaining walls with a height of 4 feet or higher located on private property will require a permit from the building department.
 8. Future development of Lot 10 will be required to comply with the 25-foot visual corridor requirements.
- B. Prior to issuance of grading or erosion control permits from the Building Department:**
1. Obtain a 1200C permit and Building Department permits and approval for erosion control and grading on private property and Engineering Department permits and approval for all grading in the public right of way.
 2. Submit a geotechnical report to the Building Department if required by the Building Official.
 3. Comply with the requirements specified in the Service Provider Letter issued by Clean Water Services (CWS File Number 08-003092), issued on November 10, 2008, and which will expire on November 10, 2010.
- C. Prior to approval of the public improvement plans:**
1. Submit engineering plans for all public improvements and/or connections to public utilities (water, sewer, storm water, and streets) to the Sherwood Engineering Department. The engineering plans shall conform to the design standards of the City of Sherwood's Engineering Department, Clean Water Services, Tualatin Valley Water District, Tualatin Valley Fire & Rescue and other applicable requirements and standards.
 2. Submit public improvement plans that demonstrate the placement of all existing and proposed utilities underground.
 3. Submit the final plat for review to the Planning Department.
 4. Installation of standard trench patching on newly installed utility laterals within the Cedar Brook Way right-of-way will not be accepted. The method and physical limits of the asphalt pavement restoration must receive approval by the City Engineer prior to any utility service lateral work being performed within the public right-of-way. and Clean Water Services standards.
 5. The asphalt pavement repair for the sanitary sewer service lateral connection from Lots 8 and 9 to the sewer mainline in Cedar Brook Way shall comply with the options noted above (Condition C4).
 6. Installation of the sanitary sewer service laterals shall comply with City and Clean Water Services standards.
 7. Prior to public improvement plan approval, submit site grading and drainage plans to the Engineering Department for review and approval.
- D. Prior to Approval of the Final Plat:**
1. The submittal by the applicant for final plat review and approval shall include but not be limited to the following: a final plat application; final plat review fee; narrative identifying how the

required conditions of approval have or will be met; two copies of the final plat; and any other materials required to demonstrate compliance with the conditions of approval.

2. Provide a detailed inventory of all trees within the building footprints an initial assessment of whether trees will require removal and a proposed mitigation plan for trees identified for removal.
3. Prior to issuance of building permits on lot 6, 8 or 9, submit a final tree removal and mitigation plan. If mitigation is required for a specific lot, the mitigation must be complete or assurances provided for completion prior to occupancy.
4. The final plat shall show the following:
 - a. The Community Development Director as the City's approving authority within the signature block of the final plat.
 - b. An 8-foot wide public utility easement along right of way frontages and for any areas where a single public utility line is located outside a public right-of-way with an increase of five (5) feet for each additional line.
 - c. Private access easements, utility easements and/or special use easements as required for the development of the site. A plat note shall reference an easement and maintenance agreement or similar document, to be recorded with the plat, for the joint maintenance of any common private utility lines, common driveway improvements, or other common amenity or perimeter fencing. The language of such plat note and associated document shall be reviewed and approved by the Planning Department.
 - d. dedication of the "remainder" lot to the City as proposed and dedication of an easement to Clean Water Services as required by the Service Provider Letter.
5. In compliance with Section 16.124.020, no final plat shall be approved unless:
 - a. All required public streets and floodplain areas are dedicated without any reservation or restriction other than easements for public utilities and facilities.
 - b. Streets and roads held for private use have been approved by the City.
 - c. The plat complies with the standards of the underlying zoning district and other applicable standards of this Code and is in conformity with the approved preliminary plat.
 - d. The plat dedicates to the public all required common improvements and areas, including but not limited to streets, floodplains, parks, sanitary sewer, storm water, and water supply systems.
 - e. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the subdivided land, as determined by the City and are in compliance with City standards. For the purposes of this section:
 1. Adequate water service shall be deemed to be connection to the City water supply system.
 2. Adequate sanitary sewer service shall be deemed to be connection to the City sewer system.
 3. The adequacy of other public facilities such as storm water and streets shall be determined by the City based on applicable City policies, plans, and standards for said facilities.
 - f. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.

E. Prior to Issuance of a Building Permit:

1. The public improvements must be complete and accepted by the City Engineer, and the final plat(s) must be recorded. An approval letter from the Engineering Department, accepting all public improvements, shall be issued prior to issuance of building permits.
2. The developer shall provide a geotechnical investigation report if required by the Building Official.
3. An electronic version of the final plat must be submitted to the Planning Department.
4. Driveways shall conform to Section of the Sherwood Zoning and Community Development Code, with individual driveway slopes not exceeding a grade of 14%. A shared access to two lots shall be a minimum of twenty feet in width.
5. The construction plans shall include a note that states the design and installation of the water service laterals shall comply with the requirements delineated in the City's Engineering Design and Standard Details Manual, current edition.
6. Prior to issuance of building permits for lots 7, 8 and 9, submit verification from Tualatin Valley Fire and Rescue that the location complies with the standards regarding the fire apparatus access road distance from building.

F. Prior to Final Occupancy of the Subdivision:

1. All public improvements shall be completed, inspected and approved, as applicable, by the City, CWS, TVF & R, TVWD and other applicable agencies.
2. All agreements required as conditions of this approval must be signed and recorded.
3. The developer shall coordinate the location of mailboxes with the Post Office.
4. The developer shall coordinate location of garbage and recycling receptacles with Pride Disposal.
5. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code.
6. Decks, fences, sheds, building additions and other site improvements shall not be located within any easement unless otherwise determined by the City of Sherwood.

VI. EXHIBITS

- A. Applicant's submittal with narrative and supporting documents dated March 30, 2009
- B. Applicant revisions dated September 11, 2009
- C. Clean Water Services comment dated July 7, 2009
- D. Kinder Morgan Energy comment dated June 24, 2009
- E. ODOT comment dated July 6, 2009
- F. Pride Disposal comment dated July 3, 2009
- G. TVWD comment dated July 13, 2009
- H. PGE comment dated June 24, 2009
- I. Letter from TVF&R dated July 6, 2009
- J. Clean Water Services service provider issued on November 10, 2008