

Regular Meeting
February 23, 1998

CALL TO ORDER:

ROLL CALL:

Present were Mayor Drake, Couns. Evelyn Brzezinski, Forrest Soth, and Cathy Stanton. Couns. Dennis Doyle and Wes Yuen were excused. Also present were City Attorney Mark Pilliod, Finance Director Patrick O'Claire, Human Resources Director Sandra Miller, Police Chief David Bishop, Operations-Maintenance Director Steve Baker, Senior Engineer David Winship, Associate Planner Barbara Fryer, Principal Planner Alwin Turiel, Developments Services Manager Irish Bunnell, Redevelopment Projects Mgr. John Engel, Assoc. Planner Colin Cooper, Senior Office Assoc. Debbie Baidenmann, and Deputy City Recorder Sue Nelson

CITIZEN COMMUNICATION:

Henry Kane, 12077 SW Camden Ln., displayed letters which were returned concerning the Miller Sanitation issue. He said the letters supported testimony given at the earlier hearing that there were people who did not receive notice for the Public Hearing meeting. He displayed cans that had "poison" printed on the side, which he said were put into garbage trucks. He stated that if the cans broke, harmful chemicals would become hazardous. He asked the Council to obtain outside counsel.

COUNCIL ITEMS:

Coun Soth noted that he had been re-appointed to the Steering Committee for Finance, Administration and Intergovernmental Relations for the National League of Cities.

Coun. Stanton reminded everyone that the Westside YMCA was having their yearly campaign drive to support their programs and scholarships, and asked people to contribute.

STAFF ITEMS:

There were no staff items.

PROCLAMATION: Read Across America

CONSENT AGENDA:

Coun. Soth MOVED, SECONDED by Coun. Brzezinski that the consent agenda be approved as follows:

98-47 Liquor Licenses – Annual Renewals

98-48 Liquor License – Ernesto's – Change of Location

98-49 CUP 97027 Beaverton Community Center Expansion

98-50 Transfer Resolution to Provide Appropriations for Classification/Compensation Study

98-51 Authorization for City Staff to Publish a Request for Proposals to Accomplish State Mandated Goal 5 Inventory Work

98-52 Council Waiver of SDC for Tax Lot No. 1S1-17DA-5800 on SW Sixth Street near Murray Boulevard

Contract Review Board:

98-53 Waiver of Request for Proposal – Selection of Consultant to Provide Interim Management Services for the Community Development and Engineering Departments and Transfer Resolution

Coun Brzezinski asked if 7-Eleven convenience stores were franchises, and about the sting operation concerning alcohol sold to minors at 7-Eleven stores.

David Bishop, Police Chief, reported that 7-Eleven stores were franchised and each store sold products individually.

Coun. Brzezinski asked, regarding AB 98-51, if in Goal 5 work, the City would do anything about view corridors.

Barbara Fryer, Senior Planner, said nothing had been done in the Comprehensive Plan; but scenic corridors would be identified.

Coun. Brzezinski asked, regarding AB 98-53, if expenses for the consultant McKeever-Morris would be billed at cost.

Patrick O'Claire, Finance Director, said he did not anticipate any expenses, except possible transportation to and from work.

Coun. Stanton asked, referring to AB 98-49, referring to the old City Hall building on 5th Street, where the additional parking would be for the expansion to the Beaverton Community Center. (AB 98-49)

John Engel, Redevelopment Projects Mgr., replied that the American Legion Building would come down, and the lot would be paved over. He noted that there would not be parking at the east corner of 5th and Hall.

Mayor Drake said the site of the old house at 3rd and Hall would be additional parking.

Coun. Stanton commented that the location for additional parking would be two blocks away from the Community Center.

Question called on the motion. Couns. Soth, Brzezinski and Stanton

voting AYE, motion CARRIED unanimously. (3:0)

PUBLIC HEARING:

98-33 Appeal of Murray Manor Planned Unit Development APP 96018
(continued from 2/2/98)

Mayor Drake opened the public hearing.

Colin Cooper, Associate Planner, presented a brief staff report. He said the applicant, Griffin Construction, had applied for a Conditional Use Permit (CUP) in order to develop a 20 lot Planned Unit Development (PUD). He noted that on July 23, 1997, the Planning Commission (PC) conducted a public hearing on the Murray Manor PUD (CUP 970006). He reported that, based on the facts and findings the PC voted 5-2 to deny CUP 970006 because it failed to meet PUD approval criteria "B" and "C." He said the PC found that the curb-tight sidewalks and zero lot line homes were not compatible with the existing neighborhood. He stated that the applicant filed an appeal on August 11, 1997, however on August 15, 1997, the Division of State Lands (DSL) issued a letter denying the applicant's permit for a road to cross the wetland area as proposed. He said staff had informed the applicant that the issue should be resolved prior to scheduling a public hearing, and the applicant had waived the 120-day rule on May 14, 1997.

Coun. Stanton asked if the staff recommendation was to approve the application; did anyone want to reconsider.

Cooper said no one wanted to reconsider, and if Council should support the appeal it would be appropriate for adoption.

Coun. Stanton stated that she was concerned about the on-street parking; and whether there would be the nine foot space required for a car.

Cooper explained that the site plan had a reduced right-of-way (ROW) and curb-to-curb dimension on the neck that would access from 148th so there would be no parking; the residences would have the normal 28 foot access with the difficulty of the curb cuts. He noted that parking could only be allowed where it would not conflict with the driveway aprons, and the only requirement of the subdivision would be to allow for two off-street parking spaces.

Coun. Stanton asked if the flooding issue had been discussed at the Planning Commission.

Cooper said the site development engineer had reviewed the project and it met the USA standards for both quantity and quality.

Mayor Drake asked, with 20 homes, where the water would go once it left

the properties.

Cooper said it would go into a storm drain and travel west to the water quality facility.

Mayor Drake asked if the water quality facility had the additional capacity that would be needed with the additional 20 homes.

Coun. Soth asked if the volume would not be greater on any down stream area than it was at the present time.

Cooper said the water quality/quantity facility was on-site and was able to accept the impervious runoff to the site.

Coun. Soth noted that the DSL had indicated that the 25 foot buffer area, the creek bed, would be natural. He said that was the intent because the wildlife needed that area and the Oregon Ash and Oregon White Oak were wetland species that would enhance the 148th area.

Mayor Drake stated that the Council could require a Planting Plan facing 148th. He asked what the process for that Plan would be, and would the neighbors have any input before there would be final passage by the Council.

Cooper said that Irish Bunnell, Development Services Manager, and Mark Pilliod, City Attorney, had reviewed the Code and the conclusion was the Code allowed the opportunity to provide a Planting Plan through a Type I Design Review process.

Mayor Drake explained that neighbors within 500 feet would be notified of the draft plan, they would have 10 days to appeal; then the plan would go through Design Review.

Applicant:

Frank Flynn, 900 SW 5th, Portland, representing the applicant, said when the project went before the Division of State Lands there was an on-site mitigation proposal made. He reported that the Department of Fish and Wildlife and the Division of State Lands both agreed that the wetland area was natural and did not lend itself to enhancement. He stated that he had worked with wetlands and the natural resources met the topographical exception. He said the PUD process gave the City protection for wetlands without losing the residential housing that the City had determined it would need.

Flynn said another issue was the compatibility issue, and commented that there would not be identical developments with what was built twenty to thirty years ago. He stated that the CUP condition was "reasonably compatible," not identical. He said it was a reasonably well designed and defined single family development that preserved open space, preserved wetlands, would leave an enormous buffer along 148th Street, and would continue with residential development as opposed to a mixed

development. He said it would not bring hardship to the livability of the people in the neighborhood.

Flynn said Eileen Obermiller, Consulting Engineering Services Inc., had also been involved in that process.

Coun. Soth said they had heard the concern expressed on one house downstream of the proposal, (with the culvert under the driveway) regarding the erosion issues related to that situation in high water. He noted that was not part of Flynn's responsibility or proposal, but he assumed that Flynn had looked at where the water goes downstream and the volumes that would come off his property.

Flynn said he understood that their engineers and planners had looked at that extensively and should be able to answer that question.

Obermiller said Jensen was there to address those issues.

Carl Jensen (Consulting Engineering Services, Inc.), stated that when they started looking at the water quality/detention facility, they looked at where it should be located and what it should be designed to do. He reported that the City staff indicated that there was a problem in the area and asked them to map out the 100-year flood plain, according to the information they had. He stated that information was in the material they submitted to the City.

Jensen reported that there was a problem with the downstream system, because it had been purposely designed by staff over the years to detain the water to provide buffering downstream. He said the water in the Murrayhill Apartment site did impound and would flood the lower end of Gull Drive. He said that water would back up into the site and cause the 100 year flood plain as illustrated on maps. He explained that the detention/water quality facility they proposed for the site, would treat the water coming off those streets that drain into the catch basin at the sag-point of the culvert. He said it would detain the water to satisfy the City Code as it was.

Coun. Soth noted that he had extensive experience working with these issues since he had been involved with the City.

Coun. Brzezinski said she did not have the experience, and wondered if Jensen was saying that there was a problem.

Jensen explained that there was not really a problem; the 100 year flood plain was the level which flood water would rise to during a 100 year storm. He noted that the FEMA regulations for flood insurance required those elevations to be identified, if there was that type of flood potential, and that had been done for the site. He clarified that if they got a 100 year storm there would be impoundment of water on both sides of the culvert, basically caused by a back-water situation further down at the terminus of Gull Street.

Coun. Brzezinski asked if he meant the apartment property to the east.

Jensen said that was correct.

Coun. Brzezinski noted that the 100 year flood plain line extended south to the properties in Hedlund Acres.

Jensen said he did not recall the contours on the adjacent properties, and was not sure if the driveways were above the elevation of the 100 year flood.

Coun. Stanton asked, if next year they got the normal rainfall, where would the rain from lots 10 through 20 go, and asked for clarification on the direction of the slope.

Jensen said water from the lots and the houses would be picked up by the storm drain system and would go out to the water quality facility. He clarified that the land sloped to the west, by design.

Coun. Stanton said she was concerned because the owners behind her home had a street and storm drains, but the water from their property ran through her back yard. She noted that lots 17 through 20 would probably end up in the wetlands, but with lots 10 through 16, there was nothing proposed for the south end of the property.

Coun. Brzezinski clarified that Coun. Stanton's point was well taken, but she understood that lots 10 through 16 were north of the apartments, not the houses.

Coun. Stanton said she understood that, but she was concerned about that.

Jensen reviewed the locations of lots on the maps, and explained that when the building was completed, the drainage would go to the west. He noted that a small grassy area would drain the way it always had.

Flynn reported that one of the issues with the Division of State Lands was that there needed to be an adequate flow of water through the wetland area, so the size of the culverts was increased to 54 inches.

Flynn said they had submitted the appeal, and thanked City staff for working closely with the applicant. He noted that Cooper had been helpful, and explained the implications of state authorizations and roads through wetland areas. He said the PUD allowed the kinds of flexibility needed to consider the wetlands and the entire development. He noted that was an important thing to keep in mind with the testimony, the CUP and the recommendation. He stated that the PUD allowed the City and Metro's residential growth plan and provided a valuable habitat for urban wildlife. He said the project did meet the objectives and the spirit.

Obermiller discussed the site design and presented two exhibits. She noted that to the north of the undeveloped property was Weir Road, and to the east was the Murrayhill apartment complex and single family detached housing. She reported that the wetlands were 200 feet deep, and the road access would not be from the south, due to the apartment complex. She explained that they would move the road further to the south for the least amount of impact to the wetlands, and noted that the traffic engineer found very little impact on roads. She said the development would be single family detached housing; the wetlands would be protected; and there would be a 200 foot open space buffer on 148th. She said they met all the City requirements; they were requesting a modification for curbside sidewalks and a sideline to plant trees.

Coun. Stanton said in old developments there were curbside sidewalks, and that the Division of State Lands had given permission to fill in wetlands. She asked if the drawings were to scale.

Obermiller replied that the drawings were not to scale, and noted that they had permission to fill in 5,000 square feet of wetlands.

Coun. Stanton asked what she was missing since the drawings were not the same.

Obermiller said she thought knowing the dimensions might help. She explained that a property line sidewalk would have a four foot planter and five foot sidewalk, and a curbside sidewalk would have a seven foot sidewalk and planting area incorporated into the lot, or provide the ROW. She noted that there were several developments in Beaverton with curbside sidewalks.

Coun. Soth said he thought the PUD process was a density transfer to incorporate the development portion of the property. He said the wetland would allow 26 units if buildable but a density transfer would reduce the number of units to six, requiring a barrier between the development and the wetland.

Obermiller said the 25 foot buffer would be natural open space and would allow access for wildlife and water.

Coun. Brzezinski said the majority of homes had planter strips and she wasn't convinced that the sidewalk close to the street was a better idea.

Obermiller said a four foot strip was standard, and reported that the Urban Street Guide suggested that smaller strip trees required constant pruning to keep them small. She recommended that the trees be part of the lot and landscaping.

Coun. Brzezinski stated that since the City had an extensive list of trees which were appropriate to put into the planter strips, she was not convinced that it was better idea to put the sidewalks next to the curbs.

Obermiller explained that if they looked at the property line and the four foot standard for the planting area, and they looked around town, even smaller trees often disturb the sidewalks. She said in her training she had been taught it was better to provide a larger planting space, and noted that many of the recommended trees in the City guide needed to be pruned often to keep them small.

Flynn said that Cooper had made a recommendation for property line sidewalks by default, and they thought they could meet that condition without any problem. He stated that Obermiller was bringing the issue up because she believed it had some relevance and wanted the Council to take her side in it.

Coun. Stanton noted they were going to take care of the wetland issues and asked what provisions were being made for the land critters from the area.

Obermiller said there would be areas where the culverts would accommodate small mammals to pass through.

Mayor Drake asked how large the culvert would be.

Obermiller said she was not sure.

Carl Jensen (Consulting Engineering Services, Inc.), said the culvert would be 48 inches in diameter, up-sized about six inches to provide a pathway and the bottom filled in with rocks so critters could pass through.

Mayor Drake asked how much water would go through the culvert.

Jensen said the water would be six to seven inches deep in a heavy storm, but most of the time it would be a small stream of water.

Thomas Griffin, 15750 NW Oak Hills Dr., (developer) said the property was zoned R-5, there were 20 lots; the allowable density was 26 lots, one acre of the wetlands would be dedicated to open space. He noted that the density provided a buffer between the apartments and the Hedlund Acres neighborhood. He reported that the homes would be single-family detached homes, two story, between 1600 and 2300 square feet, in a price range between \$175,000-\$200,000. He displayed plans and pictures of samples of the types of homes they would be (in the record). He said they would hire an architect to actually design the homes.

Mayor Drake asked if he had built homes on other lots.

Griffin replied that he had not. He summarized by saying the Murray Manor PUD was compatible with Hedlund Acres; the price range was similar and the square footage per home would be comparable. He said the development would follow the 2040 policy.

Flynn said that the PUD concept highlighted flexibility, provided open

space, protected wetlands, and would save a wildlife habitat. He said they had agreed (with staff) to meet the conditions of approval. He asked for flexibility with the sidewalks.

Coun. Brzezinski asked, regarding the houses on the eastern side of Gull Drive, how they would get to the houses, and where the eastern-most lot would be. She said it appeared impossible to her, and noted that the zoning map looked like it only went over one-third to forty percent.

Mayor Drake asked them to place the zoning map on the easel so they could get a better view.

Cooper indicated the location of the proposed access on the map.

Coun. Brzezinski noted that lots 19 and 20 would be adjacent to the flag lot (owned by Clapperton).

Gary Katsion, with Kittelson and Assoc. (consultants), 610 SW Alder St. Ste.700, Portland, 97007, introduced himself for the record.

Coun. Stanton referred to a letter of February 19, about the traffic conditions, and said the last sentence of the first page regarded Levels of Service (LOS).

Katsion said they had recently completed a traffic study for the City as part of 155th Avenue project with counts at Weir and 155th, and 155th and Nora/Beard intersections. He reported that they compared the counts with the ones they took, and noted that the counts were taken on Friday afternoon when traffic was even greater. He noted they usually take the counts Tuesday through Thursday, but they wanted to be sure they got the highest counts.

Katsion noted that they were the project managers for the Murray Blvd. widening, and the improvements for Murray and Weir were done with buildout of the entire area, including the proposed original 26 homes on this site. He said this would actually be a reduction of trips with this current proposal. He stated that the surrounding streets were definitely built to a capacity and standard which would support this traffic. He noted that there had been discussion of the possibility that the traffic could go back through 148th to Teal Blvd. He said they should look at what the attractions were that would cause the traffic to go that way, and said there was nothing. He said he lived in the area, and noted that there was no employment west or south of the site and that the school traffic (Nancy Riles, Sexton Mtn., Conestoga and Aloha High School) all goes in the opposite direction; Weir was the major collector.

Coun. Soth said Katsion was suggesting going south on 148th out of the direction of travel.

Katsion said for a lot of the trips that was correct. He noted that if they looked at the map, they would see that there had been an option in the

past to extend Hedlund Lane, but it had been closed because they could not meet access space requirements for Murray Blvd.

Mayor Drake asked about the current counts on 148th Street.

Katsion said about 600 cars per day; 60 during the afternoon peak time.

Mayor Drake noted that they consciously did not allow access to the parking complex on Murray which was recently approved.

Katsion said there was fire access only. He reported that was one of the complaints at the time the parking complex went in.

RECESS: Mayor Drake called for a brief recess at 8:10 p.m.

RECONVENED:

The regular meeting reconvened at 8:25 p.m.

Opponents:

Mayor Drake stated that he had invited Mr. Sattler and Mr. Means to make a brief presentation, and following that, speakers would be allowed five minutes each for testimony.

Ron Sattler, 10170 SW 149th Terrace, said he had sent a letter to the Mayor and Council, and reported that the neighborhood view was this project would not be compatible. He said because of the cost of the land, they did not feel there was an over-riding reason to develop a PUD of 20 lots; they felt nine lots were more compatible to the neighborhood. He noted that the Tualatin Hills Park and Recreation District had not accepted the open space in the front of the lot. He stated that he had been a developer and builder for the last 25 years and the wetland area was not unusual, wetlands existed in hundreds and hundreds of other subdivisions. He said the density (as defined in the Code) was closer to only twelve lots. He called their attention to the two car garages as defined in the plan which would require a curb cut, a driveway apron between 25 and 28 feet in width, which would only leave 4-7 feet to park a car. He said the only on-street parking would have to be in front of driveways, and the plans would need a great deal of revising to fit the site. He noted that most of the lots in the PUD were 32 feet wide, with a 5 foot set-back (on one side). He said this would leave a 27 foot house, 20 feet would be taken up by a garage, there would only be enough space left for a front door; there would be no windows on the ground floor facing the street. He displayed photos of other developments in the area as reference, and stated that the applicant had misstated the density. He stated that the PC had reasons for denying this project including compatibility, feasibility, and the lack of financial documents from the applicant. He said the applicant had proposed a road through the middle of the wetland to maximize the number of lots for the development.

Eric Means, 10165 SW 148th Ave., said he lived across the street from the

proposed development area, and stated that there was no compelling financial reason why the decision of the PC should not be upheld.

Coun. Soth asked what Sattler and Means would consider a financial reason.

Sattler said a development loan to prepare the land for homes, and a master construction loan to develop the land. He said that information was not proprietary information.

Melissa and Tim Finn, 10160 SW 148th Ave., spoke and Ms. Finn said they owned the property (Hedlund Acres, Lot 1), adjacent to the proposed site. She reported that the creek under the driveway had flooded and the material from the creek had clogged their drains. She stated that with this development, she would cut through the neighborhoods instead of traveling on Weir Road, and questioned the safety of the neighborhood. Mr. Finn noted that they had purchased flood insurance for their home.

Coun. Stanton asked if they had brought the flood issue up at the PC meeting.

Ms. Finn said they had missed that meeting, but reported that the water could be four feet deep in the winter.

Coun. Soth asked if they (Finns) knew if the culvert was engineered properly when it was placed underneath the driveway.

Ms. Finn said they did not have any of that information; they had leased the house before purchasing it two years ago.

Ed Clapperton, 14745 SW Gull Dr., said he lived on Gull Drive in Hedlund Acres, on a flag lot with the front of the house facing south. He reported that there would be no buffer between the proposed development and his lot, and there was not room to plant any screening for privacy.

Gary Evans, 10220 SW 148th Ave., said he was not going to speak for or against the appeal, and expressed his appreciation to Cooper for meeting with the neighbors. He said his concern with the development was how it would affect 148th. He thanked the City for providing a sidewalk strip on Weir Road. He asked where the mitigation would be in the wetlands.

Cooper reported that the Division of State Lands (DSL) said the applicant could pay a fee in lieu of mitigation on site, for the impact of the road.

Mayor Drake asked if the neighbors were concerned about a buffer on 148th.

Evans responded that that was a concern, and said he would be happy with a planting strip.

Coun. Stanton noted that as a condition of development a certain kind of

tree would need to be planted along 148th to act as a buffer.

Cooper stated that they could choose to require the applicant to provide a planting plan with native plant species.

Tom Cleary, 14820 SW Gull Dr. said his home was south of the proposed development, and he had the same concerns as Evans. He said he was concerned about the continuation of the sidewalk and the 200 foot area at the entrance to the site. He noted that many in the neighborhood used that sidewalk.

John Calkin said he was in a difficult situation and he was against the PUD. He said he was not against the project, he was concerned about the builder and the compatibility of the development. He said what was presented was not thorough enough concerning the wetland area.

Coun. Stanton asked Cooper if he agreed that the footprint of the lots would not fit.

Cooper explained that the design of the building was not part of the approval; the design would have to meet the requirements of the PUD.

REBUTTAL:

Flynn reiterated that part of the issue before the DSL was an onsite mitigation proposal. He reminded them that the DSL and Oregon Department of Fish and Wildlife (ODFW) both agreed that the wetland area was natural enough and was not going to lend itself to enhancement. He stated that his client had no objection to that.

Coun. Soth noted that in the area where a sidewalk would go along 148th, the vegetation would be removed as a result of that excavation, and the area in back of the property line would not be enhanced. He clarified that the replacement with some vegetation was the neighbor's concern.

Flynn said the issue before the board was whether it met the exceptions, and stated that the natural resources were an unusual topographic situation and met the exception. He noted that the PUD process gave the City a good method of protecting the wetlands without losing the residential housing. He said when reviewing the compatibility issue, any current development would not have the identical development as was constructed twenty years ago. He said the CUP condition was compatible, and clarified that they were talking about a single family development which would preserve the wetlands.

Mayor Drake asked if there was discussion about a neighbor-friendly fence along the south property line.

Flynn said one of the issues discussed with DSL was adequate water flow through the wetland area, and noted that the size of the culverts was increased to 54 inches. He reported that DSL and ODFW were confident

there was adequate flow through the wetland area. He noted that his understanding was that there would be no water ponded on the uphill/upstream side of those wetlands. He said as far as he knew, the PUD had met the buffering requirements, but they would be willing to talk about a neighbor-friendly fence, if the Council thought that was appropriate. He noted that Obermiller and Griffin would address some other issues which had been raised.

Obermiller stated that they met the off-street parking requirements and they would meet the setback requirements. She said that the footprints were conceptual; they would be hiring an architect to finalize the plan.

Coun. Stanton clarified for the record that what might eventually be there, might look entirely different, but would still be perfectly legal.

Obermiller said that was correct. She noted there were comments regarding the access road, and clarified that the City had been involved in the process. She noted that DSL wanted it shifted to the south and reported that if they moved the road to the south, it would impact twice the area that it would as proposed, and would take out a row of trees on the south property line. She noted that the City did not want to remove the trees. She reported that DSL really liked the current open space, and did not want it changed. She explained that the open space would look much the same as it currently did, with the addition of a row of street trees and street side planting. She noted that the sidewalks against the wetlands would not be curb-tight. She said she thought the site had already been graded for a sidewalk along 148th Street, so there would not be much additional grading there. She noted that there would be native plants, which would match the existing vegetation, and reported that USA had requirements for vegetation on the water quality facility. She said they could do trees on the top and also some recommended grasses.

Coun. Soth asked if they intended for the developer to build all the houses, or would they be built by individual contractors.

Emay Griffin, Griffin Construction, said their plan was to have architects design several houses, and they wanted to build it all so they could have control over the landscaping and the exterior look.

Coun. Soth asked if they would have any objections to meeting with the neighbors, to outline, with staff participation, the planting plan regarding the various types and numbers of trees.

Griffin said they did not have any objection to that, but they had to follow the State requirements.

Obermiller said that Griffin would address the concerns related to financing.

Griffin said at this stage, they were asking for preliminary approval, until they had the final engineering completed. She noted that at this stage of

the project they were usually working with the banks, verifying that they were financially sound, and reported that the bank would not accept any cost breakdown at this point. She reported that they owned the property free and clear, and said since they were taking the risk; they would be the builder.

Flynn said Council had the information necessary to make a decision; but if there was a need they could keep the record open for seven days, if it would help clarify issues. He noted that the group had met the criteria for the PUD and CUP, and said he believed the staff agreed with that. He asked Council to vote affirmatively on the project, which would help meet the residential uses for Comprehensive Plan goals, and also to preserve wetlands.

Cooper noted that the staff report included eight (8) conditions of approval which he believed were applicable and appropriate, and stated that he wanted to add one more if the Council chose to support the appeal. He explained that his additional condition related to planting, and read it: Applicant shall apply for Design Review Type I for Landscaping Planting Plan for all disturbed areas along SW 148th Avenue, SW Greve Terrace, where it crosses the open space tract, and the storm water quality pond, prior to the issuance of a site development permit.

Coun. Brzezinski noted there were two points of view about whether the criterion related to financial feasibility had been met: the applicant said it had been met, and Sattler and others said it had not been. She noted that in Cooper's original staff report he said that what they (the developers) were providing was industry standards, and in fact they had given more than that at the time Cooper wrote the staff report. She asked Cooper if he was comfortable with what had been presented at that meeting.

Cooper said he was comfortable. He explained that the requirement for the criteria was to insure that if a unique product-type was being proposed adjacent to another property-type, that the financial feasibility was there; from an industry standpoint, they were not proposing something that was "off the wall."

Mayor Drake closed the public hearing.

Coun. Stanton MOVED, SECONDED by Coun. Soth, to overturn the Planning Commission decision, and grant the appeal, with some additional conditions; including all the Facilities Review Conditions of July 14, 1997; the Staff Report conditions (8), of July 16, 1997; along with the additional conditions as follows: planting a mixture of Oregon White Oak and Oregon Ash or other similar native tree species, planting plants with their spacing and quantity being determined by the City Arborist; and additional condition #10, (from Cooper) a Planting Plan for the area between the sidewalk and the development along 148th, which was a Type I BDR; and a Good Neighbor fence along the south property line.

Coun. Soth suggested that the type of fence be determined by the staff, applicant and neighbors, and also if a fence is actually needed.

Cooper suggested that they could fold the fence issue into the Type I Design Review, so they would have a mutual agreement on the type and location.

Coun. Stanton said she thought that was an excellent idea, because her concerns were: the planting plan, the fence, all the conditions of Facilities Review and the initial staff report.

Mayor Drake repeated the motion as follows: grant the appeal, reverse the Planning Commission's decision, and follow the conditions imposed by Facilities Review, and the eight conditions mentioned in the Staff Report of July 16, 1997, and also require a planting plan to go through a Type I Review process which would include some sort of good-neighbor fence. He asked Cooper to add the correct verbiage from the PC meeting minutes, which regarded the planting plan.

Cooper said the items Mayor Drake listed included the correct planting plan.

Coun. Stanton clarified that she wanted the planting plan to include the spacing, quantity and caliber.

Coun. Soth proposed one other condition: a planting strip between the curb and sidewalk, unless it was already there.

Coun. Stanton clarified that was covered in Condition No. 5 of the Facilities Review conditions.

Coun. Stanton stated that she thought this was a good use of the land, and good use of transitional zoning between single and multiple family zones. She expressed her belief that it was a topographical exception for a PUD of less than four acres.

Coun. Soth remarked that this was a difficult site because of the topographical limitations. He stated they were looking at compliance with Metro's 2040 plan, and in this case it was a difficult in-fill situation and it also provided a buffer from the west to the east. He explained that was because of the preservation of the wetland areas and the use of street trees. He noted that in terms of the compatibility issue, it provided a transition between what already existed to the west and what would exist to the east. He said it did meet the criteria in the plan for a PUD; it conformed with the compatibility issues and with the 2040 Plan.

Coun. Brzezinski noted that the application did meet the criteria for a PUD conditional use. She stated that she would support the motion if she understood the last condition about the fence correctly. She asked for clarification that they were just talking about a fence behind the lots, not about a fence at the south end of the wetland area, and that the fence

depended on if the neighbors want it or not.

Coun. Stanton said she believed it was a fence along lots 10 – 20.

Coun. Brzezinski said if the Finns and the Clappertons did not want a fence, they should not have to have one. She stated that she would not vote for the motion if it said the fence had to be there, and the only thing the neighbors could say was what kind of fence it was, so she asked for clarification.

Coun. Stanton explained that if they got a sign-off from the Finns and Clappertons that they did not want a fence, that would be OK, but barring that, she thought they needed some protection. She expressed her concern that the fence would get lost in the planting process.

Mayor Drake said the Type I process would take care of that, and assured them that staff would be present at the discussions with the neighbors and the applicants, so their concerns will be taken care of.

Question called on the motion. Couns. Stanton, Soth and Brzezinski voting AYE, motion CARRIED unanimously. (3-0)

Coun. Soth thanked all the neighbors for attending the meeting.

ADJOURNMENT:

There being no further business to come before the Council, the meeting was adjourned at 10:05 p.m.

Darleen Cogburn, City Recorder

APPROVAL:

Approved this 8th day of June, 1998

Rob Drake, Mayor