

RESOLUTION NO. 1428

A RESOLUTION ADOPTING FINDINGS AND DENYING THE APPEAL OF SHARON PEEBLES REGARDING THE DEVELOPMENT REVIEW BOARD'S APPROVAL OF SITE AND DESIGN PLANS FOR THE VILLAGE AT WILSONVILLE (CHARBONNEAU). THE SITE IS LOCATED ON VARIABLE PROPERTY "A" IN CHARBONNEAU VILLAGE CENTER ON TAX LOT 8000A, SECTION 24CD (Supplemental Map), CLACKAMAS COUNTY, OREGON. CHARBONNEAU VILLAGE CENTER CONDOMINIUM ASSOCIATION/WILLAMETTE VALLEY HOMES, CONTRACT PURCHASERS/ APPLICANTS and SHARON PEEBLES, APPELLANT. CASE FILE NO. 97DB30(Appeal)

WHEREAS, on April 21, 1997, City Council adopted Resolution 1371 approving with conditions Stage I and II Plans and remanded to the Development Review Board (the Board) site and design review; and

WHEREAS, an application and appeal, together with planning exhibits for the above-captioned development, have been submitted in accordance with the procedures set forth in Sections 4.008(4) and (3) and Section 4.017 of the Wilsonville Code; and

WHEREAS, the Planning Staff has prepared a report on the above-captioned subject; and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board at a regularly scheduled meeting conducted on September 8, 1997 and October 13, 1997, at which time said exhibits, together with findings and public testimony, were entered into the public record; and

WHEREAS, the Board duly considered the subject and the recommendations contained in the staff report, and testimony and approved the subject application with conditions and reasons as stated in the Development Review Board Resolution No. 97DB30 dated October 13, 1997, and;

WHEREAS, the Wilsonville City Council received an appeal of the Board's decision of subject application; and

WHEREAS, the appeal and record and staff report dated November 10, 1997, (Exhibit A) were presented for review by the City Council at a De Novo public hearing scheduled for November 17, 1997; and

WHEREAS, the record shall now reflect Willamette Valley Homes has purchased the property and is the sole applicant.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby deny the appeal of Ms. Peebles of the decision of the Development Review Board of October 13, 1997, and does hereby reaffirm and approve, with conditions, the application for Site and Design Review for the Village at Wilsonville and for development of six units of attached housing and adopts the following Findings and Conditions of Approval:

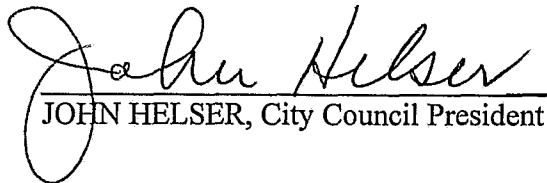
FINDINGS:

1. The above recitals are adopted as City Council findings;
2. The findings of the staff report memorandum dated September 8, 1997; the staff memorandum dated September 26, 1997; the memorandum dated October 13, 1997 from the legal department; and the staff memorandum dated November 10, 1997; and the legal memorandum dated November 10, 1997 are hereby adopted and incorporated by reference herein.
3. The DRB approved site plan and requested waiver by the applicant are not in agreement with DRB approved waivers. The site plan shows 9-foot minimum front yard and 14-foot minimum rear yard. The DRB intended to approve the site plan as drawn and the setback conditions shall be corrected.
4. Applicants' objection to the November 17, 1997, facsimile offering of Appellant of the Planning and Design Review files is well taken. The files are rejected on the basis that neither a sufficient foundation, relevancy, or materiality has been established for the City Council to determine which of the many documents, if any, contained in the files apply to the Appellants' points of appeal.
5. The Appellant has not carried her arguments on appeal by a preponderance of the evidence. The Applicant has carried his burden of persuasion.

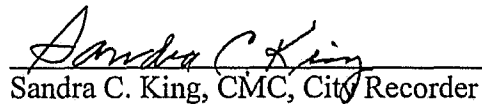
CONDITIONS OF APPROVAL:

1. The Conditions of Approval adopted by the Development Review Board regarding 97DB30 on October 13, 1997 are hereby approved.
2. Access to the Variable Property "A" parking and garage from the parking lot drives and from Charbonneau shall be by driveways which are at least 12-foot wide, except the westerly driveway may be reduced to 10 feet at points necessary to save the two trees as shall be determined by the Planning Department.
3. The front setback shall be 9-foot minimum and the rear setback shall be 14-foot minimum with 6' patio wall allowed within the setback.

ADOPTED by the City Council of the City of Wilsonville at a regular meeting thereof this 17th day of November, 1997, and filed with the City Recorder this same date.


JOHN HELSER, City Council President

ATTEST:


Sandra C. King, CMC, City Recorder

SUMMARY of Votes:

Mayor Lehan	<u>Excused</u>
Councilor Barton	<u>Yes</u>
Councilor Helser	<u>Abstain</u>
Councilor Luper	<u>Yes</u>
Councilor Kirk	<u>Yes</u>

PLANNING DIVISION MEMORANDUM

Date: November 10, 1997
To: Honorable Mayor and City Council
From: Robert G. Hoffman AICP *RGH*
Manager of Current Planning
Re: Appeal of Development Review Board Decision of October 13, 1997
Willamette Valley Homes - Charbonneau Variable Property "A"
Case File No. 97DB30(Appeal) filed by Ms. Sharon Peebles

SUMMARY:

A de novo public hearing is scheduled to consider Ms. Peebles' appeal of the Development Review Board's approval of a design review application for six dwelling units on Variable Property "A" in Charbonneau Village Center adjacent to the golf course and restaurant. The City Council previously approved the use of this property for five to six dwelling units and approved a Planned Unit Development for the site but remanded details to the Development Review Board for further review. Ms. Peebles has listed six bases for her appeal. The staff response to each basis is listed below:

RECOMMENDATION:

Deny the appeal and uphold the Development Review Board approval, adding findings and conditions to clarify that the project meets the approval criteria. Adopt Resolution No. 1428. Staff has concluded that there is no basis for Ms. Peebles' appeal.

BACKGROUND:

Summary Chronology:

1. October 28, 1997: Notice of Appeal by Sharon Peebles
2. October 13, 1997: DRB Approval of Site and Design Review Resolution No. 97DB30
3. September 8, 1997: DRB Public Hearing - (continued to October 13, 1997)
4. August 14, 1997 Site and Design Review Application filed by Willamette Valley Homes - Case File No. 97DB30
5. May 12, 1997 LUBA Appeal by Sharon Peebles
6. April 21, 1997 City Council Resolution No. 1371 approves Stage I and II and Remands Site and Design Review to DRB
7. February 25, 1997 Willamette Valley Homes Appeal of DRB Denial
8. February 13, 1997 DRB Denial of 97DB03

SHARON PEEBLES BASIS FOR APPEAL #1

- I. *“Resolution 1371 expressly requires revision to architecture and setbacks. The new design plan submitted by the applicant changes the setbacks requested but neither improves them nor justifies them. Therefore, the DRB approved the new setback waivers without requiring any justification from the applicant to support the granting of the waivers.”*

“Section 4.010(3)(a) of the Zoning Code requires the DRB to make a finding for each of the applicable policies, criteria and standards, including whether the proposal conforms to the Comprehensive Plan. The DRB adopted a Planning Division Memorandum dated September 26, 1997, which it referred to as the “Staff Report”, with the findings contained therein. There are no findings contained in the Staff Report relating to the justification for waivers, merely unsupported conclusions, opinions and facts that are irrelevant to the issues raised in my memorandum. For example the Staff Report says that the discussion about which standards to apply for review is moot since the front and rear yard setbacks are the same- 25 ft.”. That statement does not in any way justify the granting of a setback waiver to the applicant. Thus, the DRB failed to comply with its review obligations under the Code.”

STAFF REPLY:

Conclusion regarding Basis #1 - There is no basis as shown below:

There are numerous findings in the various staff report and applicants documents which were used by the DRB as the basis for their actions including waivers as follows: The adopting motion of the DRB was as follows: (from transcript from DRB hearing of October 13, 1997)

“David Lake moved that we approve 97DB30 and note that we adopt the memo dated September 26, 1997 from Bob Hoffman as a finding and the memo dated October 13, 1997 from Joan Kelsey as a finding and that we approve 97DB30 with the proposed conditions as outlined by staff with the following amendments: (emphasis added)

Condition #7: delete the word “Pin Oak” and change to “London Planetree”

add Condition #10: The relocated parking proposed curbside in front of the restaurant, pro shop, and office is to be limited so as to restrict which parking by locating “No Parking” signs at the entry and end of the circular parking as indicated on Exhibit M’ which is from Martin Brown.

The board also adopts the staff report dated September 8, 1997 as a finding. (emphasis added)

Mary Sinclair seconded the motion, which passed unanimously 3-0.”

WC4.136(1)(a) “any residential uses shall be subject to the applicable Sections 4.120 to 4.124 and 4.170 to 4.173.....(emphasis added). This reference is to nine pages of standards. The DRB has selected the relevant standards as follows:

1. The following findings are from the September 8, 1997, staff report:

Response Findings:

FINDING:

7. Residential (R) Standards:

The Development Code does not set clear and objective site development standards for residential development within the PDC zone. Nevertheless, the development standards listed in Subsection 4.122(7)(h) for the Residential (R) zone for attached dwelling units with a minimum lot size of 8,000 sq. ft. were applied in this review. Through the planned development process, (Subsection 4.136(2)(a): Waivers) the applicant is seeking waivers from minimum yard setbacks. In City Council Resolution No. 1371, Council found that the “*requested waivers require further justification and the applicant has not adequately carried his burden in supporting the waivers*”. The subject lot being 30,315 sf.. exceeds the required 8,000 sf.. minimum. (3 duplex structures x 8,000 = 24,000 sf..). The following standards are reasonable:

Subsection 4.122(7)(h):

- 4) *Minimum Front Yard Setback. Twenty-five (25) feet. Structures on corner of through lots shall observe the minimum front yard setback on both streets. No structures shall be erected closer than fifty (50) feet from the center line of any public, county or state road. WC Definition 107 defines yard front as “Any yard abutting a street.” WC Definition (87) defines street “ as entire right -of-way of a dedicated public way.”*
- 5) *Minimum Rear Yard Setback: Twenty-five (25) feet.*
- 6) *Minimum Side Yard Setback:*
 - a) *One Story: Five (5) feet.*
 - b) *Two Stories: Seven (7) feet.*
 - c) *Two and one-half Stories: Eleven (11) feet.*

- 7) *Maximum Height: Two and one-half (2 1/2) stories or thirty-five (35) feet.*
- 8) *Off-Street Parking: There shall be provided at least two (2) spaces per dwelling or rental unit to be provided behind the front setback line.*
- 9) *Frontage - 80 feet.*

Response Findings:

FINDING:

8. **Lot coverage/size:**

The Stage II Final Plan for condominiums (town houses) was not regulated by Chapter 4 of the Wilsonville Code and by the Oregon Revised Statutes as a "subdivision" with typical lot size requirements. Thus, the requested waivers to increase lot coverage and to reduce lot size/dimensions are not required. However, in case file 97DB03, building setbacks was an issue as the City Council denied the applicant's request to waive minimum yard setbacks on the basis; "*they (the applicant) have not designed the site in relation to the irregular shape but have simply used the rectangular portion so that the irregular shape of the lot had little or no impact on their design and, therefore, that is not supported by their testimony.*" The applicant's amended findings justify approving the revised waivers which are found on pages 8 and 9 of the submittal report. (Exhibit 'E') (emphasis added)

The Stage II, Final Plan setback waivers measured from the outermost property lines were denied in Council Resolution No. 1371. (bold type represents denied setback request):

	<u>Minimum</u>	<u>Proposed</u>
9. Duplex '1'		
Front (north)	25'	60'
Right side (east)	7'	10.8'
Left side (west)	7'	15' Between buildings
Rear side (south)	25'	26.36'
	<u>Minimum</u>	<u>Proposed</u>
Duplex '2'		
Front (north)	25'	5'
Right (east)	25'	15' Between buildings
Left side (west)	7'	15' Between buildings
Rear side (south)	25'	19.5'

	<u>Minimum</u>	<u>Proposed</u>
Duplex '3'		
Front (north)	25'	5'
Right (east)	7'	15' Between buildings.
Left side (west)	7'	5'
Rear side (south)	25'	13.83'

19.9 average setback from the golf course.

Frontage	80'	0' property is not adjacent to public street.
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Proposed revisions to setback waivers:

	<u>Minimum</u>	<u>Proposed</u>
10. All town houses:		
Front (north)	25'	10' to 78' @ parking lot
Side (east)	7'	7', 15' between buildings
Rear side (south)	25'	22' to 25' @ Green # 1

23.5 average setback from the golf course.

Proposed setbacks in **bold** letters do not comply with minimum yard setbacks. Though this is a Condominium Plat, it is reasonable and practical to require this project to observe minimum yard setbacks or as otherwise approved by the DRB.

* Fireplaces may encroach the side yard setback 2" for each foot of side yard. In this instance, 14".

Note! The redesigned site plan shows greater average setbacks from the golf course from what was proposed in case file 97DB03 (from 19.9' first request to 23.5' revised request).

2. The following findings are adopted by Development Review Board on October 13, 1997:

From Ben Altman's Report from Application Materials

Exhibit E rec'd Aug 13, 1997

The units are oriented to the golf course consistent with the fairway development pattern throughout Charbonneau. Specific elevations have been provided as they will be viewed from the north and south side of the fairway, and between the units. Consistent with the current landscaping, the units will be screened from the Village Center parking lots as the arborvitae hedge will be retained. A fence and landscaped screening will also buffer the eastern unit from the restaurant.

Provisions to modify the patio and relocate the sidewalk at the west side of the restaurant have also been made, in coordination with the manager. A portion of the existing sidewalk will be relocated around the screen fence. This sidewalk provides handicapped access to the restaurant. The combination of existing trees together with proposed additional trees and landscaping will provide high quality visually pleasing buffers for the residential uses south of the fairway, while presenting exceptional views to and from the fairway.

The units will be supportive of existing commercial units within the Village Center. Residents will most likely be golfers, who will use the golf course, country club and restaurant. They may also use the retail services offered within the Center.

We acknowledge that Article VIII of the Country Club CC&Rs requires Architectural Review of the building and landscaping. It does not, however, relative to zoning and land use decisions. Therefore the unit designs and landscaping have been submitted for Charbonneau Architectural Review per Article VIII of the CC&Rs.

Unit Design

The unit designs are shown in several elevations and perspectives to reflect an accurate as possible view of how they will fit within the context of the Village Center and fairway. They have been designed to be compatible with the unit styles, bulk and scale of the buildings closest to them, while being sensitive to the character of those across the fairway. They are all two story attached structures containing 1900 to 2000 square feet. Each unit also has a two car garage.

The parking lot side of the development is and will remain screened by the existing trees and evergreen hedge. Although limited portions of the hedge will need to be removed to accommodate the driveways, but no tree will be removed. Therefore the most sensitive view will be from across the fairway. For this reason, special architectural detailing and paved patios are provided to enhance the visual quality and to extend the interiors of the units to the outside, thus capturing the fairway views.

Exterior materials have been selected to present quality and durability. The materials, consisting of stucco, cedar, tile and brick are also consistent with the established character of the adjacent neighborhoods.

Lot Standards

There are no specific minimum lot standards in the PDC or PDR zones. However, guidance for residential planned development zoning is provided in the R Zone. Standards for attached units are provided in Section 4.122(7)(h). There are as follows:

(Continued #2 Reply to Basis #1

Lot Size	8,000 square feet
Lot Width	60 feet, plus 5 feet for each additional story
Lot Frontage	80 feet, plus 5 feet for each additional story
Lot Depth	80 feet, plus 5 feet for each additional story
Front Yard	25 feet
Rear Yard	25 feet
Side Yard	5 feet, one story 7 feet, two story
Height	2 1/2 stories or 35 feet
Parking	Two spaces per unit
Coverage	None specified

The subject property, Variable "A" contains 30,315 square feet. The lot dimensions exceed the minimums for the R zone listed above. The site plan provides setbacks that meet the R standards to the greatest degree possible, given the narrowness of the lot and the additional constraints of preserving existing trees on the north, and the utility easement on the south. Consequently not all standard setbacks could be maintained. However, reduced setbacks are common in Charbonneau, so this development will remain in character.

Waivers

Section 4.136(2) grants the Planning Commission discretion the adapt the base standards as follows:

- (2) Notwithstanding the provisions of Section 4.136(1) to the contrary, the Planning Commission in order to implement the purposes and objectives of Sections 4.130 to 4.140 may:
 - (a) Waive the minimum lot area, width and frontage, height and yard requirements which otherwise would apply.
 - (b) Locate individual building, accessory buildings, off-street parking and loading facilities, open space and landscaping and screening without reference to the lot lines; and
 - (c) Adopt additional requirements and restrictions,.....

The proposed minimum set backs standards are as follows:

Lot size:	30,315 square feet
Lot Width	252 feet
Lot Frontage	0 feet

(Continued #2 Reply to Basis #1)

Lot Depth	86 feet at the narrowest point
Front Yard (north)	9 feet, from garage to parking lot curb
Rear Yard (south)	14 to foundation, and 6 feet to patio/terrace
Side Yard	7 feet
Height	2 stories
Parking	Two spaces per unit

Requested Waivers

The applicant requests the following waivers from:

1. The 80 foot minimum frontage for all lots, as this parcel has no frontage on a public street;
3. The 25 foot front yard, as the front yards abut the General Common Area parking lot, within the Commercial Village center; and
4. The 25 foot rear yard, as the property abuts the golf course and a utility easement.

The proposed condominiums all share a common lot containing 30,315 square feet. The units are designed as townhouses with essentially foundation property lines, but including fenced side yards. So, there is not real lot size per unit, but the average for the entire site is 5052 square feet per unit.

However the size and shape of the parent parcel does not allow for an even distribution of the total lot area to each building relative to yard areas. The building foot prints are, however, consistent with the established pattern and size in Charbonneau development generally does not, and was not intended to, conform to the City's standard zoning. General waivers were previously granted for townhouse lots along the fairways. Many of the units are sited and designed based on the Building Code minimum building separation and common wall standards for condominiums and townhomes, with setbacks as little as 3 feet, rather than the City's base R zone standards. Further, we emphasize that these condominiums are located within the commercial center where other buildings are sited without reference to standard yard setbacks. Technically, the front yard for the Village Center is French Prairie Drive, which is about 500 feet from the site.

This site is somewhat unique in that it does not have any frontage on a public street. The Village Center is served by a common access drive and shared parking lot, which was previously approved by the Planning commission.. Therefore the proposed lots also do not and cannot, have any street frontage. They do, however, have sufficient access for the proposed use. This access is consistent with the existing access approved for the adjacent condominiums (formerly Mariners Village).

The front and rear yard setbacks waivers are requested in order to allow the units to fit on this lot, which is irregularly shaped and further constrained by trees and easements. These reduced setbacks are against the fairway and common parking lot rather than from a street or other residential lot. The closest structure is the restaurant, which has been provided with a 15 foot separation from building 1. While less than the R zone standards for attached units, these setbacks are all consistent with the established pattern within the Village Center and along the fairways. All of the units will comply with the height standard, so no height waiver is requested.

3. 3rd Response to Basis #1 of appeal:

From Robert G. Hoffman testimony from October 13, 1997 meeting (Transcript attached)

"Staff would like to read in just a few additional remarks regarding the setback requirements if we might, something we hadn't submitted in writing but after looking at issues that Ms. Peebles raised and the staff reply, we thought it might be supplemented slightly.

Hoffman: "The purpose of side and front and rear yard setbacks is to provide for adequate light, air and architectural relationships and minimize fire hazards. That's the purpose of setbacks. The building code provides for three foot yards or setbacks for fire protection, light and air, or you can have a higher fire rating for the walls separating. In terms of architectural or aesthetic relationships, a landscaped hedge and entry area are proposed adjacent to the parking and drive areas along the north side of the proposed complex. A hedge and landscaped area exist between the apartments and the proposed units on the western edge. A ten foot buffer area and sidewalk are proposed along the eastern side between the duplex and the country club with the total separation of about fifteen feet. Along the entire south side is the golf course fairway and pad. Thus, in the opinion of staff, the waivers requested regarding setbacks are appropriate in this situation."

4. 4th Response to Basis #1 of appeal:

City Planning Commission action of 1980 attached approved 3 ft minimum sideyards for Charbonneau (Attachment to staff's Exhibit O -October 13, 1997 hearing)

The Design Review Criteria is three pages long and is listed at the front of the September 8, 1997 staff report. Criteria 4.400(2)(a), (b), (c), (d) and 4.421(1)(b)(c) appear to be relevant to yard waivers. As can be found from descriptions of the project and its relationship to the surroundings, the project by its sensitive design does provide for proper functioning of the site, high quality environment, provides

in its design for originality, flexibility and innovation. The project is not drab, unsightly, dreary or inharmonious but relates well to the adjacent development. Proper attention has been given to exterior appearances of structures and other improvements. The design has been prepared by a registered and well-known architect and landscape architect. In the professional opinion of staff, including a graduate architect and member of the American Institute of Planners with over 37 years of professional planning experience, the waivers for yards are appropriate and adequately supported by findings.

5. 5th Response to Basis #1 of appeal:

From Staff Report of Robert G. Hoffman dated September 26, 1997 adopted by DRB.

"The discussion about which standards apply for review is moot since the front and rear yard standards are the same 25 ft. The side yard standards are 10 ft vs. 7 ft for two story buildings and the board has the right to vary the side lot standards for PUD projects in any case. Attached you will find that on November 10, 1980, the Planning Commission approved a standard modification of side yard standard in Charbonneau to allow 3-foot minimum side yards consistent with the building code. This has been standard practice since 1980 according to Ben Altman and Blaise Edmonds, previous and current staff members. WC Section 4.420 - Jurisdiction of the Board - explicitly provides the Board the authority to review projects in conformity with WC Sections 4.100 to 4.160. This includes authority given in WC 4.136(2)(a) to waive standards for minimum lot size, width, frontage and yard requirements. This is what staff is proposing that the Board do.

In terms of whether the waiver standards are met, Ms. Peebles refers to the purpose of a PD project as being the appropriate review standard. The City Council has already reviewed and approved the project as a Planned Development Project (Stage I and II) and, thus, that process has made the determination that those purposes on a PUD have been met."

6. 6th Response to Basis #1 of appeal:

Regarding architecture analysis see Finding #14 of September 8, 1997 staff report (later in this document & under Basis for Appeal #7, pg. 16 of this report)

Ms. Peebles' basis states that findings must be made for each of the applicable policies, criteria, and standards including the Comprehensive Plan. WC 4.136(2) states, "Notwithstanding the provisions of 4.136(1) to the contrary, the Planning Commission (now DRB) in order to implement the purposes and objectives of Sections 4.130 to 4.140 may: (a) waive the minimum lot area, width and frontage, height and yard requirements..."(emphasis added). The express language does not require each waiver to be reviewed against each policy criteria and standards,

including the Comprehensive Plan. This is done for the project as a whole and DRB has complied with this requirement.

Conclusion regarding Basis for Appeal #1:

There is no basis. The waivers requested are adequately supported by findings.

SHARON PEEBLES BASIS FOR APPEAL #3:

(no #2)

3. *"The new plan does not preserve the maximum amount of open space and what little open space that exists is not dedicated open space and could be converted to parking or some other use at the option of the applicant."*

STAFF REPLY:

Conclusion Regarding Basis #3: There is no basis. See below:

FINDING from Staff Report dated September 8, 1997

- #18: Subsection 4.136(e)(1) and (2) (Outdoor living area), and Conditions No. 2e of City Council Resolution 1371, requested the applicant to address the following issue:

"Consider increasing the provision of more useable open space on the site, especially private patio areas in front (facing the parking lot)."

Council determined the applicant did not meet the burden of proof: *"the Site and Design Review application as submitted does not support the master plan in existence which requires the preservation of the maximum open space"*. Charbonneau is master planned with the golf course serving as the primary outdoor living area with living areas of housing facing it. The revised Site and Design Plan shows much stronger design attention to the relationship of private space (the proposed town houses), semi-public space (proposed patios), and public space (golf course and pathways). Those areas are better defined with larger patios where homeowners would tend to recreate along the golf course. The proposed foot print of the easterly town house building is not as spread out which leaves a larger pocket of landscaping between it and the Village Green parking lot. Again, the proposed town houses show more consolidated building foot prints which allows for more useable outdoor living space as compared to the previous proposal. The proposal to construct private patios next to the fairway side of the golf course is more preferable than facing patios at the parking lot which serves commercial businesses. The fairway side is more conducive for outdoor recreation and would make more effective use of the entire site, particularly along the golf course side of the project. Thus, the applicant has met Council's concern with a revised Site and Design Review which supports the

master plan in existence which requires the preservation of the maximum open space.

Applicant's application pg. 5 b) 2nd paragraph. Exhibit E: "The perspective drawings show the horizontal profile of how these units fit and blend into the existing landscape and buildings along the north side of the fairway. The new design provides a high quality open feel addressing the fairway. Lots of glass is used together with loggia and terrace to capture to view opportunities presented by the golf course. "

Nowhere does code require "dedicated open space". DRB approval requires return to DRB before changing landscaping. This is not at the option of the applicant, owner or user.

Conclusion regarding Appeal Basis #3

There is no basis for this appeal item.

SHARON PEEBLES BASIS FOR APPEAL #4:

- 4 *"The DRB failed to make findings of fact regarding the street requirements set out in 4.167(h) of the Code. The Staff Report addresses the matter as follows: "Variable "A" is part of an approved Condo Plat which has an approved private street and parking system as part of the approval." While the Staff Report clearly states a true fact, that fact is in no way related to the express requirement of the Code which states that "an access drive to any proposed development shall be designed to provide a clear travel lane free from any obstructions for a minimum width of 15 feet for one way traffic and 24 feet for two way traffic". No such travel lane exists but there is no finding either that the standard does not apply or that the standard applies but need not be met for some articulable reason. In short, this project defies the express language of the Code without rationale or justification from the DRB."*

STAFF REPLY:

Conclusion for appeal #4: There is no basis but conditions may be added (See proposed condition #2 of Proposed Resolution 1428)

1. The main access to the site is by way of French Prairie Road and Charbonneau Drive and through the approved parking lot which in all cases exceeds the 24-ft requirement and is a part of an approved plat. Each individual duplex unit is served by a short driveway to the entrance and garage area. The code does not specify the width of these short segments but long standing practice is to require these driveways to be a minimum of 12-ft in width provided they are not longer than 100 ft and fire protection requirements are met. The 12-ft requirement could be conditioned or could be covered at time of building permit. Fire requirements are that no more than 150 ft of hose lay from the fire truck. The Building Official and the Fire Marshall have reviewed the plan to ensure that this is met. This

requirement is met from the parking lot by the 20+ ft aisle widths. WC4.167(l)(h)4) provides that "minimum access requirements shall be adjusted commensurate with the intended function of the site based on vehicle types and traffic generation." The three driveways are intended to service individual dwelling units and range in number of units served from one to three units. 12 ft. is considered adequate for driveway width for short segments.

2. From Ben Altman's Applicant's Application Narrative, Pg. 5 Exhibit E

"c) Drives, Parking and Circulation. The units share common driveways and also share a common access with the Village Center. Adequate parking, at 2+ per unit, and safe and convenient circulation are provided. The eastern driveway has been relocated to preserve the mature trees, landscaping, and walkway along the front entry to the restaurant. This design allows for a shorter driveway and better parking and maneuvering area.....

The applicable fire safety standards for one and two family dwellings call for fire access to 150 feet (hoselay) from the parking lot to all exterior walls; and fire hydrants within 500 feet. Both of these standards are met by the proposed plan."

Conclusion regarding Basis for Appeal #4:

Basis for Appeal #4 is not supported. However, a condition should be added by City Council to clear up any ambiguity. (See Condition #2 in Proposed Resolution No. 1428)

SHARON PEEBLES BASIS FOR APPEAL #5:

5. *"The DRB failed to address the issue raised in my memorandum regarding lot size. The City Council approved three single family dwellings for Variable A. The requirements for single family dwellings are set out in 4.122(e) of the Code. That section requires "lots" to be at least 95 feet deep. Variable A is approximately 85 feet deep and 250 yards wide according to the way the dwellings are configured. The Staff Report concludes that since Variable A is 85 feet by 250 feet it meets the ordinance requirements for width and depth. That conclusion no way addresses the issue raised in the sections of my memorandum entitled Development Standards and Proposed Development Does not Conform to Standards Applied. Again, the DRB failed to apply the appropriate standard or to state why the standard does not apply and the "findings" in Staff Report fail to do so.*

STAFF REPLY:

Conclusion regarding Basis #5: There is no basis.

Resolution 1371 of City Council in Condition #4 clearly approved five to six, not three single-family housing units, to be configured in a variety of ways.

From Robert G. Hoffman Staff Report dated September 26, 1997

“.....The parent lot size requirements for this proposed complex of 6 dwelling units are given in WC 4.122(7)(a). At 3-5 du/ac (as proposed in the Comprehensive Plan for the General Charbonneau are a required minimum lot size is 5,000 sq. ft./ du or 6 x 5,000 = 30,000 sq. ft. For commercial developments, there are no minimum yards or lot size (WC4.136(l)(c)7).”

This is approximately the lot size of the subject parcel (30,315 sq. ft). The Variable Property “A” was part of an original Planned Development project and was applied for as a Planned Development project and approved by City Council as a Stage I and II Planned Development. It is entitled to be treated as an approved PUD in the Design Review phase provided the LUBA appeal is resolved.

Since the subject site meets the minimum lot size of 8,000 sq. ft and the type of occupancy is attached Family Dwelling units the appropriate standards to apply are 4.122(7)(h) not WC 4.177(7)(e). WC 4.122(7)(e) would not permit the density allowed in 4.122(7)(a) and would be required to be between 10,000 to 20,000 sq. ft lots which is not appropriate for Charbonneau and not what City Council approved which was 5-6 units on a 30,000 sq. ft. lot. WC4.122(7)(e) referred to by Ms. Peebles is for single family units “with a minimum lot size of ten thousand (10,000) square feet, but less than twenty thousand (20,000) square feet.” This is clearly not the case here. The lot size is over 30,000 square feet.

Conclusion Regarding Appeal Basis #5:

There is no basis for appeal under Basis #5.

SHARON PEEBLES BASIS FOR APPEAL #6:

6. *“The DRB failed to address the issue raised in my memorandum regarding street frontage and failed to make any findings with respect thereto. The basic question that I raised is: must residential developments in the City of Wilsonville have street frontage on a public or private road. If not, why not, given the express language of Code 4.122(e)? The Staff Report does not appear to make any factual findings with respect to this issue. If the street frontage requirement is waivable because Variable A is part of a condo plat, then where in the Code are approval standards for condo plats set out? If the requirement is waivable on some other basis, what is that basis and what standards apply to obtain a waiver?”*

STAFF REPLY:

Conclusion Regarding Basis #6: There is no basis.

From Robert G. Hoffman Testimony of October ¹³8, 1997 meeting (transcript attached- Item No. 9 in Index listing)

1. "Ms. Peebles in a later communication which is in your packet raised some question about the frontage issue. Frontage is required under some interpretations of the code. The purpose of frontage is for ensuring adequate access. Variable Property "A" is part of a previously approved planned unit and condo plat. Access was always expected from the beginning of approval of that plat to be provided to Variable Property "A": from private drives. Numerous developments in Charbonneau and in the immediate vicinity have their entrances from the private drives and, in fact, nearby, there are two or three that have their access through this specific parking area and thus have zero frontage on a public street and were previously approved as such. This is consistent and appropriate, in this case to provide zero frontage and to waive that requirement in the opinion of staff."
2. In addition, WC4.136(2)(a) explicitly allows waiving frontage "in order to implement the purposes and objectives of WC 4.130-140," which are listed below. The express language does not require each waiver to be reviewed against each policy criteria and standards, under the Comprehensive Plan. This is done for the project as a whole and DRB has complied with this requirement.

4.130 Planned Development Regulations - Purposes:

(1) The provisions of Sections 4.130 to 4.140 shall be known as the PLANNED DEVELOPMENT REGULATIONS. The purposes of these regulations are to encourage the development of tracts of land sufficiently large to allow for comprehensive master planning, and to provide flexibility in the application of certain regulations in a manner consistent with the intent of the Comprehensive Plan and general provisions of the zoning regulations and to encourage a harmonious variety of uses through mixed use design within specific developments thereby promoting the economy of shared public services and facilities and a variety of complimentary activities consistent with the land use designation on the Comprehensive Plan and the creation of an attractive, healthful, efficient and stable environment for living, shopping or working.

(2) It is the further purpose of Sections 4.130 to 4.140:

(a) To take advantage of advances in technology, architectural design, and functional land use design:

(b) To recognize the problems of population density, distribution and circulation and to allow a deviation from rigid established patterns of land uses, but controlled by defined policies and objectives detailed in the comprehensive plan.

(c) To produce a comprehensive development equal to or better than that resulting from traditional lot land use development.

(d) To permit flexibility of design in the placement and uses of buildings and open spaces, circulation facilities and off-street parking areas, and to more efficiently utilize potentials of sites characterized by special features of geography,

topography, size or shape or characterized by problems of flood hazard, severe soil limitations, or other natural or man-made hazards;

(e) To permit flexibility in the height of buildings while maintaining a ratio of site area to dwelling units that is consistent with the densities established by the Comprehensive Plan and the intent of the Plan to provide open space, outdoor living area and buffering of low-density development. (Amended by Ord #210, April 19, 1982)

(f) To allow development only where necessary and adequate services and facilities are available or provisions have been made to provide these services and facilities.

(g) To permit mixed uses where it can clearly be demonstrated to be of benefit to the users and can be shown to be consistent with the intent of the Comprehensive Plan.

(h) To allow flexibility and innovation in adapting to changes in the economic and technological climate.

The City Council in their approval of Stage I and II Planned Development Project has already determined that these purposes and objectives are met by the development approved in Resolution #1371. Access approved was from Charbonneau Drive and through the parking lot as is the case in the subject application.

Conclusion regarding Basis for Appeal #6:

There is no basis.

SHARON PEEBLES BASIS FOR APPEAL #7:

7. *"The DRB generally ignored the remand criteria in Resolution 1371".*

STAFF REPLY:

Conclusion regarding Condition #7: There is no basis.

The staff has carefully analyzed each of the criteria of Resolution #1371. For example, review Finding #14 from pg. 11 and 12 of Staff Report dated September 8, 1997 (shown below) and also Finding #7 of the report shown in response to appeal #1 above). Also see applicant's narrative with application received August 13, 1997, and also reply to Basis for Appeal #4, above.

Architecture:

FINDING:

14. Conditions No. 2b, c, d and f of City Council Resolution 1371, requested the applicant to address the following issues:

- b) *Provide more articulation of the facades facing the golf course.*
- c) *Take advantages of existing site strengths and respect the view of the golf course and tree buffer.*
- d) *Restudy site edge architecture and landscaping to provide more adequate light, air and a better relationship to the site's surrounding buildings.*
- f) *Increase buffering of units from parking area.*

Furthermore, in Resolution No. 1371, Council determined the applicant did not meet the burden of proof to demonstrate that Section 4.400 Design Standards by finding that Section 4.400 "requires a high quality visual environment, in that the forms are poorly resolved especially along the golf course face, and that the setbacks as proposed by the applicant are not compatible with surrounding existing development. They are, in effect, too much for this small site. The blank, essentially straight -line wall of the units along the golf course side presents a monotonous front. The design as presented also ignores the view of the golf course."

Finally, Sections 4.400 to 4.450 (Site Design Review), Subsection 4.400(2)(c) "Discourages monotonous, drab, unsightly, dreary and inharmonious developments", and Subsection 4.400(2)(d): Requires "that structures be properly related to their sites."

One issue is if the proposed town houses will be architecturally compatible with Village Center, its relationship with the golf course, and with the Village at Wilsonville Master Plan development concept. The matter of compatibility is not clearly defined or identified within the Village at Wilsonville Master Plan planning goals. To be thorough, compatibility is to be viewed in the context of neighboring properties and is to also be evaluated in terms of the greater Charbonneau community. In the professional opinion of staff, the proposed redesigned town house architecture is compatible with Village Center and with adjacent housing development for the following reasons;

- a) The most significant changes from the previous plans approved in case file 97DB03 are higher quality architecture, and better designed patio areas facing the golf course. The lack of good architecture along the golf course was the one of the major issues considered at the previous City Council public hearing. The project architect designed the site plan to orient the living and recreation uses of the town houses facing the golf course. The proposed town houses now show improved architecture particularly at the south building elevations which now shows strong shadows from eaves an desks fenced, at grade patios and large windows. Thus, the proposed driveways and garages will be adjacent to Village

Center parking lot which is the appropriate building orientation. Slightly greater setbacks are proposed from the parking lot with the intent of retaining the existing row of Pin Oaks and Arborvitae as a solid buffer. The proposed, redesigned, two story town houses have more consolidated building foot prints which allows for more useable outdoor living space, particularly along the golf course side of the project. The mix of horizontal siding with stucco panels will further enhance the overall architecture. Proposed hip roofs will have concrete tile. Exterior siding is 1/2" bevel cedar with 6" exposure, and stucco panels.

b) The proposed landscape plan is carefully designed to integrate existing trees with new plant materials to establish landscape edges/buffers from the more intense, adjacent commercial uses.

c) Furthermore, the project will augment the residential orientation of Charbonneau without the introduction of the more unpleasant aspects of typical retail and commercial development such as heavier automobile use, congestion, pedestrian-automobile conflicts, noise and intensity of use associated with Commercial activity which is the alternative land use allowed in the site.

d) The proposed architecture is designed to be architecturally compatible with Village Center and with the adjacent housing. Thus, the redesigned project is more consistent with Sections 4.400 to 4.450 (Site Design Review), Subsection 4.400(2)(c) (Discourages monotonous, drab, unsightly, dreary and inharmonious developments), and Subsection 4.400(2)(d) (Requires that structures be properly related to their sites). The elevations facing the golf course are more articulated than the previous proposal provided more detailing.

e) Applicants narrative pages 1 to 10, staff supports these statements. Proposed Finding No. 14 addresses this issue. (emphasis added)

Conclusion Regarding Basis of Appeal #7

The appellant's Basis #7 has no basis.

STAFF OVERALL CONCLUSION REGARDING BASIS FOR APPEAL:

The appellant has not shown that the application fails to meet the requirements for approval.

RGH:sh