



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, July 21, 1998
7:00 PM**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - July 7, 1998** (will not be available until 8-4-98 PC Mtg)
- 3. Agenda Review**
- 4. SUB 96-8 Katrina Subdivision Final Plat:** (continued from July 7, 1998) a request by Roger Grahn for a 4-lot single family subdivision off of King Richard Court, Tax Lot 701, Map 2S 1 31AA.
- 5. Public Hearings:** (Hearing Disclosure Statement. Also, declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the following procedure (Resolution 98-743, adopted June 9, 1998):
 - Staff Report--15 minutes
 - Applicant--30 minutes(to be split, at the discretion of the applicant, between presentation and rebuttal.)
 - Proponents—5 minutes each (applicants may not also speak as proponents.)
 - Opponents—5 minutes each
 - Rebuttal—Balance of applicant time(see above)
 - Close Public Hearing
 - Staff Final Comments—15 minutes
 - Questions of Staff/Discussion by Body—no limit
 - Decision(Note: Written comments are encouraged, and may be submitted prior to the hearing, at the hearing, or when the record is left open, after the hearing for a limited time. There is no limit to the length of written comment that may be submitted)
 - A. SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat:** (continued from July 7, 1998) a request by Robert J. Claus for preliminary plat approval of a 20-lot single family subdivision located at 585 West Villa Road, zoned MDRH. Additionally, the applicant requests a variance for a cul-de-sac length in excess of 600 feet. Tax Lots 7900, 8000, Map 2S 1 32BC.
 - B. MLP 98-5 Seeley Partition:** (continued from July 7, 1998) a request by John K. Seeley to divide a 0.96 acre lot into 2 parcels, located at 16425 SW Brookman Road, Lot 31 Arbor Lane, Tax Lot 3100, Map 2S 1 31DD. **Staff is recommending this application be continued.**

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- C. **SP 98-8 Sherwood West Office Campus Site Plan:** a request by Scott Steckley, Chehalem Diversified for site plan approval of a 15,000 sf professional office building to be located at 20055 SW Pacific Hwy. Tax Lot 100, Map 2S 1 29B.
 - D. **SP 98-10 Owen Racing Shells Expansion Site Plan:** a request by Symons Engineering for site plan approval of a 20,341 sf office and shop facility to be located in the Industrial Park of Sherwood. Tax Lot 100, Map 2S 1 28BD. **Staff is recommending this application be continued.**
- 6. **Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
 - 7. **Other Business**
 - 8. **Adjourn**

ITEMS NOT COMPLETED BY 11:00 PM WILL BE CONTINUED
TO THE NEXT REGULARLY SCHEDULED MEETING

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
July 21, 1998

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:00 PM. He asked that anyone wishing to speak fill out one of the green cards and give them to the Recording Secretary.

Commission Members present:

Susan Claus
Adrian Emery
Scott Franklin
Keith Mays
Paul Stecher (7:05 PM)
Angela Weeks
Bill Whiteman

Staff:

Sue Engels, Development Director
Greg Turner, City Planner
Jason Tuck, Assistant Planner
Roxanne Gibbons, Recording Secretary

2. Minutes of July 7, 1998

Chairman Whiteman announced the minutes of July 7, 1998 Planning Commission meeting would not be ready until the August 4, 1998 Commission meeting.

3. Agenda Review

Susan Claus referred to the July 21, 1998 memo from Ahmad Qayoumi, Director of Engineering Services. Chairman Whiteman said the Commission would deal with this memo under Agenda Item #4, SUB 96-8 Katrina Subdivision Final Plat.

4. SUB 96-8 Katrina Subdivision Final Plat (continued from July 7, 1998 PC Mtg)

Chairman Whiteman reminded the Commission that this application was continued because the Commission asked for clarification of the condition regarding drainage to the north of the property line and how this condition had been met. A memo dated July 21, 1998 from Ahmad Qayoumi was placed on the table. Greg Turner said the Engineering Department needed more time to look at this condition because some of the calculations seem to be incomplete. The Engineering Department said this could be worked out with the applicant. The Planning Commission could move ahead with a decision on the final plat or allow the Engineering Department to have more time to take a look at this condition.

Chairman Whiteman said if the Commission is willing, the applicant was in attendance to address this issue.

Roger Grahn, 23287 LaSalle, Sherwood, Oregon 97140, addressed the Commission. He apologized for not being in attendance at the July 7, 1998 Commission meeting. The drainage issue came up at the time the engineered plans were submitted. The Planning Commission had some questions and a condition of approval was included. Drainage calculations were submitted

to the Engineering Department for the impacted areas. The engineers decided (City and applicant) after looking at the calculations that there was not a problem in the way it was designed. There was nothing required of the applicant and they could build it as designed. In this project, the whole thing slopes to the street from an alley to the north. On the north property line there is a small drainage ditch and it is built to handle the water that is going across to the pond. Now everything runs to the new street except for the back 3 or 4 feet of those two lots. When the Commission again brought up the drainage issue, Jason took it to back to Engineering and they are now saying they don't know if the calculations are complete. This application has been through and approved by Engineering once already.

Mr. Grahn said he just had a dispute with the City Public Works that went to court and there was not a very favorable ruling for the City. At this point, he would go right back to court. In his opinion, it is pure vindictiveness on the part of the City. There is no problem and common sense would tell you this. He had not seen the July 21, 1998 memo from Mr. Qayoumi. Mr. Qayoumi talked to Mr. Grahn's attorney at about 5:15 PM today. His attorney, Mr. Monahan, said that Mr. Qayoumi said Engineering did not have a problem with the application, it was a Planning Department problem.

Mr. Grahn said he had copies of the calculations if the Commission wished to review them. If he had been at the last meeting he could have explained how the particular condition had been met. They did address the issue and in his opinion, if Engineering approved the plans once, it is not fair to now say they were not sure.

Susan Claus read a portion of the memo regarding the calculations for down stream capacity for the storm sewer system. Mr. Grahn said these calculations addressed this issue and this had been addressed when they received their first approval by the Engineering Department. The site construction is virtually done. The back two lots slope towards the street and will have to be graded down. The water will run to the ditch which runs along the back of the north side of the other subdivision to the detention pond to the east. This is a very shallow ditch to the swale and it does not have a clearly defined channel. The drainage calculations do address the amount of flow that is on those streets. He would suggest the Engineering Department had not even looked at the calculations.

Chairman Whiteman said his concerns about the drainage swale and runoff had been addressed. Mr. Qayoumi's memo states, "The drainage swale at the northern line appears to be a natural swale that does not have a clearly defined channel. It does not appear that the Katrina Subdivision will increase the storm runoff to the swale. Runoff from the impervious surfaces will be conveyed to the storm system in the street." He asked if Staff had a recommendation. Mr. Turner said based on his conversation with the Engineering Department, Staff thinks this is something that can be resolved at the Staff level. Staff would recommend approval of the Final Plat.

Keith Mays moved based on the testimony and Staff recommendation, the Planning Commission approve SUB 96-8 Katrina Subdivision Final Plat. Seconded by Susan Claus.

Vote for Passage of Motion: 7-Yes, 0-No, 0-Abstain

Mr. Grahn said his difficulty with the City has been pretty well documented. He said that Jason Tuck is an exception to the rule. He thanked the Commission.

5. Public Hearings

Chairman Whiteman read the hearings disclosure statement and requested that Commission members reveal any conflict of interest, ex-parte contact or bias regarding any issues on the agenda.

Chairman Whiteman announced ex-parte contact with regard to Agenda Item 5A SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat, the applicant invited him and he accepted the invitation to walk over the affected properties. He did this before his picked up his packet and agenda for tonight. He was neither politicked, attempted to be influenced, or discussed anything that he read in the Agenda. He and Mr. Claus talked about the lay of the land, what they could and could not see, and what he was proposing to do. He did not feel this would bias his decision and he intended to participate in the discussion and vote on this application.

Scott Franklin announced he had the same ex-parte contact and site visit with the applicant (Mr. Claus, SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat). This was after he had picked up his packet. The results of their conversation were identical to those of Chairman Whiteman's. He did not feel this would bias his decision and he intended to participate in the discussion and vote on this application.

Keith Mays announced he had the same ex-parte contact and site visit with the applicant (Mr. Claus), as well as with Greg Turner and Jon Bormet on SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. He did not feel this would bias his decision and he intended to participate in the discussion and vote on this application.

Angela Weeks announced she had the same ex-parte contact and site visit with the applicant (Mr. Claus). She did not feel this would bias her decision and she intended to participate in the discussion and vote on this application (SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat).

Adrian Emery announced he had the same ex-parte contact and site visit with the applicant (Mr. Claus), as well as Staff. He did not feel this would bias his decision and he intended to participate in the discussion and vote on this application (SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat).

Paul Stecher announced he had the same ex-parte contact and site visit with the applicant (Mr. Claus), as well as Staff. He did not feel this would bias his decision and he intended to participate in the discussion and vote on this application (SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat).

Susan Claus announced she had a conflict of interest with SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat and she would not be participating in the discussion or vote on this application.

5A. SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat (continued from July 7, 1998)

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated July 21, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- The site is located south of West Villa Road at the west end of Railroad Street, Tax Lots 7900, 8000, Map 2S 1 32BC. He identified the area on the map.
- The application is for a 20-lot subdivision and a variance to the minimum requirements for a cul-de-sac length. The 20 lots are located on 3.7 acres. An additional 4 lots exist on the northeastern portion of the site and are included with this subdivision.
- The applicant proposes to relocate the current access from Villa Road to a continuation of Railroad Street which results in the reconfiguration of the 4 lots.
- The lot sizes vary from 5,020 sf to 10,455 sf which is in compliance with the minimum square footage requirements of the Medium Density Residential High (MDRH) zone. The minimum lot size for single family residential is 5,000 sf. The applicant has met this requirement.
- He reviewed the findings for preliminary plat approval.
- The current alignment of Villa Road with Park Street creates conflicting traffic movements. The applicant has proposed to extend Railroad Street into the subdivision. Villa road would be rerouted to intersect with Railroad Street at a right angle.
- The proposed street design includes a 40-foot right-of-way with a 28-foot paved width and 5-foot planter strip. A 5-foot sidewalk is proposed with a 5-foot public sidewalk easement on both sides of the street. Approval of the 5-foot public sidewalk easement would remove the necessity for a variance for lot size.
- The applicant is proposing to improve Railroad Street from the intersection with Park Street to the end of the proposed subdivision.
- The property in question is zoned for 11 units per acre. It is one of the few vacant parcels on which multi-family dwelling units may be built. The Comprehensive Plan is clear that providing higher density housing close-in to a downtown area is clearly beneficial to the downtown area. Multi-family housing is critical to the City's goals of providing a range of housing opportunities and affordable housing in the City.
- He read Policy 2 and Policy 3 which references the City providing affordable housing for all income groups and the overall policy of the MDRH zoning district.
- Utilizing these types of parcels as single family rather than multi-family is clearly in conflict with the goals, objectives and policies of the Comprehensive Plan.
- The applicant has met all of the applicable zoning regulations with the exception of Section 6.305.06 Cul-de-Sacs.
- The applicant is requesting a variance to the 600 foot length cul-de-sac standard. The proposed cul-de-sac is approximately 800 feet long, exceeding the maximum length by 33%.
- He reviewed the required findings for a variance.

- The variance request is a self-inflicted hardship. The MDRH allows up to 11 dwelling units per acre. The applicant proposed to build approximately 5 units per acre. A variance is not necessary to preserve the property rights of the owner.
- The variance request is triggered by the applicant's request for a single family lot subdivision which is in conflict with the City's Comprehensive Plan. By switching from single family to multi-family, the need for a long and narrow road has been created. The hardship is self-imposed due to the type of development that has been proposed. The hardship does not arise from a violation of the Code.

In conclusion, based on the findings of fact and agency comments, Staff recommends denial of SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat and Variance due to the cul-de-sac length.

In response to Chairman Whiteman's question, Mr. Tuck said the 800-foot cul-de-sac is measured from the last intersection of the street to the end of the cul-de-sac. He identified the area on the map. The applicant's street improvements would stop at Park Street. Mr. Turner said there were no negative comments from the Tualatin Valley Fire District. He did not believe they commented on the length of the cul-de-sac.

Keith May asked if flags lot were placed at the end of the cul-de-sac and the variance request were removed, would Staff recommend approval of the plan. Mr. Turner said he would have to see the plan. There is a provision in the Code that all lots need to abut a public street in the subdivision.

Scott Franklin said based on the Staff Report, it appears there is a wish that this property be developed as multi-family. Would multi-family have the same access requirements? Mr. Turner said the Fire District has access standards. Basically the density is 11 units per acre on this particular site. The Fire District said as long as the units were fire sprinklered you could have up to 70 units. The property is not zoned for 70 units. One access would not trigger having another access as long as the units were fire sprinklered. If the units were not sprinklered, the multi-family would be one unit more than this proposal. Mr. Tuck said the Fire District requirement is one access for not more than 25 units, unless the units are sprinklered. He did not ask specifics as to detached or attached units. There are no multi-family units in the City which are sprinklered.

Keith Mays commented that affordable housing and having units sprinklered would seem to be in conflict.

Paul Stecher said if somebody owns the property and the zoning allows single or multi-family, he thought the property owner has the right to develop the property as they wish. It is not within the Commission's bounds to say what type of dwelling units should be built. He did not feel this was right. Chairman Whiteman said the Commission needed to keep an open mind as far as this question is concerned until after the public hearing is held.

In response to Mr. Stecher's question, Mr. Turner discussed in more detail the findings of fact in the Staff Report, the Comprehensive Plan goals and policies.

Adrian Emery asked if the 5-foot sidewalk easement was included in the right-of-way, that approximately 10 of the proposed lots would be less than 5,000 square feet in size which would necessitate the need for a variance. He asked if this requirement was typical. Mr. Turner said there are two other areas in the City where this has been done, Seely Estates and Wyndham Ridge. Mr. Emery said this is a relatively small subdivision and without the easement there would be 10 lots of 5,000 sf or less. He asked if approval of an undersized lot would be setting precedent. Ms. Engels said the basis for approving a variance would be the Commission determining that it is a good enough idea to allow the request.

Angels Weeks asked if there were other subdivisions in the City which have cul-de-sacs which required a variance. Mr. Turner said Staff did not research this. Chairman Whiteman asked if there were any cul-de-sacs longer than 600 feet. Mr. Turner said that is possible. In response to Mr. Franklin's question, Mr. Turner said the Code discusses easements under the "streets" section. Mr. Franklin said if the application is approved there would be a precedent regarding the public sidewalk easement.

Mr. Stecher asked for clarification regarding the lot sizes meeting the minimum requirement for single family. Mr. Turner said the lot sizes meet the requirement with the sidewalk included in the lot size. The plans show a 5-foot sidewalk easement so really the property is out at the street.

Chairman Whiteman opened the public hearing on SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat and asked if the applicant wished to provide testimony.

Robert James Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He said his presentation would include testimony by his wife, Susan. He distributed two documents to be made part of the record, a July 20, 1998 letter from him addressed to the Planning Commission, and April 15, 1998 letter from the City to him, both with attachments. He noted for the record:

- Regardless of what the Commission does tonight, they will have put in front of them a cul-de-sac for 600 feet. If the Commission approves this subdivision subject to the applicant putting in a 600 foot cul-de-sac that is fine. He referred the Commission to the documents he had distributed, starting with pre-application meeting minutes of February 17, 1998 and ending with an April 15, 1998 letter from Staff to him regarding SUB 98-4 Wildlife Haven.
- It is absolute City Council policy in residentially zoned property you can build whatever you want. They will prove this tonight beyond any question.
- They have rightly defined as cul-de-sac, it is at the point of the origin off of a public street onto it.
- Chairman Whiteman pointed out that this could have been labeled Railroad Street and we could have renamed the back and it would have been under the 600 foot limit, but it soon would not be under the cul-de-sac limit.
- He explained the process he went through with this application. The Staff tells you what you can and cannot do. They give you instructions and tell you what they want. Then they finally

tell you what it takes to get a completed application. You will wait 2-3 months for Staff to tell you what it is going to take before they will accept a completed application.

- On April 3, 1998, Staff clearly told us we would need a cul-de-sac variance. They also told us in that meeting we would not have to pay for the variance because they were going to recommend it. Some time between April 3 and April 15, 1998, Staff changed their mind and the delay in our application being processed was because Staff finally told him he would have to submit a check for the cul-de-sac variance.
- The Commission is looking at plans the Staff told the applicant to submit.
- He talked about public testimony. You can say pretty much what you want and it is not perjury, but if it goes to court it becomes perjury. It really helps us when we have a public record where somebody says something, then we put them under oath and they contradict themselves. The Judge is going to ask them under what circumstances they are telling the truth and this Staff will be there before long with me.
- They did exactly what the Staff wanted them to do with this application. He told his engineer, absolutely and emphatically, "You are making a mistake." He did not care what Staff told them, it was going to be a turn down and rejected. His engineer said we have done exactly what Staff has wanted and there are other 800 foot cul-de-sacs in this town.
- In response to Mr. Emery's question, he said they got the 10 foot buffer around the road because Staff gave it to them. They wanted this cul-de-sac. Staff said if you do this, because we know Railroad Street is going to be so expensive, we will give you another lot to help pay for it. This is how it got there. He hoped someone on Staff would deny this.
- The plan the Staff wanted made the whole project marginal for them. There are ways to do it much cheaper. You put in a 600 foot cul-de-sac, he comes in on Villa, he puts in flag lots just like they have been allowed in other areas of the town and which the Code allows, and he would save \$150,000.
- Everybody said, including his wife, his partner and his engineer, "No this is the right thing to do." That is how we got the extra lot, it is the right thing to do. How we got all this expense was it was the right thing to do.
- Since it was the right thing to do, and it cost an awful lot of money, regardless of what the Commission decides, if they tell him come back in two weeks and put in a 600 foot cul-de-sac, put in legal lots, because if this is what they want he would give them a 600 foot cul-de-sac, but he does not want it off of Railroad Street, he wants it off of Villa Road. He wants it where he can legally come in where he has 4 lots now and he has the right-of-way. He does not want to put one single penny in this town if the Commission can't see this is the right thing to do. Frankly, he does not want to put anything in this town.

Mr. Claus said he would defer part of his time to testify to Susan Claus.

Susan Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. She distributed maps of various subdivisions in the City identified as having cul-de-sacs over 600 feet in length and a list of subdivisions in the City of Sherwood. She was a member of the Planning Commission when some of these projects were approved. She noted the following areas as having cul-de-sacs over 600 feet in length:

- Barnsdale Ridge has 845 feet (+ or -)
- Fairoaks Subdivision has 725 feet (+ or -), plus flag lots

- Cinnamon Hills at Royal Ann/Orchard Hts Place
- Crestwood Heights at Hawk Court and Bowman Court
- Cedar Creek Estates 600 feet (+ or -) and 200 feet of a private drive
- Dead-end of Pinehurst Drive has 700 feet (+ or -)
- Dead-end road in Phase 8 far in excess of 600 feet
- Gregory Park, St. Charles Way has 1,600 feet (+ or -)
- When some of these applications came before the Planning Commission, in the course of the application, she did not remember a variance for the cul-de-sac length coming through.
- The Subdivision and Housing List identified several subdivisions which were built under their densities. Carriage Place has 24 manufactured homes in the HDR zone. One of the things that stopped the Transportation System Plan (TSP) is there was a recommendation of the minimum percentage of density you are supposed to build to. They were trying to get through an 80% figure. This idea was rejected by the all, but one Commission member as well as the City Council, under Mayor Hitchcock. The 80% density goal is not and has not been the City policy. For example, Cheapeake Park, 13 single family the MDRH zone, Smith Farms Estates II, 28 manufactured homes in MDRH zone, Sherwood Village, 202 single family in the HDR zone, Wildflower, 118 single family attached in the HDR zone, Whistler (Abney Revard), 103 single family in the MDRH zone, and Cedar Creek Park II, 22 single family in the MDRH zone.
- There have never been a denial or question of the lower density in the higher density zones. This was never an issue during the course of the pre-application process or in preparing with the hearing.
- When they first purchased the property, they owned all the way down to Villa Road. In conjunction with the City's request, because they wanted to expand Stella Olsen Park, is usually when you have a PUD and that is where you have swapping. It was a Staff suggestion of the lot sizes with the easement on this project.
- Ahmad has been working on the design of this project and it was only when they saw the final Staff Report that it was so stunning that Staff was recommending denial of the project. If the Staff felt that strongly, as a matter of protocol, the applicant should have been told prior to seeing the recommendation for denial in the Staff Report. Staff would deem the application complete until the applicant made the agreement which extended Railroad Street. This was a Staff request, and the applicant does not own this property.
- When they gifted over, which was a partial gifting and there was about \$4,000 per acre for 2-1/2 acres, to cover their engineering, they gave that property to the City, down below, and part of what Jim feels so strongly about is that there are areas that are maintained and are left alone, and as part of the agreement in that transaction, there is a buffer along the ridge that everyone agreed to that no one would be building within that 50 feet. There has been a lot of history on this piece of property and the application. She distributed a map of the area for the Commission.

Ms. Claus summarized, the applicant and Staff were working together on this application, the sidewalk easement be one of the items. The applicant was quite surprised to see the Staff Report where they were recommending denial of the application. With the information being presented tonight:

- There is no policy to build to maximum density in this town.
- There are examples in town of cul-de-sac lengths that exceed 600 feet.
- In the alternative, the applicant can switch the plan around so the cul-de-sac does not exceed 600 feet. This may not be as beneficial to the City and has a detrimental effect on the pedestrian bridge on Villa Road.

Ms. Claus said she hoped as Staff heard the testimony, they might have a different recommendation.

Chairman Whiteman asked if Mr. Claus had some final remarks.

Robert James Claus addressed the Commission and noted:

- If the application and variance were not approved, he would simply go another way. He would make sure everything conforms and there would not be any question of a variance. He would submit it under the fast track application process.
- He related what he thought occurred in the conversations with Staff. Villa Road is being taken out, it is going into a pedestrian bridge, the gateway to Stella Olsen Park, it is going to be a school crossing, and the gateway to downtown for parts of Woodhaven. This takes automobile traffic off of Villa Road. Hence, the Commission is making a policy decision to put it back on.
- When we gifted the land on the park, and we gifted it, it ended up costing us money to get that land over to the City, and they backed off on any costs on Villa. The one thing they did not want was any second entrance.
- They made an incredible mistake in gifting that land to the City because if they had brought it in with this application, it would have been a “shoe in”.
- The City needed this land in order not to have to pay back the federal grant money.
- The Commission is making a direct policy. You cannot build in this town with fire sprinklering because it is too expensive.
- If he does it different, he will enter on Villa Road where there is a 21 foot right-of-way and secondarily, he is going to fight them every step of the way on any contribution. With Mr. Rapp’s letter, he feels quite safe in saying good luck. Part of the gifting was they would not get hit with any of these costs that they are now getting hit with on Railroad Street.
- The Commission has a policy issue before them and they have Staff telling them that this property is separate. They have never required maximum density, let alone the outrageous proposal we will dictate the kind of housing. This is a policy decision that the Staff cannot make. The City Council has made it clear to Mr. Langer and all of us, as long as you are a zoned use, develop it.
- He has been planning for over 30 years and he has never, in any court in the law, ever heard that when a topographic constraint exists, he has created a self-imposed hardship. He took a reasonable way of extending a cul-de-sac for 200 feet, at considerable expense, to make it accessible for a fire truck. It is not a self-imposed hardship, it is topographical.
- He explained the type of housing he would put in and how the lots would be configured.
- They got the park off of them, \$300,000, and they are getting another \$100,000 in the road off of them.

- He is merely asking the Commission to let him do what City policy lets him do, put in single family detached housing. He made reference to what Bill Wahl and Clarence Langer were able to build on their property.
- His last request is, just tell him what they want. If they want a 600 foot cul-de-sac off of Villa, he will be back before them in 2 weeks with it and there won't be any question of passage.
- The Commission has a chance to improve the aesthetics of the downtown enormously. He would ask the Commission to put a cap on Railroad Street. He does not think, with the extension on Railroad Street, where the parking lot is, he should have to pay any more than \$50,000. He is giving them the money he promised them on Villa out of generosity and he is giving them more profit than the extra lot they gave. Fifty-thousand should be the absolute cap for that street and the Commission should simply say as a matter of public policy, we wanted the traffic off of Villa and here's the chance to do that.
- He is developing the property at heavier density than you would get with apartments. When he comes back here he will want to put in owner occupied units, townhouses or duplexes. He will lose an acre and he may be able to get 28 units back there when he builds. These units will have lower density by 28 people. You will have 3.5 people per house, given the nature of the houses and in an apartment you will have 2.1 or maybe 1.9. So you are actually increasing the density for the downtown with this plan.
- He referred to the LUBA appeal for Woodhaven Phase 8A and 8B.
- The Commission has heard already from one applicant that kick-backs go on all the time in this City.
- If the Commission goes along with Staff's recommendation, Railroad Street will be an utter nightmare for him when he gets to Jon Bormet's Staff and Ahmad. He will guarantee the Commission that this will be the most expensive road ever built in this town when Ahmad is done with him. He would bet that this road will end up in court because the City is not going to meet him reasonable, they are going to try use this to try and strip him of all of his property rights. The Commission saw this on Columbia.

Angela Weeks asked Mr. Claus what plan he wanted to go with, the flag lot plan or the plan with the variance. Mr. Claus said he wanted this to be a learning experience for his wife, because she was the one who came up with this generosity of working with these people. His first suggestion is to put what constraints the Commission believes are reasonable and he would try to work with the Staff. He would come back and say here is my 600 foot cul-de-sac, here's the lots and that is what I am putting in. The Staff will not work with him on this. He was not able to get the Staff Report until 4:57 PM after repeated calls to City Hall. The submitted plan is what he is asking for and if the Commission does not want to pass the variance, he will submit another plan with the 600 foot cul-de-sac.

Chairman Whiteman asked if there was any further proponent testimony.

Keith Jehnke, AKS Engineering, 18961 SW 84th, Tualatin, Oregon 97062, addressed the Commission. Mr. Jehnke has been working with Mr. Claus on this project. He distributed a copy of the project timeline for Wildlife Haven from when it was first submitted to Ahmad on January 16, 1998. He discussed the pre-application meetings where the City wanted to do the

Railroad Street extension and not go with the access off of Villa Road. There are six different parcels, as it sits right now, and four of them are already split into lots which could be sold off of the original layout. They worked with the City to come up with a road configuration would be the best possible project. This is what the Commission is reviewing tonight. They turned in the subdivision application on March 17, 1998. Additional items were turned in to the City on May 1, 1998. He showed the Commission a different layout for the property which would be within the Code with no variance request required. He reviewed this layout for the Commission. The access would be from Villa Road and the cul-de-sac would be 600 feet. All of the lots would have 25 feet of public right-of-way. The subdivision would have long lots and there is provision in the Code to make a private street that is 25 feet wide to access the lots in the back. You would subdivide the property and partition those lots to get the extra lots. This is not what the request is at this time. His choice of plans would be the one the Commission is reviewing tonight.

Chairman Whiteman asked if there was any further proponent testimony.

Thomas Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He asked the Commission not to forget:

- What his family gave to the City in the past on Villa Road.
- There is only one entrance or exit for Villa Road.
- There can only be 24 units back there.
- The one entrance and exist is a topographic, not a self-imposed restriction.
- One of the reasons the cul-de-sac is over 600 feet long is because Staff wanted the subdivision to dump off into downtown instead of Villa Road.
- The Staff does not have the prerogative to make the applicant develop the parcel at a more intensive use.
- He compared the Columbia Street application and its location to this property. The zoning is the same for both properties.
- On Columbia Street the Staff said they would limit the applicant to have only 3 lots that can come off of the easement, knocking it down from MDRH to LDR.
- On Villa Road, Staff said no, we need to have higher density.
- It is on the record that Mr. Bormet said we would like to a multi-family development on Columbia, however, Robert Claus, is not the person to do it.
- The Commission should remember the last time there was a total denial on an application was when a 76-lot, multi-family development came to town and they only had one entrance. They were denied until they found a second entrance.

Chairman Whiteman asked if there was any further proponent testimony. There being none, Chairman Whiteman asked if there was any opponent testimony.

John Worth, 675 SW St. Charles Way, Sherwood, Oregon 97140, addressed the Commission. Mr. Worth said he is a civil engineer and he reviewed the plans for this application. He was not aware the application was prepared by a registered engineer. He noted some of his concerns.

- He looked at the variance for the cul-de-sac length going from 600 feet to 847 feet. This is a 41% increase. He has worked with variances in the past and typically 15-20% of the normal range.
- He noticed that the application was for 24 residences and some of the calculation are being made based on 20 residences, such as traffic calculations. These were some of the inconsistencies.
- Some of the assumptions made were an 8-inch water main or sanitary sewer would support that density. Is the fire flow going to be available to support this development.
- He noticed the storm water quality and detention swale was on public property. This would eventually dump into Cedar Creek. This would require substantial remodel of the landscape.
- If there are any impacts on outside services such as water or sewer, the developer should have to pay for those improvements. Traffic lights, etc. would have to be paid for by the developer.
- He looked at the impact on the surrounding environment. The plan appears to have the roadway going as an extension of Railroad Street and this would essentially eliminate the Park & Ride for Tri-Met. He did not know if this issue had been addressed. He thought it was consistent with Tri-Met's policies, to expand Park & Ride and not decrease them.
- He was glad to hear there was a buffer between the existing wetlands and the property. This was not apparent in the plans he reviewed.
- Living on St. Charles Way, they have a City easement along the railroad tracks, 10 foot wide. If there is a bikepath or utilities path required on the back side of either property, they would come behind his house, not on the other side of the road. Perhaps a similar easement should be required on the other side of the railroad tracks.
- He summarized his testimony, making a reference the existing wildlife haven on this property. On June 6, eagles were spotted in this area and they commonly see deer and raccoon. This is really the true "wildlife haven".
- Certainly the property owner has the right to develop the property within the current zoning regulations, but by not granting the easement there would be enough behind the cul-de-sac to perhaps deal with the sanitary sewer tie-in and the storm water detention facility.
- The second plan shown by Mr. Jehnke would not be his choice of layout. He thought the fire department would be more restrictive.
- He distributed a copy of his testimony to the Commission.

Chairman Whiteman asked if the applicant had rebuttal testimony.

Robert James Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. He was constantly amazed how the hearings have led to lawsuits and this was privileged communication. He said Mr. Worth lives on a 1600 foot cul-de-sac, a 10 foot right-of-way which the City took away that was an existing road to stop access. He believed he and his neighbors may have been defendants in the lawsuit Mr. Claus filed. Because this environmentally conscious engineer, who lives in Gregory Park, was illegally dumping water on Mr. Claus's property and the City had to settle for these people because what they were doing was illegal. He would speak to the quality and character of the testimony there. When they made the gift to the City, they brought Stella Olsen Park all around to the railroad tracks. This was done because the City wanted a walkway to connect so eventually they could get by and up the

wetlands on the back of Gregory Park. So, his bogus statement about a pathway is just more of his uninformed, diatribe. The pathway was taken to Gregory Park and the school because they wanted a pathway that ended up there, you then went to a public street and you could cross to the path end to Stella Olsen Park. We gave them the land so they could connect on the other side. The sanitary sewer issue came up in the gifting and the City said once we start putting those paths in there, we don't want you going in there and putting in a sanitary sewer. So we tapped into the main trunk line years ago. If his informed neighbor, or ex-defendant, had bothered to call him, he would have taken him out there and shown him the manhole and USA's approved sanitary stormwater treatment area. The man's testimony is exactly why this application should be okayed with the restraint on the Railroad. They have solved every problem. We made the City put a restrictive covenant on the back of the property to protect the old growth trees. There is a main water line in Villa Road. Nobody asks, they get up and make assertions that are vapid, false and if they made these statements any place else, but in a privileged setting, you could sue them for it.

Chairman Whiteman asked Mr. Claus about the stormwater runoff on public property. Mr. Claus said this is why it has become such a nightmare and engineering hassle. The minute that went back, they had to go to USA and make sure they had sufficient ground above the floodplain and wetlands to have the facility. If in fact, they were singled out to have to go to USA before they would let it come forward. This whole exercise was to see how much money the City could cost him and then back out of it. What Mr. Worth is asking would be a far less desirable subdivision in his back yard. He would assure them you can't work with the Staff and he is going to give them a neighborhood addition they deserve.

Chairman Whiteman closed the public hearing on SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat for discussion by the Commission.

Sue Engels reviewed the Stella Olsen Park Property acquisition from Mr. Claus and noted the following timelines:

- March 19, 1993, option signed by Mr. Claus and other owners to sell approximately 2.35 acres to be added to Stella Olsen Park for approximately \$4,000 an acre.
- May 28, 1993, City exercised its purchase option by giving notice to owners and depositing funds in escrow.
- August 23, 1993, MLP 93-5 passed by the Commission, one of which is the park property. Final plat for MLP 93-5 recorded in July of 1994 and owners of property refuse to sign deed transferring park property to City.
- June 1995, settlement agreement reached with Mr. Claus in regard to the park property and another dispute with the City
- September 1, 1995 the deed for park property signed by owners and City paid \$9,577.31 to owners for park property.
- September 21, 1995, MLP 95-7 and MLP 95-8 were approved by the Commission. They created a total of six lots from the two non-park parcels created by MLP 93-5. The partitions dedicated the right-of-way for Villa Road and a conditions was placed for a half-street improvement (or payment in lieu) for Villa Road improvements.

- October 22, 1996, the City Council passed an ordinance to vacate back to Mr. Claus the right-of-way dedication on Villa Road, retaining only a five foot sidewalk easement. This request by Mr. Claus was supported by Staff. She said the letter from Mr. Rapp states, item #7, sellers and successors interests shall not be responsible for street, curb and gutter installation, applies to the section of Villa Road immediately adjacent to buyers property subject to this option agreement.

Mr. Claus asked for a point of information. Chairman Whiteman said the public hearing was closed. Staff was talking about things in the record, as they saw them, that they were not involved in, except for the last one and he was going to leave the public hearing closed. Mr. Claus said he wanted it on the record that Sue Engels' statements were false.

Chairman Whiteman recessed the meeting at 9:05 PM for a break and reconvened the meeting at 9:10 PM.

The Commission continued their deliberations on SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat.

Angela Weeks asked about the Park & Ride. Mr. Turner said the plans are to move the Park & Ride to the Act III Theater site. A condition was placed on the theater application for this purpose. There would still be some parking along Railroad Street.

Chairman Whiteman asked for clarification regarding the trip generation rates included in the Code. Mr. Tuck said they get their trip generation information from the ITE Manual which is the accepted engineering source.

The Commission discussed the density for the Medium Density Residential High (MDRH) zone. Mr. Tuck said Staff looks at the number of dwelling units, not the number of people occupying a residence.

Mr. Emery said he did not agree with Staff regarding the smaller lot sizes and the public sidewalk easement.

Chairman Whiteman said the Commission has several options:

- Agree with the Staff findings and move for the denial of the project.
- If they do not agree with the Staff recommendation and findings, the Commission could direct Staff, based on their reasons for omitting the denial, to come back with findings for approval of the application.
- The Commission could create their own findings and make sure they meet the state land use criteria.
- If the Commission does not accept the Staff recommendation, they would also have to deal with the variance request as well as the findings for approval of the preliminary plat.

Bill Whiteman moved the Planning Commission deny the recommendation of Staff for denial of the variance request and application, VAR 98-1/SUB 98-4 Wildlife Haven Preliminary Plat. The Commission directed Staff to formulate findings and conditions for approval of this application. Seconded by Keith Mays.

Vote for Passage of Motion: 5-Yes, 1-No (Emery), 0-Abstain

Susan Claus did not participate in the discussion or vote on the motion for this application.

The Commission discussed the reasons for approval of the application, in particular, the proposal is an allowable use within the zone. Mr. Stecher said for him the length of the cul-de-sac is not inconsistent with other developments in the City. The alternate proposal of flag lots would not be as acceptable.

Paul Stecher moved the Planning Commission approve VAR 98-1 Wildlife Haven Preliminary Plat variance request to have a cul-de-sac longer than 600 feet. Seconded by Angela Weeks.

Vote for Passage of Motion: 5-Yes, 1-No (Emery), 0-Abstain

Susan Claus did not participate in the discussion or vote on the motion.

Chairman Whiteman asked if there were other agencies which provided negative comments on the application. Mr. Turner said Staff did not receive any negative comments from outside agencies. Chairman Whiteman said this should be one of the findings. Mr. Turner said Staff would prepare findings and conditions of approval for SUB 98-4 Wildlife Haven Preliminary Plat.

The Commission concurred that the findings and conditions of approval for SUB 98-4 Wildlife Haven Preliminary Plat would be heard at the August 4, 1998 Regular Commission meeting. If the applicant asks that the public hearing be re-opened, the Commission would consider this request. Mr. Stecher asked if the Commission would be addressing the maximum expenditure for the applicant on the Railroad Street capital improvement project. Chairman Whiteman said the Commission needs to see the Staff recommendations and conditions prior to making any decision in this regard.

Chairman Whiteman said the variance request for SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat had been approved. Staff will bring back findings and conditions at the August 4, 1998 Commission meeting.

5B. MLP 98-5 Seeley Partition (continued from July 7, 1998)

Jason Tuck reported he had met with Mr. Seeley and discussed his options regarding this application. Staff was recommending this application be continued.

Susan Claus moved the Planning Commission continue MLP 98-5 Seeley Partition to the August 4, 1998 Regular Commission meeting. Seconded by Adrian Emery.

Vote for Passage of Motion: 7-Yes, 0-No, 0-Abstain

5C. SP 98-8 Sherwood West Office Campus Site Plan

Chairman Whiteman called for the Staff Report on SP 98-8. Jason Tuck referred the Commission to the Staff Report dated July 21, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- The site is located on Highway 99W, north of Scholls-Sherwood Road, just north of the business park, Tax Lots 100 and 2000, Map 2S 1 29B.
- The applicant is proposing to construct a professional office building of approximately 15,000 sf. The plans show vehicular access from a private road which connects to Highway 99W. The access to Highway 99W is from an existing access.
- The design also includes a water feature of approximately 12,000 sf in size and will include signage and a water fountain base.
- The site is zoned Light Industrial (LI) and the proposed use is permitted outright in the zone.
- The buildings being used by a construction company are on the adjoining parcel.
- The applicant has met the required findings for site plan approval.
- Private streets are allowed as long as they are built to City standards. Provisions need to be made that the street is maintained. A condition has been included to meet this requirement.
- ODOT required a six foot sidewalk along Highway 99W. The applicant has requested that the sidewalk be allowed to be adjacent to the private drive and extended throughout the development. The applicant has stated ODOT has approved this plan. A condition has been included to meet this provision.
- The applicant is proposing a septic system. Washington County is the permitting agency for septic systems in the City. They have done a preliminary site "perk test". The applicant will be required to supply the City with the necessary documentation for this septic system.
- The applicant will be required to sign a non-remonstrance to any required sanitary sewer improvements to service the site at a later date.
- The applicant is proposing to connect to the existing 10-inch waterline along the frontage of the property.
- A condition has been added which requires the applicant or record an easement for the water quality/detention pond facility located within the natural drainage area on the adjacent property.

In conclusion, based on a review of the applicable code provisions, agency comments and Staff review, Staff recommends approval of SP 98-8 with the conditions as revised in the Staff Report. Condition 2A, the last sentence beginning, "Engineer shall verify..." should be removed. The applicant has agreed to place all the necessary piping along the private drive to accommodate development. In response to Mr. Stecher's question, Mr. Tuck identified the location of the drain field on the map. The applicant would address the secondary drain field requirement. In response to Chairman Whiteman's question, Mr. Tuck said the business park has also signed a

non-remonstrance regarding the sewer. The Commission suggested adding the word “future” to Condition #10, “The applicant shall also sign a non-remonstrance regarding future required sanitary sewer improvements to serve the site at a later date.” Ms. Engels said Washington County requires that if you are within 300 feet of an existing sewer line, you would be required to connect to these services and a septic system would not be allowed. Angela Weeks asked if there would be any participation by the applicant for the Highway 99W intersection of the proposed “loop road” on the other side of the highway. Scott Franklin asked if the loop road was shown as connecting to a private road. Mr. Tuck said the applicant did indicate the potential future loop road on their plans. He identified the area on the map. The Commission asked who was going to pay for the signal. Mr. Tuck said Act III was conditioned to pay for a portion of this signalization and other developers of property within the area would be required to participate. The Tualatin River National Wildlife Refuge owns the property to the north of this site plan.

Chairman Whiteman opened the public hearing on SP 98-8 Sherwood West Office Campus and asked if the applicant wished to provide testimony.

Scott Steckley, Chehalem Diversified, 2505 Portland road, #104, Newberg, Oregon 97132, addressed the Commission. He noted:

- They are proposing a 15,000 sf office building.
- The secondary septic drainfield location is located in what would be a landscape area for a future building site. The future building site would not happen until there was public sewer available to the property. The future building would be the same size and the one being proposed.
- There will be a water feature for this project. It was envisioned that this project would be an entrance to the City, a Class A type office building. It would have a carved masonry sign with lighting. They are still working on the details of the sign.
- With regard to development of the private road, they have provided a 60 foot right-of-way on this road.
- The owners of the property next to this are in the process with Staff in looking at an amendment to the Urban Growth Boundary (UGB) to include the area which is basically a sand pit now for future development. The plans for this call for the road to be extended and into that area. He noted the location on the map. This would also provide a secondary access point.
- He identified Tax Lot 2000 which is in the UGB, but outside the City limits.
- He discussed the potential access points from this site plan.
- The Tualatin River National Wildlife Refuge is north of the property line for Tax Lot 2000. Eventually, about 24 acres of it or part of Tax Lot 2000 will become a part of the Refuge. He identified the sand pit area on the map.
- The stormwater facility will be designed to accommodate the final build-out of everything they are planning to do on the upper plateau.
- The project will be a Class A office facility which doesn't occur in the existing City of Sherwood. It will be a unique opportunity to provide something locally that currently people have to go to Tigard for and hopefully, bring some other services to the community.

- Regarding the comment about the signal and participation in that. They provided Staff, as part of their proposal, a transportation study that shows that the development of this office park when it is built-out doesn't require signalization.
- They did a transportation study on the entire development they are proposing to bring in and the same thing can be said, once they get their second access. There is no signalization required for those entrances off of Highway 99W. He would not anticipate being asked to participate in a signalization as a street intersection. Their traffic doesn't require that. It might be proposed, but the signalization would be forced on it by the extension of the road.
- The entrance to the north is proposed to be a right-in, right-out entrance.
- The future building would not be constructed until the sanitary sewer is available to the project. In regard to its availability, the assumption is that the shortest distance is the best way to run it, but in this case that is not necessarily true. The closest distance to the sanitary sewer is 1500 feet although it is uphill, so they would have to pump 1500 feet of sewage. The closest point for a gravity sewer for this particular project is not capable of being served because they would have to bring the sewer line across the back side of the properties. He identified the area on the map. USA can't put a sewer in officially designated rural land. The next closest point is there is a main sewer trunk about 3500 feet to the north where it cross Highway 99W. To be able to service this potential new development it is actually the best way to do it. They could bring the sewer trunk line up the highway right-of-way and stay out of the Wildlife Refuge and wetlands. It would allow them to have a gravity served sewer at the lower portion which is the sand pit. This would be economically feasible to do and the added benefit is that properties on both sides get the benefit of the sewer. This would be how they would eventually bring in the sanitary sewer.
- The elevations and proposed floor plans were included with the packets. The building will have a brick exterior, medium red with a dark green metal mansard around the top.
- They do not want any exposed roof HVAC equipment showing such as what happened with the YMCA.
- The building will be two-stories with 22 suites and an internal courtyard area in the middle. It is anticipated that they would have professional renters, such as lawyers, title companies or medical. The range for rent would be about \$12 to \$15 per square foot.
- The right-in, right-out access or secondary access to the north would be for future development. This particular access for this building does have three lanes, a right-out, a right-in and one going across Highway 99W. They have already dealt with ODOT. As required by ODOT, they have increased the vehicle storage lane. This information is addressed in the transportation study.
- He addressed the traffic flow for the site. They do not have an update to the 1997 traffic study which would include the Act III Theater.

Mr. Turner said the Engineering Department did not have any comments regarding the Traffic Study.

Mr. Steckley continued his testimony and answered questions from the Commission. He noted that the adjacent property (he identified on the map) has a recorded easement for access to the south park of the Business Park.

Chairman Whiteman asked if there was any further testimony. There being none, Chairman Whiteman dispensed with the rebuttal portion of the hearing and closed the public hearing on SP 98-8 Sherwood West Office Campus Site Plan for discussion by the Commission.

The Commission discussed the concept of the loop road, access and signalization at Highway 99W. Mr. Tuck said comments received from ODOT stated ODOT requires the proposed development to share the northern-most Oregon 99W access of the Sherwood Business Park. No additional access to Oregon 99W would be permitted by ODOT and none is proposed. The Commission thought that the left-hand turn into the business park would be a problem at some point.

In response to Mr. Franklin's question, Mr. Tuck said a lot line adjustment had been done by the applicant and identified the location of the water detention facility and proposed street connections. Mr. Franklin suggested a condition be added to address the future development of the site and traffic study.

Scott Franklin moved based on the Staff report, findings of fact, and public testimony the Planning Commission approve SP 98-8 Sherwood West Office Campus with the following changes to the conditions of approval. Remove the last sentence in Condition #2A, revise Condition #9 to, "The applicant shall provide a sidewalk to be placed in a public easement at a location which is satisfactory to the City of Sherwood and ODOT prior to building permit issuance", revise Condition #10 to, "The applicant shall provide documentation regarding the septic system to the City Engineering Department prior to building permit issuance. The applicant shall also sign a non-remonstrance regarding future required sanitary sewer improvements to serve the site at a later date", and add Condition #13, "Prior to the Planning Commission considering any second phase of this development, an updated traffic study shall be prepared." Seconded by Bill Whiteman.

Vote for Passage of Motion: 7-Yes, 0-No, 0-Abstain

Mr. Steckley said the UGB adjustment would not available until March 1999. The Commission thanked the applicant for their proposal. The applicant thanked the Planning Staff for their assistance.

5D. SP 98-10 Owen Racing Shells Expansion Site Plan

Chairman Whiteman announced Staff is recommending this application be continued.

Keith Mays moved the Planning Commission continue SP 98-10 Owen Racing Shells Expansion Site Plan to the August 4, 1998 Regular Commission meeting. Seconded by Susan Claus.

Vote for Passage of Motion: 7-Yes, 0-No, 0-Abstain

6. Community Comments

There were no comments from the audience.

7. Other Business

Susan Claus asked if the City had done any further work on possible business incentives for the Tualatin River National Wildlife Refuge. She asked if the City Council wanted to continue with this idea. Ms. Engels said she would look into this.

There being no further business to discuss, the Commission meeting was adjourned at 10:45 PM.

Respectfully submitted,

Planning Department