



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, August 4, 1998
7:00 PM**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - July 7, 1998**
- 3. Agenda Review**
- 4. 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 21, 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 21, 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 98-10 Owen Racing Shells Expansion Site Plan:** (continued from July 21, 1998) 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.
- 5. **Community Comments:** are limited to items NOT on the printed agenda under Public Hearings.
- 6. **Other Business**
- 7. **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
August 4, 1998

1. Call to Order/Roll Call

Chairman Whiteman called the meeting to order at 7:00 PM.

Commission Members present:

Susan Claus
Adrian Emery
Scott Franklin
Paul Stecher
Angela Weeks
Bill Whiteman

Staff:

Sue Engels, Development Director
Greg Turner, City Planner
Jason Tuck, Assistant Planner

Commission Members absent:

Keith Mays

2. Minutes of July 7, 1998

Chairman Whiteman asked if there were any additions or corrections to the minutes of July 7, 1998. There were no comments.

Adrian Emery moved the Planning Commission accept the July 7, 1998 Planning Commission meeting minutes as presented. Seconded by Paul Stecher.

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

3. Agenda Review

Chairman Whiteman announced City Staff had provided him with a copy of the State Attorney General opinion regarding "public meetings" laws. The Commission asked Staff to provide them with a copy of this information.

4. 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 he had ex-parte contact with Robert J. Claus, the applicant for SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. This contact had very little to do with this particular project. The conversation mainly had to do with process. He discussed this project with Staff as well as made a site visit to the property. He did not feel he had any bias towards this project and planned to fully participate in the public hearing for this project.

Angela Weeks announced she had ex-parte contact with the applicant, Robert J. Claus regarding SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. She did not feel this would affect her decision or participation in the public hearing for this application.

Scott Franklin announced he had ex-parte contact with the applicant, Robert J. Claus regarding SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. He did not feel this would affect his decision or participation in the public hearing for this application.

Paul Stecher announced he had ex-parte contact with the applicant, Robert J. Claus regarding SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. He did not feel this would affect his decision or participation in the public hearing for this application.

Adrian Emery announced he had ex-parte contact with the applicant, Robert J. Claus regarding SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. He did not feel this would affect his decision or participation in the public hearing for this application.

Susan Claus announced she had a conflict of interest regarding SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. She would not be participating in the public hearing for this application.

Susan Claus asked if Agenda Item 4A, Wildlife Haven Preliminary Plat could be moved to the end of the public hearings. The Commission concurred with this request.

4A. SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat (continued from July 21, 1998)

This item was moved to the end of the public hearings.

4B. MLP 98-5 Seeley Partition (continued from July 21, 1998)

Chairman Whiteman announced he had a letter dated July 31, 1998 from Kenneth Bourne, the applicant's legal counsel, requesting an indefinite postponement of this application. This request would waive the 120-day deadline.

Susan Claus moved the Planning Commission postpone MLP 98-5 Seeley Partition indefinitely, at the applicant's request. This request would waive the 120-day deadline. Seconded by Scott Franklin.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

4C. SP 98-10 Owen Racing Shells Expansion Site Plan (continued from July 21, 1998)

Chairman Whiteman called for the Staff Report. Jason Tuck referred the Commission to the Staff Report dated August 4, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He identified the site location on the map and noted:

- The site is located in the Industrial Park of Sherwood, Tax Lot 100, Map 2S 1 28BD.
- The applicant is proposing a 20,000 sf new office and shop building. The proposal includes a new access drive to the north.

- Fifteen parking stalls are proposed with the new addition which would bring the total parking spaces to 22.
- The facility will manufacture rowing shells. The applicant previously received approval for a 9,000 sf facility.
- The applicant will install a new water quality pond and general landscaping throughout the site.
- The site is 2.4 acres and the use meets the applicable zoning requirements for the General Industrial (GI) zone.
- He referenced the “dangerous trees” easement for the Bonneville Power Administration (BPA).
- The applicant has met all of the criteria in the Development Code.

In conclusion, Staff recommends approval of SP 98-10 Owen Racing Shells Expansion Site Plan with the conditions contained in the Staff Report.

Chairman Whiteman opened the public hearing on SP 98-10 Owen Racing Shells Expansion Site Plan and asked if the applicant wished to provide testimony.

Erik Jonsson, owner, 4001 Melissa, Lake Oswego, Oregon 97034, addressed the Commission. Mr. Jonsson said they have filled up the existing shop and need to expand. The office space is necessary for the sales staff. This addition will make the whole property look better. He referred the Commission to a computer picture of the proposed building. The sport is growing and they have made a decision to compete world-wide with their product. They are limited to the storage of one-gallon of catalyst material on site for the manufacture of their product. Their racing shells are custom-made and they usually put one out every two weeks. Some shells are sixty feet long and will accommodate eight people.

Dan Symons, owner’s representative, Symons Engineering, 13153 SE Flavel, Portland, Oregon 97236, addressed the Commission. He asked for clarification regarding the “sensitive area” in the Staff Report and where this area was located.

Greg Turner said this was a comment from the USA and apparently, the sensitive area on their maps, is at the rear of the property where the swale is located. He identified the area on the map.

Mr. Symons said he did not believe they would have anything in the area south of the existing detention pond.

Regarding building height, Mr. Turner said it is on the record that the applicant could go up to 50 feet for the building height. The Commission was aware of this.

Chairman Whiteman asked if there was any further proponent testimony. There being none, Chairman Whiteman asked if there was any opponent testimony. There being no opponent testimony, Chairman Whiteman dispensed with the rebuttal portion of the hearing and closed the public hearing on SP 98-10 Owen Racing Shells Expansion Site Plan for discussion by the Commission.

Susan Claus said she thought this was a great project.

The applicant asked if the City could place a “dead-end” or “no outlet” sign on Galbreath Drive. This would keep people who are looking for an outlet from driving vehicles to the end of the street and then having to turn around.

Susan Claus moved the Planning Commission approve SP 98-10 Owen Racing Shells Expansion Site Plan based on the Staff recommendation, code provisions, agency comments and public testimony. Seconded by Adrian Emery.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

4A. SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat

Chairman Whiteman called for the Staff Report. Greg Turner reported a public hearing was conducted at the July 21, 1998 meeting. The Planning Commission approved the variance request and directed Staff to prepare findings and conditions of approval for the preliminary plat. He referred the Commission to the Staff Report memorandum dated July 28, 1998 and noted:

- With regard to the 5-foot public easement which encroaches into the lot area, Staff has included a condition for a 20-foot setback from the back of the sidewalk.
- He read the finding for storm water, Section 6.600. The applicant is required to either relocate the sewer line, subject to the approval of the City of Sherwood or to bring the existing sewer up to City standards and dedicate an exclusive easement over the storm sewer as approved by the City of Sherwood. Conditions 2G and 2I deal with the storm lines.
- Reword Condition #10 to read, “The front setback on Lots 1-20 shall be 20 feet from the front property line as measured from the back of the sidewalk.”
- With regard to Condition #8, this would be in the area where Villa Road intersects with the extension of Railroad Street to where Park Street and Railroad Street intersect. He identified the area on the map. The Commission may wish to reword this condition. The reason for this condition is to provide street trees and street lights which would tie this development into the downtown area.
- He identified where sidewalks would be required.
- There are no City lights on the south side of Railroad Street at this time.

Angela Weeks asked if the Southern Pacific Railroad property owner had provided comments regarding street trees along the railroad. Mr. Turner said the City had not received any comments from Southern Pacific. The trees would not be in their right-of-way. He did not know if any type of barrier or sidewalk would be proposed on this side of the railroad tracks. Chairman Whiteman said they are talking about a landscape corridor and the Commission has not seen anything from the City in this regard. He asked what would be included around the street trees. Mr. Turner said currently this has not been determined.

Chairman Whiteman asked for clarification regarding connecting Railroad Street to the downtown from the proposed development since there is 130 feet of City-owned right-of-way the

City is asking the developer to construct and pay for. Has this type of condition been applied to previous developments where a developer had to develop City-owned right-of-way in order to connect to a street. Mr. Tuck said the property is actually a tax lot owned by the City. Sue Engels said she did not know if there was an analogous situation.

Chairman Whiteman asked if it was correct that during the pre-application meetings the City was more favorable in the extension of Railroad Street into this development rather than going out on West Villa Road. Ms. Engels said this was correct.

Scott Franklin asked if anything was required on Villa Road. Mr. Turner said nothing is being required since the development would not access onto it. The property does have frontage onto Villa Road. It would be more desirable for the City to have the area along Railroad Street improved rather than along Villa Road. Chairman Whiteman asked if any portion of Villa Road in this area is to be vacated. Mr. Tuck said there would still be some opportunity for parking.

The Commission discussed the Villa Road connection and how it related to the City street standards.

Chairman Whiteman summarized that the connection to Railroad Street from the development is over property which is owned by the City and would be considered an unusual assessment, based on past practices of the City. Ms. Engels said based on recent past practices that the Staff is aware of at this time.

In response to Mr. Franklin's question, Mr. Turner identified where the sidewalk and planter strip would be located on Railroad Street. Staff is proposing the landscaping be on both sides of the street between West Villa Road and Park Street.

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

Susan Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. She reviewed the July 28, 1998 memorandum from Staff and made the following clarifications:

- On page 1, this is the general theme the applicant has with this development, "The applicant is proposing to improve Railroad Street from the intersection with Park Street to the end of the proposed subdivision." This is not something the applicant presented, it is a Staff recommendation. The applicant needs to know the scope and extent of these off-site improvements. This is an unusual circumstance.
- The applicant still has the option of going off of Villa Road. She hoped they didn't have to do this and that they can coordinate with the City so that the Railroad Street connection can happen.
- During the pre-applications meetings with Staff a design was developed. The design being presented is a product of City Staff working with the applicant's engineer. The 5-foot being included in the right-of-way is emphasized in several area of the memorandum. With

Condition #10 to increase the front setbacks for Lots 1-20, it is a little bit onerous. She would propose eliminating Condition #10.

- The design of the lots are a result of Staff recognizing the applicant would be doing an off-site improvement and they wanted the extra lot to somewhat compensate for the off-site improvements. Now you can't turn around and say we allowed another lot and we are going to have the setbacks at 25 feet.
- On page 2 of the memo where it discusses the minor land partition, the requirement was not for the half-street improvements. There was an amount of \$14,000 and the Staff was going to come up with some type of improvement which would not be the typical subdivision street improvement because Villa Road would be dead-ended with four houses accessing it. She never heard it discussed where all of the typical half-street improvements would be required. There was never any finalization as to what would be done on Villa Road. The \$14,000 being applied over to the off-site on Railroad Street, it needs to be absolutely clear as to what the City wants done for this stretch of road.
- Jim would be surprised to hear the City wants a 5-foot landscape strip on the south side with street trees and street lights. The applicant was contemplating a type of dollar amount they could withstand for this type of a subdivision. If it gets too extravagant, her worry is that the project could not be done as presented. They would have to go back to access off of Villa Road.
- There are two different storm lines. There is a 21-inch pipe which goes under the railroad tracks. When the applicant parceled this, they gave the City an easement for the maintenance of the storm water facility or pipe. It is not the applicant's pipe and it doesn't have any bearing on this subdivision. The City is looking for future improvements for upstream properties. She recommended that Condition #2I be removed. This is another off-site improvement which Staff is requesting and has no nexus to this development.
- Staff states the other storm water line is private. This is a City line which drains from the Old Town area. The applicant did not give permission for this storm line to be there. It happened before they owned the property and there is no easement of record. If the City wants an easement from the applicant for this line and they are affecting the buildability of some lots. It is not correct to say now that we have trespassed, we want you to correct it for us to make it legal. She did not believe it was the applicant's responsibility to make it legal as a part of this subdivision. It is an existing line. Why can't the City move this existing storm line and put it in the public right-of-way. She would request that this storm line be removed by the City from the lot or the City negotiate an easement with the applicant. They know where the line leaves the manhole and where it comes out.
- The 21-inch line under the railroad tracks could not be capped off. It takes a lot of the runoff from the uphill properties. When it was plugged up in the past this created a large lake.
- Condition #8 needs to be clarified exactly what the proposed improvements are for this off-site area. This needs to be up front so everyone knows what is being required. She would like a cap on the cost. Jim talked about capping the off-site improvements to \$60,000. She would consider "off-site" from the point at which the City lots are up to Park Street.
- She said their engineer, Keith Jehnke, would respond to the new information.

Keith Jehnke, AKS Engineering, 18961 SW 84th Avenue, Tualatin, Oregon 97062, addressed the Commission. He discussed Conditions #2G, #2I and #10 and noted:

- He distributed an engineer's estimate for the Wildlife Haven Subdivision improvements required for off-site storm water. The field survey crew thought the storm line running across the property goes in a straight line between the two points. The water coming into the manhole is all from the downtown area. According to the City Storm Plan, it drains about 21 acres. None of this water is from the proposed development. There are no catch basins planned to dump into this. Considering the fact that it was built without an easement and now to make Jim and Susan correct the error at this stage when they are not adding any water to it seems a little unfair.
- He proposed taking this water and adding it into their system. There is not really room on this side of the road to put in a water quality facility. This would involve building an extra 520 feet of 12-inch line and some of this would be fairly deep, 11 or 12 feet. Then it would have to be backfilled with rock so the road could be built. This is where the costs would go up.
- The 21-inch culvert, from their calculations and the City's Storm Plan, shows that this drains 97 acres. In order to bring this up to a culvert so that the pipe is flowing full for the 25-year storm, they would need a 36-inch culvert. It would be about 14 feet deep from where it sits right now. This is water that this project has nothing at all to do with. All of this water comes from off-site and just happens to flow across the proposed project. Placing a large pipe like this is very expensive, especially when it is that deep. The configuration of fixing the 12-inch and the 36-inch would cost about \$40,000. This really adds up when you add in the cost of extending the road along Railroad Street.
- As an example, in talking with an engineer from the City of Tualatin, the City would have some responsibility for taking care of their water.
- In response to the Commission's request, he noted the following costs:
 - Item #1 is for the 12-inch storm line main rock BF, average depth of 13 feet, 520 LF @ \$50, \$26,000.
 - Item #2 is to remove the 21-inch culvert and replace with a 36-inch concrete culvert, rock backfill, average depth 14.5 feet, \$6,825.
 - Item #3 is for the 21-inch line rock rip rap, \$850.
 - Item #4 is for the 12-inch line, 25 cu yards @\$19, \$475.
 - Item #5 is for the 12-inch line, 2 manholes @ \$2,200, \$4,400.
 - Item #6 is for the 12-inch line, break into existing storm manhole and connect, \$800.
 - Item #7 is for the 12-inch line, 36 SY, asphalt and concrete restoration @ \$52.50, \$1,890.
- The total estimated cost for the off-site storm water improvements would be \$39,350.00.
- With regard to Condition #10, most of the lots would not be affected. He referred to a drawing of the proposal. The proposed configuration was worked out with the City to get the extra lot.
- The applicant needs to be able to put an end to how much extra costs the project could carry. Some of these costs really have nothing to do with the development. There are quite a bit of improvements for the size of the project.

In response to Mr. Stecher's question, Mr. Jehnke said the initial layout showed 23 lots with the full 50 foot right-of-way and it met the setbacks. The 5-foot easement came from the pre-

application meetings with Staff in using the Railroad Street connection and allowing an extra lot to benefit the applicant. Mr. Stecher asked why the Commission did not hear about the 5-foot setback at the last meeting. Chairman Whiteman said Staff's recommendation for the variance was denial.

Chairman Whiteman asked if there was any further proponent testimony. There was none. Chairman Whiteman asked if there was any opponent testimony. There being none, Chairman Whiteman dispensed with the rebuttal portion of the hearing.

Susan Claus said she wanted to reiterate one of the main points which the Commission would be dealing. When you get into areas and talk about infill and finishing out a system, you are going to run into problems that need to be a part of the project or not part of the project. If they are not part of the project and the City wants them done, then it needs to be specifically outlined how it is going to happen and what type of offsets are available. What is unusual about this application is the applicant worked up to a point with the City and then contact was lost. She hoped that this application could still be salvaged. If not, they have another way to go and that is the original plan. She would like the opportunity to provide a response if the Staff has any new information or comments. Chairman Whiteman said he would allow this as long as the response is specifically responding to any new information.

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

Chairman Whiteman said before the Commission begins their deliberations, he wanted the Commission to go outside, walk to the corner and look down the street towards the proposed subdivision.

Chairman Whiteman recessed the meeting at 8:40 PM. He reconvened the meeting at 8:50 PM.

Chairman Whiteman's asked if the Staff had any knowledge of when the storm line which runs through Lots 22 and 23 was constructed. Mr. Turner said they have checked with other Staff and they do not know when it was installed. He did not know if the City installed this line. Chairman Whiteman said since it comes from a manhole, it is believable that the City installed the line. The Commission discussed who should be responsible for the maintenance or moving this storm line.

Chairman Whiteman asked if the City charges systems development charges for storm sewers. Ms. Engels said the City does and the charges are based on the storm sewer system which is outlined in the City Storm Sewer Master Plan. Chairman Whiteman asked where the fees charged on the water bills for storm sewer are used. Ms. Engels said these charges may be used as a maintenance fund for existing systems, but she would have to verify this.

The Commission reviewed the Storm Water Master Plan. The 12-inch line flowing under the property was not shown on the Plan.

Chairman Whiteman asked if the Commission wanted to review each of the conditions separately which were called to their attention by the applicant. The Commission agreed to follow this process.

The Commission continued their deliberations of Condition 2G, "The applicant shall either relocate the existing storm line subject to the City of Sherwood or bring the existing storm line up to City standards and dedicate an exclusive easement over the storm sewer as approved by the City of Sherwood."

In response to Chairman Whiteman's question, Mr. Turner said it would appear that if an easement is dedicated over the storm sewer as approved by the City, in its present location, it would cause this building lot to be unbuidable. Mr. Stecher said if the 12-inch line is the City's, from his past experience, he would say the City owes the property owner an easement and the City needs to buy an easement. If the easement causes damages, then this would need to be addressed. Mr. Emery said the problem is no one knows who owns the line.

The Commission agreed that the ownership of the 12-line needed to be determined before a decision could be made regarding this condition.

Ms. Engels said if this needs to be resolved legally, apart from these conditions, it should be resolved prior to the application being heard by the Commission. She did not believe the Commission could resolve this legal situation by obligating the City to spend money. Chairman Whiteman said any decision by the Commission is advisory only and it is not policy. The decision is based on the findings and information received.

Mr. Franklin asked if this line would be considered non-public due to the fact that there was no easement. Mr. Turner said the line is working fine now, an applicant has come in to do something on the property and if they want to build on the property, it would be the applicant's responsibility to change the line. Mr. Stecher said it could be argued if this is a line that drains the downtown which is a public facility, it would be a public line. Then it would have either been put on the property with an unrecorded easement, verbal permission or without permission. It goes back to the same question, if the pipe fails, who is responsible for it.

Ms. Engels said Condition 2G provides two approaches to the problem that don't require unknown facts to be known.

It was the consensus of the Commission for Staff to request an interpretation from legal counsel of the ownership of the existing storm sewer line which runs from West Villa Road diagonally across proposed Lots 22 and 23. The line is not located within a public easement and is assumed to contain the storm run-off from the downtown area.

Mr. Turner reminded the Commission that the 120-day deadline is September 24, 1998 and the City Attorney is on vacation at this time. Susan Claus said she thought the applicant would extend this deadline.

The Commission discussed Condition 2I, "An existing storm line runs under the railroad tracks and drains the area to the east of the subject site. The line was previously extended by the property owner without permits and is substandard. The pipe shall be replaced by the developer in coordination with the city's work related to the regional storm facility."

Chairman Whiteman asked if the City was prepared to put in the portion of this replacement culvert from the detention pond underneath the railroad tracks that would hook up to the Claus development at the time this would be put in place. Mr. Turner said he would assume the City would be prepared, but he would have to check with the Engineering Department. This is something that needs to be done and the question is how well this could be coordinated with this project.

Ms. Engels said there is a line under the railroad tracks and the applicant extended the pipe at least the width of the road and beyond it. The Engineering Department had concerns about the pipe which was placed there and whether it is of sufficient size and strength to have a road going over it. This is what the problem is, not what the City is planning to do with the line under the railroad tracks. The line was previously extended by the property owner without permits and is substandard. This is what Condition 2I applies to.

Susan Claus said the Commission would need to ask Mr. Claus what happened regarding the extension of the pipe. She did not know if this is what happened and Ms. Engels does not know what happened.

Chairman Whiteman read a portion of the condition, "...The pipe shall be replaced by the developer in coordination with the City's work related to the regional storm facility." He said this means to him that if the City is not ready to deal with the regional storm facility, this could hold this project up. Mr. Tuck said it is not the intention of the City to delay a project.

The Commission agreed that Staff should ask the Engineering Department when the City would be ready to take care of the regional storm facility to where it connects to the replaced culvert and if the 36-inch concrete culvert, as recommended by the applicant's engineer, is acceptable to the City Engineering Department.

Mr. Jehnke said if the City makes the detention facility big enough, the 21-inch pipe could be adequate. Their counts are based on the Storm Water Master Plan which is probably a little outdated.

Mr. Stecher stated the applicant told him in their telephone conversation that he wanted a fill permit or something like that, and the City at that particular time was not issuing fill permits for whatever reason. Mr. Claus is not in attendance to clarify this. Susan Claus said she did not know all of the details. It would be hard for her to say or represent what the situation is, just as it is hard for Sue to represent what the situation was. Chairman Whiteman said Mr. Claus indicated to him too that under the previous City administration they would not issue a fill permit so he had somebody come in to see that he compacted it right. If the Code calls for concrete pipe

under streets, that is all the Commission should be concerned about, not whether or not it is substandard or whether it was done without a permit. Mr. Franklin said the City has no way to determine whether the pipe was installed correctly other than the applicant's statements.

The Commission discussed how it could be determined if the pipe was installed correctly. Ms. Weeks said if the Commission is not supposed to question this condition, why was it included. Ms. Engels said the planning process usually does not include all of the engineering calculations which would be done for a fee at a later date. Mr. Stecher said Staff seems to be implying the Commission has an application in front of them and they can either accept or reject it and all the details will be figured out later. He said the Commission's position is they need to discuss these things and figure out what the details are. There seems to be a little difference of opinion as to what the role of the Commission is and maybe that is something that needs to be defined between the City Manager, Staff, Commission and City Council. It seems like they have a process here in the City that may be "screwed up" and maybe it needs to be looked at. Ms. Engels said at this stage in the process Engineering is saying there is a situation out there which is inherently problematic because there was something that was done without permits, without consulting with the City and without calculations. If the Commission wants a more precise engineering review and calculations at this planning stage this would be an expense that has not been paid for and it would be at the expense of the taxpayers. The applicant paid a planning fee and Engineering does a preliminary review at this stage. Engineering cannot tell you how the detention facility will work until the applicant submits engineering construction drawings and calculations.

Chairman Whiteman said the question is how the Engineering Department determined that the line is substandard. What is substandard about this line. The last sentence of Condition 2I states the City has to do something before the applicant can do something. The applicant may want to move on the project and the City may be 2 years down the road before they deal with the regional storm facility. When a statement is made, it needs to be substantiated. Mr. Franklin said it is not fair to ask the City to accept a pipe for maintenance and ownership that they are not sure was done to their standards. The Commission agreed.

Susan Claus asked for a point of order. Because the application is going to be continued, frankly she did not care whether it was substandard or not. She said the proposal is that there is some work that needs to be done for the ultimate City storm water facility. They need to find out the scope and extent of the work the City wants the applicant to do as part of this regional storm water facility, whether it is verifying the pipe is okay or whether it is upsizing it. The last she heard was upsizing it. It is a moot point if the City is going to a different type of pipe. She would like to find out what the City wants and what the scope of that project is.

Chairman Whiteman said what he heard from Staff is they don't want to tell the applicant what to put in there, they want to hear what the applicant plans to put in there to meet the conditions and the City will tell the applicant whether this is okay or not.

Susan Claus said this specific improvement is a public improvement that is servicing the storm water facility back behind on the other side of the railroad tracks. It is a pasture to the applicant.

The City has their plans for this and she did not think the applicant was designing it. The applicant does not know what kind of detention it would be.

Chairman Whiteman asked Mr. Jehnke if he had any information regarding the regional storm facility. Mr. Jehnke said he had a report on it, but he has not really delved into it. The Commission asked if the City was prepared to act on their portion of the regional storm facility at the time the applicant is ready to make the improvements to this property. Also, how did Engineering determine that the pipe is substandard.

The Commission discussed Condition #8 regarding the 5-foot landscape strip, street trees and street lights. Chairman Whiteman said the applicant objected to this condition and would like to have a cap on costs. He said with regard to that portion of the street which is now under the ownership of the City, he would like to see where the railroad right-of-way is and how the street scape would look.

The Commission asked Staff to provide a street scape plan from the proposed subdivision to Railroad Street, including West Villa Road. Mr. Stecher said the developer needs to know what the costs will be for the street improvements. Ms. Engels said the applicant is not being conditioned to make any improvements outside of the right-of-way.

Mr. Franklin said if this application goes to an access to West Villa Road, how would this work going from where the access starts out to Park and Railroad Streets. Ms. Engels said one of the things that is clear is that it is not in the public interest to add any traffic to West Villa Road. It would not be suitable to have a 24-lot subdivision access onto West Villa Road. Railroad Street would be the appropriate access.

With regard to Condition #10, the Commission asked the applicant's engineer to tell them how many lots would be affected by the front setback for the garages on Lots 1-20. Staff has stated this condition should read, "The front setback for Lots 1-20 shall be 20 feet as measured from the back of the sidewalks."

Mr. Stecher said he did not know who is requiring the easements, but if you are making lots that are unbuildable, there is a damage. If somebody goes to a property and they want part of those property rights and those property rights in this case would be to take 5 feet and put pavement on it, and as a result the front setback would be changed, there is a damage. This is what he would call an appraisal problem. Mr. Tuck said the overall issue is cars parking across the sidewalk. Mr. Franklin said the whole purpose of the setback is so that the garages are back far enough to get the cars off of the sidewalk. Mr. Tuck said this is exactly what you have in Woodhaven, 15 feet to the front of the house and 20 feet to the garage. Mr. Stecher said so there would be no damage to any of the lots. Mr. Turner said the condition in the report states set the garage back and the condition Staff is recommending states set the garage and the house back. Mr. Stecher said if they set the house back too, he would stand by his belief that there is damage there and this is another problem.

Chairman Whiteman said Condition #10 should read, “The front setback for the garages on Lots 1-20 shall be 25 feet from the front property line.”

Chairman Whiteman reviewed the Commission’s requests as previously discussed:

- Opinion from Legal Counsel regarding the ownership of the existing storm sewer that goes from the manhole in an unknown direction out towards Cedar Creek, and apparently cross Lots 22 and 23.
- What are the plans of the City regarding developing the regional storm facility and the timeline and working with the applicant in replacing that whole line.
- Provide a street scape plan for the City’s property along Railroad Street, including West Villa Road to the applicant’s property.

The Commission asked the applicant to extend the 120-day deadline, in writing from the applicant, at least 14 days, so that the questions may be answered prior to the Commission making a decision on this application. Susan Claus said the applicant would agree to the 14 day extension of the 120-day deadline.

Scott Franklin moved, based on the three questions, the Planning Commission continue SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat to the August 18, 1998 Regular Commission meeting. Seconded by Adrian Emery.

Vote for Passage of Motion: 5-Yes, 0-No, 0-Abstain

Susan Claus did not vote on this motion.

5. Community Comments

There were no comments

6. Other Business

Staff reviewed the upcoming land use applications, which include in the proposed Ice Rink.

7. Adjourn

There being no further business to discuss, the Commission meeting was adjourned at 10:15 PM.

Respectfully submitted,

Planning Department