



**City of Sherwood
PLANNING COMMISSION
Masonic Hall, 60 NW Washington Street
Tuesday, August 18, 1998
7:00 PM**

A G E N D A

- 1. Call to Order/Roll Call**
- 2. Approval of Minutes - July 21, 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 August 4, 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. SP 98-7/CUP 98-2 Ice Hus:** a request by Janet/Brent Birkemeier for conditional use permit and site plan approval of an approximately 45,000 sf public ice skating facility which includes an arcade and restaurant. Tax Lot 11200, Map 2S 1 30AD

OVER →

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 18, 1998

1. Call to Order/Roll Call

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

Commission Members present:

Susan Claus (7:05 PM)
Adrian Emery
Scott Franklin
Keith Mays
Paul Stecher (7:10 PM)
Angela Weeks
Bill Whiteman

Staff:

Jon Bormet, City Manager
Sue Engels, Development Director
Greg Turner, City Planner
Jason Tuck, Associate Planner
Roxanne Gibbons, Recording Secretary

2. Minutes of July 21, 1998

Chairman Whiteman asked if there were any additions or corrections to the minutes of July 21, 1998. There were no comments.

Angela Weeks moved the Planning Commission accept the July 21, 1998 Planning Commission meeting minutes as presented. Seconded by Adrian Emery.

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

3. Agenda Review

There were no comments.

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.

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.

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.

Bill Whiteman announced he had ex-parte contact with a representative of the applicant regarding SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat by receiving two letters which would be distributed to the Commission tonight.

4A. SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat (cont'd from August 4, 1998)

Chairman Whiteman asked if Staff wished to address their August 11, 1998 memorandum contained in the packets. Greg Turner said the memo addressed the three issues discussed by the Commission at their last meeting. In a letter dated August 18, 1998, the City Attorney addressed Condition #2G regarding the ownership of the storm sewer line which goes across Lots 22 and 23. This letter was distributed to the Commission tonight. Condition #2I is also addressed in the Staff memo. A schematic drawing showing the proposed street standards, as conditioned, was included in the packets.

In response to Chairman Whiteman's question, Keith Jehnke clarified that the submitted plans identified an 8-inch culvert and this was an error. The pipe is 21-inches. Mr. Turner said the City has not verified the size of the extended pipe.

Keith Mays asked if the applicant had seen the August 11 memo from Staff. Mr. Turner said this report was mailed to the applicant seven days in advance of the hearing. The August 18 letter from the City Attorney was only received today and Mr. Turner faxed it to the applicant.

Chairman Whiteman announced the public hearing had been closed. The applicant provided him with two letters, one from former Mayor Walt Hitchcock and the other from former property owners of the site. In order to have this material and the letter from the City Attorney included in the record, he suggested the Commission reopen the public hearing for this application. Mr. Mays asked if Staff had an opportunity to review the two letters from the applicant. Mr. Turner said Staff had not reviewed the two letters provided by the applicant. Chairman Whiteman said he was ready to make a motion to reopen the public hearing. Mr. Mays suggested the applicant be asked to postpone the hearing to the next meeting to provide Staff an opportunity to review the additional information and provide comments.

Jon Bormet reminded the Commission there could be a 120-day deadline problem if the public hearing was reopened and someone asked that the record remain open for an additional 7 days for additional comments. Susan Claus said she was prepared to agree to an additional extension of the 120-day deadline.

Chairman Whiteman asked how the Commission wished to proceed with this application. Mr. Bormet said there are complicated issue related to this application. Staff is required to provide their report seven days in advance of the public hearing. Staff has not had an opportunity to review and prepare a response to the additional information provided by the applicant tonight.

Susan Claus said she was willing to extend the 120-day deadline for an additional 14 days. She had some verbal information she would like to add to the record tonight and there were people in attendance who wished to testify.

Chairman Whiteman said the Commission could reopen the public hearing with the intention that the application be continued for 2 weeks, the applicant would extend the 120-day deadline for 2

weeks, and additional public testimony would be heard tonight. The Commission agreed with this process.

Bill Whiteman moved the Planning Commission reopen the public hearing for SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat for additional testimony and the application would be continued to the September 1, 1998 Regular Commission meeting. The 120-day deadline would be continued for 2 weeks as agreed by the applicant. Seconded by Angela Weeks.

Mr. Bormet suggested the Commission could close the public hearing tonight and leave the record open for 7 days for written comments from Staff, the applicant or other interested parties.

Keith Mays amended the original motion to include the public hearing would be closed tonight and the record would be left open for 7 days for additional written comments only. Seconded by Adrian Emery.

In response to Ms. Weeks question, Mr. Bormet said if the public hearing and record were closed, Staff could respond to questions from the Commission at the September 1, 1998 meeting. There would be no further testimony from the applicant or the public at that meeting. Chairman Whiteman called for a vote of the Commission.

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

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

Chairman Whiteman opened the public hearing for SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat for testimony from the applicant.

Susan Claus, 22211 SW Pacific Highway, Sherwood, Oregon 97140, addressed the Commission. She said there were three main issues. She said former Mayor Walt Hitchcock was in attendance to provide further information regarding the storm water line which runs underneath the railroad tracks.

Walt Hitchcock, 16990 SW Sunset Boulevard, Sherwood, Oregon 97140, addressed the Commission. He was the Mayor during the period of time when the line under the railroad tracks was extended. The applicants, Jim and Susan Claus, asked him to provide some institutional memory regarding the chain of events when the pipe and fill was installed.

- He asked if anyone could envision Mr. Claus undertaking any level of construction, in particular at this site, without City Staff being aware of it and making sure all the permits were obtained.
- When this happened, it was even more so, because of the less than amicable working relationship between the former City Manager and Mr. Claus. Everything Mr. Claus did in this City was subject to scrutiny 25 times over and then some.

- Mr. Claus was cleaning the property he had just purchased on the south side of the railroad tracks. There was a heavy rain storm, the culvert got plugged up on the south side and it created what was referred to as “Lake Claus”. A lake being created in Sherwood overnight got a lot of attention. The work Mr. Claus did was subject to a lot of questioning, prior to the lake and while the lake was there.
- Every agency that has anything to do with filling wetlands looked at the site and ruled on the legality of the clearing work that was being done, as well as the culvert and the fill. It was deemed there was not enough activity going on to justify or to require any permits at that point in time. Everything that was done was done legally and without the need for a permit.
- However this may bear on the Commission’s deliberations, the installation of the culvert by Mr. Claus was done legally and did not require a permit at that time.
- There are few individuals in the City that engender as much emotion as Mr. Claus. He creates an opinion from everyone because he is one individual that will stand there and very vocally fight with government. As a consequence, sometimes it is in an area people like and sometimes it is an area people don’t like, but the end result is that everything is mired in controversy. As a consequence of that, everyone has a very strong feeling about Jim.
- Please keep in mind, one of the founding principles of this nation is that you have the right of free speech, particularly the right to fight tooth and nail with your government, no matter what you say without fear of retribution. This is a fundamental right.
- One of the other fundamental tenants of our society is you have the right for equal treatment under the law. There are no special classes in this country. Everybody is supposed to be treated equally.
- He is saying this because when someone creates enough emotion that a person such as Jim does, it is easy to judge based upon that emotion. It is his understanding, in particular with planning, that they deal with a specific application judged by a specific set of criteria and it is done blindly. He encouraged the Commission to keep this in the back of their minds.

In response to Ms. Weeks’ question, Mr. Hitchcock said he could not add anything regarding the question of ownership of the pipe which runs from Villa Road to the ravine.

Mr. Emery asked if the mayor’s comments about freedom of speech, include slander and threats, as far as retribution. Mr. Hitchcock thought it did. There is a separate mechanism to deal with slander and threats. When it comes to government, he personally believes you have the right to scream and holler and to say in almost any terms you care to that you think it is not right. He does not like personal attacks, he does not agree with them and he thinks they are wrong. There are mechanisms to deal with that, but when it comes time to make a decision, the decision by law has to be focused on the criteria. This is what he means by retribution.

Susan Claus distributed a letter dated August 11, 1998 from Walt Hitchcock relating a historical perspective on the small fill area on Mr. Claus’s Villa property.

Mr. Bormet said the pipe that was installed was not a public pipe, it was a private pipe installed at that time. Susan Claus said Jim had someone from the City on the property who told him what kind of pipe to install. He made the determination in concert with a City employee. She distributed a letter dated August 14, 1998, with attachments, from the prior owners of the Villa

Road property regarding the Cedar Creek LID and the fact they did not know anything about the storm sewer line which goes to this property. The previous property owners already paid an LID for the sanitary sewer down Villa Road. Part of what the applicant is proposing because they are putting in a new sanitary sewer line, this is, in essence, a double payment for the sanitary sewer line.

Susan Claus discussed what she thought the three issues were:

- Staff is taking the position they have the pipe and the fill next to the railroad tracks, the City wants to do an upsizing for an improvement which is projected by the City and has nothing to do with this project. There is nothing from this project which is going to add to this system. The City does not know the exact kind of improvements they want. The City does not know if the Railroad would grant an upsizing to the project which is being contemplated. There is no nexus to the subdivision. She would propose this condition be removed (Condition #2I).
- With regard to the storm sewer, Staff is asking for an easement. They don't have anything in writing or evidence that this was done legally. Now, because the applicant is proposing this subdivision, the City would like the applicant to give the City an easement. She would prefer to have a statement where both sides reserve the right to determine what is going on with the pipe and before the lot is built upon have a solution. This is beyond the scope of the Planning Commission. There needs to be more research. The applicant's research shows the previous property owners were not aware of an easement. The City Attorney's letter states that Tad Milburn said the pipe was in place and operating when he came to the City. This would have been about 20 years ago and from all appearances it had been in place long before that. The applicant has two lots which are affected as lots of record. This is beyond the scope and nexus with this subdivision. She would like the Commission to include language that both parties reserve the right for whatever obligation or non-obligation are associated with that pipe and that this be handled to the City's and applicant's satisfaction prior to that lot being built upon. This may include an easement, the lot gets pulled off of the property, or some kind of payment for an easement. She believed this would be a legal determination and not in the scope of the Commission. She did not want the application being held up when this is something that is an issue that is site specific to a lot of record.
- She thanked the Staff for providing the road information. They will work with their engineer to see what the costs would be for these improvements. If they do the subdivision, there are a lot of arguments for putting the road down there and it is a better fix than working off of Villa Road, but she does not necessarily agree with the Staff that they would be required, if they went out Villa Road, to bring half street improvements all the way out to Park Street since they don't have any frontage on Park Street. They now know what the City wants on this road and if it is something they can do, they will do it. If they can't do it, they will have to put some kind of other application forward.
- She did not prepare the exact language on the "reservation of right", but she could do this within the seven day period if the Commission wants this.
- Greg Turner faxed her the letter from the City Attorney today, but Jim and the other partners have not seen it yet.

- Everybody needs to see all of the information, including Staff, and have the opportunity to review it and provide comments. She would like the opportunity to respond to any information submitted tonight by Staff.

Angela Weeks asked Ms. Claus if the City was granted the easement would the lots be unbuildable. Ms. Claus said this was correct, the one lot for sure and other lot would be sliced. There are a number of issue involved. The lots are supposed to be buildable. The presence of the pipe is a little different than having a sanitary sewer or water line. At the Commission level, it is more appropriate to figure out what the history is, was anyone noticed and when, who put it in and why. The City also wants treatment of that water. Currently, as she understands it, it runs from the downtown area and it is untreated. It is pretty expensive, about \$30,000, if the City wants that rerouted into the storm sewer. Mr. Bormet said there is a misunderstanding. Ms. Claus said, "So Staff is not asking them to move the water and treat it through their subdivision." Mr. Bormet said this was correct.

Chairman Whiteman asked if it is her position that before a building permit is issued for Lot 23 that the City and the applicant would come to a satisfactory agreement as to what the situation is going to be for the outflow of the storm sewer. Ms. Claus said the applicant and City would reserve whatever rights they believe they have. She said this has to be resolved outside of this body. In response to Mr. Emery's question, she thought the pipe was about 7 feet deep. Mr. Jehnke said they would not want to put anything in over the pipe.

Chairman Whiteman asked if there was any further proponent testimony. There was no further proponent testimony. Chairman Whiteman asked if there was anyone who wished to speak in opposition to SUB 98-4/VAR 98-1 Wildlife Haven Preliminary Plat. There was no opponent testimony. Chairman Whiteman closed the public hearing for discussion by the Commission. The record will remain open for 7 days for written testimony only. This information will be mailed to the Commission 7 days prior to the September 1, 1998 Commission meeting.

Chairman Whiteman asked if there were any further questions of Staff. Mr. Franklin asked if Staff interpreted the storm line which runs across the two lots as an upstream drainage system and that the applicant would have to extend services to upstream properties. Mr. Bormet said he did not think so. This is an existing water course which goes through the lots. He asked to address a couple of items which would give the applicant an opportunity to respond to in writing within the 7 days time period. He noted:

- The condition regarding the pipe under the railroad tracks is that the pipe needs to be 24-inches. The applicant will be building what will later become public property. The applicant has put in a private line that does not meet these standards. They need to be able to carry the water from upstream across their property. Everyone knows this. This used to be an open water course, it used to be a creek. When you enclose the creek, you have to install the right sized pipe, otherwise you will back water up. The right sized pipe, according to the City's master plan is 24-inches. If the City was wrong in stating the pipe extension was installed illegally, that may be an overstatement. What the City wants to say is that it was simply

installed not in compliance with the City's master plan and with no permits. He did not know if permits were necessary at that time, but the City did not give the applicant a permit for that project. It is a private pipe, installed on private property and it is undersized. Now they are going to turn in into public property. It is going to be under a City street. It needs to be the right size. This is all the condition really says.

- The pipe under the railroad tracks is undersized. The pipe the applicant installed on the end of this is undersized.

In response to Chairman Whiteman's question regarding permission from the Railroad, Mr. Bormet said the City would have to get permits from the Railroad to bore under the railroad line. It takes a lot of time and work, but it can be done. That is not relevant. Now, we are building downstream. Whether the City builds tomorrow, the new 24-inch pipe, or whether it is built in five years, it makes no sense to build downstream substandard.

Chairman Whiteman said it would make sense to build the whole thing at one time. When it is done, whoever pays for it initially, somebody else is going to owe them something for the upsizing. Mr. Bormet said it is the City plan that when the applicant puts this pipe in, the City will put in their pipe in. This is, in effect, what the condition states.

Mr. Bormet said with regard to the easement, the Staff recommendation has left the Commission the flexibility that the applicant has asked for. The City wants these things resolved in a public forum. In this case, the City is stating a matter of fact. An existing storm line runs diagonally through Lots 22 and 23. The applicant shall either relocate the existing storm line or bring the one that is there up to standard and make it a public storm line. The flexibility is either move it or upgrade it. This is all the condition is asking. The City has visited the site with USA. As the City Attorney said, it is not entirely relevant who installed the line. He would ask the Commission to think of this line as a water conveyance system. You have a lot that has a creek running across it. Before it was a pipe, it was either a ditch or a creek. It was a water conveyance system.

Susan Claus said the City did not know this for a fact.

Mr. Bormet said water was flowing through that area. The City has gone back to 1966 aerials and it appears that the pipe has been there at least there for the last 30 years. This is a private pipe and there is no doubt about it. Just because it is in a pipe does not make it public. Lacking any kind of easement that makes it public, the City cannot take responsibility for every pipe and water course on public property. This would be an extraordinary reversal of public policy. The City is saying it has to be a private pipe and all the City is asking that the applicant does not have the ability to block it up because it is a water course.

Chairman Whiteman asked why a private person would install a private pipe to drain a public storm sewer. Mr. Bormet said it happens probably a lot because why would the City enclose, across private property, a drainage line. How many private property owners, to dry out their back yards, put the creek in a pipe. The Commission should not put the burden of proof in the wrong place. It is not a burden that the City has to show that it is not public.

Chairman Whiteman said his conclusion is that the City bootlegged the pipe in without an easement. Mr. Bormet said on this same property we've already heard that the current property owner encased another area in a private pipe. This is why the burden must be on the property owner. You cannot make the City show in all the back yards in town that we don't own it. The City does not have the ability to prove the negative. It is a water course going across their property. You can't dam a creek going across the back of your property. This is the critical part of this. In response to Mr. Stecher's question, Mr. Bormet said going back to the 1966 aerials, it looks like there was a pipe in as late as this date.

Mr. Bormet said a pipe without a public easement, is either a public fare that has a "prescriptive" easement or it is a private pipe. Either way, when an applicant comes in to develop a property, the City does not have to start moving water courses around. Mr. Stecher said the City's argument is there was a natural water course there and that a previous property owner just piped it in.

Mr. Bormet said he would like to respond to the third issue that was raised regarding the road improvements. The City simply prescribed where the road would come out on Railroad Street. He would advise the Commission not to place any caps on the cost of these improvements.

Mr. Bormet said the final point is that the Planning Commission is the reviewing body. He did not believe the Commission could make decisions that spend City money. The Commission is not the appropriating body. The appropriating body is the City Council. If the Commission suggests, as part of this application, to place a cap on the road costs, the City would have to spend the extra money if this road comes in over budget. The Commission does not have that authority. If the Commission says the City must move the pipe for private benefit, this will cost money and the Commission does not have that authority. The Commission can advise these things separately to the City Council, but they cannot dictate them in a set of conditions. The Commission cannot make the City spend money through the conditions.

Chairman Whiteman said this item would be the first order of business at the September 1, 1998 Commission meeting.

4B. SP 98-7/CUP 98-2 Ice Hus Site Plan and Conditional Use Permit

Chairman Whiteman called for the Staff report. Jason Tuck referred the Commission to the Staff Report dated August 18, 1998, a complete copy of which is contained in the Planning Commission's minutes book. He noted:

- The property is located on Borchers Drive, adjacent to Edy Road and west of Highway 99W. Tax Lot 11200, Map 2S 1 30AD.
- The site consists of 5.5 acres and is zoned Retail Commercial (RC). The proposed use is a conditional use within the current zoning designation.
- The Commission is reviewing Phase I of the project tonight which include a 45,000 sf ice rink with an area for an arcade and restaurant and the layout for Phase II.

- The site has two accesses, one off of Daffodil Street and one on the south side onto Borchers Drive.
- The applicant has provided ample landscaping for the site as well as a buffer area to the north and the west.
- The applicant has met the required findings for site plan and conditional use review.
- The setbacks are 10 feet where abutting a resident zone or public park. The application has provided a 35 foot setback.
- The applicant is proposing a building which is 33 tall and meets the height requirements for this zone.
- The standard for off-street parking is 1 per 100 sf of floor area plus 1 per 2 employees. The applicant is proposing 190 stalls in anticipation of Phase II at a later date.
- The applicant will discuss why they believe the parking will be under utilized based on the national average.
- The only change to the Staff Report is on page 9, the road improved width should be 36 feet from curb to curb, not 33 feet.
- The applicant is conditioned to loop the water system within Borchers Drive. A portion of this may be creditable.
- The applicant is conditioned to pay their fair share of the costs of a Master Plan Loop on the west side of Highway 99W. Other applicants have been conditioned for this purpose.

In conclusion, based on a review of the applicable code provisions, agency comments and Staff review, Staff recommends approval of SP 98-7/CUP 98-2 Ice Hus Site Plan and Conditional Use with the conditions contained in the Staff Report.

Mr. Franklin asked if the applicant was aware of the condition for participation in the water line improvements. Mr. Tuck said the exact amount for this has not been determined, but it will be less than the original amount when the initial study was done. The connection of the water line would be creditable on Borchers Drive. Ms. Engels said the application happens to be calculated to benefit from two proposed water line loops. One is from the Master Plan and that portion would potentially be creditable. The other loop is necessary and other applicants have been conditioned to contribute for their benefit portion of this loop. All of the affected property owners have been notified of these potential costs.

Mr. Mays asked if Staff had any traffic concerns. Mr. Tuck said the initial concern was the site distance on Borchers Drive and this has been corrected. Mr. Turner said based on ODOT's comments and the traffic study, the driveway has been moved farther away from Edy Road. The site distance for the landscaping near the curve has been addressed. The 36-foot wide pavement width allows for two 12-foot lanes as well as one middle lane. Mr. Tuck read the allowable uses from the Code in the Retail Commercial (RC) zone.

Chairman Whiteman opened the public hearing on SP 98-7/CUP 98-2 Ice Hus Site Plan and Conditional Use and asked if the applicant wished to provide testimony.

David Seward, 14001 NW Ford Road, Gaston, Oregon 97119, addressed the Commission. Mr. Seward noted:

- Oregon is a ghetto for hockey and they want to change that by bringing a real class act to Sherwood. He chose Sherwood thanks to the Planning Staff who identified properties where a hockey rink could be built. He then met the Birkemeiers, who own the property.
- The applicant is not purchasing the property from the Birkemeiers, they are putting the property up and will remain the property owners.
- The most important thing is they want to be very good neighbors. The mechanical room is enclosed in concrete on the second story floor. The decibel level is about 55. This equipment has to run 24 hours a day and they do not want disturb any of the neighbors.
- They set the building back as far as they could to achieve the current parking layout. They had somewhat of a controversy with the parking plan in that their original plan has 275 parking spaces. The planners wanted a road through the property. This removed over 75 spaces. When they go to Phase II, the City and applicant have come to a common agreement in one area, which he identified on the map, will be turned into 11 more spaces. About 95% of the time only the spaces in front of the building will be used. He explained how many vehicles could be on site for the various hockey tournaments, skating lessons or public skating. They do not envision the available parking spaces will be maximized out. They have put in a single way, drop off area which will be covered.
- They believe Phase II will be built in about 2 years. They want to get on their feet and establish their market area before building Phase II. Phase II will be just a rink building. Based on the national studies, the parking is more than adequate for both Phase I and II.

Mr. Franklin asked Staff if the parking was adequate for both phases based on Code requirements. Mr. Turner said they would need a variance for the parking on the second phase, prove and that the parking works based on the first phase or recommend a change to the Code to meet the national standards. There is also the potential to take part of the landscaped area and use it for parking.

Mr. Seward said the applicant hoped to get approval for the application tonight, to do the engineering this winter and begin construction in the spring of 1999. According to population studies, the Portland metropolitan area should have 10 rinks. The area only has 3 rinks operating now, located in Lloyd Center, Clackamas Town Center and Beaverton. They plan a first class facility and to use Burleys which is the cadillac in the mechanical aspect of ice arenas and boards. They plan to offer no-check hockey where both boys and girls can play. They want to develop a program where any child can play at any level. As far as scheduling, for example, the Valley Ice Arena opens at 5:30 AM and closes at 12 midnight, 7 days a week. They plan to have the same type of schedule, but first they will need to develop a market.

Chairman Whiteman asked what would happen at the boundary next to the residential area. Mr. Seward said Pat Haugen, the architect, has a hockey background and his father is the West Coast Division Director of the USA Hockey. Mr. Seward has been involved in hockey since 1961 as a trainer and coach. He identified where the parking would be located and how the building would be between the parking and the residential area. Mr. Tuck said the landscaping would include 8-10 foot tall Cedars and Potenia which would be alternated and a 10-foot wide planter strip. There are resident fences adjoining this property now. The applicant has not been required to

include any type of chain link fence with the landscaping. The building would be about 35 feet from the fence line. The landscaping hedge would be about 2 feet from the fence line. Pictures of the site were included in the packets.

Mr. Tuck said the applicant is required to provide parking lot lighting as well as street lighting on Borchers Drive.

Mr. Stecher said when they are ready for Phase II, the Commission will be able to see the history of the volume of parking the facility has had.

Mr. Seward said the property for Phase II will be a lawn area. The restaurant space use has not been determined. They may turn this into a weight training area. He identified the layout for the mechanical area.

Patrick Haugen, 5920 SW 176th Street, Aloha, Oregon 97007, addressed the Commission. The restaurant is located on the second floor mezzanine area, to the entry-way end of the building which would be the south of the building. Access would be by elevator and stairway.

Mr. Seward said they are thinking about a non-alcohol snack bar type restaurant. Mr. Haugen said they are not going to be in the restaurant business, the hours would be determined by whoever leases this area. Mr. Turner said the hours of operation would need to meet the standard noise levels.

Chairman Whiteman said he is concerned that the applicant be a real good neighbor to the adjoining residential property owners. Mr. Seward said he went door-to-door and he got one negative feedback from a woman who was concerned about people throwing trash. Everyone else seemed to love the idea and were very enthusiastic about the project.

Mr. Franklin asked Staff if there were any alignment issues on the southwest corner where Borchers Drive goes to Edy Road, with regard to the curve that would affect this property. Mr. Haugen said Edy Road is developed up to Borchers Drive with three lanes. Mr. Seward said the line of sight will allow you to see around the corner.

Chairman Whiteman said one of the public notice signs on the property had fallen down. Mr. Mays asked if Staff and the applicant were comfortable with the bathroom facilities for the women. Mr. Seward said the big issue is cleanliness. The rink will be managed by Mr. Haugen. They have not talked with the YMCA about coordinating any type of hockey program. They need to take this one step at a time, get approval, get final financing, and then start the marketing. Mr. Haugen thanked the planning staff for their help in putting this application together, in particular the parking lot. He said once Phase II is built, they could offer in-line skating in a more cost effective manner. Thawing and rebuilding the ice takes quite a bit of time and expense. They talked with Burleys and they are building their rinks without a concrete floor with a new system. He distributed a block of material for the Commission to look at. This is the state-of-the-art system.

Chairman Whiteman asked if the applicant had any problems with any of the conditions being recommended by Staff. Mr. Seward and Mr. Haugen said they did not have any problems.

Chairman Whiteman asked if there was any further proponent testimony.

Steven Prince, 3373 NW 123rd Place, Portland, Oregon 97229, addressed the Commission. Mr. Prince said he would be one of the future owners. The Commission mentioned the parents coming and going. He said there would be a little more traffic during the public skate times. When the parents go the hockey games, 90% of them stay to watch their kids play hockey. He pays \$20.00 for a half-hour of private lessons for his son. A lot of times there are introductory programs offered with a group lesson and these usually cost \$8-10.00 for a half-hour.

Mr. Seward introduced Mr. Gust Haugen, West Coast Division Director of USA Hockey. Mr. Haugen said it was nice to be in attendance and see the City's interest in the ice rink facility. They are very much looking for rinks. This rink will be a big asset to USA Hockey and the local community. There are a lot of players who can't play because they don't have the rinks. He hoped this application would be approved. With regard to the 192 parking spaces, he went to three different rinks in the Spokane area and none of these had that many parking spaces and they were still able to handle the crowds for the tournaments. He was sure this facility would have plenty of parking. Girls hockey is really beginning to expand. They have programs all the way up the line and what they like is to have the coaching at the lower level because they want to have the boys and girls learn hockey the right way.

The Commission thanked Mr. Haugen for testifying.

Chairman Whiteman asked if there was any further proponent testimony.

Jordan Johnson, 17718 SW Edgeview, Sherwood, Oregon 97140, addressed the Commission. Mr. Johnson said he is a member of the figure skating community. He and his partner are dancers. Right now they have to drive to Valley Ice Rink. It would be very nice to have something in the local community. He said the parking is going to be way more than they need. Usually the 5:00 AM rink sessions is used by figure skaters and there would not be that much traffic and noise at that time of the morning. It would be nice to have a quality facility. There is no ice in the City, Lloyd Center is too small, Clackamas Town Center is not good ice and Valley Ice Arena needs major renovation. He would much rather see an ice rink than a Wal-Mart.

Patrick Haugen asked if they could receive the final copies of the development charges for the street and water looping. Staff will provide this information from Engineering.

Chairman Whiteman asked if there was any further proponent testimony. There being none, Chairman Whiteman asked for opponent testimony. There was no opponent testimony. Chairman Whiteman closed the public hearing on SP 98-7/CUP 98-2 Ice Hus Site Plan and Conditional Use for discussion by the Commission.

Susan Claus said the applicant took a lot of time and effort to go through this process and she appreciate the fact that they went door-to-door to talk to the neighbors.

Mr. Franklin asked if it would be more appropriate to move the trash receptacle back from the front side of the building. Mr. Tuck said the move the location from the back of the property so that the residential area would be disturbed. Patrick Haugen said the waste and recycling hauler wanted this design and they need to be able to get their trucks in there without having to turn around. Mr. Tuck said the trucks have to go straight in. Mr. Haugen said the area will be landscaped and buffered.

Susan Claus moved based on the Staff report, agency comments, public testimony and findings of fact, the Planning Commission approve SP 98-7/CUP 98-2 Ice Hus Site Plan and Conditional Use with Condition #7 as revised by the 36-foot improved street width from curb to curb. Seconded by Adrian Emery.

Mr. Franklin asked what the 180 foot sight line at the entrance was based on. Mr. Turner said Borchers Drive is a major collector and the speed limit is 35 MPH. Mr. Franklin asked if this required sight distance around the corner. Mr. Turner said Engineering has stated Borchers Drive must meet a minimum of 25 to 30 MPH horizontal curb design criteria and a minimum of 35 MPH for sight distance. The applicant has met this requirement based on the Engineering Department review.

The applicant said they are very aware of this sight distance and the landscape architect will take this into consideration.

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

5. Community Comments

There were no comments.

6. Other Business

Jason Tuck advised the Commission that the Engineering Department has requested Public Works to place a "No Outlet" sign on Gerda Lane, just north of Galbreath Drive.

Chairman Whiteman said he noticed with this public hearing, the applicant provided a list of all of the people they notified. The Commission asked if Staff would be able to provide notification to the property owners of record as well as the occupant of the address. Staff said this could possibly cause some liability if one occupant was notified and another was missed. The legal requirement is that the property owners of record within 100 feet be notified of the public hearing. Chairman Whiteman said it has to do with providing a public service to the resident. Mr. Turner said this did come up during the streamlining process and posting of the property seemed to be seen as helping better notify the public. Staff will look at providing additional noticing.

Mr. Tuck reviewed some of the pending land use applications.

7. Adjourn

There being no further business to discuss, the Commission meeting was adjourned at 9:30 PM.

Respectfully submitted,

Planning Department