
City of Sherwood, Oregon
Planning Commission Minutes
August 14, 2012

Commission Members Present:

Chair Patrick Allen
Vice Chair Brad Albert
Commissioner Michael Cary
Commissioner John Clifford
Commissioner James Copfer
Commissioner Russell Griffin
Commissioner Lisa Walker

Staff:

Julia Hajduk, Planning Manager
Brad Kilby, Senior Planner
Tom Pessemier, Community Development Director
Bob Galati, City Engineer

Commission Members Absent:

Council Liaison

Councilor Clark

1. Call to Order/Roll Call

Chair Allen called the meeting to order.

2. Agenda Review

The agenda consisted of the Consent Agenda and Public Hearings for SP 12-03 Sentinel Self-Storage Annex, SP12-04 Residences at Cannery Square, and PA 12-03 TSP Amendment for Cedar Brook Way.

3. Consent Agenda

The minutes provided in the Planning packet were incomplete. Julia Hajduk, Planning Manager, asked that the consent agenda be pushed to the August 28, 2012 Planning Commission Meeting.

4. City Council Comments

Councilor Clark gave an update of City Council's Meeting on August 7, 2012 including the swearing in of two new police officers, the recognition of Sherwood High School students earning 4.0 GPA, Urban Renewal refinancing issues, approvals regarding the Tonquin Employment Area Annexation that will be voted on in November, the approval of the Sign Code amendments, and the Commercial, Industrial, and Institutional, and Public Use Classifications amendments.

5. Staff Announcements

Julia gave updates on development by stating that Kohl's had obtained permits and started construction at the former GI Joes site which included a small expansion and interior remodel. Julia said that the site at the corner of Tualatin Sherwood Road and Gerda Lane is being used by Enterprise Rental Cars as a place to store cars for their Tualatin location. Julia added that the site has been historically used to store cars. Julia reminded the Commission that the Langer Subdivision Appeal Hearing was rescheduled for the August 28, 2012 meeting.

6. Community Comments

Robert James Claus 22211 SW Pacific Hwy, Sherwood. Mr. Claus submitted written testimony into the record (see record, Exhibit 1) and commented regarding conservation and obtaining hunting licenses. Mr. Claus commented regarding the Council's actions concerning legal counsel and the Planning Commission, the authority that the City Manager has in Sherwood, and decisions the Mayor has made regarding legal counsel.

7. Old Business

None

8. New Business

a. Public Hearing- Sentinel Self-Storage Annex (SP 12-03)

Chair Allen opened the Public Hearing and read the public hearing statement for SP 12-03 Sentinel Self-Storage Annex. Chair Allen asked regarding any ex parte contacts, bias or conflicts of interest from the Commissioners. Seeing none, Chair Allen turned the time over to Brad Kilby, Senior Planner for the staff report.

Brad presented a presentation (see record, Exhibit 2) and explained that the Sentinel Storage site was on a 55 acre parent parcel with the access on SW Langer Farms Parkway. Brad stated that the Sherwood Village (Langer PUD) was a 125 acre, 8 phase, mixed use development and all of the phases, except Phases 6, 7, 8 and a portion of 4 have been developed. Tonight's application was a proposal to develop a portion of Phase 8. Brad explained that the application is also a portion of lot 5 of the approved Langer Farms Subdivision that will be under appeal before the Commission on August 28, 2012. Brad explained that the subdivision was approved as a staff level decision because it involved fewer than 10 lots.

Brad said the proposal was to construct 430 storage units on approximately 6.93 acres and the site was isolated by wetlands, a railroad right of way and a proposed regional storm water quality facility. The access would be provided via an easement to SW Langer Farms Parkway and the facility is proposed to be gated and fenced. Brad explained that the wetlands were required to be dedicated as part of the PUD at the time that Phase 8 was developed and the regional water quality was part of a Developer's Agreement that was passed in 2007. Brad stated that staff's recommendation is to approve with the following conditions. Brad explained the conditions:

- Tree mitigation, at about \$16,000 in mitigation for proposed tree removal as the application came in under the old tree code
- Trash enclosure access clarification for Pride Disposal
- Revised Lighting Plan
- Easements to the Regional Water Quality Facility and access to the facility by City staff
- Dedication of the natural resource area as stated in the original PUD.

Brad concluded his staff report and asked for questions from the Commission.

Commissioner Russell Griffin commented regarding a drain near the water, air and waste dump on the northeast corner of the site and a 6' x 6' restroom and asked what sort of measures were being taken to ensure that none of the waste spills over into the Water Quality Facility. Mr. Griffin asked for clarification regarding who would be pumping the fuel and what kind of fuel will be at the site. Mr. Griffin stated it was good they are keeping trees on the south edge of the

site, but there was no internal landscaping. Mr. Griffin asked what the 1500 square foot building will be used for and if the storage units are air conditioned.

Brad answered that the bathroom and wash station would be required to be pumped into a public sanitary sewer system and the Engineering Department would review a final grading plan to ensure that any spillage would go into that system. Brad noted that there could be a curb at the fence line, that there are no requirements for interior vegetation, and the 1500 square foot building is also proposed as storage. Brad said he would let the applicant address those questions.

Commissioner John Clifford commented regarding the long driveway and the ability for a vehicle with a trailer to turn around if it was unable to access the facility. Mr. Clifford asked if the driveway was City property. Brad answered that the driveway was an easement across another portion of Phase 8 and it will be maintained by the applicant. Brad added that this application is intended to be an annex so all of the business will be conducted at the Sentinel Storage main office and this portion will be a gated facility, with access to it. The facility should have signage and the applicant can speak to the operation of the facility. Mr. Clifford asked regarding temporary or permanent signage, for the annex portion, and signs advertising lease space on the frontage of the property. Brad answered that signs would be subject to the sign code; that permanent signs would be subject to what was allowed in light industrial zones.

Mr. Clifford commented that there is no parking available except it would only be allowed in front of each individual unit. Brad confirmed and stated there is no requirement for parking, because there is no office space on site and only a few vehicles in the facility at a time to pick up and drop off items.

With no more questions for staff from the Commission, Chair Allen asked the applicant to come forward and give testimony. Julia Hajduk added that she would keep track of how much time the applicant uses and inform how much time is remaining.

Chris Goodell, from AKS Engineering, 13910 SW Galbreath Drive, Ste. 100, Sherwood representing the applicant, Langer Family LLC. Mr. Goodell stated the project involved the development of an approximately 7 acre site with a self-storage facility zoned PUD Light Industrial. Mr. Goodell stated the project was an important project to the property owner, they appreciate staff's recommendation of approval and support the conditions of approval recommended. Mr. Goodell introduced Alex Hurley, Project Engineer from AKS to answer specific questions addressed by the Commission.

Mr. Hurley stated that regarding the questions about the water, air, waste dump station there is a large rectangular box on the plans that represents a concrete pad that will be graded so just that area drains directing to a catch basin that will then drain into the sanitary sewer system to avoid any spill issues. Commissioner Griffin asked if there was water access to wash things down into the drain. Mr. Hurley confirmed that it was set up for that purpose. Mr. Hurley explained that the pad will not be curbed as the vehicles need to be driven on and off of the area, plus there needs to be an access way to get to the regional storm water facility. Essentially there will be a lip to drain toward the catch basin and there will no way for it to spill into the storm drain system.

Mr. Griffin inquired about the restroom. Mr. Hurley explained that it will be a fully functional restroom with the approximate dimension of 6' x 6', but he may need to be a little larger to meet

ADA requirements. Mr. Hurley stated that the building design has not been completed yet and the plan shows the restroom location only.

Mr. Hurley commented regarding the fuel and propane location and stated the fuel is intended to be diesel. The operation of that is so that someone who wants to fuel up can make an appointment and a representative of Sentinel Storage will come and take care of that operation. Mr. Hurley stated that they did not think this will be used every hour, but is intended for when somebody comes back from a trip and wants to fuel up their RV. Mr. Griffin asked if the fuel area will be locked up in some way to prevent people from using or spilling. Mr. Hurley confirmed.

Mr. Goodell answered regarding Building #13, the 1500 square foot building, and stated it is a cold storage building. Mr. Goodell stated there is a doorway and you would enter individual units from inside the building. Mr. Griffin inquired if it was like a meat locker and frozen or just cool. Mr. Goodell answered that the other units will not have air conditioning and this one will; the level of air conditioning has not been determined at this point, but that it will be controlled. Mr. Griffin asked regarding the number of units inside of the building and the windows shown on the north elevation of the building. Mr. Goodell replied that the number of units had not been determined and evidently two units will have a window.

Mr. Goodell inquired if the Commission had other questions.

Chair Allen asked if they wanted to speak to the vehicle turn around question. Mr. Hurley stated that this facility is meant to be an annex, there would be signage with directions to the office, and the people who go down that road will have the right to get into that unit and can open the gate with the access codes. Mr. Griffin asked what would happen if someone drives down the access road and the access code does not work. Mr. Hurley answered that they could call the main office for help so they do not have to back up. Commissioner Lisa Walker asked if there would be a courtesy phone. Mr. Goodell responded that they haven't looked into that yet and the thought is that it would be a personal cell phone.

Chair Allen asked Julia what time the applicant used. Julia replied that it has been a little less than 7 minutes including questions so approximately 5 minutes of testimony. Chair Allen stated there would be 25 minutes reserved for rebuttal.

Chair Allen asked to receive public testimony and stated that each speaker would be allowed 5 minutes of time and asked that each person draw the Commission's attention to the approval criteria they wish to address and what meets or does not meet that portion of the code.

Susan Claus, 22211 SW Pacific Hwy, Sherwood. Ms. Claus asked for an extension of the Public Hearing because of the truncated staff report, lack of testimony from the applicant, and that the report was generated only seven days ago. Ms. Claus commented on the order of testimony and that she was testifying first when she was an opponent. Ms. Claus stated one of the most basic problems she had with the application was that it is not contiguous property, and the City is trying to give the applicant extra benefits in the Zoning Code. Ms. Claus commented regarding only having one entrance and exit and that the access is not a road. Ms. Claus stated that there was not an office located on site and the property has a separate ownership from Sentinel Storage, and asked how that is possible. Ms. Claus indicated that Sherwood has never done this in the code before and has never done this for any other applicant. Ms. Claus commented regarding calling it

an annex when it has two or three times as many units. Ms. Claus stated that spillage is also a problem and suggested that there needs to be some kind of assurance that it is going to be handled on a regular basis, because the property is next to a sensitive area.

Ms. Claus commented regarding the lack of a secondary fire access in the case of an emergency and said that with 430 units it would be millions of dollars of damage. Ms. Claus commented regarding none of it being properly planned, trusting that the business knows what they are doing, and that they can protect users of the facility. Ms. Claus stated the application was for a commercial storage in a light industrial district and the applicant's pre-supposing with a subdivision application that went through an administrative process. Ms. Claus asked why the owners can't disclose the full story and commented on the manner in which the applicant is cutting up the 55 acre parcel. Ms. Claus asked the commission to carefully look at the benefits the applicant is trying to have that are not code related, and value the applicant is bringing to the City.

Chair Allen asked staff regarding keeping the record open. Julia answered that the Commission can continue the hearing to the next meeting, at which point people can submit testimony up until the next meeting, or the Commission can close the oral record and leave the written record open for the seven days.

Scott Haynes, 22300 SW Schmeltzer Road, Sherwood. Mr. Haynes stated he was testifying as a citizen and not as a representative of the Chamber or of the Sherwood Education Foundation of which he was a member. Mr. Haynes stated he was a proponent of this plan and commented on the young family lifestyle in Sherwood that often includes ski boats, ATVs, other toys and the need for a place to store it. Mr. Haynes stated that Woodhaven, along with other places with an HOA, does not allow this type of storage inside the subdivision and it was not welcoming when new families receive fee notices from the HOA. Mr. Haynes commented regarding building the City business scope with this large plan, creating jobs and getting a return investment from our Urban Renewal District. Mr. Haynes commented that this \$5 million project will be close to our Urban Renewal District and will bring tax dollars back into that to help out that extra tax burden. Mr. Haynes indicated that he hopes everybody will approve the application.

Commissioner Griffin asked Mr. Haynes if he was a boat owner. Mr. Haynes responded that he worked on them and enjoyed ATV's. Mr. Haynes added that he sold large commercial batteries for RV's and stating that people who own expensive RV's and boats are protective of their investment and are careful as to who touches or works around them. Mr. Haynes said there are safety mechanisms such as the pad described and he has witnessed them working well. Mr. Griffin commented that his intent was that everybody is human and prone to mistakes and it the Planning Commission's job to ensure that if a mistake is made, there is a system in place that does not let anything into the regional storm water facility.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus provided the Planning Manager with documents for the record (see record, Exhibits 3, 4, 5). Mr. Claus commented on calling the project an annex and there being no unity of interest because Clarence Langer owned Sentinel Storage and the property for the application was owned by another. Mr. Claus suggested that this negates the application automatically and commented on the applicant not stepping forward. Mr. Claus commented on mini storage not being permitted in 1995 when the PUD was issued and stated that the mini storage, Home Depot and everything across from Home Depot was a non-conforming use. Mr. Claus commented regarding expanding a non-conforming use, the

absence of legal counsel, and staff making statements without a law license. Mr. Claus commented regarding the unity of use and putting two properties together illegally under the assumption that they are under the same ownership. Mr. Claus commented on the applicant having a history of selling property and commented that this was no longer a PUD. Mr. Claus stated he has testified in detail because he wants to appeal to LUBA, but will withhold his other complaints out of courtesy to Mr. Allen.

Mr. Claus commented regarding a lack of water history for the property and said there was 65 million gallons of water in the field that included over 5% of the needed water supply for the town. Mr. Claus commented that water on a farm goes in and water on asphalt goes off and regarding development being called desertification. Mr. Claus commented on the 1000 year pollen record pollution below the surface, and protecting our water. Mr. Claus commented regarding the U.S. Fish and Wildlife Service not being contacted and the design of the storm water pond. Mr. Claus stated he recommended that the Commission continue the hearing or reject the application on these grounds; that there is no design criterion, because it is an annex, and it violates standards. Mr. Claus commented on political speeches being time, place, and manner, content neutral and the platform required. Mr. Claus stated that the Commission could not read his written comments in one night and should continue the hearing for two weeks in order to a read his submitted documents or risk violating the first amendment.

Chair Allen stated that the request to continue is entitled to automatic approval and the Planning Commission had options on how to continue, but would continue the hearing.

Casey Overcamp, 23469 SW Richen Park Terrace, Sherwood. Mr. Overcamp stated that he and his wife were heavily involved in Sherwood and he felt like he represented the primary demographic of Sherwood. Mr. Overcamp stated that this is a town of families with recreational vehicles and storage needs and he was a proponent to the Sentinel Storage. He expressed his concern that a few people attempt to block applications through obstruction and legal scare tactics. Mr. Overcamp said he supports the application and development that adds to the tax base for the Urban Renewal district, schools, and City services and he believed in the responsibility to support growing businesses and new businesses coming to Sherwood. Mr. Overcamp stated he had read the entire submittal for Sentinel Storage, he agreed with what City staff has done and offered his support for Sentinel Storage.

Commissioner Griffin asked how Mr. Overcamp found out about the meeting. Mr. Overcamp answered he kept an eye on the Planning portion of the City website.

Scott Johnson, 22689 SW Sanders Drive, Sherwood. Mr. Johnson stated he was a business owner in town and was a member of the Chamber of Commerce. Mr. Johnson commented that as a business owner he knew it was difficult to grow a business and to get a plan through the planning process. Mr. Johnson commented on the need to support those businesses that decide to build something new and try to do things the right way by getting permits, following the zoning, and going through all of the requirements. He stated he was a proponent and commented on the need to support this business, because it would create jobs, increase our tax base, and be beneficial to our residents who have ATVs. Mr. Johnson stated he was glad to hear that the city is recommending approval of the application and he would recommend the Commission move forward with it.

Jim Haynes, 22300 SW Schmeltzer Rd, Sherwood. Mr. Haynes stated he did not live within the City, but has been involved in various developmental projects, programs, as a volunteer with the School District, as a former Chamber of Commerce President, and sent his children through the Sherwood school system. Mr. Haynes stated he has watched the City to grow and the demographic change in a positive and dynamic way; making the City one of the best and most desirable communities in the state. Mr. Haynes stated that we have a lifestyle here that includes a lot of stuff; RVs, boats and in his case classic cars. Sherwood is heavy on people who like to recreate and often zoning or HOA rules prevent effective storage of all these different types of equipment. Mr. Haynes stated that this addition makes a lot of sense; covered climate controlled, highly secure, storage with available business uses. He said the project would generate revenue, jobs, answer lifestyle issues, and make Sherwood that much more desirable place to live. Mr. Haynes commented that there was not a lot of municipal expense as far as law enforcement or other city governmental expenses and indicated that he was a proponent of the project

Wes Freadman, 21315 SW Baler Way, Sherwood. Mr. Freadman said he managed the Portland office of an environmental services company and he supported the project for a number of reasons. Mr. Freadman said that growth is good whether it is a business or a city, and a city was a business run by the community. Growth brings jobs and local businesses benefit through permanent jobs, tax revenue, safer streets and roads, with sidewalks, bike paths, and parks. Mr. Freadman commented on the community benefit by itemizing different uses for the annex such as storage for RV's, parking, and small business equipment or inventory storage. Mr. Freadman commented that the vacant land was being put to a beneficial use and we should support local businesses and families who are willing to invest their time, money, and effort. Mr. Freadman said the Langers are a valuable asset to the Sherwood community and they give back in numerous ways that benefit the community. Mr. Freadman stated he would be interested to know how many jobs have been created by businesses built on Langer land and what taxes were generated.

Sanford Rome, 14645 SW Willamette Street, Sherwood. Mr. Rome commented regarding statements made by people who don't live within the City. Mr. Rome commented that the storage facility has a lot of potential for storage, but the rows of units are not covered except for the 1500 square foot unit in the front, and the rest are like small garages similar to existing storage facilities. Mr. Rome commented regarding *standing* and stated that as an old timer in Sherwood like the Langers, and others, who have helped build Sherwood.

Mr. Rome said he was not opposed to the application, but if it was a legal use he did not want to argue with the man behind him or to spend the City's money fighting through the courts. If it is questionable maybe it is better to be postponed, revisited or to have representatives to give the Commission good input, because City Council often approves the Commission's recommendations. Mr. Rome said all he asked was that it did not come back and cost himself, his children and others more money because of something unforeseen, adding that money used to fix problems, created by the project, comes out of all of our pockets.

Marc Irby, 15690 SW Oregon Street, Sherwood. Mr. Irby stated he was a proponent for the project and said he did not believe a project like this would not come before the Commission if it was illegal. Mr. Irby said he heads a multi-million dollar lumber company that was growing and he needed the space a storage facility would provide, to accommodate more growth and hire more people. Mr. Irby said his company's employees live, work, and spend money in Sherwood and there is not a facility in Sherwood that can accommodate his wants and customization that his company needs that this project offers. Mr. Irby said he does not want to go to Tigard, Tualatin,

or Newberg, but the company may be forced to move locations and this seems like the most logical step to give the community what we need.

Preston Johnson, 1432 SW 66th Avenue, Portland. Mr. Johnson said he works in Sherwood; he grew up playing hockey at the Sherwood Ice Arena, and was a candidate for moving to Sherwood. Mr. Johnson commented that if he could live in the City, close to work and have the storage facility in place to store his things, it would be a great thing.

With no additional testimony, Chair Allen gave the applicants 25 minutes for rebuttal.

Chris Goodell, AKS Engineering returned and stated he could not speak to the written testimony submitted earlier, but explained that the windows [in building 13] face into a breezeway where there will be individual doors to the individual units. With respect to the ownership questions because the application was an annex, Mr. Goodell said that ownership is not relevant to being an annex, nor does it affect operations, and described that it is a keypad entry without an office where business operations, like lease agreements, are handled electronically, or over the phone. In the future if somebody wanted to do something different and have an office on the site they could come before the Commission and change the site plan to have an office. Mr. Goodell asked if there were any other questions from the commission and stated he wanted reserve his time as the record was going to be held open or the hearing was going to be continued.

Chair Allen asked regarding who the applicant for the project was and who owned the site. Mr. Goodell answered that it was Langer Family LLC in both cases.

Commissioner Griffin asked regarding the method of conditioning for the main building. Mr. Goodell answered that he was unsure.

Commissioner Michael Cary asked regarding emergency access and if the Tualatin Valley Fire & Rescue (TVF&R) was comfortable with the design. Mr. Goodell confirmed.

With no other questions from the Commission, Chair Allen asked for final staff comments.

Brad stated that staff needed time to look over the testimony received and prepare a written response. Brad said that City land use is not tied to ownership other than the owner needs to sign the application authorizing a use on the property.

Chair Allen commented that there were items that the Commission would like staff to provide further analysis. Chair Allen suggested ways to honor the request to continue the hearing. Discussion followed.

Staff was asked to prepare for any further discussion on the following items:

- Secondary fire access,
- Any questions of ownership or a business relationships between land uses at two different sites,
- Any standards beyond CWS requirements regarding Fish and Wildlife Services,
- Requirements for an ADA restroom,
- A plan in place to secure the fueling stations and any other standards that may apply
- Some kind of permanent communication system on site to be able to communicate with the main office,

- Video monitoring for the dump station requirements,
- Height restrictions within the zoning,

With no other questions the following motion was received.

Motion: From James Copfer to continue the hearing to the meeting of August 28, 2012 and pick up at the point of public testimony, Seconded by Vice Chair Albert. All Commissioners Voted in Favor.

Chair Allen called for a recess and when he reconvened the meeting he moved on to the next item of business.

b. Public Hearing- Residences at Cannery Square (SP 12-04)

Chair Allen read the public hearing statement and asked if members of the Commission had any ex parte contact, bias, or conflict of interest.

Commissioner Griffin stated he owned a business near, but not adjacent to, Cannery Square and it would not affect his ability to make a decision.

Commissioners Walker, Cary, and Clifford stated they had driven through the site. Commissioner Copfer stated he had a conversation with Sandy Rome regarding the rear façade of the building. With no objections from the audience regarding Commission members' ability to participate, Chair Allen turned the time over to staff.

Brad Kilby, Senior Planner gave a presentation for Residences at Cannery Square (SP 12-04) (see record, Exhibit 6a). Brad stated that the applicant was seeking final plan approval under the Cannery PUD (PUD 09-01) and site plan approval. The site is two parcels bisected by SW Highland Drive, with SW Willamette Street to the south and SW Columbia Street to the north. Brad said that this would be the next phase of the Cannery PUD and the commission has already approved the Cannery Plaza and Community Center with an adjacent parking lot. Brad said that the City Council approved the Cannery PUD in March of 2010, which was a seven-phase, mixed used development on 6.4 acres in downtown Sherwood, and this was the third phase of the PUD. Brad stated that the project proposal was for 101 apartment units with 101 proposed on-site parking spaces. The applicant is only required to provide 65% of the minimum parking requirement or 89 spaces. The proposed parking does not account for any on street parking in front of the units.

Brad showed a drawing of the Site Plan and stated it was consistent with what was proposed in the PUD preliminary plan. Some of parking is beneath a canopy with the remainder being uncovered parking. To the west of the property, and on the other side of Willamette Street, are single family residential properties with the City Public Works yard to the east.

Brad stated that staff recommends approval with conditions. The plan is consistent with the PUD approval, the regulations that are in place, and it is an allowed use within the zone. Brad said that there were a few outstanding issues and directed the Commission to page 36 of the staff report where condition C3 requires that the applicant provides a sight obscuring fence between the single family and multi-family residences and between the Public Works yard and the multi-family residences; the code allows for the applicant to provide an evergreen screen. Brad explained that at the time that the application was received the City was considering a regional

water quality facility and the applicant wanted the ability to tie into that storm water quality facility at a future date and before the buildings are occupied. Brad read the condition regarding storm water which requires the applicant to obtain construction plan approval from the Engineering Department for all public improvements including the on-site water quality facility if an alternative has not been agreed upon at time of final site plan review. If the applicant, City and Clean Water Services (CWS) reach an acceptable agreement to use the regional water quality facility, the applicant may submit revised plans showing how the areas for the on-site water quality facility will be otherwise landscaped or utilized consistent with the approved development plans and a modified engineering compliance agreement. Brad further explained that the applicant will have to provide on-site water quality facility in the absence of the regional storm water quality pond and per condition E6, where it states that an on-site or regional storm water treatment system shall be either in place, operational, or an agreement and assurances acceptable to both the City of Sherwood and CWS in place.

Brad concluded by referring to the site plan and said there was concern about the properties on the other side of Willamette Street not being screened and currently there are street trees that were put in place with the public improvements for the Cannery PUD project and the proposed site plan shows another row of trees and shrubs and ground cover to provide for the additional screening.

Chair Allen asked for questions from Commission members.

Commissioner John Clifford asked if any of the units were handicap accessible and if there was a requirement. Brad answered that this was a Building code question and commented that he believed that all ground floor units were required to be accessible unless there was an exemption.

Mr. Clifford asked regarding the proposed roof not being in compliance with the old town design guidelines. Brad replied that there is a specific prescribed pitch and it was unclear what pitch was proposed. Mr. Clifford asked if the utilities would be screened above. Brad confirmed.

Commissioner Griffin asked regarding the garbage bin being pushed to the curb by the apartment manager for pickup and asked if this was acceptable to staff. Brad replied that there is a condition that there is an on-site manager and Pride Disposal has affirmed that this is an acceptable operation.

Commissioner Cary asked regarding the 65% required parking in the old town overly and how the extra parking would be managed if there was more than one car per unit and the effect on the community center parking. Brad replied that the community center parking did not stretch as far as the apartments and the minimum required parking has been met. Typically in a suburban multi-family development there might be one car for every bedroom, but with a downtown setting you might have more people willing to take transit.

Commissioner Clifford asked regarding restriction against outdoor storage and asked if that included balconies and how it would be addressed. Brad replied that he would let the applicant answer.

Mr. Clifford asked regarding the pads for the trash and recycling and expressed his concern for when tenants were moving in and out. Brad deferred to the applicant and stated the proposal includes a compactor. Brad commented that somebody will have to wait or work around it, but this is not a scenario that occurs on a regular basis.

Chair Allen asked for applicant testimony.

Jeff Sackett, Capstone Partners, 1015 NW 11th Avenue, Suite 423, Portland. Mr. Sackett introduced Travis Throckmorton, Project Architect at Ankrom Moisan, and other members of the project team, many who have been involved all four years of the Cannery PUD project. Mr. Sackett gave a brief history of the project and commented on the strong apartment market nationally and in Sherwood. Mr. Sackett said the approved PUD from March 2010 included a conceptual plan for a 101 units, in two, 3-story apartment buildings and this is what the proposal is with greater detail that now includes bike parking and additional tenant storage. Mr. Sackett stated they have reviewed the staff report and would accept all the conditions as proposed.

Mr. Sackett commented on the garbage question and clarified that there are indoor trash rooms that collect via a trash chute into a dumpster. There will be a full time property manager and a roving maintenance man from the property management company that will be tasked with rolling the dumpsters out on trash day. If the trash is not picked up because it has not been put out the residents will be very unhappy and the problem will be handled.

Travis Throckmorton gave a presentation (see record, Exhibit 6b) and showed the different phases of the PUD and said the proposed project is 101 living units. Mr. Throckmorton said the units set back and away from Willamette Street, creating a buffer zone; the property line by the Public Work Facility will have evergreen screen with a vertical trellis that reaches about 10 feet where the buildings are. There is also vegetation zone near the west building.

Mr. Throckmorton commented that the architectural pattern book created for the PUD discusses that the primary entry be visible from the street and near SW Columbia Street. The building entries are directly across from each other with the leasing office, and a larger public entry, in the west building and utilize store front glazing. Mr. Throckmorton said that the buildings will be secure with signs that identify the East and West buildings. Mr. Throckmorton stated that the pattern book discusses reinforcing the most visible corner of the project and showed the main corner of the building that reinforces through massing, materials, and color with the use of brick; a fiber cement panel with 6" plank lap siding is used on the first two floors and a smooth surface used at the entry and on the third story. Other prominent materials on the project are the fiberglass reinforced shingles on the roof, the storefront glazing at the entrance, the residential windows, some metallic railing, and concrete planters near the entries.

Mr. Throckmorton said that planters and porches have been created in the setback zone so that every ground level unit facing the street will have an entry with a five foot setback zone acting as a buffer for private usable space. Mr. Throckmorton commented that windows are used to comply with the pattern book requirement that prohibits large expanses of wall and added that it is all residential, with a leasing office.

Mr. Throckmorton stated that the other significant item in the pattern book is regarding the roof design; the screening of mechanical units and the roof pitch. He commented that both issues are resolved the same way with the ridge of the roof creating a well in the middle of the building where the mechanical units will be placed, screening them from view from all sides. Mr. Throckmorton said a 4:12 roof pitch was used and asked that the condition regarding the pitch be discussed and amended.

Mr. Throckmorton addressed the view from Willamette Street and the landscape buffer stating that the materials used for this side of the building are the hardi panel with the lap siding and the smooth surface panel. Mr. Throckmorton clarified that the covered parking was part of the building and showed an artist's rendering of the view from Willamette Street with the landscape buffering.

Chair Allen asked how old the represented trees were estimated to be. Mr. Throckmorton answered that they looked fully grown and it was hard to represent what trees will look like at different phases. Mr. Throckmorton said the trees were planted roughly 80 feet from the buildings. Other renderings of the site were shown with time lapse view of the screening next to the Public Works building. The slides showed a progression of the tree and plantings growth with 4" caliper maples at planting, at year three, and year five. Mr. Throckmorton stated that the trellis was 10' tall and the idea was not to screen the whole view, but to screen the ground floor from parking. Mr. Throckmorton showed examples of what would be planted in different areas of the site.

Mr. Throckmorton commented on the floor plan with the bicycle room and the trash room. The trash is collected in a compactor and will be rolled out when Pride Disposal comes to pick it up.

Julia informed Chair Allen that approximately 23 minutes was used by the applicant including questions, so the applicant had about 10 minutes remaining for rebuttal.

Chair Allen asked for public testimony.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus commented that there are two kinds of decisions in industrial psychology that are bad; one is bad information; two is a flawed decision making mechanism. Mr. Claus commented that the commission should ask regarding a contract drafted about two years ago on the layout and price for the project and said his understanding was that ten thousand dollars per unit was paid, the applicant was paid for engineering work, and does not have to pay until it is 95% occupied. Mr. Claus asked if the commission had an idea of the discount given and said that he put in all of the street improvements over there.

Mr. Claus said that the City did not have a municipal attorney, but a contract attorney who goes to cities, writes contracts, and does things. Mr. Claus commented that the Langer's property is a zero sum game for Urban Renewal and that Wal-Mart wanted to go out on the highway. Mr. Claus remarked that the City cannot say it is increasing the tax base and said that Urban Renewal should take an area, demolish it, and raise the value by four times over what was paid, in order to break even. Mr. Claus stated that the City's Urban Renewal base is a joke and that the City took all of this tax revenue stuff down (pointing to Cannery area). Mr. Claus commented regarding on the proposed project lowering property values of adjacent properties and the parking for the application being insufficient.

Mr. Claus commented regarding making money from turning farm deferral land into the best zoning and claiming it is a benefit. Mr. Claus told of discussions he had on the subject of retailing being a zero sum game and said one McDonald's is going to serve an X number of people and there not being a need for another one until population doubles. Mr. Claus commented that it will lower property values and said the City is not supposed to take Urban Renewal money and give it away, make subsidies, or have the city attorney make agreements that

come out after a LUBA appeal. Mr. Claus suggested that the Commission get legal counsel to take out the corruption and enable members to ask legal questions about conflicts of interest. Mr. Claus said the property could have been sold to anybody at a huge profit.

Ethel Simpson, 22749 SW Highland Drive, Sherwood. Ms. Simpson stated she lived up the street from the subject property and that her concern about the apartments was that there was not enough parking. As a homeowner she did not agree with the parking requirements and said that there should be 2 parking spaces for the two and three bedroom apartments. Ms. Simpson commented that she had been to previous meetings that supposed that people could park in parking lots in Old Town and said it did not make sense. Ms. Simpson commented that her daughter lived with a roommate in Tigard and they each had their own car and there should be at least one spot for each apartment. Ms. Simpson commented she was told by the applicant that a coffee shop might be nice across the street from the plaza, but she felt that a parking lot was of greater concern.

Sanford Rome, 14645 SW Willamette Street, Sherwood. Mr. Rome gave a document to Planning Commission members, with a digital copy to Brad Kilby for the main screen, and asked that they be added to the record (see record, SP 12-04, Exhibit H). Mr. Rome commented on the brick placed on the entry of the apartment buildings and said it didn't look too bad.

Mr. Rome cited code references such as; Adequate Parking, Section 16.94; Traffic Mitigation pages 4 and 5 of the original PUD proposal; Landscape, 16.92; and stated the reason why he was going through all of the codes was because he took an appeal to LUBA and was told he had a wonderful case, but he had not referenced any codes, and he lost.

Mr. Rome commented on the exterior design of City Hall and the brick used at the entry on the subject property. Mr. Rome made comparisons between the front and back side of a building on Railroad and Main the proposed project. Mr. Rome commented that if a brick façade was applied it does not quite look like a pig. Mr. Rome said he believed the Planning Commission should require, as an additional requirement, that the façade at Willamette Street should have the same beautiful part as the front. Mr. Rome showed a picture of the subject property as seen from his property and commented on the view he would see from his house with growing trees, parked cars and a monolithic façade, reiterating that brick would improve the look.

Mr. Rome showed a picture of the entrance to Lincoln Street from Oregon Street and stated the City paid for improvements because of the junction at the railroad track. The next view showed the other end of Lincoln Street. Mr. Rome commented about the lack of sidewalks or curbs and the lack of a storm water facility and asked how that will work for 300 trips a day which is based on the number of apartments. Mr. Rome stated that Lincoln Street is the primary connection to Oregon Street, yet it has been overlooked because the traffic planner and engineers were bought and paid for by Capstone. Mr. Rome commented that the City gets their report and our engineers use the submitted reports and do not conduct their own independent study.

Mr. Rome commented regarding the Cannery Plaza being built without a restroom and stated he had asked the City for a restroom before the plaza was built, but received no consideration.

The last picture was of Willamette Street. Mr. Rome said traffic that does not take Lincoln Street will use Willamette and commented regarding a developer building Willamette as an 18 foot half street built in 1990.

Mr. Rome asked that the Commission consider his three items before approval; parking concerns, street improvements on Lincoln Street and Willamette Street, and an improved look for the façade facing Willamette Street.

Susan Claus, 22211 SW Pacific Hwy, Sherwood. Ms. Claus commented that her issue was the parking and stated it was not unprecedented that there are problems with apartment units. Ms. Claus commented regarding City Council discarding many of the Planning Commission's recommendations. Ms. Claus commented that there are parking problems with apartment units in general and gave the example of the units on Cedar Brook Way that overflows into the parking lot at nearby professional buildings and even on the other side of Pacific Highway. Ms. Claus held that the problem is that it sets up conflicts with adjoining property owners. Ms. Claus commented that the PUD was pushed through with the idea that if there was a parking problem it could be solved using a permit program with the help of the police chief. Ms. Claus questioned using City resources to solve a problem that could be avoided at the front of it and asked why there could not be a City parking lot on City owned land nearby to help the apartments as well as existing shortages in the area. Ms. Claus suggested that a parking mitigation plan be put in place for when these conflicts come up with adjoining property owners and commented on the cost associated with having a car towed from enforced tow away zones. Ms. Claus suggested that credit not be given for parking on the street and said with the apartments having two or three bedrooms, there needs to be more spaces. Ms. Claus asked that we not make the same problem even though the applicant has met the parking requirements.

Casey Overcamp, 23469 SW Richen Park Terrace, Sherwood. Mr. Overcamp commented that his kids enjoyed the water feature at the Cannery Plaza and he watched the PUD approval with great interest. Mr. Overcamp commented that he thought he represented the silent majority and stated that he was a proponent of the project as a citizen of Sherwood. Mr. Overcamp said he thought the development would bring a younger demographic to Sherwood, it will increase the City's tax base, and would increase the foot traffic in the Old Town area which will serve to vitalize Old Town businesses. Mr. Overcamp commented that he did not have a business interest in Old Town, but he felt it would help fill some of the vacancies in the area.

Matt Langer, 21315 SW Baler Way, Sherwood. Mr. Langer commented that he had not intended to testify, but he felt compelled to comment regarding previous testimony he had heard being all smoke and mirrors. Mr. Langer commented that the Planning Commission should have the confidence to trust staff and make decisions. Staff has spent weeks evaluating the information and the applicant has spent years and tens of thousands of dollars to ensure that they have a legitimate legal application for submittal. Mr. Langer commented that the suggestion that lawyers should be present was a scare tactic to delay the commission and the community being in favor of the application. Mr. Langer said the applicant has addressed the trash issue well.

Mr. Langer commented that previous agreements made years ago and "zero sum games" did not concern the Commission's ability to approve the application. Mr. Langer stated that the City of Sherwood has one of the best Urban Renewal examples in the entire country and a project like this, that costs tens of millions of dollars to build, is not going to lower the property value of adjacent properties when compared to a bare piece of land with weeds on it. Mr. Langer said this project would bring more customers to Sherwood Old Town and was a solid win, win, win for the Sherwood community all the way around. Mr. Langer remarked that there was no systemic corruption as asserted and the quality of people that are watching over the safe keeping of our

town. Mr. Langer added that these types of projects have a lot of dirt work and delaying approval past mid-October would cost the developer tens of thousands of dollars trying to deal with the mud and unhappy residents. If the applicant gets to work now and gets the dirt work done it will save a lot of grief for the entire community.

Brad Kilby added that Scott Johnson, 22689 SW Saunders Drive, Sherwood, was unable to stay but indicated that he would like to go on record of supporting the project.

Scott Haynes, 22300 SW Schmeltzer Road, Sherwood. Mr. Haynes stated that he was president of Sherwood Rotaract, which is the Rotary for 18-30 year olds and said that these are the sort of people who are looking for these types of apartments. Thirteen of the members do not drive; they ride bikes, use public transportation or carpool. Mr. Haynes commented that this is what the project is aimed after; people who want to stay in the community, but might not be able to buy a house. Mr. Haynes stated his first three jobs were in Sherwood, he graduated from Sherwood High School, and he has lived in the Sherwood area for 22 years. Mr. Haynes commented that he wanted to ensure that Sherwood keeps on growing to provide for places like Old Town and Sherwood has to have more apartments in order to sustain and build the community. If we stay the same then we will start going backwards. Mr. Haynes remarked on the number of jobs that will be created in the building and landscaping of the project and said that this may be something he could move into for a year or two before he bought a house in Sherwood.

Chair Allen asked for any addition public testimony. Seeing none, he asked for applicant rebuttal. Jeff Sackett and Travis Throckmorton came forward.

Mr. Sackett commented regarding the parking concerns and stated that they have studied the issue a great deal. Mr. Sackett stated that they start with the code minimums, but are more concerned with market needs and what will work and look at what the target market is, as well as, what the competitor is doing. This project has an excess of required on-site parking and with on-site parking and parking on perimeter streets the project is at one stall per bedroom. Mr. Sackett observed that at competitive projects in Sherwood, Tigard, and Tualatin the average was .98 per bedroom and the Creekview project, which has a perennial parking challenge, was at .78 per bedroom. Mr. Sackett added that they are required to have an onsite property manager as part of a condition of approval to keep the quality of the project up, manage tenant behavior, and parking. Mr. Sackett commented that they did not anticipate parking to be a problem, but if it is, there is a person there that can address it. Mr. Sackett commented on how many cars there might be for each apartment and said of there is not going to be any one particular time when all the cars are one site because of diverse lifestyles and schedules.

Mr. Sackett commented regarding traffic on Lincoln Street and said that the City traffic engineers imposed conditions on the PUD that have all been met except for one the has not been triggered yet. Mr. Sackett stated that Capstone has also hired traffic engineers to study the conditions with current data and no additional mitigation measures have been recommended by staff.

Mr. Sackett commented that the project is the first of many phases of a mixed use project to get people living and experiencing Old Town Sherwood, because the retail projects need people, customers, and foot traffic. Mr. Sackett said that Capstone had a long term, vested interest in the Cannery Square project and it is important for this first phase to be successful for the rest of them to be successful.

Travis Throckmorton commented regarding required ADA apartment units and said that the Building Code dictates a certain percentage of ADA units are provided. They are fully accessible units; two will be in the west building, one in the east. Building code also mandates that other units be adaptable for someone to turn it into a retrofit unit.

Mr. Throckmorton commented regarding the use of brick on the project and showed the Commission an example of the materials to be used (see record, Exhibit G). The accent colors are only intended to be used at one portion of the building to highlight the entry with the rest of the building in earth tones as stipulated in the architectural pattern book. Mr. Throckmorton said the entire building is clad with the fiber cement panel and the brick is only used at the corner to satisfy the requirement to reinforce the corner. The building is a four-sided building and was not designed to have a back of the building because the buildings have units on all four sides.

Travis Throckmorton commented regarding the tenant amenities provided and said the east building has a larger entry with a lounge and a fireplace. Past the lounge is an enclosed “gathering” room that has a kitchen and is intended for tenants to have a place to meet. Mr. Throckmorton added that the west building has a similar, smaller lobby at the entry with the other room being used as a fitness center. Mr. Throckmorton said that tenants from either building can use the amenities in both buildings and the applicant felt that the landscape design was also a public amenity.

Chair Allen commented regarding the pattern book requirement to reinforce the corner and supposed that the idea came from historical, quarter block development where buildings are on a city grid with a reinforced corner. Chair Allen observed that these buildings take up a majority of the block and suggested that the pattern book might require that the corner is not literally one corner, but is oriented towards significant corners; specifically the corners at Highland and Willamette. Mr. Allen commented that in one respect these corners are the back of the building, and in another respect, a different front of a four sided building and asked if a condition to require an architectural treatment at those corners would be an issue.

Mr. Sackett replied that it would depend on what was expected and commented that it was important for the building to have an obvious main entry and part of that was making the entry special. The corners at Highland and Columbia are like the elbows of the buildings leading into the entry.

Chair Allen said that there was testimony with concerns about the look of the back of the building and explained that his idea was some sort of architectural treatment that is subordinate to the strong corner, but helps the back side not feel like the back side.

Mr. Sackett said they were willing to consider ideas. Mr. Throckmorton added that the architectural pattern book is for the entire PUD which then refers to the commercial or the residential buildings. Mr. Throckmorton read from the architectural pattern book which said that the intent of the guideline would be to reinforce the corner of SW Columbia and Highland through the use of color and material changes or massing and the requirement does not apply to the residential partials at the intersection of Highland and Willamette. Mr. Throckmorton expressed his concern of using brick stating that it was architecturally unsettling, but something might be done in the form of a break in the mass or a change in the cladding within the cement panel; a way to make it distinct without having to change the material using color, texture, and what is there.

Commissioner Cary asked how many bedrooms were in the complex.

Mr. Sackett responded that there are 138. There are 101 parking spaces on site and about 29 spaces on the immediate, adjacent streets. Mr. Sackett commented that parking was fluid and the on street parking adjacent to the property was counted because there is no other demand for that parking and it will be used by the residents of the building.

Commissioner Walker asked if the on street parking would be used by the other phases as they are constructed.

Mr. Sackett replied that they would to some extent and the other properties will have onsite parking for themselves with spill over street parking adjacent to their buildings.

Ms. Walker said that she remembered with the PUD the Commission was not happy with the parking situation and was counting on using some of the parking from other phases as potential overnight parking for the tenants.

Chair Allen asked Community Development Director, Tom Pessemier, regarding the parking study conditioned with the Community Center. Tom replied that the parking study was intended to look at the number of parking spaces utilized in the Old Town area and a company has been selected to do the study. Chair Allen said the parking study would come in before any more phases and would help in future decisions regarding the PUD and parking in Old Town overall.

Commissioner Cary commented regarding the existing traffic flow on Willamette Street and if it was capable of adding more flow if more parking from the development was added.

City Engineer, Bob Galati responded that Willamette Street is currently operating with parking on the street with two lanes of traffic and the parking was provided as part of the street improvement where the street was widened to accommodate on street parking.

Commissioner Walker asked for confirmation that the traffic study indicated that there did not need to be any additional traffic mediation from the proposed project.

Bob answered that traffic study had about 5% of the total traffic counts going down Willamette Street and explained that when using the 300 trips, per Sandy Rome, it would equal 15 additional trips down Willamette Street and the majority of the traffic would go down Pine Street and take 1st Street to Oregon Street.

Chair Allen stated that much of the traffic was discussed during the approval of the master plan and the Planning Commission included recommendations to Council that were not adopted into the standards.

With no other questions for the applicant, Chair Allen asked for staff comments and questions for staff from the Commission.

Brad said he had no addition comments.

Chair Allen commented that the Planning Commission had a handful of recommended changes to Council for the PUD and those recommendations did not end up being part of the final approval. Chair Allen said that generally this project meets the standards that were established in the final approval. Discussion followed.

The Commission discussed the 65% parking standard concerns, acknowledged that there will be a diversity of tenants, discussed alternatives for the back side of the building through use of material or color, and how to continue the meeting in order to grant final approval.

Chair Allen suggested that preliminary approval be granted, subject to final approval at next meeting for purposes of reviewing revised conditions. Discussion followed about timing of meeting and whether to leave the record open in order to receive drawings from the applicant. It was decided that the commission wanted to see the language up to the point of receiving renderings and directed staff to work with the applicant in order to write a condition of approval for amending the back side of the building

Julia asked for clarification that the commission has closed the public hearing, and was proposing to continue the public hearing, for deliberation purposes, so staff can provide amended conditions regarding the rear façade of the building, the roof pitch clarification, and to include the conditions in the staff report.

The following motion was received.

Motion: From James Copfer for The Planning Commission to Continue The Hearing for The Application for the Residences At Cannery Square (SP 12-04) to the Meeting of August 28, 2012 for the Purpose of Reviewing the Conditions as Discussed. Seconded By Vice Chair Albert. All Commissioners Voted In Favor.

Chair Allen called for a recess.

c. Public Hearing- TSP amendment for Cedar Brook Way (PA 12-03)

Chair Allen reconvened the meeting and called the public hearing for PA 12-03 Cedar Brook Transportation System Plan Amendment to order and read the public hearing statement. Chair Allen asked for any ex parte contact, bias, or conflict of interest.

Commissioner Griffin stated he knew the Claus family and his dentist has a building in the general area but it would not affect his decision.

Chair Allen asked if there was any dispute as to the ability for any of the commissioners to participate.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood came forward and challenged Chair Allen's ability to participate in the hearing on the basis that Mr. Allen was present with the Williams, Shannons, Broadhursts, the Elks, Opus, and Julia Hajduk when a solution was formed regarding the roadway. Mr. Claus suggested that Mr. Allen informed Mayor Mays, who came to the meeting and broke it up. Mr. Claus said this was the second time they had an application with the City, where they had specifically followed the rules, and Mr. Allen interceded, turning it down; in both cases Mayor Mays was in attendance. Mr. Claus commented that he did not believe Chair Allen was capable of a fair hearing where the Clauses are concerned, he believed

Chair Allen to be biased, and had ex parte conversation. Mr. Claus said he did not think Chair Allen could render a fair decision because he continually interrupts, and asked Chair Allen to recuse himself in order to have a fair hearing.

Chair Allen stated that Mr. Claus had raised concerns that he was biased and had ex parte contact and explained that the discussions Mr. Claus was referring to occurred four or five years ago shortly after the Transportation System Plan was approved. Chair Allen said that Mr. Claus came to him for assistance, because [Mr. Claus] was concerned that the variety of property owners impacted by Cedar Brook Way did not have the ability to work together in order to develop that parcel. Chair Allen commented that he facilitated with staff, a number of meetings that involved the Broadhursts, Shannons, the Elks, and the Clauses, but he did not recall Opus being involved. Chair Allen said they were not able to reach a solution for a variety of reasons that mainly had to do with the various interests of the four landowners.

Chair Allen stated that his understanding was that the hearing was legislative and so ex parte does not apply and he was not biased about the plan amendment. Chair Allen commented that he had a number of opportunities to consider requests and applications from the Clauses and sometimes he was on their side, sometimes he was not. Chair Allen said anybody who read the record would know that he bent over backwards to ensure that everybody had the opportunity to be heard. Chair Allen said he was not going to recuse myself, because it was a legislative action that will be a recommendation to the Council, and if anyone believes there has been a problem they will have an opportunity to fix it. Chair Allen asked if the Planning Commission members had any questions or concerns. None were expressed.

Chair Allen asked if anyone else wished to question the Planning Commission members on their ability to participate. None were received.

Julia Hajduk, Planning Manager, gave a presentation (see record, Exhibit 7) on the Transportation System Plan for Cedar Brook Way and explained that some of the information presented tonight was received at a work session a few weeks earlier. Julia clarified that the Transportation System Plan (TSP) was updated in 2005 and since then there have been four concept plans that have been developed that amended the TSP; functional classification, local street plan, intersection improvements and a TSP amendment related to the Cannery Square project where the functional classification of Columbia Street was changed from a collector to a local street. Julia said that staff is planning to do a comprehensive update of the TSP in the coming years, but there are a few issues that need to be addressed now to help development and public infrastructure improvements.

Julia stated that the connectivity requirements between Elwert Road and Meinecke Road regarding Cedar Brook Way are not clear in the TSP and the property owners in the area have expressed that this lack of certainty has impacted development interest and potential. Julia said that it is not clear in the TSP what the functional classification of Cedar Brook Way is and showed three maps that identify Cedar Brook Way as a proposed road that was intended to be greater than three lanes. Roads greater than three lanes are generally for collector, neighborhood route, or higher status roads and not intended for local streets. Julia said there was a question if Cedar Brook Way was intended to be local street or higher classification road.

Julia stated that the second issue has to do with the Krueger/ Elwert re-alignment. The Washington County requirements only allow connections to their arterial roads by a road that is a

collector or higher classification. Julia commented that the local connectivity map shows Cedar Brook Way connecting to Elwert Road, but the city would not be able to implement that portion of the TSP, because Cedar Brook Way is a local.

Julia explained that the City recently purchased property to the west of Elwert Road to help facilitate the re-alignment and showed a concept drawing of the re-alignment of a Krueger/ Elwert intersection with a four legged round about. Julia added that the City would like to identify the connection of Cedar Brook way and at least design that leg going to the east.

Julia summarized the proposal by stating that TSP Amendment would

- Change the classification of Cedar Brook Way from a local street to a collector street;
- Clarify that Cedar Brook Way was intended to connect between Handley and Elwert;
- Confirm one access connection to 99W from Cedar Brook Way approximately 990 feet from each existing intersections at Handley and Sunset and
- Would defer the issue of full access or right in/ right out and determined based on development need at a later time.

Julia informed the Commission that letters were mailed to affected property owners informing them of the project, an open house was held on May 31, 2012, and a Planning Commission work session was held on June 26, 2012. Notices were posted around town and published in the paper in accordance with the code. Julia said that agency comments were provided from ODOT in the packet and comments from the DLCDD were provided to the commission (see record, PA 12-03, Exhibit D). Written comments were also received from the Elks (see record, PA 12-03, Exhibit E). Julia stated that her recommendation was to hold a public hearing and consider forwarding a recommendation of approval to the City Council for the September 4, 2012 Council meeting.

Chair Allen if there were any questions for staff.

Commissioner Griffin commented that the wording in the proposal should be “no less than 990 feet” from an existing road. Mr. Griffin commented on the accompanying document from DKS and asked if the Commission was trying to determine if there will be one connection or the type of connection. Julia answered that there will be one connection which is what ODOT informed the City. Mr. Griffin commented that the report said they had no reservations of access that could be used to establish a new street connection. Julia said staff from DKS was present to answer questions and commented that there were people present who would say they had access rights but the reservations are specifically for a road.

With no other questions for staff, Chair Allen moved to public testimony.

Ken Shannon, 22275 SW Pacific Hwy, Sherwood. Mr. Shannon said he was interested in where the right in/ right out would go because he had a retail business that was running well. Another big concern was how the alignment of the road would meet his property and that staff be able to indicate where the road will be. Mr. Shannon said it was hard to agree with the City without these answers. Mr. Shannon stated he had asked City staff how the road would be paid for and said when the road is at his property line with a collector street, the City should be prepared to condemn his land and buy it in order to build the road. Mr. Shannon wanted answers that were more defined and said the plan was destroying good property. Mr. Shannon stated that when former city manager, Jon Bormet, was at the city, a frontage road on both sides had been

discussed and he said the commission should look at what is being done to the land before deciding to pass the amendment. Mr. Shannon said he has lived in Sherwood for nearly forty years and has tried to work with the City, but he will not pay for the road and he expects to be paid for the land. Mr. Shannon said he has asked questions without receiving definite answers and would be happy to be left alone.

Mara Broadhurst, 28440 SW Ladd Hill Road, Sherwood and owner of 4.2 acres of General Commercial land on 99W. Ms. Broadhurst thanked Chair Allen for meeting with property owners in the area to try to identify the exact location of the 99W on/off access from Cedar Brook Way for the commercial properties designated in the 2005 Transportation Plan. Ms. Broadhurst said the property owners had agreed to consolidate their accesses into one, but no one knew for sure where that was, and the City TSP left development in limbo. Ms. Broadhurst commented that commercial property owners were told that the land, the cost of a three lane road and utilities, 99W access, and a wetland crossing bridge would be paid back to the developer from the TIF fees. Ms. Broadhurst said that this was supposed to stimulate growth in the area and bring in more permit fees and tax base. Ms. Broadhurst stated that Cedar Brook Way was designed as a collector street and would not have been allowed to access 99W except as a collector. Ms. Broadhurst commented that it was a mistake for Cedar Brook Way to go through to Elwert Road, and when the TSP was changed in 2005, either ODOT or the City did not want cut through traffic entering Cedar Brook way from 99W and cutting through to Elwert.

Ms. Broadhurst suggested that the City has been telling potential developers, like Wal-Mart and Kohl's that Cedar Brook Way has to connect to Elwert when it does not show that on the Transportation Plan or existing Option 1. Ms. Broadhurst said the proposed amendment would seriously devalue the land when it divided her property into smaller pieces that were no longer useful for big box, general commercial, but as neighborhood commercial or apartment land. Ms. Broadhurst commented on the City's purchase of land, changing Cedar Brook Way's designation to a collector road, and the Washington County's roll in the construction of the traffic circle. Ms. Broadhurst said that the Elks will benefit by being able to develop. Ms. Broadhurst stated that she was informed that the City would still pay for the land, but would only pay the difference in the upsize from a local street standard to a collector standard and to extend even a local street with utilities is very expensive, then asked how the 99W on/off access or the wetland crossing would get paid for. Ms. Broadhurst stated that if the City is not planning to put in the road, or offer pay backs for the road improvements and wants to down zone and degrade the property she would vote for Option 1, the existing transportation plan that does not cross and divide the property when connecting Cedar Brook Way into Elwert. Ms. Broadhurst requested that the record be left open in order to make other land owners aware and said she hoped for a fair hearing here and at City Council citing that the City had a conflict of interest because it was the major land developer in Sherwood.

Chair Allen commented that the request for the record to be held open does not strictly apply to this kind of hearing, but because the matter is going to Council the same opportunity will be available to make other landowners aware.

Joe Broadhurst, 28440 SW Ladd Hill Road, Sherwood. Mr. Broadhurst commented that the amendment sounds like it would affect a lot of people, but would only affect two properties that were not in the current plan by putting a road across his property and the Elks property. Mr. Broadhurst said he has enough trouble developing without putting another road across his property, that the city will pay for the land and for upsizing, but a road would cost him \$150,000.

Mr. Broadhurst commented regarding the City's purchase of property and Cedar Brook Way going all the way through to Elwert as a collector street and an exception process with the County that allows a local street to enter onto Elwert Road. Mr. Broadhurst said that when Terry Keyes did the transportation plan property owners were told that there would be pay backs for the road and now it did not seem like the City was going to pay for the road; making a bad situation worse. Mr. Broadhurst commented that some Councilors believe property owners are being done a great favor and are finally going to be able to develop, but it is not true.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus gave documents to staff for the record (see record, PA 12-03, Exhibit G) and commented that he did not agree with the report from DKS. Mr. Claus said there are three deeded ingresses/egresses on Pacific Hwy owned by the Clauses and it is fraud to say they are not. Mr. Claus asked if the Commissioners had considered what was being done to the land uses and said non-conforming parcels were being created with the Claus, Shannon and Broadhurst properties going from conforming to non-conforming. Mr. Claus commented regarding City staff generating money by "double dipping" with urban renewal, on the need for a new water quality facility, and water leaking under the highway creating wash damage on his property.

Mr. Claus commented regarding changing the name of a road to get funding for the traffic circle and said if it on the City's TSP, the City should pay for the road. Mr. Claus commented regarding a conspiracy to restrain trade, going after people on the other side of policy issues, and having staff make policy issues. Mr. Claus stated that the reservation of rights were sold by the Elks, but the Claus's had not sold their rights, and the DKS report being falsified. Mr. Claus said that he would like to avoid the frustration of having to spend money trying to do something when the City will not allow it. Mr. Claus said the he was told by the same DKS engineer that you can never put anything on the Elks because they sold the reservation of rights and now it is a different story.

Nathan Doyel, 15425 SW Pleasant Hill Road, Sherwood. Mr. Doyel stated he owned the property that used to be William's property at the Cedar Brook Way area and he was waiting for the goal post to land and stop shifting. Mr. Doyel said he was under the impression that if a road was dedicated, the owner would have to dedicate a piece of property for the road, and if something is built on it, then the TIF fees would be given to those that built the road. Mr. Doyel asked if this was the case. Chair Allen asked staff to answer the question.

Bob Galati answered that the policy in place, and applied to all other projects, is that if you dedicate and build a road, the right of way is eligible for TDT credits. So the dedication of the property is eligible for TDT credit and the construction of the road is also eligible for that portion that exceeds the residential standard. Bob said that if it is a collector status road the developer receives the difference between the material cost of that construction in a credit; one or the other, or in a combination of either the TDT or SDC. Bob stated that the construction of a storm water facility to treat the storm water runoff allows a credit for water quality and water quantity SDCs and the construction of sanitary also has SDC credit available through the City. Bob explained that water is not creditable and neither are park fees. Bob explained that developers don't get a check back from the City, but when development occurs on the property there is a credit voucher available that can be drawn against for development fees.

Mr. Doyel said he had understood that the road construction would be fully credited, not just above some portion of the residential standard and that becomes the pushing point where

landowners are not in favor because it will be paid out of pocket. Mr. Doyel commented that he would like to see the amendment move forward but his concern was that there were deal breakers that would prevent development from occurring. Mr. Doyel expressed his concern that a road could be built on his property forcing him to pay hundreds of thousands of dollars and said he would like to see a steady end goal that makes sense to where everyone cooperates under the right circumstances.

Susan Claus, 22211 SW Pacific Hwy, Sherwood. Ms. Claus stated that she would like to keep the amendment at the Planning Commission level because in past experience the City Council's logic was that the issues had been aired before the Planning Commission. Ms. Claus said that the City had a vested interest in the project because of pre-purchased land and funds from Washington County for the intersection. Ms. Claus commented regarding deeded access to the highway and asked for clarification on who has access. Ms. Claus told that when the connectivity was contemplated, during City Engineer Terry Keyes' tenure, \$2 million was received for the project from ODOT, but the project fell apart before reaching her property. Ms. Claus explained that Ken Shannon has seven acres and 70 feet of frontage on the highway, the Clauses have six acres, but 400 feet of frontage so a road through her property would have a disproportionately huge bill by the transportation plan's methodology. Ms. Claus commented regarding the degradation of commercial properties on the highway by putting a road in and said it did not make any sense because property owners are not saving trips, but allowing the City to take a 20% cut off of funds that might be received from Washington County.

Tom Pessemier, Community Development Director said that the crediting methodologies for transportation improvements are complex, because there is a lot of money that changes hands and explained that Bob gave the correct description for determining the TDT credits that go back to a property, but the City of Sherwood Transportation SDC is different from what the state requires. Tom said that developers would be able to get City SDC transportation credits for the entire road, not just the additional capacity, and as long as the City transportation SDC is around those credits are available for the entire road provided the cost of development is more than the cost of the road.

Chair Allen asked if the confusion regarding Cedar Brook Way was the connection to Elwert Road. Julia confirmed and said there is a local street connection that is envisioned to connect to Elwert which is not consistent with the county code and rules, and the connection is through the Elks property. The question is if it goes all the way through.

Chair Allen commented that his recollection was that it was preferable to have a residential to residential connection instead of having the road connect to commercial property because of traffic issues and that it was a way to consolidate access to 99W and provide interior access to all the sites. In situations like this, landowners will get together and figure out their own multi-party agreement on how to pay for that or someone will buy all the property and consolidate the properties; none of those things have happened.

Chair Allen said he understood about the classification confusion and there was always a connection from a traffic circle to 99W. Chair Allen asked that if there was not an issue about the residential portion of the amendment, if Cedar Brook Way could be changed from a residential to a collector street.

Julia answered that there was another issue was that you cannot have a local street connection to a Washington County arterial [Elwert] and explained that there is an exception process that is in the DKS analysis and asked John Bosket to speak to the issue.

Chair Allen asked if this was a different than the connection of the residential subdivision to Edy Road. Julia answered that it was, as Edy Road is a collector and Elwert Road is an arterial.

John Bosket, DKS Associates, 720 SW Washington Street, Portland, said that connecting a local street to the County arterial is typically not allowed, but there is a variance process to that but there is no guarantee of approval.

Chair Allen commented that the Elks were at the table with the other property owners because of this problem and whether connecting this direction would resolve that issue.

Julia added that her recollection was that around that time there had been some pre-applications on the Elks property and recently the County has started making comments regarding the area being problematic in terms of connectivity to Elwert. At that time there was the issue of a Krueger/ Elwert intersection and re-aligning would help those issues.

Tom added that moving forward with the plan would solve the issue and there would not be the continual going back and forth with the Elks and others going through a process to figure it out.

Commission Copfer commented that based on testimony he has heard from affected property owners, it did not seem that there are enough answers to questions to send the amendment to Council.

Chair Allen commented that each of the owners in this area have strong opinions about their position, in general and relative to each other. Those strong opinions are deeply held and color the information being received and those perspectives need to be taken into consideration, but it will be difficult to reach a consensus between all of the property owners along that stretch of the highway.

Commissioner Griffin inquired regarding how difficult it would be to get a variance with the County and on the importance of a connection. Mr. Griffin commented that he could understand that, if the county is going to pay for part of the traffic circle at Krueger and Elwert, that they will not want to have one leg go into a local street. Mr. Griffin asked for more information regarding who has access to 99W, because the DKS report says that once it gets developed all other entrances on 99W will be closed. Mr. Griffin commented on Nursery Way in a new subdivision that stops because there is not a connection, the process of connecting roads when land develops, and said that there may have to be road that ends without connection.

Chair Allen said that this was the challenge mentioned by Ms. Claus, based on the topography of the site, to build the road means some people will get more of their "fair share" of the road and the cost of the road.

Mr. Griffin stated he would like to have more time and maybe even a work session before the next meeting.

Chair Allen inquired about the timeline.

Tom Pessemier responded that Council would like to get the amendment done, there was no definite timeline, but staff has been working on this for a long time. The City had a work session, where public testimony was taken, and could be done again, but at some point we need to get to a recommendation.

With a general consensus to continue the hearing and a discussion of available dates the following motion was received.

Motion: From James Copfer for The Planning Commission to Continue the Hearing to the Planning Commission Meeting of September 11, 2012 for Deliberation Only with the Option to Hear Further Public Testimony at That Time. Seconded By Vice Chair Albert. All Commissioners Voted In Favor.

9. Adjourn

Chair Allen closed the meeting.

Submitted by:

Kirsten Allen
Kirsten Allen
Planning Department Program Coordinator

Approval Date: 2-26-13