

October 23, 2012

City of Sherwood  
Planning Commission  
22560 SW Pine St  
Sherwood, OR 97140

Subject: SP 12-05 / CUP 12-02 Langer Farms Phase 7 Shopping Center

Planning Commission,

As a follow up to the letter received by Seth J. King dated October 16, 2012, found on Pages 137-138 of the **Planning Commission Meeting Packet** for Tuesday October 23, 2012, regarding *Response to October 9, 2012 Letter from Charles and Amy Boyle* we would like to provide the following information in CD format:

1. City of Cornelius Proposed Retail Center Transportation Impact Analysis – North Adair St / North 4<sup>th</sup> Avenue (Walmart) dated August 2005, [prepared by Kittelson & Associates.
2. City of Wilsonville Fred Meyer Transportation Impact Study dated August 2008 prepared by DKS Associates.
3. East Vancouver Costco Transportation Impact Analysis dated October 2009, prepared by Kittelson & Associates.

Thank you,

Charles and Amy Boyle  
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October 23, 2012

**VIA EMAIL ONLY**

Patrick Allen, Chair  
City of Sherwood Planning Commission  
c/o Planning Department  
22560 SW Pine Street  
Sherwood, OR 97140

**Re: Land Use Applications for Langer Farms Phase 7 Shopping Center (City of Sherwood File Nos. SP 12-05/CUP 12-02); Applicant's Final Written Argument**

Dear Chair Allen and Members of the Planning Commission:

This office represents Langer Gramor LLC ("Applicant"), the applicant requesting approval of the land use applications for Langer Farms Phase 7 Shopping Center (City of Sherwood File Nos. SP 12-05/CUP 12-02) ("Applications") on approximately 19.7 acres of real property on the east side of SW Langer Farms Parkway ("Property"). This letter constitutes Applicant's final written argument in support of the Applications.

**1. Executive Summary.**

The Planning Commission should deny the opponents' contentions and approve the Applications, subject to staff's proposed conditions of approval, as modified by the supplemental staff report dated October 12, 2012 ("Supplemental Staff Report") and this letter.

Additionally, as to specific issues raised during these proceedings, the Planning Commission should find as follows:

- Substantial evidence in the whole record supports approval of the Applications.
- Applicant has properly evaluated the projected traffic impacts of the development and has determined that, subject to completion of identified mitigation measures, the development will not adversely affect the surrounding street system in terms of safety or operations.

- Applicant is proposing to complete a myriad of capacity-enhancing transportation improvements.
- Applicant's supplemental trip generation analysis demonstrates that Applicant's transportation impact analysis assumed a sufficient number of trips to account for development of the anchor store as either a Shopping Center (Institute of Transportation Engineers ("ITE") Code 820), Free-Standing Discount Superstore (ITE Code 813), or Free-Standing Discount Store (ITE Code 815), such that there is no need for staff's proposed Condition #27.
- There is no basis to use traffic data from the Fred Meyer Wilsonville site, because it is not comparable to the subject development.
- The development satisfies applicable site design provisions, including the Design Guidelines for the PUD and provisions applicable to locating drive-through facilities.
- There is no evidence in the record indicating who will ultimately use the site, and concerns about the identity of potential users are not directed at any applicable approval criteria and thus do not provide a legal basis to condition or deny the Applications.
- Applicant's contentions concerning noise from the development lack merit because there are no adjacent noise-sensitive uses, and the City does not regulate noise from off-site commercial traffic.
- Applicant is not required to provide covenants, conditions, and restrictions ("CC&R's") at this stage of development, and there are adequate other documents and conditions to ensure that Applicant will develop and maintain the site in accordance with the approved site plan.
- Applicant concurs with the recommendations and clarifications set forth in the Supplemental Staff Report, subject to a clarification regarding Condition #14 and revisions to Conditions #51 and 52 to correct typographical errors and for consistency with testimony from the Oregon Department of Transportation ("ODOT").
- Concerns expressed by the Bonneville Power Administration ("BPA") about the location of a small area of parking do not provide a basis to deny the Applications because BPA staff never submitted the comments in writing and because Applicant has submitted an alternative site plan that relocates the parking, if needed.
- The Planning Commission should deny the contentions raised by Jim and Susan Claus in their letter dated October 9, 2012, because these contentions are speculative, not supported by substantial evidence, and not directed at applicable approval criteria.

**2. Argument.**

**A. Substantial evidence in the whole record supports approval of the Applications.**

The Planning Commission's decision must be supported by substantial evidence in the whole record. ORS 197.835(9)(a)(C). Substantial evidence is evidence a reasonable person would rely on in reaching a decision. *Bottum v. Union County*, 26 Or LUBA 407, 412 (1994). Substantial evidence in the whole record exists to support approval of the Applications, as follows:

- Detailed plans and narrative prepared by Applicant's consultant team that demonstrate how the Applications are consistent with all applicable approval criteria of the Sherwood Zoning and Community Development ("ZCDC"), the City's acknowledged Comprehensive Plan, the Sherwood Village Planned Unit Development ("PUD"), and the Amended and Restated Development Agreement dated August 6, 2010.
- Related exhibits in support of the statements made in the narrative submitted with the Applications.
- The expert oral testimony of Matt Grady from Gramor Development and Chris Brehmer, P.E. from Kittelson & Associates, Inc. ("KAI") presented at the September 25, 2012. Planning Commission hearing.
- The staff report dated August 28, 2012, as clarified and modified by the Supplemental Staff Report, which recommends approval of the Applications, subject to conditions.
- Open-record submittals from KAI (*see* Exhibit AA, pp. 126-129 of October 23, 2012, Planning Commission Packet ("PC Packet")); Harper Houf Peterson Righellis Inc. (*see* Exhibits U, V, and Y, pages 58-62 and 71-74 of the PC Packet); and Perkins Coie LLP (*see* Exhibits AA, BB, and DD, pages 115-134 and 137-141 of PC Packet); which present additional argument and evidence in support of the Applications.

No one effectively rebutted or undermined this evidence on the record. Accordingly, the only conclusion a reasonable person could reach in relying on the evidence in the whole record is to approve the Applications.

**B. Traffic.**

The Planning Commission should find that Applicant has satisfied the applicable traffic standard—ZCDC 16.90.030.D.6—which requires that Applicant mitigate for the impacts to the surrounding street system attributable to the development, as reported in a transportation impact analysis:

"For developments that are likely to generate more than 400 average daily trips (ADTs), or at the discretion of the City Engineer, the applicant shall provide adequate information, such as a traffic impact analysis or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate for impacts attributable to the project. The determination of impact or effect and the scope of the impact study shall be coordinated with the provider of the affected transportation facility."

The Planning Commission should reach this conclusion for four (4) reasons. First, KAI has prepared an analysis of the impacts of the development on the surrounding street system, which showed that, subject to completion of mitigation measures, the development would not adversely affect the surrounding street system in terms of operations or safety. Second, Applicant has committed to completing a myriad of capacity-enhancing transportation improvements to mitigate the projected impacts of the development and to fulfill obligations under the Amended and Restated Development Agreement. Third, KAI, the City's on-call transportation engineer (DKS Associates ("DKS")), and City staff have determined that the TIA assumed a sufficient number of trips to account for potential development of the anchor store as either a Shopping Center (ITE Code 820), Free-Standing Discount Superstore (ITE Code 813), or Free-Standing Discount Store (ITE Code 815). Fourth, there is no basis to use traffic data from the Wilsonville Fred Meyer site because that development is not, in fact, comparable to the subject development.

#### **1. Applicant's Transportation Impact Analysis.**

Applicant submitted a Transportation Impact Analysis ("TIA") performed by KAI dated July 2012, with an amendment to the initial analysis submitted on August 12, 2012, and a supplemental operations and queuing analysis from KAI dated September 11, 2012. The initial TIA and related amendments and supplements addressed impacts from the development on the City, County, and State transportation systems. The City's on-call traffic engineer (DKS), Washington County Traffic Engineers, and State of Oregon DOT Traffic Engineers have reviewed the proposed traffic impacts of the development and have submitted written comments on same. According to the TIA, the proposed development will generate a maximum of 760 net new weekday PM peak hour trips. In the TIA and its amendments and supplements, KAI has determined that, subject to completion of the identified mitigation measures, the proposed development will not adversely affect the surrounding street system and will generate fewer trips than the Highway 99W Capacity Allocation Program trip cap of 43 p.m. peak hour trips per acre. DKS submitted a memorandum concurring with KAI's conclusions. *See* Exhibit X, pages 69-70 of the PC Packet.

## **2. Capacity-Enhancing Transportation Improvements.**

In order to satisfy existing commitments set forth in the Amended and Restated Development Agreement and to mitigate the impacts of the development, Applicant has agreed to complete a myriad of capacity-enhancing transportation improvements as follows:

- Design and construct SW Century Drive between SW Langer Farms Parkway and the existing street segment at the eastern Property line (Condition #49)
- Construct the north extension of SW Langer Farms Parkway from SW Tualatin-Sherwood Road to Highway 99W (Condition #48)
- Construct a traffic signal at SW Langer Farms Parkway and SW Tualatin-Sherwood Road (or pay a fee in lieu) (Conditions #26, #48)
- Construct frontage improvements along SW Tualatin-Sherwood Road (or pay a fee in lieu) (Condition #26)
- Construct additional lane storage on Highway 99W consistent with Oregon Department of Transportation recommendations in the record (or, alternatively delay or phase the development) (Conditions #51 and #52)

Additionally, as discussed at the hearing in this matter, Washington County has programmed and funded improvements on Tualatin-Sherwood Road in this area through the MSTIP capital improvement program. These improvements are projected to be completed in the near future. As stated in the TIA and its amendments and supplements, Applicant's completion of these transportation improvements will ensure that the development does not have any adverse impacts on the surrounding street system.

## **3. Supplemental Trip Generation Analysis.**

Although some citizens (and staff initially) contended that the Applicant may be understating traffic impacts from the development, the Planning Commission should deny this contention. Specifically, opponents objected to the fact that the TIA aggregated several of the retail spaces (including the anchor) under ITE Land Use Code 820 ("Shopping Center") rather than calculating the impacts of the anchor tenant separately. Although Applicant stands by the TIA as an accurate and complete assessment of projected traffic impacts, Applicant submitted into the record a supplemental trip generation comparison prepared by KAI.

KAI's supplemental report assesses the projected traffic impacts of the anchor store under the trip generation rates applicable to two (2) other ITE land use categories that commonly apply to large-scale retail stores—ITE Land Use Code 813 ("Free-Standing Discount Superstore") and ITE Land Use Code 815 ("Free-Standing Discount Store"). As summarized by KAI, the TIA

assumes a sufficient number of trips to account for the potential development of the anchor store as either ITE Land Use Code 820 (Shopping Center), ITE Land Use Code 813 (Free-Standing Discount Superstore), or ITE Land Use Code 815 (Free-Standing Discount Store). *See* Exhibit AA, pages 126-127 of the PC Packet.

DKS has independently conducted this analysis and has generally concurred with KAI's conclusion. *See* Exhibit X, pages 69-70 of the PC Packet. Accordingly, City Engineering staff have recommended that the Planning Commission delete staff's proposed Condition #27. *See* Supplemental Staff Report, pages 39-40 of the PC Packet. Based upon the foregoing analysis and recommendations of DKS, KAI, and City staff, the Planning Commission should find that Applicant has not understated the traffic impacts of the development, and the TIA assumes a sufficient number of trips to account for development of the anchor under ITE Codes 813, 815, or 820. Because Applicant has provided this information upfront, the Planning Commission should conclude that there is no need for staff's proposed Condition #27.

#### **4. Use of Data from Fred Meyer Wilsonville Site.**

Finally, although Mr. and Mrs. Boyle contended that the Fred Meyer Wilsonville development is comparable to the subject site for purposes of analyzing trip impacts, the Planning Commission should deny this contention. In fact, the Fred Meyer specific trip rate (4.95 trips per one thousand square feet) is actually lower than the trip rate for the anchor utilized in the applicant's TIA, which is 5.23 trips per one thousand square feet. *See* KAI Memo, page 127 of PC Packet. In other words, Applicant has assumed greater trip impacts per square foot of anchor development than occurred at the Wilsonville site. Staff has also determined that the Fred Meyer Wilsonville traffic data is not relevant due to differences in the location and mix of uses between the properties. *See* Supplemental Staff Report, page 39 of PC Packet. For these reasons, the Planning Commission should deny this contention.

#### **5. Conclusion.**

For the foregoing reasons, the Planning Commission should conclude that Applicant has properly assessed and, subject to conditions, will adequately mitigate for projected traffic impacts of the development.

#### **C. Site Design.**

The Planning Commission should find that the Applications satisfy applicable site design provisions for three (3) reasons. First, the Applications satisfy the PUD Design Guidelines. *See* pages 16-19 of Applicant's application narrative. Second, the Applications satisfy each of the five (5) categories in the Design Review Matrix (Building Design, Building Location, Parking and Loading Areas, Landscaping, and Miscellaneous). *See* pages 30-36 of Applicant's

application narrative. Third, as explained below in more detail, the Planning Commission should deny the opponents' contentions relating to site design.

**1. PUD Guidelines for the Front Porch Society.**

For example, opponents contended that the proposed design of the anchor store did not meet the 1995 PUD Guidelines for the Front Porch Society. The Planning Commission should deny this contention for two (2) reasons. First, as explained in Applicant's narrative, the design of the anchor store is consistent with the Design Guidelines. *See* pages 17-18 of applicant's application narrative. For example, the elevations include two (2) vestibules that take their design cues, materials, and elements from the surrounding retail buildings. *Id.* The incorporated design elements include light tone palette colors, trimmed openings at windows, some wood exterior components, pitched roof entry points, staggered parapet heights along the elevations, metal grids along the exterior siding, and canopies as shown on Applicant's building elevations. *Id.* Further, the main entrances to the anchor are connected to the other retail buildings and to public pathways. *Id.* Accordingly, Applicant's proposed anchor design is consistent with the Design Guidelines. Second, although the opponents contend that the development should be required to reflect elements of Old Town Sherwood, there is no basis in the Design Guidelines to reach this conclusion. For example, the Design Guidelines do not reference "Old Town" at any point. Therefore, the Planning Commission should deny the opponents' contention.

**2. Application of Design Guidelines to Langer Marketplace.**

Further, opponents contend that the guidelines are standards and that they were not properly applied to the Langer Marketplace/Target approval. The Planning Commission should deny this contention for three (3) reasons. First, as noted at page 10 of the staff report, the Design Standards are, in fact, guidelines and not mandatory criteria. Although the opponents appear to disagree with this point, they do not offer any substantial evidence to rebut it. Further, a reasonable person would conclude that the City's application of these guidelines to the Target store did establish a precedent because the Target site (Langer Marketplace) is the only other example of retail development in the PUD. As such, it is the only instance when the City has applied the standards. Thus, the opponents cannot point to any other examples within the PUD that support a contrary interpretation. Third, the relevant issue is whether the elevations of the anchor store are consistent with the Design Guidelines. As explained above in response to the previous contention, Applicant's proposed anchor design is consistent with the Design Guidelines. The Planning Commission should deny the opponents' contention.

**3. Location of Drive-Through Facilities.**

Opponents further contended that the location of the proposed drive-through facility lanes failed to satisfy City standards. The Planning Commission should deny this contention for two (2)

reasons. First, there is no applicable approval criterion that prohibits Applicant from placing drive-through facilities between the public street and the building. Although City staff pre-application notes stated that it was preferable for the lanes to be located elsewhere, staff's statement in the pre-application notes was simply a suggestion and not a binding requirement. Additionally, it should be noted that staff reviewed a different iteration of the site plan during the pre-application stage, and the site plan in the Applications better orients the buildings to public streets. Second, although Applicant did not comply with staff's suggestion, Applicant has proposed a superior design that protects pedestrian safety and ensures screening of vehicles, as summarized in the introduction of the narrative for the Applications:

“The applicant has gone to great lengths in not only placing the drive-thrus in areas where they will not conflict with pedestrian traffic but also designed them to not detract from the street scape. To address the pedestrian corridor and encourage people to walk to the development, all of the buildings along Langer Farms Parkway have been placed next to the pathway and pedestrian amenities provided including storefront windows and walkways. To ensure that the optional bank drive-thru is consistent with this design intent, a roof extension that matches the architectural look of the neighboring buildings is proposed to extend over the drive-thru lane. In addition, a decorative low wall is proposed to conceal the lower portions of automobiles and the asphalt drive-thru lane. With the use of screening and the drive-thru roof cover, the mass of the building is pulled close to the road while the auto use is deemphasized. This design provides a consistent pedestrian-focused streetscape along Langer Farms Parkway consistent with City code and policies.”

Applicant reviewed the alternative of placing the drive-through lanes in the interior of the site, however, doing so creates conflicts with pedestrians and parking lot maneuvering. This is the case because access to the site is limited to only a few locations, so all vehicular traffic to the shopping center and drive-throughs will come from the interior of the site and indirectly from surrounding roads. Therefore, parking and vehicular access to all buildings will be from the interior. Placing the drive-throughs in the interior of the site near the parking area creates conflicts since drivers need to enter the drive-through so they can complete their transactions from the left side of the car. This requires that either drivers cross over from right to left or that the site design provide additional stacking in the parking area. This additional stacking room is easier to accommodate when the drive-through is placed between the building and the road as it allows for separation and additional room. Also, this design allows Applicant to place ADA parking spaces close to the front door of each building. Finally, this design also adds safety for

pedestrians as access from the sidewalk can be channelized to a path that crosses in front of the drive-through lane in plain view of the driver.

Additionally, opponents contend that placing drive-through lanes between the building and the street makes pedestrian access throughout the site difficult and dangerous. The Planning Commission should deny this contention for two (2) reasons. First, the passage cited by the opponents, which is the introductory sentence of ZCDC Chapter 16.96, is not an approval criterion. Rather, it is a generalized purpose-type statement that is informed by the implementing criteria set forth in ZCDC 16.96.A., B., C., D., E., and F. and ZCDC 16.96.030. Opponents do not contend that the Applications do not satisfy these specific implementing standards. Second, the pedestrian crossings at the end of drive-through lanes shown on Applicant's site plan provide "safe and convenient pedestrian access" because they are well-marked and located in plain view of drivers of vehicles in the drive-through lane. Further, they connect sidewalks. As such, they provide the most direct route for pedestrians, so there is no incentive for pedestrians to engage in a dangerous short-cut across vehicular traffic. Finally, redesigning the site to place the drive-through facilities on the interior would concentrate more vehicle maneuvering into a smaller area, which would result in pedestrian crossings that are more dangerous and confusing than Applicant's proposed design. For these reasons, the Planning Commission should deny the opponents' contention.

Next, opponents contend that placing the drive-through lanes between the building and the public street violates a City standard requiring that buildings be located adjacent to and flush to the street. The Planning Commission should deny this contention because the standard cited by the opponents—ZCDC 16.90.030.D.7.b.—is not a mandatory approval criterion for two (2) reasons. First, pursuant to ZCDC 16.90.030.D.7.d., ZCDC 16.90.030.D.7.b. is not applicable if an applicant chooses to comply with the Commercial Design Review Matrix. Applicant has opted to comply with the Commercial Design Review Matrix (and has presented substantial evidence to support a conclusion that the Applications satisfy same). Second, even if ZCDC 16.90.030.D.7.b. were applicable, it is not mandatory in nature because the plain language of this provision utilizes the aspirational term "should," rather than "shall." Accordingly, the Planning Commission should deny the opponents' contention.

#### **D. Identity of Anchor.**

Although some citizens expressed concern about the possible identity of the user of the anchor retail space, the Planning Commission should find that this concern is speculative because there is no evidence in the record indicating who will ultimately use the site. In fact, staff and Applicant have specifically stated that this information is not known. Second, this concern is not directed at any applicable approval criterion. As such, there is no legal basis for the Planning Commission to condition or deny the Applications on the inclusion or exclusion of any particular users or to request that Applicant agree to same.

**E. Noise.**

Opponents also contend that staff's conclusion that high noise levels are not anticipated in conjunction with the development cannot be substantiated until the anchor store is identified and Applicant provides CC&R's into the record. The Planning Commission should deny this contention for three (3) reasons. First, the opponents have not explained how the existence of CC&R's will affect compliance with this standard. In fact, although ZCDC 16.146.010 allows the City to request evidence of applicable permits or certification from a noise engineer, this standard does not require—or permit—the City to consider CC&R's for purposes of determining compliance with noise standards. Second, the opponents have not presented any evidence to substantiate their contention that there are "significant" differences in noise impacts between the various retail tenants they identify. Third, as set forth at page 61 of the staff report, the development is not adjacent to any noise-sensitive uses, and thus, the City cannot require a noise level study pursuant to ZCDC 16.146.020. Therefore, the Planning Commission should deny the opponents' contention on this issue.

Opponents further contend that commercial traffic associated with the development will adversely affect residential properties between SW Tualatin-Sherwood Road and SW Century Boulevard along SW Langer Farms Parkway. The Planning Commission should deny this contention because ZCDC 16.146.030 ("Exceptions") provides that traffic noise is exempt from the City's standards as follows:

"This Chapter does not apply to noise making devices which are maintained and utilized solely as warning or emergency signals, or to noise caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travel ways, flight paths or other routes. This Chapter also does not apply to noise produced by humans or animals. Nothing in this Chapter shall preclude the City from abating any noise problem as per applicable City nuisance and public safety ordinances." (Emphasis added.)

Accordingly, the Planning Commission cannot either deny or condition the Applications based upon possible noise caused by traffic. Although not clear, opponents' contention may be directed not at traffic noise but at the location of truck routes. If so, the Planning Commission should deny this contention for the reasons set forth in the KAI memorandum dated October 5, 2012. See pages 128-129 of PC Packet. For these reasons, the opponents' contentions regarding noise lack merit.

**F. CC&R's.**

Opponents also contend that the development cannot qualify for a reduction in parking until the specified uses of the development are identified and Applicant provides CC&R's. The Planning Commission should deny this contention for two (2) reasons. First, neither ZCDC 16.90.030.D.3. nor any other approval criterion specifically requires submittal of CC&R's as a prerequisite to obtaining approval of a reduction in parking for a mixed use development. For that matter, the opponents do not articulate why CC&R's are even informative to determining whether or not to grant a reduction in parking. Second, although Applicant has proposed site plan alternatives (each with a slightly different mix of uses), Applicant has also presented a chart at page 47 of the narrative and related explanation at pages 44 and 45 of the narrative justifying the reduction in parking for each of the site plan alternatives. The opponents have not presented substantial evidence to undermine Applicant's testimony. Therefore, the Planning Commission should deny this contention.

Opponents also contend that Applicant should be required to provide CC&R's before obtaining land use approval. The Planning Commission should deny this contention for two (2) reasons. First, neither ZCDC 16.90.030.D.3. nor any other approval criterion specifically requires submittal of CC&R's as a prerequisite to obtaining approval of a site plan application. Second, notwithstanding that Applicant has not yet submitted CC&R's into the record, there are a number of "agreements and other specific documents" that assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and on-site features. For example, development of the Property is subject to the PUD Design Guidelines, which Applicant has satisfied. Further, development of the Property will be subject to the conditions of approval of the Applications themselves, which also assures compliance with ZCDC 16.90.030.D.3. For instance, staff's proposed Condition #47 requires that all site development comply with the approved site plan:

"All site improvements including but not limited to landscaping, parking and site lighting shall be installed per the approved final site plan and inspected and approved by the Planning Department."  
(Emphasis in original.)

Additionally, staff's proposed Condition #5 requires that Applicant maintain the Property in accordance with the approved site plan on an ongoing basis or else be subject to code enforcement proceedings:

"An on-going condition of approval is that the site be maintained in accordance with the approved site plan. In the event that

landscaping is not maintained, in spite of the assurances provided, this would become a code compliance issue."

These staff-proposed conditions, if adopted by the Planning Commission, will ensure that the Property improvements are owned, managed, and maintained in a manner that is acceptable. In fact, the condition likely provides the City with greater enforcement authority than any CC&R's would. The staff report at pages 19 and 20 supports Applicant's position on this issue. The opponents have not presented any substantial evidence to rebut this conclusion. The Planning Commission should deny the opponents' contention on this issue and find that the Applications satisfy ZCDC 16.90.030.D.3., subject to staff's proposed conditions of approval.

#### **G. Supplemental Staff Report.**

The Supplemental Staff Report recommends modifications to certain conditions and concludes that Applicant has provided adequate information to address the development's impact on the transportation system and that the proposed and conditioned mitigation measures are sufficient to offset the impacts to the transportation system. *See* pages 36-43 of PC Packet. Applicant concurs with these recommendations, subject to the following:

(1) As to Condition #14, Applicant notes that Applicant's intention is for the September 28, 2012 exhibit entitled "Langer Farms Subdivision Driveway Relocation and Water Service Connection Plan" to replace the previous depiction of the waterline connection in Sheet C 3.0 – Preliminary Composite Utility Plan. As needed, the Planning Commission should revise the finding in the Supplemental Staff Report at pages 40-41 of the PC Packet to reflect same.

(2) The Supplemental Staff Report contains a typographical error in that it repeats Condition #51 as Condition #52. *See* Supplemental Staff Report, pages 37-38 of PC Packet. Further, Applicant notes that the conditions both should be revised to accurately reflect the storage lengths noted in ODOT's September 18, 2012, letter (*See* Exhibit N, pages 46-47 of PC Packet). As revised, these conditions should read as follows:

"51. The northbound right turn lane on Highway 99W onto Sherwood Boulevard will exceed the available storage (617' versus 415'). The applicant shall either increase the right turn storage length from 415' to 617', open the project after the County MSTIP 3D project is in place, or phase the project so the traffic generated does not exceed the existing available storage. The improvement, if needed, shall also include the associated deceleration lane distance."

"52. The northbound left turn lane on Highway 99W onto Roy Rogers Road will exceed the available storage (536' versus 490'). The applicant shall either Increase the left turn storage length from 490' to 536', open the project after the County MSTIP 3D project is in place, or phase the project so the traffic generated does not exceed the existing available storage. The

improvement, if needed, shall also include the associated deceleration lane distance."

Subject to these revisions, the Planning Commission should approve the revised conditions and recommendations set forth in the Supplemental Staff Report.

#### **H. Bonneville Power Administration ("BPA") Easement.**

Although BPA staff expressed concerns about the location of a small area of parking, these concerns do not provide a basis to deny the Applications for two (2) reasons. First, BPA staff expressed these concerns during a telephone conversation with City staff; however, BPA staff never responded to the City's request that BPA submit its comments in writing into the record. Second, Applicant submitted an alternative site plan to the City entitled "Alternative Site Plan #2 with BPA Easement not utilized" on October 9, 2012, which removes all development from within the BPA easement area ("October 9 Alternative Site Plan") and otherwise complies with all applicable approval criteria. *See* pages 130-131 of PC Packet. For example, as illustrated on the October 9 Alternative Site Plan, there is no net loss of building floor area or parking spaces. *See* page 132 of PC Packet. Further, truck turning radii can still be safely accommodated on-site. *See* page 133 of PC Packet. Finally, the modified site plan satisfies applicable landscaping requirements. *See* page 134 of PC Packet. There are no other material changes to the site plan or the size or location of any buildings or access points. Staff has concurred with this assessment. *See* page 43 of PC Packet. In the event Applicant is unable to reach an acceptable resolution with BPA allowing development within the easement area, Applicant intends to develop in accordance with the October 9 Alternative Site Plan. Therefore, the Planning Commission should approve the October 9 Site Plan as one (1) of the acceptable alternative site plans for the development.

However, the Planning Commission should not require development in accordance with the October 9 Alternative Site Plan because that is subject to the jurisdiction of BPA, not the Planning Commission. On this point, Applicant notes that, contrary to staff's statement at page 43 of the PC Packet, the condition requiring Applicant to obtain all required federal, state, and local permits would not address the BPA circumstance because any resolution with BPA would involve an agreement, not a permit. Nevertheless, Applicant recognizes that it must either reach an agreement with BPA to allow development in the easement area or develop in accordance with the October 9 Alternative Site Plan in order to implement the development. In sum, the Planning Commission should approve the October 9 Alternative Site Plan as one (1) alternative for the development without imposing any additional conditions on this issue.

#### **I. October 9, 2012 Letter from Jim and Susan Claus.**

In a letter dated October 9, 2012, Jim and Susan Claus raise various contentions in opposition to the Applications. As explained in Applicant's letter dated October 16, 2012, the Planning

Patrick Allen, Chair  
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Commission should deny these contentions because they are speculative, not supported by substantial evidence, and not directed at applicable approval criteria. *See* Exhibit DD, pages 139-140 of PC Packet. City staff have concurred with the conclusion that the Clauses' contentions lack merit. *See* Supplemental Staff Report, page 42 of PC Packet.

### **3. Conclusion.**

For the reasons explained above, the Planning Commission should deny each of the opponents' contentions. Instead, the Planning Commission should find that there is substantial evidence in the whole record to support the Applications. Accordingly, the Planning Commission should approve the Applications, subject to staff's recommended conditions of approval, as modified by the Supplemental Staff Report and this letter.

This letter constitutes Applicant's final written argument submitted by October 23, 2012, at 5:00 p.m. I have asked City staff to place this submittal in the official Planning Department file for this matter and to place it before you.

Thank you for your consideration of the points in this letter.

Very truly yours,



Seth J. King

cc: Brad Kilby (via email)  
Chris Crean (via email)  
Matt Grady (via email)  
Chris Brehmer (via email)  
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October 23, 2012

**VIA EMAIL ONLY**

Patrick Allen, Chair  
City of Sherwood Planning Commission  
c/o Planning Department  
22560 SW Pine Street  
Sherwood, OR 97140

**Re: Land Use Applications for Langer Farms Phase 7 Shopping Center (City of Sherwood File Nos. SP 12-05/CUP 12-02); Request to Reopen the Record for Limited Purpose**

Dear Chair Allen and Members of the Planning Commission:

This office represents Langer Gramor LLC ("Applicant"), the applicant requesting approval of the land use applications for Langer Farms Phase 7 Shopping Center (City of Sherwood File Nos. SP 12-05/CUP 12-02 ("Applications")) on approximately 19.7 acres of real property on the east side of SW Langer Farms Parkway.

Applicant requests that the Planning Commission reopen the evidentiary record in this matter for the limited and sole purposes of allowing: (1) Applicant to submit a memorandum and attached tables from its traffic consultant that were submitted to City staff during the first open record period but inadvertently not included in the record; and (2) an opportunity for other parties to submit evidence and argument responding to Applicant's evidence pursuant to a defined schedule. Applicant offers this evidence without prejudice to its arguments directed to the traffic issue already submitted into the record. As a result of reopening the record, Applicant requests that the Planning Commission defer its deliberations to a later meeting to occur on or before November 13, 2012.

**1. Proposed Reopened Record Schedule.**

In accordance with ORS 197.763(4)(b), (6), and (7), Applicant proposes that the Planning Commission reopen the record in accordance with the following schedule:

69095-0001/LEGAL24951103.1

ANCHORAGE · BEIJING · BELLEVUE · BOISE · CHICAGO · DALLAS · DENVER · LOS ANGELES · MADISON · NEW YORK  
PALO ALTO · PHOENIX · PORTLAND · SAN DIEGO · SAN FRANCISCO · SEATTLE · SHANGHAI · WASHINGTON, D.C.

Perkins Coie LLP

- Reopen the record on October 23, 2012, to accept the attached evidence from Applicant;
- To be followed by seven (7) days, until October 30, 2012, at 5:00 p.m., to allow other parties and City staff a reasonable opportunity to submit evidence and argument responding only to the attached evidence;
- To be followed by three (3) days, until November 2, 2012, at 5:00 p.m., to allow Applicant to submit final written argument.

This schedule would permit the Planning Commission to receive and review all record materials and then conduct deliberations in this matter at a later meeting to occur on or before November 13, 2012. In consideration for this extended schedule, Applicant requests that City extend its review period for the Applications under ORS 227.178 by a like period of time (10 days or until December 29, 2012). Therefore, if the Planning Commission grants this request, it will not compress the City's review schedule in any way.

## **2. Trip Generation Evidence.**

The evidence Applicant intends to submit is in direct response to requests made by the Planning Commission, City staff, and citizens, and consists of the following:

- A memorandum entitled "Supplemental Trip Generation Comparison" from Kittelson & Associates, Inc. ("Kittelson") to City staff dated October 1, 2012, including attached Tables 1-5 (together, "Trip Generation Evidence"). These materials are set forth in Exhibit A.

## **3. Argument in Support of Request.**

The Planning Commission should approve Applicant's request for the following four (4) reasons.

- A. The Trip Generation Evidence is relevant and informative because it responds to questions raised by the Planning Commission, City staff, and citizens at the public hearing.**

First, the Trip Generation Evidence consists of data requested by City staff, citizens (including Charles Boyle and R. James Claus), and members of the Planning Commission (including Chair Allen and Commissioner Cary) at the September 25, 2012, public hearing in this matter. Specifically, the Trip Generation Evidence includes updated trip data that demonstrates that Applicant's Transportation Impact Analysis assumed a sufficient number of trips to account for potential development of the anchor store as either a Shopping Center (ITE Code 820), Free-Standing Discount Superstore (ITE Code 813), or Free-Standing Discount Store (ITE Code 815). As such, the Trip Generation Evidence is relevant and informative to this matter. In fact, there

are at least five (5) other exhibits accepted into the record after October 2, 2012—Exhibits W, AA, and DD from Applicant, Exhibit X from DKS Associates, Inc., and the supplemental staff report dated October 12, 2012—that specifically reference and rely upon the Trip Generation Evidence.

**B. Applicant submitted the Trip Generation Evidence to the City in good faith during the first open record period and, based upon the circumstances, reasonably understood that the City had accepted the Trip Generation Evidence into the record.**

Second, Applicant submitted the Trip Generation Evidence to City staff in good faith during the first open record period; however, it was inadvertently omitted from the record. Applicant submitted the Trip Generation Evidence as an attachment to an email from Chris Brehmer, P.E. at Kittelson to City Engineering staff on October 2, 2012. See copy of email attached as Exhibit B. Therefore, this is not an instance where Applicant has intentionally withheld evidence or where Applicant was untimely in generating or submitting the evidence. Rather, Applicant acted in good faith and submitted the information to the City in a timely manner.

Additionally, although Applicant could have more directly requested that the Trip Generation Evidence be placed into the record, Applicant understood that the City had accepted the Trip Generation Evidence into the record. Applicant's conclusion was reasonable under the circumstances for four (4) reasons. First, at the public hearing in this matter, the Planning Commission and citizens requested, and Applicant agreed to provide, the Trip Generation Evidence during the open record period. Applicant reiterated these points in separate discussions with City staff. Thus, City staff was on notice that Applicant and the Planning Commission intended for this information to be part of the record.

Second, Applicant met with City Planning and Engineering staff on October 8, 2012, to discuss the Trip Generation Evidence. At that meeting, Applicant and City staff discussed the data in the Trip Generation Evidence, the status of review and preparation of supplemental recommendations by City staff and the City's on-call traffic consultant, and the impact of the Trip Generation Evidence on proposed conditions of approval. At no time did City staff indicate that the materials were not included in the record or ask for clarification from Applicant as to whether such materials should be included in the record. Again, in light of this context, it was reasonable for Applicant to conclude that the Trip Generation Evidence was part of the record.

Third, as stated above, not only did City staff and the City's traffic consultant receive the Trip Generation Evidence, they relied upon and specifically referenced same in their supplemental written testimony to the Planning Commission (Exhibit X and the October 12, 2012, supplemental staff report). These facts further indicated to Applicant that the City had accepted the Trip Generation Evidence into the record.

Fourth, City staff have entered other materials into the record in this matter without a formal request from the submitting party that the City do so. Three (3) examples include the memoranda submitted by Applicant's project planner, Keith Jones, on October 3, 2012 (Exhibits U and V to PC Packet), and October 9, 2012 (Exhibit Y to PC Packet), and a memorandum submitted by DKS Associates on October 8, 2012 (Exhibit X to PC Packet). Copies of the cover emails for these exhibits are attached as Exhibit C. Thus, the City's actions have established a precedent for accepting all materials timely submitted to the City into the record, or at the least, the City's actions have generated some inconsistency as to the standard procedure.

Applicant does not raise these points to fault City staff in any way but simply to note that, based upon the context and circumstances, Applicant's understanding that the City had accepted the Trip Generation Evidence into the record was reasonable. Applicant discovered the omission of the Trip Generation Evidence upon review of the October 23, 2012, Planning Commission packet. Immediately upon discovering the omission, Applicant contacted City staff for clarification and then prepared and filed this request.

**C. It is legally permissible to reopen the record to accept the evidence, provided the Planning Commission allows other parties to respond to same.**

Reopening the record is legally permissible because, if accomplished per the proposed schedule, it will not prejudice others. The City is permitted to reopen the record to accept new evidence, provided it allows other hearing participants a reasonable opportunity to respond to the new evidence. *Brome v. City of Corvallis*, 36 Or LUBA 225, 234-35, *aff'd sub nom Schwerdt v. City of Corvallis*, 163 Or App 211, 987 P2d 1243 (1999). Failure to provide other parties an opportunity to respond deprives other hearing participants of the opportunity to participate at a significant stage in the process and thus constitutes a procedural error that prejudices the substantial rights of those other participants. *Jackman v. City of Tillamook*, 29 Or LUBA 391 (1995). As such, a local government's error in failing to allow response to new evidence is grounds for reversal or remand by LUBA. ORS 197.835(9)(a)(B). In short, nothing in local or state law precludes the Planning Commission from accepting the Trip Generation Evidence into the record, provided that such comports with the procedures of ORS 197.763. The procedure proposed by Applicant in this request is consistent with ORS 197.763.

**D. Because Applicant has requested that the City extend its review period by the term of the reopened record (10 days), reopening the record will not compromise the City's review schedule in any way.**

Finally, Applicant has coupled its request to reopen the record with a request that the City extend its review period for the Applications under ORS 227.178 by a like period of time (10 days or until December 29, 2012). Therefore, if the Planning Commission grants this request, it will not compress the City's review schedule for the Applications in any way.

Patrick Allen, Chair  
October 23, 2012  
Page 5

**4. Conclusion.**

For the foregoing reasons, the Planning Commission should grant this request. I have asked City staff to place this submittal into the official Planning Department file for this matter and to place it before you. Applicant and its representatives will attend the Planning Commission meeting on October 23, 2012, and are happy to answer any questions at that time.

Thank you for your prompt attention to this request.

Very truly yours,



Seth J. King

Enclosures

cc: Brad Kilby (via email) (w/encls.)  
Chris Crean (via email) (w/encls.)  
Matt Grady (via email) (w/encls.)  
Chris Brehmer (via email) (w/encls.)  
Keith Jones (via email) (w/encls.)



# KITTELSON & ASSOCIATES, INC.

TRANSPORTATION ENGINEERING / PLANNING

610 SW Alder Street, Suite 700, Portland, OR 97205 • 503.228.5230 • 503.273.8169

## MEMORANDUM

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**Date:** October 1, 2012 Project #: 12214

**To:** Bob Galati, P.E., City of Sherwood  
Jason Waters, City of Sherwood

**Cc:** Matt Grady, Langer Gramor, LLC  
Keith Jones, HHPR

**From:** Chris Brehmer, P.E. and Matt Bell, Kittelson & Associates, Inc.

**Project:** Langer Farms Phase 7

**Subject:** Supplemental Trip Generation Comparison

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This memorandum provides additional trip generation analyses for illustrative comparison purposes. The July 2012 Langer Farms – Phase 7 Transportation Impact Analysis (July 2012 TIA) prepared by Kittelson & Associates, Inc. included trip generation assumptions that were developed to reflect anticipated potential development intensity on the site with a mixture of unidentified final tenants. The July 2012 TIA estimated 760 net new trips would be generated during the weekday p.m. hour peak (1,125 net new trips during the Saturday midday peak hour) based in part on the anchor building being classified as a shopping center land use<sup>1</sup>. While the potential tenants remain unidentified, the subsequent site plan filed with the land use application currently under review has a reduced building area reflecting plan refinements after initiation of the TIA. As documented herein, the trip generation corresponding with the proposed site plan should be less than or equal to that assumed in the July 2012 TIA.

## Background

Oregon Department of Transportation (ODOT), Washington County, and City staff reviewed the July 2012 TIA assumptions, findings, and recommendations in preparing their respective staff reports.

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<sup>1</sup> Shopping Center as described by the standard reference *Trip Generation* published by the Institute of Transportation Engineers (ITE).

Each agency has supported the July 2012 study findings and recommendations. City staff noted that some potential land uses that could occupy the anchor building tenant could have a trip generation profile different from the July 2012 TIA assumptions. As such, City staff indicated their desire for a trip generation comparison to confirm the site trip generation associated with a range of anchor building uses conforms with the July 2012 TIA assumptions.

Based on City staff's trip generation comments and comments expressed at the September 25, 2012 Planning Commission hearing, the Applicant is providing this supplemental memorandum to demonstrate compliance with applicable standards under two additional land use scenarios to provide additional assurance to all parties during the review process. Specifically, the July 2012 TIA trip generation estimates were compared to trip levels that would occur if the anchor tenant on the site was classified as a stand-alone discount superstore (Land Use 813) or as a stand-alone discount store (Land Use 815) as described by the standard reference *Trip Generation* published by the Institute of Transportation Engineers (ITE).

The description of each of these land uses was obtained from *Trip Generation, 8<sup>th</sup> Edition* and are provided below for context.

#### SHOPPING CENTER (ITE LAND USE 820)

"A shopping center is an integrated group of commercial establishments that is planned, developed, owned and managed as a unit. A shopping center's composition is related to its market area in terms of size, location and type of store. A shopping center also provides on-site parking facilities sufficient to serve its own parking demands. Specialty retail center (Land Use 814) and factory outlet center (Land Use 823) are related uses."

#### FREE-STANDING DISCOUNT SUPERSTORE (ITE LAND USE 813)

"The discount superstores in this category are similar to the free-standing discount stores described in Land Use 815 with the exception that they also contain a full-service grocery department under the same roof that shares entrances and exits with the discount store area. The stores usually offer a variety of customer services, centralized cashiering and a wide range of produces. They typically maintain long store hours 7 days a week. The stores included in this land use are often the only ones on the site, but they can also be found in mutual operations with a related or unrelated garden center and/or service station or as part of a shopping center, with or without their own dedicated parking area. Free-standing discount store (Land Use 815) is a related use."

## FREE-STANDING DISCOUNT STORE (LAND USE 815)

“The discount stores in this category are similar to the free-standing discount superstores described in Land Use 813 with the exception that they do not contain a full-service grocery department. They are also similar to the department stores described in Land Use 875 with the exception that they generally offer centralized cashiering and sell products that are advertised at discount prices. These stores offer a variety of customer services and typically maintain long store hours 7 days a week. The stores included in this land use are often the only ones on the site, but they can also be found in mutual operation with a related or unrelated garden center and/or service station. Free-standing discount stores are also sometimes found as separate parcels within a retail complex, with or without their own dedicated parking. Free-standing discount superstore (Land Use 813) and department store (Land Use 875) are related uses.”

## Trip Comparison

Four land use analysis scenarios were compared to the July 2012 TIA as summarized below and shown in the attachments:

- July 2012 TIA assumptions (Table 1)
- Stand-alone discount superstore with remaining site plan area assumed in July 2012 TIA (Table 2)
- Stand-alone discount store with remaining site plan area assumed in July 2012 TIA (Table 3)
- Stand-alone discount superstore with remaining site plan area shown on site plan (Table 4)
- Stand-alone discount store with remaining site plan area shown on site plan (Table 5)

The five tables present the weekday p.m. peak hour and Saturday mid-day peak hour trip estimates as those periods form the basis for the traffic impact operations analysis. Note also that the shopping center area shown in Tables 2 through 5 was developed using the *Trip Generation* average rates, reflecting the smaller building area classified as shopping center and in accordance with our discussions with City and DKS Associates staff.

As shown in Tables 2 and 4, the weekday p.m. and Saturday mid-day trip generation of the site assuming ITE Land Use 813 for the anchor tenant remains below the levels assumed in the July 2012 TIA.

Classifying the anchor tenant as ITE Land Use 815 and using a building area matching the current site plan results in a trip rate below the July 2012 TIA as shown in Table 5. Table 3 shows the same ITE Land Use scenario (ITE 815) but retaining the July 2012 TIA building area (which exceeds the

currently proposed site plan) and results in 10 net new weekday p.m. peak hour trips more than were assumed in the July 2012 TIA. While Table 3 was prepared for illustrative purposes, it does not reflect any proposed use because the site plan building size in Table 3 exceeds that of the proposed site plan.

## Summary

In summary, we believe the July 2012 TIA provided a conservative trip generation estimate that will meet or exceed the weekday p.m. peak hour trip levels associated with the range of land uses ultimately developed on the site. Based on the July 2012 TIA and this supplemental memorandum, the proposed development will not adversely affect the surrounding transportation system assuming provision of the recommended mitigation measures identified in the City of Sherwood September 18, 2012 staff report and assuming the trip generation of the site is consistent with the July 2012 TIA. In the event that the trip generation of future proposed land uses does exceed the levels assumed in the July 2012 TIA, further supplemental traffic operations analysis would be required to determine if additional mitigation is necessary.

Thank you for the opportunity to provide this additional information. Please let us know if you have any questions.

Attachments: Tables 1-5

**Table 1. Langer Farms - Phase 7 Final Report Trip Generation Estimate with July 2012 TIA Assumed Building Areas**

Land Use	ITE	Size	Weekday PM Peak Hour			Saturday Mid-day Peak Hour		
			Total	In	Out	Total	In	Out
Shopping Center	820	180,800	945	465	480	1,260	655	605
<i>Pass-By Trips (34% pm, 26% Sat)</i>			320	160	160	330	165	165
Bank w/ drive-thru	912	3,500	90	45	45	90	45	45
<i>Internalization (10%)</i>			10	5	5	10	5	5
<i>Pass-By Trips (47%)</i>			40	20	20	40	20	20
Quality Restaurant	931	10,000	75	50	25	110	65	45
<i>Internalization (10%)</i>			10	5	5	10	5	5
<i>Pass-By Trips (44%)</i>			30	15	15	40	20	20
Fast-food Restaurant w/ Drive-thru	934	3,500	120	60	60	205	105	100
<i>Internalization (10%)</i>			10	5	5	20	10	10
<i>Pass-By Trips (50%)</i>			50	25	25	90	45	45
<b>Total Trips</b>			<b>1,230</b>	<b>620</b>	<b>610</b>	<b>1,655</b>	<b>870</b>	<b>795</b>
<i>Less Internalization</i>			30	15	15	40	20	20
<i>Less Pass-By Trips</i>			440	220	220	500	250	250
<b>New Trips</b>			<b>760</b>	<b>385</b>	<b>375</b>	<b>1,125</b>	<b>600</b>	<b>525</b>

**Table 2. Scenario 1 - Free-Standing Discount Superstore (ITE 813) and Average Shopping Center Rate (TIA Assumed Building Area Site Plan with Theoretical Anchor 1)**

Land Use	ITE	Size	Weekday PM Peak Hour			Saturday Mid-day Peak Hour		
			Total	In	Out	Total	In	Out
Free-Standing Discount Superstore	813	145,000	670	330	340	820	410	410
<i>Internalization (10%)</i>			70	35	35	80	40	40
<i>Pass-By Trips (28%)</i>			170	85	85	210	105	105
Shopping Center (Avg)	820	35,800	135	65	70	175	90	85
<i>Pass-By Trips (34% pm, 26% Sat)</i>			45	20	25	45	20	25
Bank w/ drive-thru	912	3,500	90	45	45	90	45	45
<i>Internalization (10%)</i>			10	5	5	10	5	5
<i>Pass-By Trips (47%)</i>			40	20	20	40	20	20
Quality Restaurant	931	10,000	75	50	25	110	65	45
<i>Internalization (10%)</i>			10	5	5	10	5	5
<i>Pass-By Trips (44%)</i>			30	15	15	40	20	20
Fast-food Restaurant w/ Drive-thru	934	3,500	120	60	60	205	105	100
<i>Internalization (10%)</i>			10	5	5	20	10	10
<i>Pass-By Trips (50%)</i>			50	25	25	90	45	45
<b>Total Trips</b>			<b>1,090</b>	<b>550</b>	<b>540</b>	<b>1,400</b>	<b>715</b>	<b>685</b>
<i>Less Internalization</i>			100	50	50	120	60	60
<i>Less Pass-By Trips</i>			335	165	170	425	210	215
<b>New Trips</b>			<b>655</b>	<b>335</b>	<b>320</b>	<b>855</b>	<b>445</b>	<b>410</b>

**Table 3. Scenario 2 - Free-Standing Discount Store (ITE 815) and Average Shopping Center Rate (TIA Assumed Building Area Site Plan with Theoretical Anchor 2)**

Land Use	ITE	Size	Weekday PM Peak Hour			Saturday Mid-day Peak Hour		
			Total	In	Out	Total	In	Out
Free-Standing Discount Store	815	145,000	725	360	365	1,070	545	525
<i>Internalization (10%)</i>			70	35	35	110	55	55
<i>Pass-By Trips (17% pm, 23% Sat)</i>			110	55	55	220	110	110
Shopping Center (Avg)	820	35,800	135	65	70	175	90	85
<i>Pass-By Trips (34% pm, 26% Sat)</i>			45	20	25	45	20	25
Bank w/ drive-thru	912	3,500	90	45	45	90	45	45
<i>Internalization (10%)</i>			10	5	5	10	5	5
<i>Pass-By Trips (47%)</i>			40	20	20	40	20	20
Quality Restaurant	931	10,000	75	50	25	110	65	45
<i>Internalization (10%)</i>			10	5	5	10	5	5
<i>Pass-By Trips (44%)</i>			30	15	15	40	20	20
Fast-food Restaurant w/ Drive-thru	934	3,500	120	60	60	205	105	100
<i>Internalization (10%)</i>			10	5	5	20	10	10
<i>Pass-By Trips (50%)</i>			50	25	25	90	45	45
<b>Total Trips</b>			<b>1,145</b>	<b>580</b>	<b>565</b>	<b>1,650</b>	<b>850</b>	<b>800</b>
<i>Less Internalization</i>			100	50	50	150	75	75
<i>Less Pass-By Trips</i>			275	135	140	435	215	220
<b>New Trips</b>			<b>770</b>	<b>395</b>	<b>375</b>	<b>1,065</b>	<b>560</b>	<b>505</b>

Scenario 1 - Final Report Trip Generation -105 -50 -55 -270 -155 -115  
 Scenario 2 - Final Report Trip Generation 10 10 0 -60 -40 -20

Table 1 (Repeated). Langer Farms - Phase 7 Final Report Trip Generation Estimate with Building Areas Matching Current Site Plan

Land Use	ITE	Size	Weekday PM Peak Hour			Saturday Mid-day Peak Hour		
			Total	In	Out	Total	In	Out
Shopping Center			945	465	480	1,260	655	605
Pass-By Trips (34% pm, 26% Sat)			320	160	160	330	165	165
Bank w/ drive-thru			90	45	45	90	45	45
Internalization (10%)	912	3,500	10	5	5	10	5	5
Pass-By Trips (47%)			40	20	20	40	20	20
Quality Restaurant			75	50	25	110	65	45
Internalization (10%)	931	10,000	10	5	5	10	5	5
Pass-By Trips (44%)			30	15	15	40	20	20
Fast-food Restaurant w/ Drive-thru			120	60	60	205	105	100
Internalization (10%)	934	3,500	10	5	5	20	10	10
Pass-By Trips (50%)			50	25	25	90	45	45
		Total Trips	1,230	620	610	1,665	870	795
		Less Internalization	30	15	15	40	20	20
		Less Pass-By Trips	440	220	220	500	250	250
		New Trips	760	385	375	1,125	600	525

Table 4. Scenario 1 - Free-Standing Discount Superstore (ITE 813) and Average Shopping Center Rate (Current Site Plan Area with Theoretical Anchor 1)

Land Use	ITE	Size	Weekday PM Peak Hour			Saturday Mid-day Peak Hour		
			Total	In	Out	Total	In	Out
Free-Standing Discount Superstore			670	330	340	820	410	410
Internalization (10%)	813	145,000	70	35	35	80	40	40
Pass-By Trips (28%)			170	85	85	210	105	105
Shopping Center (Avg)			105	50	55	140	70	70
Pass-By Trips (34% pm, 26% Sat)	820	28,130	35	15	20	40	20	20
Bank w/ drive-thru			90	45	45	90	45	45
Internalization (10%)	912	3,500	10	5	5	10	5	5
Pass-By Trips (47%)			40	20	20	40	20	20
Quality Restaurant			75	50	25	110	65	45
Internalization (10%)	931	10,000	10	5	5	10	5	5
Pass-By Trips (44%)			30	15	15	40	20	20
Fast-food Restaurant w/ Drive-thru			120	60	60	205	105	100
Internalization (10%)	934	3,500	10	5	5	20	10	10
Pass-By Trips (50%)			50	25	25	90	45	45
		Total Trips	1,060	535	525	1,365	695	670
		Less Internalization	100	50	50	120	60	60
		Less Pass-By Trips	325	160	165	420	210	210
		New Trips	635	325	310	825	425	400

Table 5. Scenario 2 - Free-Standing Discount Store (ITE 815) and Average Shopping Center Rate (Current Site Plan Area with Theoretical Anchor 2)

Land Use	ITE	Size	Weekday PM Peak Hour			Saturday Mid-day Peak Hour		
			Total	In	Out	Total	In	Out
Free-Standing Discount Store			725	360	365	1,070	545	525
Internalization (10%)	815	145,000	70	35	35	110	55	55
Pass-By Trips (17% pm, 23% Sat)			110	55	55	220	110	110
Shopping Center (Avg)			105	50	55	140	70	70
Pass-By Trips (34% pm, 26% Sat)	820	28,130	35	15	20	40	20	20
Bank w/ drive-thru			90	45	45	90	45	45
Internalization (10%)	912	3,500	10	5	5	10	5	5
Pass-By Trips (47%)			40	20	20	40	20	20
Quality Restaurant			75	50	25	110	65	45
Internalization (10%)	931	10,000	10	5	5	10	5	5
Pass-By Trips (44%)			30	15	15	40	20	20
Fast-food Restaurant w/ Drive-thru			120	60	60	205	105	100
Internalization (10%)	934	3,500	10	5	5	20	10	10
Pass-By Trips (50%)			50	25	25	90	45	45
		Total Trips	1,115	565	550	1,615	830	785
		Less Internalization	100	50	50	150	75	75
		Less Pass-By Trips	265	130	135	430	215	215
		New Trips	750	385	365	1,035	540	495

Scenario 1 - Final Report Trip Generation -125 -60 -65 -300 -175 -125  
 Scenario 2 - Final Report Trip Generation -10 0 -10 -90 -60 -30

**King, Seth J. (Perkins Coie)**

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**From:** Chris Brehmer [CBREHMER@kittelson.com]  
**Sent:** Tuesday, October 02, 2012 2:27 PM  
**To:** GalatiB@SherwoodOregon.gov; WatersJ@SherwoodOregon.gov  
**Cc:** King, Seth J. (Perkins Coie); Matt Grady; Keith Jones  
**Subject:** Langer Farms Phase 7 Supplemental Trip Generation Information  
**Attachments:** Supplemental Trip Generation Analysis.pdf

Greetings,

Attached to this e-mail, please find a letter we prepared comparing the trip generation assumptions in the Langer Farm Phase 7 traffic study with various other potential anchor tenant land use scenarios.

Perkins Coie will be separately providing a corresponding set of suggested findings and a proposed revised condition #27. I will also be preparing an additional letter responding to transportation related comments at the hearing including additional trip generation questions that were raised.

Please let me know if you have questions or if you would like to discuss this material.

Regards,  
Chris

Christopher L. Brehmer, P.E.  
Principal Engineer

Kittelson & Associates, Inc.  
Transportation Engineering / Planning  
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Portland, Oregon 97205  
503.228.5230  
503-535-7433 (direct)

[Streetwise](#) [Twitter](#) [Facebook](#)

**King, Seth J. (Perkins Coie)**

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**From:** Keith Jones [KeithJ@hhpr.com]  
**Sent:** Wednesday, October 03, 2012 1:13 PM  
**To:** Bradley Kilby (KilbyB@SherwoodOregon.gov)  
**Cc:** Matt Grady; King, Seth J. (Perkins Coie)  
**Subject:** Langer Farms Phase 7 - Staff Report Comments  
**Attachments:** Langer Farms Ph 7 - Condition 43 - 10-3-12.pdf; Langer Farms Ph 7 - Condition 51 and 52 - 10-3-12 .pdf

Hi Brad,

Attached are two memos that request changes to some of conditions in the August 28, 2012 staff report (SP 12-05/CUP 12-02).

Thanks

Keith

**Keith B. Jones, AICP, LEED AP ND**

Senior Planner

**HARPER HOUF PETERSON RIGHELLIS INC.**

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**From:** Bradley Kilby [<mailto:KilbyB@SherwoodOregon.gov>]  
**Sent:** Monday, October 08, 2012 11:55 AM  
**To:** Keith Jones  
**Subject:** FW: FW: Proposed Findings and Condition Relating to Trip Generation for Langer Farms Phase 7 Shopping Center

Brad Kilby, AICP, Senior Planner  
22560 SW Pine Street  
Sherwood, Oregon 97140  
503-625-4206



Please consider the environment before printing this e-mail.

**From:** Garth Appanaitis [<mailto:gaa@dksassociates.com>]  
**Sent:** Friday, October 05, 2012 1:56 PM  
**To:** Jason Waters  
**Cc:** [csm@dksassociates.com](mailto:csm@dksassociates.com); Bob Galati; Bradley Kilby  
**Subject:** Re: FW: Proposed Findings and Condition Relating to Trip Generation for Langer Farms Phase 7 Shopping Center

Jason -

Here is a memo documenting our review of the updated trip generation calculations. As discussed yesterday, the calculations adequately indicate that the other land use types would not generate additional new trips.

Monday morning is fine - if Chris doesn't stop in we'll be available for the call.

Thanks,  
Garth

## King, Seth J. (Perkins Coie)

---

**From:** Keith Jones [KeithJ@hhpr.com]  
**Sent:** Tuesday, October 09, 2012 1:48 PM  
**To:** Bob Galati; Bradley Kilby  
**Cc:** King, Seth J. (Perkins Coie); Alex Hurley (alex@aks-eng.com); Matt Grady; Jason Waters; Stephanie Guediri  
**Subject:** RE: Langer Farms Phase 7 - Condition 14  
**Attachments:** Langer 7 - Condition 14 - 10-9-12-final.pdf

Thanks Bob,

I removed "moratorium" from the memo and revised as suggested, see attached.

**From:** Bob Galati [mailto:GalatiB@SherwoodOregon.gov]  
**Sent:** Tuesday, October 09, 2012 10:57 AM  
**To:** Keith Jones; Bradley Kilby  
**Cc:** sking@perkinscoie.com; Alex Hurley (alex@aks-eng.com); Matt Grady; Jason Waters; Stephanie Guediri  
**Subject:** RE: Langer Farms Phase 7 - Condition 14

Keith & Brad,

The rewrite of the conditions appears to be acceptable with one change. Please replace "moratorium" with "construction limited street" in describing the limitations placed on Langer Farms Parkway. The Ordinance and related code section are intentional in not using the term "moratorium" in describing the limitation, and using "moratorium" places connotations on the use not consistent with the intent of the Ordinance or Code.

Any questions please give me call.

**Bob Galati, PE**  
*City Engineer*

**From:** Keith Jones [mailto:KeithJ@hhpr.com]  
**Sent:** Monday, October 08, 2012 11:28 AM  
**To:** Bradley Kilby; Bob Galati  
**Cc:** sking@perkinscoie.com; Alex Hurley (alex@aks-eng.com); Matt Grady  
**Subject:** Langer Farms Phase 7 - Condition 14

Hi Brad and Bob,

Attached is a memo and exhibit that relates to recommended Condition 14 and AC removal in Langer Farms Parkway.

Thanks

Keith

**Keith B. Jones, AICP, LEED AP ND**  
Senior Planner

**HARPER HOUF PETERSON RIGHELLIS INC.**  
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