City of Sherwood, Oregon

Planning Commission Meeting

June 28, 2016

Planning Commissioners Present:
Chair Jean Simson
Commissioner Michael Meyer
Commissioner Alan Pearson
Commissioner Rob Rettig

Staff Present:
Julia Hajduk, Community Development Director
Bob Galati, City Engineer
Brad Kilby, Planning Manager
Michelle Miller, Senior Planner
Kirsten Allen, Planning Dept. Program Coordinator

Planning Commission Members Absent:
Vice Chair Russell Griffin
Commissioner Chris Flores
Commissioner Lisa Walker

Council Members Present:
Jennifer Harris

1. Call to Order/Roll Call

Chair Jean Simson convened the meeting at 7:00 pm.

2. Consent Agenda

a. February 9, 2016 Planning Commission Minutes approval
b. May 24, 2016 Planning Commission Minutes approval
c. June 14, 2016 Planning Commission Minutes approval

Motion: From Commissioner Alan Pearson to approve the minutes, Seconded by Commissioner Michael Meyer. All present commissioners voted in favor.

3. Council Liaison Announcements

None were received

4. Staff Announcements

Brad Kilby, Planning Manager said the 2016-17 Budget had been approved by City Council which included a position for a Senior Planner (for a limited duration) to complete the Comprehensive Plan update. He informed that there would be a public meeting regarding the Tannery Site Assessment Update on Wednesday July 13, 2016 at 6:30 pm and added that staff had presented proposed regulations for marijuana facilities to the Police Advisory Board. The Planning Commission will hold that hearing regarding marijuana facilities in Sherwood on July 26, 2016. No public comments have been received.

5. Community Comments

None were received.

6. New Business

a. Public Hearing – SP 16-04 Sherwood Plaza Apartments

Chair Simson read the public hearing statement and asked for any ex parte, bias or conflict of interest. None were received.

Michelle Miller, Senior Planner gave a presentation of the staff report (see record, Exhibit 1). She showed the location of the proposed action and stated it was zoned Retail Commercial (RC) and located within the Sherwood Town Center area. The proposed apartments would go on the vacant area of approximately 3.43 acres, behind the Sherwood Plaza shopping center. Ms. Miller said the property was surrounded by multifamily apartments and townhomes. Multifamily housing is generally allowed in Retail Commercial provided it is secondary to the primary use of commercial. Multifamily housing has fewer daily trips for traffic than the commercial plaza.

Ms. Miller said there were six different buildings proposed on the site, consisting of 82 apartment units, ranging from studio to three bedroom. She stated that the applicant proposed to gain access using the existing east driveway of the plaza with 139 parking spaces in the center of the site and garages that were not included in the calculation. There would be approximately 39,000 square feet of open space area. Ms. Miller reported that the applicant met the standards of the High Density Residential zone and other site plan requirements and no written comments had been received. She showed the proposed landscaping on the site consisting of street trees, a ten foot visual corridor along Langer Drive, and an active play area in the back corner of the site.

Ms. Miller noted that multifamily design standards required the primary entrance be face the street (Langer Drive) with articulation and interest for people passing by. She said Building 1 faced the parking area and Building 2 had a side elevation facing Langer Drive that fell short of the standard. Ms. Miller acknowledged that the site was constrained by being long and narrow. Staff recommended a condition for revised elevations for the northern sides of Buildings 1 and 2 and to orient the buildings to the street.

Ms. Miller stated one of the recommendations from the traffic study was to improve the crosswalk with a high visibility crossing and markings to help make people aware of the pedestrians crossing. She said the code required interconnected neighborhoods, but the applicant had proposed a 720 foot long fence along Trumpeter Drive. She said it cut off access from the adjacent neighborhood and requested a break in the fence between Buildings 2 and 4. Chair Simson asked if there was access between the play area and Century Drive. There was not one proposed.

Ms. Miller specified other recommended public improvements included widening the sidewalk along Langer Drive in front of the site, dedicating the right-of-way at that location to a 39 foot half street, reconstructing the sidewalk ramp on east side of existing driveway to ADA standards, and to contribute $7423 (a proportionate share) for the SW Langer and SW Sherwood intersection change project. She explained that the current stoplight at Langer Drive and Sherwood Blvd was slated to move to the intersection of Century Drive and Sherwood Blvd. The fund would go toward moving the signal. Staff recommended approval with the conditions in the staff report.

Ms. Miller asked for the Commission to approve the following changes of the staff report. Page numbers are from the packet.

- Re-letter the sections on page 10
- Add condition from page 13 regarding the installation of a high visibility advanced pedestrian crossing warning signage and striping as F.5 to page 46.

- Add conditions from page 34 under Prior to Engineering plan approval as D.7, D.8 to page 45.
- Delete conditions 10 and 11 on page 46 and renumber section F.
- Add condition F.16 "If onsite fire protection is required, install backflow protection meeting Sherwood engineering standards" to page 47.

Motion: From Commissioner Alan Pearson to approve the suggested changes. Seconded by Commissioner Michael Meyer. All present planning commissioners voted in favor.

Chair Simson asked for questions from the Commission for staff.

Commissioner Pearson commented that there was only one access to the site. He was informed by staff that there was an exit at the front and the rear of the site.

Chair Simson commented on a lack of access to the south towards [Langer] Park near the play area. Ms. Miller confirmed that residents would have to go through the conditioned access and south to the park through the private drive at Sunfield Lakes Apartments.

Commissioner Rettig asked about the title report and said he was looking for the ownership and the required easements. He said the survey noted the title report was not used to prepare the map and there might be existing easements, conditions, or restrictions that could affect the title. He said the online title had numerous easements and was concerned that there may be easements running through the development. Ms. Miller responded that the required easements would be noted and verified during the Engineering plan approval. Bob Galati, City Engineer explained that plans submitted to the Engineering Department would contain easement and right-of-way locations and any private utilities easements; private utilities would be relocated as part of the project in cooperation with the private utility companies.

Commissioner Rettig commented that Washington County did not show the property with a lease boundary. He asked if setbacks would be off of the lease line or if it was considered one large parcel. Ms. Miller confirmed that it was one tax lot and that was how staff had reviewed it.

Chair Simson expressed concern for prospective residents if the owner chose not to renew the lease. She suggested a condition that residents be notified of the land lease. Ms. Miller responded that the City did not get involved in that level of detail for leases, but staff had verified the overall lease and that property improvements were being done through an agreement between the landholder and the long term lease holder. Mr. Kilby added that leases were private agreements and local government typically stayed away from getting involved in private agreements.

Chair Simson noted that her concerns were based on manufacture home parks that closed without warning to residents. Mr. Kilby informed the Commission that manufactured home parks were now protected. Julia Hajduk added that the buildings and amenities on the site would remain even if the lease was not renewed and it would be comparable to a new ownership situation.

To explain the crosswalk improvements, Garth Appanaitis, on call traffic engineer for the City from DKS Associates, came forward and explained that staff had requested the applicant provide the safe crossing of Langer Drive. The existing marked crosswalk west of the development had about six pedestrians using the crosswalk during the pm peak hour. Mr. Appanaitis said the applicant suggested about six additional pedestrians during the evening peak hours would be added from the development to total about twelve crossings during the pm peak hour. He said the applicant proposed and staff concurred some improvements for safety which included adding advanced signage and high visibility striping at the crossing. Mr. Appanaitis referred to Exhibit H (see planning record) and said the exhibit

showed examples of the crossing with white lines and no signage, the proposed additional advanced crossing signage, and pedestrian crossing sign at the crosswalk location. Mr. Appanaitis explained that the development was not reaching the threshold that would typically require additional improvements and additional enhancements would not be needed until about seventy crossings during the hour given the speed and traffic volumes on this roadway.

Commissioner Michael Meyer asked when the traffic study was completed and was told late October 2015. He commented that when the grocery store across the street reopened the number of pedestrians crossing the street might increase. Mr. Appanaitis replied that the traffic study included other similar crossings on Langer Drive which did not exceed ten crossing per hour.

Chair Simson commented there were five crossings east of the site and only one west of the site. She said she observed several people cross over a twenty minute period and commented on the bus stop on the other side of the road. She pointed out that this was in the City's Town Center which was intended to be pedestrian friendly; 82 additional units, with 82 people crossing seemed to warrant an additional crosswalk.

Mr. Appanaitis specified that approximately eighty units resulted in the ballpark of fifty trips during the pm peak hour. He said trip types included entering and leaving the site by car, by transit, and by walking, and biking. Only if everyone walked and went north, would it be approaching the threshold. Mr. Galati added that he had received numerous complaints about the existing crosswalk requesting improvements.

Chair Simson acknowledged the logic, but disagreed from a user standpoint. She said if even half of the people from the development used the crosswalk to the grocery store once in a while, they would want to walk straight across.

Mr. Galati stated that he would rather direct traffic in a location that was safe and could be controlled. He said the lamb chop coming off the highway was stop controlled and coming out of Sherwood Plaza was stop controlled. He said that meant there were two directions that could be controlled, and if signed properly the crosswalk would be visual enough. He thought the existing crosswalk was where it needed to be.

Commissioner Pearson said he had driven over the crosswalk many times and it was hard to see. He commented on the proposed improvements and said he hated to suggest more expensive improvements. Commissioner Pearson suggested more lighting to increase visibility. Mr. Galati said staff could ask the applicant to look at if the existing street lighting provided enough illumination to make the crossing safe. Commissioner Pearson commented that the crosswalk should be illuminated and brightly painted to make it clear and obvious that it was a crosswalk; it is human nature to jaywalk, but making an inviting crosswalk may entice more people to use it and would be safer for drivers.

Mr. Galati said the striping plan of parallel and diagonal lines was all that the City could ask for from this development. He said it would highly illuminate the crosswalk zone and the advanced signage warning would help. If people sped along Langer Drive, it was an enforcement issue; staff will always try to educate people to make sure they fallow the traffic laws for safety reasons.

Chair Simson asked for applicant testimony.

Anne Marie Skinner, Planner for Emerio Design representing the applicant came forward and thanked staff for their assistance. She explained the application was for an 82 unit multifamily residential complex and said it was taking the best use of the undeveloped property and making it usable; beautifying the area for the city. She said the entire parcel was one parcel and the residential

portion was slightly over three acres. The rest of the property has been developed as commercial. Ms. Skinner said the applicant was grateful the Sherwood Code allowed the secondary residential use and felt it was a good transition between the townhouses, single family residential, and multifamily to the commercial use to the west. She said more commercial would be hard to see and would increase traffic more than the proposed residential.

Ms. Skinner said code requirements were either met or would be met as part of the development and through the construction, that there were many conditions specifically related to engineering requirements that could not be shown without the conditions of approval and the applicant was waiting for preliminary approval. She said they would be met through engineering plans that would be submitted for final approval.

Ms. Skinner submitted a packet of information and said the landscaping plans had been revised in the first four pages by the applicant to meet the conditions of approval C.3, C.5 - C. 9 (see planning record, Exhibit I). She reported that the street trees were from the approved street tree list and their landscape architect had added the reason for the removal of the trees as well as an arborist who was retained to assess the health of the trees to be submitted for the final approval. The landscape architect gave her opinion that some of the trees slated for removal are not in the best of health and should be removed regardless of development to preserve the health of the surrounding viable trees, but most of the trees slated for removal were for buildings or required improvements.

Ms. Skinner submitted six drawings in the packet of the active recreational open space in the southwest corner of the project at approximately 7000 square feet in area. She said the renderings visualized the types of activities in the park for the residents of the development. The remaining open space areas were interspersed throughout the development. Ms. Skinner stated the landscaping plan showed the plantings for both the active and passive open space areas and said the proposed fence along the east boundary would be nicely landscaped and made of Cedar. She remarked that the eight people in attendance at the neighborhood meeting were all opposed to any break in the fence and the applicant understood that technically nobody should be walking on the private drive that is not part of the same development. She stated the pedestrian connection was available along Langer Drive to the north, about 300 feet from where staff was proposing the break in the fence. She suggested that rather than walk through the development the residents adjacent could walk on the sidewalk, provided as part of the development, to access the commercial development.

Ms. Skinner communicated that the applicant felt the condition to orient the building to Langer Drive was met with the inclusion of the pedestrian plaza (see planning record, Exhibit I). The pedestrian plaza would front Langer Drive next to the two closest buildings and provide a front forecourt articulation that would tie them to Langer Drive. With the addition of the pedestrian plaza the applicant thought the condition had met the intent of the code and asked not to be required to re-orient Building 1 and offered to move the side entrance to the north end. The applicant offered to add windows to the north end of Building 2. Ms. Skinner repeated the request to remove the condition requiring the break in the fence.

Brian Shahum, from Mercury Development came forward and said the Zimel family had leased the property since 1973. He said a few people who attended the neighborhood meeting were present and mentioned the Kauffmans who voiced concerns for parking, security, and noise. He said parking was a very big issue as neighbors see a lot of cars not from their development parking there. He suggested a break in the fence would give access to people to park in the neighborhood taking away the limited parking they have. Mr. Shahum commented that it was important to listen to what neighbors were

asking and stated the fence would be done in a tasteful manner with something that would keep people out of their property and ensure the children's safety.

Mr. Shahum asked if the applicant could get a copy of the new conditions of approval. He was informed that the conditions of approval are noted throughout the report and relisted at the end. The conditions noted during the staff presentation were listed in the report, but not relisted at the end of the document. Staff would provide a new copy once the Commission made a decision which will include all of the conditions numbered correctly.

Mr. Shahum stated the SDC charges for the project would come in at $1.5 million and said the $7,423 to move the lighted intersection from SW Langer would adversely affect the shopping center with its right in/right out access. He said the Zimel family was not aware of the change and there had been opportunities for the information to be provided when the Dutch Bros. and the Taco Bell were developed. He said they would have voiced their opinion against it and did not feel it was something they should have to contribute to given how the intersection would negatively impact the center.

Dave Zimel, Portland Fixture, came forward with Eric Evans. Mr. Zimel said there was a challenge with the condition to dedicate right of way as the applicant was leasing the land and did not own the land. He did not have the authority to dedicate the ground, only the right to develop the property. He did not know if the landowner would agree to dedicate the land. Mr. Zimel stated that all of the options had been exercised for the ground lease which would end March 31, 2054.

Eric Evans, Emerio Design offered to amend the recommended condition at the bottom of page 32 of the packet to include "or adequate fee in lieu payment for the value of the land and improvements rather than a dedication or physical improvements acceptable to the city engineer, or a combination thereof".

The applicant had 11 minutes remaining and chose to save it for rebuttal.

Chair Simson called for public testimony.

Valery Koyfman, resident of Sherwood in the adjacent Arbor Terrace neighborhood, came forward and expressed concern for parking. He said for 82 units only 139 parking spaces were proposed. Mr. Koyfman noted that this was less than two parking spaces for each apartment and said parking overflow would end up in his neighborhood which is already overloaded. He said residents were worried about parking and increased traffic which meant increased noise and air pollution.

Tony Bevel, Sherwood resident reminded the commission of a fatality involving an individual crossing between the Walmart and Target sites. He said the new shopping center was well planned where it was determined there were enough crosswalks. Mr. Bevel agreed with Chair Simson in the need to push for an additional crosswalk between the shopping center to the north and the new apartments for pedestrian safety. He noted that it will cost the City a lot more money for the new crosswalk between Walmart and Target and had already cost a number of people a lot of heartache. He suggested doing it right and demanding something better than what was proposed.

No other testimony was received.

The applicant returned for rebuttal. Mr. Shahum commented that the concerns for parking enhanced the argument not to have a break in the fence on the eastern border, because the neighbors were asking that there not be one. He responded that the parking space requirement for the complex was 129 spaces which had been increased to 139 spaces and the parking numbers did not take into consideration the 17 garage spaces that would be available.

Ms. Skinner added that the applicant did not have any objections for the two requirements for the crosswalk. She said a commercial development would add more noise and air pollution than the proposed residential. Mr. Shahum noted that there were bicycle racks above the required at the site as well.

Chair Simson asked for questions for the applicant from the Commission.

Commissioner Meyer commented that from a citizen's point of view it did not feel great having the fence up. One of the nice things about Sherwood was being able to walk between neighborhoods. He said the proposal was effectively a neighborhood within the community and he saw the fence as a barrier. He was not unfeeling toward the residents of the adjacent neighborhood, but noted they were not fenced in either.

Mr. Shahum responded the applicant wanted to put a quality product out there and he had met with a number of property management companies who indicated that security was a major issue. He said last year there were people illegally dumping their Christmas trees on the site because they had access and they wanted to put in something that was secure for the people who would live there and for the neighbors. Mr. Shahum added that he heard comments at the neighborhood meeting about people selling drugs out of nearby apartments and the subsequent police presence. He said they wanted a high end apartment complex without that element that Sherwood could be proud of. He stated that direct access into the complex would have people parking on nearby streets and loitering.

Chair Simson noted there were open spaces created for the new community, but that there was no connection to the rest of the community. Mr. Shahum replied that the requirement for open space was 29,800 square feet, but 33,317 square feet was included; over 10% more than required. He signified that it was a great way to beautify the empty field and give something to the neighborhood and town.

Mr. Zimel commented that he did not see the benefit of connecting the apartment complex because the back of the shopping center was not a place where someone would want to cross over to. He preferred seeing the residents go to Langer Drive to access the shopping center, because there is no way to pass through the buildings and the only thing an opening in the fence would affect was the small kids. Mr. Zimel pointed out that the private drive was dark at night and an open access was an easy place for someone to come in and do something they should not, putting kids at risk. He did not think it was actually connecting to something.

Chair Simson noted that a southern opening that she asked about near the play area would connect to the Langer Park. Ms. Miller added that Sunfield Lakes Apartments were quasi-public because it was multifamily housing and it would be difficult to challenge pedestrians walking through. Ms. Miller said Chair Simson's sentiment was supported in the code in a number of places; onsite circulation, perimeter buffering, block length requirements.

Chair Simson pointed to the pedestrian plaza design provided by the applicant. She said the plaza was intended to tie the development to the community, but the code says the buildings needed to be oriented to the community. She commented that there was a similar style building on 185th Avenue north of Baseline Road. The applicant offered to add windows to that side of the building and said what was created with the pedestrian plaza was similar to other new development in Sherwood; near Walmart there are not main entrances to Chipotle or Mod Pizza, but plaza areas on the side. Chair Simson noted that even though the main entrance was not at the street, it looked like you could walk in one of the doors and there was articulation and interest that did not make you feel like you are looking at the back of the building. She said Building 2 looked like the side of a blank wall.

Jim Toporek, Studio 3 Architecture came forward and noted that there was undulation on the back of the Building 1, but appeared blank on the 2D drawing. Building 2 had balconies jutting out and could be amended to add color or movement in the wall. Mr. Toporek stated he did not understand the requirement; he saw this stipulation in big cities like Portland, but SW Langer was not an active pedestrian thoroughfare with retail to the west and a large parking buffer between the sidewalk and the retail. There was a retail building to the north, and a fifteen foot landscape buffer with a fence at the townhomes. Mr. Toporek said with the parking to the interior of the site, residents of Building 1 would have to park and walk around to the front with their groceries. In other situations where the developer was force into that situation the units received less rent.

Mr. Toporek pointed out that a main entry faced toward the street was to have eyes on the street, but in this case they wanted eyes on the parking and the children playing in the open watching over the community. He stipulated that the proposed pedestrian opened to the sidewalk for bicycle and transit facilities; it allowed people in and acted as a place for pause along the sidewalk. He concluded that it was difficult to flip the building around for the reasons stated.

Chair Simson asked about the articulation on Building 1. Mr. Toporek explained that the articulation happened with the change of materials and in two foot movements.

Commissioner Pearson asked staff why there was a requirement for the break in the fence. Ms. Miller responded that it was recommended in the code and the purpose was to encourage circulation throughout neighborhood; provided an opportunity to walk the neighborhood, get more eyes on the street, and was safer than an isolated community.

Commissioner Pearson replied that he understood and agreed with it, but that the Commission had also heard from the neighbors that the break was not wanted with valid concerns. He said he understood security and when he heard from the neighbors and the applicant concerns for security, he agreed. A fence with a great hole voided the security. He understood the desire for communal interaction, but was more security conscious.

Motion: From Commissioner Alan Pearson to rescind that portion of the requirement, Seconded by Commissioner Rob Rettig. Commissioners Pearson and Rettig voted in favor. Chair Simson and Commissioner Meyer voted against. Motion failed.

Chair Simson returned to the concern about the articulation for Buildings 1 and 2. She said with the articulation as described on Building 1, in combination with the plaza, the applicant was coming closer, but that Building 2 did not have any articulation in 75% of the elevation.

The applicant asked if they could suggest changes to the design. Chair Simson agreed, implying it was difficult to gain staff agreement on the fly and suggested the hearing could be continued. Mr. Shahum asked if Building 1 was acceptable to the Commission and they could concentrate on Building 2. Chair Simson received a consensus from the Commission. Commissioner Meyer commented that the Commission was looking for an interesting architectural look and was not sure the entrance needed to be moved to face the street.

Mr. Kilby proposed a recess before the closing the public hearing. He suggested a motion to change condition C.2 to memorialize the Commission's consent.

Motion: From Commissioner Alan Pearson to change condition C.2 to Building 2 only, Seconded by Commissioner Michael Meyer. All present commissioners voted in favor.

Julia Hajduk clarified that if the hearing was continued there may be different planning commissioners present at the next hearing who may have additional concerns.

Chair Simson addressed a concern from the neighborhood meeting regarding the trash enclosure by verifying that Pride Disposal needed the enclosure in the proposed location to allow garbage truck access. She commented that noise from play areas was inherent to development and reasonable noise from people living in the community was acceptable.

Chair Simson called for a recess at 8:50 pm and reconvened at 8:57 pm. The applicant asked for a two week continuance.

Motion: From Commissioner Michael Meyer to accept the continuance request, Seconded by Commissioner Rob Rettig. All present commissioners voted in favor.

The hearing was continued to July 12, 2016. Chair Simson said the items of concern may change given the makeup of the Planning Commission on that date.

Mr. Shahum commented on the crosswalk and pointed out that DKS Associates and Kittelson & Associates studied the trips and everything was below any requirements for further pedestrian sidewalks. The applicant wanted to follow their expert opinions. He said there was a lot of discussion between Engineering Department staff and information was provided to meet the requirements.

Chair Simson asked if other commissioners felt strongly about an additional crosswalk.

Commissioner Pearson commented that he did not see how adding another crosswalk would appreciatively improve the situation, but would cost more instead. He would rather see the money spent lighting the area. Mr. Shahum offered to review the existing lighting and follow the guidelines of the Engineering Department.

Commissioner Pearson commented on a lighted stop sign and warning sign on Sunset Blvd. He said he had concerns with small signs high and to the right of the roadway. He said the lighted stop sign added an element of safety.

Chair Simson commented that when staff mentioned a high visibility pedestrian crossing she envisioned flashing yellow LEDs that enabled people to cross. She said that would give people a place to safely cross.

Commissioner Meyer said there was flashing yellow lights at the corner of Pine Street and Railroad Street. He said he agreed with the City's traffic engineer to enhance an area that was more easily controlled instead of add another crossing. From a human perspective people would cross the road wherever they wanted to. He was in favor of directing them to something more visible.

Chair Simson said the Commission would like more information for the crosswalk, Building 2, and easement information, if available. She commented that conditions regarding engineering specifications about sewer, water and sanitary were in every application the Commission reviewed and did not detract the Commission from being able to approve the application.

7. Planning Commissioner Announcements

Commissioner Pearson asked about information he had received from the Smart Growth Conference. Mr. Kilby informed the commission that staff had scanned the information given to him by Commissioner Pearson and he would forward the information via email.

Mr. Kilby asked Mr. Galati to give details on the Capital Improvement Plan. Each commissioner had received a copy. Mr. Galati explained that a Capital Improvement Plan was required by the state and stated the plan contained all the projects identified in each of the city's master plans; water, sewer, parks, and transportation.

8. Adjourn

Chair Simson adjourned the meeting at 9:17 pm.

Submitted by:

Kirsten Allen

Kirsten Allen, Planning Department Program Coordinator

Approval Date: September 13, 2016