



Home of the Tualatin River National Wildlife Refuge

PLANNING COMMISSION MEETING PACKET

FOR

**Tuesday, November 6, 2012
7:00 pm**

**Sherwood City Hall
22560 SW Pine Street
Sherwood, Oregon**



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
November 6, 2012 – 7PM**

AGENDA

- 1. Call to Order/Roll Call**
- 2. Agenda Review**
- 3. Consent Agenda:**
 - a. October 23, 2012 Planning Commission Minutes**
- 4. Council Liaison Announcements**
- 5. Staff Announcements**
- 6. Community Comments**
- 7. Old Business**
 - a. Langer Farms Phase 7 (SP 12-05/ CUP 12-02) *Continued from October 23, 2012***

The applicant is proposing a site plan to construct a commercial shopping center on 19.7 acres of property. The proposal includes 189,500 square feet of commercial space which includes 145,000 square foot anchor building and six retail buildings with associated parking and landscaping.
- 9. Adjourn**

Next Meeting: November 13, 2012

Consent Agenda

City of Sherwood, Oregon
Planning Commission Minutes
October 23, 2012

Commission Members Present:

Commissioner Copfer
Commissioner Cary
Commissioner Griffin
Commissioner Walker

Staff Present:

Julia Hajduk, Planning Manager
Brad Kilby, Senior Planner
Tom Pessemier, Community Development Director
Bob Galati, City Engineer
Jason Waters, Civil Engineer
Mark Daniel, Police Captain
Kirsten Allen, Planning Dept. Program Coordinator

Commission Members Absent:

Chair Allen
Vice Chair Albert
Commissioner Clifford

Council Liaison

Councilor Clark

Legal Counsel Present:

Chris Crean

1. Call to Order/Roll Call – Commissioner Copfer called the meeting to order at 7:01 pm.

Planning Manager Julia Hajduk addressed the issue of no one to run the meeting as Chair Allen and Vice Chair Albert were not present and asked for a formal motion to appoint a temporary chair for the meeting.

Motion: From Commissioner Russell Griffin To Temporarily Appoint Commissioner Copfer To Head The Planning Commission Meeting, Seconded By Commissioner Michael Cary. All Commission Members Present Voted In Favor (Chair Allen, Vice Chair Albert, And Commissioner Clifford Were Absent).

2. Agenda Review

The agenda consisted of the Consent Agenda and Public Hearings for SP 12-05 Langer Phase 7 and SP 12-06 Brucker Building.

3. Consent Agenda

- a. August 28, 2012 Planning Commission Minutes
- b. September 25, 2012 Planning Commission Minutes

Commissioner Griffin pointed out two errors in the minutes from August 28, 2012.

- On page 9, add the word “not” to in the third paragraph from the bottom of to read “it would not affect his ability to make a decision”
- On page 11 to change the word “overly” to “overlay”

Motion: From Commissioner Lisa Walker To Approve The Consent Agenda As Amended, Seconded By Commissioner Russell Griffin. All Commission Members Present Voted In Favor (Chair Allen, Vice Chair Albert, And Commissioner Clifford Were Absent).

4. City Council Comments

Councilor Clark informed the Commission that there was a Council work session where they discussed alcohol use in public parks and received an update for the downtown streetscapes project.

5. Staff Announcements

Julia asked for feedback regarding the level of detail desired for minutes or input on how to make the Planning Commission packet more usable by the Commission members.

Julia informed the Commission that the Tualatin River National Wildlife Refuge has prepared a Comprehensive Conservation Plan and Environmental Assessment for the Refuge and they are asking for input. Julia said there would be an open house at the Refuge on November 13, 2012 from 7-9pm and there will be a link added to the City website for interested parties.

Bob Galati gave an update on the Downtown Streetscapes Project and said the project included SW Railroad Street (between SW Pine and SW Main) and SW Washington Street (between SW 1st and SW Railroad) including the alleyways with twelve foot sidewalks on Railroad Street. Bob said the next phase would include public outreach to the business owner's downtown. The project is expected to reach substantial completion in time for Cruisin' Sherwood.

6. Community Comments

There were no community comments

7. Old Business

a. Public Hearing- Langer Farms Phase 7 (SP 12-05/ CUP 12-02)

Commissioner Copfer gave a brief summary of the project and asked for any new ex parte contact, bias, or conflict of interest from the Commissioners. None were received.

Brad Kilby, Senior Planner, gave a brief summary of the project for SP 12-05 and CUP 12-02 in a presentation (see record, Exhibit 1) and reminded the Commission that the subject property was a 19.82 acres and the proposal was to construct six buildings ranging from 3500 to 10,760 square feet with a 145,000 square foot anchor store. The Conditional Use Permit would allow for thirty spaces to be used as an outdoor sales area. The applicant has also asked for a street modification for curb tight sidewalks with tree wells along SW Century Boulevard.

Brad informed the Commission that the City Received verbal comments from the Bonneville Power Association (BPA) that there were concerns regarding parking under the power lines. The applicant is working with the BPA and has submitted an alternate site plan, during the open record period, that shows parking removed from under the BPA power line easement. Brad said they are still within the range for the parking adjustment that has been requested.

Brad said staff continues to recommend approval with the revisions discussed in the Staff memo to conditions 14, to remove conditions 27 and 43, and to revise conditions 51 and 52 in order to be consistent with the Oregon Department of Transportation (ODOT) language submitted by Seth Brumley from ODOT.

Brad stated that a request has been received to reopen the record for the purpose of accepting evidence into the record. One is a memo from Kittelson and Associates that was received and reviewed by the City's Engineering Department, but was omitted from the record. The other

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evidence consists of three traffic studies, referred to in written testimony, received by Charles and Amy Boyle in an October 9th letter. Brad said that the Commission was not required to reopen the record, but the information in the Kittelson memo has been relied on by staff and the applicant to make a case for the traffic mitigation and to demonstrate that the initial traffic impact analysis was sufficient.

Brad commented that if the Commission were to decide to reopen the record, staff would recommend leaving the record open for 7 days to allow anyone to comment on the new information. Brad explained that the applicant is provided 7 days to respond, but can waive a portion of that time and discussed possible meeting dates with the Commission. Brad added that the applicant has allotted an additional 10 days to the 120 day check, with a deadline of December 29, 2012, if the record is reopened, and commented that the goal is to make the decision within the 120 day period (with extensions) or the applicant can ask the court to make the decision on the City's behalf.

Two motions were received.

Motion: From Commissioner Lisa Walker To Add An Additional Planning Commission Meeting On November 6, 2012 To Further Address Langer Farms Phase 7 (SP 12-05), Seconded By Commissioner Russell Griffin. All Commission Members Present Voted In Favor (Chair Allen, Vice Chair Albert, And Commissioner Clifford Were Absent).

Motion: From Commissioner Lisa Walker To Reopen The Record For Langer Farms Phase 7 (SP 12-05) For The Submittal Of Additional Testimony This Evening, Leaving The Record Open For 7 Days For People To Respond To That Testimony, And An Additional 7 Days For The Applicant To Provide Final Rebuttal As Staff Has Suggested, Seconded By Commissioner Russell Griffin. All Commission Members Present Voted In Favor (Chair Allen, Vice Chair Albert, And Commissioner Clifford Were Absent).

Brad entered written testimony into the record and catalogued a letter and CD from Charles and Amy Boyle dated October 23rd (see record, Exhibit EE). The exhibit will be placed on the website and contains the traffic impact analyses from the Wal-Mart in Cornelius, the Fred Meyer in Wilsonville, and the Costco in East Vancouver and is a supplement to Exhibit CC.

Brad entered a letter dated October 23rd, submitted by Seth King, as the applicant's final written argument (see record, Exhibit FF) and noted that this is not their final written argument since they now have until November 6th to provide final written comments.

Brad passed out a letter dated October 23rd, from Seth King, requesting that the record be reopened to accept the exhibits with an email showing the applicants good faith effort to submit the information to the City on time (see record, Exhibit GG).

Julia confirmed with legal counsel that the meeting has been continued and no further motions are needed and advised the Commission not to deliberate any further until the next November 6th, so that all Commissioners present at the November 6th meeting can be part of the deliberation.

Brad clarified that written public comments would be accepted until 5pm on October 30, 2012 regarding the new information contained in exhibits EE, FF, and GG; the applicants written closing

argument would be due on November 6, 2012; and the exhibits will be posted on the City website the following morning.

Commissioner Griffin asked if there would be a staff memo. Julia commented that the Commission will not get a packet on the 30th, but in the days following based on written comments received.

Commissioner Copfer stated that the public hearing for Langer Farms Phase 7 (SP 12-05) was continued and called for a recess at 7:34pm.

Commissioner Copfer reconvened the meeting at 7:44pm.

8. New Business

a. Brucker Building (SP 12-06)

Commissioner Copfer opened the public hearing, read the public hearing statement, and asked for any ex parte contact, bias, or conflict of interest from the Commissioners present. None were received.

Senior Planner Brad Kilby gave a presentation on the proposal (see record, Exhibit 2) and stated the subject property was on the corner of SW Park Street and SW Railroad Street. Brad informed the Commission of the approval criteria stating the property is zoned retail commercial and is in the Old Town Overlay, but the Landmark Alteration criteria does not apply. The applicant is proposing to enclose a 288 square foot deck, which constitutes a major modification to the site plan, because it is a greater than 10% increase in building floor area. The existing buildings were moved onto the site in 2005 under SP 05-06. Brad reported that the Sherwood Public Works Department, Engineering Department, Clean Water Services, Tualatin Valley Fire and Rescue, Pride Disposal, and ODOT all indicated that they did not have comments or were in support of the application. Brad said the project is before Planning Commission because it is in the Old Town Overlay and that it meets all of the dimensional requirements of the underlying zone, as well as, the design standards of the Smockville area in Old Town. The applicant proposes an enclosure that would mirror the opposite side of the building and change a single door to double doors that open onto the deck area. Brad stated that staff is recommending approval without conditions, subject to building permit approval.

Commissioner Cary asked how big the building is currently. Brad answered that both buildings on the site are at 1792 square feet.

Commissioner Copfer invited the applicant to give testimony.

Brad Brucker, 22545 SW Park Street, Sherwood. Mr. Brucker commented that the project was stated as a major modification, but it was fairly minor and should be approved without issue. Mr. Brucker commented that it was a rigorous process for a minor construction project that has no impact on the City and he was trying to add space to encourage new business in Old Town. Mr. Brucker remarked that his concern was regarding the process and stated he would like a refund for most of the fees paid. Mr. Brucker stated that he was informed that a refund was up to City Council and asked for a referral from the Planning Commission in order to make that request to City Council. Mr. Brucker commented that he lived, worked, and has developed in Old Town, there has not been a lot of private sector development in Old Town, and commented regarding the Commission's role in inviting private sector investment in Old Town. Mr. Brucker commented on the cost of the application and the cost to hire an architect because the project was in Old Town.

Commissioner Copfer asked for any additional public comment. None were received.

Commissioner Walker asked regarding the fees and if they were set by City Council.

Julia Hajduk confirmed and stated they were set during the budget process. Julia said the code requires that fees can only be waived by Council and Mr. Brucker would have to go before Council to ask for those fees to be waived or refunded. Julia agreed that it was a lot of process for a little project, but a percentage was assigned for minor modifications and this might be example to look at for future code clean up.

Commissioner Copfer commented that the line has to be drawn somewhere, but there might be exceptions for this type of project.

Commissioner Walker suggested that those exceptions might be able to go before Council for a waiving or reduction in fees because it did not meet the intent. The 10% did not seem like too high of the threshold.

Mr. Brucker commented on the small size of the lots in Old Town, successful code clean up, his specific situation, and suggested a minimum of 10% or 500 square foot whichever is larger.

Commissioner Walker commented that when the Commission did the code clean-up they included stakeholders and asked for public comment.

Commissioner Copfer asked if there was anything the Commission would do in the way of a recommendation for Mr. Brucker to go to Council. The consensus was for Mr. Brucker to approach Council during the public comment period.

Councilor Clark added that if Mr. Brucker goes before Council she will be able to act as a liaison to the Planning Commission and share what she heard.

Commissioner Griffin commented that Old Town was a gem in Sherwood and the City has to put rules in place. Mr. Griffin expressed his concern that the project was attempted without the proper approvals and Old Town has rules and processes, approved by City Council, that need to be followed.

Commissioner Copfer closed the public testimony and asked for any additional comments or questions from the Commission. Seeing none the following motion was received.

Motion: From Commissioner Michael Cary To Approve The Application For The Brucker Building Addition (SP 12-06) Based On The Applicant's Testimony, Public Testimony Received, Analysis, Findings, And Conditions In The Staff Report, Seconded By Commissioner Russell Griffin. All Commission Members Present Voted In Favor (Chair Allen, Vice Chair Albert, And Commissioner Clifford Were Absent).

Prior to adjourning the meeting, Julia mentioned the Commissioners' request to have a layman's lesson on the traffic studies for Langer Farms Phase 7 and asked if that could be done via a work

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session in order to give a general layout of the project without talking about the topic itself. Commissioners Cary, Copfer, and Walker expressed their interest.

Ms. Walker added that she would like to look at the Langer Farms Phase 7 project, as the biggest project development in Sherwood, and be able to see exactly what is being proposed. Ms. Walker said the traffic is her biggest issue with the project and it seems that its accuracy is an issue with the public. Ms. Walker expressed her interest in understanding what a traffic study is in general as well as specifically regarding this project.

Julia commented that the record has been closed to any new information and because of the high profile nature of the project any meetings would have to be on the record.

Chris Crean stated he did not think you could have a work session mid-process, because it becomes evidence that was placed before the decision makers and part of the deliberation. Mr. Crean said the distinction between the work session and the land use application process is then lost and as long as your work from the evidence in the record, staff can answer questions. Mr. Crean explained that the Commission can ask questions at the meeting on November 6th, communication with staff is not ex parte, and staff can walk commission members through the transportation analysis that evening.

Ms. Walker asked about questions regarding the traffic studies submitted by Charles and Amy Boyle. Brad Kilby suggested that commission members could email questions to staff so those questions could be answered for everyone.

Mr. Crean stated that everything has to be on the record and suggested that questions can be given to staff ahead of the meeting so staff can prepare the answers for the November 6th meeting. Then all of the information would be on the record.

Mr. Crean commented that in general a training session on traffic studies would be beneficial. Commissioner Copfer requested more training regarding parking as well. Discussion followed with the conclusion that a training session will be scheduled for after the first of the year.

Commissioner Copfer closed the meeting at 8:13 pm.

Submitted by:

Kirsten Allen
Planning Department Program Coordinator

Old Business Agenda

Item A



MEMORANDUM

City of Sherwood
22560 SW Pine St.
Sherwood, OR 97140
Tel 503-625-5522
Fax 503-625-5524
www.sherwoodoregon.gov

DATE: October 31, 2012
TO: Sherwood City Planning Commission
FROM: Brad Kilby, AICP Senior Planner
SUBJECT: Langer Farms Phase 7 Shopping Center

Mayor
Keith Mays

Council President
Dave Grant

Councilors
Linda Henderson
Robyn Folsom
Bill Butterfield
Matt Langer
Krisanna Clark

The purpose of this memorandum is to provide you with a staff analysis of the additional information and testimony received at the October 23rd Meeting, and to respond to any new testimony received by 5 PM on October 30th.

City Manager
Joseph Gall

The Planning Commission will be meeting this coming Tuesday, November 6, 2012 to deliberate the materials and testimony that you have received regarding the Langer Farms Phase 7 Shopping Center.



2009 Top Ten Selection



2007 18th Best Place to Live

At the October 23, 2012 meeting, the Planning Commission, with Commissioner Copfer acting as chair, reopened the record at the request of the applicant and a citizen to allow the introduction of three items. The first piece, added to the record as exhibit EE, was requested by Amy and Charles Boyle to allow the introduction of three traffic studies into the record which they provided on disk. The second item, exhibit FF, was the applicant's final written arguments in the case that the record was not left open, and the third item, exhibit GG, was a request from the applicant to enter a supplemental traffic memorandum from Kittelson and Associates that was submitted to the City's Engineering Department during the first open record period.

The record was left open to allow individuals to respond to those three items for a period of 7 days which expired yesterday, October 30, 2012 at 5 PM. The applicant was the only party that submitted any information. That item has been entered into the record as Exhibit HH. The applicant's final written arguments are due to the Commission no later than 5PM on November 6, 2012.

Sherwood

2006

All-America City Finalist

Unless the Planning Commission elects to reopen the record to allow any further testimony, there will not be any additional testimony from any party on the evening of the 6th. Barring such action, the Planning Commission has the entire evening to deliberate the record.

Staff has no other comments regarding the information submitted beyond the memorandum that was provided to you on October 12th.

The City Engineer, the City's Traffic Consultant, and City Planning Staff will be at the meeting to answer any questions you may have regarding the materials and recommendations that you have received from staff.

Staff is including exhibit HH as an attachment to this memorandum. Exhibits A-GG can be found in your previous packets for the September 25th hearing, the October 23rd hearing, or on the web at the following address:

Application Materials:

<http://www.sherwoodoregon.gov/langer-farms-phase-7>

Prior Planning Commission Packets:

<http://www.sherwoodoregon.gov/meeting-resources/boards-and-commissions-planning-commission>

Finally, if you have misplaced, or would rather have a hard copy of the information that you do not have, please contact City staff, and we will make sure to have hard copies provided to you as soon as we can. Thank you for your time.



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October 30, 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 Rebuttal Letter

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 located on the east side of SW Langer Farms Parkway. This letter constitutes Applicant's rebuttal to the three (3) traffic studies submitted by Charles and Amy Boyle into the reopened record on October 23, 2012. For the following reasons, the Planning Commission should find that the three (3) traffic studies are irrelevant and provide no basis to deny or further condition the Applications.

1. The Boyles offer no new argument in support of their position.

First, the Boyles did not include any argument with the traffic studies. Thus, they have not offered any new basis for the Planning Commission to consider or apply the traffic studies to the Applications.

2. Applicant's traffic consultant, the City's traffic consultant, and City staff concur that Applicant's Traffic Impact Analysis ("TIA") assumed a sufficient number of trips to account for development of the anchor store under a variety of land use categories.

Second, to the extent that the Boyles have offered the traffic studies to support their earlier contention that Applicant understates the traffic impacts of the development by aggregating

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several of the retail spaces under Institute of Transportation Engineers ("ITE") Code 820, the Planning Commission should deny this contention. As previously explained, although Applicant stands by its July 2012 TIA—which aggregated several of the retail spaces under ITE Code 820—as an accurate and complete assessment of projected traffic impacts, Applicant has submitted into the record a supplemental trip generation comparison prepared by Kittelson & Associates, Inc. ("Kittelson") dated October 1, 2012. *See* Exhibit GG. Kittelson'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—"Free-Standing Discount Superstore" (ITE Code 813) and "Free-Standing Discount Store" (ITE Code 815). *Id.* As explained in Kittelson's supplemental report, the TIA assumes 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). *Id.*

DKS has independently conducted the same analysis and has generally concurred with Kittelson'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, Kittelson, 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. Therefore, the Planning Commission should deny the Boyles' contention on this issue.

3. The traffic studies are not relevant because the developments they analyze are distinguishable from Applicant's proposed development.

Third, to the extent that the Boyles offered the traffic studies on the grounds that these three (3) developments are somehow comparable to Applicant's proposed development for purposes of analyzing trip impacts, the Planning Commission should deny this contention. In fact, these three (3) traffic studies are not comparable—or even relevant—to the Applications for three (3) reasons. First, none of these traffic studies analyzed development within the City (and one is not even within the State of Oregon) or required application of City approval criteria. As a result, these studies do not provide evidence of how the City applies its traffic standards or how it assesses traffic conditions. Second, there is no evidence that any of these traffic studies (or the related developments) were approved, or if they were, under what conditions. Third, the mix of uses at these three (3) sites differs from Applicant's proposed development to a significant degree, thus rendering them incomparable for purposes of assessing traffic impacts. For example, unlike the Property, the Vancouver Costco site includes a fuel station, which skews the trip generation and distribution figures for that site. Likewise, the Cornelius Walmart site appears to only include a free-standing anchor, while Applicant's proposed development is a multi-building, multi-user retail shopping center. Additionally, although the Boyles note that the Oregon Department of Transportation ("ODOT") initially commented that the applicant in

Patrick Allen, Chair
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Cornelius should utilize ITE Code 815 in assessing the trip impacts of the proposed retail development, the appendices to that traffic study clarify that the applicant's traffic engineer resolved this issue in scoping discussions with ODOT, and the traffic study ultimately used ITE Code 820, not ITE Code 815.

Finally, the Fred Meyer development is also not comparable for the reasons stated by Kittelson and City staff on the record. First, 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* Kittelson October 5, 2012, memo (part of Exhibit AA), 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.

4. Conclusion.

In conclusion, the three (3) traffic studies submitted by the Boyles should have no bearing on the Planning Commission's decision. Instead, the Planning Commission should find that Applicant has properly assessed the traffic impacts of the proposed development and that, subject to the proposed mitigation measures, development of the project will not adversely affect the surrounding street system in terms of performance and safety.

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)
Keith Jones (via email)