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**City of Sherwood, Oregon**  
**Planning Commission Minutes**  
**September 25, 2012**

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**Commission Members Present:**

Chair Allen  
Vice Chair Albert  
Commissioner Griffin  
Commissioner Copfer  
Commissioner Cary  
Commissioner Walker  
Commissioner Clifford

**Staff:**

Julia Hajduk, Planning Manager  
Brad Kilby, Senior Planner  
Tom Pessemier, Community Development Director  
Jason Waters, Civil Engineer  
Kirsten Allen, Planning Dept. Program Coordinator

**Council Liaison:** Councilor Clark was absent

**Legal Counsel:** Chris Crean

**1. Call to Order/Roll Call**

Chair Allen called the meeting to order at 7:00 pm.

**2. Agenda Review**

Chair Allen stated there was a public hearing on the agenda.

**3. Consent Agenda**

There was no consent agenda.

**4. City Council Comments**

Councilor Clark was absent.

**5. Staff Announcements**

Julia introduced Kirsten Allen as the new Planning Department Program Coordinator indicating she will be attending Planning Commission meetings and assisting the Planning Department. Kirsten is a long time employee of the City and comes from working in the Building Department and in the City Recorder's office.

Julia informed that the Washington County meeting for the Tualatin Sherwood Road Open House will not be held on October 25<sup>th</sup>, but has been rescheduled to a later date. Julia invited all to come to the Sherwood Town Center Plan Open House on October 3<sup>rd</sup> at 6-8 pm in the Community Room at Sherwood City Hall.

Julia stated that the city received word last Friday that the city was awarded a TGM grant for the Transportation System Plan update and added that it has been seven years since the last update was adopted. Julia added that the Town Center Plan grant was also a TGM grant and it will take some time to get through the scoping process, but to look for the update in coming months.

## **6. Community Comments**

Susan Claus, 22211 SW Pacific Hwy, Sherwood. Ms. Claus commented regarding an individual who testified at the Sentinel Storage hearing who gave his address as a property owned by the applicant and commented that accurate information should be given. Ms. Claus said that this individual was aggressive towards her husband and she expressed her concern regarding the impact on the hearing and wanted it to go on the record. Ms. Claus commented regarding a letter she wrote to the editor about the City Finance Director hiring criteria and the amount of money the Finance Director is responsible for managing. Ms. Claus commented on the change in format for the appeal hearing held at a previous Planning Commission meeting, the unfairness of the changes, and having an honest citizen driven process for a home rule town. Ms. Claus submitted written testimony pertaining to her community comments (see record, Exhibit 1)

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus commented on urban renewal, corruption, and ethics stating that the process is so corrupt that it is being discussed in other places. Mr. Claus commented regarding questioning City actions that cause reprisal, special privileges granted for political involvement, and sovereign immunity. Mr. Claus commented on the deterioration of proper American planning in the city, the tax base crumbling because of land use decisions made to cover up spending, and comments made by legal counsel.

## **7. Old Business**

There was no old business.

## **8. New Business**

### **a. Public Hearing- Langer Farms Phase 7 (SP 12-05)**

Chair Allen opened the public hearing, read the public hearing statement, and asked the commission for any ex parte contact, bias, or conflict of interest. Commissioner Cary stated that he had a discussion with Matt Langer regarding past hearings that had no bearing on his decision today and the discussion did not include this particular hearing. Chair Allen asked if anyone in the audience wished to challenge any commissioner ability to participate. Having none, Chair Allen stated that a written request had been received to leave the record open which will be honored and turned the time over for staff presentation.

Brad Kilby, Senior Planner began by amending the last sentence in the second paragraph on page 1 of the staff report to read "The planned unit development was approved in 1995 without a preliminary plat although a preliminary plat was recently approved for a five lot subdivision on the 55.09 acre site." Brad stated that within the staff report were Exhibits A through M and additional exhibits have been received that need to be entered into the record;

- Exhibit N, a letter from Seth Brumley, ODOT Engineer, submitted on September 18;
- Exhibit O, a letter from Charles and Amy Boyle, Homeowners in Arbor Terrace HOA Sherwood;
- Exhibit P, an email from Susan Claus requesting that the record be left open for additional testimony;
- Exhibit Q, a letter from Jim Haynes at Western Heritage Public Relations; and
- Exhibit R, a letter from Scott Haynes.

Brad stated the proposal before the commission was for Site Plan (SP 12-05) and a Conditional Use Permit (CUP 12-02) then gave a presentation (see record, Exhibit 2). Brad stated that the subject site is the east portion of the Langer property that is property bound on the east by SW Tualatin Sherwood Road, on the north by SW Langer Farms Parkway, will eventually be bordered on the west by extension of SW Century Blvd, and on the south by underdeveloped industrial property.

Brad stated that the proposal was to construct a shopping center on 19.82 acres that includes six buildings ranging in size from 3,500 to 10,760 square feet and an anchor tenant of about 145,000 square feet. Brad stated the proposal included a Conditional Use request to allow an outdoor sales area on approximately 30 parking spaces and a request for the approval from the City Engineer of a street modification for a wider, curb-tight sidewalk with tree wells along SW Century Boulevard.

Brad stated that the anchor store sits at the back of the site with the other retail establishments along SW Tualatin Sherwood and SW Langer Farms Parkway. Brad stated that two separate alternatives were provided on the site plan because the applicant would like to move a storm water quality pond. The applicant has received approval from Target and is in the process of studying moving the pond. Brad pointed out Building A, labeled as Fast Food, and said it had an option to be retail and that Building C, labeled Bank also has an option to be retail without the drive thru. Brad showed an alternate site plan that included the storm water pond as it currently exists under the BPA power lines, and the retail options. Brad stated that on the northeast corner there is a proposed restaurant at about 10,000 square feet and all of the other spaces are proposed to be flex retail space.

Brad stated that there is expected to be approximately 8070 new daily weekday trips generated for traffic and they are subject to the Capacity Allocation Program (CAP) which City Engineer Bob Galati has studied. Brad commented that with the information that they provided they have 760 P.M. peak traffic trips and they are allowed to have up to 847 P.M. peak traffic trips which equates to 43 net trips per acre, which is the CAP standard. Brad stated that part of their traffic mitigation was outlined in the developer agreement for the overall PUD which included:

- The extension of SW Langer Farms Parkway north from its current termination at Tualatin Sherwood Road to next to the Home Depot connecting to Pacific Highway;
- An extension of Century Boulevard where they have requested a modification to allow curb tight, wide sidewalks on both sides of the street with street trees in tree wells that the City Engineer is supportive of;
- Frontage improvements along SW Tualatin Sherwood Road.

Brad stated the applicant has worked with the County about paying a fee in lieu of the improvements because the county is about to do a MSTIP project that would widen Tualatin Sherwood Road at the intersection of Roy Rogers and Highway 99. Brad clarified that instead of breaking up the road twice the applicant will pay a fee to the County to do the improvements. Brad added the traffic mitigation included moving the water quality pond and moving it over to the water quality facility as well as handling all the water quality treatment.

Brad stated that ODOT has requested two additional mitigation measures one of which is to lengthen the storage distance on the northbound right-through lane at [99W] which is located on SW Sherwood Boulevard as you are coming from Newberg. Brad stated there is adequate right of way and it would probably amount to striping because the paved width is already there. Brad stated the second additional measure was to lengthen the distance on the northbound left turn lane at SW Roy Rogers Road. Brad indicated that Seth Brumley from ODOT was present to respond to questions the commission might have. Chair Allen asked if both measures were with respect to 99W and Brad confirmed.

Brad commented that parking requirements are based on the use and within their calculations they would be required to provide between 896-913 spaces, clarifying that the variety is whether the fast food and bank spaces are used as retail space. Brad stated that the applicant is proposing between 829-889 spaces which do not include the 30 spaces in the Conditional Use Permit. Brad stated that the code allows up to a 25% reduction for developments that have a multiple uses, or shared parking, on the site and with the numbers that they have proposed the reduction is between 1.3% and 9.2%. Brad stated that the average proposed range is 4.4 to 4.6 spaces per 1000 square feet of leasable area and the City's minimum parking standard for a minimum retail establishment is 4.1 spaces per 1000 square feet of leasable area. Brad added that the City established minimum space requirement is based on worst case scenario, usually the day after Christmas, and this is plenty of parking the remainder of the time.

Brad stated that the proposed landscaping includes perimeter and interior landscape areas at 12.2% of the entire parking area, the applicant would also landscape the visual corridors along SW Tualatin Sherwood Road and SW Langer Farms Parkway which are required along arterial and collector streets, and site amenities include pedestrian plazas and outdoor seating areas.

Brad stated that staff recommended approval of the development subject to the analysis, findings, and recommended conditions of approval found in the staff report and staff was available for questions.

Chair Allen asked regarding conditions that ODOT recommended and asked if they were already included in the staff report or if the Commission needed to consider and add them.

Brad answered that they were included and Kittelson had submitted revised numbers subsequent to the ODOT letter received from Seth Brumley. Brad commented that it is more of a timing issue between the County MSTIP improvements and the development of this site and ODOT wanted to assure that proposed mitigation measures on Hwy 99 would be constructed prior to occupancy so there is enough storage and capacity. Brad added that the SW Tualatin Sherwood Road frontage improvements would not include another lane unless the County plans to extend the MSTIP improvements beyond SW Langer Farms Parkway, but they would include establishing a curb, gutter, sidewalk, and planter strip.

Chair Allen asked for an explanation of the transportation improvements to understand the relationship between the MSTIP improvements and the improvements made by the applicant and where there will be three lanes or two lanes once both of the projects are done.

Brad stated he was unsure except that the widening on SW Tualatin Sherwood Road will be between SW Langer Farms Parkway and Hwy 99 and will extend beyond that to Roy Rogers Road becoming narrow again past Hunter's Ridge. Tom Pessemier, Community Development Director, added that the project is still in development and final decisions as to the extent of the project have not been made. Publically they are talking about adding an additional lane to the Roy Rogers portion of the road a little past Borchers, then on Tualatin Sherwood Road going back to 99W. Tom stated that the County expects to go to SW Langer Farms Parkway and they are hoping to get further, but it will depend on some of the mitigation measures and other factors that are determined as they go through the project development.

Chair Allen asked if Washington County was aware of the application and how the development would affect the roads. Tom confirmed that there has been coordination between the City, the developer, and Washington County and there is an understanding of what the "fee in lieu of" is for, adding that the County is thoroughly aware of the development potential in Sherwood.

Commissioner Michael Cary asked if the Traffic Impact Analysis (TIA) considered the proposed improvements and referred page to 3 of Exhibit D in the packet where it talks about the development of the TIA evaluation being based on a shopping center for the number of traffic at 8070 weekday trips. Mr. Cary asked if the evaluations were based on the current street improvements or the future street improvements.

Jason Waters, Civil Engineer for the City, answered that the ODOT conditions for the storage length and deceleration lanes are based on existing conditions for day of opening without the County five lane project. Jason added that staff has evaluated the project with the County's five lane project and did look at reassurances to day of opening without the County project completed.

Mr. Cary commented regarding the 760 trip vs. the maximum of 876 trip allowed and asked about the impact to traffic flow if the neighboring property to the south was developed at the same time.

Brad answered that the applicant would have to provide a separate Traffic Impact Analysis and explained that the way that the Planned Unit Development language was amended in 2007 it allowed Langer Family LLC to conglomerate their trips on 55 acres and the cap allows 43 PM net trips per acre. With 55 acres they have an allotment of traffic that can be added to the roadway for the PM peak and every time they come in with a development they have to provide a Traffic Impact Analysis to let the City know what kind of traffic the development will generate and what the PM trips are going to be. Brad stated the development is under what would be allowed for the 19.8 acres the remainder will shift down to the remaining 55 acres. Brad added that this means they meet the Capacity Allocation Program (CAP) which is an agreement between the City and ODOT that states how much traffic will be allowed onto Highway 99 over the foreseeable planning future. This does not mean that they would not have to do additional mitigation measures; if they impact the intersections that were studied below an acceptable Level of Service then mitigation is

required. Brad said he believed that acceptable Level of Service was Level D or E and if you drop below them, the traffic consultant will have recommended measures that the City weighs in on. Dropping below Level F requires mitigation as determined by the City Engineering staff to bring the traffic back to an acceptable Level of Service.

Mr. Cary referred to exhibit D in the Planning Commission packet and asked about the verbiage that states “any change in anchor store tenant classification” (e.g. discount supermarket, discount superstore) in addition to other building classifications that results in an increase in the trip generation values above the aggregate value calculation in the TIA will not be permitted.”

Brad commented that a lot of people are upset because the applicant has chosen not to name the anchor tenant and stated they are not required to name the anchor tenant but to tell the City what the use is and staff has to base the decision on what the use is. Brad said the applicant knows and has anticipated that the question will arise. Their traffic engineer will speak to it, but they have adjusted the numbers to account for the other designations, of standalone discount store or standalone super discount store, from the shopping center data. Brad said that staff has raised these questions and discussed them with the applicant at length. The applicant is prepared to allow for a continuance to allow staff to work through those issues as well.

Mr. Cary asked if the number presented to the Commission through the TIA evaluation were the adjusted numbers.

Brad confirmed and stated that staff has asked the applicant to justify the information and show the data in layman’s terms; where staff could look at the data and compare the different scenarios.

Chair Allen added that information in layman’s terms would be helpful adding that he sits at the light on Tualatin Sherwood Rd and 99W in rush hour traffic through two or three cycles Chair Allen questioned what this project would do to that, what would happen if we didn’t do anything, and what will the improvements do to prevent the problem from becoming worse, because from a layman’s perspective the problem cannot be solved without a significant investments.

Brad explained that it isn’t just about adding roads, more storage, or widening lanes, but also about signal timing, trying to anticipate and forecast how people will move through a system. A lot of traffic study and analysis is based on empirical data from around the country and their own experience of going out and doing independent traffic studies, drawing parallels of how people behave in existing systems. Brad commented that traffic engineers will propose traffic mitigation and our traffic engineers will review that mitigation and agree or disagree with information which the City Engineer has to translate into layman’s terms. Brad said we are trying to create that information for the Commission as well as the public because traffic is a big issue. The number of cycles a person has to sit through is a level of service issue and some jurisdictions are better at it than others. About signal timing he was unsure what the city has for a traffic system.

Commissioner Russell Griffin asked if the application is approved as a shopping center classification and it turns out to be a freestanding discount superstore what options the City has.

Brad answered that the applicant did the traffic study under a shopping center classification and accounted for if a standalone super discount store were to be located there.

Mr. Griffin inquired regarding ODOT's recommendations to lengthen the queue lines for the right turn off of 99W onto Tualatin Sherwood Rd, the left turn onto Roy Rogers Rd., the frontage improvements on Tualatin Sherwood Rd. next to the subject property, and how the "payment in lieu of" to the County effected the project.

Brad answered that the County has to be comfortable with bringing those improvements into their project and he did not know what discussions the applicant has had with the County. City staff has discussed and doubts the County would entertain the option to bring in the queuing length at Sherwood Boulevard into their MSTIP project to allow that improvement to be folded into the fee in lieu of. The fee in lieu of is currently for the frontage improvements along Tualatin Sherwood Road.

Mr. Griffin asked if the queue lines would have to be done in order for the store to open.

Brad confirmed that ODOT has requested that as conditions.

Commissioner John Clifford asked regarding the traffic study and asked if there was any evaluation on existing roads that might be used for alternate routes due to road closures or an emergency.

Brad answered that crash data is included but he was unable to answer with any specificity. They do look at the existing system as it is today and forecast where traffic will go and gave an example of locals using alternate routes. Brad stated that they try to forecast the most convenient, immediate routes and look at existing capacity, which is where the mitigation measures come from. Brad said that the traffic engineer is asked to look at intersections where we anticipate there will be impacts, the scope of the study is not limited to city streets but opened up to the county and ODOT, and there is coordination with those other agencies.

Mr. Griffin asked if ODOT might adjust the light at Tualatin Sherwood Road and 99W.

Brad said the County might when they do the MSTIP program and commented that the MSTIP program was a funded improvement, that is going to happen and it is a matter of timing. Brad added that there will be a signal added at the extension of SW Langer Farms Parkway and Tualatin Sherwood Road which will be controlled by the County.

Chair Allen asked if ODOT will be changing the timing of the light. When Brad was unable to answer, Seth Brumley from ODOT Planning was asked to come forward and answer questions.

Mr. Brumley said he did not know regarding the timing of the light, but the signals on 99W are coordinated and he understood that the County had an interest in doing some coordination along Tualatin Sherwood Road but he was not on that project and was unaware of what they were.

Commissioner Lisa Walker inquired if the light at Baler Way was to be removed when they installed the light at Langer Farms Parkway.

Mr. Brumley was unable to answer. Tom Pessemier answered that the County was still looking at signal configuration and said there has been more earnest discussion about removing the light going into the theater parking lot and then improving Baler. Tom commented that Mr. Brumley was speaking of different MSTIP funded project regarding advanced traffic signal systems. They have done a portion in Tualatin and have funds allocated to do a system from Teton all the way through Sherwood and they are currently working with ODOT to determine whether or not they will tie that signal into the traffic system. Tom said he thought ODOT has allocated money to a stretch along 99W through Sherwood as a separate project and neither project has anything to do with this application.

Chair Allen asked if that meant the commission should consider the application with the assumption that no conditions about the operations of the lights on Tualatin Sherwood Road and 99W will change. Discussion ensued regarding the changes that will happen over time with no answers as to what they might be.

Commissioner Walker asked regarding the County MSTIP funds hoping to go as far as Langer Farms Parkway and the fee in lieu of funds enabling the County to go past Langer Farms Parkway.

Tom answered that the County intends to get as far as Langer Farms Parkway and the proposal is that the fee in lieu of is to take it past Langer Farms Parkway and to do the front edge of the subject property, but the County might be able to go even farther down the road and the County has not figured out how far they can go.

Jason Waters, Civil Engineer, added that Washington County has some of the options published on their website. One option shows a taper lane in front of the subject property, which tapers from five lanes to single lanes. They have to pick a zone to taper it back down and they are basically taking the same situation in front of the Red Robin and pushing it to the northeast area of the subject property.

Brad Kilby stated he had received a letter from Casey Overcamp (see record, Exhibit S) who had to leave early and submitted written testimony in support of the project.

Commissioner Griffin asked regarding the 30 parking spaces for the Conditional Use Permit (CUP 12-02). Brad answered they were for an outdoor sales area such as for Christmas trees or a sidewalk sale. Commissioner Griffin queried if they were for the applicant to reserve for use, certain times of the year, to fence off per the Conditional Use Permit. Brad confirmed and said they could use the spaces year round, in the same spot and they could request a



Temporary Use Permit for more spaces. Chair Allen advised that they would not include the accessible spaces. Brad confirmed.

Comissioner Clifford asked if the cart corrals were included in the required parking. Brad answered that the cart corrals are designated on the site plan and were not counted toward parking area.

With no other questions from the commission, Chair Allen asked for the applicant to testify.

Matt Grady, representing the applicant, from Gramor Development, 19767 SW 72<sup>nd</sup> Ave, Suite 100, Tualatin. Mr. Grady stated he would give a presentation (see record, Exhibit 3) that would take about 15 minutes and would save the remainder of the time for rebuttal. Mr. Grady described Gramor's involvement in the Sherwood area development which included the Albertson's shopping center and Target/ Langer Farms Marketplace, as well as projects in Wilsonville, Beaverton, and Lake Oswego. Mr. Grady commented on having a project team present and introduced team members from Tiland/ Schmidt Architects, Harper Houf Petterson Rigehtlis, AKS Engineering & Forestry, Chris Freshley Landscape Architects, MKE and Associates, Kittelson and Associates, and Land Use Attorney, Seth King.

Mr. Grady showed a colored site plan showing PUD Phase 7 which is 19.8 acres in size with 191,130 square feet of comprised from six commercial buildings and an anchor tenant. Mr. Grady indicated they were working through the due diligence period with a potential anchor tenant and when all of the contingencies are accepted and released they will tell who they are when deal was signed. He indicated that they continue to work towards a good design to meet the criterion of approval. Mr. Grady commented on the fast food pad near Tualatin Sherwood Road that was 3500 square feet and said it could switch to a retail store of about 4000 square feet. On the corner was a 10,000 square foot restaurant and there is ample space within the plazas on the side for people to hang out on the corners of the project. Mr. Grady stated that Pad C is considered the Bank pad which could also be swapped out for retail space of about 4900 square feet. Mr. Grady commented that there are three other buildings that look larger in size that will divided into multiple pieces with tenant spaces ranging from 800 square feet to 1200 or 2600 square feet and they are working with brokers for those spaces.

Mr. Grady commented regarding site circulation and, referring to the presentation, stated that light blue was the main truck pattern coming off of Century Drive with a turnaround area big enough for trucks 65 foot and bigger to turn around and come back out onto Century Drive. The idea is to keep the trucks away from the front of the store and from coming in off of Langer Farms Parkway which is a potential safety issue. Mr. Grady commented that the green dashed line was the main vehicle circulation routes with one access coming off of Langer Farms Parkway and three other accesses (two primarily for vehicle access) off of Century Drive. Mr. Grady stated that pedestrian walkways are represented as the red line and there are two pedestrian access points off of Tualatin Sherwood Road and six direct connection points into the project, spaced at about 160 feet apart, around the corner. These points connect to an internal walkway that runs across the store frontages parallel to Langer Farms Parkway. Two more pedestrian access points are by Building F at the corner of Century Drive and the one that comes across the front of the anchor building that leads to two main spines that are about 250 feet apart from each other which align directly with the

two main entry points of the anchor building. Mr. Grady commented on working with the City Engineers regarding pedestrian safety in the parking area.

Mr. Grady commented regarding the landscaping plan and indicated that the pages labeled L.1- L.4 in the plans showed details about plant species and location. Mr. Grady noted that there were currently no trees on the site and the total proposed landscaping in the parking lot alone is 12.2% with the standard currently at 10%. The parking lot island spaces average one per every 9.4 spaces and the standard is one per every fifteen spaces. Mr. Grady added that 263 trees were added to the site, equating to one tree for every 430 square feet and did not count any trees under the power lines. The landscaping was compared to a 31% tree canopy per the new tree canopy code, which this is not subject to. Mr. Grady said there were 3500 shrubs on the site and the new standard is roughly 1800 shrubs. Mr. Grady stated they were endorsing a 15 foot, landscaped visual corridor for Tualatin Sherwood Road and a 10 foot landscape zone along Langer Farms Parkway.

Next in the presentation Mr. Grady covered building materials and colors used, stating the development team was passionate about making this project special for the area so people would be proud of it. Mr. Grady explained that the project will use board and baton, lap siding, stucco, brick, split face CMU, smooth face CMU, shingles, metal roofing, wooden beams, ledgestone bases, awnings and canopies and each building will have some unity and differences within the project. The anchor will have ledgestone bases along the main vestibules entrances, the gables will have metal roofing, and the façade will be undulating and have different colors. Mr. Grady showed an artist renderings of the project from an aerial view, at the main entrance, south of building D, and at the corner between buildings E and F.

Mr. Grady showed the off-site improvements and stated he hoped to answer a few questions concerning the timing of the project. The applicant will build a Regional Storm Water Quality Facility and extend Century Drive, which must be approved and accepted by the City before any occupancy permit is granted for anything in Phase 7. Mr. Grady said the County has looked at the frontage improvements and given the applicant an option to pay an in lieu fee and the applicant will be dedicating land to the County for the improvement to take place through the subdivision application recently upheld by the Commission. The applicant is not sure what has to be done there, and needs to confer with the County and get plans approved through them. Mr. Grady commented on the all way traffic signal at Langer Farms Parkway and Tualatin Sherwood Road and stated the County could allow an in lieu fee, but the only way to control the timing of opening is to have the County review and approve a design and construct it when Langer Farms north is constructed. Mr. Grady showed the two locations for the lane extensions that were conditioned by ODOT and stated they also had timetable issues. Mr. Grady commented that if the MSTIP project for the widening of Tualatin Sherwood Road was completed there would not be the need to extend the lane queues, but if the applicant wants to open up, as scheduled, and the project is still going on, we need to have approved construction plans to do those improvements within the existing right of way. Mr. Grady commented regarding the off-site improvements as related to the TIA report which was scoped out and reviewed with the City, Washington County, and ODOT. Mr. Grady commented about using a different classification other than a shopping center

classification and stated the applicant believes they meet the intent of those other uses and would like time to assure staff that the intent has been met.

Mr. Grady stated the applicant has met the site plan criterion of approval, adding that they did ask for a 9.2% parking reduction but could have asked for a 25% reduction. Part of the swing in the reduction is whether the storm water pond is removed and they were confident the storm water pond will be moved. Mr. Grady stated the applicant has applied for a Conditional Use Permit for outside sales on the north side of the anchor store and commented regarding the need for the Conditional Use Permit, the number of parking spaces used, and the location's impact. Mr. Grady requested the acceptance of the staff approval of the application pending a continuance request to leave the record open.

Chair Allen asked how much time the applicant took for their testimony. Kirsten Allen answered 17 minutes. Chair Allen stated they reserved 13 minutes for rebuttal.

Chair Allen reminded anyone interested in testifying to fill out a blue comment form and asked for public comment.

Robert James Claus, 22211 SW Pacific Hwy, Sherwood. Mr. Claus commented regarding the use of the clock to time the testimonies. Mr. Claus commented regarding the building of the Home Depot in Sherwood by calling it a lumber yard, ODOT placing a light at the intersection and zoning. Mr. Claus commented that the project was a conspiracy to restrain trade and that it goes to the very nature of competition in the marketplace. Mr. Claus said it was \$4000 to appeal this application and stated he had appealed the parceling to LUBA and the applicant cannot do anything until they get the parcel through. Mr. Claus commented on the 2900, or 8,000-14,000 additional cars if it's Wal-Mart, suggested by the traffic report and his suspicions why the land has to be parceled, adding that Wal-Mart won't buy it. Mr. Claus commented regarding a letter of intent at \$15 a foot, not building on Shannon and Broadhurst's property, and the Mayor telling them to build on Langer property. Mr. Claus said the Commission could call Wal-Mart and ask them if they were going to buy the property or if it was a clever tax swap where the applicant puts up the building and Wal-Mart pays for the RV storage. Mr. Claus commented that we will get a Wal-Mart without a Home Depot hearing. Mr. Claus commented that the staff has a vested interest in the outcome and has to get something in there that can borrow bond. Mr. Claus repeated his request for a two week continuance and suggested the commission call Wal-Mart or ask the applicant. Mr. Claus commented regarding the 1995 Code, said the property was no longer a PUD, and stated it was an end run that a contract attorney has advised somebody how to do. Mr. Claus commented regarding the end ratios and size fitting Wal-Mart and the use of the term anchor tenant for a free standing, mass merchandizer, category killer. Mr. Claus commented regarding the law suit he was planning for conspiracy to restrain trade.

Jim Haynes, 22300 SW Schmeltzer, Sherwood. Mr. Haynes stated he was present as a private citizen and an advocate for Sherwood's future, for job opportunities, and economic development. Mr. Haynes stated he had submitted written testimony and said he would read a couple of excerpts. Mr. Haynes commented that further and ongoing development of Sherwood's retail business community is fuel both for the local economy and a way to develop Sherwood's human capital and large retail stores will draw local, area, and regional

shopper's community. Mr. Haynes said that these customers will seek other goods and services that are not offered by that single store or a combination of stores and may also buy gasoline, sandwiches and other specialty items from other Sherwood businesses which adds to our tax base, helps other businesses survive and grow, as well as advertises Sherwood as a great place to live and work. Mr. Haynes commented that the retail ripple effect will mean jobs, for young people, students and part timers that help people get ahead. Mr. Haynes commented regarding his right to advocate for Sherwood development and stated he attached a list of his involvement in the community over the years.

Brad Kilby stated that Leanna Knutson was unable to stay and submitted a written testimony, in favor of, which was cataloged as Exhibit T.

Wes Freadman, 21315 SW Baler Way, Sherwood. Mr. Freadman stated he was in favor of the development and commented on the opportunities for shops, jobs, and tax revenue. Mr. Freadman commented on the view coming into Sherwood and the project adding desirability and value to Sherwood property.

Susan Claus, 22211 SW Pacific Hwy, Sherwood. Ms. Claus commented that the land was industrial and converting the 55 acres to retail and jobs for low end retail workers was a shame. Ms. Claus said the land was supposed to be for jobs that could support families and it is a loss that we do not deserve as a city. Ms. Claus commented on Langer Farms Parkway being an \$8 million improvements, with \$4 million provided by the county and \$4 million and change provided by the City with a 20% cut to the staff. Ms. Claus commented regarding one million dollars coming out of Urban Renewal for the road and suggested that the money should be tracked and go back into the urban renewal fund. Ms. Claus commented that the in lieu of or traffic fees be given back to urban renewal for the art center and money to spend in Old Town. Ms. Claus commented regarding the 2010 development agreement and up to \$500,000 to be used to punch through Century Drive which was not an obligation of the PUD. Ms. Claus said that staff is promoting the urban renewal funds be used and the applicant will get credited 500,000 additional dollars from urban renewal. Ms. Claus referred to an article in the paper concerning cuts to the art center and stated the whole reason urban renewal was initiated in 2000 was to build a beautiful art center that will suffer death by a thousand cuts and will be a small part of what was planned. Ms. Claus commented on \$20,000 worth of improvements coming to Tualatin Sherwood Road and Langer Farms Parkway that enhances the bottom line for the sale price of the Langer PUD, the millions in benefits in zoning and code changes, and said there should be an obligation to put a little back into the town. Ms. Claus asked what it hurt to say who the anchor tenant was and to let our businesses have some preparations so that they can close up shop.

Eugene Stewart, PO Box 534, Sherwood. Mr. Stewart stated that he owned property in Sherwood, lived outside of town, but has lived in the area since 1946 and he has seen a lot of changes. Mr. Stewart commented that one of the problems with traffic is a truck coming down 99W northbound has two possibilities to get to I-5; Tualatin Sherwood Road or at the far end of Tigard. Mr. Stewart questioned how truck traffic was figured into this and suggested that there were more than three trucks on the road for every one hundred cars. Mr. Stewart said when you get into Tualatin in the afternoon it is almost 30-40% trucks trying to get onto I-5. Mr. Stewart commented that in the mornings when he goes to work from

Meinecke back to Sunset the traffic is getting heavier. Mr. Stewart asked what this will do to traffic in Old Town and if people will try to turn at Home Depot to cut through Old Town to get home. Cars driving through Old Town do not help the businesses there. Mr. Stewart commented that the project did not look bad and asked how the city has replaced the industrial property to balance things out. Mr. Stewart commented on the traffic that will be generated and said it appears to him that there is as much traffic on Barbur now as there was before they built I-5 and the problem he sees is there is no beltline system to get around the town. It should be at least five lanes around the city so people can get around easily and alleviate a lot of the problems. Mr. Stewart said he would like a condition of approval that looks at the traffic in six months and fixes problems if the studies are wrong. We need to look at it in a progressive way so we do not keep burying ourselves.

Jennifer Harris, 21484 SW Roellich Ave, Sherwood. Ms. Harris commented on her concern for a large discount store and the increase in traffic. With an anchor store that size, logic can weed out who we are talking about. Ms. Harris noted that outdoor sales might have fertilizer and garden supplies and asked how any pollution problems and items harmful to the environment might be handled and can the tenant be trusted. Ms. Harris expressed her concern for crime outside of big box stores and asked how this tenant moving in might affect other businesses in Sherwood. Ms. Harris inquired if it would do Sherwood any good if the store is filled with cheaper groceries, clothes, or whatever it is if Albertsons or Safeway has to close. She asked what the City will do with those locations and those employees who have to find work at another store for a lower wage. Ms. Harris said we don't know who the tenant will be, but this is the big picture and there are other places for high school students to work. Ms. Harris said that local stores keep their money local, and is used in our community up to eight times, but big box stores send their money back to the corporate office. We don't see that money stay in the community, in our Relay for Life, in our own families. Ms. Harris said these are her concerns along with the traffic, pollution, and obvious problems, but also the small things that affect our families.

Chair Allen asked Ms. Harris if she thought Sherwood was a better or worse community with Target.

Ms. Harris answered she might not say worse, but different. Ms. Harris said she was not excited about different and she loved who Sherwood is and how it is. Ms. Harris commented that Sherwood has received recognition as a best town to live in and raise a family in and a discount store makes those awards and the appeal of Sherwood go away. Ms. Harris stated she disagreed that property values would go up overall and statistically large retail store like this that go in do not have a positive effect on the community. Ms. Harris said the community may change over the next ten years it may be fine, but a citizen that was there before may not say it was a positive change.

Jason Doppée, 18517 SW Colfelt Lane, Sherwood. Mr. Doppée stated that he supported economic growth of Sherwood, but he does not support the assumed anchor store. Mr. Doppée said he enjoyed many of the projects mentioned by the developer and asked the City Council to hold off on making a decision anchor until an tenant is specified. Mr. Doppée commented on his traffic concerns and that his research shows that Wal-Mart tends to have

developers use them as an unspecified tenant until it is too late to keep them out. Mr. Doppée stated he has an MBA and every professor used Wal-Mart as an example of how not to run a company and how not to treat a community. Mr. Doppée asked that the Commission to consider the impact on local businesses and downtown. Mr. Doppée noted that for every job created by Wal-Mart it costs the community 1.5 jobs lost elsewhere. It will increase lost wages over time, decrease wages, have poor working conditions, inadequate healthcare, and 70% of their employees leave within the first year. Mr. Doppée commented on deteriorated Wal-Mart stores, the communities around them, and the increase in crime. Mr. Doppée said he did not want Wal-Mart to jeopardize Sherwood and asked that the commission postpone the decision, determine which store will move into the community, and think about the long term economic impact that Wal-Mart might have in our community.

Charles Boyle, 21426 SW Massey Terrace, Sherwood. Mr. Boyle clarified that he has submitted written testimony (see Exhibit O in the packet) and stated he found several things to be deficient with the proposal although the developer states they meet all of the conditions. Mr. Boyle stated that the City requires that drive through lanes should not be between buildings and residential or streets around. Each drive through is proposed to be between the building and the street. Mr. Boyle said the onsite circulation proposes convenient pedestrian access and in his opinion drive thrus are not convenient for pedestrian access. Mr. Boyle commented regarding the applicant providing Covenants, Conditions and Restrictions (CC&R) following approval and said he found it more necessary to have the CC&Rs provided before approval, as a condition of approval. Then items like peak hour of operation for each business can be determined based on use to decide if they qualify for the 9% parking reduction. Mr. Boyle commented regarding the staff report where it states in the 95 PUD that they are looking for a front porch society and that this is supposed to be a main gateway to the City of Sherwood and Old Town. A big box store like this is most likely to be a Wal-Mart as Fred Meyer has already purchased land by the Providence development and Winco has said they are not coming in. Not many people comment on how fancy a Wal-Mart is but do their shopping and leave town. Mr. Boyle commented on thieves considering Wal-Mart as a 24 hour opportunity for theft. Mr. Boyle noted that “buildings shall be located adjacent to and flush with the street subject to landscape corridor and setbacks” and commented that adjacent to and flush with means directly contiguous with minus those borders of shrubbery, trees or sidewalk. The anchor store does not meet that, because the size is too big and maybe it should be smaller. Mr. Boyle commented that a Wilsonville shopping center is very similar to this and their building codes for the traffic analysis used an 820 shopping center along with a Fred Meyer separate from that, whereas this development used an 820 classification for the entire complex, minus the drive thrus. The 820 draws on average 3.73 trips per unit and a big box store would draw 4.99 trips per unit. With just that basic difference it would put them well over the 847 and closer to the mid-900s or 1000.

With no other public comments Chair Allen asked for applicant rebuttal. The applicant asked for a few minutes. Chair Allen called for a recess at 8:49 pm.

Chair Allen reconvened the meeting at 8:57 pm and moved to rebuttal from the applicant. Chair Allen stated the applicant had 13 minutes for rebuttal.

Seth King, Land Use Attorney for Perkins Couie representing the applicant, 1120 NW Couch Street, 10<sup>th</sup> Floor, Portland. Mr. King introduced Chris Brehmer from Kittelson & Associates and indicated he will speak next. Mr. King commented that much of the testimony was based on speculation, not on substantial evidence or directed at applicable approval criteria. Mr. King commented that there was a lot of talk about the identity of the potential tenants and reminded that as staff noted, the identity of tenants is not an approval criterion for the city and the Planning Commission's decision on approval must be based on the approval criteria. Therefore the identity of tenants or the speculation of tenants cannot be a basis to approve or deny the application. Mr. King stated the applicant is working to try to identify tenants for the site and that will come later in the event that the project is approved.

Mr. King referred to previous testimony regarding a conspiracy to restrain trade and commented that it was based on speculation and there is no substantial evidence to support his arguments. Mr. King remarked on testimony regarding the land being zoned industrial and referred to the approved PUD that allows the applicant to elect a variety of different uses. The applicant is vested for retail uses and exercising that right to move forward on that. This was done earlier in a development agreement which the City Council has approved. Mr. King countered claims that urban renewal money was used for road improvements by stating that the property was within the Urban Renewal District and the development of it will generate revenue to fund additional urban renewal projects. Mr. King remarked on the deal with the City to fund the extension of Century Drive stating that this was negotiated in the amended development agreement in that the applicant agreed to take on certain improvements to Century Drive that were not obligations that the applicant originally had and the applicant is fulfilling those obligations .

Mr. King stated there was also testimony relating to impacts to existing small businesses and commented that this was speculative in light of the fact the exact composition of the tenants in the site have not been identified. Gramor Development is an experienced developer and would not be in Sherwood if the market were not strong for the retail market and they are confident that there is sufficient demand to support these new businesses... there is demand to go around.

Mr. King commented about the concerns that the proposed project would violate the City's drive thru standards and the buildings not being flush to the street and submitted that the standards are not applicable because the applicant is using an alternative option of the commercial design matrix. Under that matrix the applicant is to demonstrate, and has demonstrated, compliance with five different areas of commercial design. Mr. King commented that the codes referenced by Mr. Boyle say that the applicant "should" do those things and are not mandatory. Regarding the concern for CC&Rs, Mr. King stated they were not required to be submitted at this time. Mr. King added that there has been a request to keep the record open and said the applicant is supportive of a reasonable period for holding the record open.

Chris Brehmer, Principle Engineer with Kittelson & Associates, 610 SW Alder Street, Suite 700, Portland. Mr. Brehmer explained that Kittelson prepared the traffic impact study for the site in a collaborative effort with Washington County, Oregon Department of Transportation (ODOT), City staff, and the City's on-call traffic consultant DKS Associates stating it is an

extensive study with a lot of traffic impacts and mitigations as discussed this evening. Mr. Brehmer said he believed the transportation system will be better because of the improvements. Mr. Brehmer commented regarding the signal timing assumptions related to the ODOT signal on Tualatin Sherwood Road and stated that the traffic study is predicated on maintaining the existing signal timing pre-MSTIP project from the county, adding that they were not allowed change or influence signal timing. With the initial build out they are forecasting that in the peak 15 minutes, of the peak hour, the westbound queue will grow by 2-3 car lengths. When the County's project comes online, which is anticipated in 2014, the modeling documented in the September 11, 2012 memorandum, will drop by over half and traffic should get through the light on one or two cycles instead of the two to three being experienced now. Mr. Brehmer commented that truck traffic was documented in the study and the actual traffic counts separate passenger cars from heavy vehicles and the number of trucks in the traffic stream is accounted for in the analysis including the queuing analysis where the length of trucks is accounted for. Mr. Brehmer commented regarding the bigger picture and stated it was a sizable and comprehensive study with twenty one intersections studied as dictated by the different agencies. Mr. Brehmer commented regarding trip generation and gave the analogy of a bank account with \$100 in it. You can withdraw the \$100 in different increments but you cannot withdraw more than the account has. That is how the traffic study has been approached. There are a certain number of trips that cannot be exceeded and there are various ways that those trips can be used. Mr. Brehmer explained that, in his experience, most people do not know who their end tenants are so the traffic study is sized with the worst case scenario. A trip number is set up there will be an assurance from the City that the project does not go over that trip number. Mr. Brehmer said the applicant will work with the City staff to document that the traffic is covered. Mr. Brehmer stated that Kittelson & Associates prepared the traffic study for Target, and there were questions about the study at that time, but most people would acknowledge that the traffic has worked fairly well and the traffic impacts were consistent with what was forecast. Mr. Brehmer said that Kittelson has worked in the community for over 25 years and works on situations for private developers and on contract from time to time for ODOT, Washington County, and sometimes even the City. We approach these studies from a balanced perspective, have an ethical responsibility to present the facts, and provide information to base decisions on.

Chair Allen asked for questions from Commission members.

Commissioner Cary commented regarding the queue increase of 2-3 more cars asked if that put it in a Level of Service Category F.

Mr. Brehmer answered that it did not and operating standards in terms of level of service will still met.

Mr. Cary asked regarding the trip numbers and asked what happened in the case of an overdraw.

Mr. Brehmer answered that the way the conditions are written additional traffic analysis would be needed to document what the additional impacts of the trips are and if mitigations would be required.



Mr. Cary inquired who would be responsible for the additional analysis.

Mr. Brehmer answered that the applicant would be required to provide a supplemental study in coordination with the City, County and State. When the final tenants are known, Kittelson will be asked to provide documentation as to what the trip generation of those uses are compared to the traffic study and will be reviewed by the agencies. What we are aiming to do over the next two weeks is to provide documentation up front so that it is in the record and not an issue because the technical base will be in place.

Mr. Cary asked regarding the assumption for the tenant.

Mr. Brehmer replied that the trip generation assumptions are based on a shopping center. The Target was treated as a shopping center with some of the pads broken out into fast food and different supplemental uses. If there is a scenario that comes back and the shopping center use is no longer appropriate, the trip generation numbers would be recalculated to confirm that the project was still within the bank account of trips that has been set up. We will be providing that information during the open record period.

Chair Allen summarized that today the applicant has given hypothetical trip generation numbers based on a mix of tenants that is a blended number within the City standards. If the tenants were to come in with more fast food restaurants, the numbers would have to be recalculated and to use the analogy may overdraw. Chair Allen asked if the applicant was hoping to be more specific with those numbers during the open record period.

Mr. Brehmer explained that there have been specific questions as to if the tenant is a super discount store and we are going to provide those calculations as to the trip generation based on a super discount store so the Commission can compare the different scenarios side by side.

Chair Allen commented that one of the things that was attractive to him was the curb tight pad developments around the perimeter and asked if one possible outcome was if the anchor tenant was too large to allow for all of the pad development.

Mr. Brehmer answered that the expectation is that the pads would remain. The trip generation is sized with a shopping center such that it could evolve to other uses.

Chair Allen asked staff regarding dates for a continuance.

Brad stated the Council had three meeting dates to the end of the year and under the 120 day rule all local appeals have to be exhausted by that time. Brad explained that there are 14 days to file an appeal after the decision is made. The appeal would be to City Council and a 20 day notice is required for the appeal hearing.

Discussion ensued regarding options for continuance and tolling the 120 day deadline.

Chair Allen asked if the applicant would toll the deadline to December 19, 2012.

Mr. King stated the applicant would agree to toll the decision until December 19, 2012. The applicant would prefer to close the public hearing, with a 14-7-7 schedule. Fourteen days to accept written testimony from anyone, seven days for rebuttal evidence, and seven days for final written argument and come back to the Commission for a decision.

Chair Allen closed the public hearing and asked for a motion.

**Motion: From Commissioner James Copfer for the Planning Commission to Close The Hearing on the Application for the Langer Farms Phase 7 Shopping Center (SP 12-05) and Conditional Use (CUP 12-02), Leaving the Written Record Open for Submission and Additional Testimony for Fourteen Days for Anyone to Submit Additional Testimony Ending at 5pm on October 9, Allowing Seven Days for Anyone to Rebut Information Received Within the First Fourteen Day Period Ending at 5pm on October 16, and Seven Days for the Applicant to Submit Final Response With No New Testimony Permitted to be Provided Ending at 5pm on October 23, Continuing the Commission's Deliberations on the Matter Until October 23<sup>rd</sup>, Acknowledging That the Applicant Has Agreed to Toll the 120 days to the 19<sup>th</sup> of December. Seconded by Commissioner Brad Albert, All Commission Members Voted in Favor.**

#### **9. Adjourn**

Chair Allen adjourned the meeting at 9:26 pm.

Submitted by



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Kirsten Allen, Department Program Coordinator