



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
June 9, 2009 – 7 PM**

Business Meeting – 7:00 PM

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Consent Agenda – Draft minutes from April 28, 2009**
4. **Staff Announcements**
5. **Council Announcements (Dave Heironimus, Planning Commission Liaison)**
6. **Community Comments (The public may provide comments on any non-agenda item)**
7. **Old Business:**
 - a. **ADM 09-02 Appeal-** On February 25, 2009 the Community Development Director issue a letter to the applicant and the Planning Manager issued a letter to the Building Official indicating that the plans the appellant submitted to the Building Department for covered parking at 22211 SW Pacific Highway were not exempt from site plan review. Written notice dated March 9, 2009 was received by the City indicating that Mr. and Mrs. Claus were appealing the interpretation by the City Manager's designee (in this case, the Community Development Director).
8. **New Business (items carried forward from previous meetings):**
 - a. **Adams Avenue Concept Plan-** Concept plan for property owned by Portland General Electric (PGE) totaling approximately 55 acres, 33 of which were added to the urban growth boundary (UGB) in 2002. A comprehensive plan and zone map amendment is proposed to add the zoning designation of light industrial to the portion of the Adams Avenue North Concept Plan area that was brought into the urban growth boundary in 2002. The proposal also involves a change in the zoning for 2S129B, tax lot 1900 from Light Industrial to Office Commercial and 2S129A, tax lot 1100 from light industrial to General Commercial and from Light Industrial to Office Commercial for 2S129A, tax lot 1400
 - b. **SP 08-13 / CUP 08-03 Villa Lucca –** The applicant requests preliminary site plan approval and a conditional use permit to construct two buildings: a 99-unit, four-story Independent Living Facility and 2,700 square foot mixed use building. The applicant will extend SW Cedar Brook Way along the western property line and northward from SW Meinecke Parkway just northeast of 99W. Forty-eight above ground and forty-six below grade parking spaces will be created on site as well as a pathway to connect with the residential properties to the west. The total site area is approximately 5.77 acres
9. **Comments from Commission**

June 23rd next meeting

10. **Next Meeting:** June 23, 2009 – SP 08-13 / CUP 08-03 Villa Lucca & PA 09-04 Chapter 16.116 (water) updates
11. **Adjourn**



Home of the Tualatin River National Wildlife Refuge

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MEMORANDUM

City of Sherwood
22560 SW Pine St.
Sherwood, OR 97140
Tel 503-625-5522
Fax 503-625-5524
www.ci.sherwood.or.us

Mayor
Keith Mays

Council President
Dave Heironimus

Councilors
Dave Grant
Linda Henderson
Lee Weislogel
Del Clark
Robyn Folsom

City Manager
Jim Patterson

DATE: June 2, 2009
TO: Planning Commission
FROM: Julia Hajduk, Planning Manager
SUBJECT: ADM 09-02 Claus appeal of Director interpretation

The Planning Commission was scheduled to deliberate and make a determination on the Claus appeal of the Director's interpretation on May 26, 2009, however due to lack of a quorum the hearing was postponed to June 9, 2009. **Staff asks the Commission to review the file materials previously distributed in the April 28, 2009 packet and the additional materials included in the May 26, 2009 packets.**

The Commission has closed the public hearing and may not accept additional testimony unless the record is re-opened. At the meeting on June 9th the Commission must consider the information in the record and determine if the Director, in this case the Community Development Director, erred in the determination that the plans submitted to the building department required site plan approval.



MEMORANDUM

City of Sherwood
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DATE: June 2, 2009
TO: Planning Commission
FROM: Julia Hajduk, Planning Manager
SUBJECT: PA 09-02 Adams Avenue Concept Plan

Mayor
Keith Mays

Council President
Dave Heironimus

Councilors
Dave Grant
Linda Henderson
Lee Weislogel
Del Clark
Robyn Folsom

City Manager
Jim Patterson

The Planning Commission was scheduled to hold a public hearing on the Adams Avenue Concept Plan on May 26, 2009, however due to lack of a quorum the hearing was postponed to June 9, 2009. **Staff asks the Commission to review the file materials previously distributed in the May 26, 2009 packets for the concept plan.**

In addition, staff received two agency comments after the May 26 packet was mailed on May 19th. These are attached to this memorandum. Attachment 1 is an updated letter from ODOT acknowledging that the 1.1 v/c ratio is applicable within Sherwood's Town Center intersections. Attachment 2 is a letter from Clean Water Services indicating that they have no concerns or objections to the proposal.



Oregon

Theodore R. Kulongoski, Governor

Oregon Department of Transportation

ODOT Region 1
123 NW Flanders St
Portland, OR 97209 - 4037
Telephone (503) 731-8200
FAX (503) 731-8259

File code: PLA9-2A -91
ODOT Case No: 3089

5/26/2009

City of Sherwood
Planning Dept
20 NW Washington St
Sherwood, OR 97140-7851

Attn: Julia Hajduk, Planning Manager

Re: Adams Avenue Concept Plan

Dear Ms. Julia Hajduk,

In the course of reviewing the Adams Ave Concept Plan, conflicting interpretations of the Sherwood Town Center designation have been brought to light regarding the applicable volume to capacity (v/c) ratio for highway intersections (Table 7 of the Oregon Highway Plan). Sherwood does not have an adopted Town Center plan and the land use action is located outside of the Town Center boundary. After meeting with Metro staff and upon further review of the Oregon Highway Plan and Metro Functional Plan, ODOT staff has determined that the Town Center designation does apply for highway intersections within the Sherwood Town Center boundary and therefore the 1.1 v/c ratio is the standard for continued review of the Adams Ave Concept Plan.

ODOT encourages the City to consider engaging in a Town Center planning effort in order to better clarify the location and intended land uses within the Sherwood Town Center. Thank you for providing ODOT the opportunity to participate in this land use review. If you have any questions regarding this matter, please contact me at (503) 731-8234.

Sincerely,

Seth Brumley
Development Review Planner

C: Marah Danielson, ODOT Region 1 Planning
Doug Baumgartner, ODOT Region 1 Traffic

Attachment 1

MEMORANDUM

Date: May 11, 2009

To: Julia Hajduk, Planning Manager, City of Sherwood

From: Jackie Sue Humphreys, Clean Water Services (the District)

Subject: Zone Designation Change, PA 09-02, 2S129B001900, 2S129A001100, 01400

Clean Water Services has no concerns or objections to this application request. However, The District reserves the right to comment on all subsequent Land Use Applications for future development of each of these parcels.

Attachment 2



Home of the Tualatin River National Wildlife Refuge

MEMORANDUM

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Mayor
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Councilors
Dave Grant
Linda Henderson
Leo Stasivogel
Del Clark
Robert Trasko

City Manager
Jim Patterson

DATE: June 2, 2009
TO: Planning Commission
FROM: Michelle Miller, Associate Planner
SUBJECT: SP 08-13, CUP 08-03 Villa Lucca aka Avamere at Cedar Brook

The Planning Commission was scheduled to hold a public hearing on the **Villa Lucca Site Plan** on May 12, 2009. However, the applicant requested that the hearing be continued to June 9, 2009. **Staff asks the Commission to review the file materials previously distributed in the May 5, 2009 packets for this land use application.**

In addition, staff received two agency comments after the May 5th packet was mailed and one property owner citizen comment. These are attached to this memorandum.

Exhibit K, *Letter from Jennifer Lekas, 21704 SW Roellich, in response to the application*
Exhibit L, *ODOT Response to the Land Use Notification*
Exhibit M, *Tualatin Valley Fire & Rescue response to the application*

To: Sherwood Planning Committee
From: Jennifer Lekas, Vineyards Resident

Re: Application for case file No. SP08-13/ CAP 08-03 Villa Lucca

This letter is response to the inquiry regarding land use by applicant J. Patrick Lucas of Cedar Brook Way, LLC. The proposal to construct the 99 unit, four-story facility, with its neighbor, a 2700 sq. ft mixed use facility is not a welcomed addition to the area nor a good idea. It is met with the strongest opposition for a number of reasons. The recent construction surrounding the Vineyards, that include medical facilities completed and non completed, as well as the new apartments, and additionally, the development of two new schools in the neighborhood, has shifted the face of the community and rapidly. With the projected idea of closely building other facilities that will increase the local population to potentially large numbers, would, in my opinion, have a negative impact on the sustainability and livability of the Vineyards residents and their right and desire to maintain a quiet, contained and modest neighborhood community.

The addition of the proposed site is also very close, **too** close to the green space and walking path that offer Vineyards residents serenity and a barrier if you will, to the bustling and burgeoning growth of Sherwood. The opportunity to have such allure in the middle of suburbia cannot be articulated suitably with words. Any changes made to the area, even if **one** tree is moved, cut or the property line nearing the creek and its natural inhabitants are altered or compromised, it would be a very disappointing and impertinent act at the councils (*potential*) discretion and tact.

With having discussed the pleasing aspects of the area, it is not without burden to mention recent questionable activity and eyesores that have given reason to question the safety and candor of the neighborhood. Empty liquor bottles, cigarettes and containers and surprisingly even vehicle traffic have been witnessed on the pathway, all of which is essentially in my backyard (a crushed alcohol bottle was recently found in my **driveway**). I fully intend to address these concerns to our HOA and it's newly appointed board, but I understand that the city of Sherwood is responsible for this piece of property and feel that you as a city should be aware of its present state. Likely, and assumable, though not for certain, it may be the actions of youth in the area, but even potentially adult misconduct or worse yet, transient trespass, seeking safe haven from the showing town. These issues, not consistent with the precedence or desired integrity of the neighborhood can potentially be a temporary and limited situation, though not without involvement of the council and the Vineyards HOA. If construction of the complex is to be allowed as well as its proposed adjacent entry to the existing walkway, the results of an influx of apartment residents using the neighborhood path could potentially aggravate our present situation. How do you avoid additional harmful activity should it arise, and what measures would you seek to impede it? How do you govern and monitor such an issue?

If the construction of the projected outline succeeds, and there is no stopping the units and commercial addition from being built, let it be strongly noted, not my desired outcome, I would then most respectfully ask you to consider the above statements and opinions.

Exhibit K

In summary, please allow the wild area to remain as is: No altering, no destruction and least of all, no additional access to the already established property. Let us continue to retain our portion of the community, the neighborhood we feel affection for and to keep what is currently, our own sense of privacy and sought after safety. Shouldn't every homeowner be afforded that comfort and feeling of assurance?

As the city considers these many logistical plans, please be accessible and supportive of our need to further address the recent boost in off-putting litter and dodgy behaviors presently taking place. I look forward to assisting you in any way I am capable.

Thank you most sincerely for reviewing my comments and I hope you will come to an agreeable and promising conclusion to this proposal.

Respectfully,
Jennifer Lekas

Vineyards Resident
21704 SW Roellich Avenue
Sherwood, OR 97140



Oregon

Theodore R. Kulongoski, Governor

Department of Transportation

Region 1 Land Use Planning

123 NW Flanders

Portland, Oregon 97209-4012

Telephone (503) 731-8200

Fax (503) 731-8259

Date: 5/6/09

ODOT Response to Local Land Use Notification

Project Name: Villa Lucca	Applicant: Cedar Brook Way, LLC
Jurisdiction: City of Sherwood	Case #: CUP08-03, SP08-13
Site Address: No Situs - Pacific Hwy W (OR 99W) @ Meineke, Sherwood, OR	Legal Description: T02SR01WS30CD Tax Lot(s) 13400
State Highway: 99W	Mileposts: 15.9

The site is adjacent to the referenced state highway. ODOT has permitting authority for the state highway and an interest in ensuring that the proposed land use is compatible with its safe and efficient operation. **Please direct the applicant to the District Contact indicated below to determine permit requirements and obtain application information.**

ODOT RECOMMENDED LOCAL CONDITIONS OF APPROVAL

Curb, sidewalk, bikeways and road widening shall be constructed as necessary to be consistent with the local Transportation System Plan and ODOT/ADA standards.

An ODOT Drainage Permit is required for connection to state highway drainage facilities. Connection will only be considered if the site's drainage naturally enters ODOT right of way. The applicant must provide ODOT District with a preliminary drainage plan showing impacts to the highway right of way.

A drainage study prepared by an Oregon Registered Professional Engineer is usually required by ODOT if:

1. Total peak runoff entering the highway right of way is greater than 1.77 cubic feet per second; or
2. The improvements create an increase of the impervious surface area greater than 10,758 square feet.

ADDITIONAL COMMENTS:

While the current proposal is a low traffic generator, the traffic study provided by the applicant shows that the second phase of this development will contribute significantly more traffic to highway intersections that are already over capacity. At the time that the application for the second phase is submitted, ODOT will require a more detailed traffic study in order to identify the appropriate highway improvements that will mitigate the additional traffic impacts. Please contact Doug Baumgartner at the phone number below to scope the traffic study for the second phase.

Please send a copy of the Notice of Decision including conditions of approval to:

ODOT Region 1 Planning
Development Review
123 NW Flanders St
Portland, OR 97209

Exhibit L

Development Review Planner Seth Brumley	Phone: (503) 731-8234
Traffic Contact: Doug Baumgartner	Phone: (503) 731-8225
District 2A Contact: Steve Schalk	Phone: (503) 229-5267



TUALATIN VALLEY FIRE & RESCUE - SOUTH DIVISION
COMMUNITY SERVICES • OPERATIONS • FIRE PREVENTION

May 15, 2009

Michelle Miller
Associate Planner
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Re: SP 08 – 13 CUP 08-03 Villa Lucca

Dear Ms. Miller;

Thank you for the opportunity to review the proposed site plan surrounding the above named development project. Tualatin Valley Fire & Rescue endorses this proposal predicated on the following criteria and conditions of approval:

- 1) **AERIAL FIRE APPARATUS ACCESS:** Buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway. Fire apparatus access roads shall have a minimum unobstructed width of 26 feet in the immediate vicinity of any building or portion of building more than 30 feet in height. At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. (IFC D105) ***If building exceeds 30 feet in height, please designate where aerial apparatus road will be located.***
- 2) **NO PARKING SIGNS:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, "No Parking" signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Roads 26 feet wide or less shall be posted on both sides as a fire lane. Roads more than 26 feet wide to 32 feet wide shall be posted on one side as a fire lane. Signs shall read "NO PARKING - FIRE LANE" and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (IFC D103.6) ***Show "No Parking" signs locations for approval.***
- 3) **PAINTED CURBS:** Where required, fire apparatus access roadway curbs shall be painted red and marked "NO PARKING FIRE LANE" at approved intervals. Lettering shall have a stroke of not less than one inch wide by six inches high. Lettering shall be white on red background. (IFC 503.3) ***Provide painted curbs where needed.***
- 4) **GATES:** Gates securing fire apparatus roads shall comply with all of the following: (IFC D103.5)
Minimum unobstructed width shall be 16 feet, or two 10 foot sections with a center post or island.
Gates shall be set back at minimum of 30 feet from the intersecting roadway.
Gates shall be of the swinging or sliding type
Manual operation shall be capable by one person
Electric gates shall be equipped with a means for operation by fire department personnel
Locking devices shall be approved.
- 5) **COMMERCIAL BUILDINGS - REQUIRED FIRE FLOW:** The required fire flow for the building shall not exceed 3,000 gallons per minute (GPM) or the available GPM in the water delivery system at 20

Exhibit M

psi, whichever is less as calculated using IFC, Appendix B. A worksheet for calculating the required fire flow is available from the Fire Marshal's Office. (IFC B105.2) **Please provide a current fire flow test of the nearest fire hydrant demonstrating available fire flow at 20 psi residual pressure, as well as fire flow calculation worksheets. Fire Flow calculation worksheets and instructions are available on our website: www.tvfr.com.**

- 6) **FIRE HYDRANT NUMBER AND DISTRIBUTION:** The minimum number and distribution of fire hydrants available to a building shall not be less than that listed in Appendix C, Table C 105.1. **Number and distribution of fire hydrants will be determined from fire flow worksheet.**

Considerations for placing fire hydrants may be as follows:

- Existing hydrants in the area may be used to meet the required number of hydrants as approved. Hydrants that are up to 600 feet away from the nearest point of a subject building that is protected with fire sprinklers may contribute to the required number of hydrants.
 - Hydrants that are separated from the subject building by railroad tracks shall not contribute to the required number of hydrants unless approved by the fire code official.
 - Hydrants that are separated from the subject building by divided highways or freeways shall not contribute to the required number of hydrants. Heavily traveled collector streets only as approved by the fire code official.
 - Hydrants that are accessible only by a bridge shall be acceptable to contribute to the required number of hydrants only if approved by the fire code official.
- 7) **FIRE HYDRANT DISTANCE FROM AN ACCESS ROAD:** Fire hydrants shall be located not more than 15 feet from an approved fire apparatus access roadway. (IFC C102.1)
- 8) **REFLECTIVE HYDRANT MARKERS:** Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be blue. They shall be located adjacent and to the side of the centerline of the access road way that the fire hydrant is located on. In case that there is no center line, then assume a centerline, and place the reflectors accordingly. (IFC 508.5.4)
- 9) **ACCESS AND FIRE FIGHTING WATER SUPPLY DURING CONSTRUCTION:** Approved fire apparatus access roadways and fire fighting water supplies shall be installed and operational prior to any combustible construction or storage of combustible materials on the site. (IFC 1410.1 & 1412.1)
- 10) **KNOX BOX:** A Knox Box for building access is required for this building. For gates securing an emergency access road a Knox box or Knox padlock will be required; a Knox switch will be required for electrically operated gates. Please contact the Fire Marshal's Office for an order form and instructions regarding installation and placement. (IFC 506)
- 11) Complete the Building Survey Form prior to the issuance of the Building Permit:
http://www.tvfr.com/Dept/fm/brochures/document_files/building_survey_form_ifc.pdf
- 12) Resubmit plans for final approval.

If you have questions, please call me at (503) 612-7012.

Sincerely,

Karen Mohling

Karen Mohling
Deputy Fire Marshal

City of Sherwood, Oregon
Draft Planning Commission Minutes
June 9, 2009

Commission Members Present:

Chair Allen
Jean Lafayette
Matt Nolan
Raina Volkmer
Todd Skelton

Staff:

Julia Hajduk, Planning Manager
Heather Austin, Senior Planner
Karen Brown, Recording Secretary

Commission Members Absent: Adrian Emery

Council Liaison – Not Present

1. **Call to Order/Roll Call** – **Chair Allen** called the meeting to order. **Karen Brown** began by stating date as June 6th, it was actually June 9th. Roll was then called.
2. **Agenda Review – Items** on the agenda included ADM 09-01 Appeal (shown as ADM 09-02 on agenda), the Adams Avenue Concept Plan, and SP 08-13/CUP 08-03 Villa Luca, which at the applicants request will be rescheduled for the next Planning Commission meeting.
3. **Consent Agenda** – The minutes from the April 28th meeting were under review. Commissioner Lafayette pointed out that on Page 11; the third full paragraph contains items 1 – 4. In item 2 the word “decrease” should have been increase to accurately reflect the statements being made by Chair Allen. The correction has been noted and the minutes have been corrected. There were also scrivener’s that she noted that do not change the substance of the minutes. Those changes were given to Julia for corrections. Commissioner Lafayette made a motion to approve the minutes from the April 28th Planning Commission meeting. Commissioner Nolan seconded the motion. A vote was taken and all were in favor of approving the minutes.
4. **Staff Announcements** – Julia stated that at this time the position on the Commission held by Lisa Walker has not be reappointed. Applications were accepted through June 9th. Julia will coordinate with Council Liaison Heironimus and Chair Allen to discuss applications received. Due to the City Council’s schedule the position may not be appointed until July 21st, 2009.
5. **City Council Comments** – None given

Community Comments – James R Claus began by submitting a letter written to him from Chris L. Mullmann of the Oregon State Bar regarding Mark O. Cottle. Mr. Claus spoke about potential ethics violations with former Mayor Cottle representing the City Manager in the last employment contract. Mr. Claus questioned why the minutes from April 28, 2009 (which he entered into the record) had him quoted verbatim in one place but not in another. He indicated that that was a direction from someone with the intention to “prejudice the record.” He reminded the Commission of the ethics commission standards that “if in any way you can potentially gain financially sitting on any of these boards, that’s at your job or any place else you have a potential conflict of interest. In other words if you use sitting on this Commission and writing code as part of your résumé’ and you need a recommendation from the City, elected official, governing body or staff I’m told by the ethics commission there may be a potential conflict of interest, if not an actual conflict of interest.” He indicated he is contending that they can’t really get a fair hearing. He went on to discuss the expense to develop property, indicating that “It can actually cost you close to a third or forty percent of the value of that property and if you compound the interest over 4 years it can cost you the value of that property. “. Mr. Claus once again raised concern over his ability to get a fair hearing, at which point Chair Allen asked for clarification on whether he was testifying on an issue that was on the agenda. Mr. Claus indicated that they were talking about appealing the Sign Code decision as well as the Design Code and neither of those are on the agenda.

Mr. Claus continued questioning the actions of staff with regard to the sign code record, actions by former Mayor Cottle regarding the City purchase of the Old School House, which was adjacent to property he owned, and again questioned why the minutes were quoted verbatim when he was not providing professional comments and summarized when he was providing professional comments.

No further public testimony was given.

6. **Old Business** – **Chair Allen reopened** the Appeal on ADM 09-01 with a recap of previous actions. The public hearing had been closed but the written record had been left open for a period of time. The Commission has received written submittal, and this meeting was for final staff comments and deliberation.

Julia concurred with Chair Allen’s recap. She had no new staff comments other than reminding everyone where the hearing is in the process.

Chair Allen read the disclosure statement and asked for any ex parte contact, bias or conflict of interest. Chair Allen disclosed, that over approximately the past year and a half he has had a number of conversations with the appellant, Mr. Claus regarding development issues related to his (Mr. Claus’) property as well as with several other neighbors trying to identify and work out a variety of issues. That was not successful. Since the last hearing, Chair Allen received a phone call at his place of business from Mr.

Claus in which he declared that what Chair Allen had done was despicable, or dastardly, or something along those lines. (Chair Allen indicated that he could not recall the exact term used.) Mr. Claus then asked Chair Allen to have his immediate supervisor, the Administrator of his division call Mr. Claus. Chair Allen reported that he did pass that message on to his supervisor. Chair Allen did not feel that his request was threatening and does not feel it will cause bias on his part and he does plan to participate in the hearing.

Chair Allen also pointed out that, there has also been a written request submitted by Mr. Claus in a May 4th memo addressed to Chair Allen, asking for his recusal. Chair Allen stated that in that memo Mr. Claus gives a variety of psychological analysis of Chair Allen and includes references to events, that if they existed at all, he has a rather different recollection of how things transpired. Chair Allen continued by saying that all of the incidence referred to by Mr. Claus, whether they actually happened or not, would have occurred prior to the last public hearing. The only thing that has changed between that meeting and the May 4th memo is that Chair Allen indicated that he may not agree with Mr. Claus' position in this case. He does not find a persuasive case for recusal and does not plan to recuse himself.

Chair Allen then asked if any other Commission members had ex parte' contact, bias or conflicts of interest they wish to disclose. No one did.

Chair Allen then asked if any members of the audience wished to challenge any of the Commission members' ability to participate.

Eric Postma, legal representative for the appellant, testified that while Chair Allen had provided an extensive discussion about the fact that a request for Chair Allen's recusal that had been included in the packets, he wanted to reiterate that the request was there and to renew their objection verbally. He also made a request that the record be re-opened for additional discussion by Mr. Postma or Mr. Claus if that opportunity arises.

Chair Allen asked the City Attorney, Chris Crean if there is any action that would need to be taken in light of the objection from the audience.

Chris replied that the mere allegation of bias is not sufficient grounds for a Commission member to recuse him or her self. If there is a conflict of interest on a Commissioner's part then they must recuse them self. If there is actual bias on a quasi-judicial matter, they must recuse themselves as well. In the absence of bias or an actual conflict of interest there is no requirement that a Commissioner recuse them self.

With that clarified, Chair Allen referred back to Julia to continue her re-cap of the project to date.

Julia reminded the Commission that there had been a public hearing on April 28th at which the Staff had given a presentation regarding the project. She was prepared to provide the presentation again if anyone so desired. She reiterated that the issue before

the Commission at this time was whether or not the Community Development Director made an error in determining that the plans submitted to the Building Department would require site plan approval.

Julia went on to state that staff does not concur with information submitted into the record by either Mr. Claus or Mr. Postma and invited the Commission to speak with her if any commission members have questions about information submitted.

Chair Allen conferred with Chris Crean regarding the request to re-open the record for public testimony. He questioned their ability to re-open the public testimony since public notice had not been sent saying that would happen.

Since the public hearing was closed, but the matter was continued until this hearing, everyone at the last meeting got notice of the meeting this evening. It is within the Commissions' discretion to re-open the public hearing portion if they feel it would benefit the Commission.

Chair Allen polled the Commission to see if any of them felt the need to have the public testimony re-opened. No one felt it would be of benefit. Chair Allen stated he would not re-open the public record in this matter. He then moved to staff questions from the Commission.

Chair Allen began by asking Staff about criteria used for determining whether site plan was required. He recalled information being given previously about the criteria used to make a determination including language about "visually discernable or an obvious change" to the site. Even if the proposed parking was where the existing parking is, that change would impact that standard. He asked what thoughts Staff went through making their determination.

Julia explained that staff was trying to be as helpful as they could in allowing the appellant the covered parking that they had indicated they wanted associated with their office uses. Staff initially was trying to utilize the non-conforming standards to identify that they were decreasing the non-conformity. There are several issues at play with the site plan standards vs. the non-conforming standards and what is a decrease in non-conformity is what the Planning Commission needs to determine.

Chair Allen asked for other questions; as there were none Chair Allen moved the discussion to deliberation.

A discussion ensued among the Commission members in general agreeing that while a memo written to the Building Department by Planning Staff on February 9th was meant only to summarize what the Planning Department would require and was not all inclusive; they all feel that it did not negate the need for a site plan review.

Chair Allen summarized by stating that as an appeal, it seems that there is a fairly narrow question being posed which is "do they meet the standards for a waiver of site plan?"

The criteria for answering that question are straight forward. The project does not meet the standards.

Commissioner Lafayette made a motion that the Planning Commission deny the appeal on ADM 09-01 based on the adoption of the staff report, findings of fact, public testimony, staff recommendation and applicant comments. The motion was seconded by Commissioner Nolan. Chair Allen asked for a vote. All members voted for the motion to deny the appeal. The motion carried.

7. New business –
a. Adams Avenue Concept Plan

Chair Allen opened the Adams Avenue hearing and asked for any ex parte contact or conflict of interest statements. None were given and no members of the public wished to challenge any of the member's ability to participate.

Julia presented her staff report by first introducing some of the project team members that were present at the hearing: Keith Jones of Harper Houf Peterson Righellis, Chris Maciejewski of DKS and Associates, Kirsten Green of Cogan Owens Cogan and Jason Waters from the City of Sherwood's Engineering Department. Planning for the Adams Avenue Concept Plan has included: 3 Stake holder involvements meetings, one public open house, 3 Planning Commission work sessions and one joint Planning Commission/Council work session. If the Commission makes a recommendation to the City Council at this meeting or the next, the project will be included on the Council's agenda for July 21st. It is the goal to have an annexation vote on the November 2009 ballot. Assuming all of the approvals are in place construction will begin in the spring of 2010 for the Adams Avenue Road.

Julia provided a PowerPoint presentation (which is included in the record). She highlighted changes to the plan since the last Planning Commission work session on the issue:

- A revised acreage calculation which is now on the plan map. The study area includes 55.5 acres, the area inside the UGB expansion area is 34.2 acres, the area within the City limits is 21.3, however when you take out the roads, Wetlands, water quality facilities, power lines and substation there is only about 15.7 acres that are left developable.
- The map has been revised including changing the name to the Development Opportunities Map.
- The Preferred Alternative Plan was changed to the Preferred Concept Plan.
- The areas that are within the City have been clarified as well as numbering the development opportunity number 4.
- The reasoning behind identifying the preferred concept plan was once the project moves into the proposed development code language reference is made to the concept plan area, so staff wanted to clarify that.

- The plan is intended to be conceptual at this time including the round-about location. As Engineering is done that will be better defined.
- She also wanted to highlight a letter that is included in the packet from ODOT saying that they were acknowledging the 1.1 volume to capacity ratio in the intersections within the Sherwood Town Center. There is another letter (that was handed out during the meeting) that is a bit more specific that says they support the intersection information that was provided to them. They are asking for some additional work during the design phase on the signal timing.
- Metro and DLCD have been notified of all the proposed comprehensive plan changes and map.
- A new section is being added to Chapter 8 of the Comprehensive Plan that is the UGB Expansion section.
- They have also added special criteria for restaurants, taverns and lounges in the Office /Commercial Zone limiting those uses to 10% of each development. Drive-through restaurants are also prohibited and clarification was included that the special criteria apply to the Adams Avenue Concept Plan Area which is identified on the map. Public Recreational uses including trails were also added as conditional uses in the Office/Commercial and Light Industrial zones.

Commissioner Lafayette wanted to be sure that it is made very clear that a conditional use is being added to the code. The goal was to add something on Public Lands or easements that would allow another use in an industrial zone. This will not allow other Light Industrial uses to become ball fields or soccer fields.

Julia agreed and made a note to update that slide before it is presented to Council. She then reviewed several maps that were included in the packet. The maps included the Development Opportunities Map, the Preferred Concept Plan Map which looks a lot like the Preferred Alternatives map, but Staff has specified the specific zoning.

Commissioner Nolan asked if in Office/Commercial zoning mixed use residential is allowed.

Julia confirmed that it would be allowed with a PUD.

Commissioner Lafayette asked about the significance of the large red star, and if that was proposed as an actual archway.

Julia's response was that it has yet to be defined and that it could be whatever the Commission recommends to the Council. Commissioner Lafayette asked that it be removed and went onto explain that when they were discussing that area in previous meetings they were using the term gateway, but were really just describing the development itself at a point of entry into the City.

Commissioner Nolan suggested code language that would discourage a PUD similar to what has happened with Woodhaven Crossing. Commissioner Volkmer strongly supported Commissioner Nolan's sentiment.

Chair Allen then went on to open the meeting to public testimony.

Robert James Claus testified that the Commission is re-doing the general plan without knowing what it's going to cost. He indicated concern that staff is pushing this to add more to the Urban Renewal funds so that the City can borrow more. He stated that the Commissioners will think this it's a good idea because the staff wants it. He indicated that other property in town "like Lucas' and ours and Shannon's" can't be developed and the City is doing this without any cost at all. Mr. Claus told the Commission that they didn't have a clue what it's costing because the staff will not tell them "because a third of your budget now in the City is borrowed. You are borrowing from Urban Renewal." Can we ever hear on any of these concept plans what the roads are going to cost, what the infrastructure is going to cost, what it's going to toil out per acre and who and how we're going to pay for it. If we're going to pay for it by Urban Renewal money i.e. we're going to borrow 20 million and put it in the roads and then put it back in the taxes it would be nice to hear.

Mr. Claus stated that ever since Urban Renewal has been put in, in any area it goes in, you have declining property values. He stated concern that the City is on a long term path to bankrupt this town.

No other members of the audience wished to testify so Chair Allen closed the public hearing portion of the meeting and asked for any other staff comments.

Julia addressed the concerns voiced regarding the cost issue by saying that it hasn't been evaluated in depth because the only infrastructure included in this concept plan is the road which she understands would be paid for by private development. As indicated by the ODOT memo there are no intersection improvements beyond what have already been identified for funding, so there is not a substantial cost. (Commissioner Nolan added that this is noted on page 20 of the concept plan.)

Julia went on to say that if the Commission wanted to follow up on Commissioner Nolan's suggestion regarding limiting the amount of residential space allowed, that could certainly be done. There is already special criteria proposed in the Office/Commercial zone and additional criteria could be added after the permitted use "G" which allows multi-family housing within a Planned Unit Development. She also recommends if the Commission considers that change for the Office/Commercial that they may want to consider that change for the General/Commercial along Tualatin-Sherwood Road as well.

Chair Allen, Commission Nolan and Commissioner Volkmer discussed Commissioner Nolan's concerns in more detail. He would like to ensure that the good commercial property that we have in Sherwood is maintained and not to allow and encourage excessive residential units in those properties. He is not opposed to allowing mixed use, but he wants to be sure that it truly has to be mixed use. Woodhaven Crossing was the example they referred to. The original plan there was to be mixed use, but now the

property has very few commercial businesses and appears to be just a large apartment complex. They are asking for language that would specify a minimum level of residential use.

As the Commission discussion continued, Chair Allen asked Julia if the proposed language changes could be incorporated as a part of this action or would it need to be a separate action.

Julia suggests clarifying the language now and including the changes into whatever gets recommended to the City Council.

The Commission discussed the best terminology to use in making the suggested changes.

Commissioner Lafayette brought up an issue that had been raised by the developer Patrick Lucas at a previous meeting. If a traffic study has already been done on a site and then a developer comes in with a project, why are they required to complete additional traffic studies at their expense?

Tom Pessemier the Community Development Director for the City responded to the question by saying that the reality is that things change over time and while traffic studies have been completed and estimations made based on those studies the information can change. It is not likely that a developer is going to submit a project with the exact same uses that were used during the traffic modeling. If you did get a project that was the whole development area he could see that a new study would not be required. Typically what happens is that projects are submitted an area at a time. The effort is made to not deprive someone of what they want to develop in another area by having had some of their trips taken away by earlier development.

Chair Allen reminded the Commission of previous conversations they have had talking about “making the right thing the easy thing”. He is questioning how much of the traffic impact study requirement are actually code vs. operational procedure. He raised the question of the possibility that the Council could consider, for a limited period of time, offering a “pro-development” stimulus type of incentive that would say; the closer you do to what is in this concept plan and the fresher the information is from when the Planning Commission’s decision was made, the fewer requirements there may be. His general idea is that if a developer comes in 6 months from a decision and does virtually what the concept plan asks for is there anything the Commission or Council could do to simplify their process without running into risks.

Tom believes that a process like that would begin with the Planning Commission. The code is clear that if the use is over 400 trips then a traffic study is required. If it is less, then it is up to the Engineers discretion. He has seen studies that have been done for an area and then as an additive measure looking at each development as it comes in to insure it is not over a certain threshold, +/- a certain percentage each way. If the Commission wanted to define a specific area and as long as none of the trip generations exceed 10% – 15% and would not be outside what was done in the original traffic report, it would be

reasonable to not require a new study. He believes that with the project being reviewed, with the possible exception of the intersection of Adams Avenue and Tualatin-Sherwood Road, most of the sites will be generating more than 400 trips.

Commissioner Lafayette added that the Commission has had major concept planning opportunities recently and she does not want to miss the chance with the Tonquin Road area. If doing the right thing and the easy thing can happen with this small area, it might be a way to test the best way to make the process easier.

Chris Maciejewski the City's Traffic Consultant from DKS spoke to the Commission. He explained that while he understands where the Commission is heading with their discussion, he wanted them to understand that what DKS has done for this project so far is a Transportation Planning Rule Analysis. They looked at twenty years from now, with all of the improvements that are assumed to be in place, what the impact on that planned system would be. The analysis assumed Tualatin-Sherwood Road was widened to 5 lanes, the intersection of Tualatin-Sherwood Road and Hwy. 99W was expanded and had additional turn lanes, Adams Avenue South had been built and what the impact would be on that system. If a developer comes in next year and wants to build, but none of those improvements have been done, it would not be clear if the existing roads would work. It's the short term view of how the system will work with what's on the ground now that is missing. In a concept planning project, if it was requested, they could do a current analysis as well, however that has not been requested for this project.

The Commission discussed with Chris and Tom Pessemier how they could use this information on future projects. They would really like to take this information into consideration and even possibly have a separate memo written to Council that says the Commission would highly encourage them to consider this in the Tonquin Road project.

Commissioner Lafayette made a motion that the Planning Commission recommends approval of PA 09-03 Adams Avenue North Concept based on the adoption of the staff report, findings of fact, public testimony, staff recommendations, agency comments and conditions and code as revised.

Motion seconded by Commissioner Nolan.

Chair Allen asked for a vote. All members were in favor of approval. The motion carried.

b. Villa Lucca

Chair Allen read the disclosure statement for SP08-13 and CUP 08-03, Villa Lucca, and opened the public hearing. He then asked for any expert's contact or conflicts of interest. None were given.

Julia presented the project update by saying that Mr. Lucas had requested continuance of his hearing until the next Planning Commission meeting on June 23rd, 2009. He did toll the 120 days for the amount of time that he requested the continuance.

Commissioner Lafayette made a motion to continue SP 08-13 and CUP 08-03 Villa Lucca to the Planning Commission meeting on June 23rd, 2009, and accept the applicants tolling of the 120 days.

Commissioner Nolan seconded the motion.

Chair Allen called for a vote. All members were in agreement. The motion carried.

8. **Commission Comments:** Commissioner Lafayette wanted to confirm that their request to have the policy statements revised within the code language or at least a statement made that those are under consideration when the Commission is making decisions was heard.

Julia has talked with Chris Crean regarding this issue. She will add that to the next Commission meeting to include the information in the staff announcements.

Commissioner Lafayette also asked if Julia had addressed their concern with the Council regarding the Council packets and the Planning Commission's packets in small sections on the web site.

Julia confirmed that the Planning Commission packets had been modified quickly after the first comments were made. She is not certain about the status of the City Council packets and their ability to break it down, however at the time of this meeting the packet has been divided up into parts to make downloading easier.

9. **Next Meeting: June 23rd 2009**

Chair Allen closed the meeting at 8:25 pm

End of minutes.