



**City of Sherwood  
PLANNING COMMISSION  
Sherwood City Hall  
22560 SW Pine Street  
Sherwood, OR 97140  
May 13, 2008 – 7PM**

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Consent Agenda** – Minutes from 4/8/08 and 4/22/08
4. **Staff Announcements**
5. **Council Announcements** (Mayor Keith Mays, Planning Commission Liaison)
6. **Community Comments** (*The public may provide comments on any non-agenda item*)
7. **Old Business:**
  - a. **Continuation of Public hearing –Appeal of Provident Development Group Road (SP 07-07)– The original application proposed:** site plan approval to construct a 475 foot long private cul-de-sac road across tax lot 900 to serve tax lot 500 within a 50 foot wide private access easement. The decision was approved by the Planning Department on 3/7/08. On 3/21/08 and appeal was filed. The issues raised on appeal are: the proposed site plan cannot be approved since the applicant does not have the needed property interest to implement the requested actions; the findings in the decision are inadequate to justify an approval; and there was substantial evidence in the whole record to support the decision.
8. **New business – none**
9. **Comments from Commission**
10. **Next Meeting:** *May 20, 2008 – Special Joint PC/CC meeting during Council work session time*

Next regularly scheduled meeting: June 10, 2008 *tentative* Brookman Road Concept Plan public hearing
11. **Adjournment to work session**

**Work session discussion items (after regular business meeting)**

- **Commercial/Industrial design Standards**
- **Brookman Road Concept Plan – discussion of questions, process review in preparation for joint CC/PC work session**

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**City of Sherwood, Oregon**  
**Planning Commission Draft Minutes**  
**April 8, 2008**

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**Commission Members Present:**

Chair Allen  
Jean Lafayette  
Todd Skelton  
Lisa Walker  
Matt Nolan

**Staff:**

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

**Council Liaison** – Keith Mays

**Commission Members Absent:**

Adrian Emery

**City Attorney** – Chris Crean

1. **Call to Order/Roll Call** – Karen Brown called roll. Commissioner Emery not present.
2. **Agenda Review** - Chair Allen discussed agenda which will include 3 public hearing. Lavender Tea House, Daybreak Subdivision and Wildrose Storage. Chair Allen asked if there were any changes to the agenda, questions or comments. None were given.
3. **Consent Agenda** – Commissioner Lafayette noted that scriveners errors have been passed on to the Recording Secretary for corrections and that there were no other issues in the minutes from the January 8, 2008 or January 22, 2008 Planning Commission minutes. She then moved that all minutes be approved. Commissioner Nolan seconded motion. Chair Allen asked for members in favor. All were in favor. Motion was carried.

Yes – 5      No – 0      Abstain - 0

4. **Staff Announcements** – **Julia** announced that Commissioner Balza's term expired at the end of March. He chose not to be re-appointed. Julia has a card to be signed by all in recognition of his participation. The Planning Department is in the process of filling his vacancy.

Concept planning for Adams Ave., North, will soon begin. This is the area that was brought into the Urban Growth Boundary. It is one of the pieces North of Tualatin/Sherwood Road. Julia will be involving the Planning Commission members and updating the commission as progress is made.

At an earlier Planning Commission meeting the commission asked for updates on Type II projects, (staff level decisions that do not require public hearings). There are two projects in review at this time.

- A. Jim Fisher Roofing: Proposal includes construction of a new building on Galbreath Ave.

- B. Shell Station: Proposal includes a small addition to the Shell Service Station on South Pacific Hwy.

These will both be Type II decisions based on the size and square footage of the area. These will have notices posted, but will not require public hearings.

Chairman Allen asked if the Jim Fisher Roofing proposal is for an additional building or will they be relocating.

Julia's response was that it will be a new facility, and that their intentions for the existing building have not been made public by the applicant at this time.

Commissioner Lafayette asked about information that had been sent by Planning regarding the application schedule. The schedule did not reflect when the comment periods would be ending. She doesn't have comments on this project, but was asking about that information in general and that the 3<sup>rd</sup> Street Partition had not been mentioned. She asked if that was still an on-going project.

Julia confirmed that, yes; the 3<sup>rd</sup> Street Partition is an on-going project. She had only shown site plans and had not mentioned the partitions as those are never seen by the Commission. The Public Notice sheet on the web-site has been revised in an attempt to make it more clear when comments are due and what the status is at the moment.

Commissioner Lafayette noted that the form is clear, but that the area on the form had not been filled in for the 3 staff projects.

Per Julia, they have not been filled in because they have not gone out for comments yet, but that staff would update the form to better reflect the status.

Julia also gave an update on the Brookman Road Steering Committee. The Committee had their final meeting at the end of February and that they are still waiting for the final report from the consultant. There have been some glitches that have prolonged the process. She is hoping to have an introductory work session with the Planning Commission during the last meeting in April, then schedule a Planning Commission/Council work session during the May 20<sup>th</sup> City Council Meeting. She wanted to determine if members of the Planning Commission would be available to attend that meeting. She did not expect an answer at that moment, but asked if commission members could get back to her in the couple days. It would likely be a 6:00 p.m. work session on May 20<sup>th</sup>.

Chair Allen asked if Julia could send an e-mail to remind the commissioners when they had their calendars available and could check the date. Julia agreed to do so.

**5. City Council Comments** – Chair Allen had seen Mayor Mays earlier, but that he is not available at this time, so will hold off on City Council Comments.

**6. Community Comments** – Chair Allen asked there were any comments by anyone on topic not on tonight's agenda. There were none.

**7. Old Business** –

8. **New Business** – Chair Allen gave an overview of the meetings schedule and the processes that would be followed for each by reading the Public Hearing Disclaimer. The first hearing will be The Lavender Tea House. Chair Allen asked that members of the commission disclose any exparte' contacts, bias or conflicts of interest. None disclosed. Chair Allen asked if anyone in the audience wished to challenge any of the member's ability to participate in the Lavender Tea House Public Hearing. None given.

**Staff Report Lavender Tea House 08-03 - Senior Planner Heather Austin** addressed the commission. She described the Lavender Tea House as an existing business here in Old Town Sherwood. Currently the building is approximately 1300 sq. ft.. The applicant is proposing to remove approximately 600 sq. ft. of additions that have been made over the past 50 years that have not maintained the traditional character of the structure. Then they would be proposing to add an additional 1880 sq. ft. to the building. The use will remain the same. Currently the use is as a Tea House and includes limited sales of baked goods on site per the code. Some delivery occurs, but is limited by the code to on site premise only. There are existing improvements on the site. A street tree has been planted and a new side walk poured in front of the site. Staff is not recommending any new street improvements at this time. Staff is recommending an 8' Public Utility Easement as is required on all new developments, especially in Old Town where they have not previously been required.

Staff did receive public comments from Nancy Johnson regarding the parking situation in Old Town. She is generally in favor of rehabilitating the building and adding a foundation, but is not in favor of the expansion as she believes this will add to the parking issue.

The recommended conditions include: bicycle parking, tree protection fencing during construction, a storm water "fee-in-luie" agreement which is a standard Clean Water Services requirement for small re-development projects similar to this, as well as the 8' Public Utility Easement.

Staff recommends approval of the application with those recommended conditions.

Chair Allen asked if there were questions for staff.

Commissioner Lafayette asked why both the commercial and residential design standards were applied to this project.

Heather's response was that it was reviewed as commercial because it is a commercial use and residential because the residential section of the code says a lot of structures in Old Town are traditionally residential but have been converted to commercial uses, therefore the residential standards apply to even those commercial uses that are in previous residential structures. Wanting to cover all of the bases Heather included all of the criteria for both and made findings for all of them. She does feel that it was a bit redundant and that many of the issues were exactly the same. The section on residential does include Changes of Use to commercial, so she wanted to be sure that was included.

Chair Allen asked if it would be useful to staff for the Planning Commission to give their input on whether or not they feel that both codes apply to each building. Heather agreed

enthusiastically. She believes staff would appreciate the input. Chair Allen stated that after this hearing they would discuss the subject.

Commissioner Lafayette brought up the topic of exterior storage and seating. She is aware that the code addresses exterior storage, but asked about how exterior seating is addressed.

Per Heather, the code doesn't specifically address outdoor seating, except to say in Old Town staff encourages "plaza like" areas, and that you don't have to construct your building from property line to property line if you are making space for outdoor seating. There are no design standards at this time that address this,

Commissioner Lafayette's concern was more along the lines that we want to encourage outside seating, but don't allow the outdoor storage of seating and she wonders if the commission is conflicting within the rules. Heather agreed that it is something to consider, and the topic will be discussed at a later time, outside of this hearing.

**Applicant Testimony** – Jaimie Yang, the owner of the Lavender Tea House addressed the commission by introducing herself and her husband Charles Yang. She first thanked the Planning Department for helping her through the process. There are a couple issues she would like to clarify. One of the findings in the staff report talks about the 8' easement. Her question is where does the easement actually start. Is it from the street to the building or from the sidewalk to the building?

Chair Allen asked if she is pulling things from the report if she could reference the page number so the commission can follow along.

Jaimie agreed and continued by pointing out page 15, under recommended condition and read the statement saying that the 8' public utility easement must be granted to the City prior to obtaining a Certificate of Occupancy.

Chair Allen invited Lee Harrington from the City's Engineering Department to respond.

Lee stated that the public utility easement is typically adjacent to the "right of way". The "right of way" will be shown on your plat map, and then the easement will be 8" from that along the frontage of the property. Your property boundary will be a common line with the "right of way".

Jaimie continued with another concern regarding fences. They would like to install a fence to screen the trash bin from the street view. Does that fence have to be 6' and conform to the same guidelines as the perimeter fencing?

Heather address the question by saying the standards do require a 6' fence for a trash enclosure, but since the Tea House is continuing with the residential style, curb-side pickup, the commercial trash enclosure standards most likely won't apply, and so it would be up to the owner to construct the fence as they see fit within their private property.

Commissioner Lafayette asked if the commission needs to make a finding that matches the determination.

Heather feels it is already in place since the report states that the applicant is continuing to utilize curb-side pickup. If however in the future, upgrades are made and the pickup method changes to commercial, then staff would want to review the enclosure.

Jaime's last concern regards the allowed material required for their front porch materials and discussed in the findings on page 5. The report states that the porch must be constructed of non-combustible materials or located at least 10' from the property line per the UBC and that a Building Permit would be required. One question she has is if the Building Permit would be sufficient for both the porch and the rest of the building since they are connected.

Heather stated that these findings are referring to the Old Town Dimensional Standards, which allowed no set-backs in the retail zone even if adjacent to residential zones. Since the porch was being proposed up to the property line, Heather had talked with the City's Building Official and he had stated that a 10' setback is required for combustible materials to a property line per the Building Code. If you want to build that portion of the porch inside the 10' set back with non-combustible materials you could, and then other material for the remainder of the porch. The porch does meet the Planning setback standards, but Heather wanted to make it a condition so everyone was aware of the Building Permit issues that will be involved.

Chair Allen asked if materials like Hardi-Plank count as combustible or non-combustible.

Heather deferred the question to Building Department. It is a code question that would need to be answered by a building inspector.

Chair Allen suggested that there may be materials that could be used to replicate wood, otherwise there are options like concrete block.

Jaimie asked if what would be allowed is listed in the UBC. Heather offered to connect Jaime with the Building Official the following morning to discuss the code issues.

Another question that Jaime needed clarification on is why there is a requirement for the business to install a grease trap.

Heather stated that there is a new "F O G" (Fat, Oil and Grease) program in the city and deferred the question to Lee Harrington of the Engineering Department.

Lee explained that the program is initiated by the City's Public Works department that will maintain the lines. Often with restaurants and other businesses that serve food tend to plug up with grease, so they have instituted the use of grease traps to help minimize the problem. They Public Works staff can explain the trap to you as they are more familiar with the process.

Jaime asked if the notation of the grease trap needs to be included in her final site plan in order to get approval.

Lee offered to follow up with the Public Works department for the applicant and get back to her, as it is their requirement.

Jaime agreed and went on to say she didn't know if everyone has to follow this requirement based on commercial use or residential use, since they are a mixed use zone.

Lee answered that it is based on the “food service” use anywhere in town.

Jaime wrapped up her testimony by saying that she does have one neighbor Ms. Nancy that has some concerns regarding the new project. Hopefully they will be able to continue a friendly relationship as the project proceeds. Jaime acknowledged that Ms. Nancy is thankful that they are taking care of what she thinks is the “rodent home”. The building of the foundation will hopefully help ease her mind regarding the skunks, raccoons and possums that have lived under the house since 1892. Jaime will continue to work with her as much as possible, and that hopefully she will understand that this is not only going to help the neighborhood and be an asset to her as well as giving back to the community by helping to revive the old John Owens residence.

Chair Allen asked for questions for the applicants.

Commissioner Lafayette wanted to clarify that the applicant is in agreement with the conditions as they have been written and having her questions addressed.

Jaimie agreed and feels she can comply with the requirements and move forward on the project.

**Opponents/Proponents Testimony** – None given.

**Applicant Rebuttal** - N/A

Chair Allen closed the public hearing and moved to final staff discussion.

Heather Austin had one final comment regarding the grease trap. The process for this is being developed at this time. A plumbing permit through the Building Department will be required for the installation of the grease trap. She suggested applying for that while applying for the other required building permits. It will not be required to show on a final site plan.

Commissioner Lafayette moved to approve SP 08-03 Lavender Tea House.

Chair Allen asked for all those in favor to say aye. All were in favor. Motion carried.

Chair Allen moved on to the next Agenda item

**Day Break Subdivision SUB 07-02** – Chair Allen asked for disclosure of any exparte’ contact. He disclosed that he had spoken with Michael Robbins, the attorney representing the Day Break Subdivision just prior to this meeting. Mr. Robbins indicated that the applicant was in agreement with all of the conditions. Chair Allen does not feel this will affect his ability to deliberate. No other disclosures made.

**Staff Report** – Michelle Miller and Heather Austin are planners both working on this project. Heather Austin began by asking the Recording Secretary to distribute a packet of information including recent submittals received in the past week. Daybreak subdivision is a proposal for 65 single family homes. The street construction proposed is at Copper Terrace, which is currently under construction with the school districts new Elementary/Middle School project. There are no connections proposed at Elwert road as

Washington County would not allow connections. The new exhibits that were handed out include: Exhibit N which is a letter from Mike Robbins, the applicant's attorney, Exhibit O, a staff memo further clarifying the staff report from last weeks, as a result of a meeting staff had with the applicant, Exhibit P is an ODOT letter received by staff just prior to this meeting and will be discussed shortly, Exhibit Q is a Pedestrian Access Diagram showing the difference between an 8' wide easement and a 15' easement, Exhibit R are materials submitted electronically by John Rankin. Those materials were received in time to be included in the staff report, but did not make it into the report. Heather apologized for that. The recommended conditions include lots of public improvements, including bicycle and pedestrian paths recommended by staff to be 15' wide public easements. They are recommending two of those easements and one 7.5' without pavement for future development use.

Commissioner Lafayette asked for clarification on the paths. She sees that the applicant has 3 paths proposed and that staff doesn't want those 3 paths, but wants 3 different paths, two wider and one on the southern border.

Heather agreed with that summarization. She then continued by saying that Staff is also recommending dedication of sensitive areas per the CWS Service Provider Letter and tree mitigation. Regarding transportation off site, there were traffic studies done by the applicant and reviewed by the City's Traffic Consultant. The first review took into account the school district's off-site improvements on Edy Road and elsewhere, and then the traffic consultant for the applicant revised the traffic study to assume the school district did not do those improvements. The March 26 memo from DKS recommends that the Daybreak Subdivision do those improvements as conditioned in the recommendations. Staff received a letter just prior to this meeting clarifying ODOT's position. That applies to this application only if the school district does not do them first.

Chair Allen asked Heather to restate the information regarding the letter from ODOT.

Heather explained that a memo from ODOT was received today, that gives recommendations for improvements at the intersection of Edy Rd. and Borchers. That memo applies to the Day Break Subdivision only if the school district does not make the improvements before Day Break. Staff feels the memo is basically mute as everyone is assuming the school district will do the improvements first.

Chair Allen asked if these improvements were included in the approval for the school district.

Heather stated that staff's reading of that memo is that it is slightly different. Staff reads this as saying the right hand turn lane at Edy and Borchers is recommended but that the 4 way stop is not.

Commissioner Lafayette asked for some time to read all information that was handed out before they continue with the staff report.

Chair Allen declared a 5 minute reading recess.

Chair Allen reconvened the meeting and asked Heather to continue where she left off with her staff presentation.



Michelle Miller addressed the commission by telling them there had been 6 comments from the public. Joan Reynolds of Elwert Road wants to ensure that any development will not hinder her ability to redevelop. Corwin Nordstrom and Allen and Dorothy Bellea both live on Cereghino and were both in strong opposition to any construction vehicles being allowed to travel on Cereghino during the course of construction, as well as that street becoming a through street if that were to occur. They also have concerns about the congestion and traffic impacts to their neighborhood during construction and after. Kelly Housanni, the representative for the Sherwood School District asked for an added condition requesting that the reimbursement district be followed. On March 12<sup>th</sup> the City Council approved a reimbursement district for public improvements.

Commissioner Lafayette asked where that was stated in the conditions.

Michelle's response was that it had not been included as a condition. It is a resolution that has been adopted and is already in place.

Commissioner Lafayette what the vehicle is that is used to notify any person purchasing property? Julia deferred the question to Chris Crean, the City Attorney. Chris was not sure what the process would be. He would expect that the realtors in the exercise of their due diligence would uncover that district.

Julia added that in this case there is currently an application submitted for development and they are developing. It is not the case that each individual lot will be sold and assessed the fee.

Michelle continued by saying John Rankin acting as attorney representative to Marvin Mandel of Elwert Road provided comments requesting the reimbursement district as well, and impact on future development of his property.

Chair Allen asked of the two concerns about future development, if they were specific concerns about something in the plan that would prevent future development, or more of a generic concern about possible future development.

Michelle's interpretation is that they are more of a general concern about storm and sanitary line availability in the future and those streets are stubbed out.

Heather addressed the commission again regarding a concern over a discrepancy in acreage sizes. Part of the discrepancy may be coming from a pending lot line adjustment between the school district and this property.

Commissioner Lafayette expressed concern about the acreage calculations. The property information supplement that the applicant provided adds up to 13.62 acres and we are using 15.96 as a starting point. That is more than 2 acres difference. Julia volunteered to do some quick math calculations.

Commissioner Lafayette asked where the water quality treatment facility is located and if one is required.

Heather answered by saying that this would go into the regional water quality facility that is being construction by the school district.

Chair Allen asked about the 4 way stop at Borchers and Edy. Is this the same intersection that they have discussed at great lengths in previous projects?

Julia told the commission that staff received the ODOT comments very late today and has not had a chance to discuss the comments with ODOT. Chris Majeskie the school district's traffic consultant still stands by that recommendation. Staff will certainly talk with ODOT in more detail; however they don't feel that this is relevant to this project because it has been conditioned upon the school district.

After doing some quick calculations regarding the density issue has found a discrepancy between what the applicant provided and what is in the staff report. The net developable acres are approximately 10.3. Their net developable acreage is accurate based on what they are submitting and what is in the staff report.

Heather added that on page 8 at the top, the net site area is list as 10.28 acres.

Chair Allen invited the applicant to submit their testimony.

**Applicant Testimony** – Darwin Rasmussen of Elwert Road addressed the commission. He began by saying that in the spirit of cooperation the number of lots that they have now are okay and will be done. This is the second project that we've seen in Area 59 of maybe 5 or 6 different projects in the overall project. They are, as mentioned in a recent newspaper article, a Tigard based company. However, Mr. Rasmussen has lived in Sherwood 20 years. He has sent 6 kids to Sherwood Schools. His son, Eric Rasmussen who is also the project manager grew up on this property, and he is sending his kids to Sherwood Schools. They have a project assistant named Tracy Harris and he is sending his kids to Sherwood Schools. At the meeting with Darwin is his business partner, Gary Sanders who is from Portland. Mike Robinson, the project council and Bryan Dunn the traffic expert and their engineer from Tech Design. During the past few months they have held two public meetings and invited all of Sherwood to come and learn about the project. Overall they have had an overwhelming positive response. They do encourage neighborhood and public involvement.

There are a couple of reasons behind choosing the name Day Break. Mostly from seeing all of the activity around the property at that time of day in the early morning. They have enjoyed seeing the sun come up over Mt. Hood at day break. They have enjoyed seeing signs of life appear at day break and now the school children will arrive at day break. His wife and he thought Day Break would be a good fit for the community. Day Break will not be the most appealing part of Sherwood. He feels that belongs to Old Town Sherwood, and agrees with resident Ode Gribble that said that. They are just happy to be here and feel they can be a part of the national recognition that Sherwood is receiving, and hope to add a vital part to that success that is already here. Their intent is to build 64 homes with basements. There is currently one existing home that doesn't have a basement. They plan to begin immediately getting the heavy construction as well as installing their improvements on Copper Terrace, which includes a curb, sidewalk and some landscaping before the new schools open next year. They intend to "in the spirit of cooperation" have the final lift of asphalt installed at one time, all the way across Copper Terrace, so it looks good for the schools and the community. The finished sidewalk on the West

side of Copper Terrace along with the fresh landscaping should show off the new school projects with all of the finishing touches. The intent is to build as many houses as possible before the schools open hoping to cut down on construction traffic once the schools are open. They have enjoyed working with the City Planners and Engineers and feel they have met all the guidelines within the codes of the City of Sherwood. They have met with the City to address the design and construction and approval of Daybreak. They have enjoyed working with the other people and the project next to theirs. They are happy about now being hooked up to the public sewer system.

Mr. Rasmussen continued by providing some history of the land on which Day Break will be built. The property was owned once entirely by Allen Schendel's grandfather. The Schendel family still owns a portion of the Day Break land. Ferd Alexander then purchased the larger portion of the land, and then began selling portions of the land. Mr. Rasmussen was able to purchase their parcel 18 years ago. There they have raised their 3 boys and 3 girls. Mr. Alexander passed away a few weeks ago. Mr. Rasmussen said; "I'm sure he would have wanted to be here tonight. He was a wonderful friend to all of the neighbors, even those on the other side of the fence."

The Rasmussen family knew the land would be developed some day when they move there. They were not aware however that the final growth element would be a school, but they are collectively happy that this is the case. They are looking forward to contributing to the overall community in NW Sherwood, with cooperation, quality and safety.

He then turned the remaining time to his son Eric Rasumusen.

Eric started by thanking his father for the introduction to the project. He also thanked the Planning staff their help throughout the application process.

In response to the density question he referred the Commission to Exhibit 1 included in the plans that had been submitted with the application. At the bottom of Exhibit 1 is a box labeled "site data". In that box the 2 different zone types are called out, MDRL and MDRH. Eric agreed with Julia's calculations showing that the net density calculations fall within the 5.6 – 8 for MDRL and the 5.5 – 11 for MDRH.

Eric displayed a power-point presentation and described to the Commission where the existing Rasmussen home is situated and where the property lies in relation to the schools. He also included a plat map explaining that the property is adjacent to Elwert Road, which is under the jurisdiction of Washington County. They agree with Heather's modification on page 35, section E 2-b. stating "for a total of 45' from the centerline of the road." If a modification needs to be made to the condition they would support that change.

Regarding all of the remaining conditions they support all of the conditions that the Planning Commission has recommended. They do have comments regarding an ODOT letter that was submitted just prior to this hearing. Eric introduced, Brian Dunn from Dunn Traffic Engineering.

Brian Dunn addressed the Commission by saying that they support the staff's findings and conditions as established by Chris Maciejewski, the City's traffic consultant, pertaining to the off-site transportation mitigation, however the issue they have with the letter from ODOT, is that

the conditions at the Edy Road, Borchers Road intersection are already established on the school's project. Those conditions include an all-way stop at the intersection as well as a west bound right turn lane from Edy Road onto Borchers Road. They are not in agreement with ODOT's recommendation which included not installing a 4 way stop, however, installing the right hand turn lane. They see no basis for ODOT's recommendation. Dunn Traffic Engineering has provided analysis a couple different times to Chris at DKS Associates. That information should be included in the record. Working together, Brian and Chris have made a determination and recommendation; that in the instance where the school project were not to happen for reason, what would the Day Break project need to do to mitigate their subdivision. The solution they recommend is an All-way stop by its self. The intersection without the Day Break project is at a level of service F. By installing the All-way stops that would become a level of service D, which meets the City Code. Another potential issue they looked at is the queuing influence between that intersection and the highway. They conducted traffic studies during both the AM peak hours and the PM peak hours to study the queuing concerns and under both instances the queue does not get long enough to spill back into the ODOT intersection. Brian reminded the Commission that when the school project comes in, they are doing both, an all-way stop and a West bound right turn lane.

The Day Break project supports the staff conditions as they are, but they would ask that the conditions as specified in the ODOT letter not be included.

Chair Allen asked Brian if there were issues with any of the other conditions.

Brian responded by saying that they are satisfied with the other conditions. One condition specified was the North bound left turn lane at Elwert and Sunset. They are okay with that condition, but that the school projects have already been conditioned with that as well.

Eric Rasmussen added that they support the revisions called out in a memorandum from staff dated 4/8/08 revising the previous staff report.

Commissioner Lafayette posed a question regarding the ODOT letter. The letter states "review the Dunn traffic engineering report." ..... "Associated with reducing the proposed development from 65 housing units to 32, as well as DKS's response.

Chair Allen asked if ODOT thinks it's being reduced to 32.

Eric's response was no, what they are referring to is the DKS's report says that the Day Break Subdivision would not need to install the left turn lane extension on Hwy. 99 to Elwert Road until the 33<sup>rd</sup> house receives its Certificate of Occupancy.

Brian Dunn added that he wanted to clarify ODOT's recommendation on page 2 of the ODOT letter. Item #1 has been discussed, that was the West bound turn lane at Edy and Borchers, which they don't agree with and believe it should be an All-way stop. Item #2 re-stripping the West bound approach at Sunset Blvd. to Hwy. 99 at the time of the 33<sup>rd</sup> house receives its occupancy certificate. Item #3 which is the Northbound left turn lane off of the Hwy onto Elwert Road. The letter specifies that work be done by the time the 65<sup>th</sup> house receives its certificate of occupancy. They believe that school project improvements will be completed by then.

Commissioner Lafayette asked if they are funding the conditions by using the reimbursement district that the City Council is discussing.

Brian explained that the reimbursement is a School District applied for reimbursement district to help off-set the costs of the schools off-site improvements for building the school. When the developers pay their building permit fees each property is assessed a portion of that reimbursement district to help off-set the schools costs.

Commissioner Lafayette asked if the Day Break Subdivision is conditioned to build a 125' left turn storage lane and the School District is supposed to build a 125' left turn storage lane, who gets to build it and who gets to pay for it and is the reimbursement district the vehicle which makes share that everyone has their fair share.

Chris Crean, Attorney for the City of Sherwood, interjected to say that the reimbursement district has a number of elements; sewer, water, transportation. The transportation portion of the reimbursement district is only Copper Terrace. The other off-site improvements were the standard conditions of approval. Any reimbursements are only for the ¾ street improvement of Copper Terrace.

Commissioner Lafayette asked how we have a condition on this application that has already been conditioned on a previously approved application.

Chris responded by saying that ODOT wants to see these improvements built, so basically whoever gets their first. The School District's construction schedule is ahead of Mr. Rasmussen. It is anticipated that the School District will build those off-site improvements ahead of Mr. Rasmussen.

Chair Allen added that ODOT's concern is that if the school doesn't get built and there are lots of conditions tagged onto the school and you have a bunch of house built around it that will also need the same infrastructure but won't have it until some undefined period of time until the school gets finished.

Commissioner Nolan added that he understood that they won't get houses until the school gets finished because one of the conditions is that they are not allowed occupancy permits until the school opens.

Chris Crean disagreed with that understanding.

Heather Austin addressed the question by saying that they can get 32 certificates of occupancy per ODOT. ODOT says once Day Break applies for its 33<sup>rd</sup> Certificate of Occupancy, if the re-strip for the West bound approach of Southwest Sunset hasn't been done then they will have to do the work. Prior to receiving the 65<sup>th</sup> C. of O. the Northbound left turn lane will need to be completed if it has not already been done by the school district.

Discussion continued with Chair Allen summarizing by saying that either a school or 33 houses will cause those improvements to be made. ODOT doesn't care whether the school gets built or the 33<sup>rd</sup> and 65<sup>th</sup> house, as long as the street improvements are done by those milestones.

Heather added that she thinks the City would want to see that condition, and in fact recommended it, because the City has a certain level of surety that the School District will develop the site. They have the bond money; they have the information in place. If this was another private developer we would absolutely do this because if the time line changed or something else happened we would want to be sure that before we are permitting that 33<sup>rd</sup> house that we have the improvement in place. The School District is on track at this point, so the issues maybe mute, but we would want to see this done regardless of who the developer is that is going before.

Chair Allen had a blue card filled out with a request to speak by Joan Reynolds. He invited her to speak.

Joan Reynolds had a question for the Commission regarding new pathways. She has been informed that she may be responsible completing half of the pathway adjacent to her property.

Heather responded by saying the way the standard works is that every 300 feet, if there cannot be a street connection there has to be a pedestrian/bicycle access way. The nearest connection to the south is Handley. The logical next place where Ms. Reynolds property meets the Rasmussen's development. Right now, Ms. Reynolds is not responsible to do anything. If in the future you decide to develop your property and subdivide then that would likely be a condition of the approval that they record a 7 ½' easement to finish out the 15' easement width and then construct the 8' sidewalk path.

Ms. Reynolds asked if the Day Break subdivision will be doing a 7 ½' concrete path or if it would be gravel.

Heather said they are not doing either at this time. They are just reserving the space and not putting a building in the space. They are recording an easement and at which time you develop your property or sell it in the future, then the city would expect to see the completion of the pedestrian connection to Elwert.

Ms. Reynolds still needed clarifications about what would be required of her.

Heather continued by saying that Day Break is going to have 2 15' foot wide easements and the actual constructed part is an 8' wide concrete path.

Chair Allen summarized Mr. Reynolds question by saying, "she is asking does she have to build the whole path?"

Heather said yes. Staff is recommending that her property build the whole path. She would be required to build the path anyway, so due to its location and using today's standards, she would be required to build the entire width. Heather hesitated to say what will be required because standards can change, and that property will be required to meet the standards in place at that time. If the standards are the same as they are today, you would be required to construct a pedestrian access way and the Rasmussen are being required to dedicate and easement on half of the land in which the path will be built.

Chair Allen asked why both parties are being required to kick in ½ the width of the path, but that Ms. Reynolds is being required to construct 100%.

Heather's response was that the Rasmussen's don't have 900' of frontage, so 3 paths are not required.

Commissioner Lafayette asked if Ms. Reynolds has 300'.

Heather responded that she has 298' so she will likely be required to construct the path in the future.

Lee Harrington from the City's Engineering department added information for clarification. He and Heather discussed this issue a bit before the meeting. It may be that Ms. Reynolds is asking why she is being required to build the entire 8' concrete path. Couldn't Day Break build 4' on their side now? Lee and Heather have wondered if the Reynolds would actually want a 4' path now so they wouldn't have to build it, if they ever decide to develop, knowing that people would now be traveling on her property line. They weren't able to discuss this with her prior to the meeting. It might be interesting to get her input on the subject.

Commissioner Lafayette believes it's going to be a path and traffic whether or not it is concrete or not due to the nature of kids.

Per Commissioner Lafayette the benefit Ms. Reynolds would receive is not having to dedicate 15' full feet of her property in the future. Just the 7 ½' being requested at this time.

Heather stated that there are no connections to Elwert possible due to Washington County's standard so staff is anticipating a cul-de-sac or some other type of non-connecting throughway. Then you get into cul-de-sac standards which also require pedestrian access easement, with a paved surface path. There would be even more requirements to make that pedestrian connection with future development on the Reynolds property.

To clarify Chair Allen stated that if Ms. Reynolds was developing and the Rasmussens were not we would be telling her you are going to need to put a connection at the edge of your property and if you can make a deal with your neighbors (the Rasmussens) to buy half of the property from him great, otherwise you will be required to put all 15' of the path on your property.

Heather agreed with that. Staff would not only be looking at the 300' spacing standards, they would also be looking at the cul-de-sac or dead-end no connection standards which says, no matter how long your property is you have to have a connection. Staff would argue that this is a win/win situation. The Day Break property does not have to build the third path, but that when and if the Reynolds property develops the entire 15' easement would not be required.

Ms. Reynolds remarked that in the comment that she had mailed in she mentioned her concerns about utilities but also of street access to Cerrighino. She wanted to be sure that it would meet city standards.

Heather believes that the Day Break submittal showed the ghost plat with 3 lots with appropriate frontage. If Ms. Reynolds is asking if what they showed on the ghost plat is feasible, staff can look into that for her.

Ms. Reynolds agreed that she would like to know.

Chair Allen invited any other testimony.

Mike Robbins the attorney representing the Day Break Subdivision addressed the Commission. They appreciate the statement made by Ms. Reynolds. One of the questions asked was regarding fencing. If she has a fence on her property line and the subdivision has a fence on their side, you will end up with an area of 7.5' wide with no improvements. If that is a concern he suggested re-writing the conditions stating that property owner can install a fence up to the property line if they would like, however at such time as the adjacent property owner dedicates the other half of the 15' wide easement, that fence would have to be removed to the outer edge. That condition will then travel with the property titles, so property owners in the future will be aware of the condition as well.

Commissioner Nolan asked what the intention for maintaining regarding the easements on Elwert. Are those going to be maintained by a Home Owners Association?

Eric Rasmussen responded by saying that since they have submitted their application their learned through the staff report that some type of maintenance provision would be needed. They do agree with staff that some type of maintenance needs to be created.

Mike Robbins agreed but said if that was the only obligation for establishing an H.O.A. he wouldn't recommend establishing one just for that. They could provide something acceptable to staff if that condition was applied.

He also wanted to make a clarification. Commissioner Nolan had suggested including the ODOT conditions of approval. Mr. Robbins wanted to specify that they agree with items #2 and #3. #1 if a departure for them. The school district has the obligation to install both a turn lane and an all-way stop control. What the traffic consultant Chris Maciejewski said in his March 26 memorandum on page 2 regarding whether or not the all-way stop would address queuing on the state hwy. "the queuing analysis indicated that the upstream traffic signal at Edy and 99 would act as a meter and control the vehicle arrivals and queuing at SW Edy and Borchers Drive." Chris concluded that at least for this application the Day Break Subdivision won't need a condition of approval requiring them to step in and do the right turn lane. The 4 way stop would be adequate. This finding is consistent with the evidence from the Day Break's traffic engineer as well. ODOT's doesn't say that it is absolutely warranted, but that queuing might potentially cause queuing on the state hwy. ODOT doesn't have any substantial evidence demonstrating that it is likely to occur. He doesn't feel that is it warranted condition of approval. They agree with conditions of approval in the staff report.

Commissioner Nolan stated that during the school district hearings the Commission had significant concerns about queuing at the stop sign and that is why they were so happy when they saw that ODOT had agreed with their concerns.

Mr. Robbins understands their feelings, however to reduce it to its legal issues: there has to be a criterion and there has to be substantial evidence to impose a condition on the subdivision. They are comfortable understanding that in the event the school district does not install the conditions prior to the time they are ready for occupancy that they will have to do them. It is the idea of doing a right turn lane that is not warranted by the evidence for this application. They are comfortable with the all-way stop control.



Prior to Chair Allen closing the hearing Julia interjected with a final response on the lot size question. In the staff report staff used the lot sizes as they currently exist, not as they are approved in the lot line adjustment. The numbers in the applicant's submittal are accurate.

Chair Allen closed public testimony and opened for final staff comments.

Heather began by referring back to the ghost plat on the Reynolds property. It is shown now with 6 lots. Three of which would take access off Cerrighino with 25' of frontage each which meets the current standard. The plat shows the 3 other lots that appear to be taking access of Handley. Since Handley is a collector street, so access there may require shared driveways. In addition this parcel is small enough to qualify under infill standards, so reducing the frontage on Cerrighino may be possible. She also referred to comments made by Lee Harrington which are attached to the staff report. Under transportation on page 2 of 6 the Engineering comments state that "exhibit 4 of the applicants' submittal shows possible ghost plats for neighboring property. Staff notes the ghost plat for the neighboring property at 21880 SW Elwert, suggest 3 southern parcels take direct access from SW Handley Street. The city code required access from lesser classified streets. In this case Cerrighino Lane whenever possible. While Staff doesn't see this as a problem for the Day Break Subdivision it should be noted that it is not an endorsement of the proposed ghost plat for 21880 SW Edy Road.

Referring to the ODOT condition vs. the second page of exhibit O in the recommended condition from the original staff reports page 37, condition 8.1. Because ODOT is requiring the 3<sup>rd</sup> bullet point, staff would recommend removing the "if required by ODOT" and just edit the text to read, complete North bound Hwy 99 W to Elwert Road left turn lane storage length improvements at the intersection of Hwy 99 and Elwert Road prior to obtaining the final occupancy permit, per ODOT's conditions.

In addition to earlier changes to exhibit O, she would also like to insert the word "applicable" instead of "city code" on page 33, C-1 8<sup>th</sup> bullet point. Staff also recommends changing the finding on page 7 of the original staff report to list out-lot 2 instead of out-lot 1. On page 37 staff recommends changing H-1 to read "certificates of occupancy" rather than "site occupancy". In addition condition H-1 3<sup>rd</sup> bullet point, remove "if required by ODOT".

With the changes just mentioned, staff would recommend approval of the subdivision with the recommend conditions of approval from the April 1<sup>st</sup> staff report and the recommended revisions in the April 1<sup>st</sup> staff report, and the recommend revisions in the April 8<sup>th</sup> memo.

Commissioner Lafayette pointed out that the applicant's memo addressed what you said about the street lights in C1 5<sup>th</sup> bullet point, but they mentioned in C1 4<sup>th</sup> bullet point the same concern about it being applicable to Washington County.

Heather agreed that it could be changed to say per Washington County Standards.

The Commission discussed amongst themselves the issue of the shared easement between the Day Break property and the Reynolds property. Chair Allen is very wary of having the staring fence position one way and the final fence another way later. The bad outcome is that you would

have a 71/2' dirt path between the properties, and when the Reynolds property develops you have a 15' concrete path. He doesn't really see an overwhelming down side to the dirt path.

Commissioner Lafayette agreed as well in seeing a problem with the 71/2' "space".

They also discussed the issue of the 4 way stop. The condition needs to be in place that an all-way stop will be required. Chair Allen agrees with the applicant, that ODOT is in the position that several Commission members were in last time, that our common sense tells us that there will be a queuing problem, but the answer to ODOT is the same as it was to the Commission last time is that their common sense is not persuasive evidence. He agrees with the applicant that they stick with items #2 and #3 and remove the 1<sup>st</sup> bullet point.

Commissioner Lafayette moved to approve SUB 07-02 Day Break Subdivision based on the adoption of the staff report, findings of fact, public testimony, staff recommendation, agency comments, applicant comments and conditions and findings as revised.

Commissioner Walked seconded the motion.

Chair Allen asked for vote. All were in favor, none opposed. Motion carries.

**Wild Rose Subdivision SP08-01** – Chair Allen asked for disclosure of any exparte' contact, bias or conflicts of interest.

Commissioner Nolan may have a conflict. Halton is a large Caterpillar dealer in Oregon. The company he works for is a supplier to Caterpillar. It will not impact his ability to make a fair judgment on this hearing.

Chair Allen opened the public hearing.

Michelle Miller Associate Planner introduced the project by saying the parcel is located at 13500 SW Wild Rose Place. It is a 3.88 acre vacant parcel with approximately 536' of frontage on Tualatin Sherwood Road and 236' of frontage on Wild Rose Place. The applicant is Sherwood Storage LLC, Ken Howard, (who is not present at this meeting, but his representative and the Applicant's Engineer Greg Kurahashi are present.)

The applicant is requesting site plan approval to construct 3 building for a total of 96,000 sq. ft., in the General Industrial zone of Sherwood. The project will include approximately 400 storage units and 70 RV storage units located in the north area of the site. The applicant is also proposing an office and a caretaker's residence approximately 1,000 sq. ft. and 4 parking spaces in the eastern portion of the site. One entrance will be located will be accessible from SW Wild Rose Road and will have access onto Tualatin Sherwood Road.

Due to the size of the project it is classified as a Type IV land use application. The site is located inside the Edy Road Industrial Park.

Planning Staff recommends approval with several conditions outline in the staff report. The site is located off Tualatin Sherwood Road which is considered an Arterial road, maintained by Washington County. There is currently a left turn lane from Tualatin Sherwood Road onto the

site. Washington has been provided with the applicants submittal and are not requiring any dedication of Right-of-Way. The property is 49' from the center line.

SW Wild Rose is a local street that will require a Right-of-Way dedication of 7' to bring the road to current local standards, which would be 64' of total Right-of-Way.

Commissioner Lafayette asked Michelle if Washington County had just not responded or just had no requirements. It is her understanding that the TSP says that Tualatin Sherwood Road is going to be 5 lanes from Teton to Hwy 99. How can they not be requesting dedication?

Per Michelle what the applicant is being requested to do, is an Enhanced Access Report. There may be recommendation pending review of that report, and staff's conditions reflect that. On the second review they indicated that there was not any need for additional Right-of Way dedication.

Commissioner Lafayette asked if 49 ½' from the center line is enough to create 5 lanes.

Chair Allen restated the question by asking if 100' Right-of-Way enough to do a 5 lane road. Probably not with additional improvements.

Lee Harrington from the City's Engineering Department offered some information that Washington County has not required any Right-of-Way dedications on land use actions in the recent past, on Tualatin Sherwood Road. Some examples include: Sherwood Commercial Center and Oregon/Washington Lumber. Perhaps this question should be asked directly of Washington County's staff.

Commissioner Lafayette was surprised that the question had not been asked.

Julia interjected a couple points. She referred to the TSP figure 8-2 for arterial streets and it shows a requirement of 98' to 102' of Right-of-Way. Based on this information the project is feasible. Perhaps there needs to be more conversation with Washington County. The staff report was written based on the comments that were received.

Chair Allen sees having a hard time holding this project up based on this issue, but can see in the future a scenario where the answer from Washington County would be sorry Sherwood, we'd love to improve the road, but you have allowed development right up to the road and now we can't fit it in.

The question Commissioner Lafayette would ask of staff, and maybe not for this application, but in the future to have a conversation with Washington County asking them why they are not requesting for 5 lanes through our city if they have plans for 5 lanes through Sherwood. When the site plans were done for Target and the theater those site plans were done with the premise that Washington County's Tualatin Sherwood Road would be improved and accommodating 5 lane roads.

Michelle continued with her report by pointing out that Washington County's recommendations are included as exhibit E and review of those may cause additional conditions to be created. The trips generated from this use are very low and so it will be difficult to ascertain getting more right of way dedication based on proportionality of that type of development.

Michelle has included a staff exhibit G which is an amended tree inventory and report. After speaking to the arborist for the applicant it appeared that he had counted some of the very poor trees. There is an amended report indicating a lesser amount. The applicant has submitted a landscape plan that indicated a great deal of one to one mitigation, but will also be required to submit a final tree and inventory plan, prior to paying the tree mitigation fee.

Commissioner Lafayette asked if a finding will need to be changed based on the new submittal.

Michelle agreed and said that the language had been left somewhat open, but that she will look at it again. Page 28 talks about 1,437 caliper inches. She did ask that the condition be amended to reflect exhibit G and the amount of 1,110 diameter inches or mitigate for that caliper of trees.

Chair Allen stated that they should just change the finding to reflect the newly submitted exhibit and then change the numbers in the recommended condition.

Commissioner Lafayette asked what the fencing requirements are in commercial or industrial. Are chain link fences allowed on site frontage, and is Tualatin Sherwood Road considered frontage?

Heather answered the question by referring to the fencing section on page 370 of the code. General conditions in all cases the following standards apply. Chain link fencing is not allowed in any required residential front yard setback. That is the only reference to chain link fencing in the code she is aware of.

Chair Allen asked which road is considered the front of the property, Wild Rose or Tualatin Sherwood Road.

Michelle said Wild Rose is considered the front of the property.

Chair Allen then invited the applicant to testify.

Gregory Kurahashi, of Kurahashi and Associates. He is the Civil Engineer and also provide survey, landscape architecture and planning services for the project.

Started by saying that he had done the utilities and the detention facilities for the Woodhaven project here in Sherwood. He has worked in Sherwood for quite a while.

They have really appreciated the way staff listened to their comments. He also mentioned that he had provided the tree information to Michelle very late.

There are several items on the staff report he would like to talk about. First though he wanted to point out that the arterial standard of 98' has been used on Farmington Road, Cornell Road and Murray Road. That is a full street 5 lane facility with a 14' center line, 2 -12 foot lanes on both sides and a 6' bike lane. The reason Washington County didn't ask for the right of way dedication is because there was a dedication with the original subdivision in which the width to go to 49' was submitted. That has already been done.

He then wanted to clarify what was proposed. The proposal says they are trying to "phase" in as an option additional storage units. Due to the market and the leasable property, Kevin, (the

property owner) is building the large building first, then the pads for the RV storage. The middle pad has always been planned to be used as a storage unit. The way they are structured will allow him to use it for the first year as a pad until the lease is gone on the first building then change the middle pad, after the season, into an additional storage building.

The clear vision triangle is no problem. They will work that out regarding providing the landscaping to maintain that clear vision area.

On page 19, there was a recommendation that prior to issuance of building permits they will be required to obtain a right of way permit for emergency access to SW Tualatin Sherwood Road. They believe this is feasible as they have talked with Washington County and feel that it not a problem, but that Washington County is taking some time to process applications.

On page 23 there were concerns about storm drainage and the fact that they may not have easements. Greg has talked with Lee Harrington in the city's Engineering Department and they have found the easements. They are public easements for the site and are fully available.

Comment #3 on page 24 is an issue under debate between Washington County and TVF&R regarding what improvements will be allowed in the right of way. The emergency access proposed by Washington County was very clear. The indicated that they want interlocking block pavers of some sort with a 75,000 load capacity, but they did not want it to be identified as a driveway. Greg does agree that they can show signage and reflectors, but he doesn't believe they will allow a curb. Once you put curbs on both sides of a 30' right of way in looks like a driveway. In the dark of night someone may think they can turn into the access. They would ask that the curb be made optional based on Washington County and TVF&R agreeing to that.

Chair Allen suggested that an easy way to solve the issue would be to delete the material in parentheses on comment #3, and say provide approved marking a delineation and that would effectively let all parties work out what is approved. If it doesn't get approved then you have not complied

Mr. Kurahashi agreed.

On page 31 section B, "prior to building permit approval for grading and erosion control, plans shall conform to approved site plan and engineering plans, and obtain a 1200-C permit. An issue they are concerned about is timing. They would like to begin construction as soon as possible. They would like to be able to add the words "and foundation permits" (if approved by City Staff).

Those are his issues and he wanted to say thank you to staff for working on the project.

Chair Allen asked for any questions of the applicant.

Commissioner Lafayette asked why the tall building is the one closest to the road.

Mr. Kurahashi's response was that building is on the steepest portion of the site. The building is two stories. The first floor will actually be cut in and built below grade. From Tualatin Sherwood Road it will look like a one story building. From the Wild Rose side you will see both stories.

Chair Allen if anyone else wants to testify. No one responded.

Chair Allen asked for staff comments.

Michelle added that she believes the 1200-C permit preempts any action.

Karen Brown from the City's Building Department clarified that the 1200-C permit has to be approved before any building permits can be issued. Phased footing permits are issued and may be possible for this site, however they are still issued only after the 1200-C has been approved.

Julia had looked at the conditions and other than the office and residence she is assuming there are not utility issues associated with the structures. Planning hesitates to allow foundations to be poured until final site plan approval has been issued. Looking at this site, she doesn't see any issues that may create a problem issues early foundation permits.

Chair Allen noticed the wording "and or" in the conditions and asked that it be removed from the template as it is not legally binding. Julia was advised by the City Attorney that commas work well and agreed to edit the wording.

Commissioner Lafayette referred to page 23 of the staff report. The applicant asked if it would be possible to remove curbing, signage and reflectors. She doesn't see that condition stated clearly in the summary page in the back.

Michelle referred to E-4 for the parking comments and said she could add another condition with the amended curbing, signage and reflectors removed. This will be numbered as item E-5.

Commissioner Lafayette asked about Clean Water design and construction standards. She believes that the CWS information has been provide, but that they just don't have it in their packets. So C-13 will be added to say prior to final site plan approval, must be submitted to the Engineering department.

Chair Allen asked if all were in agreement with the change made to the tree issues, based on the updated report.

All agreed.

Commissioner Lafayette asked who Kinder-Morgan is.

Julia explained they are company that provides a high pressure petroleum pipeline from Canada to California. The pipeline runs through the area off Galbreath.

Commissioner Lafayette moved that the Planning Commission approve SP08-1 based on the adoption of the staff report, findings of facts, public testimony, staff recommendations, agency comments, applicant comments and conditions and findings as revised.

Commissioner Nolan seconded the motion.

Chair Allen asked for all in favor to say aye. All were in favor, none opposed. Motion carries.

Chair Allen asked that given the hour could the issue of residential vs. commercial design standards.

Heather agreed.

**9. Next Meeting - April 22.**

Julia added that there have been questions raised that she will follow up on and have responses for the commission at the next meeting. She wants to follow up on the Washington County issues, and the ODOT comments about queuing issues on Hwy 99.

**10. Adjournment – Chair Allen closed the meeting at 10:05**

End of Minutes.

Julia asked if anyone on the commission has suggestions for a person to fill the Planning Commission vacancy.

Chair Allen agreed that getting someone that has demonstrated an interest in civic matters is important as there is a lot of information that needs to be reviewed.

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**City of Sherwood, Oregon**  
**Planning Commission Minutes - DRAFT**  
**April 22, 2008**

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**Commission Members Present:**

Chair Allen  
Jean Lafayette  
Todd Skelton  
Lisa Walker

**Staff:**

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

**Council Liaison** – Keith Mays (absent)

**Commission Members Absent:**

Adrian Emery and Matt Nolan

**City Attorney** – Paul Elsner

**1. Call to Order/Roll Call** – Karen Brown called roll. Commissioners Emery and Nolan were absent. Chair Allen moved directly to new business with the intent to return to the non-quorum agenda items afterwards.

Agenda items 2-7 were moved to the end of the agenda

**7. New Business – Public Hearing – SP 07-07; Provident Development Group Road Appeal:** This appeal was filed by Patrick Lucas. Chair Allen gave an overview of the meetings schedule and the processes that would be followed for each by reading the Public Hearing Disclaimer. Chair Allen asked that members of the commission disclose any exparte contacts, bias or conflicts of interest. Chair Allen disclosed that there is a letter submitted by Kathy Michaud-Tradd and her husband. Ms. Michaud-Tradd was Chair Allen's daughter's pre-school teacher ten years ago and he occasionally talks to her but this shouldn't cause any bias. Jean Lafayette disclosed that she has attended other public hearings from DEQ regarding this site. She added she lives close to the site and doesn't believe that this would cause any bias. No audience members challenged the participation of any Commission member.

Chair Allen opened the hearing at 7:25 PM.

Planning Manager Julia Hajduk addressed the commission. She stated that there is a 120-day issue and that the extension runs out on Friday, April 25<sup>th</sup>, 2008. If there is no decision made tonight, Commission will exceed the 120-day limit. She added that this is a staff-level decision because there is no square footage or parking area proposed; so it's a fast-tracked site plan. The complicating factor is that it's an easement that is not owned by the applicant. Staff and the City Attorney reviewed the easement information and determined that the applicant had the right to submit the application for this easement. Basically, it's a private street built to public standards and it's approved with conditions in the Notice of Decision. The appeal was filed on March 20<sup>th</sup>,



2008. Because of the general reasons stated in the appeal, staff has nothing more to add at this time and will reserve the remaining time for rebuttal. Julia added that Exhibit 3 was just submitted by the appellant and added to the record right before this hearing. To clarify, Exhibit 1 is the appellant's appeal, Exhibit 2 is the Notice of Decision with exhibits included in the record, and Exhibit 3 is the Notice of Decision for the Oregon Street Industrial Park. Julia then received an Exhibit 4 and distributed it to the Commission.

Peter Livingston, Appellant's Representative, 1211 SW 5<sup>th</sup> Ave, Portland, Oregon. Mr. Livingston stated that the letter just distributed was a listing of documents found in this record or in the record of SP 07-07. Mr. Livingston outlined the subject of the documents submitted to the Planning Commission.

Mr. Livingston continued that the documents established that Mr. Lucas, the Provident Development Group and the city staff agreed that the approval in SP 07-08 was inconsistent with the current proposal of SP 07-07. He summarized that ORS 227.175 stated only an owner or authorized representative could apply for a land use permit or zone change otherwise two parties could have vested rights to incompatible development on the same property. Mr. Lucas already has a vested right to develop the property as approved in SP 07-08. He added that the city should not grant land use approval for a development that's incompatible with Mr. Lucas's development. The only argument made to approve this current application is that utility companies routinely make improvements on their easements and they apply for those improvements with the local government and with the consent of the property owner. There is no case that someone with an easement could apply over the objections of the property owner and to allow that violates the explicit language of the statute.

Chair Allen asked if the utility company who applies also violates the explicit language in the statute even if there is no objection. Mr. Livingston replied that the objection could be made in each case. Chair Allen asked if the statute language reads that only the owner of the land may apply, then utility companies shouldn't be able to apply. Mr. Livingston concurred and added that unless somebody objects, the rule gets broken. The reason for the statute is that if you don't follow the rule when there is an objection, then you have the problem of incompatible development being approved for the same property. The City took an unclear position on this issue. The City stated it's a civil matter and approved both site plans, or, the City determined that the easement gave a property right to Mr. Monahan's client to apply for development. He added that the statute was clear and what's happening was a violation of statutory law. Provident should sue Mr. Lucas and demand that he sign an application. There was already a final decision in SP 07-08 which provided for a private street from tax lot 500 over tax lot 900 to Oregon Street. The application tonight should be denied.

Patrick Lucas, 20512 SW Roy Rogers Road, Sherwood, Oregon. He stated that the main issue was access to driveway or road to tax lot 900 and Provident's application doesn't have any access to the road. He stated that the parking ratio was 1.6 per 1,000 square feet for industrial and he will lose 32 to 40 spaces and that this reduced the buildable area of the property by 20,000 to 25,000 square feet which rendered his property worthless. He has approval that gave restricted parking which was better than no parking. Mr. Lucas added he received final DEQ sign-off on the site two weeks ago.

Chair Allen asked Mr. Livingston if the two applications proposed constructing two different things in the same space. Mr. Livingston concurred.

Lisa Walker asked if the main issues were the parking spaces and access to the property. Mr. Livingston concurred.

Commissioners had no further questions for the appellant.

Bill Monahan, Provident Development Group's Representative, 2 Centerpointe Drive, Lake Oswego, Oregon. Mr. Monahan explained that his client bought the property from Mr. Lucas in 2003 which already had an easement created by Mr. Lucas in 2002. He added that the access drive proposal was consistent with the city's standards and it was consistent with the rights that one would have within an easement. This proposal was to utilize what was paid for in a manner that did not detract from Mr. Lucas's opportunity to use his property and Mr. Lucas had a legal obligation that he sold to Provident which was the opportunity to have access across his property. Mr. Monahan reiterated that he was only talking about how Provident's application fit within the criteria of the City of Sherwood.

Mike Odren, Olsen Engineering, 1111 Broadway, Vancouver, Washington, 98660. Mr. Odren gave a brief history of the property by stating that in December of 2003, the property was approved for a mini-storage facility. There was a proposed private access road through the easement. The applicant decided not to pursue the development and placed it on hold until it then expired. Mr. Odren stated that Provident applied for the access road into this property and the original road was provided for in the original application. He explained that staff wanted to see a private road built to public road standards and that staff agreed to condition Provident to follow these standards. He added that the minimum road right of way width would be 52 feet for this classification but Provident only had a 50 foot easement, thus, Provident agreed to provide the road as conditioned. He ended by stating that absent was the ability to dedicate right of way for a public road and the road layout on the site plan is the same road applied for in 2003.

Mr. Monahan referred to Mr. Livingston's letter of April 22<sup>nd</sup> and how Mr. Lucas's earlier application's plans and conditions were changed over time. Provident's comments were addressed specifically to how vehicles would back up onto the access drive which caused concerns to their use of the access. Some issues were addressed by the City and will be sorted out in Mr. Lucas's application. He added that his client had the right to utilize that access easement for industrial property. The proposed access drive will serve both his client's and Mr. Lucas's property. Mr. Monahan stated staff considered both applications so the approval could be done in a way to serve both of them. Provident was willing to enter into an agreement with Mr. Lucas in order to finalize his plans. He emphasized the concern that Provident had about Mr. Lucas not moving forward in a timely manner. Mr. Lucas promised Provident since 2003 that he would build the road and Provident needed to have access to the property but had no guarantee about timeliness. Mr. Monahan stated that Provident had a statutory right to make an application and Oregon law showed that an easement holder could reasonably use the property when it was necessary and convenient so long as it didn't create an unreasonable situation for the estate holder. Mr. Lucas didn't prove that Provident's constructing an access to serve both properties would unnecessarily create a burden on his property. Mr. Monahan stated that Mr. Lucas bargained, sold and received the benefits of the compensation for the easement and that Provident was entitled to this easement.

Jean Lafayette asked Mr. Monahan if he had the regulation regarding the Oregon law to which he referred. He replied that it was based on related easement cases.

Mr. Monahan stated that Mr. Livingston referred to two specific Oregon case law decisions and paraphrased from them that a use was neither inconsistent with serving estate owner's rights nor unreasonably interfered with those rights if the use was or should have been contemplated by both parties at the time the easement was created. He added that the location of the easement in question now was on the exterior limit of the property and placed there so Mr. Lucas would have maximum development opportunity. The intent was for a road to be there in this industrial zone. He added that Provident was within their rights to apply for and receive approval to build this road.

Jean Lafayette asked Mr. Monahan why he didn't just build the road that Mr. Lucas wanted instead of what Provident wanted. He replied they were building a road that Mr. Lucas wanted even when Provident didn't have the ability to apply for parking on the road. Provident believed Mr. Lucas's road would meet their needs but that the issue was timeliness.

Chair Allen asked Mr. Monahan that if Mr. Lucas built the road, would Provident be happy. Mr. Monahan replied that Provident's concern was that they would have to build the road because Mr. Lucas may not build the road with the development he was currently proposing.

Chair Allen added that if the Commission denies Mr. Lucas's appeal and approves Provident's application, they could both build the road. Mr. Monahan concurred but added that they would seek reimbursement because the contract was that Mr. Lucas would build the road but after five years, this hasn't happened.

Mr. Odren added that both applications had the same set of standards to meet regarding the road and the only difference was that Provident wanted to build it now.

Julia Hajduk stated as conditioned, both applications were essentially the same and that Provident was within the 50 foot easement so it wasn't exactly the same as Mr. Lucas's project as Mr. Lucas's road might be wider with parking due to more room on his property. Mr. Monahan added that Mr. Lucas could adjust the road Provident builds in the future as long as the road was within the city's standards.

Chair Allen asked if anyone was present to testify in support or in opposition of the appeal. No one came forward. Chair Allen then moved to rebuttal and informed Mr. Lucas he only had eight minutes.

Mr. Livingston stated that who was right and who was wrong was irrelevant to a land use hearing. He referred back to the statute that stated only a property owner could apply and that there couldn't be two approvals that covered the same property. He stated that the application tonight was not consistent and should be denied. He knew that Provident objected to back-out parking but that this was a dispute about the scope of the easement which should be settled in court and not in front of the Planning Commission. He stated that the parties were in discussion and should reach an agreement on this issue.

Jean Lafayette asked Mr. Livingston if he wanted the Commission to consider a specific finding in this matter. He replied that the application tonight should be rejected.

Commissioner Skelton asked if this was an application for a permit or for a zone change (referring to the ORS citation previously provided to the Commission). Mr. Livingston stated it was a site plan approval and the permit should be covered in that. He then asked that the hearing be continued.

Commissioners had no further questions.

Mr. Monahan stated that there was a code provision that allowed for Provident's application and that Staff tried to keep the two applications separate but if there were inconsistencies, he was hopeful that staff addressed them in their review. He was concerned that Mr. Lucas's application would not go forward and asked if Provident should withdraw their application and resubmit in two years. Provident had a right to this application right now. Mr. Monahan stated that he did object to the back-out parking and he could not suggest that there was a probability of an agreement tonight as his client needs access to the property.

Commissioners had no further questions and Chair Allen asked for staff's final comments.

Julia Hajduk explained that the appellant requested that the hearing be continued but there was a 120-day issue.

Paul Elsner, City Attorney, explained that by statute they had a right to keep the record open for at least seven days and could continue if there was a waiver of the 120 days.

Chair Allen asked if the applicant had the right to ask for a continuance. Mr. Elsner explained that they don't have a right to a continuance unless the code provided for one. Heather Austin checked the code while Julia continued her rebuttal.

Julia stated that when the application was first submitted, the applicant was not the owner and the owner had not signed therefore deeming the submittal incomplete. The applicant then submitted documentation that raised the issue of ownership. Julia explained that the ownership issue was discussed with the City Attorney and determined not to be an issue. Julia felt that the applicant did have the right to submit this application but at the same time, Planning had another application from the property owner. Staff reviewed both on their own merit to ensure that the code was being met and she was certain that the two applications are consistent, as conditioned.

Paul Elsner reiterated that "owner" or "applicant" was defined in Washington County code as public agencies that have the right of condemnation or eminent domain. He added that Mr. Livingston's definition of the word "owner" was not consistent with past practices. He stated that Provident couldn't build a house or structure on the easement and that staff made the analysis that was consistent with the code that this application was not inconsistent with the ownership interest that Provident had in the easement.

Lisa Walker asked staff if they thought the two applications would be working together. Julia answered that that was the ideal.

Chair Allen asked if they both could begin construction on the basis of their approval and Julia concurred.

Lisa Walker added that both applications had a two-year time frame and the Commission couldn't compel one to build before the other before the expiration date.

Julia added that the assertion that we couldn't have two approvals on the same property was not correct.

Jean Lafayette was concerned that the staff report stated that the two are not compatible. Julia added that they're not compatible as proposed but they are compatible as conditioned.

Chair Allen asked if the condition of one application could make a reference to the conditions of another unrelated application. He then asked if they could remove all doubt by specifying that the road had to be completely consistent with the road conditioned in SP 07-08.

Jean Lafayette asked if they could build the 50 feet exactly to the specifications of the approved SP 07-08.

Paul Elsner didn't think that this would be a problem and Julia added that that was essentially what was done.

Chair Allen then repeatedly reminded the audience that he was not going to recognize any more public testimony.

Heather Austin, Senior Planner, read section 16.72.0503A from the code which allowed for the hearing to be continued.

Chair Allen asked the applicant if they were willing to extend the 120-day deadline. Since the applicants needed time to confer, Chair Allen granted a five minute recess.

*While SP 07-07 was recessed, Chair Allen chose to move forward with the next hearing.*

**New Business – Public Hearing – SP 08-02; Peterson Old Town Office:** Chair Allen opened the hearing by reading the overview of the meeting's procedures from the Public Hearing Disclaimer. Chair Allen asked that members of the Commission disclose any exparte contacts, bias or conflicts of interest.

There were no disclosures and no audience members challenged the participation of any Commissioner.

Heather Austin, Senior Planner, described the office building on 2<sup>nd</sup> Street and Pine Street to be 7,000 square feet, with two 3,500 square foot stories stacked one on the other. She explained that the site was currently bare as the single family home that was previously there was destroyed by two fires in 2006-2007. She stated that the staff report discussed French doors which were not permitted in Old Town and the proposed doors did not meet the technical definition of French doors.

Jean Lafayette asked how the doors were different than the City Hall building and Heather responded that the definition of French doors meant multiple, small panes.

Chair Allen asked if faux-stone was prohibited and Heather responded yes.

Heather continued that staff recommended approval with the conditions listed which include bike parking, landscaping in the parking and its edges, or, enclosing the parking area by continuing the façade of the building. She added that the recommended street improvements included a new sidewalk and street trees on Pine Street, a half-street improvement on 2<sup>nd</sup> Street that included a curb because a half-street improvement can't be built with a traditional woonerf curb. Staff didn't believe that they would necessarily see woonerf-style as is found in the core of Old Town, but staff could do a curbless design from where the curb was now by having a traditional style and having valley gutters to the side and removing the curb. Heather continued that staff's only recommendation at this time was that due to a street fee in lieu not existing, this design can be easily transitioned in to a curbless street section in the future.

For the alley, staff recommended hard surface improvement because the applicant was proposing to take vehicular access from the alley.

Staff would like the overhead wires to be undergrounded and a condition that the application shows how the building connects to the sidewalk to satisfy ADA requirements.

An 8 foot PUE (public utility easement) required along a right of way is not feasible in Old Town as buildings are required to be built to the property line. Heather continued that Old Town was also developed with alleys which was where the majority of the utilities were located and our Community Development Director stated that the 8 foot PUE was not necessary in Old Town. Staff recommended that the applicant not be conditioned to provide the 8 foot PUE. Staff will propose code changes with the next round of code updates to reflect this.

Staff recognized that there was no room for a visual corridor due to building the building right to the property line.

Jean Lafayette asked if there could be a formal process in which the Planning Commission could agree with this interpretation so for the next application, there wouldn't be a need for explaining all of this over and over.

Heather replied that if the Commission agreed with these findings, then it should be applicable to future applications.

Jean Lafayette would like to see a formal interpretation that the Old Town Design Standards supercede the PUE and the visual corridor as two separate actions rather than just pointing at the site plan.

Julia stated that she could bring a Director's interpretation of this to the next meeting as a separate action from the site-specific approval.

Heather asked if they should do this with the PUE and the visual corridor and Jean agreed.

Jean Lafayette asked Heather if she would address the most recent information received by the Planning Commission. Heather called attention to Figure 1, a depiction between curbs and woonerf, and that Staff believed the curb could be removed to have a valley gutter on each side. She referred to CF3 on page 31 of the staff report. Heather was not sure if this meant a full tear out of Pine Street sidewalk or not and asked Lee Harrington to come forward.

Lee Harrington, Senior Project Engineer for the City of Sherwood, explained that the applicant requested to add an additional portion of sidewalk to the existing sidewalk without tearing out the existing sidewalk. He continued that it was feasible but we needed to determine if Pine Street was to be redone in a woonerf design, would we want the concrete to have a different scoring pattern or a different color, or should it be in the design that was adjacent to it? Staff suggested to go with the new scoring pattern.

Heather referred to figure 2 which related to 2<sup>nd</sup> Street. She explained that when blocks develop, there will be a transition until the neighboring property develops or the city comes up with funding to do the improvements.

Chair Allen asked if there should be a curb now and in the future, transition to figure 2?

Heather responded that figure 2 was what it would look like at this time. She added that the applicant was saying that the curb was going to jut out after this property transitioned back to the non-dedicated property next door. She stated that this was common for development unless the entire block developed at the same time.

Heather referred to an Associated Press article about a preservation group recommending to preserve buildings and making the argument that preservation applied to streets also. Heather added that if the street section on 2<sup>nd</sup> Street that she recommended be conditioned, had to be torn out completely to comply with downtown streetscapes in the future, she may see merit to this, but at this point, this wasn't the case. She believed a curb at this point would help the street function.

Exhibit D was from TVF&R that didn't make the initial packets as it came in after the distribution.

Commissioner Lafayette asked to make a reference to the submitted letter on page 18.16.1.16.

TVF&R requested a fire flow calculation worksheet and staff will add an appropriate condition for this. Heather referred to C1E and believed that the condition was already addressed.

Staff's recommendation was that the Commission approve this application with the conditions with the exception of a typo, on page 30. Condition C.1 should read "submit to the Engineering Department".

Lisa Walker asked when the downtown street master plan (inaudible gap on tape) would be funded. Heather responded that it was not funded nor on the horizon so it may be ten years out. Chair Allen added that SURPAC has talked about scaling back future phases to look at core streets and that 2<sup>nd</sup> Street is not even mentioned.

Chair Allen then asked the applicant to testify.

Brent Peterson, 22300 NE Hidden Springs Road, Dundee, Oregon. He explained that the lot on 2<sup>nd</sup> Street was 50 feet deep and asked if he was required to make the street 5 feet wider and put a curb in for the entire 50 feet of the property?

Heather responded that the applicant's Engineer showed a decent transition and she referred to the Sunset Partition project as an example.

Chair Allen clarified that the applicant's property line was at the beginning of the transition so all of the transition was on his property. The applicant felt that this was inefficient.

Heather stated that future development won't have to come on to the applicant's property because the transition happened within the area he already dedicated even though he built this curb that transitions it. They would tear out that curb in the right of way and match it for the next transition.

Mr. Peterson stated that this was wasteful.

Chair Allen reiterated that the curb that had to come out was fairly minor and the curb would be removed in the far future.

Mr. Peterson asked if the sidewalk will be widened on Pine Street. Chair Allen responded that the Planning Commission would decide this tonight.

Mr. Peterson asked about his building's elevation. Heather responded that pre-application notes, while preliminary, are still applicable in this case and that the finished floor elevation was the exact same as across the street and the applicant showed this already. The elevation as it is shown didn't prohibit a woonerf in the future.

Planning Commission had no questions for the applicant.

Chair Allen asked for testimony from proponents and then opponents of this application. Nobody came forward so Chair Allen closed the public hearing and referred back to Staff for their final comments.

Heather concluded that the Engineer for the applicant was correct in his design (shown in Figure 2) but she felt that the recommended conditions were still acceptable.

Jean Lafayette clarified that Heather preferred the top street profile on Figure 1 and Heather agreed.

Chair Allen added that the only issue remaining was adding a foot or building a new 8-foot sidewalk. This was on Pine Street and it matched up to the existing improvements on the new system.

Heather corrected that it matched the current existing but that the streetscapes stopped at 1<sup>st</sup> Street so this section of Pine Street didn't have anything.

Commissioner Lafayette stated she would add a foot and Commissioners Skelton and Walker agreed.

Heather recommended changing the conditions and the finding to match. She referred to the discussion and finding on page 16 which she changed to read "...construct a sidewalk matching the downtown streetscapes design width..." and Commissioner Lafayette agreed. Heather will



change the recommended condition C.1.f.1 on page 30 of the staff report to reflect those changes.

Commissioner Lafayette moved that the Planning Commission approve SP 08-02 based on the adoption of the staff report findings and fact, public testimony, staff recommendation, agency comments, applicant comments and findings and conditions as revised.

Commissioner Skelton seconded. Vote was taken:

Yes – 4                      No – 0                      Abstain - 0

Motion carried.

Chair Allen called for a short break.

The Commission reconvened.

***Chair Allen reconvened the hearing for SP 07-07***

Julia Hajduk stated that Provident was willing to grant a 120-day extension to the next Planning Commission meeting on May 13, 2008, for the purpose of continuing this hearing.

Chair Allen asked if public testimony would continue at the next meeting? Paul Elsner, City Attorney, stated that the record must remain open for 7 days which would allow for new evidence. Rebuttals could come in 7 days after that but no new evidence should come in during the rebuttal period.

Mr. Livingston requested clarification. Julia stated the Commission must grant the request of continuance or leave the record open. If at the next hearing the applicant asked for another continuance, the extension did not have to be granted.

Commissioner Lafayette added that historically, during the first 7 days, everyone submits items and then the record closes. Afterwards, it's the applicant that gets the next 7 days to rebut.

Julia asked if the applicant or appellant gets the 7 days to rebut?

Chair Allen clarified that it was the applicant since this was the first evidentiary hearing.

Heather added that the code stated that any participant may file a written request with the local government for an opportunity to respond to the new evidence. She added that we had to leave the record open for 7 days and then any participant can request that you let them have a chance to respond, but you didn't automatically have to give anyone a chance to respond.

Mr. Elsner referred to and read statute 197.763.6A, 6B and 6C. Chair Allen added that our code was consistent with the statute.

Chair Allen reconvened the hearing for SP 07-07 and stated the written record will be held open for 7 days and that the following 7 days was for applicant rebuttal to new testimony. No new testimony will be allowed at the next hearing.

Mr. Monahan clarified that the record will be left open for 7 days for both the appellant and the applicant to submit additional information by 5:00 PM on April 29, 2008. He clarified that the second set of 7 days was for the applicant only to respond by 5:00 PM on May 6, 2008.

Chair Allen concurred and agreed that the Planning Commission would meet on May 13, 2008. He added that even though this was an appeal, it was also the first evidentiary hearing.

Chair Allen clarified for the record that the appellant had the right to request time to respond to new evidence submitted by any party.

Commissioners Walker and Lafayette preferred that any evidence submitted after the distribution of the Planning Commission packets be emailed or resent out in a second packet. Julia agreed.

Commissioner Lafayette moved that the Planning Commission continue SP 07-07 to a date certain of May 13, 2008, and that additional submittals will be based on the timeline previously outlined.

Commissioner Walker seconded. Vote was taken:

Yes – 4                      No – 0                      Abstain - 0

Chair Allen went back to the agenda items previously skipped:

**2. Agenda Review** - The agenda was not reviewed as the Commission moved directly to new business.

**3. Consent Agenda** – There were no consent agenda items for the Commission to consider.

**4. Staff Announcements** – Staff announcements were made after the close of new business.

Julia briefed the Commissioners on the Brookman Road Concept Plan. She was planning on discussing this in more detail at the May 13<sup>th</sup> meeting. On May 20<sup>th</sup>, there will be a joint Planning Commission-City Council meeting. This will give Commissioners a month to prepare questions for the consultants. She will have the City web-site updated and she will send an email to interested parties with this information as well.

In June, an intern will begin a sign inventory to identify the extent of any non-conforming signs and also to evaluate the sign code.

Chair Allen asked Julia when the time period ended for signs to conform with the height restrictions? She responded that it was 5 years from when the sign ordinance was adopted in May of 2004.

Julia stated that Planning will begin work on Adams Avenue North concept plan. This was the area that was brought in for the Adams Avenue extension. Area 48 concept plan will be gearing up this summer.

Commissioner Lafayette was concerned about the Oregon Street crossing based on the current transportation plan and asked Julia if someone was looking at the issues connected to this project.

Julia confirmed that Tom Pessemier, Community Development Director, covered this issue at a previous Planning Commission meeting and explained the analysis of the Adams Avenue extension.

Commissioner Lafayette wanted to make sure that the transportation plan was valid. Julia responded that there could be modifications to the transportation system plan.

She continued that commercial/industrial design standards will be addressed by Heather at the next meeting.

Chair Allen wanted the issues of faux-stone and French doors added to the list of items to clean-up. Julia stated that she has identified some Old Town code clean-up items.

Julia announced that three applications were received for the current Planning Commission vacancy.

Julia relayed that Arbor Day was a nice event with the Boy Scouts and staff.

5. **City Council Comments** – No City Council comments were made.
6. **Community Comments** – No community comments were made.
7. **Old Business** – No old business was discussed.

Chair Allen adjourned the meeting at 9:15 PM.

End of minutes.



## MEMORANDUM

22560 SW Pine St  
Sherwood, OR 97140  
Tel 503-625-5522  
Fax 503-625-5524

To: Planning Commission

From: Julia Hajduk, Planning Manager

Date: May 6, 2008

RE: Public Utility Easements (PUEs) and Visual Corridors in Old Town

Section 16.162.090.E.1.b of Sherwood's Zoning and Community Development Code (SZCDC) requires all buildings in Old Town to be located directly upon the property line with zero setback from the public right-of-way. In addition, Section 16.162.090.E.1.b requires all buildings in Old Town to extend from side lot line to side lot line to create a solid streetscape along the public right-of-way. These standards are in conflict with two other sections of the SZCDC, specifically Sections 16.118.020.B (requiring public utility easements along public right-of-way) and 16.142.030.A (requiring a visual corridor along all arterials and collectors). Where buildings are constructed along property lines, there is no space available to reserve an easement or install a visual corridor.

Because the Old Town standards apply specifically to parcels in Old Town and the public utility easement and visual corridor standards apply generally throughout the city, staff has interpreted on recent projects that the Old Town design standards take precedence in Old Town and the PUE and visual corridor standards may be waived.

This interpretation is the official Planning Director interpretation; however the Planning Commission is asked to support, by motion, this interpretation for all future land use applications until such time at the SZCDC is amended to make this interpretation clear. The specific interpretation is: **sections 16.162.090.E.1 b and c apply to all properties in Old Town and, where conflicts arise, these standards shall take precedence over sections 16.118.020.B and 16.142.030.A.**



Home of the Tualatin River National Wildlife Refuge

## MEMORANDUM

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22560 SW Pine St  
Sherwood, OR 97140  
Tel 503-625-5522  
Fax 503-625-5524

To: Planning Commission

From: Julia Hajduk, Planning Manager

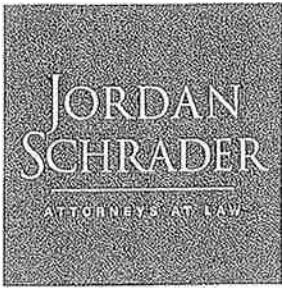
Date: May 6, 2008

RE: Provident Development Group Road appeal – additional testimony submitted

At the public hearing on April 22, 2008, the Commission heard testimony from the applicant and appellant regarding the appeal of the Type II land use decision for SP 07-07, Provident Development Group Road. At the close of the hearing, the Commission moved to continue the hearing, allowing 7 days for the submittal of any new testimony, 7 days for the applicant to respond with the understanding that both parties could rebut any new evidence submitted at the hearing provided additional evidence may not be submitted at the meeting on May 13, 2008.

The Planning Department received one piece of written testimony from the applicant's representative during the first 7 day submittal period. Because no testimony was provided by the appellant during this period, it is not anticipated that additional "rebuttal" will be provided by the applicant during the second 7 day submittal period (ending at 5:00 on May 6<sup>th</sup>).

The submittal received from Tim Ramis, representing Provident is attached and will be labeled **Exhibit 5** to the record in the appeal hearing.



VIA E-MAIL

April 29, 2008

JORDAN SCHRADER RAMIS PC

Patrick Allen, Chair  
Sherwood Planning Commission  
c/o Julia Hajduk, Planning Director  
City of Sherwood  
22560 SW Pine St  
Sherwood OR 97140

Re: **Appeal Hearing in the Matter of the Provident Development Group Application, SP-07-07**  
Our File No. 49988-36761

TIMOTHY V. RAMIS

Admitted in:  
Oregon

Direct Dial  
(503) 598-5573

E-mail  
tim.ramis@jordanschrader.com

Dear Chair Allen and Members of the Planning Commission:

At the close of the April 22, 2008 hearing on the appeal filed by J. Patrick Lucas challenging the approval of the Provident application, the Planning Commission continued the hearing to allow additional written testimony. On behalf of the applicant, Provident Development Group, I submit this letter to address issues discussed at the hearing.

**Issues Raised by Appellant**

The de novo hearing was based upon an appeal that challenged the approval on three issues:

1. authority of the applicant to apply for site plan approval;
2. sufficiency of findings; and
3. whether the findings in the challenged decision are supported by substantial evidence.

**1. Authority of the Applicant to Apply for a Site Plan Approval.**

As was expressed at the hearing, Provident purchased the subject property, Tax Lot 500, from Mr. Lucas along with an easement for access and utilities. The obvious intent of Provident was to purchase developable industrial property with the ability to access it for business use. The purchase took place in 2003. (In fact, as a part of the sale, Provident caused money to be placed in an escrow to pay for the cost of road construction. At this point, Provident has funded the road.)



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At the public hearing, in response to questions from the Commission, we clarified that it is Providence's position that under Oregon law an easement holder may utilize an easement for uses that are reasonably necessary and convenient for the intended purpose of the easement. Such uses are permitted, provided that the uses do not unreasonably interfere with the servient estate holder's use of its property. See *Minto v. Salem Water etc. Co.*, 120 Or 202 (Or 1926) and *Fendall v. Miller*, 99 Or 610 (Or 1921). Further, a use is neither inconsistent with the servient estate owner's rights nor unreasonably interferes with those rights if the use was or should have been contemplated by both parties at the time the easement was created. See *Van Natta v. Nys* and *Erickson*, 203 Or 204 (Or 1955), overruled on other grounds, 255 Or 413 (1970).

In the present situation, Provident's proposed road within the established easement does not unreasonably interfere with Mr. Lucas' servient estate. Mr. Lucas created the access easement and intended it to be used to access Tax Lot 500. The proposal before the Commission is for a road that staff has determined is compatible with the recent Lucas approval – as conditioned. While the two applications as originally submitted for review by staff were not at that time compatible, through the City approval process and the imposition of conditions of approval, the roads now approved under the two applications are compatible.

At the time of sale, Mr. Lucas understood that Provident would use the easement as their only access. The only way the City can allow the access is over an improved surface. Provident bought the property with the understanding that the road would be constructed, and has waited five years for Mr. Lucas to build a road to no avail. In fact, Provident has already paid for the road to be constructed. There is no guarantee that Mr. Lucas will now build the road utilizing the present approved plan that he obtained from the City and the funds provided by Provident.

Provident has a right to apply for the site plan as owner of an interest in the easement. As the City attorney advised, as long as Provident stays within the terms of its easement, without going outside the scope of the easement, it has legal authority under the City's code as an owner and may apply for a site plan. There is no dispute that the easement was transferred to Provident as part of the land sale. Yet, Mr. Lucas's attorney submitted a packet of materials at the hearing that included the content of ORS 227.175(1) for the purpose of showing that only an "owner of land" may apply for a land use permit. Appellants have misinterpreted the statute. In fact, in *Lowery v. City of Keizer*, LUBA No. 2004-121, where petitioners argued that this

Patrick Allen, Chair  
April 29, 2008  
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statute allows only the owner of a piece of property to file an application affecting the use of land, LUBA disagreed with the assertion that no party other than the owner of the subject property can submit an application.

## 2. Sufficiency of Findings, Substantial Evidence.

Upon questioning from the Commission, appellant stated that the main issue is that it has with the findings and the adequacy of the findings relate to its position that Provident should not have been allowed to apply. Again, the appellant raised the argument that Provident does not possess a legal right.

The City properly accepted and reviewed the application. The decision that was rendered conditions Provident to build a road that meets City standards, within its legal easement, in a manner that is compatible with the approved Lucas plan as conditioned.

## 3. Other Issues.

To address other issues raised at the hearing we submit the following:

a. Appellant's submitted materials do not prove that Provident's proposal is incompatible with the approved Lucas plan. As we stated at the hearing, the exhibits cited in Mr. Livingston's April 22, 2008 letter merely show that at the application stage the two proposals were not consistent. They are consistent now because of the imposition of conditions of approval. Provident objected at the Planning Commission level to the parking plan that Mr. Lucas proposed within his application. That application would have allowed vehicles to back into the easement area in which Provident proposes to build its road. Provident did not challenge the Lucas plan at the City Council level as Provident's involvement in the Lucas decision making process ended at the Planning Commission level.

b. The Provident plan is needed because there is no guarantee that the Lucas plan will be built. Mr. Livingston stated at the hearing that there is no need for a separate approval. However, Provident has no ability to build the Lucas approved road. Planning Commission members in their questioning seemed to feel that only one approval is necessary, however, there is no guarantee that Mr. Lucas will ever build the road as his approval authorizes. He challenged the local decision to LUBA. On April 21, 2008, he voluntarily dismissed the LUBA challenge. Enclosed is a copy of that Motion to Dismiss and the LUBA order dismissing the appeal. It is not



Patrick Allen, Chair  
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Page 4

known whether Mr. Lucas plans to now build under the approved plan, submit a new plan for a different access location, or abandon development for the time being. In the meantime, Provident needs access to its property, thus the present application is appropriately filed. Provident can only obtain access if it builds a road within the easement. Therefore, there is a need for Provident's application.

c. The Planning Commission should not change the conditions of approval to require Provident to build the road as approved in the Lucas decision. During the hearing of April 22, 2008, the Planning Commission queried the City Attorney as to whether it could add a condition that would require Provident to build according to the approval that was granted to Mr. Lucas in his recent land use approval. That would be inappropriate because:

(i) The Provident application should be judged on whether it meets City approval criteria, not someone else's land use application;

(ii) Provident has no authority to build a road outside the access easement. To require construction outside the easement is beyond the scope of the Planning Commission; and

(iii) As stated earlier, the Provident road can be built to be compatible to the Lucas design. If Mr. Lucas builds the approved road, he can easily add on to the Provident road. Provident has stated its willingness to work with the City and Mr. Lucas to build a road that suits its needs and is ready for the additional capacity and features needed outside the easement for the Lucas application.

### **Summary**

Provident has the legal right to build an access road within its easement. The easement was created by Mr. Lucas. He chose the location. He is not entitled to prevent Provident from exercising its right to use the access to make economic use of the land sold to it by Mr. Lucas. The City's role is to apply the approval criteria within its City standards to the site plan submitted by Provident. As staff has concluded, the application can be considered to comply with City standards. Provident accepts the conditions of approval stated by staff in the decision of SP-07-07.

JORDAN SCHRADER<sup>PC</sup>  
ATTORNEYS AT LAW

Patrick Allen, Chair  
April 29, 2008  
Page 5

We respectfully request that the Planning Commission deny the appeal and uphold the decision of the Planning Director.

Sincerely,

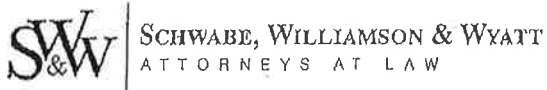
JORDAN SCHRADER RAMIS PC



Timothy V. Ramis

Enclosures

cc: Provident Development Group, L.C. (via e-mail)  
Paul Elsner, City Attorney (via e-mail)  
Peter Livingston (via e-mail)



Pacwest Center, 1211 SW 5th Ave., Suite 1900, Portland, OR 97204 | Phone 503.222.9981 | Fax 503.796.2900 | www.schwabe.com

PETER LIVINGSTON  
Admitted in Oregon and Washington  
Direct Line: 503-796-2892  
E-Mail: plivingston@schwabe.com

April 21, 2008

Oregon Land Use Board of Appeals  
Public Utility Commission Bldg  
550 Capital NE  
Salem, OR 97310

Re: Lucas v. City of Sherwood  
LUBA No. 2008-044  
Our File No.: 117935/157587

Dear Board Members:

Petitioner Patrick Lucas has decided to dismiss the captioned appeal. Please treat this letter as a motion to dismiss.

Thank you.

Yours very truly,

A handwritten signature in black ink that reads 'Peter Livingston'.

Peter Livingston

PLI:led

cc: Christopher D. Crean  
J. Patrick Lucas

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BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

J. PATRICK LUCAS,  
*Petitioner,*

APR25'08 PM 1:41 LUBA

vs.

CITY OF SHERWOOD,  
*Respondent,*

and

PROVIDENT DEVELOPMENT GROUP, L.C.,  
*Intervenor-Respondent.*

LUBA No. 2008-044

FINAL OPINION  
AND ORDER

Appeal from City of Sherwood.

Peter Livingston, Portland, represented petitioner.

Pamela J. Beery, Portland, represented respondent.

Timothy V. Ramis and William A. Monahan, Portland, represented intervenor-respondent.

RYAN, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member, participated in the decision.

DISMISSED

04/25/2008

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

Ryan, Board Member.

1

2 **MOTION TO INTERVENE**

3 Provident Development Group, L.C. moves to intervene on the side of respondent.

4 No party opposes the motion, and it is granted.

5 **MOTION TO DISMISS**

6 Petitioner requests that this appeal be dismissed. Accordingly, this appeal is

7 dismissed.

## Certificate of Mailing


I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2008-044 on April 25, 2008, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Pamela J. Beery  
Beery Elsner & Hammond, LLP  
1750 SW Harbor Way Suite 380  
Portland, OR 97201-5164

Peter Livingston  
Schwabe, Williamson & Wyatt PC  
1211 SW Fifth Avenue, Suite 1600  
Portland, OR 97204

Timothy V. Ramis  
Jordan Schrader Ramis PC  
PO Box 230669  
Portland, OR 97281

Dated this 25th day of April, 2008.

  
Kelly Burgess  
Paralegal

Debra A. Frye  
Executive Support Specialist



## MEMORANDUM

22560 SW Pine St  
Sherwood, OR 97140  
Tel 503-625-5522  
Fax 503-625-5524

To: Planning Commission

From: Heather Austin, AICP, Senior Planner

Date: May 6, 2008

RE: Surveys for May 13, 2008 Work Session on Design Standards

Attached to this memo are two draft surveys: one for commercial design standards and one for industrial design standards. These surveys will be discussed and comments from the Commission taken at the May 13<sup>th</sup> work session.

In addition, staff will review several developments in Sherwood using Canby's design standards "toolbox" (or a variation of such) and provide the Planning Commission with a review of how developments would score.

**1. Commercial Design Standards Survey**

The City of Sherwood is evaluating the commercial design standards in the Zoning and Community Development Code and would like feedback on these code sections. Please take a moment to fill out this brief survey to help guide us in our review of these standards.

**1. Are you a (check all that apply):**

- Resident of Sherwood
- Commercial Property Owner
- Developer
- Engineer/Planner/Builder

Other (please specify)

**2. Currently, the City of Sherwood has design standards for commercial developments that include: front entrance standards, building orientation and architectural detail.**

**In your experience with developing commercially in Sherwood, to what degree have the current standards positively or negatively affected the design of your site?**

- Very Positive
- Somewhat Positive
- Neutral
- Somewhat Negative
- Very Negative
- Don't Know

Provide details if applicable

**3. The city is considering revising the existing commercial design standards to include a "toolbox" of design options that a developer could choose from when designing a site to provide more flexibility while still maintaining a high level of design (one example may allow enhanced landscaping with reduced window sizes). These options would be weighted, with a certain score required for the overall development.**

**How would this approach affect your decision to develop commercial property in Sherwood?**

- More likely to develop in Sherwood
- Less likely to develop in Sherwood
- Changes to design standards would not affect my decision to develop in Sherwood

**4. If the city implements a "toolbox" design approach, which of the following "tools" would you want to make sure are included in the "toolbox"? Alternatively, which "tools" would you like to see excluded from the "toolbox"?**

	Must be in toolbox	Neutral	Would not like to see in toolbox	N/A
Building orientation (proximity to street, etc)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Building height	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Window requirements (size, etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Facade (architectural detail)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking configuration	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking location	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please provide detail in box below)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pedestrian-friendly amenities (plazas, benches, awnings, etc)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sidewalks and paths throughout site	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscaping (trees, shrubs, sod)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmentally sensitive design	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Signage	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Please provide additional information here.



5. If you plan to develop commercial property in Sherwood in the future, please indicate when you plan to submit for land use review.

- Within the next 6 months
- Within the next 12 months
- Within the next 2 years
- Within the next 5 years
- Not sure of timeframe

6. Please provide any additional information you may have regarding commercial design standards.

7. If you would like to be informed of work sessions or public hearings on changes to commercial design standards, please include the information below.

Name:

Company/Organization:

Email Address:

The City of Sherwood is considering implementing industrial design standards and would like feedback. Please take a moment to fill out this brief survey to help guide us in our policy review.

1. Are you a (check all that apply):

- Resident of Sherwood
- Industrial Property Owner
- Developer
- Engineer/Planner/Builder

Other (please specify)

2. Currently, the City of Sherwood does not have building design standards for industrial developments.

The city is considering implementing industrial design standards for properties along or within 200 feet of an arterial or collector road (i.e. Tualatin-Sherwood, Oregon, Highway 99W).

These industrial design standards would likely include a "toolbox" of design options that a developer could choose from when designing a site to provide more flexibility while obtaining a high level of design (one example may allow enhanced landscaping with reduced window sizes). These options would be weighted, with a certain score required for the overall development.

How would this approach affect your decision to develop commercial property in Sherwood?

- More likely to develop in Sherwood
- Less likely to develop in Sherwood
- Changes to design standards would not affect my decision to develop in Sherwood

If industrial design standards would make you less likely to develop, please explain why:

3. If the city implements a "toolbox" design approach, which of the following "tools" would you want to make sure are included in the "toolbox"? Alternatively, which "tools" would you like to see excluded from the "toolbox"?

	Must be in toolbox	Neutral	Would not like to see in toolbox	N/A
Building orientation (proximity to street, etc)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Building height	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Window requirements (size, etc)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Facade (architectural detail)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parking configuration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Parking location	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please provide detail in box below)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pedestrian-friendly amenities (plazas, benches, awnings, etc)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sidewalks and paths throughout site	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Landscaping (trees, shrubs, sod)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Environmentally sensitive design	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Signage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please provide additional information here.

4. If you plan to develop industrial property in Sherwood in the future, please indicate when you plan to submit for land use review.

- Within the next 6 months
- Within the next 12 months
- Within the next 2 years
- Within the next 5 years
- Not sure of timeframe

5. Please provide any additional information you may have regarding industrial design standards.

6. If you would like to be informed of work sessions or public hearings on changes to industrial design standards, please include the information below.

Name:

Company/Organization:

Email Address:

Done

Sherwood Planning Commission Meeting

Date: 05-13-08

Meeting Packet

Approved Minutes

Date Approved: \_\_\_\_\_

Request to Speak Forms

Documents submitted at meeting:

• Letter from Patrick Lucas

• Comments from Neil Shannon

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Date: 5-13-08

Agenda Item: Open Comment

Other: Brookman Road

*I have read & understand Rules for Mtgs, Resolution 98-743*

Applicant:  Proponent:  Opponent:

*None of the Above*

Name: Neil Shannon

Address: 23997 S.W. Red Fern Dr.

City/State/Zip: Sherwood, OR 97140

Phone: 503-625-9114

I represent:  Myself  Other

Pacific III, LLC  
20512 SW Roy Rogers Rd. Ste 150  
Sherwood, OR 97140  
503-217-5190

May 13, 2008

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

**Re: Appeal Hearing in the Matter of the Provident Development Group - Application, SP 07-07**

Dear Chair Allen and Members of the Planning Commission:

We hereby dismiss the Appeal of the Provident Application SP 07-07 for reasons outlined in our email to the planning department dated May 12, 2008. Please remove our hearing from tonight's agenda.

Respectfully,



J. Patrick Lucas, President

Pacific III, LLC

Good evening, my name is Neil Shannon and I reside at 23997 SW Red Fern Drive, Sherwood, Oregon.

It is my understanding that later this evening this committee will be conducting a working session on the Brookman Road Concept Plan. As a resident adjoining the Brookman Road boundary I have been closely following the development of the plan.

First, allow me to extend my thanks to Julia for her assistance and guidance during the steering committee phase, she has been helpful and professional at all phases in the program.

My intension this evening is to bring to your attention and consideration a contentious issue, one that the steering committee was not able to find consensus.

When adopted the 2005 Sherwood Transportation System Plan included the stub-end at the south end Red Fern Drive as a point of connectivity to the possible expansion of the Brookman Road addition however implementation of the TSP failed to incorporate the recommended provisions and signage to alert the neighborhood to this possibility.

It was natural for the Steering Committee to continue with the concept of Red Fern Drive as a connection to the Brookman Road addition and all three of the first proposed plans included extensions of the stub-end at Red Fern Drive. This issue came to my attention when, depending on the alternative selected, traffic was projected to increase from the current level of 600 trips per day to an astounding 3,100 trips per day, a five-fold increase.

Red Fern Drive is a 28-foot wide residential street and the TSP clearly recognizes that the vehicle trips per day should be limited to less than 1,000. Red Fern is also clearly identified in the TSP as a Local Street. A Local Street is defined as "having the sole function of providing access to immediate adjacent land. Service to 'through traffic movement' on local streets is deliberately discouraged by design." In addition, Table 8-3 notes that for local streets traffic management should not be necessary. A major concern of the Neighborhood Association is in the creation of a route for cut-through traffic from Brookman Road to Sunset Boulevard.

After much involvement with the neighborhood and the Arbor Lane Neighborhood Association the steering committee has made some recommendations that address most of the issues but I believe leave some issues open for interpretation. The committee has recommended that the Red Fern connection be noted as an "area of special concern" and that this extension be considered only if the traffic volumes can be maintained within 1,000 trips per day.

I very much appreciate the committees' efforts and recommendations but I am concerned about leaving the stub end of Red Fern open for future consideration. Traffic studies note that the traffic volume is estimated at 700 vpd with limited room for expansion. In addition, one of the goals of the Sherwood Transportation System Plan (TSP) is the concept of Connectivity, that is, to provide multiple access opportunities for entering or exiting neighborhoods. Unfortunately, these goals are not met. Red Fern Drive terminates at Sunset Boulevard and that all traffic is forced to divert east or west. To establish connectivity to downtown Sherwood we must continue to depend on the Ladd Hill / Main Street connection.

I understand that this concept plan is open for revision and debate, both within your commission and before the City Council. In the future staff will use this plan to direct the development of the Brookman Road addition. It is my request that this Planning Commission provide clear direction to staff regarding the issues of Red Fern Drive.

Thank you for your consideration and I am open for questions.

# **APPROVED MINUTES**



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**City of Sherwood, Oregon**  
**DRAFT Planning Commission Minutes**  
**May 13, 2008**

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**Commission Members Present:**

Chair Allen  
Jean Lafayette  
Todd Skelton  
Adrian Emery

**Staff:**

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

**Council Liaison** – Keith Mays

**Commission Members Absent:**

Lisa Walker and Matt Nolan

**City Attorney** – Not present

**1. Call to Order/Roll Call** – Karen Brown called roll. Commissioners Walker and Nolan were absent. Chair Allen moved directly to new business with the intent to return to the non-quorum agenda items afterwards.

**2. Agenda Review** - The agenda includes the continuation of the Public Hearing SP 07-07 Appeal of Provident Development Group, business items and public comments, then move to work session.

Commissioner Lafayette asked if the Director's interpretation and a vote on it were going to be looked at under old business.

Julia responded by saying Heather had pointed out that it was not on the agenda. She feels it could be reviewed under old business or new business. There was a memo in the Planning Commission packets.

Chair Allen asked if it had been properly noticed.

Per Julia, it had not been noticed.

Since the issue had not been properly noticed Chair Allen wants to wait and discuss the item at the next meeting.

**3. Consent Agenda** – The consent items include the minutes from the April 8<sup>th</sup>, 2008 and the April 22, 2008.

- a. Commissioner Lafayette has scrivener's errors that she will submit to staff, as well as one sentence on page 18 that does not make sense. The second paragraph from the bottom. The word lands should be changed to lanes.

- b. Page 22 at the top the sentence should read “be carried over”.
- c. Motion made to approve consent agenda and voted for by all. Motion carries.

**4. Staff Announcements** – Staff announcements included Julia speaking to the Commission. She had recently attended the National APA Conference in Las Vegas and came back with a lot of good information. There are a lot of things the Planning Department and the Planning Commission are doing very well, including the exparte’ contact and declarations as well the department’s work on the code to try to make it more clear and less open for interpretation. The department has been aware that some updating needs to be done, and information at the conference reiterated the importance of that work. Julia plans to send a memo out to everyone soon to highlight information she received while she was there.

Chair Allen asked about filling the Planning Commission vacancy. Julie’s response was that at this time we have to real applicants and one applicant that is not actually a resident of Sherwood. She is not sure whether or not that person can be considered. She was hoping for more response, but believes that since we are a month and a half into the vacancy , that we should move forward and interview the applicants on hand.

**5. City Council Comments** – Mayor Mayes reminded the commission that he would see them all at the next City Council meeting Tuesday, May 20<sup>th</sup> for the joint Council/Planning Commission work session on Brookman Road. Chair Allen asked for an idea of how long the work session would last. Julia joined the conversation by saying she had requested an hour. Her hope is that consultant and she will give a 20 – 30 minute overview to bring everyone up to speed. The rest of the time is planned as an opportunity for the Planning Commission and the City Council to have a conversation with each other as well as will the consultant and the staff.

- a. Mayor Mayes continued by letting everyone know that the City has made a decision and is moving forward with awarding the contract for the work on the new reservoir project. Work on the project will begin later in the month.
- b. The contract has also been awarded for the replacement of the culvert on Washington Street near Stella Olsen Park. Work is scheduled to begin there in June.
- c. Paving on Pine will begin May 14 and is planned to be completed within the next 30 days.
- d. Discussions are continuing on the Cannery Site Project.
- e. Work is progressing nicely on Adams, but South Adams and North Adams.
- f. There will likely be a public hearing with City Council within the next 45 to 60 days. Details are becoming available on the 6 alternatives. Discussion will include the 3 new road alternatives and the impacts on the community.
- g. Council goals are to be approved next week, including updating the sign code, and reviewing the Old Town Design Standards.

6. **Community Comments** – Mr. Neil Shannon had filled out a comment form and was invited to address the Commission. Mr. Shannon read a statement he had written expressing his concerns about the Brookman Road Concept Plan that would be addressed during the work session following this meeting (and what will happen to Red Fern Drive). His statement will be attached to these minutes in its entirety.

7. **Old Business** – Continuation of the Public Hearing – Appeal of Provident Development Group Road, SP 07-07. Since the hearing has been previously convened Chair Allen did not read the entire disclosure statement, but did ask if any member of the Commission have had any exparte' contacts or any new conflicts of interest or bias on the project.

None were disclosed.

Julia began by saying that a formal letter withdrawing the appeal had been received earlier in the day. Per discussions with the City's Attorney since the appeal has been withdrawn, no further action is required by the Planning Commission, but that the hearing had to be opened so the letter could be entered into the record and the Commission notified.

With that being said, Chair Allen declared the appeal withdrawn.

8. **New business** – There was no new business to be discussed.

9. **Commission Member Comments-** No comments made.

The next meeting is the joint meeting with the City Council.

The next Planning Commission meeting is scheduled for June 10, 2008 and will include the Brookman Road Concept Plan Public Hearing.

Commissioner Lafayette asked what staffs plan for notification beyond the typical noticing process has been determined.

Per Julia, the regular means of notice: posted notices, public notice, notices mailed to all property owners on Brookman Road and within 100' of the Brookman Road area. These are all required. Staff also plans to send notices out to all the citizens on the interested parties list. It might be possible to have notice placed on the Robin Hood Theater board as well, although that is not traditional for public hearings.

Chair Allen asked if it would be possible to use the Archer Glenn and Middleton Elementary School reader boards.

Julia, said she would have staff check on that.

It is still being determined where the joint council meeting will be held and if it will possible to view the meeting at a later date.

Chair Allen adjourned the meeting at 7:25 PM.

End of minutes.