



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
September 25, 2007 – 7PM**

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Consent Agenda** – Draft Minutes from July 10, 2007 and July 24, 2007
4. **Staff Announcements**
Brookman Road Concept Plan update
Other
5. **Council Announcements** (Council President Dave Grant, Planning Commission Liaison)
6. **Community Comments** (*The public may provide comments on any non-agenda item*)
7. **Old Business:**
8. **New Business:**
 - a. **Public Hearing - Appeal - SP 07-09; CUP 07-03 – Snyder Park Lighting:** The appellant is appealing the decision of the Hearings Officer to approve the construction of four (4) 70 foot high Soccer Field Light Fixtures at Snyder Park, located on SW Sunset Blvd. As approved, the light fixtures will illuminate the soccer field in the early evening hours to allow for extended play, and be in use until no later than 9:00 p.m. when necessary. On top of the southwestern light fixture, the applicant has been approved to install a broadband antenna that extends about one foot above the pole of the light fixture. The property is zoned Low Density Residential Low (LDR).
9. **Comments from Commission**
10. **Next Meeting:** October 9, 2007
11. **Adjournment**

City of Sherwood, Oregon
Planning Commission DRAFT Minutes
July 24, 2007

Commission Members Present:

Chair Patrick Allen
Adrian Emery
Jean Lafayette
Dan Balza
Todd Skelton

Staff:

Julia Hajduk, Planning Dept. Manager
Gene Thomas, P.E. - Engineering
Cynthia Butler, Dept. Program Coordinator

Commission Members Absent:

Matt Nolan

Council Liaison – Dave Grant

1. **Call to Order/Roll Call** – Cynthia Butler called roll. Matt Nolan was noted as absent.
2. **Agenda Review** - There were no changes to the agenda.
3. **Consent Agenda** – Minutes from the June 26, 2007 session were approved by vote:
Yes – 5 No – 0 Abstain - 0
4. **Announcements** – Julia Hajduk said that the Planning Commission vacancy interviews with candidates are nearly complete. Recommendations will be forwarded to the Mayor and Council President, Dave Grant for final selection. The Brookman Rd. Concept Plan is on schedule, with the consultants drafting alternatives based on feedback from staff and the Steering Committee. The next regular Brookman Rd. Steering Committee meeting is August 22, 2007. Julia recapped that an informal discussion with property owners in the Cedar Brook Way and Hwy. 99 vicinity will occur on August 8th in the Community Room from 6:30PM-8PM, and will be facilitated by Patrick Allen in an unofficial capacity. The discussion will invite communication on common issues property owners have expressed in the past regarding potential development of their properties.

Jean Lafayette asked for an update on the potential fee-in-lieu process Julia has been discussing with the Finance Department. Julia said that discussions have been successful. Julia is drafting a policy memo and will meet again with Engineering and Public Works to coordinate details. Discussions with Finance continue on how funds would be distributed. Julia said she would provide another update at the next regular Planning Commission session.

5. **Community Comments** – Chair Allen asked if there were any community comments. There were none.

6. **Old Business** –

A. **SP 07-01; CUP 07-03** – Comfort Suites Hotel and Conference Center; continued from the June 26, 2007 hearing for Planning Commission deliberation.

Chair Allen asked Julia if the Public Hearings Disclosure Statement was required to be read.

Julia said it did not, and recapped that the public record was closed at the last session on June 26, 2007 and no new testimony should be received.

Chair Allen asked Commissioners if there was any *ex parte* contact, bias or conflicts of interest to disclose since the last session on this application. There was none.

Chair Allen opened discussion on SP 07-01 & CUP 07-03, and asked Julia for a recap.

Julia Hajduk recapped that Project Manager, Heather Austin was on maternity leave and referred to Heather's addendum staff report that was included packet materials for the meeting, dated July 17, 2007. Julia said the addendum report included condition modifications and responses to public comments. Julia concluded that staff recommends approval of the application with conditions as modified in the addendum staff report.

Jean Lafayette asked Julia to clarify the location in the report regarding Hwy. 99 access at the property line, as previously required by ODOT. Jean said she was uncomfortable that the revised plans did not show the road access from Hwy. 99 at the property line. Julia responded that staff is recommending revising this Condition in D-4. It was noted that there were two D-4 conditions appearing in the addendum report. Julia clarified the 2nd D-4 addressed the access question and added that she received an email from ODOT today that they will most likely not require the shared access along the property line from Hwy. 99. Julia added that the location shown by the applicant for the access will likely be approved by ODOT.

Chair Allen said that the Commission cannot consider new testimony at this juncture.

Julia agreed, but said that the condition says "or verification from ODOT will address it", either to move the access so that it is on the property line required by ODOT, or provide verification by ODOT that it is not required.

Adrian Emery said that if ODOT agrees to the applicant's access as shown, it is likely that in the future that there will be 2 driveways or access points off of Hwy. 99 located close together.

Julia said that this is a potential outcome, but it is not certain what will happen in the future on the property.

Chair Allen said that this leaves the Commission in a position to accept multiple driveways off of Hwy. 99.

Adrian agreed, and said that this was not what ODOT has led Sherwood to believe over the years on other applications. Adrian asked Julia if the Commission could place a condition that when the billboard is gone, in approximately 4 years, that the access driveways merge.

Julia said that is a call for ODOT to make.

Dan Balza said that he thought ODOT required a minimum distance between driveways, but could not recall the number.

Adrian added that this could be waived by ODOT if they choose.

Jean said that under the current view each site has access, but that purpose of having joint access is so that both properties have access without creating two driveways on Hwy. 99.

Chair Allen asked Julia if the Commission was pre-empted on this issue.

Julia said that ODOT does direct where access can be located on Hwy. 99, and added that Condition D-4 also requires, "in addition submit a recorded crossover access easement for the benefit of Tax Lot 1200 over the ingress and egress to Hwy. 99 on this property. Julia said that it is possible that where the access is currently proposed, could be deemed in the future by ODOT as access for the adjacent property. Julia reiterated that it is unknown when the adjacent property will develop or propose, and how ODOT will respond.

Chair Allen suggested coming back to this topic, and asked Commissioners if there were any concerns with changes made to remaining conditions such as; trash storage, the water control facility, location and design of hardscape, and the emergency access road.

Jean Lafayette discussed the hardscape and said that the landscaping plans did not show any hardscape as discussed at the last session. Patrick asked Julia if no new plans were submitted showing the hardscape. Julia said that the applicant's plans show some additional and the staff report has been updated. Jean asked if hardscape was still planned within the setback. Julia confirmed the hardscape would be within the 25-foot visual corridor. Jean stated that it would be beneficial to be able to see what the planned corridor would look like prior to making a decision.

Chair Allen confirmed that the Commission has 2 issues so far to continue deliberation; the Hwy. 99 access issue and the hardscape visual corridor. Chair Allen asked if there were any other outstanding issues for deliberation. Jean added the topic of the bridge that would go over the bioswale, if planned in this manner.

Chair Allen suggested discussing the hardscape and whether or not this should be used in the visual corridor. Julia stated that typically the visual corridor includes some lawn, shrubs, and trees. Jean said that hardscape could include chairs and benches, a good transition from Hwy. 99. Commissioners agreed.

Chair Allen recommended discussing the crossing of the bioswale to the path. Julia said that the pedestrian path and bioswale is currently on the plans, and if the applicant is going to follow this plan it will require a bridge. Julia concluded that this does not require a condition, as this will be an existing requirement of the design.

Chair Allen stated that he would like the record to show that the Commission clearly expects a bridge that crosses the bioswale. Julia confirmed.

Chair Allen referred back to the Hwy. 99 access issue for discussion. Patrick recapped Adrian's proposal to further condition that when the billboard is removed, joint access be required. Jean said that means whoever develops first gets the advantage of not complying with the City traffic standards, thereby creating inconsistency.

Jean said that the applicant should be required to comply with ODOT for a shared driveway. Adrian clarified that ODOT is no longer requiring a shared driveway access. Patrick said that the Commission cannot consider the latest communication from ODOT into the record. Jean agreed. Patrick asked Commissioners to consider the language that says if ODOT decides differently, it is OK. Patrick said that he was uncomfortable with ODOT changing decisions randomly that creates multiple access points in future development. Jean said that they should make a long term decision that makes sense for the City.

Patrick asked Julia if there was anything in the TSP regarding access on Hwy. 99. Julia said not directly, but reiterated that the condition was to comply with ODOT standards and if it no longer becomes necessary for the applicant to comply with ODOT standards, there needs to be specific findings by the Commission to support that. Julia referenced the Code that defers back to ODOT standards. Discussion ensued on various options for access with or without the billboard in place.

Julia addressed the previous discussion on receiving a waiver from ODOT on the access, and said that the Code allows ODOT to change their decision in the permitting process.

Chair Allen asked Commissioners if there was a consensus to make findings to support a requirement that the applicant meet the original ODOT standards. Adrian said that he agreed, but was concerned the Commission would not be able to make findings to support it. Patrick said that the Code language on shared access provides support.

Patrick asked Julia to clarify if the language “on the property line” is from ODOT standards, and “encouraging shared access by one of the potential means”, comes from the City Code. Julia confirmed. Patrick said the hesitancy is that future development further down the Hwy. at some point will develop and the access point will be too far apart to share, creating the multiple access points.

Jean said that the Commission supports ODOT in creating shared access opportunities in compliance with the City Code, and ODOT’s goal of minimizing driveways on Hwy. 99.

Chair Allen asked if Commissioners agreed. Commissioners confirmed.

Julia asked Commissioners to confirm they wanted to change Condition D-4 and if so, how they propose to change it. Patrick confirmed.

Jean referred to Code Section 16.108.050, and summarized, “Private ingress or egress from Hwy. 99 shall be minimized, considering existing alternatives such as shared or crossover access agreements between properties, consolidated access points, or frontage or backage roads.

Patrick said that language in Condition D-4 should be stated to remove “or” from and/or, to read,”complies with City and ODOT standards. Patrick added revised findings would be that the proposed cross-easement will not serve the goal of minimizing access, and on that basis, the Commission requires shared access or access at the property line. Patrick asked Julia if the language suited making findings. Julia confirmed. Patrick asked Commissioners if there was consensus to approve the new language. Commissioners concurred.

Jean Lafayette moved that the Planning Commission approve SP 07-01; CUP 07-03, based on the adoption of the staff report, findings of fact dated June 19, 2007, as supplemented on July 17th, with exclusion of the change to Condition D-4, public testimony, staff recommendations, agency comments, applicant comments and conditions as revised.

Adrian Emery seconded.

Chair Allen asked if there was any further discussion on the motion. There was none. Vote was taken:

Yes – 5 No – 0 Abstain – 0

Motion carried.

< 5-minute break was taken >

B. SP 07-04; MLP 07-04; LLA 07-01; CUP 07-01 – Area 59 Schools:

Chair Allen recapped that the Rasmussen septic issue, the 4-way stop at the intersection of Edy Rd. and Borchers, and the tennis courts located on the Rychlick property as issues for deliberation. Patrick asked for feedback on any other issues remaining for deliberation. There were none presented.

Chair Allen recommended beginning with the 4-way stop at the intersection of Edy Rd. and Borchers. Patrick recapped that the School District, Staff and the City Attorney confirm that the traffic analysis provides support to the recommendation for a 4-way stop. Patrick added that if the Commission disagrees, it is necessary to support the decision with findings, which Commissioners agreed was not possible.

Jean expressed confusion over Condition G-3 and said that it appears it should be labeled as Condition F-3. Jean said that the School District letter requests the condition to include the requirement about a west bound turn lane on Edy Rd. and Borchers. Patrick said this is not in the revised conditions, and it is G-3. Julia confirmed that it is Condition G-3. Chair Allen asked if there was further discussion on the G-3 issue. There was none.

Chair Allen recapped that the ball fields located on the Rychlick property in terms of condemnation is not an issue for the Commission to address, but the landscape buffering and lighting in the staff report may be addressed. Patrick asked if Commissioners thought that the landscaping and lighting was adequate. Patrick said that the revised conditions require 6-foot screening.

Jean referred to the ball fields at Snyder Park in regard to the screening and lighting. Jean asked if the applicant would open to providing additional screening after the proposed 20-foot tennis courts and 6-foot screening are in place if it becomes evident more is needed for the neighboring property. Patrick stated that the existing buffer and screening appears adequate, and if neighbors discover an issue in the future there are mechanisms in place for property owners to address them. Commissioners agreed. Commissioners discussed the 9PM timeline for lighting and agreed with findings in the staff report.

Chair Allen opened discussion on the Rasmussen septic issue, Condition B-2, Items A-D, in the staff report.

Julia said that Condition B-2, Items A-D is found in Exhibit O-1.

Chair Allen recapped that in addition to a recommended condition from staff, the School District has proposed a change, and Mr. Rasmussen has also proposed a change. Julia reiterated that the proposed changes recapped by Chair Allen were in the record, but that Exhibit O-1 primarily outlines the School District's recommended modification as presented at the last meeting. Patrick asked Julia to clarify that Condition B-2 specifically says the applicant will connect the existing house to the existing municipal sewer system, which reads more clear than in the past on who is responsible for connecting to the sewer.

Julia said that it should read as Exhibit J provided previously.

Patrick Allen referred to the July 23rd letter from Miller Nash on behalf of the School District, which says, "no grading shall occur within the delineated areas until the municipal sewer line is connected and the septic system is abandoned." Patrick stated that this language was more general.

Julia said the July 23rd memo's recommended change is found under Condition B-2, Item C.

Patrick said that the bottom line is that if anything is done on the School District site disturbs the Rasmussen septic system, the Rasmussen's will be required to abandon the septic system and connect to the municipal sewer system, at the School District's expense.

Julia confirmed.

Dan Balza clarified, "before any grading occurs". Chair Allen confirmed.

Julia asked to clarify that it should read, "before any grading occurs in a way that would impact the septic system." Chair Allen confirmed that the condition protects the Rasmussen's' to be connected either to the septic or municipal sewer system.

Chair Allen asked if there was further discussion on the septic sewer issue. There was none.

Jean Lafayette moved to approve SP 07-04; CUP 07-01; MLP 07-04; and LLA 07-01, Area 59 Schools based on the adoption of the staff report, findings of fact, public testimony, staff recommendations, agency comments, applicant comments, and conditions as revised in Exhibit O-1.

Dan Balza seconded.

Chair Allen asked if there was any further discussion on the motion. There was none. Vote was taken:

Yes – 5 No – 0 Abstain – 0

Motion carried.

7. **New Business – Sanitary Sewer Master Plan Public Hearing:** Chair Allen opened the public hearing at 8:06 PM. Gene Thomas, P.E. for the City of Sherwood, and the consultant from Murray, Smith & Associates presented comments and offered to answer questions. Gene recapped that there was a work session in June followed by an open house, and a draft of the proposed plan has been on the City web site.

Chair Allen noted that there were no public in attendance for public testimony, and closed the public hearing at 8:15 PM.

Adrian Emery asked what was decided for the NW side of the Area 59 site. Gene responded that the sewer line would be mounted under a pedestrian bridge.

Chair Allen asked if there were any further questions from the Commission. There were none.

Jean Lafayette moved to recommend to Council the Sanitary Sewer Master Plan based on the adoption of the staff report, findings of fact, public testimony, staff recommendations, agency comments, and applicant comments.

Dan Balza seconded.

Chair Allen asked if there were any further comments on the motion. There were none. Vote was taken:

Yes – 5 No – 0 Abstain – 0

Motion carried.

8. **Comments by Commission** – Adrian said the I-5/Hwy. 99 Connector task force meetings are down to about 7 alternatives, but it is a very slow process and may be 10 years before a decision is made. Dan Balza asked Julia what the plan was for the Snyder Park lighting. Julia said that there was an application currently under review for a public hearing with the Hearings Officer on August 6th. Julia said that Dan could view the file as a citizen and that Michelle Miller is the project manager.

8. **Next Meeting - August 28, 2007;** No agenda items planned at this time. TBD whether or not a session will be held. Dan Balza and Adrian Emery indicated that they will not be able to attend on August 28th if there is a meeting.

9. **Adjournment** – Chair Allen adjourned the session at 8:20 PM.

End of Minutes.

City of Sherwood, Oregon
Planning Commission DRAFT Minutes
July 10, 2007

Commission Members Present:

Chair – Patrick Allen
Jean Lafayette
Dan Balza
Todd Skelton
Matt Nolan

Staff:

Julia Hajduk – Planning Manager
Tom Pessemier – City Engineer
Lee Harrington – Sr. Project Mgr., Engineering

Commission Members Absent:

Adrian Emery

Council Liaison – Dave Grant

1. **Call to Order/Roll Call** – Cynthia Butler called roll. Adrian Emery was noted as absent.

2. **Agenda Review** - There were no changes to the agenda.

3. **Consent Agenda** – None.

4. **Announcements** – Julia distributed an email received today from Mr. R.J. Claus that was directed to the Planning Commission and City Council. Julia added that the email was not related to any agenda item for this evening’s meeting and was distributed for their reference. Julia provided an update for the Brookman Rd. Concept Plan process. The Brookman Rd. Steering Committee will hold a special meeting on July 18th to cover the Goals and Evaluation Criteria that was not possible to cover in the previous regular meeting on June 27th. Interviews for candidates who have applied to fill the Planning Commission vacancy are being scheduled for next week. Commissioners were given copies of the reformatted Sherwood Community Development and Zoning Code document with the new numbering format. The change allowed the document to merge completely with the Sherwood Municipal Code numbering format, identified within the Municipal Code as Section 16. A cross-reference document is provided at the back of the material so that any reference to previous zoning code numbering can be located in the new format. Julia added that the web site will show both versions during the transition, but that from this point forward staff reports and reference will be made using the new Section 16 numbering format shown.

Jean Lafayette asked for an update on the fee-in-lieu discussion with the Finance Department for street public improvements. Julia said that she met with Finance and setting up fee-in-lieu accounts for this purpose is possible, but details are still being worked out. Julia will provide another update soon as one is available.

5. **Community Comments** – Chair Allen asked if there were any community comments. There were none.

6. New Business: SP 07-04; MLP 07-04; LLA 07-01; CUP 07-01: Area 59 Schools - Todd Skelton read the Public Hearings Disclosure statement. Chair Allen referred to the supplement staff report by Julia Hajduk, dated July 9, 2007, covering the issue of exparté contact. Because the development of two new schools is inherently a very open public process, all Commissioners have had some exparté contact. As such, Chair Allen asked each member of the Commission to express any exparté contact and declare, if any, issues resulting. There were no issues to declare and each Commissioner confirmed that there was nothing that would impair their ability to deliberate on this application.

Julia Hajduk recapped the project and said that the application is generally consistent with the Code, and recommends approval with conditions. Julia referred to her addendum to the staff report labeled Exhibit I, dated July 9, 2007 that was sent by email to Commissioners and distributed in hard copy at tonight's session. Also distributed to Commissioners tonight, was a report from Keith Jones at Harper Houf Peterson Righellis, providing comments to the July 3, 2007 staff report on the recommended conditions of approval.

Jean Lafayette referred to Page 12 of the staff report regarding defining Institutional Public (IP) zone boundaries at the site, and asked Julia to clarify if the Commission approves the application tonight, that they are accepting the boundaries defining the zone. Julia confirmed. Jean asked if there was a map showing the boundaries. Julia said that mapping can occur at a later date when road rights-of-way, lot line adjustments, and partitions are also defined. Jean recommended that in the future a separate action occur for the Commission to approve boundaries, separate from the approval of the application. Julia confirmed.

Matt Nolan stated that it was unclear if the School District now owned the property, and if not asked how to proceed. Julia referred to condemnation filings made by the School District that provides legal ownership of the property, and deferred to Kelly Hossaini, attorney from Miller Nash representing the School District, who would respond during the applicant testimony period.

Todd Skelton asked staff for a recap from the traffic study supplement regarding the 4-way stop at Edy & Borchers Rd. Julia deferred to Tom Pessemier, City Engineer, and Lee Harrington, Engineering Sr. Project Mgr. for response later in the session.

Dan Jamison, Sherwood School District Superintendent, 23295 SW Main St.; Mr. Jamison thanked everyone involved for the detailed and lengthy process and the collaboration required by many, and deferred to Keith Jones, Harper Houf Peterson Righellis who provided a PowerPoint presentation.

[PowerPoint presentation]

Jean Lafayette asked why the bike path was not shown, and stated that the project was to encourage pedestrian and bike traffic. Keith Jones said that a bike path was not included because the street is classified as a Neighborhood Route and per the Transportation System Plan (TSP) does not require a bike path. Keith said that there will not be constant traffic and added that 8 foot sidewalks will accommodate bike traffic, which likely would be the avenue of choice for bike riders. Jean disagreed. Discussion ensued among the Commission on this issue generally agreeing that students will use the sidewalk for biking.

Norm Dull, Dull Olsen Weekes Architects, 319 SW Washington St., Ste. 200, Portland OR 97204 – Mr. Dull recapped the physical layout of the project including centrally shared facilities for the kitchen and community room, separate entrances, drop off sites, and sport fields and play areas. Norm said that space has been designated also for future additions or portables when needed. Mr. Dull said that the middle school will accommodate 500 students and the elementary school 600 students. Buildings will be LEED certified with Silver rating.

Chris Maciejewski, DKS Engineers, 1400 SW 5th Ave., Ste. 500, Portland OR 97201 – Chris discussed the traffic study produced by DKS and recapped existing conditions and stated that he believed they were met. Chris said traffic queuing for site access and circulation is designed for safety, the bicycle standard for Neighborhood Routes (25 MPH maximum speed) is geared for lower volume of traffic, and connectivity for bussing has been met. Chris addressed Todd Skelton's earlier question about the 4-way stop at Edy Rd. and Borchers by saying that the off-site impacts of traffic related to the project do not call for a traffic signal. Chris reviewed spacing requirements at Hwy. 99 and said that they have worked with ODOT and Washington County during the study in making findings. Chris added that at some point a signal will likely be needed at this intersection, but at this time traffic data does not warrant it.

Kelly Hossaini, Miller Nash LLP, 111 SW 5th Ave., Ste. 3400, Portland OR 97204; School District legal representative – Kelly referred to the memo from Keith Jones, Harper Houf Peterson Righellis, dated July 10, 2007 that was distributed this evening – Item #A-3, “the developer is responsible for all costs associated with private and public facility improvements.” Kelly wanted to be clear that the School District will seek reimbursement for bringing water, sewer, and storm water facilities to the area. Regarding Item #A-5, “the land partition approval is valid for a period of twelve months from the date of the decision notice...”, Kelly reiterated that 2 years is allowed (including an additional 12-month extension) for final plat approval and recording at the Washington County Surveyor's Office. Due to infrastructure construction required in the project it will likely require this 2-year time frame. Kelly discussed the drain fields on the Rasmussen and Fillmore properties. Kelly said that the School District has in writing and orally conveyed to the affected property owners that the District acknowledges legal responsibility to either repair existing septic systems or connect properties to city sewer if any damage occurs due to the project. Mr. Rasmussen has asked for further assurances, and the School District has agreed to ask the City to include a couple additional conditions of approval as follows: 1) If the proposed development impacts the septic systems on the Fillmore or Rasmussen properties in such a way as to require repair permit or otherwise take the systems out of compliance, then the applicant will connect the existing house to the extended municipal sanitary sewer line in Copper Terrace, and abandon the existing septic systems in accordance with State law as reviewed by the City Engineer. 2) Any existing septic systems and or underground storage tanks shall be clearly delineated in the field and on the grading plans. No grading shall occur within the delineated areas until abandoned in accordance with State law and as reviewed and approved by the City Engineer. Kelly reiterated that no grading can occur until the homes on these properties are connected to the municipal sanitary sewer line.

Chair Allen confirmed that there was 6 minutes remaining for applicant testimony/rebuttal.

Patrick asked Kelly if it is determined after schools open that the 4-way stop at Edy. Rd. and Borchers Dr. is not sufficient and a traffic signal is deemed necessary, that the applicant is willing to place another condition to be responsible within a window of time after the school

opens, for bearing the cost of a traffic signal at this location. Kelly said that this intersection is in the City's Capital Improvement Plan to be addressed using System Development Charge (SDC) funds. Kelly reiterated that the School District is currently paying nearly \$500,000 in Traffic Impact Fees (TIF) for the schools.

Julia Hajduk said it is a policy decision to determine whether the traffic signal is installed at this intersection with this project or later when fully warranted. Julia said that staff asked an outside consultant to also review the traffic study and it was agreed that a 4-way stop is a short term fix for the intersection, but is also warranted versus a traffic signal at this time.

Tom Pessemier said that the School District is correct that they are paying enough fees to use on the intersection. ODOT has a vested interest in the decision and has also looked at it, and comparisons have been made with similar circumstances in other jurisdictions using 4-way stops successfully.

Dave Grant, Council President and liaison to the Planning Commission, said that he often frequents the Edy Rd. and Borchers Dr. intersection and believes the eastbound traffic is mostly affected. Discussion ensued with varying opinions on which direction of traffic was worse, costs associated with a traffic signal, and consensus was that at some point a traffic signal will be required at this intersection. It was also reiterated by staff, DKS, and Chair Allen that the traffic study concluded however, that it was not warranted at this time.

Chair Allen opened discussion up to public testimony.

John Rankin, Attorney – 26715 SW Baker Rd., Sherwood OR 97140 – John reiterated that he represents some of the property owners in the project area. John discussed sanitary sewer and storm water issues.

Darwin Rasmussen, property owner – 21730 SW Elwert Rd., Sherwood OR 97140 – Mr. Rasmussen distributed a brief non-dated memo regarding potential impacts of development on an existing septic system, and expressed concern over potential damage to his property should his current septic system become damaged by development. Mr. Rasmussen reiterated that the house becomes inhabitable if the septic system is damaged, and wanted language added into the conditions to reflect protection of his interests in this regard. Mr. Rasmussen also asked for a hearing continuance.

Kevin Noreen, School Board member, 16680 SW Meinecke Rd., Sherwood OR 97140 – Kevin spoke generally in support of the schools and the need for the project to move forward.

Connie Hansen, School Board member, 17140 SW Squirrel Ln., Sherwood OR 97140 – Connie also spoke generally in support of the schools and the need for the project to move forward.

Jean Lafayette asked Connie Hansen to comment on the courtyard design of the school, and why there was already a need to plan future portable buildings for expansion when there were empty courtyard spaces.

Connie said that the courtyards are not considered empty space, but contribute light and a better learning environment.

Chair Allen asked if there was further public testimony. There was none.

Chair Allen confirmed that a hearing continuance had been requested and would be granted. Discussion ensued about whether or not and how long to keep the record open. Chair Allen recommended taking a 15-minute break to allow the School District and Mr. Rasmussen an opportunity to discuss options before continuing. A break was taken at 8:35 PM.

< 15-minute break >

Chair Allen reconvened the session at 8:50 PM.

Dan Balza declared that he had exparté contact with the School District during the break in a discussion on the condemnation process, but that it would have no bearing on his ability to make a decision on the application.

Dan Jamison said that he met with Mr. Rasmussen during the break, including a meeting yesterday with other professionals. Mr. Jamison recommended that the professionals be brought back into another meeting, which the School District would arrange.

Darwin Rasmussen said that he would like to see what they could work out in the next couple of weeks, but would like the record left open during that time.

Chair Allen suggested leaving the record open for 7 days for public and applicant written testimony, and another 7 days for staff responses to comments. Chair Allen asked the School District if they needed the additional 7 days for their response.

Kelly Hossaini on behalf of the School District waived the additional 7 days.

Chair Allen reiterated that there would not be turnaround time for Commissioners to receive staff comments before the next July 24th session and recommended that Commissioners arrive early to review the hard copies distributed that evening. Julia Hajduk said that she would forward any comments received as they came in so that only the staff report and final comments received on July 24th would need to be distributed at the meeting.

Chair Allen recommended allowing the remaining rebuttal testimony period for the applicant to resume, followed by staff comments and Commission deliberations to reach consensus. Commissioners agreed.

Chair Allen closed the public hearing at 9:07 PM.

Julia Hajduk recapped the dates for the record to remain open; July 17th at 5PM for the first 7 days, July 24th at 5PM for the second 7 days.

Julia recapped staff comments on the evening testimony. Regarding the 4-way stop sign versus a signal at Edy Rd. & Borchers Dr., Julia reiterated that it was a policy call, but that staff recommends following the traffic study data provided by the consultants, DKS. Julia added that

findings would need to be made by the Commission if they were to decide against the traffic study and opt for the signal at this time.

Discussion ensued among Commissioners about the options for traffic control at this intersection. Todd Skelton affirmed that he still wanted to see a traffic signal placed. After continued deliberation, consensus was reached to leave the 4-way stop.

Julia addressed the septic system on Mr. Rasmussen's property and confirmed that grading cannot occur until the septic is abandoned and sewer service is available to the property. Julia said that the School District has plans to meet again with Mr. Rasmussen and will wait until after that meeting for any further discussion if needed.

Chair Allen asked Julia if the other modifications to conditions in Item #A-3 and #A-5 as proposed by Kelly Hossaini on behalf of the School District was acceptable. Julia confirmed that they were.

Chair Allen recapped that more deliberation would be possible after the written record is closed and any further testimony is received.

Chair Allen requested a motion to keep the written record open on SP 07-04; MLP 07-04; LLA 07-01; CUP 07-01, Area 59 Schools until 5PM July 17, 2007 – and until 5PM July 24th for written responses to those comments, with continued deliberation at the next regular meeting on July 24, 2007.

Matt Nolan so moved.

Jean Lafayette seconded.

Chair Allen asked if there was any further discussion on the motion. There was none. Vote was taken:

Yes – 5 No – 0 Abstain – 0

Motion carried.

7. Comments by Commission – Matt Nolan said that since he was absent at the last session that included the public hearing for Comfort Suites Hotel and Conference center, he would like a copy of the taped recorded session so that he will be able to deliberate on this application at the next session. Cynthia Butler confirmed that a copy of the previous session would be included in the next packet of materials delivered to Matt.

8. Next Meeting - July 24, 2007; Deliberations on the Sanitary Sewer Master Plan; Area 59 Schools; Comfort Suites Hotel and Conference Center.

9. Adjournment – Chair Allen adjourned the session at 9:25 PM.

End of Minutes.

Commission Meeting Date: September 25, 2007

Agenda Item: *Snyder Park Soccer Field Lighting Appeal*

STAFF REPORT

TO: Sherwood Planning Commission
FROM: Michelle Miller, Associate Planner *MM*
SUBJECT: Appeal of Snyder Park Soccer Field Lighting (SP 07-09, CUP 07-03)
from the Hearing Officer Decision of August 13, 2007

Appeal Hearings Officer Decision

An appeal has been filed by Homer Paul Grob Jr., a resident of Sherwood and property owner near Snyder Park (SP 07-09/CUP 07-03). Mr. Grob appealed several findings and conditions of approval of the Hearings Officer's decision outlined in the attached Exhibit 1. In summary, Mr. Grob raised the following issues on appeal: the lighting fixtures have not been adequately shown to reduce glare on the adjoining properties, the neighboring properties will be adversely affected and the mitigation measures taken by the applicant are insufficient, and that the Hearings Officer incorrectly interpreted the requirements for towers and wireless communication facilities. Mr. Grob also raised concerns about his property value, the policy of the installation of lights, and promises made by a former mayor that there would not be lights in Snyder Park. The Hearings Officer found that these concerns were not relevant to address the applicable code criteria for the land use action. The Hearings Officer's decision and record is attached as Exhibit 2 with exhibits 2-A through 2-I.

Background/Issues on Appeal

The applicant, the City of Sherwood, submitted a land use application for a conditional use permit and site plan for four(4) 70 foot light fixtures to be installed at the soccer field in Snyder Park, 15356 SW Sunset Blvd. to be utilized for extended play for lacrosse and soccer team practices and games. Also, the City requested that a wireless antenna be attached to one of the light fixtures increasing the size of one of the fixtures approximately one foot. A conditional use permit is required due to the height of the light fixtures, under § 16.62.

The twenty acre park, owned by the City, is zoned Low Density Residential (LDR) and in a neighborhood consisting of single family homes. There is a small area attached the park zoned Institutional Public (IP), also owned by the City. The grounds of the park contain a picnic pavilion, a turf soccer field, play structures, an active use fountain and baseball fields.

The public hearing was held on August 13, 2007, with the Hearings Officer where the applicant and the public presented testimony and comment. Several exhibits were admitted into evidence at the hearing and included in the record. Mr. Grob testified at the hearing and thus has standing to appeal the decision of the Hearings Officer.

The Hearings Officer approved, with conditions, the land use application and conditional use permit finding the applicable code criteria had been met by the City. § 16.90.020(3) and 16.82.020(4) of the Sherwood Zoning and Community Development Code identify the site plan and conditional use review criteria and the heat and glare standards are set out in §16.154.

Comments by the applicant and the proponents identified the added playing time the lighting provides for the 1,300-1,800 children estimated to use the field during the fall and winter months. The applicant cited the benefits of lighting the field in a cost-effective manner using new technology and accomplishment one of the

City Council's policy goals. The lighting of the existing fields would provide a more energy efficient means of providing this benefit to the community while reducing the expense of the noise generating temporary lights that are currently in place. Each of the light fixtures would have five separate bulbs with glare light control visors that would be developed to comply with the City's heat and glare standards. The City will have a computerized mechanism in place for an automatic shutoff time of 9:00 pm when the fields are being used.

Mr. Grob has appealed this decision. The appeal is based on the following relevant¹ points:

1. **Section 16.82.020 (A):** The evidence presented did not demonstrate that the light fixtures would reduce glare into adjacent criteria.
2. **Section 16.14.040 (B):** The setbacks of the fixtures from the property did not satisfy the code criteria for the zoning designation of low density residential.
3. ***Section 16.82.020(C-E):** Neighboring property will be adversely affected and the conditions of approval are insufficient to mitigate the impacts. The shut off time of 9:00 is not sufficient to protect the owner's use and enjoyment of their property.
4. ***Section 16.82.020(H-L):** The Hearing officer incorrectly interpreted the requirements for towers and wireless communication facilities.

*Mr. Grob identified code criteria that do not exist and staff assumes he was identifying the conditional use criteria due to the letters identified in his citation.

Analysis of the appellant's issues

Issue1: The Code criterion identifies the heat and glare standards in §16.154 to consist of .5 candle foot of illumination at the property line of the neighboring properties when the adjoining properties are zoned for residential uses. Tim Butts of Musco Lighting, the designer of the light fixtures testified that this glare standard could be achieved with the lighting system proposed. Additionally, Mr. Butts testified that these lights would be guaranteed to meet the code standards. The applicant illustrated this standard by providing **Exhibit 2G** which shows compliance with this code section and the illumination levels to the affected surrounding property owners. The Hearing Officer conditioned the applicant to meet the heat and glare standard with the light fixtures. This is the standard that the community has established through the implementation of the Development Code. This is a sufficient means to measure the acceptability of glare to neighboring property owners. The evidence submitted and the conditions of approval imposed satisfy this criterion.

Issue 2: Because the park abuts a residential zone, the setback requirements apply. The fixtures will be further than twenty feet from the front property line, further than five feet from the side and twenty feet from the rear property lines. All setbacks are met with the setbacks for the light fixtures closest to the adjoining properties being at least 30 feet.

¹ The appeal raises several issues that are not relevant to specific code criteria. Specifically, alleged promises made by the former mayor regarding the lights and lower property values are not relevant issues for the hearing authority. The appellant also raised the issue of adequate screening, not discussed at the hearing, and thus not able to be reviewed at the appeal level.

Issue 3: In looking at this criterion, the applicant must show that the proposal meets the overall needs of the community. The Sherwood Park Board made the recommendation to support the lighting of the soccer field to provide for necessary additional recreational facilities for its citizens. The City Council placed lighting sports fields as a goal for 2007. These were policy decisions that started the land use application process. In support of this criterion, the applicant presented testimony that showed the increased number of users of the field and the amount of added playing time due to the new fixtures. The soccer and lacrosse organizations will pay a fee for the use of the field and lighting. According to § 16.82.020(C), if the surrounding property is adversely affected by the use, then the conditions imposed must be sufficiently mitigated. Mr. Grob stated that he was adversely affected in general, and the measures that the City took to mitigate these impacts were insufficient. One mitigation measure he cited was the 9:00 pm shutoff time. This shutoff time would be similar to the lighting that is available during the summer months rather than complete darkness by 6:00 pm during soccer and lacrosse season. This shutoff time is regulated off site and will turn off automatically rather than be at the discretion of coaches. Additionally, the applicant has proposed this shut-off time. In the Conditions of Approval, the applicant is required to comply with the terms of the proposal presented and site plan. There is no need for an added condition that specifies this requirement as it is part of the application submitted.

Mr. Grob believed his property value would be adversely affected by the field lighting, but gave no evidence to support this claim. There is no code criterion that addresses the valuation of nearby property regardless of these claims, and the Hearings Officer found it to be not relevant to the decision. Other testimony was received related to noise and prior Council actions. The Hearings Officer weighed all of the relevant impacts as presented in his decision and found them sufficient to mitigate any adverse impacts, if any, to the abutting property owners.

Issue 4: Although Mr. Grob did not cite the code criterion of 16.62, he did claim that the Hearings Officer did not correctly apply the standards for “towers” found under this criterion. This code section lists the various types of structures and towers that are allowed to exceed the height limits of their particular zone. In this case, the Hearings Officer found that the light poles were most closely aligned with the similar structures found under this section. For this reason, the allowed height is 200 feet. The light fixtures fall under this standard and the sixty-five and seventy feet poles clearly meet this height maximum.

The applicant is proposing a single antenna to be added to the southwest light pole in place of an entirely separate wireless communication facility. One foot would be added to the proposed height of the pole. It uses the proposed light fixture to attach at the top of this pole. The co-location of the antenna does not serve to create a new wireless communication facility so analysis under this section is not applicable. The Hearings Officer concurred and found that these criteria do not apply in this situation and he made findings as such.

Notice Issue

The appellant’s attorney, Mr. Ken Helm also submitted a letter on behalf of his client raising the issue of adequate notice of hearing. The Code requirements are set forth in § 16.72.020 Public Notice. For a Type III application for a conditional use, the City is required to send “written notice by regular mail to owners of record of all real property within 100 feet from the property subject to the land use action.” The City did indeed send out notice on July 17, 2007 in accordance with this Code section, twenty days in advance of the Hearing to be held on August 6, 2007. Additionally, the Code requires newspaper notice and posted notice. This posted notice includes a sign at the site and notification of the Hearing at the YMCA, Senior Center, Library, Albertsons and City Hall. Newspaper notice

includes posting in the Tigard-Tualatin Times on two occasions before the Hearing. The City complied with all of these procedures regarding posting and prepared an affidavit in compliance with the Code. *See* Exhibit 4, Affidavit of Mailing. Mr. Helm's letter claims that several neighboring property owners may not have received notices that live within the 100 foot radius of the site. He offers no addresses of these property owners for a response to this claim. Many property owners were present at the Hearing and the Hearings Officer's Notice of Decision ruled that adequate notice was given.

The appellant submitted written signatures of citizens in opposition to the Soccer Field Lighting. Only issues raised or testimony received at the Hearing on August 6, 2007 is allowed to be presented at the Appeal Hearing before the Planning Commission. "The record before the Appeal Authority shall include only the evidence and argument submitted on the record before the Hearing Authority....New evidence may not be entered into the record." § 16.76.040 These signatures are clearly new evidence and testimony and cannot be presented at the Appeal Hearing. Therefore, these signatures should not be made part of the record.

Recommendation: Staff recommends that the City Planning Commission affirm the decision of the Hearings Officer approving the proposed lights at Snyder Park.

Attachments

Exhibit 1: Application for Appeal of the Snyder Park Soccer Field Lighting Decision of the Hearings Officer dated August 27, 2007 and filed by Mr. Homer Paul Grob, Jr. with attached letter, signatures and a letter prepared by attorney for the appellant, Mr. Helm.

Exhibit 2: Notice of Hearing Officer Decision, dated August 13, 2007 with attached Exhibits A-I.

Exhibit 3: Applicant's response to the Appeal, dated September 18, 2007.

Exhibit 4: Affidavit of Posting, dated July 17, 2007, prepared by Heather Austin, Senior Planner, City of Sherwood.



Home of the Tualatin River National Wildlife Refuge

RECEIVED

AUG 27 2007

BY MM
PLANNING DEPT.

Exhibit 1

TYPE _____

City of Sherwood

Application for Land Use Action

Type of Land Use Action Requested:

- Annexation
- Plan Amendment
- Variance
- Planned Unit Development
- Sign Permit
- Conditional Use
- Minor Partition
- Subdivision
- Site Plan
- Other: Appeal-Type III

By submitting this form the Owner, or Owner's authorized agent/ representative, acknowledges and agrees that City of Sherwood employees, and appointed or elected City Officials, have authority to enter the project site at all reasonable times for the purpose of inspecting project site conditions and gathering information related specifically to the project site.

Note: See City of Sherwood current Fee Schedule, which includes the "Publication/Distribution of Notice" fee, at www.ci.sherwood.or.us. Click on City Government/Departments/Finance.

*Refer to individual Checklists for above application types on details for required submittal materials to be provided with this completed Land Use Application Form, at time of submittal.

Owner/Applicant Information:

Applicant: HOMER PAUL GROB JR Phone: _____
 Applicant Address: 23417 SHERK, SHERWOOD OR Email: _____
 Owner: HOMER PAUL GROB JR Phone: _____
 Owner Address: 23417 SHERK, SHERWOOD OR Email: _____
 Contact for Additional Information: _____

Property Information:

Street Location: SNYDER PARK, SHERWOOD OR
 Tax Lot and Map No: _____
 Existing Structures/Use: _____
 Existing Plan/Zone Designation: _____
 Size of Property(ies) _____

Proposed Action:

Proposed Use: APPEAL OF HEARING'S OFFICER DECISION - CUP 07-03/SP 07-09-
 Proposed Plan/Zone Designation: SEE ATTACHED DOCUMENT
 Proposed No. of Phases (one year each): _____
 Square footage of structure (if proposed): _____
 Square footage of parking &/or seating capacity (if proposed): _____
 Number of lots (if applicable): _____
 Standard to be Varied & How Varied (Variance Only): _____

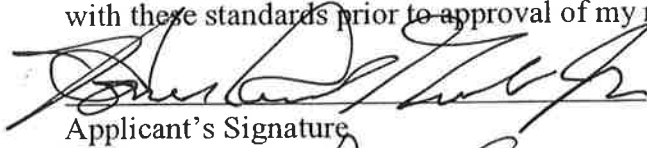
LAND USE APPLICATION FORM

Purpose and Description of Proposed Action: APPEAL OF HEARING OFFICER'S DECISION
CUP 07-03/SP 07-07 - SEE ATTACHED DOCUMENT

Authorizing Signatures:

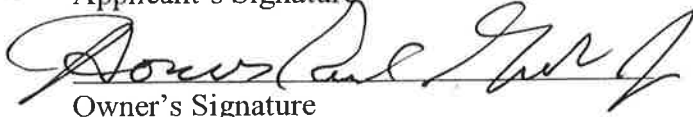
I am the owner/authorized agent of the owner empowered to submit this application and affirm that the information submitted with this application is correct to the best of my knowledge.

I further acknowledge that I have read the applicable standards for review of the land use action I am requesting and understand that I must demonstrate to the City review authorities compliance with these standards prior to approval of my request.



Applicant's Signature

8/27/2007
Date



Owner's Signature

8/27/2007
Date

To be submitted with the Application:

To complete the application, submit *fifteen (15) copies of the following (collated in sets with plans **folded**, not rolled):

1. A brief statement describing how the proposed action satisfies the requested findings criteria contained in the Development Code for the action requested.
2. Necessary information identified on Checklist(s) pertaining to specific land use action requested (available at counter & on-line). To help expedite your completeness review, include a completed copy of Checklist(s) to verify submitted information.

*Note that the *final* application must contain fifteen (15) folded sets of the above, however, upon initial submittal of the application and prior to completeness review, the applicant may submit three (3) complete folded sets with the application in lieu of fifteen (15), with the understanding that fifteen (15) complete sets of the application materials will be required before the application is deemed complete and scheduled for review.

**APPEAL OF THE HEARINGS OFFICER'S
DECISION IN CUP 07-03/SP 07-09**

Pursuant to Section 16.76 of the City of Sherwood Municipal Code, Mr. Homer Paul Grob Jr. appeals the decision of the Hearings Officer in the matter of the Snyder Park Sports Field Lights, File No: CUP 07-03/SP 07-09.

Mr. Grob is identified in the Hearings Officer's decision as having given testimony opposing the application. Mr. Grob's property abuts Snyder Park and he is adversely aggrieved by the Hearings Officer's approval of the lighting towers.

The Hearings Officer's findings and conclusions, and conditions of approval as to the following Conditional Use and Site Plan Permit approval standards of the City of Sherwood's Community Development and Zoning Code are appealed:

Section 16.82.020(3)(A) – the proposed lighting fixtures for the light towers have not been demonstrated to sufficiently reduce glare into adjacent properties.

Section 16.82.020(3)(B) – The surrounding neighborhood was promised that Snyder Park would never contain recreational lighting. The proposed shut off time of 9:00 p.m. is insufficient to protect the neighbors' use and enjoyment of their property.

Section 16.14.040(B) – The proposed setbacks for the towers from abutting properties is insufficient to protect the neighbors' use and enjoyment of their property.

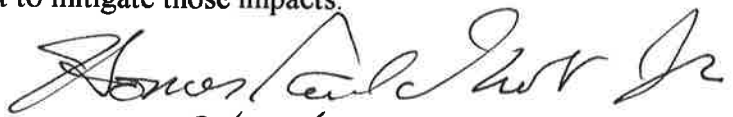
Section 16.14.040(C) – The neighbor's use and enjoyment of their property, and their property values will be adversely affected by the approval. These impacts were not sufficiently weighed against the community's needs.

Section 16.14.040(D) – The evidence of glare compliance is insufficient to demonstrate compliance with the city's glare and light pollution standards. Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Section 16.14.040(E) - Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Section 16.14.040(H-L) – The Hearings Officer incorrectly interpreted the requirements for towers and wireless communication facilities.

Section 16.82.020(4)(A) - Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.


8/27/2007

Section 16.82.020(4)(D) - No additional or alternative screening was proposed by the applicant or considered by the Hearings Officer.

Section 16.90 – The approved light towers are incompatible with residential uses in the area and therefore the site plan approval criteria cannot be met.

Section 16.154 - The application does not comply with the city's heat and glare requirements. Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Andrew Paul Hobbs Sr.
8/27/2007

SNYDER PARK LIGHTS

Letter to the editor:

The Snyder Park proposal to permanently install 70' tall stadium lighting a few feet from homes has been approved. This did not happen in a governmental vacuum, but no one informed the neighborhood. Only those whose property actually abutted the park received a single letter shortly before the hearing. Those parties naively attended the hearing thinking the purpose was a discussion. They were met with "this is a done deal, thanks for coming". The rest of the neighborhood was never informed, much less asked to provide input. Why would I say that? Well, because when asked, the neighbors said that. They then overwhelmingly signed a letter in opposition, about 100 signatures from the immediate neighborhood. One said this seemed an arrogant attempt at manipulation, perhaps a bit harsh, perhaps not. Neighbors also said they were unaware that the City had sited a wireless facility on top of one of the 70' light poles. It's a small antenna for now, but they can easily change that in the future.

Snyder Park was sited in the middle of an existing residential neighborhood under representation the soccer field would not be lit. The field was sited within the park to be unlit and the neighborhood took that representation in good faith.

Sherwood supports Sherwood Parks and the recreation opportunities provided. So do residents around the park. Evidence of support comes in the form that most have not complained when portable temporary lighting is installed at Snyder Park. A few residents have complained, probably rightfully so. The majority did not complain despite light shining into homes, sides of houses being illuminated, and the trees and landscaping surrounding the park glowing. They thought "let the kids play it out, it's only for a few days". It is unfortunate that people's good nature is often perceived as an opportunity to take advantage of them.

The way the lighting proposal was handled showed poor faith by the public servants elected to serve the neighborhood, a neighborhood whose support had been strong to this point. The proposal process betrayed a park siting representation, betrayed the principle of neighborhood involvement in decisions about the neighborhood, and the methodology was a slap in the face of Sherwood's title "one of America's most livable cities". What could possibly have made lights more important than all these?

Paul Grob

To Whom It May Concern:

The signatures listed below are written to show opposition to the City of Sherwood's Decision to place lights on the Snyder Park soccer field.

- 1) Anthony Passadore 15)
23441 SW SHERK PL.
- 2) Mashelle Passadore 16)
23441 SW SHERK PL.
- 3) Regis Anderson 17)
23324 SW SHERK PL
- 4) [Signature] 18)
15053 SW SMOCK ST
- 5) Kathy Mena 19)
23259 SHERK
- 6) Holly Meier 20)
23226 SW SHERK PL.
- 7) Ryan Jones 21)
23205 SW SHERK PL
Sherwood, OR 97146
- 8) Derek Mitralsky 22)
23254 SW SHERK PL.
- 9) Judy Roberts 23)
15876 SW SMOCK ST.
- 10) Charles S Roberts 24)
15076 SW SMOCK ST
- 11) Elise Gustafson 25)
15093 SW SMOCK ST.
- 12) John Meisinger 26)
15268 SW DIVISION ST
- 13) Pamela Meisinger 27)
15268 SW DIVISION ST
- 14) Helin Meisinger 28)
15236 SW DIVISION ST.
- 29) Caroline Scieurame
15236 S.W. Division
- 30) Michel H Mummy
15236 SW. DIVISION ST
- 31) Robert A Uou
14978 SW DIVISION ST
- 32) Heidi Noce
14978 SW DIVISION ST
- 33) Sharon M. Hess
15181 SW DIVISION ST.
- 34) A. David Hess
15181 SW DIVISION ST
- 35) Jason Blount
15349 DIVISION
- 36) TAMARA STROMQUIST
23010 SW PINE ST.
- 37) Robert West
23094 SW PINE ST
Sherwood, OR 97140
- 38) Karen Maranen
23135 SW Pine
Sherwood, Ore
- 39) Kathleen Willem-Katrina
23195 S.W. PINE
- 40) Karen Goad
23280 SW PINE ST.
- 41) [Signature]
Same as Above
- 42) Bobby J. Remmel
23342 SW PINE

To Whom It May Concern:

The signatures listed below are written to show opposition to the City of Sherwood's Decision to place lights on the Snyder Park soccer field.

- 1) Jerry Bergum 23424 SW Sherk Pl
- 2) Sarah Bulfinch 23465 SW Sherk Pl
- 3) Rob Bulfinch 23465 SW Sherk Pl
- 4) Danna Burch 23489 SW Sherk Pl
- 5) Stewart Kristen Peters 23470 SW Sherk Pl
- 6) Kyle Christenson 23410 SW Sherk Pl Sherwood OR 97140
- 7) Paul Galt 23417 SW SHERK SHERWOOD, OR
- 8) ~~Steve Madsen~~ 23374 SW Sherk Pl Sherwood, OR 97140
- 9) Pamela Minskerman 23371 SW Sherk Pl Sherwood OR 97140
- 10) Cyndee Post 30705 SW Windflower Sherwood 97140
- 11) Matt Post 30705 SW Windflower Sherwood OR 97140
- 12) JOHN PARKS 15048 SW Smock St Sherwood 97140
- 13) Diane Biernat 15088 SW Smock St Sherwood OR 97140
- 14) Michele Bassich 15081 SW Smock ST.
- 15) Allison Bassich 15081 SW Smock St.
- 16) Randy Holcombe 23291 SW Sherk Pl
- 17) Tibby Stancy 23332 SW Sherk Place
- 18) Rod & Gloria Naught 23235 SW Sherk Pl
- 19) Robin Krieger 23221 SW Sherk Pl
- 20) Pamela Parks 15048 SW Smock ANDREW GUSTAFSON 15093 SW Smock St Sherwood OR 97140
- 21) Jennifer Fiarito 23221 SW Brittany Pl Sherwood, OR 97140
- 22) Donna Dehany 23228 SW Brittany Sherwood OR 97140
- 23) David Fleishman 23535 S.W. Alder Grove Ave. Sherwood, OR. 97140
- 24) Elaine J. Wilson 15115 Ginkgo Ct Sherwood, OR 97140
- 25) Wake Wilson 15079 SW Ginkgo Ct Sherwood, OR 97140
- 26) Karen Phifer 15007 SW Ginkgo Ct Sherwood
- 27) Peter Slayden 15026 SW Ginkgo Ct,
- 28) Anna Raineri 23727 SW Alder Grove Ave Sherwood
- 29) Amy Farn 17672 SW Mandel Ln.
- 30) Gabe Famer 17672 SW Mandel Ln.
- 31) Julie Dilks 14827 SW Markback Ct. Sherwood, OR 97140
- 32) Chris Woodburn 23832 SW Heron Lakes Dr. Sherwood, OR 97140
- 33) Eileen Lesch 17991 SW Vandolah Sherwood, OR 97140
- 34) Collin Borke 23348 SW Price Sherwood, OR 97140
- 35) Donna Dehany 23228 SW Brittany Sherwood OR 97140
- 36) David Fleishman 23535 S.W. Alder Grove Ave. Sherwood, OR. 97140
- 37) Elaine J. Wilson 15115 Ginkgo Ct Sherwood, OR 97140
- 38) Wake Wilson 15079 SW Ginkgo Ct Sherwood, OR 97140
- 39) Karen Phifer 15007 SW Ginkgo Ct Sherwood
- 40) Peter Slayden 15026 SW Ginkgo Ct,
- 41) Anna Raineri 23727 SW Alder Grove Ave Sherwood
- 42) Amy Farn 17672 SW Mandel Ln.
- 43) Gabe Famer 17672 SW Mandel Ln.
- 44) Julie Dilks 14827 SW Markback Ct. Sherwood, OR 97140
- 45) Chris Woodburn 23832 SW Heron Lakes Dr. Sherwood, OR 97140
- 46) Eileen Lesch 17991 SW Vandolah Sherwood, OR 97140
- 47) Collin Borke 23348 SW Price Sherwood, OR 97140

KENNETH D. HELM
ATTORNEY AT LAW

16289 NW MISSION OAKS DRIVE
BEAVERTON, OR 97006

TELEPHONE
503-753-6342

E-MAIL
kmhelm@comcast.net

Ms. Michelle Miller
City of Sherwood
22560 SW Pine Street
Sherwood, Oregon 97140

September 14, 2007

Re: Snyder Park Soccer Field Lighting – SP 07-09, CUP 07-03

Ms. Miller:

I represent Mr. Paul Grob who appealed the Hearings Officer's decision on this application on August 28, 2007. The following comments identify legal and practical deficiencies with the Hearing Officer's decision. Please include these comments in the Planning Commission packet and make them part of the record in this matter.

The hearing before the Hearings Officer lacked sufficient notice.

Although the Hearings Officer's decision indicates that notice was given to property owners and posted notice was provided, only the property owners adjacent to the park apparently received written notice as required by the city code. It is unclear whether other owners within 100 feet of the park were also notified. Many of Mr. Grob's neighbors were completely unaware that the city was proposing to light the soccer field. Mr. Grob circulated a petition which is attached, and which nearly 90 neighbors signed. A majority of these neighbors indicated that they did not receive notice and were unaware that the Hearings Officer approved the new lighting for the field.

The Hearings Officer's decision does not adequately demonstrate that the applicant can meet the city's glare standards sufficient to insure that unwanted light pollution will not adversely affect the neighbors' use and enjoyment of their property.

The Hearings Officer imposed the following condition on installation of the lights at Snyder Park:

“Prior to issuance of final occupancy * * *

3. Provide verification that the glare and heat from the lights will be directed away from adjoining properties and the use shall not cause such glare or lights to shine off site in excess of one-half Foot Candle.”

This condition, while well meaning, does not protect the neighbors from harm, and it fails to protect the city from purchasing and installing lighting that may not be able to meet the .5 foot candle standard.

First, the verification is required too late in the development process. By the time the city tests the lights, they will already be installed at the field. There is a very real possibility that the lights will not work as expected. For example, at .5 foot candles, the light might be too dim to allow soccer play. Alternatively, the city may find that in order to provide enough light to allow the children to play, that it must increase the foot candle illumination to a level that violates the city code. At a minimum, the appellant requests that the Planning Commission amend the condition to require verification prior to the applicant obtaining a building permit.

Second, if the lights do not perform as advertised, the city will have spent a significant amount of city funds on equipment that may need to be removed. There is no guarantee required of either the applicant or the lighting provider, presumably Musco Lighting, that the lights will function as promised. If the lights operate at more than .5 foot candles, the neighbors will be placed in an unfair and untenable position of continually monitoring and possibly filing code enforcement complaints in order to protect their reasonable use and enjoyment of their own property. Alternatively, the city could get stuck with the bill for the lights and their removal if the lights don't function as claimed.

The appellant recommends that the Planning Commission require the applicant to obtain: 1) a performance guarantee from the lighting provider that places responsibility on that provider for meeting the .5 foot candle standard and liability for any failure of the product to perform as promised, and 2) a bond from the lighting provider sufficient pay for removal of the lighting system if it is found that the lights violate the .5 foot candle standard.

Third, the evidence that the Hearing Officer relied upon in his findings of compliance is simply not strong enough to insure that the lighting will function as promised by the applicant. In finding code compliance with Sections 16.82.020 and 16.14.040 the Hearing Officer relied on testimony from Tim Butts – the assumed lighting provider, and generic material provided by the manufacturer, and a computer model. The problem with this type of information is that it is generalized. Such generic information cannot take into account site specific conditions at Snyder Park, such as topography and the surrounding neighborhood.

What the applicant could have done, but apparently did not, is to determine whether the temporary lighting that has been used previously at the park is meeting the city's glare standard. The level of light provided by those temporary lights is presumably what the city believes is needed to allow the children to play in the evening. Those levels could be tested and the results considered before the city rushes to install permanent lighting.

The Hearings Officer's decision fails to impose a condition identifying when the lights must be shut off at night.

The applicant proposed that the lights would operate between dark and 9:00 p.m. The Hearings Officer's findings on the application's compatibility with surrounding use are premised on the 9:00 p.m. limitation. In particular, he finds that the 9:00 p.m. curfew is central to the application's compliance with section 16.82.020(B) and 16.14.040(C), (D) & (E). These are sections designed to protect existing property owners from adverse affects from noise, light and other potential nuisances related to the project. The absence of a condition is a problem for several reasons.

First, there is no discussion of why 9:00 p.m. is the appropriate shut off time for the park lighting. The Hearings Officer's decision states that comments from opponents included concerns about noise, late night activity and safety that all relate to drawing more city residents to the park at night. One of the primary reasons asserted by the applicant for needing evening lighting was to accommodate children's' soccer activities in the Fall and Winter months. However, apparently no consideration was given to earlier shut off times such as 8:00 p.m., which is consistent with most children's daily schedule. In fact, the primary reason given by the applicant for needing additional lighting was to accommodate children's games and practice. This alternative of an 8:00 p.m. shut off time should have been discussed. In fact, an 8:00 p.m. curfew would be superior in terms of meeting the compatibility standards identified above.

Second, because the Hearings Officer's decision focused on children as the primary users, it improperly ignored the potential of adult users to bring different potential disruptions to the neighborhood, which makes the compatibility findings on the code sections above incomplete. Adult usage of the soccer field and activities after games are over could easily become a nuisance and create safety problems for the neighborhood. These impacts should have been considered more thoroughly.

Third, a condition dictating the shut off time for lighting is needed to provide the neighborhood certainty that rules limiting when the lights will be on will not change over time. The Hearings Officer relates the testimony of some neighbors that the former Mayor promised that Snyder Park would never have lights at the soccer field. Naturally, these neighbors feel betrayed and wonder what additional changes might occur in the coming years. A condition stating that the shut off time will not ever be extended later in evening is needed both to support the Hearing Officer's compatibility findings, but more importantly, to insure that the city will not seek to change the rules in a future application.

The Hearings Officer's findings on Section 16.14.040(E) failed to consider alternative setbacks for the proposed light poles.

Code section 16.14.040(B) requires setbacks for structures in this zone. The Hearings Officer found that the application met those standards because the light poles would be more than 20 feet from the rear yards of the abutting properties. However, section 16.14.040(E) requires a consideration of whether impacts of the proposed development

can be accommodated by better orientation on the subject property. Neither the applicant nor the Hearings Officer considered whether moving the lights even further from the rear yards of the neighbors was possible or had the potential to better mitigate impacts on those abutting properties. Alternate location for the poles at greater distance from the backyards of abutting owners would undoubtedly better satisfy this criteria.

The Hearings Officer's findings on section 16.14.040(H-L) are conclusory and are not supported by substantial evidence.

For a wireless communication facility to be sited requires compliance with several locational requirements including a prohibition on facilities within 300 feet of residential zones. The staff report indicates that one antenna would be added to one of the poles to "increase the range of Sherwood Broadband wireless network." (Staff response to section 4.302.03(H)). Apparently, based on this information the Hearing Officer concluded that the antenna does not meet the definition of a "Wireless Communication Facility" which is:

"An unmanned facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices."
16.10.020.

No explanation accompanies the Hearings Officer's conclusion. It simply is not self evident that the applicant's request does not meet this definition. At a minimum, this finding must be revisited and explained.

Requested action.

The appellant requests that the Planning Commission reverse the decision of the Hearings Officer for all the reasons explained above. In the alternative, the appellant requests that the Planning Commission remand the Hearings Officer's decision, with instructions that the applicant must provide definitive evidence that the proposed lighting will meet the city's glare standards. In addition, the appellant requests that the Planning Commission instruct the Hearings Officer to conduct an additional hearing to review that new evidence and then apply conditions to correct the deficiencies discussed above.

On behalf of Mr. Paul Grob, thank you for your consideration of this matter.

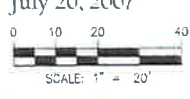
Sincerely,

Kenneth D. Helm



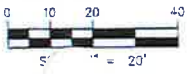
Exhibit F

Snyder Lights
 2006 Aerial, 2004 Topo
 July 20, 2007





Snyder Lights
2006 Aerial, 2004 Topo
July 20, 2007



August 13, 2007

CITY OF SHERWOOD
Report and Decision of the Hearings Officer

File No: CUP 07-03/SP 07-09

(Snyder Park Sports Field Lights)

EXECUTIVE SUMMARY

This is a quasi-judicial land use case in which the City of Sherwood is applying for Conditional Use approval and Site Plan approval to install field lights at the City owned Snyder Park, located at 15356 SW Sunset Blvd. The lights would sit on two 60 foot tall and two 70 foot tall light standards.

In this quasi-judicial case it is the obligation of the decision maker to apply the City's existing codes, plans, and policies to the factual situation involved with this specific proposal. Below is an evaluation of the applicable approval criteria.

Testimony has been received both in support of and in opposition to this proposal. Many of the concerns raised relate to the adoption of various codes, plans, and policies rather than to their application in this case. Other concerns raised relate more to the policy decision making process of the applicant (the City) in picking this particular park field for the placement of light standards rather than to the conditional use and site plan approval criteria. None of the objections point out any problems not anticipated with the normal use of a City owned park.

Since the City is both the applicant and the decision maker in this case, it can be difficult to separate the role of the City as applicant from the role of the City as the decision maker. Not serving as either a policy maker or as a party responsible for Parks planning allows the Hearings Officer to focus only on the quasi-judicial land use application approval criteria, as set out in this report.

City owned parks are a permitted use on this LDR zoned property and typically do not need Conditional Use approval (SDC 16.14.020.G.). The proposed lights would not need Conditional Use approval if the light standards were 30 feet tall or less (SDC 16.14.040.C.). Since the proposed light standards are to be taller than 30 feet (60 feet and 70 feet), conditional use approval is required. (SDC 16.62.020). Site Plan review is required for all development in the park (16.90.020.1).

Based on the application materials, the Staff Report, and the public testimony, it is the decision of the Hearings Officer to approve the application with the conditions of approval set out below. A discussion of the application and approval criteria follows.

I. BACKGROUND

Applicant/Owner: City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140

Applicant's Representative: Kristen Switzer, Community Services Director
22560 SW Pine Street
Sherwood, OR 97140

Property Description: Snyder Park is located at 15356 SW Sunset Blvd. The park contains approximately 20.88 acres with parking areas on the north side of the park off SW Division, and on the south, off of SW Sunset. The site contains a variety of typical park amenities such as a baseball diamond, an interactive water feature, playground equipment, a covered picnic area, and an unlit soccer field. Temporary lights are used at times to facilitate evening play on the soccer field. Astro turf was installed on the soccer field in the Fall of 2002.

The park was acquired by the City in 1993. Various heritage trees are located in the park with a lit pathway that circles the landscaped area. Snyder Park serves as a focal point of the City and sits atop a hill overlooking much of the City. The soccer field is along the eastern portion of the property. The property is identified as tax lot 800 on Washington County Tax Assessor Map 2S1-32DB.

Existing Development and Site Characteristics: Snyder Park is situated in the central part of Sherwood atop at one of the highest elevations in the City. The park changes in elevation from 348 feet at the southern boundary to 365 feet where the soccer field is located. It offers views of the surrounding valley with the crest at approximately 380 feet. The proposed lighting will be used exclusively for the soccer field which is located near the eastern boundary of the site. The field can be used for soccer, lacrosse, and football games and practices.

The soccer field runs north and south along the eastern edge of the park. SW Smock, a residential neighborhood street, runs east and west with a dead end at the eastern boundary of the park at about the north end of the soccer field. SW Sherk Place, a residential neighborhood street, runs north and south one block east of the park. SW Sunset Blvd., an arterial, runs east and west along the south end of the park.

A concrete sidewalk extends around the soccer field between the abutting six properties along the eastern boundary of the field. A small ditch follows the sidewalk along these properties. A six foot privacy fence extends along the rear of the properties with young trees bordering the eastern boundary as well. This is no stadium seating or bleachers at the soccer field.

Zoning Classification and Comprehensive Plan Designation: Snyder Park is zoned Low Density Residential (LDR). The surrounding area is also LDR, with a small parcel on the northern boundary of the site zoned Institutional/Public (IP).

Adjacent Zoning and Land Use: The properties to the north, east and south are zoned LDR and developed with single family homes. Adjacent to the park on the northeastern corner is a parcel zoned IP. The properties to the west and adjacent to the park are also zoned LDR. The properties to the west, across SW Pine are zoned Medium Density Residential-Low (MDRL) and contain single family homes. According to the Sherwood Transportation System Plan, the surrounding streets to the park are classified as the following: SW Sunset Blvd. is an arterial; SW Pine is a collector, and SW Division is a neighborhood street. SW Smock Street, a local street, terminates at the eastern boundary of the park, near the soccer field.

Land Use Review: This application requests approval of the installation of four light fixtures at the turf soccer field located at Snyder Park. As proposed, the lights will illuminate the field after dark until 9:00 p.m. so that various sports teams may use it for extended play and practice. Section 16.82.010 of the Sherwood Zoning and Community Development Code requires a conditional use review in addition to site plan review due to the height of the lighting fixtures. The applicant submittal package is included as Exhibit A.

Public Notice and Hearing: Notice of the administrative review was mailed to property owners within 100 feet of the site and posted for public review in accordance with Sections 16.72.020 and 16.72.030 of the Sherwood Zoning and Community Development Code on July 17, 2007.

Review Criteria: Sections 16.90.020(3) and 16.82.020(4) of the Sherwood Zoning and Community Development Code identify the Site Plan and Conditional Use review criteria. (Note that the Code numbering system has changed since the application was submitted. The Code's substantive requirements are the same. This report uses the new Code numbering system.) Exhibit B provides a cross-reference between the former and the current Code section numbers.

Exhibits: The Staff Report and the following exhibits have been received in to the record:

- A. Application Materials submitted by Kristen Switzer, Applicant's Representative for City of Sherwood, dated July 3, 2007.
- B. Sherwood Development Code Cross References Table.
- C. Excel Spread Sheet prepared by applicant's representative, Lance Gilgan, Recreation Coordinator/Field House Manager for the City of Sherwood.
- D. Musco Lighting photo from website: <http://www.musco.com/permanent/lightcontrol.html>
- E. Hellmer and Biernan comment letters
- F. Aerial photograph showing trees along east property line
- G. Aerial photograph showing candle power of proposed lights at various locations (at 3 feet above ground)
- H. Bassich comment letter
- I. Staff exhibit from Lance Gilgan

II. APPLICATION SUMMARY AND BACKGROUND INFORMATION

Application Summary:

The City of Sherwood requests a Conditional Use Permit and Site Plan approval for the addition of four (4) light fixtures to illuminate the soccer field at Snyder Park. Two (2) of the poles will be 60 feet tall and will be on the east side of the field. The other two (2) poles will be 70 feet tall and will be on the west side of the field. The lights will allow the field to be used for soccer, lacrosse, football, and other sports after dusk. The City requests approval for use of the lights daily until 9:00 p.m. The light timer will be controlled by City staff. The controls will not be accessible to the public. City Public Works staff will maintain the lighting and field. The soccer field is composed of a rubberize turf that allows for easy maintenance, reduced injury, and extended year round play.

This land use application was submitted on July 3, 2007 as a Type II Site Plan Review and Conditional Use Permit application. The application was deemed complete on July 12, 2007. A Type II review process is generally appropriate for a site plan of this type; however, because of the height of the proposed lighting, a Type III Conditional Use Permit (CUP) review is required per Section 16.82.020 of the Sherwood Zoning and Community Development Code. Because a Type III review process requires a public hearing before the Hearings Officer, notice of this land use action and hearing was posted and mailed on July 17, 2007. Newspaper notice was completed as required by Section 16.72.020(1).

Background Information

The City of Sherwood adopted a Master Parks Plan to develop the subject property known as Snyder Park, and in 2000 Site Plan approval was granted (SP-00-14) for Snyder Park to develop the park in phases. The soccer field was completed in September 2002 without any permanent lighting. Temporary lighting fixtures powered by a generator have been used since the Fall of 2005 to provide illumination for the field for evening team practice and play.

Sherwood City Council adopted a revised Master Plan for Snyder Park in 2003. The City submitted a Site Plan and Conditional Use Permit Application (SP-03-07 and CUP 03-07) for improvements to the park that corresponded to the Snyder Park Master Plan. These included the recreational facilities, roadway improvements, public open space and park buildings.

The proposed permanent lights are intended to provide better field illumination, eliminate the noise of the temporary generators, and be more energy efficient. The taller 60 – 70 foot permanent lights are also intended to direct the lighting downward toward the field rather outward as do the 30 foot temporary lights.

III. PUBLIC TESTIMONY

Written comments received are listed above as exhibits. At the public hearing, the City Planning Department was represented by Julia Hajduk and Michelle Miller. The City as applicant was represented by City staff Gene Thomas, Jonathan Ingram, and Lance Gilgan, and by Tim Butts of Musco Lighting Company.

Public testimony was received in support of the application from: David Scheimer of the Parks and Recreation Board, Brian Engel of the Sherwood Youth Soccer League, Darrel McSmith of the Sherwood Youth Soccer League, Bill Butterfield, Tracie Butterfield, John Thomas, Casey Stewart, and Thad Overturf.

Public testimony was received in opposition to the application from: Robin Krieger, Virginia Muffitt, Colin Helmer, Anthony Passadore, Judy Roberts, John Parks, Allison Bassich, Paul Grob, Sarah Bullfinch, Claude Campbell, and Sabra Hellmer.

At the public hearing, the Hearings Officer asked participants to address the approval criteria listed in the Staff Report, which are the criteria that the Planning Department has determined are the relevant approval criteria. The Hearings Officer also asked participants to point out any additional criteria that might apply to this proposal. No additional criteria were raised.

In general, comments in support emphasized the desirability of providing more playing time on an all-weather field during the Fall and Winter seasons when daylight is shorter. It was estimated that 1,300 – 1,500 more children would be able to use the field during the Fall and Winter. The benefits listed include helping accomplish one of the City Council's top 10 policy goals "to light sports fields" by providing better field lighting than do the temporary lights, eliminating noise from the temporary generators, using more energy efficient lights, and directing the lighting more downward to the field.

Tim Butts, of Musco Lighting, provided information about the proposed lights. He testified that the lights use an energy efficient technology using less energy and requiring less maintenance than older style lights. According to Mr. Butts, glare is reduced with these lights. Each fixture will have five separate light fixtures with glare light control visors. Additional information is contained in Exhibit A.

The following concerns and objections raised by opponents are relevant to the approval criteria, and will be addressed below in relationship to specific approval criteria: (1) noise, (2) traffic, (3) parking, (4) late night activity in and around the park, (5) public safety, and (6) setback requirements.

The following concerns and objections raised by opponents are not relevant to the approval criteria and will not be addressed below in relationship to specific approval criteria:

1. *Broken promise of no lights.* A number of neighbors referred to a promise from former City Mayor Mark Kottle, and their feeling that Mr. Kottle as Mayor promised that there would never be any lights at the soccer field. Regardless of what the specifics of such a promise may have been, such a promise may have related to the applicant's (City's) decision to propose field lights but no one has pointed out how such a promise relates to any approval criteria. Also, elected officials typically have limited ability to promise the outcome of decisions to be made by future elected officials. This can be frustrating for neighbors who believe they heard a specific promise, but it still doesn't address the conditional use or site plan approval criteria.

2. *Taxpayer money would be better spent on new fields.* Some neighbors proposed using City money to purchase land and development new parks and sports fields at other locations rather than installing lights at the Snyder Park field. How the City decides to spend its money is a policy decision outside the scope of this land use hearing.

3. *Wait for new schools to be built.* Some opponents proposed waiting for new schools and hoped for athletic facilities to be built instead of lighting Snyder Park's field. Aside from not addressing any specific approval criteria, there are no assurances of actual school athletic facility development nor any guaranteed time line.

IV. AGENCY/DEPARTMENTAL COMMENTS

The Planning staff requested comments from affected agencies and departments on July 12, 2007. No responses were received from any of the agencies contacted other than the City agencies making the application.

V. CONDITIONAL USE PERMIT REVIEW (SECTION 16.82)

§ 16.82.020(3) Finding of Fact

No conditional use shall be granted unless each of the following is found:

- A. **All public facilities and services to the proposed use, including but not limited to sanitary sewers, water, transportation facilities, and services, storm drains, electrical distribution, park and open space and public safety are adequate; or that the construction of improvements needed to provide adequate services and facilities is guaranteed by binding agreement between the applicant and the City.**

All utilities including sanitary sewer, storm sewer, water and power are currently provided to the site. Electricity will be distributed to the poles via the current system. These services will not be significantly affected by the new lights. The lighting will increase the time that the park can be utilized for recreational activities for local sports teams. The applicant estimates that 1300 children play soccer in the Sherwood area. Daylight hours, and in turn field time,

are especially limited during the Fall and Winter months. Children are in school most of the day, limiting available practice times.

Lighting the fields during the Fall and Winter months allows for more children to play sports and use the park facilities. As a result the City residents gain a benefit in having the park in use for longer hours creating more flexibility in scheduling games and practice times.

The proposed lighting fixtures are designed as "Green Generation Luminaries". According to the lighting designer, this means that the lights are more efficient, glare is reduced, and maintenance requirements reduced.

Objections were received relating to the transportation facilities, particularly regarding on-street parking on neighborhood streets. There was no specific testimony about parking problems, just complaints that longer use of the park would keep non-neighborhood cars parked on neighborhood streets later in the evening. Planning staff testified that the off-street and on-street parking is adequate for the existing and proposed park use. There is no specific evidence that existing facilities are not adequate, and the Hearings Officer Therefore concludes that transportation facilities are adequate. This standard is satisfied.

B. Proposed use conforms to other standards of the applicable zone and is compatible with abutting land uses in regard to noise generation and public safety.

Snyder Park is zoned LDR and is surrounded by other residential zones and uses. Parks and recreational facilities are a permitted use in the LDR zone.

Some neighbors object because of concerns about noise. The fields are used for practice and games. Practices generally create little excess noise because there are fewer spectators. Participants at recreational events or team sports often make typical crowd noise, but usually for a short duration of time. The City supplies no benches or formal seating surrounding the field, thus in effect limiting the size of crowds that could be more disruptive to the neighbors. The City proposes an automatic shut off time of 9:00 pm to mitigate the noise level too late in the evening, and the application is limited only to use up to 9:00 p.m. The City will need to comply with all application use standards for off-site noise impact. A specific discussion of the LDR zone standards is below.

Some neighbors object because of concerns about public safety. Generally, concerns were expressed about having people use the park later in the evening than would otherwise occur without field lights. No specific past or current problems were identified that would relate to the proposed field lights. No specific anticipated problems were identified that relate to public safety. A number of neighbors find no public safety problem with later use of the park using the temporary, shorter lights, but object to later use with the permanent taller lights. The Hearings Officer finds that the public safety issues would be the same regardless of the height of the lights. This standard is satisfied.

16.14 Low Density Residential (LDR)

16.14.020 Permitted Uses

G. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.

The sports field in Snyder Park is a permitted use in the LDR zone. The light standards would be a permitted use if they were 30 feet tall or less. The lights require conditional use approval only because the lights are proposed to be taller than 30 feet.

16.14.040 Dimensional Standards

A. Lot Dimensions

Except as otherwise provided, required minimum lot areas and dimensions shall be:

- | | |
|---|--------------------|
| 1. Lot area: | 7,000 sq ft |
| 2. Lot width at front property line: | 25 feet |
| 3. Lot width at building line: | 60 feet |

The lot area is in excess of 40,000 square feet. The lot width at front property line as well as building line exceeds the minimum. The site meets the lot dimension standards of the LDR zone.

B. Setbacks

Except as otherwise provided, required minimum setbacks shall be:

- 1. Front yard: 20 feet.**
- 2. Side yard (single family detached): 5 feet**
- 3. Rear yard: 20 feet**
- 4. Existing residential uses shall maintain setbacks specified in this Section.**

Because the park abuts a residential zone, the front, side and rear yard setbacks apply. The light fixtures will be further than twenty (20) feet from the front property line and further than five (5) feet from the side and twenty (20) feet from the rear property lines. The fixtures meet the setback standards of the LDR zone. According to the site plans, all four light poles will be more than 20 feet from the rear yards of the six abutting properties on the eastern side of the soccer fields. This standard is met.

C. Height

Except as otherwise provided for accessory structures, and for infill development under Chapter 16.68, the maximum height of structures shall be two (2) stories or thirty (30) feet, whichever is less.

The proposed light fixtures fall under the height regulations of Code Chapter 16.62 for "Chimneys, Spires, Antennas, and Similar Structures", and thus can be approved as a Conditional Use.

C. The granting of the proposal will provide for a facility or use that meets the overall needs of the community and achievement of the goals and/or policies of the Comprehensive Plan, the adopted City of Sherwood Transportation System Plan and this Code.

The Sherwood Parks commission met on July 9, 2007 and voted to support the proposal, indicating that they believe it meets the overall needs of the community by providing adequate recreational facilities for its citizens. The City Council also has established the goal "To Light Sports Fields" as one of the City's "Top Ten Goals for 2007".

According to Lance Gilgan, Recreation Coordinator for the City, approximately 1300 - 1500 youth play on the field for soccer, lacrosse, and football team sports. He also noted that lacrosse was one of the fastest growing sports in the nation and currently has 14 teams involved. Practices for soccer and lacrosse are held during the week in the Fall and Winter when it gets dark earlier. (typically early November to March). Typically practices are during the week with games on the weekend. The lights would be provided in Winter months when necessary for practice and would be programmed to turn off at 9:00 p.m. at the latest. The team coaches and public would not have access to the light controls. The City proposes a key card device that automates the 9:00 pm shut off time. Mr. Gilgan provided a spread sheet with the number of hours that would effectively increase the utilization of the fields during early evening hours. (Exhibit C). Soccer and lacrosse organizations will provide the City with a fee for using and lighting the field.

The applicant's proposal meets the community need for an all-weather field.

D. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use on the surrounding uses, the neighborhood, or the City as a whole are sufficiently mitigated by the conditions proposed.

The property owners along the eastern side of the soccer fields will experience noise and a minimal amount of light spill with the addition of the four light poles. The noise is expected to be similar to the noises already experienced by the neighbors from soccer and lacrosse games and practices. The lights will not make any additional noise, according to Tim Butts of Musco lighting. The property owners on the surrounding boundaries will be able to view the lights, but will not incur any undue spill onto their properties. The applicant will need to comply with the City's light spillage standards.

Exhibit G demonstrates expected compliance. It will be an on-going obligation of the City to comply with the 0.50 foot candle requirement

Several mitigation measures are already in place to reduce the noise that a soccer field and park generates. Privacy fencing is installed around the properties. Landscaping is also provided along the perimeter to buffer the noise as well. No stadium seating is available that would increase the amount of spectators present or above ground level.

The applicant has considered other impacts and has proposed several mitigation measures to minimize the impacts. The poles will be located as far away from the rear lots of these neighboring properties as possible. The applicant is proposing only four poles to light the field. Two of those lights are 26 and 31 feet away from the adjoining property (the other two are further). The poles will be a gray color to blend into the sky. The lights will have an automated system to turn off no later than 9:00 p.m. In the summer, the fields would be lit with natural sunlight up until 9:00 pm, so the 9:00 shut-off time through the Winter and Fall is no later than currently experienced during the Summer months. The applicant's proposal uses "Green Generation Luminaries" which keep down light spill away from the field. According to the supplier's materials, the lighting is guaranteed to meet or exceed the standards set forth in Code regarding Glare and Heat.

The applicant's submittal adequately addresses mitigation measures that reduce the impact on the neighboring properties. This standard is met.

E. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features.

The applicant proposes four light poles that will not require a substantial change to the existing site. The site will not require any re-grading or removal of natural features. Any negative impact on the park will be minimal and can be accommodated with the large site. Any impacts of light and noise will be properly accommodated and mitigated by directing the lights downward toward the field with limited spillage at the eastern property line, and by ending use of the field by 9:00 p.m. every night. This standard is met.

F. The use as proposed does not pose likely significant adverse impacts to sensitive wildlife species or the natural environment. No potential significant impacts to wildlife or the natural environment have been identified. This standard is met.

G. For a proposed conditional use permit in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 16.108.080 Highway 99W Capacity Allocation Program, unless excluded herein.

Snyder Park is located in the LDR zone and not subject to the CAP requirements.

For wireless communication facilities, no conditional use permit shall be granted unless the following additional criteria is found:

- H. The applicant shall demonstrate to the satisfaction of the City that the wireless communication facility cannot be located in an IP zone due to the coverage needs of the applicant.**
- I. The proposed wireless communication facility is designed to accommodate co-location or it can be shown that the facility cannot feasibly accommodate co-location.**
- J. The applicant shall demonstrate a justification for the proposed height of the tower or antenna and an evaluation of alternative designs which might result in lower heights.**
- K. The proposed wireless communication facility is not located within one-thousand (1,000) feet of an existing wireless facility or that the proposed wireless communication facility cannot feasibly be located on an existing wireless communication facility.**
- L. The proposed wireless communication facility is located a minimum of three-hundred (300) feet from residentially zoned properties.**

The applicant is proposing that a single antenna be attached to the southwest light pole that can serve in lieu of a whole wireless communication facility. The antennae would add one (1) foot to the height of this one pole. This co-location of the antennae does not cause the light pole to become a "wireless communications facility" as defined in Code Section 16.10.020. Therefore, the additional criteria H through L do not apply to this application.

16.82.020(4) Additional Conditions

In permitting a conditional use or modification of an existing conditional use, additional conditions may be applied to protect the best interests of the surrounding properties and neighborhoods, the City as a whole, and the intent of this Chapter. These conditions may include but are not limited to the following:

- A. Mitigation of air, land, or water degradation, noise, glare, heat, vibration, or other conditions which may be injurious to public health, safety or welfare in accordance with environmental performance standards.**

The only identified potential impacts covered by Section A are noise and glare. The Code requires that light spillage be limited to no more than 0.5 foot candle off site when adjoining properties are zoned for residential use. (Code Section 16.154.010). The testimony of Tim Butts and Exhibit G support a finding that the proposed lights will not create more than 0.5 foot candle of light to spill or glare onto neighboring properties. Exhibit G shows property

limit light spillage at 3 feet above ground to vary between 0.09 and 0.48 foot candle, which is below the 0.50 requirement. A condition of approval will require continued compliance with this standard.

Noise from the field is not anticipated to be any louder than existing noise, nor to last any later into the evening than exists with the temporary lights and generators. No one complained about the existing noise, but a number of neighbors complained about the allowing the noise to go later into the evening. (Note: There is a conflict in the testimony of some neighbors. Some testified that the temporary lights already allow use until 9:00 p.m. without problems and therefore argue that the permanent lights aren't necessary. Others testified that the new lights would allow use later into the evening.) Eliminating the temporary generator use will reduce the level of noise between dusk and 9:00 p.m. A condition of approval will require continued compliance with applicable off-site noise standards. The Hearings Officer finds that use of the playing field with permanent lights will not increase the level of noise over that already experience with the use of the temporary lights.

Conditions of approval will assure continual Code compliance.

B. Provisions for improvement of public facilities including sanitary sewers, storm drainage, water lines, fire hydrants, street improvements, including curb and sidewalks, and other above and underground utilities.

No of the listed improvements are proposed, except for what will be underground electric lines.

C. Increased required lot sizes, yard dimensions, street widths, and off-street parking and loading facilities.

The proposed lights will not require any site changes. No additional condition is needed.

D. Requirements for the location, number, type, size or area of vehicular access points, signs, lighting, landscaping, fencing or screening, building height and coverage, and building security.

Two parking lots serve Snyder Park, one on the northern side off of SW Division and the other at SW Sunset Drive. The park is already heavily landscaped. There are relatively few buildings and most of the active uses of the park provide screening for neighboring property owners. The soccer field abuts approximately six properties to the east. Adequate screening is provided for these properties via six foot high privacy fences along with trees (See Exhibit F). The light poles are at least 26 feet from the east property line, which is the rear property line of the houses immediately to the east. The off-site glare and light spillage will be mitigated by having the lights pointed downward to the playing field (See Exhibit G). No additional condition is needed to address this criterion.

- E. Submittal of final site plans, land dedications or money-in-lieu of parks or other improvements, and suitable security guaranteeing conditional use requirements.**

The approval will be conditioned to require submission of final site plans showing full compliance with conditions imposed.

- F. Limiting the number, size, location, height and lighting of signs.**

No new signs are proposed.

- G. Requirements for the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas.**

The applicant is not proposing to remove any trees with this development. There are no sensitive areas that will be impacted with the installation of the lighting fixtures as the applicant plans to place the poles near the soccer field.

- F. Requirements for design features which minimize potentially harmful environmental impacts such as noise, vibration, air pollution, glare, odor and dust.**

The approval will be conditioned as noted above to require on-going compliance with applicable off-site noise and light requirements.

VI. SITE PLAN REVIEW (SECTION 16.90)

4. Required Findings

No site plan approval shall be granted unless each of the following is found:

- A. The proposed development meets applicable zoning district standards and all provisions of Divisions V, VI, VIII, and IX.**

The applicable zoning district standards are discussed above under the "Division II- Land Use and Development" section, and the applicable provisions of Divisions V, VI, VIII, and IX as discussed in detail below.

- B. The proposed development can be adequately served by services conforming to the Community Development Plan, including but not limited to water, sanitary facilities, storm water, solid waste, parks and open space, public safety, electric power and communications.**

The proposed light fixtures do not require new services, except for the use of electricity. The lights can be adequately served with existing services.

- C. **Covenants, agreements, and other specific documents are adequate, in the City's determination, to assure an acceptable method of ownership, management and maintenance of structures, landscaping and other on-site features.**

The City owns the site and will adequately maintain the structures. This criterion is not applicable.

- D. **The proposed development preserves significant natural features to the maximum feasible extent, including but not limited to natural drainageways, wetlands, trees, vegetation, scenic views and topographical features, and conforms to the applicable provisions of Chapters 5 of the Community Development Code.**

No natural features will be removed with the installation of the light fixtures. The soccer field is near the eastern boundary of the park and thus preserves the views which predominate at western boundaries. The residences are at a lower elevation and will continue to have the same views they had prior to installation of the lights. The four poles are not anticipated to block views due to the distance that the poles are away from the property lines and their elevation within the park. Although the poles will be visible, the views will remain.

- E. **For a proposed site plan in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 16.108.080 Highway 99W Capacity Allocation Program, unless excluded herein.**

This site is zoned LDR and not subject to the CAP.

- F. **For developments that are likely to generate more than 400 average daily trips (ADTs), or at the discretion of the City Engineer, the applicant shall provide adequate information, such as a traffic impact analysis or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate for impacts attributable to the project. The determination of impact or effect and the scope of the impact study shall be coordinated with the provider of the affected transportation facility.**

The installation of the lights is not expected generate more than 400 average daily trips. The City Engineer did not require traffic impact analysis on this proposed development.

- G. The proposed commercial, multi-family development, and mixed-use development is oriented to the pedestrian and bicycle, and to existing and planned transit facilities. Urban design standards shall include the following:
1. Primary, front entrances shall be located and oriented to the street, and have significant articulation and treatment, via facades, porticos, arcades, porches, portal, forecourt, or stoop to identify the entrance for pedestrians. Additional entrance/exit points for buildings, such as a postern, are allowed from secondary streets or parking areas.
 2. Buildings shall be located adjacent to and flush to the street, subject to landscape corridor and setback standards of the underlying zone.
 3. The architecture of buildings shall be oriented to the pedestrian and designed for the long term and be adaptable to other uses. Aluminum, vinyl, and T-111 siding, metal roofs, and artificial stucco material shall be prohibited. Street facing elevations shall have windows, transparent fenestration, and divisions to break up the mass of any window. Roll up and sliding doors are acceptable. Awnings that provide a minimum 3 feet of shelter from rain shall be installed unless other architectural elements are provided for similar protection, such as an arcade.
 4. As an alternative to the above standards G.1-3, the Old Town Design Standards (Chapter 16.162) may be applied to achieve this performance measure.

This proposal is for the addition of four light poles in a City owned park. This use is not commercial, multi-family or mixed-use in nature. This standard does not apply.

VII. APPLICABLE CODE STANDARDS

A. DIVISION II - LAND USE DEVELOPMENT

Chapter 16.14 – Low Density Residential

The applicable zoning district standards are discussed above in the Conditional Use criteria section. (See Section 16.82.020(3)(B)). The provisions of Division V, VI, VIII, and IX are discussed below.

16.58.010- Clear Vision Areas

This Section provides requirements for maintaining clear vision areas at intersections of 2 streets, a street and a railroad or a street and an alley or private driveway. In residential zones, the minimum clear vision distance is thirty (30) feet for streets and ten (10) feet at the intersection of a street and an alley. Where no yards are required, buildings may be constructed within the clear vision area.

The proposed lights are not located within the clear vision areas and thus this section is not applicable.

16.62 Chimneys, Spires, Antennas, & Similar Structures

16.62.010 Heights

Except as otherwise provided, the height limits established by this Code shall not apply to chimneys, stacks, water towers, radio or television antennas, towers, windmills, grain elevators, silos, elevator penthouses, monuments, domes, spires, belfries, hangars, solar heating devices, and to wireless communication facilities two hundred (200) feet in height or less. (Ord. 97-1019 § 1; 86-851)

The lighting poles and fixtures are deemed to be "towers" and as such the height limits of the LDR zone do not apply. Nevertheless, Section 16.62.020 requires conditional use review for towers that are in excess of the LDR 30 foot height limit.

16.62.020 Permit Required

Notwithstanding Section 16.62.010, a conditional use permit shall be required for all such structures that exceed the height limitations of a zoning district, except as specifically otherwise permitted in that district.

This section is applicable and thus a conditional use permit is required.

B. DIVISION V – COMMUNITY DESIGN

The applicable provisions of Division 5 include: 16.90 (Site Planning), 16.92 (Landscaping), 16.94 (Off-street parking and Loading), and 16.96 (On-site Circulation), 16.98 (On-site storage). Compliance with the standards in these sections is discussed below.

Chapter 16.92 Landscaping

16.92.010 Landscape Plan

All proposed developments for which a site plan is required pursuant to § 16.90.020 shall submit a landscaping plan which meets the standards of this Chapter. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan.

The applicant indicates that all areas not covered with structures, walkways, paved roadways and parking on the site will be landscaped. While the landscape plan only shows details on the portions of the site where improvements will be made, Snyder Park complies with this standard and it is expected to continue to comply. This standard is met.

16.92.020 Landscaping Materials

1. Varieties

Required landscaped areas shall include an appropriate combination of evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of this Chapter

The landscape plan provides a combination of trees, large and small shrubs, ground cover and lawn; therefore, this standard is satisfied.

3. Non-Vegetative Features

Landscaped areas as required by this Chapter may include architectural feature interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, semi-pervious decorative paving, and graveled areas. Impervious paving shall not be counted as landscaping. Artificial plants are prohibited in any required landscaped area.

The applicant is not proposing any non-vegetative or artificial features considered under this section. Therefore this standard is satisfied.

4. Existing Vegetation

All developments subject to site plan review as § 16.90.020 and required to submit landscaping plans as per § 16.92.020 shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the Review Authority, in addition to complying with the provisions of § 16.142.060, and Chapter 16.144

The applicant proposes to preserve the existing trees and landscaped area. The applicant has submitted a landscaping plan showing the preservation of the trees. Therefore this standard is satisfied.

16.92.030 Landscaping Standards

1. Perimeter Screening and Buffering

A minimum six (6) foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen shall be required along property lines separating single and two-family uses from multi-family uses, and along property lines separating residential zones from commercial or industrial uses. For new uses adjacent to inventoried environmentally sensitive areas, screening requirements shall be limited to vegetation only so as to preserve wildlife mobility. In addition, plants and other landscaping features may be required by the Review Authority in locations and sizes necessary to protect the privacy of residences and buffer any adverse effects of adjoining uses.

As discussed previously in this report the current buffers are sufficient to protect the privacy of the residences and buffer and adverse effects of the adjoining uses. This standard has been satisfied.

C. DIVISION VI. - PUBLIC IMPROVEMENTS

The applicant is not proposing or required to complete any public improvements to the site; therefore the public improvement section is not addressed in further detail.

D. DIVISION VII. ENVIRONMENTAL RESOURCES

Chapter 16.142 – Parks and Open Space

Visual Corridors

A. Corridors Required

New developments with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section 5 of the Community Development Plan Part 2, shall be required to establish a landscaped visual corridor according to the following standards:

1. Arterial: 15 feet wide

The visual corridor was established during the initial construction of Snyder Park and thus this criterion has been met with earlier land use applications.

16.142.050 Trees Along Public Streets or on Other Public Property

A. Trees Along Public Streets

Trees are required to be planted by the land use applicant to the following specifications along public streets abutting or within any new development. Planting of such trees shall be a condition of approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets.

- 1. Tree location:** Trees shall be planted within the planter strip along newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines.
- 2. Tree size:** A minimum trunk diameter of two (2) inches DBH and minimum height of six (6) feet.
- 3. Tree spacing:** A minimum of one (1) tree for every twenty-five (25) feet of public street frontage, or two (2) trees for every buildable lot, whichever yields the greater number of trees. Double fronting lots shall have a minimum of one (1) street tree for every twenty-five (25) feet of frontage. Corner lots shall have a minimum of three (3) street trees.
- 4. For minor arterial and major collector streets, the City may require planted medians in lieu of paved twelve (12) foot wide center turning lanes, planted with trees to the specifications of this subsection.**
- 5. Tree types:** Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in Appendix J of this Code.

The site contains existing street trees that are spaced at least every 25 feet along SW Sunset Street within the planter strip. These trees are sufficient to satisfy this criterion.

16.142.060 Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

1. All Planned Unit Developments subject to Chapter 16.40, site developments subject to Section 16.92.020, and subdivisions subject to Chapter 16.122, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. This Section shall not apply to any PUD, site development or subdivision, or any subdivision phase of any PUD, having received an approval by the Commission prior to the effective date of Ordinance No. 94-991, except for Subsection C5 of this Section, which shall apply to all building permits issued after the effective date to that Ordinance.

2. For the inventory purposes of this Section, a tree is a living woody plant having a trunk diameter as specified below at four and one-half (4-1/2) feet above mean ground level at the base of the trunk, also known as Diameter Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition and from regulation under this Section, as are any living woody plants under five (5) inches DBH.

a. Douglas fir, ponderosa pine, western red cedar, white oak, big leaf maple, American chestnut, ten (10) inches or greater.

b. All other tree species, five (5) inches or greater.

In addition, any trees of any species of five (5) inches or greater DBH that are proposed for removal as per the minimally necessary development activities defined in subsection C3 of this Section shall be inventoried.

3. For the inventory purposes of this Section, a woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a five (5) inches or greater DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.

The applicant has submitted a landscape plan that included a tree inventory. The applicant is not proposing the removal of any healthy tree, however several trees exist in the vicinity of the proposed lights and tree protection will need to be installed.

As discussed above, it appears this standard is met, but conditions are necessary to ensure full compliance is maintained during construction. If the applicant complies with the conditions below, this standard will be fully met.

STAFF'S RECOMMENDED CONDITION: Prior to grading of the site or tree removal, submit a tree protection plan showing how the trees to be retained will be protected throughout the construction of the site.

STAFF'S RECOMMENDED CONDITION: Prior to grading the site, install tree protection fencing around the existing mature trees to be maintained on the site.

16.154 Heat and Glare

Except for exterior lighting, all otherwise permitted commercial, industrial, and institutional uses shall conduct any operations producing excessive heat or glare entirely within enclosed buildings. Exterior lighting shall be directed away from adjoining properties, and the use shall not cause such glare or lights to shine off site in excess of one-half (0.5) foot candle when adjoining properties are zoned for residential uses.

The applicant is proposing exterior lighting that includes four, 60-70 foot high light poles that will illuminate the soccer field from dusk until 9:00 p.m. According to the testimony of Tim Butts of Musco Lighting Company, 5 light fixtures on each pole will utilize "Light Structure Green" technology. This lighting technique will minimize off-site spill and glare on adjacent property as demonstrated on Exhibit G. The adjacent property is at least 26 away feet from the nearest light poles and the Code requires no more than 0.5 foot candle of off-site light from the new filed lights. Again, Exhibit G demonstrates that this standard is met at the property line. A condition of approval will require on-going compliance.

STAFF'S RECOMMENDED CONDITION: Prior to final site plan approval provide verification that the glare and heat from the lights will be directed away from adjoining properties and the use shall not cause such glare or lights to shine off site in excess of one-half Foot Candle.

STAFF'S RECOMMENDED CONDITION: An on-going condition of approval requires the lights to be maintained in such a way as to never exceed .5 candle foot at the adjacent property lines.

VIII. RECOMMENDATION

It is therefore the decision of the Hearings Officer, based on a review of the application materials, the Staff Report, the case exhibits, the applicable code provisions, agency comments, and hearing testimony, to **APPROVE with conditions** CUP 07-03/SP 07-09 for the Snyder Park spots field lights. The Conditions of Approval are:

IX. CONDITIONS OF APPROVAL

A. General Conditions:

The following applies throughout the development and occupancy of the site:

1. Compliance with the Conditions of Approval is the responsibility of the City.
2. This land use approval shall substantially comply with the submitted preliminary site plans, except as modified in the conditions specified in this decision.
3. The owner/applicant is responsible for all costs associated with private and public facility improvements.
4. The Site Plan and Conditional Use approval is valid for a period of two (2) years from the date of the decision notice. Extensions may be granted by the City as afforded by the Sherwood Zoning and Community Development Code.
5. Unless specifically exempted in writing by the final decision, the development shall comply with all applicable City of Sherwood and other applicable agency codes and standards except as modified herein.
6. Additional development or change of use may require a new development application and approval.

B. Prior to building permit approval for grading and/or erosion control:

1. Prior to grading of the site or tree removal, submit a tree protection plan showing how the trees to be retained will be protected throughout the construction of the site.
2. Prior to grading the site, install tree protection fencing around the existing mature trees to be maintained on the site.

C. Prior to issuance of final occupancy:

1. All site improvements shall be installed consistent with the submitted plans and conditions listed above. Schedule a final site inspection from the Sherwood Planning Department when all required improvements have been completed and conditions have been met.

2. All other appropriate department and agency conditions have been met, including Engineering Department acceptance of all public improvements.
3. Provide verification that the glare and heat from the lights will be directed away from adjoining properties and the use shall not cause such glare or lights to shine off site in excess of one-half Foot Candle.

D. On-going Condition:

1. The continual operation of the property shall comply with the applicable requirements of the Sherwood Zoning and Community Development Code, and all other applicable off-site noise control and lighting spill requirements.

DATED: August 13, 2007.



Paul Norr,
Hearings Officer

NOTICE OF APPEAL RIGHTS

The decision of the Hearings Officer detailed above will become final unless a petition for review (an appeal) is filed with the City Recorder not more than 14 calendar days after the date on which the Hearing Authority took final action on the land use application, or 14 calendar days after written notice of the action was mailed, whichever date applies, pursuant to the City of Sherwood Zoning & Community Development Code, Chapter 3.4. If the 14th day falls on a Saturday, Sunday or legal holiday, then the appeal period ends on the next business day. To file a petition for review (an appeal) contact the City of Sherwood Planning Department located at 22560 SW Pine Street, Sherwood, OR 97140, or telephone (503) 625-5522.

SP 07-09; CUP 07-03
SNYDER PARK LIGHTING

APPLICANT'S ORIGINAL
SUBMITTAL PACKET
IS AVAILABLE FOR
REVIEW IN THE
PLANNING DEPT.

AT
SHERWOOD CITY HALL

Exhibit A

DEVELOPMENT CODE CROSS REFERENCES TABLE

Prior Code §	Herein	Prior Code §	Herein
1.100	Ch. 16.02	2.101.04	16.12.040
1.101	Ch. 16.02	2.101.05	16.12.050
1.101.01	16.02.010	2.101.06	16.12.060
1.101.02	16.02.020	2.101.07	16.12.070
1.101.03	16.02.030	2.102	Ch. 16.14
1.101.04	16.02.040	2.102.01	16.14.010
1.101.05	16.02.050	2.102.02	16.14.020
1.101.06	16.02.060	2.102.03	16.14.030
1.101.07	16.02.070	2.102.04	16.14.040
1.101.08	16.02.080	2.102.05	16.14.050
1.101.09	16.02.090	2.102.06	16.14.060
1.102	Ch. 16.04	2.103	Ch. 16.16
1.102.01	16.04.010	2.103.01	16.16.010
1.102.02	16.04.020	2.103.02	16.16.020
1.102.03	16.04.030	2.103.03	16.16.030
1.102.04	16.04.040	2.103.04	16.16.040
1.103	Ch. 16.06	2.103.05	16.16.050
1.103.01	16.06.010	2.103.06	16.16.060
1.103.02	16.06.020	2.104	Ch. 16.18
1.103.03	16.06.030	2.104.01	16.18.010
1.103.04	16.06.040	2.104.02	16.18.020
1.104	Ch. 16.08	2.104.03	16.18.030
1.104.01	16.08.010	2.104.04	16.18.040
1.104.02	16.08.020	2.104.05	16.18.050
1.104.03	16.08.030	2.104.06	16.18.060
1.104.04	16.08.040	2.105	Ch. 16.20
1.200	Ch. 16.10	2.105.01	16.20.010
1.201	16.10.010	2.105.02	16.20.020
1.202	16.10.020	2.105.03	16.20.030
1.202.01—		2.105.04	16.20.040
1.202.198	16.10.020	2.105.05	16.20.050
2.100	Not codified	2.105.06	16.20.060
2.101	Ch. 16.12	2.106	Ch. 16.22
2.101.01	16.12.010	2.106.01	16.22.010
2.101.02	16.12.020	2.106.02	16.22.020
2.101.03	16.12.030	2.106.03	16.22.030

TABLES

Prior Code §	Herein	Prior Code §	Herein
2.106.04	16.22.040	2.111.01	16.32.010
2.106.05	16.22.050	2.111.02	16.32.020
2.106.06	16.22.060	2.111.03	16.32.030
2.106.07	16.22.070	2.111.04	16.32.040
2.107	Ch. 16.24	2.111.05	16.32.050
2.107.01	16.24.010	2.111.06	16.32.060
2.107.02	16.24.020	2.111.07	16.32.070
2.107.03	16.24.030	2.112	Ch. 16.34
2.107.04	16.24.040	2.112.01	16.34.010
2.107.05	16.24.050	2.112.02	16.34.020
2.107.06	16.24.060	2.112.03	16.34.030
2.107.07	16.24.070	2.112.04	16.34.040
2.107.08	16.24.080	2.112.05	16.34.050
2.108	Ch. 16.26	2.112.06	16.34.060
2.108.01	16.26.010	2.112.07	16.34.070
2.108.02	16.26.020	2.113	Ch. 16.36
2.108.03	16.26.030	2.113.01	16.36.010
2.108.04	16.26.040	2.113.02	16.36.020
2.108.05	16.26.050	2.113.03	16.36.030
2.108.06	16.26.060	2.113.04	16.36.040
2.108.07	16.26.070	2.113.05	16.36.050
2.108.08	16.26.080	2.113.06	16.36.060
2.109	Ch. 16.28	2.113.07	16.36.070
2.109.01	16.28.010	2.200	Ch. 16.38
2.109.02	16.28.020	2.201	16.38.010
2.109.03	16.28.030	2.202	Ch. 16.40
2.109.04	16.28.040	2.202.01	16.40.010
2.109.05	16.28.050	2.202.02	16.40.020
2.109.06	16.28.060	2.202.03	16.40.030
2.109.07	16.28.070	2.202.04	16.40.040
2.110	Ch. 16.30	2.202.05	16.40.050
2.110.01	16.30.010	2.202.06	16.40.060
2.110.02	16.30.020	2.203	Ch. 16.42
2.110.03	16.30.030	2.203.01	16.42.010
2.110.04	16.30.040	2.203.02	16.42.020
2.110.05	16.30.050	2.203.03	16.42.030
2.110.06	16.30.060	2.203.04	16.42.040
2.110.07	16.30.070	2.203.05	16.42.050
2.111	Ch. 16.32	2.203.06	16.42.060

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
2.203.07	16.42.070	2.304	16.58.040
2.203.08	16.42.080	2.304.01—	
2.203.09	16.42.090	2.304.03	16.58.040
2.203.10	16.42.100	2.305	Ch. 16.60
2.203.11	16.42.110	2.305.01	16.60.010
2.204	Ch. 16.44	2.305.02	16.60.020
2.204.01	16.44.010	2.305.03	16.60.030
2.205	Ch. 16.46	2.305.04	16.60.040
2.205.01	16.46.010	2.305.05	16.60.050
2.205.02	16.46.020	2.306	Ch. 16.62
2.205.03	16.46.030	2.306.01	16.62.010
2.206	Ch. 16.48	2.306.02	16.62.020
2.206.01	16.48.010	2.306.03	16.62.030
2.206.02	16.48.020	2.307	Ch. 16.64, 16.64.010
2.206.03	16.48.030		
2.206.04	16.48.040	2.308	Ch. 16.66 16.66.010
2.206.05	16.48.050		
2.206.06	16.48.060	2.309	Ch. 16.68
2.206.07	16.48.070	2.309.01	16.68.010
2.206.08	16.48.080	2.309.02	16.68.020
2.207	Ch. 16.50	2.309.03	16.68.030
2.207.01	16.50.010	2.309.04	16.68.040
2.207.02	16.50.020	2.309.05	16.68.050
2.207.03	16.50.030	2.309.06	16.68.060
2.208	Ch. 16.52	3.100	Ch. 16.70
2.208.01	16.52.010	3.101	16.70.010
2.208.02	16.52.020	3.102	16.70.020
2.209	Ch. 16.54, 16.54.010	3.102.01—	
2.210	Ch. 16.56, 16.56.010	3.102.02	16.70.020
2.300	Ch. 16.58	3.103	16.70.030
2.301	16.58.010	3.103.01	16.70.030
2.301.01—		3.104	16.70.040
2.301.04	16.58.010	3.104.01—	
2.302	16.58.020	3.104.02	16.70.040
2.302.01	16.58.020	3.105	16.70.050
2.303	16.58.030	3.200	Ch. 16.72
2.303.01	16.58.030	3.201	16.72.010
		3.201.01—	
		3.201.03	16.72.010

TABLES

Prior Code §	Herein	Prior Code §	Herein
3.202	16.72.020	4.401	16.84.010
3.202.01—		4.401.01—	
3.202.04	16.72.020	4.401.05	16.84.010
3.203	16.72.030	4.402	16.84.020
3.203.01	16.72.030	4.402.01—	
3.204	16.72.040	4.402.03	16.84.020
3.205	16.72.050	4.500	Ch. 16.86
3.205.01—		4.501	16.86.010
3.205.04	16.72.050	4.501.01—	
3.206	16.72.060	4.501.02	16.86.010
3.207	16.72.070	4.502	16.86.020
3.208	16.72.080	4.502.01—	
3.300	Ch. 16.74	4.502.04	16.86.020
3.301	16.74.010	4.600	Ch. 16.88
3.302	16.74.020	4.601	16.88.010
3.400	Ch. 16.76	4.602	16.88.020
3.401	16.76.010	4.603	16.88.030
3.401.01—		5.100	Ch. 16.90
3.401.04	16.76.010	5.101	16.90.010
3.402	16.76.020	5.101.01—	
3.403	16.76.030	5.101.02	16.90.010
3.404	16.76.040	5.102	16.90.020
4.100	Ch. 16.78	5.102.01—	
	16.78.010	5.102.06	16.90.020
4.200	Ch. 16.80	5.200	Ch. 16.92
4.201	16.80.010	5.201	16.92.010
4.202	16.80.020	5.202	16.92.020
4.202.01	16.80.020	5.202.01—	
4.203	16.80.030	5.202.04	16.92.020
4.203.01—		5.203	16.92.030
4.203.03	16.80.030	5.203.01—	
4.300	Ch. 16.82	5.203.03	16.92.030
4.301	16.82.010	5.204	16.92.040
4.301.01—		5.204.01—	
4.301.03	16.82.010	5.204.02	16.92.040
4.302	16.82.020	5.300	Ch. 16.94
4.302.01—		5.301	16.94.010
4.302.06	16.82.020	5.301.01—	
4.400	Ch. 16.84	5.301.11	16.94.010

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
5.302	16.94.020	5.704	16.102.040
5.302.01—		5.704.01—	
5.302.04	16.94.020	5.704.02	16.102.040
5.303	16.94.030	5.705	16.102.050
5.303.01—		5.705.01—	
5.303.02	16.94.030	5.705.02	16.102.050
5.400	Ch. 16.96	5.706	16.102.060
5.401	16.96.010	5706.01—	
5.401.01—		5.706.05	16.102.060
5.401.06	16.96.010	5.707	16.102.070
5.402	16.96.020	5.707.01—	
5.402.01—		5.707.04	16.102.070
5.402.02	16.96.020	5.708	16.102.080
5.403	16.96.030	5.708.01—	
5.403.01—		5.708.02	16.102.080
5.403.02	16.96.030	6.100	Ch. 16.104
5.404	16.96.040	6.101	16.104.010
5.404.01—		6.102	16.104.020
5.404.05	16.96.040	6.103	16.104.030
5.500	Ch. 16.98	6.200	Ch. 16.106
5.501	16.98.010	6.201	16.106.010
5.502	16.98.020	6.201.01—	
5.503	16.98.030	6.201.02	16.106.010
5.503.01—		6.202	16.106.020
5.503.03	16.98.030	6.202.01—	
5.504	16.98.040	6.202.04	16.106.020
5.504.01—		6.203	16.106.030
5.504.02	16.98.040	6.203.01—	
5.600	Ch. 16.100	6.203.04	16.106.030
5.700	Ch. 16.102	6.204	16.106.040
5.701	16.102.010	6.204.01—	
5.701.01—		6.204.03	16.106.040
5.701.09	16.102.010	6.300	Ch. 16.108
5.702	16.102.020	6.301	16.108.010
5.702.01—		6.301.01—	
5.702.10	16.102.020	6.301.05	16.108.010
5.703	16.102.030	6.302	Repealed by 91-922
5.703.01—		6.302	16.108.030
5.703.03	16.102.030	6.302.01—	16.108.030

TABLES

Prior Code §	Herein	Prior Code §	Herein
6.302.05		6.800	Ch. 16.118
6.303	16.108.040	6.801	16.118.010
6.303.01—		6.802	16.118.020
6.303.03	16.108.040	6.803	16.118.030
6.304	16.108.050	6.804	16.118.040
6.304.01—		6.805	16.118.050
6.304.14	16.108.050	7.100	Ch. 16.120
6.305	16.108.060	7.101	16.120.010
6.305.01—		7.102	16.120.020
6.305.03	16.108.060	7.102.01—	
6.306	16.108.070	7.102.04	16.120.020
6.307	16.108.080	7.200	Ch. 16.122
6.400	Ch. 16.110	7.201	16.122.010
6.401	16.110.010	7.201.01—	
6.402	16.110.020	7.201.03	16.122.010
6.402.01—		7.300	Ch. 16.124.
6.402.02	16.110.020	7.301	16.124.010
6.403	16.110.030	7.301.01—	
6.500	Ch. 16.112	7.301.05	16.124.010
6.501	16.112.010	7.302	16.124.020
6.502	16.112.020	7.302.01—	
6.502.01—		7.302.07	16.124.020
6.502.03	16.112.020	7.303	16.124.030
6.503	16.112.030	7.303.01—	
6.600	Ch. 16.114	7.303.03	16.124.030
6.601	16.114.010	7.400	Ch. 16.126
6.602	Repealed by 91-922	7.401	16.126.010
6.602	16.114.020	7.402	16.126.020
6.602.01—		7.402.01—	
6.602.03	16.114.020	7.402.02	16.126.020
6.603	16.114.030	7.403	16.126.030
6.700	Ch. 16.116	7.404	16.126.040
6.701	16.116.010	7.404.01—	
6.702	16.116.020	7.404.05	16.126.040
6.702.01—		7.500	Ch. 16.128
6.702.04	16.116.020	7.501	16.128.010
6.703	16.116.030	7.501.01—	
6.703.01—		7.501.04	16.128.010
6.703.03	16.116.030	7.502	16.128.020

CROSS-REFERENCE TABLE

Prior Code §	Herein	Prior Code §	Herein
7.502.01	16.128.020	8.304.04	16.142.030
7.503	16.128.030	8.304.05	16.142.040
7.503.01—		8.304.06	16.142.050
7.503.03	16.128.030	8.304.07	16.142.060
7.504	16.128.040	8.304.08	16.142.070
7.504.01—		8.305	Ch. 16.144
7.504.02	16.128.040	8.305.01	16.144.010
7.600	Ch. 16.130	8.305.02	16.144.020
7.601	16.130.010	8.305.03	16.144.030
7.602	16.130.020	8.306	Ch. 16.146
8.100	16.132.010	8.306.01	16.146.010
8.200	Ch. 16.134	8.306.02	16.146.020
8.201	16.134.010	8.306.03	16.146.030
8.202	16.134.020	8.307	Ch. 16.148
8.202.01—		8.307.01	16.148.010
8.202.09	16.134.020	8.307.02	16.148.020
8.300	Not codified	8.308	Ch. 16.150
8.301	Ch. 16.136	8.308.01	16.150.010
8.301.01	16.136.010	8.308.02	16.150.020
8.301.02	16.136.020	8.308.03	16.150.030
8.301.03	16.136.030	8.309	Ch. 16.152
8.301.04	16.136.040	8.309.01	16.152.010
8.301.05	16.136.050	8.309.02	16.152.020
8.302	Ch. 16.138	8.309.03	16.152.030
8.302.01	16.138.010	8.310	Ch. 16.154,
8.302.02	16.138.020		16.154.010
8.303	Ch. 16.140	8.310.01	16.154.020
8.303.01	16.140.010	8.311	Ch. 16.156
8.303.02	16.140.020	8.311.01	16.156.010
8.303.03	16.140.030	8.311.02	16.156.020
8.303.04	16.140.040	8.311.03	16.156.030
8.303.05	16.140.050	9.100	Ch. 16.158
8.303.06	16.140.060		16.158.010
8.303.07	16.140.070	9.200	Ch. 16.160
8.303.08	16.140.080	9.201	16.160.010
8.303.09	16.140.090	9.202	Ch. 16.162
8.304	Ch. 16.142	9.202.01	16.162.010
8.304.01	16.142.010	9.202.02	16.162.020
8.304.03	16.142.020	9.202.03	16.162.030

TABLES

Prior Code §	Herein
9.202.04	16.162.040
9.202.05	16.162.050
9.202.06	16.162.060
9.202.07	16.162.070
9.202.08	16.162.080
9.202.09	16.162.090
9.202.10	16.162.100
9.300	Ch. 16.164
9.301	16.164.010
9.400	Ch. 16.166
9.401	Not codified
9.401.01	16.166.010
9.401.02	16.166.020
9.401.03	16.166.030
9.401.04	16.166.040
9.500	Ch. 16.168
9.501	16.168.010
9.501.01—	
9.501.03	16.168.010
9.502	16.168.020
9.502.01—	
9.502.02	16.168.020
9.503	16.168.030
9.503.01	16.168.030
9.504	Ch. 16.170
9.504.01	16.170.010
9.504.02	16.170.020

DATE	SUNSET	Lights out	Time gained by lights
February 1, 2008	5:17 PM	8:00 PM	2.43
February 2, 2008	5:18 PM	8:00 PM	2.42
February 3, 2008	5:20 PM	8:00 PM	2.41
February 4, 2008	5:21 PM	8:00 PM	2.40
February 5, 2008	5:22 PM	8:00 PM	2.39
February 6, 2008	5:23 PM	8:00 PM	2.38
February 7, 2008	5:24 PM	8:00 PM	2.37
February 8, 2008	5:25 PM	8:00 PM	2.36
February 9, 2008	5:26 PM	8:00 PM	2.35
February 10, 2008	5:27 PM	8:00 PM	2.34
February 11, 2008	5:28 PM	8:00 PM	2.33
February 12, 2008	5:29 PM	8:00 PM	2.32
February 13, 2008	5:30 PM	8:00 PM	2.31
February 14, 2008	5:31 PM	8:00 PM	2.30
February 15, 2008	5:32 PM	8:00 PM	2.29
February 16, 2008	5:33 PM	8:00 PM	2.28
February 17, 2008	5:34 PM	8:00 PM	2.27
February 18, 2008	5:35 PM	8:00 PM	2.26
February 19, 2008	5:36 PM	8:00 PM	2.25
February 20, 2008	5:37 PM	8:00 PM	2.24
February 21, 2008	5:38 PM	8:00 PM	2.23
February 22, 2008	5:39 PM	8:00 PM	2.22
February 23, 2008	5:40 PM	8:00 PM	2.21
February 24, 2008	5:41 PM	8:00 PM	2.20
February 25, 2008	5:42 PM	8:00 PM	2.19
February 26, 2008	5:43 PM	8:00 PM	2.18
February 27, 2008	5:44 PM	8:00 PM	2.17
February 28, 2008	5:45 PM	8:00 PM	2.16
February 29, 2008	5:46 PM	8:00 PM	2.15
Total extra hrs Feb			66.41

Exhibit C

DATE	SUNSET	Lights out	Time gained by lights
March 1, 2008	5:58 PM	8:00 PM	2.02
March 2, 2008	6:00 PM	8:00 PM	2.00
March 3, 2008	6:01 PM	8:00 PM	1.59
March 4, 2008	6:02 PM	8:00 PM	1.58
March 5, 2008	6:03 PM	8:00 PM	1.57
March 6, 2008	6:04 PM	8:00 PM	1.56
March 7, 2008	6:05 PM	8:00 PM	1.55
March 8, 2008	7:06 PM	8:00 PM	0.54
March 9, 2008	7:07 PM	8:00 PM	0.53
March 10, 2008	7:08 PM	8:00 PM	0.52
March 11, 2008	7:09 PM	8:00 PM	0.51
March 12, 2008	7:10 PM	8:00 PM	0.50
March 13, 2008	7:11 PM	8:00 PM	0.49
March 14, 2008	7:12 PM	8:00 PM	0.48
March 15, 2008	7:13 PM	8:00 PM	0.47
March 16, 2008	7:14 PM	8:00 PM	0.46
March 17, 2008	7:15 PM	8:00 PM	0.45
March 18, 2008	7:16 PM	8:00 PM	0.44
March 19, 2008	7:17 PM	8:00 PM	0.43
March 20, 2008	7:18 PM	8:00 PM	0.42
March 21, 2008	7:19 PM	8:00 PM	0.41
March 22, 2008	7:20 PM	8:00 PM	0.40
March 23, 2008	7:21 PM	8:00 PM	0.39
March 24, 2008	7:22 PM	8:00 PM	0.38
March 25, 2008	7:23 PM	8:00 PM	0.37
March 26, 2008	7:24 PM	8:00 PM	0.36
March 27, 2008	7:25 PM	8:00 PM	0.35
March 28, 2008	7:26 PM	8:00 PM	0.34
March 29, 2008	7:27 PM	8:00 PM	0.33
March 30, 2008	7:28 PM	8:00 PM	0.32
March 31, 2008	7:29 PM	8:00 PM	0.31
Total extra hrs March			22.07

DATE	SUNSET	Lights out	Time gained by lights
September 1, 2008	7:47 PM	8:00 PM	0.13
September 2, 2008	7:46 PM	8:00 PM	0.14
September 3, 2008	7:44 PM	8:00 PM	0.16
September 4, 2008	7:42 PM	8:00 PM	0.18
September 5, 2008	7:40 PM	8:00 PM	0.20
September 6, 2008	7:38 PM	8:00 PM	0.22
September 7, 2008	7:36 PM	8:00 PM	0.24
September 8, 2008	7:34 PM	8:00 PM	0.26
September 9, 2008	7:32 PM	8:00 PM	0.28
September 10, 2008	7:30 PM	8:00 PM	0.30
September 11, 2008	7:28 PM	8:00 PM	0.32
September 12, 2008	7:26 PM	8:00 PM	0.34
September 13, 2008	7:24 PM	8:00 PM	0.36
September 14, 2008	7:22 PM	8:00 PM	0.38
September 15, 2008	7:20 PM	8:00 PM	0.40
September 16, 2008	7:18 PM	8:00 PM	0.42
September 17, 2008	7:16 PM	8:00 PM	0.44
September 18, 2008	7:14 PM	8:00 PM	0.46
September 19, 2008	7:12 PM	8:00 PM	0.48
September 20, 2008	7:10 PM	8:00 PM	0.50
September 21, 2008	7:08 PM	8:00 PM	0.52
September 22, 2008	7:06 PM	8:00 PM	0.54
September 23, 2008	7:04 PM	8:00 PM	0.56
September 24, 2008	7:02 PM	8:00 PM	0.58
September 25, 2008	7:00 PM	8:00 PM	1.00
September 26, 2008	6:58 PM	8:00 PM	1.02
September 27, 2008	6:56 PM	8:00 PM	1.04
September 28, 2008	6:54 PM	8:00 PM	1.06
September 29, 2008	6:52 PM	8:00 PM	1.08
September 30, 2008	6:50 PM	8:00 PM	1.10

Total extra hrs Sept

15.11

DATE	SUNSET	Lights out	Time gained by lights
October 1, 2008	6:50 PM	8:00 PM	1.10
October 2, 2008	6:48 PM	8:00 PM	1.12
October 3, 2008	6:46 PM	8:00 PM	1.14
October 4, 2008	6:44 PM	8:00 PM	1.16
October 5, 2008	6:42 PM	8:00 PM	1.18
October 6, 2008	6:40 PM	8:00 PM	1.20
October 7, 2008	6:38 PM	8:00 PM	1.22
October 8, 2008	6:36 PM	8:00 PM	1.24
October 9, 2008	6:34 PM	8:00 PM	1.26
October 10, 2008	6:32 PM	8:00 PM	1.28
October 11, 2008	6:30 PM	8:00 PM	1.30
October 12, 2008	6:28 PM	8:00 PM	1.32
October 13, 2008	6:26 PM	8:00 PM	1.34
October 14, 2008	6:24 PM	8:00 PM	1.36
October 15, 2008	6:22 PM	8:00 PM	1.38
October 16, 2008	6:20 PM	8:00 PM	1.40
October 17, 2008	6:18 PM	8:00 PM	1.42
October 18, 2008	6:16 PM	8:00 PM	1.44
October 19, 2008	6:14 PM	8:00 PM	1.46
October 20, 2008	6:12 PM	8:00 PM	1.48
October 21, 2008	6:10 PM	8:00 PM	1.50
October 22, 2008	6:08 PM	8:00 PM	1.52
October 23, 2008	6:06 PM	8:00 PM	1.54
October 24, 2008	6:04 PM	8:00 PM	1.56
October 25, 2008	6:02 PM	8:00 PM	1.58
October 26, 2008	6:00 PM	8:00 PM	2.00
October 27, 2008	5:58 PM	8:00 PM	2.02
October 28, 2008	5:56 PM	8:00 PM	2.04
October 29, 2008	5:54 PM	8:00 PM	2.06
October 30, 2008	5:52 PM	8:00 PM	2.08
October 31, 2008	5:50 PM	8:00 PM	2.10
Total extra hrs Oct			46.20

DATE	SUNSET	Lights out	Time gained by lights
November 1, 2008	5:57 PM	8:00 PM	2.03
November 2, 2008	5:56 PM	8:00 PM	2.04
November 3, 2008	4:54 PM	8:00 PM	2.06
November 4, 2008	4:53 PM	8:00 PM	2.07
November 5, 2008	4:52 PM	8:00 PM	2.09
November 6, 2008	4:51 PM	8:00 PM	2.10
November 7, 2008	4:50 PM	8:00 PM	2.12
November 8, 2008	4:49 PM	8:00 PM	2.13
November 9, 2008	4:48 PM	8:00 PM	2.15
November 10, 2008	4:47 PM	8:00 PM	2.16
November 11, 2008	4:46 PM	8:00 PM	2.18
November 12, 2008	4:45 PM	8:00 PM	2.19
November 13, 2008	4:44 PM	8:00 PM	2.21
November 14, 2008	4:43 PM	8:00 PM	2.22
November 15, 2008	4:42 PM	8:00 PM	2.24
November 16, 2008	4:41 PM	8:00 PM	2.25
November 17, 2008	4:40 PM	8:00 PM	2.27
November 18, 2008	4:39 PM	8:00 PM	2.28
November 19, 2008	4:38 PM	8:00 PM	2.30
November 20, 2008	4:37 PM	8:00 PM	2.31
November 21, 2008	4:36 PM	8:00 PM	2.33
November 22, 2008	4:35 PM	8:00 PM	2.34
November 23, 2008	4:34 PM	8:00 PM	2.36
November 24, 2008	4:33 PM	8:00 PM	2.37
November 25, 2008	4:32 PM	8:00 PM	2.39
November 26, 2008	4:31 PM	8:00 PM	2.40
November 27, 2008	4:30 PM	8:00 PM	2.42
November 28, 2008	4:29 PM	8:00 PM	2.43
November 29, 2008	4:28 PM	8:00 PM	2.45
November 30, 2008	4:27 PM	8:00 PM	2.46
		8:00 PM	2.48
		Total extra hrs Nov	71.20
		Total extra hrs Oct	46.20
		Total extra hrs Sept	15.11
			132.51

Note if this was the Middle school we could add 2 hours per day as we can keep lights on at this field until 10:00pm.

DATE	SUNSET	Lights out	Time gained by lights
January 1, 2008	4:38 PM	8:00 PM	3.22
January 2, 2008	4:38 PM	8:00 PM	3.22
January 3, 2008	4:39 PM	8:00 PM	3.21
January 4, 2008	4:39 PM	8:00 PM	3.21
January 5, 2008	4:40 PM	8:00 PM	3.20
January 6, 2008	4:41 PM	8:00 PM	3.19
January 7, 2008	4:42 PM	8:00 PM	3.18
January 8, 2008	4:43 PM	8:00 PM	3.17
January 9, 2008	4:44 PM	8:00 PM	3.16
January 10, 2008	4:45 PM	8:00 PM	3.15
January 11, 2008	4:46 PM	8:00 PM	3.14
January 12, 2008	4:47 PM	8:00 PM	3.13
January 13, 2008	4:48 PM	8:00 PM	3.12
January 14, 2008	4:49 PM	8:00 PM	3.11
January 15, 2008	4:50 PM	8:00 PM	3.10
January 16, 2008	4:51 PM	8:00 PM	3.09
January 17, 2008	4:52 PM	8:00 PM	3.08
January 18, 2008	4:53 PM	8:00 PM	3.07
January 19, 2008	4:54 PM	8:00 PM	3.06
January 20, 2008	4:55 PM	8:00 PM	3.05
January 21, 2008	4:56 PM	8:00 PM	3.04
January 22, 2008	4:57 PM	8:00 PM	3.03
January 23, 2008	4:58 PM	8:00 PM	3.02
January 24, 2008	4:59 PM	8:00 PM	3.01
January 25, 2008	5:00 PM	8:00 PM	3.00
January 26, 2008	5:01 PM	8:00 PM	2.59
January 27, 2008	5:02 PM	8:00 PM	2.58
January 28, 2008	5:03 PM	8:00 PM	2.57
January 29, 2008	5:04 PM	8:00 PM	2.56
January 30, 2008	5:05 PM	8:00 PM	2.55
January 31, 2008	5:06 PM	8:00 PM	2.54
Total extra hrs Jan			93.35
Total extra hrs Feb			66.14
Total extra hrs March			22.07
			181.56

Note if this was the middle school we could add 2 hours per day as we can keep lights on until 10:00pm,

Light-Structure Green™ Saves \$35,000



Exhibit D

CITY OF SHERWOOD

Date: August 6, 2007

**Staff Report File No: CUP 07-03/SP 07-09
Addendum**

Snyder Park Lighting

TO: HEARINGS EXAMINER
Paul Norr

Date Rec'd: 07-03-07
Complete App: 07-12-07
120-Day Deadline: 11-09-07
Hearing Date: 08-06-07

FROM: PLANNING DEPARTMENT

FROM: PLANNING DEPARTMENT



Michelle Miller, Associate Planner

This addendum to the July 30, 2007 staff report for SP 07-09/CUP 07-03, Snyder Park Lighting adds comments made by two citizens that received notice of the proposed lighting for Snyder Park. Staff received these comments after July 30, 2007, but prior to the hearing on August 6, 2007. They are attached to this addendum.

Comment Letter dated August 5, 2007 from Colin and Sabra Hellmer stating their opposition to the proposed soccer lighting at Snyder Park. They proposed keeping the generators and having shorter lights to ensure a more "passive" park.

Comment Letter and emails Dated August 3, 2007 from Diane Biernat stating her concern that there has been evening noise at the park. She also lives on SW Smock where children are dropped off at the end of the street rather than the parking lots and does not like the traffic. Also she requested the lights be placed on one side of the field away from the houses.

Exhibit E

August 5, 2007

Dear Sherwood City Planning Department:

My name is Colin Hellmer and I reside at 23273 SW Sherk Place with my wife Sabra Hellmer and two sons, Mike & Andy. We live adjacent and due east of the baseball field on Snyder Park.

This letter is in response to the Snyder Park Lighting Proposal applicable code criteria governed by the Sherwood Comprehensive Plan Part 3, Zoning and Community Development Code, 16.14 (Low Density Residential), 16.62 (Chimneys, Spires, Antennas, and Similar Structures), 16.82 (Conditional Use), 16.90 (Site Plan Review), and 8.310 (Heat and Glare).

We strongly encourage denial of the request to add permanent 70-foot stadium lighting to the Snyder Park Soccer Field. Adding 70-foot stadium lighting will diminish the original spirit, intent and promise of the previous Park Planning Committee for the community concept of a passive neighborhood recreational park.

The costs, both monetarily and to the residents living nearby, of adding 70-foot stadium lights are extremely excessive, especially if only to accommodate additional soccer and lacrosse practice times during the winter months as stated in the July 30th Staff Report.

The original promise was to create a passive (this word was used specifically and many times in the creation of the original plan) neighborhood recreational park with NO permanent lighting. It was determined that temporary lighting was an acceptable, but compromising alternative.

What is insufficient about the temporary lighting used in past years? The advantage of temporary lighting (at approximately 30-foot tall vs. permanent stadium lighting at 70-foot tall) is that the park would be returned to its passive state and natural beauty during the day and majority of the year.

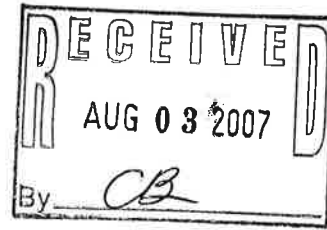
The City missed a golden opportunity to purchase additional land to accommodate the growing needs of the community and the City's desire to create "Tournament City USA". Because the City took too long to complete the purchase, the land was re-zoned and no longer affordable.

We do not want Snyder Park to become that vision of "Tournament City USA". If the stadium lighting is approved with the promise of a 9pm lighting curfew, it will eventually lead to additional late night noise as well as the prospect of lighting additional ball fields, permanent bleachers, public address systems and longer lit hours to meet future demand, turning Snyder Park into the hub of Tournament City USA. Snyder Park is the wrong place for this vision.

Sincerely,

Colin and Sabra Hellmer
23273 SW Sherk Pl.
Sherwood, OR 97140
(503) 625-3347

Exhibit E



**MAILED NOTICE - PUBLIC COMMENTS
Snyder Park Lighting**

- No comment.
- We encourage approval of this request.
- Please address the following concerns should this application be approved:

- We encourage denial of this request for the following reasons:

Please feel free to attach additional sheets as needed to complete your comments.

Comments by: DIANE BIERNAT Date: Aug 2, 2007
Address: 15088 SW Smock St Tel.: _____ (optional)
SHERWOOD OR 97140 Email: drbiernat (optional)
@hotmail.com

Notice to mortgagee, lien holder, vendor or seller: The City of Sherwood requests that you promptly forward this notice to the purchaser if this notice is received.

Those of us living on Smock Street request, that in exchange for the extra hour of noise and light we'll have to put up with, you please put up signs at Brittany Street that say

"NO PARK TRAFFIC BEYOND - RESIDENTIAL TRAFFIC ONLY!"

in big enough letters so drivers can see the signs. The signs now that say "No parking, standing, or stopping - strictly enforced" are so small that people don't pay any attention to them, and they are not strictly enforced unless we call the police dispatch and have a squad come out. Two nights in a row last week there were kids in the park yelling, shrieking, and screaming until 10:30 or later. The girls sounded like they were being attacked! There is no attention paid to the "This park closes at dusk" signs. They could be bigger also.

Michelle Miller

From: Diane Biernat [drbiernat@hotmail.com]
Sent: Friday, August 03, 2007 11:36 AM
To: Michelle Miller
Subject: Snyder Park Lighting

Dear Ms. Miller:

I stopped by the City Hall this morning and dropped off a note regarding the hearing on the lights at Snyder Park. I just wanted to check to make sure you got the note. I tried calling your number and after 10 rings did not get a voice mail as I anticipated. I am not able to attend the hearing and want you to know how we feel.

I guess the permanent lights will at least be more quiet than the generator ones, but is there a reason the lights can't be put on the ends of the field instead of the sides so they don't shine in our houses? Last year the generator lights not only lit up our houses, but also shone down Smock Street and drivers coming up the hill were blinded by them. Not a good situation.

The small signs that were put up at the end of our street saying "No parking or stopping" have eliminated some of the traffic, but not all. People still pull up, drop off kids, and sometimes pull in our driveway to turn around. We are requesting bigger signs at Brittany Street saying "NO PARK TRAFFIC BEYOND - RESIDENTIAL TRAFFIC ONLY" in a size that drivers can see.

And twice last week I had to call police dispatch about kids in the park long after dusk yelling, shrieking, and screaming. I had seen four kids go into the park as they left their car across the street from me, but at least 7 or 8 kids came out when the police found them.

If you would please email me back at drbiernat@hotmail.com or call me at 503-625-7238 regarding this matter, I would appreciate it. Thanks!

Booking a flight? Know when to buy with airfare predictions on MSN Travel.
<http://travel.msn.com/Articles/aboutfarecast.aspx&ocid=T001MSN25A07001>

Michelle Miller

From: Diane Biernat [drbiernat@hotmail.com]
Sent: Friday, August 03, 2007 1:04 PM
To: Michelle Miller
Subject: Snyder Park Lights

Dear Ms. Miller:

In talking with some neighbors after I emailed you earlier, the suggestion was made that all the lights be put on the east side of the field adjusted to cover the whole field, as there are no houses on the west side of the field to be bothered by them.

This is another option that should be considered.

Thanks!

Messenger Café — open for fun 24/7. Hot games, cool activities served daily.
Visit now. http://cafemessenger.com?ocid=TXT_TAGHM_AugHMtagline



Home of the Tualatin River National Wildlife Refuge

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

18 September 2007

Mayor
Keith Mays

Planning Commission

Councilors
Dave Grant
Dave Heironimus
Linda Henderson
Dan King
Dave Luman
Lee Weislogel

Re: Snyder Park Lighting
CUP 07-03/SP 07-09

Dear Commissioners,

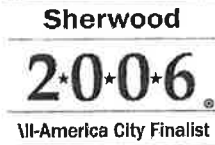
City Manager
Ross Schultz

Enclosed please find the applicant's response to the appeal of the Hearing Officer's Notice of Decision.

Sincerely,

Kristen Switzer,
Community Services Director

Enclosure: Applicant's Response to the Appeal of the Hearing Officer's
Decision CUP 07-03/SP 07-09



Applicant's Response to the Appeal of the Hearing Officer's Decision
CUP 07-03/SP 07-09

On August 27, 2007, an appeal of the Hearing Officer's decision on CUP 07-03/SP 07-09 was received by the City. The items that follow list the specific Code Reference and Item in the appeal. Following each appeal item, the Applicant provides specific information presented at the hearing, linked to testimony and exhibits presented at the hearing.

Appeal Item 1: Section 16.82.020(3)(A) – the proposed lighting fixtures for the light towers have not been demonstrated to sufficiently reduce glare into the adjacent properties.

Applicant Response Item 1: The City asked MUSCO, a manufacture and supplier of sports lighting equipment, to prepare a preliminary illumination summary of the soccer field showing the candle power (in candle-feet) at various locations on the soccer field and along the east property line. Subsequent to this initial design, a revised design, specific to this site, was prepared to demonstrate the ability to comply with the Code requirement relating to candle-foot illumination at the property line.

The City presented "Exhibit G Aerial photograph showing candle power of proposed lights at various locations (at 3 feet above ground)". This exhibit is the graphical representation of the Illumination Summary placed on the aerial photo of soccer field including the light level at the east property line. This exhibit demonstrates the light level at the property line does not exceed the one-half candle-feet standard established by the Code at 16.82.020(4) – Additional Conditions. Closer review of the candle-feet at the property line shows that the values range from a maximum of 0.48 to a minimum of 0.09 candle-feet with an average of 0.35 candle-feet. It should be noted that light decreases by the distance-squared. These values will certainly be lower than listed above.

A typical luminaire was brought to the Hearing. The luminaire is new efficient technology. Luminaire has photometric reflector design complete with external visor to provide efficient light usage as well as effectively reduce or eliminate off site light spillage and glare. The lights are night sky friendly by design with limited upward light spillage as shown in "Exhibit D Musco Lighting photo from website: <http://www.musco.com/permanent/lightcontrol.html>". Additionally, the lights will be mounted on 70 foot poles thus providing a near vertical downward luminaire placement.

The City will be using the Design-Build process for this project. This method places the responsibility on the Design-Build team to conform to the specifications and code requirements.

The Notice of Decision requires the City to verify, after construction, that heat and glare is directed away from adjoining properties and the use does not cause such glare or light so shine off site in excess of one-half foot-candle.

Appeal Item 2: Section 163.2.020(3)(B) Part 1 – The surrounding neighborhood was promised that Snyder Park would never contain recreational lighting.

Applicant Response Item 2: It is the responsibility of the City’s elected officials and staff to be responsive to the needs of the community as a whole. What may have been said years ago may have been valid at that time; however, communities grow and community needs change. This request to install lights at the Soccer Field is in response to that changing need. At this time, installing lights at the Soccer Field is the least cost opportunity to meet increased sports field demand. The City provided Exhibit C – “Excel Spread Sheet prepared by applicant’s representative, Lance Gilgan, Recreation Coordinator/Field House Manager for the City of Sherwood.” This spreadsheet shows the use on City fields as well as the unmet needs for the future.

Lighting of Sports fields is one of Council’s long term goals as well concurrence by the Parks and Recreation Board for lighting of this field.

Appeal Item 3: Section 163.2.020(3)(B) Part 2 – The proposed shut off time of 9:00 p.m. is insufficient to protect the neighbors’ use and enjoyment of their property.

Applicant Response Item 3: As documented in the Staff Report and further presented in verbal testimony; the 9:00 p.m. shutoff time conforms to City Administrative Policy on the use of City Parks. This policy is established by the City Manager with guidance from the Parks and Recreation Board.

The Appealant is correct is asserting the park and field could be used by adults. While the focus has been to provide field time for younger children, City parks are available for all citizens. It is entirely reasonable that there may be others using the field. The City is agreeable to a revised condition to require the lights to be shut off at 9:00 p.m.

Appeal Item 4: Section 16.14.040(B) – The proposed setbacks for the towers from abutting properties is insufficient to protect the neighbors’ use and enjoyment of their property.

Applicant Response Item 4: As presented in the Staff Report, residential zone front, side and rear yard setbacks apply. These setbacks are

1. Front yard: 20 Feet
2. Side yard (single family detached): 5 feet
3. Rear yard: 20 feet
4. Existing residential uses shall maintain setbacks specified in this section.

For this installation, the two poles on the east side of the soccer field will be over 26 and 31 feet from the property line of the six abutting properties on the eastern side of the of the soccer field thus meeting the setback standards. Testimony presented at the hearing indicated the use of four poles with only two poles on the eastern side of the field will help eliminate glare and light spillage onto adjacent property.

No additional information was provided in the appeal to demonstrate why the lights at the potential location shown in Exhibit G compromised the neighbor's use and enjoyment of their property.

Appeal Item 5: Section 16.14.040(C) – The neighbor's use and enjoyment of their property, and their property values will be adversely affected by the approval. These impacts were not sufficiently weighted against the community's needs.

Applicant Response Item 5: The Staff Report did consider the affect by the use on the surrounding neighborhood as well as existing or additional mitigation. In brief, the property owners along the eastern side of the soccer fields may experience noise and a minimum amount of light spill with the addition of the four lights. The noise will be similar to the noises already experienced by the neighbors by current activity. Existing mitigation measures include privacy fencing and landscaping along the perimeter. Stadium seating is not installed on the east side of the field.

Proposed mitigation includes only four poles to light the field, with two as far away from the eastern edge of the property as possible. The poles are gray in color to blend into the sky. The lights will have an automated control system to automatically turn off at 9:00 p.m. through the fall and winter, which is similar to currently experienced in the summer months. The lights will be designed to minimize lighting the sky as well as comply with the Notice of Decision's requirements.

No additional information was provided in the appeal to demonstrate non compliance with this section.

Appeal Item 6: Section 16.14.040(D) – The evidence of glare compliance is insufficient to demonstrate compliance with the City's glare and light pollution standards. Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Applicant Response: Glare and light pollution are discussed in the Applicant's response to Appeal Item 1. The Notice of Decision requires the City to verify the installation complies with the conditions of approval before the installation can be placed into use.

No additional information was provided in the appeal to demonstrate non compliance with this section.

Appeal Item 7: Section 16.14.040(E) – Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Applicant Response: As discussed in the Staff Report, the proposal will not require substantial changes nor grading to the existing site with minimal impact on the site topography.

No additional information was provided in the appeal to demonstrate non compliance with this section.

Appeal Item 8: Section 16.44.040(H-L) – The Hearings Officer incorrectly interpreted the requirements for towers and wireless communication facilities.

Applicant Response: The application indicates that the collocation of the small low wattage antenna array on one pole does not cause the light pole to become a “wireless communication facility” as defined in the code. The Staff Report discusses the requirements of paragraphs H-L. As presented in oral testimony, the antenna is composed of four 12-inch square units mounted under the lights at approximately 60 feet elevation. Each unit will broadcast at approximately 200 to 400 milliwatt, compared to a typical cell phone at 3-4 watts. The addition of these four small units mounted on the light pole does not meet the code definition of a Wireless Communication Facility which would include an equipment shelter with electronic equipment and a lattice type tower.

Municipal Code 16.10 Definitions:

Wireless Communication Facility: An unmanned facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

The pole will be placed 288 feet from the property line and about 325 feet from the closest residence. It is a low wattage antenna broadcasting in the open unlicensed radio spectrum, the same spectrum as cordless phones. If the concern is being unsightly, the antenna is about 12 inches square mounted at 60 feet in the air. If the concern is electromagnetic radiation, then the antenna are one tenth the wattage of a typical cell phone and 288 feet away.

Appeal Item 9: Section 16.82.020(4)(A) – Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Applicant Response: The Staff Report Finding for this section indicates there will not be glare injurious to public health or safety based upon the Code. The preliminary design demonstrates and the Notice of Decision conditions the installation to verify after construction the light at the property to be 0.5 candle-feet or less.

No additional information was provided by the appeal to demonstrate non compliance with this section.

Appeal Item 10: Section 16.82.020(4)(D) – No additional or alternative screening was proposed by the applicant or considered by the Hearings Officer.

Applicant Response: The Staff Report identified the existing conditions and the applicant’s proposal with conditions is adequate to mitigate the conditional use.

No additional information was provided by the appeal to demonstrate non compliance with this section.

Appeal Item 11: Section 16.90 – The approved light towers are incompatible with residential uses in the area and therefore the site plan approval criteria cannot be met.

Applicant Response: The Staff Report discusses the installation of the lights at the Soccer Field as it relates to the residential zoning of Snyder Park and the surrounding area.

No specific information was provided by the appeal to demonstrate non compliance with this section.

Appeal Item 12: Section 16.154 – The application does not comply with the City's heat and glare requirements. Neighboring properties will be adversely affected, and the conditions of approval are insufficient to mitigate those impacts.

Applicant Response: The Staff Report discusses the compliance with the heat, glare, and light standards as they relate to the installation of sports field lighting. Further, evaluation and mitigation as needed is proposed by the Notice of Decision.

No specific information was provided by the appeal to demonstrate non compliance with this section.



AFFIDAVIT OF POSTING

CITY FILE # / DESCRIPTION: SP 07-09; CUP 07-03 – Snyder Park Lighting

I, Heather Austin do hereby certify that on Tuesday, July 17, 2007 the following action took place:

- A public notice was posted in five (5) conspicuous places - City Hall, Library, Sherwood Senior Center, YMCA, and Albertson's on Tualatin-Sherwood Rd.
- A sign identifying the proposed land use action was placed on the subject property.
- Notice to property owners within 100-feet of the site was placed in a U.S. Mail receptacle.
- Published notice was sent to local daily or weekly newspaper. (Sent by Cynthia Butler to Tigard Times on 7/13/07 to run 7/26 & 8/2/07. *Cynthia Butler*)

Signed: Heather M Austin
Planning Department

(SIGNED AFFIDAVIT TO BE PLACED IN APPROPRIATE PLANNING FILE FOR THE RECORD.)



NOTICE OF PUBLIC HEARING

Public Notice is hereby given that the **City of Sherwood Hearings Officer** will conduct a public hearing on **Monday, August 6, 2007 at 6:00 PM** at the Sherwood City Hall, 22560 SW Pine St, Sherwood, Oregon, on the following land use matter:

SP 07-09; CUP 07-03 – Snyder Park Lighting: Proposal: The applicant is proposing to install four (4) Soccer Field Light Fixtures at Snyder Park, located on SW Sunset Blvd. The 70 foot high light fixtures will illuminate the soccer field in the early evening hours to allow for extended play, and be in use until no later than 9:00 p.m. when necessary. On top of the southwestern light fixture, the applicant proposes to install a broadband antenna that extends about one foot above the pole of the light fixture. The property is zoned Low Density Residential Low (LDR).

Applicable Code Criteria: Sherwood Comprehensive Plan Part 3, Zoning and Community Development Code, 16.14 (Low Density Residential), 16.62 (Chimneys, Spires, Antennas, and Similar Structures), 16.82 (Conditional Use), 16.90 (Site Plan Review), and 8.310 (Heat and Glare).

Anyone may testify at the hearing verbally or in writing. Oral and written public testimony regarding this matter will be accepted at the hearing. Written statements are encouraged and may be submitted to the Planning Department, City Hall, 22560 SW Pine Street, Sherwood, OR 97140. Public testimony should be limited to the findings of fact in the Staff Report, the above criteria or other City or State applicable land use standards. **Only those persons who submit written comments or appear in person before the Hearing Authority may appeal the decision.** Failure to raise an issue accompanied by statements or evidence sufficient to afford the decision-maker and the parties an opportunity to respond to the issue will preclude appeal, on said issue, to the Appeal Authority or State Land Use Board of Appeals (LUBA).

Application materials are available for review or can be copied for a reasonable cost at City Hall, 22560 SW Pine Street. The City Planning Staff report on this matter will be available for review at least seven (7) days in advance of the hearing. If you have any questions, please call Michelle Miller, Associate Planner at (503) 625-4242.

To be published in the Tigard-Tualatin Times on July 26th & Aug. 2nd, 2007

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
September 25, 2007

Commission Members Present:

Chair Patrick Allen
Jean Lafayette
Dan Balza
Adrian Emery
Lisa Walker

Staff:

Julia Hajduk, Planning Manager
Michelle Miller, Associate Planner
Cynthia Butler, Recording Secretary
Gene Thomas, P.E.
Jonathan Ingram, Engineering Associate
Lance Gilgan, Recreation Coordinator

Commission Members Absent:

Matt Nolan
Todd Skelton

Council Liaison – Dave Grant

City Attorney – Matthew Michel

1. **Call to Order/Roll Call** – Cynthia Butler called roll. Matt Nolan and Todd Skelton were noted as absent.

2. **Agenda Review** - Chair Allen welcomed new Commissioner, Lisa Walker to the Planning Commission. Patrick also stated that nominations and voting for a Vice Chair originally planned to add to the agenda this evening, would be postponed when all members of the Commission were present. There were no changes to the agenda.

3. **Consent Agenda** – Minutes from the July 10th & July 24, 2007 sessions were approved by vote:

Yes – 5 No – 0 Abstain - 0

4. **Announcements** – Julia Hajduk announced that this was Cynthia Butler’s last Planning Commission session as Recording Secretary for the City of Sherwood, as she was taking a new position with the City of Portland. Julia introduced Stephanie Guediri who will be stepping in as Recording Secretary on an interim basis until a permanent replacement is determined. Julia said that an application for a PUD Modification for the Langer PUD development is under review and will be heard by the City Council on October 16th, concurrently with a development agreement that is under consideration on this project. The Brookman Rd. Concept Plan Open House is October 10th, followed by the Steering Committee meeting on October 24th. Brookman Rd. Concept Plan postcard mailers and email notification about the open house has been sent to property owners and interested parties to get the word out. The Comfort Suites Hotel & Conference Center appeal was heard by the City Council on September 18th, which was approved with a modified condition that the access is temporary and will be relocated to the property line when an existing structure causing the temporary location is removed.

Chair Allen asked Council liaison and Council President Dave Grant, if he had any comments to share from the Council. Councilor Grant acknowledged a full agenda this evening and had no announcements from Council at this time.

5. **Community Comments** – Chair Allen asked if there were any community comments on topics not on the agenda. There were none.

6. New Business – Public Hearing – SP 07-09; CUP 07-03 Snyder Park Lighting

Appeal: Chair Allen recapped the state mandated rules for the appeal hearing process, particularly in regard to testimony and evidence, and how that differed from rules governing the original hearing. Only those parties who submitted verbal or written testimony in the initial hearing are allowed to give testimony in the appeal hearing, and only evidence submitted during the initial hearing is permitted for review and deliberation. Chair Allen asked the public to consider that the shared goal to create a community in Sherwood that all residents can enjoy, which will assist the public meeting process by allowing mutual respect for differing viewpoints expressed.

Adrian Emery read the Public Appeal Hearing Disclosure Statement.

Chair Allen asked Commissioners if there was any *ex parte* contact, conflicts of interest or bias to declare. Patrick added that he received an email as part of a large distribution list notifying people of the hearing and suggesting attendance, with nothing substantive regarding the materials, which would not impair his ability to make an impartial decision on this application.

Dan Balza recused himself from the hearing on this matter and took a seat in the audience.

Jean Lafayette stated that she had a conversation with Harry Lance who lives across the street from Snyder Park. Jean added that she visited the site and that she served on the Planning Commission in 2003 for the original application on the baseball field, and has re-read the record from that time period. Jean stated that these would not impair her ability to make an impartial decision on this application.

Lisa Walker stated that she also received the email notifying people of the hearing and suggesting attendance, which would not impair her ability to make an impartial decision on this application.

Adrian Emery stated that he had conversations with several people in passing, but these would not affect his ability to make an impartial decision on this application.

Chair Allen reviewed the time limits and process for participants in an appeal hearing. Chair Allen opened the hearing at 7:15 PM.

Michelle Miller recapped the appeal received and the initial hearing held on August 6, 2007, and the subsequent Notice of Decision by the Hearings Officer dated August 13, 2007. The Hearings Officer approved with conditions the installation of 70 foot light fixtures at Snyder Park Soccer Field to light soccer fields for soccer and lacrosse team practices and games, finding that the applicable criteria had been met with several conditions of approval, primarily that the lights would comply with Section 16.154 of the Code regarding Heat and Glare standards. Michelle stated that at the initial hearing proponents of the application cited benefits to the community by allowing an additional 1300-1800 soccer and lacrosse players to use the field during the fall & winter months. Opponents cited the Heat & Glare standards were not met, and that property values and enjoyment of property would be damaged by the installation of the lights. Michelle added that some of the opponent testimony asserted that verbal promises were made by the

former Mayor for the City of Sherwood at the initiation of the park that lighting would never be installed.

Michelle cited and responded to the 4 primary issues raised by the appellant in the appeal: 1) Light fixtures did not demonstrate that they would reduce glare into adjacent properties; 2) Setbacks for the light fixtures did not satisfy the Code criteria; 3) Neighboring property would be adversely affected; and 4) Mitigation measures such as the shut-off time was not sufficient to protect the owners use and enjoyment of their property. Michelle said that the appellant also asserted that the Hearings Officer incorrectly interpreted the requirements for towers and wireless communication facilities.

Michelle responded: 1) The half-foot candle of illumination at the property line of the neighboring property owners was found to meet the standards with the condition that the City would hold accountable and guarantee that Musco Lighting, designer of the light fixtures, complies with the claimed illumination levels that are approved; 2) The park abuts a residential zone the setback requirements apply. Fixtures will be further than 20 feet from the front and rear property lines, and further than 5 feet from the side, meeting the setback standards; 3) The applicant is required to show that the proposal meets all the overall needs of the community. The Sherwood Parks Board made the recommendations to support the light of the soccer field to provide for necessary recreational facilities for Sherwood citizens. The City Council placed lighting sports fields as a goal for 2007, and were the policy decisions that initiated this land use application process. The applicant presented testimony that showed the increased number of users and the amount of added playing time; 4) No evidence was presented at the initial hearing to support the claim that property values would be adversely affected.

Michelle discussed the public notice issue raised by the appellant and referred to a letter submitted by the appellant's attorney, Kenneth Helm, dated September 14, 2007, Exhibit 1 of the packet. Michelle added that the Code is clear in respect to providing public notice and recapped the process followed by the City, concluding that the City met all requirements including providing a signed affidavit shown in Exhibit 4 of the packet showing that public notice standards were completed. Michelle addressed the petition submitted by the appellant with signatures in opposition to the soccer field lighting, and reiterated that the law restricts testimony and evidence received at an appeal hearing to that which was presented at the initial hearing, disallowing the petition submittal to be considered by the Planning Commission.

Michelle concluded that staff recommends the Planning Commission uphold the decision of the Hearings Officer approving the proposed lighting at Snyder Park.

Chair Allen asked Commissioners if there were any questions of staff at this time prior to receiving the applicant testimony. There were none.

Gene Thomas, P.E. – Project Engineer and Applicant/City of Sherwood; Gene recapped reasons for the application that included extending practice and play time on the soccer field for an increased population of participants, and meeting Parks Board needs and City Council goals to provide lighted sports fields for Sherwood citizens. Gene cited the artificial turf at the Snyder Park soccer field as providing an ideal location during the fall and winter months for soccer teams. Gene said that teams will not have control over the timing of the lights, which would be pre-set. The technical aspects of the lights were discussed, including the half-foot candle

illumination and design to project lighting downward onto the field instead of across the field. Gene said that the City can measure the lighting to assure that it meets the criteria.

Jonathan Ingram, Engineering Associate and Applicant/City of Sherwood; Jonathan discussed Exhibit G, a map of Snyder Park previously presented to the Hearings Officer at the hearing on August 6, 2007. Jonathan said that the illumination along the property line will not be above a half-foot candle measurement, and will meet or exceed all setback requirements. Jonathan clarified that lights S-1 & S-2 will be 70 feet, but lights S-3 & S-4 will be 60 feet, as revised prior to the August 6th Hearings Officer session.

Lance Gilgan, Recreation Coordinator and Applicant/City of Sherwood; Lance revisited issues he presented at the initial hearing regarding the 9PM shut-off time for lights. An administrative rule was passed last year to extend the park hours to 9PM with the temporary lighting currently in place, which is the reason why the 9PM time was proposed in this application. Lance says at this time the temporary lights are not required beyond 8:15 and are extinguished at that hour. Control of the lighting would remain under his responsibility by pre-programming. Lance confirmed that the estimated 1300-1800 additional soccer and lacrosse players described by Michelle is accurate.

Lisa Walker referenced Exhibit C, a projected time table Lance prepared for the Parks Board showing lights coverage over a period of various months until 8PM in the evening, and asked Lance what changed the proposed time for lights out from 8PM to 9PM. Lisa also asked about the middle school lighting hours and operation policy.

Lance responded that the extra hour helps reduce the number of teams playing at the same time. Currently, Lance said that there are times when there are 4 teams practicing at once on one field and there are 80 soccer teams in the City this year. The Parks Board recommended the 9PM time. Lance confirmed that lights at the middle school can be on until 10PM and operated by key.

Tim Butts, Musco Lighting, 11710 SE Brockenhurst Circle, Happy Valley OR; Tim displayed the light fixture to be installed as presented at the initial hearing on August 6th, and discussed technical aspects of the light. Tim said that the sports lighting fixture keeps light on the field with very little off-site light, and is planned to have 20 mounted on 4 poles, 5 on each pole. The 20 foot candle is a class 4 level, which is practice level lighting. Musco Lighting guarantees the illumination claimed on lights.

Chair Allen asked if the applicant had further testimony. Gene confirmed any remaining for testimony would be reserved for rebuttal. Chair Allen opened testimony for the appellant.

Ken Helm, Attorney for Appellant, 16289 NW Mission Oaks Dr., Beaverton OR; Mr. Helm referred to his letter provided in the packet, Exhibit 1, dated September 14, 2007 and expressed that support of sports fields is an important component in the community, but that a balance needs to be maintained between the community's use of the park and its neighbors. Ken discussed the history of the park as related to him by his client and many of his client's neighbors, and reiterated that verbal promises were made by a former Mayor that the soccer field would never be lighted. Mr. Helm referred to the petition signed by neighbors and wanted the Commission to understand how many people were in opposition to the application, and would

like the Commission to take this under consideration. Mr. Helm stated that he believed that although this may not be a legal standard, it could have a bearing on how the Commission evaluates other legal standards discussed later.

Chair Allen asked Mr. Helm to confirm if his practice was land use law, and how the Commission could consider non-legal evidence in the context of an appeal under Oregon law.

Mr. Helm confirmed 12 years practice in land use law, and added that although evidence may not be legally binding on their own merit they may have an impact on how additional arguments are evaluated. Ken discussed the Hearings Officer findings for the Heat & Glare standards and said that the condition in the Notice of Decision does not require performance testing to confirm lighting meets these standards prior to installation. Mr. Helm stated that a condition should be entered to require the City to conduct performance testing on the illumination and performed on a periodic basis. Regarding Exhibit G referred to in Jonathan Ingram's presentation, Mr. Helm stated that the foot candle measurements are only two-four hundredths away from violating the standard, and that it would take very little for the illumination measurement to vary. Regarding the 9PM shut-off time on Page 3 of his letter, he said that noise continues even after lights go out. An earlier shut-off time would reduce noise and activity in the park and wanted the Commission to consider 8PM.

Concluding, Mr. Helm discussed the public notice and said that many property owners indicate they did not receive notice and that this standard may have not been met. Additionally, Mr. Helm made 5 recommendations: 1) First choice, reverse the Hearings Officer decision and deny the application because the lighting is not a good fit for the neighborhood; 2) If approving the application, prior to approval provide greater outreach to neighbors recapping protections that will assure illumination standards are met and timing for lighting shut-off; 3) Confirm that data claimed by the lighting vendor is accurate prior to installation; 4) Add a condition that if lights do not perform that there is a bond and performance guarantee in place; 5) Affirm an 8PM shut-off time with no amendments.

Patrick Allen addressed the issue of public notice and said that an affidavit exists that the public notice process was done according to Code. Patrick added that the City has an obligation to follow the Code for public notice, but does not have an obligation under the Code to assure that notice reaches recipients. Regarding the performance bond issue, Patrick said that a bond is a financial aspect in protecting the City's interests that the City Council would evaluate, and asked Mr. Helm what basis under the Code requires the Planning Commission to consider this. Mr. Helm said that it would assure that the light spillage criteria is met. Patrick said that rather than a bond, this aspect could be addressed by the Planning Commission by making a condition that if illumination standards are not met the lights would not be permitted to be used. Patrick reiterated that the Commission's role must consider the Code. Mr. Helm stated that he did not disagree that the Planning Commission has the authority to impose conditions to ensure that standards in the Code are met.

Chair Allen reiterated that only those people who provided verbal or written testimony at the initial public hearing on August 6th may provide testimony this evening, and opened the hearing to public testimony, beginning proponents of the application. Chair Allen read the names of those already on the record.

Darrel McSmith, 23697 SW Stonehaven St., Sherwood OR; Darrel is a board member of the Sherwood Youth Soccer Club and schedules teams for fields in Sherwood. Darrel said finding space for teams during daylight hours is a challenge, and has asked the City during the past 3 years to help find additional space.

Thad Overturf, 22830 SW Forest Creek Dr. #100, Sherwood OR; Thad is on the Sherwood Parks Board and said that he is in favor of the lighting to accommodate the growth in the City, and said that progress often requires change.

Bill Butterfield, 23614 SW Heron Lakes Dr., Sherwood OR; Bill has installed 2 lighting projects in Sherwood and that Musco Lighting met all the requirements and guarantees. Bill stated that in order to install this equipment a pre-engineered package is required, which the City has.

Chair Allen asked if there were any other proponents on the record that wished to testify this evening. There were none. Chair Allen opened testimony to opponents on the record who wanted to testify. Chair Allen read the names of those already on the record.

Anthony Passadore, 23445 SW Sherk Pl, Sherwood OR; Anthony discussed the public notice process and said that the City could have done more to inform all the property owners around the park, and said that he and his neighbors used their own funds to get notice out to their neighbors to attend the meeting tonight. Mr. Passadore added that he gathered the signatures on the petition. Anthony said that he does not read the Tigard-Tualatin Times where the notice appeared and that it is likely not read by many who live in Sherwood. Mr. Passadore said that some of the proponents tonight who have testified work for a contractor who has won a bid to install lighting for the City, and that this should be disclosed as a conflict of interest. Anthony expressed concerns over lighting spillage and noise with the field being lighted longer into the evening, and added that a neighbor said another rendering of the map shown earlier (Exhibit G) had different light spillage measurements than was shown this evening. Mr. Passadore encouraged the use of grass fields for later practice instead of relying heavily on the AstroTurf which he felt was not necessary. Mr. Passadore said that he & his neighbors are not against athletics, but that lights attract people and believes that people will be invited to remain in the park for longer periods with the lighting. Anthony concluded by saying the issue is about livability and not just the Code.

Jean Lafayette asked Mr. Passadore to clarify where he saw the additional rendering of lighting levels as mentioned in his testimony.

Julia Hajduk clarified that the applicant's original submittal had another design, but that this was revised before the August 6th Hearings Officer session.

Jean Lafayette asked for clarification that the information on Muscoe Lighting as mentioned previously in testimony from Bill Butterfield was in the packet.

Michelle Miller clarified that the Muscoe Lighting information was provided in Exhibit A of the packet.

Sarah Bullfinch, 23465 SW Sherk Pl., Sherwood OR; Sarah said that she agreed with everything that Anthony Passadore said, and added that her concern was that promises were made in the

past when they moved into their home that no lighting would be installed in the park, and that lights are not wanted.

Paul Grob, Appellant, 23417 SW Sherk Pl., Sherwood OR; Paul stated that the appeal is not adversarial and that the appeal is done in the spirit of community. Paul said that mitigation for adverse effects is required and that he believes the application does not provide this.

Robin Krieger, 23221 SW Sherk Pl, Sherwood OR; Robin agreed that they were verbally promised several years ago that there would be no lights at the park. Robin expressed that the School District should have considered placing turf at the schools to accommodate night practice and games that require lighting. Robin said that she is a coach and is aware of the need to share field space, but feels in the long term it would benefit the community to delay any lighting at Snyder Park as long as possible. Robin stated that she is concerned about the light spread configuration of the lights at the middle school and if this configuration was used at Snyder Park how these will illuminate. Robin was also concerned about the 9PM turn-off time, which she expressed was too late. Robin concluded by saying that it does not seem appropriate that the Parks Board can determine the timing of the lights and that the height of the towers also ruins the view of the park.

Virginia Maffit, 15329 SW Sunset Blvd., Sherwood OR; Virginia said that she was at the original meeting when former Mayor Mark Cottle verbally promised that there would never be lighting at the park. Virginia added that at the meeting people also expressed concerns about having sound at the park, and wanted to know what could be done to assure that sound does not get installed as well.

Chair Allen reiterated the public hearing process for Planning Commission and the City Council, and added that citizens can ask to be on interested parties list to receive updates when projects are under hearing review.

Julia Hajduk concurred that the Planning Commission cannot randomly make changes to the Code and encouraged public involvement at public hearings when changes to the Code are being presented.

Virginia concluded by saying she also felt there was not ample notice provided, and that the large light poles would detract from the value of their homes, as prospective buyers would prefer homes without the view of the poles.

Allison Bassich, 15081 SW Smock St. Sherwood OR; Allison said that her street is a dead-end along one side of the park, which already attracts vehicle parking issues and activity. Allison said that extending the hours of the park impacts the livability of her home. Allison added that the view of the spectacular park will be damaged by the large lighting poles.

Judy Roberts, 15076 SW Smock St., Sherwood OR; Judy said that she used to live near Tualatin High School and public notice for any changes at the school was well covered, and does not understand why Sherwood did not provide better notice. Judy concluded that the money needs to be spent buying more space for parks.

Chair Allen asked if the applicant wanted to use any of the remaining time allotted for rebuttal.

Gene Thomas, P.E. said that in regard to performance guarantee and warranty, the manufacturer does warrant their product and there is a performance guarantee with the product. The contractor does not get paid if these are not provided. Gene clarified that the computer-generated light values shown in the exhibits mentioned are developed from actual situations, and are tested in the lab within facilities under the appropriate conditions to provide as much accuracy as possible. Gene added that the City does not have a contract with any contractor, supplier, or designer at this point in time. There is nothing under contract that would be an obligation to anyone. Regarding the spread of the lights at the middle school mentioned in testimony earlier, these are designed as a 30 foot candle and the lights at Snyder Park would be a 20 foot candle. The light intensity would not be the same. Gene concluded by saying that replacing the temporary lights is one of the reasons that the City is working on this project.

Chair Allen asked if there was any further testimony from opponents. There was none. Chair Allen closed the public hearing at 8:50 PM.

Chair Allen recommended a 5-minute break at 8:55 PM.

< 5-minute break >

Chair Allen reconvened the session at 9PM, and stated that the appellant had 5 remaining minutes for testimony if desired.

Ken Helm said that if the decision is not remanded back to the Hearings Officer, conditions need to be in place directing the City to fix the problems inherent in the application. Additionally, there may be a public notice issue.

Chair Allen asked Commissioners if there were any questions for Mr. Helm. There were none.

Chair Allen asked if the applicant had any further rebuttal. They did not. Chair Allen opened the session to final staff comments.

Julia Hajduk said that public notice was done according to Code, and said that possibly more notice could have been done by the Parks Board, City Council or the applicant, but that the Code requirements were met. Julia said that as with any other applicant the public notice procedures are done according to Code.

Michelle Miller reiterated that public notice was provided for property owners within 100 feet of the site, posted on the site, posted around town at City Hall, Library, YMCA, Senior Center, and Albertson's on Tualatin-Sherwood Rd. Notice was also published twice in the Tualatin-Tigard Times, all according to Code time lines.

Patrick Allen asked staff to confirm that an affidavit of mailing and posting was done, but that the Code does not require the City to confirm receipt of mailings such as certified mail. Michelle confirmed that the City did provide the affidavit and does not send notice by certified mail.

Jean Lafayette asked about the boundaries for public notice. Michelle stated that the boundary is the tax lot for the soccer field, and that public notice is sent to property owners within 100 feet of the tax lot in an application, and summarized that although there may be disagreement on some

of the standards in the current Code, they have to be followed in the review of criteria on applications.

Matthew Michel spoke to the notice issue and confirmed that staff followed the legal standard outlined in the Code for providing public notice. Regarding the allowance of new information into the record in an appeal hearing, Matthew reiterated that the Planning Commission is not allowed to consider any new testimony not presented at the original land use hearing. Matthew said that the Planning Commission may remand back to the Hearings Officers, but reminded that the Hearings Officer's decision would be the final authority.

Patrick Allen asked Mr. Michel to confirm that the appellant could still appeal to LUBA regardless of whether it is the Planning Commission or the Hearings Officer that makes the decision on the appeal. Mr. Michel confirmed.

Patrick asked staff why the Hearings Officer did not consider an 8PM shut-off time for the lights. Julia stated that the Hearings Officer heard all of the testimony from opponents at the initial hearing and did consider earlier times, but determined that the proposed 9PM shut-off time was sufficient. Matthew Michel reaffirmed that the Planning Commission can change the time if that is their determination.

Adrian Emery asked staff to confirm if the Parks Board recommended the 9PM shut-off time. Michelle referred to testimony by Lance Gilgan and confirmed.

Patrick Allen asked Matthew if the Commission can consider financial issues such as bonds. Mr. Michel stated that these are usually associated with contracts through the finance process and that the Planning Commission is not charged with evaluating financial issues, which are considered risk management.

Lisa Walker asked Mr. Michel if the Commission could place a condition that there be periodic testing for illumination spillage measurements and that they be made available to the public. Mr. Michel confirmed.

Jean Lafayette referred to the standards for Low Density Residential (LDR) zoning in the Code that specifies height limitation for similar descriptive devices much shorter than those allowed by the Chimney, Spires and Structure standards used to evaluate the light poles for the park. Jean asked staff why the LDR standards would not apply. Discussion ensued regarding the differences, resulting in agreement that the LDR standard applies to devices attached to the residence or structure – which would not apply to the light pole structures at the park.

Patrick Allen asked Matthew Michel if the Hearings Officer has the authority to allow new testimony or evidence into another hearing if the appeal was remanded back. Matthew stated that the Hearings Office might have the authority to decide upon new testimony if he feels it may benefit his ability to make a decision.

Chair Allen asked Commissioners if there were any further questions for staff before deliberating on the appeal. There were none.

Adrian stated that there were many logical reasons given in testimony tonight to consider changes that the Commission is not allowed to do. Adrian said that in the future some of the Code issues could be looked at for amending, but they must go by the current Code.

Patrick Allen stated that the question before the Commission is whether or not the City is legally entitled to install lights at Snyder Park Soccer Field, and if so what conditions or changes are recommended. Patrick said that staff appears to meet notice requirements, and the half-foot candle standard has been met. The remaining issue under discussion appears to be the 9PM shut-off time.

Julia reiterated for the Commission that if the time for shut-off is recommended to change, the Commission would need to make modified findings or direct staff to modify findings.

Discussion ensued among Commissioners on remanding the appeal back to the Hearings Officer or to add conditions prior to approval. The shut-off time and possible phasing of the shut-off process was also discussed.

Patrick mentioned that the record did not contain some of the information brought up regarding the phasing out of lighting or how long that takes, and that total darkness language needs to be in the final recommendation.

Jean added that testing of light spillage could also be conditioned. Lisa expressed concern about who would monitor the light spillage and assure code compliance. Julia stated that code compliance is not a basis for making a decision. Patrick agreed that it is the City's burden to confirm that the lights meet standards.

Lisa Walker referred back to the testing and monitoring of light spillage and suggested that remanding back to the Hearings Officer may allow time for a study between the foot candle strength of the current temporary lighting and the proposed lights, since this is not known.

Julia reiterated that the remand process is unclear in the Code and that there has not been a remand in her experience at the City of Sherwood to compare to, and deferred to the City Attorney, Matthew Michel for guidance.

Matthew Michel stated that if the appeal is remanded, the Commission must phrase the remand so that the Hearings Officer is clear on what specific aspect of his decision the Commission found to be incorrect and needs re-evaluation. Matthew reminded Commissioners also that the Hearings Officer heard the same testimony that they have heard this evening.

Julia recapped that the Commission can condition the issues under deliberation without remanding to the Hearings Officer.

Patrick asked staff where in the record the applicant's needs are discussed in terms of the impact on sports teams for possible alternative shut-off times, such as 8PM or 8:30PM. Julia asked if Patrick to detail any specific questions and give staff a brief time to review the record in response. Patrick added that any information on the staging of the lighting for the shut-off process would also be helpful, and the actual pattern of usage presently.

Commissioners agreed.

Mr. Michel stated that the role of the Commission is to direct policy for the City rather than the specifics of the management of the light system and how it will operate.

Chair Allen confirmed the information was worth noting and added that an environment of mistrust appears to exist between citizens and the City, the Commission has been leaning toward wanting to manage the operation process of the lights.

Chair Allen recommended a 5-minuted break at 10:06 PM.

< 5-minute break >

Chair Allen reconvened the session at 10:14 PM.

Julia stated that the information Patrick requested prior to the break was not specifically in the packet, but was discussed at the initial hearing and would be available on the taped recording of that session. If the Commission wanted to continue the hearing prior to final deliberation and a motion, Julia said that copies of the tapes or transcripts of the taped recording from the initial Hearings Officer session could be provided. Julia added that the Commission could make conditions to limit the lighting time, if desired.

Consensus among the Commission after further discussion recommended total darkness by 8:15 and semi-annual compliance testing to be completed with results made available to the public. Commissioners recapped the conditions to be amended and took a few minutes to draft a motion.

Patrick Allen moved that the Planning Commission affirm the report of the Hearings Officer based on the staff report, findings of fact, public testimony, staff recommendations, agency comments, applicant comments, and conditions with the following amendments: That the Hearings Officer findings be revised to find the Hearings Officer erred in balancing neighbors use and enjoyment of their property with the applicant's need for a later cut-off time for lighting. Further, that the ongoing condition B-1 be amended to add the following sentence; Applicant will conduct semi-annual light spillage measurements to assure continued compliance with this condition and make those results publicly available. Finally, that an additional ongoing condition B-2 be added that reads; Lights will automatically be extinguished no later than 8:15 PM.

Jean Lafayette seconded.

Chair Allen asked if there was any further discussion on the motion. There was none. Vote was taken:

Yes- 4 No – 0 Abstain – 0

Motion carried.

7. Comments by Commission – Adrian talked about the current Work Program and would like to get back to discussion on a portable vendor code. Patrick agreed that more information was needed to discuss portable vendors.

Julia said that the issue of signs is also on the Work Program and that she is considering having an intern come in to do some preliminary study.

Chair Allen asked if there were any further comments by the Commission. There were none.

8. Next Meeting - October 23, 2007: PA 07-01; Former Driftwood Mobile Home Park Plan Amendment. Vice Chair nominations and election.

Julia reminded everyone that the Brookman Road Concept Plan Open House is on Wednesday, October 10, 2007 from 6-8:30 PM in the Community Room at City Hall.

9. Adjournment – Chair Allen adjourned the session at 10:43 PM.

End of Minutes.