



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
November 27, 2007 – 7PM**

- 1. Call to Order/Roll Call**
- 2. Agenda Review**
- 3. Consent Agenda – Draft 11/13/07 minutes**
- 4. Staff Announcements**
- 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 – Oregon Street Industrial Park (SP 07-08)** – The applicant has requested site plan approval to construct three industrial buildings totaling 35,653 square feet with associated parking and a 105,000 square foot storage yard. This property is located in the Light Industrial (LI) zone and is generally located north of Oregon Street, southeast of the railroad tracks and west of Cedar Creek, at 15104 SW Oregon Street.
 - b. S.W.O.T. discussion**
- 9. Comments from Commission**
- 10. Next Meeting:** December 11, 2007
- 11. Adjournment**

City of Sherwood, Oregon
Planning Commission DRAFT Minutes
November 13, 2007

Commission Members Present:

Chair Patrick Allen
Jean Lafayette
Dan Balza
Adrian Emery
Lisa Walker
Matt Nolan
Todd Skelton

Staff:

Julia Hajduk, Planning Manager
Stephanie Guediri, Recording Secretary

*Stephanie -
see my chicken
scratch - let me know
if you have questions.
John*

Commission Members Absent:

None

Council Liaison – None Present

City Attorney – Chris Crean ~~9222222~~

1. **Call to Order/Roll Call** – Stephanie Guediri called roll. Todd Skelton was initially marked absent but subsequently arrived at 7:04 PM.

2. **Agenda Review** - Chair Allen announced that the Commission would be hearing the Former Driftwood Mobile Home Park Amendment but not the Oregon Street Industrial Park as it will be continued until a date certain. Chair Allen added that the Commission will vote on the Vice-Chair elections tonight. There were no changes to the agenda.

3. **Consent Agenda** – Minutes from the September 25th, 2007 session was approved by vote:

Yes – 5 No – 0 Abstain - 1

4. **Announcements** – Julia Hajduk announced that the Commission will need to bring the eco-friendly mail bags with them to every meeting. Julia updated the Brookman Road Steering Committee meeting to December 12th, 2007, due to the consultant's schedule. The open house on October 10th, 2007, was very successful with over seventy (70) attendants, including Commissioner Lafayette. Julia added that Heather Austin has returned to work and an Assistant Planner will be starting this Monday. In addition, Julia has advertised for a part-time Administrative position that will help more with the work that Planning wants to do. She ~~reinformed~~ ^{reminded} the Commission that there are training opportunities available to them through Oregon APA which will be the second Friday of every month from October to June at 10:00 AM. The Langer PUD modification is going back to the City Council on December 4th and the Snyder Park Lights project was appealed to LUBA but was subsequently withdrawn and this decision is now final. Chair Allen asked if there were any questions. There were none.

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 – PA 07-01; Former Driftwood Mobile Home Park:** Chair Allen read the state mandated rules from a new script for the public hearing process, particularly in regard to the outline of the meeting such as staff report not lasting more than

fifteen (15) minutes, after which Commissioners may ask questions and then it will be open for public testimony. The applicant will have thirty (30) minutes only for presentation and rebuttal combined and then proponents will have five (5) minutes each as well as opponents. Any remaining time from the Applicant can be used for rebuttal at this point. The public hearing will then be closed and no other comments will be heard from the public nor the applicant. Staff will then have fifteen (15) minutes for final comments and then Commissioners will also have a final opportunity to question staff. Afterwards, the Commission will discuss any action that they choose to take. A decision may be made by the Commission at the close of the hearing or the matter may be continued to a time and date certain in the future. If this occurs, this will be the only notice of that date that you will receive. If anyone wishes to speak, they must fill out a testimony form and submit it to the recording secretary. The Chair will then recognize those wishing to speak and any questions should be addressed through them. He reminded the public to use the microphone so that they are audible to the Commission and to state their name and address for the record as the hearing is taped. When deciding whether to approve or deny the application, the Commission must consider whether the application meets the relevant approval criteria found in the city's land use regulations. Those criteria are identified in the staff report and are available in the room this evening. The written testimony and oral argument must be directed toward use criteria or other criteria that persons speaking believe apply to the decision. Failure to raise an issue with sufficient specificity to afford the Commission, the applicant and the parties an opportunity to respond to the issues precludes an appeal to the Land Use Board of Appeals on that issue. Failure of the applicant to raise constitutional or other issues relating to the proposed conditions of the approval with sufficient specificity to allow the Commission to respond to the issue precludes the actions for damages in Circuit Court.

Don't need to include

Chair Allen asked Commissioners if there was any ex parte contact, conflicts of interest or bias to declare.

Dan Balza stated that he viewed the site by driving by. No members of the audience questioned a Commissioner's ability to participate.

Chair Allen opened the hearing at 7:10 PM.

Julia Hajduk, Planning Manager, explained that the request was for a zone change from Medium Density Residential Low to Retail Commercial. This site has been vacated for almost a year. Staff reviewed the plans, it appears that the zoning will comply primarily because the Mobile Home Park was there. She added that the zoning around the site include High Density Residential to the north, General Commercial to the southwest and Retail Commercial to the northeast as well as abutting Pacific Highway. Planning reviewed the Development Code and the Comprehensive Plan and find that the functional plan criteria were met according to METRO. The main issue was the Transportation Planning Rule. There are comments from ODOT and Chris Majewski from DKS that raise concerns regarding the recommendations that the project should be denied unless a condition could be in place that limits them to the worse-case trips under the current zoning. Staff prepared a condition recommending Condition of Approval which allows future development to do improvements that would generally be required to comply with the Transportation Planning Rule.

was applied

that the project

Commissioner Lafayette requested clarification on the trips and the mitigation. Julia explained that anytime there is a zoning change, you must show compliance with the Transportation System Plan (TSP) and if you are making any intersection or road capacity worse than it

currently is, you have to fix it or amend the TSP so there is a funding mechanism to fix it. The Transportation Planning Rule requires a twenty year worse-case scenario based on the zoning that's proposed. The worse case scenario causes those intersections to fail and therefore doesn't comply with the Transportation Planning Rule. ODOT and AKS felt that the applicant could have transportation planning rule compliance if they were capped on the number of trips that they could develop under. Staff recommended conditions that did that. We received ODOT comments today that show that they still have concerns about the condition. ODOT wants it to be a condition of approval and doesn't like the idea of it being recorded, but for us, it's essential that it's recorded so that ^{it doesn't require} there's institutional knowledge over time that this is a condition. Julia added that staff recommended that its capped until a developer wants to do intersection and road capacity improvements in order to get more trips. This is acceptable to us but ODOT recommends that to go over the number of trips, a developer must go through a zone change process. If the Planning Commission concurs in concept with the recommendation of approval, we will coordinate with ODOT to get the details of a condition that caps the trips but also makes logical sense.

Julia handed out copies of Exhibit F to all Commissioners which consisted of ODOT's comments.

Chris Crean, City Attorney, refereed to page nine (9) of the staff report, it recommends that the Commission recommend approval of this to the City Council. He read from the staff report that ODOT was wary of the city was going to try to rely on a recorded covenant to enforce this land use decision. This is not the case. The city is having land use decisions recorded so subsequent purchasers know what restrictions are placed on the property, hence the recorded land use decision. Chris recommends that the Commission split the condition of approval to state that one contains the substance of what's there and by the way, the applicant has to record this. It also goes on to say that the trips shall be capped at 480 trips per day which is consistent with the request that was received from ODOT that the city either deny the application or cap the trips at the current maximum worse case scenario if it remains residential. Chris went on to point out that the conditions of approval limits the site to 480 trips per day unless transportation upgrades are installed that would increase capacity along 99W. Therefore, the trip cap is going to stay in place unless amendments are adopted in to the city's comprehensive plan redesignating things at which point the transportation planning rule would have to be complied with or improvements are made to 99W to increase capacity. ODOT's email likes the 480 trips per day but adds that if development exceeds 480 trips per day, this will require a zone change and plan amendment. ODOT doesn't state what type of zone change. If this application is approved, it will be rezoned to retail commercial. Chris thinks their concern is that they would not get notice of subsequent development on the site that could generate additional trips and degrade the facility.

Chair Allen presumes that ODOT would be aware of someone increasing capacity on their highway.

Chris states he doesn't think ODOT understands the notice provisions in the city code that would require that they receive notice of any development application on the property. This application is a rezone, not a development application of which ODOT would have adequate notice of that so they could participate in the process. The development application would be subject to the 480 trip cap unless they built new lanes on 99W. Julia allayed ODOT's concerns.

Julia added that she received the ODOT email at 4:00 that afternoon and didn't have an opportunity for legal staff to talk to each other. She went on to state that she received a written comment as well and would like to enter this in to the record as Exhibit G from Margaret Smith, *Ms. Smith* as she thinks the rezone will affect her view. Also, Ms. Smith wants the trees maintained between the properties and no road access through Madeira development to access the commercial property. Julia received another written comment and entered it in to the record as Exhibit H from Joe Broadhurst which explained that current commercial landowners know that there is plenty of commercial land available with Langer's 52 additional acres in town. The application is premature as there is no use proposed, just an increase in property value for applicant and a decrease for current landowners. He requests that the written record remain open for more concerns.

Chair Allen then asked that in the Economic Opportunity Analysis, on the table in the second page of Exhibit D, if the Langer property ^{*was*} inventoried as commercial. Julia replied that it was inventoried as Light Industrial. She added that nothing is decided on that and there are no land use proposals in front of Planning other than the PUD modification.

Commissioner Lafayette pointed out that the transportation considered that property commercial but Julia is stating that for this, it was considered light industrial. She requested clarification that it was treated differently in two parts.

Julia declined to talk about the Langer project at this hearing. She added that Tom Pessemier, City Engineer, testified that the Transportation System Plan looked at Adams' impact and did analysis on that being partially commercial for Langer.

Chair Allen asked about the size of the Langer property. Julia responded 57 acres and all of it is potentially developable as commercial.

Chris Crean disagrees ^{*by*} stating that a substantial portion of phase 8 will be dedicated as wetlands.

Chair Allen is concerned that the criteria he has that there be a demonstrable need if we have a large block of land that wasn't assessed properly, this can impact the needs/circumstances.

Julia countered that it's close for moderate ^{*Chair Allen pointed*} growth scenarios but for high growth, there is a large commercial demand in the long-term, but the moderate growth was adopted as the preferred alternative.
confirmed

Chair Allen stated that 27 acres is what the opportunity analysis states is the demand.

Commissioner Lafayette added that ODOT called out that the site cannot be used for commercial signs, should that not be in the condition?

Julia responded that it could be and her assumption was ^{*this was entered as*} a fact/comment. She can certainly point that out as a condition. She added that this was in the outdoor/advertising signs comments and this was taken more as a heads up for the applicant and that this would be applied to any development application coming in.

Commissioner ^{why all caps?} SKELTON asked Chris that unless improvements were installed, the condition states that installed, funded or included in the City's capital improvement plan. He is concerned that just because it's in the plan, will that guarantee that it will happen.

Julia responded that there has to be a funding mechanism in place. Chris added that this becomes a concurrency issue and Sherwood doesn't have a requirement that a facility has to be built before you can approve development.

Chair Allen requested clarification that the Capital Improvement Plan is a funded plan over a period of time. Chris concurred.

Commissioner Lafayette asked how long does the plan look out for and Julia responded that it was a twenty year plan and any given development proposal must conduct a traffic analysis and make sure they are doing improvements.

Chair Allen disagreed. He doesn't believe that the CIP runs the same time frame as the TSP. Julia and Chris do not have details on this *but will get an answer.*

Commissioner Lafayette asked how 480 trips are calculated and Julia replied that there are 10 trips per unit and this zone has a maximum of 48 dwelling units. Commissioner Lafayette stated the applicant quoted 440 trips but Julia will confirm this number.

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

Ed Sullivan, Office Address at 121 SW Morrissey, Portland, OR, Representing Applicant, Don Pfeiffer. Mr. Sullivan asked Mr. Pfeiffer to speak first.

Don Pfeiffer, 2011 NE 164th Place, Portland, OR, 97230, owner of Driftwood Mobile Home Park. Mr. Pfeiffer gave a brief history of the proposal including the facts that in 1964, 41 spaces were built, in 1989, 15 spaces were added for a total of 56 spaces when the park was closed. To add the 15 spaces, the City asked him to change the zoning from High Density Residential to Medium Density Residential. In 2005, the park closed due to obsolescence. Mr. Pfeiffer submitted correspondence from ODOT and the Governor's office to show noise from Hwy 99W and nearby developments which made renting spaces difficult for five years. ODOT offered an alternative of a 12-foot high noise abatement wall with end wings. Mr. Pfeiffer states that this *is* an unattractive solution. He added that when he closed the park, he compensated some of the tenants in moving costs. He also paid for all of the demolition costs if the home could not be moved which saved the City of Sherwood embarrassment. The property is not suitable for housing due to noise, traffic and commercial uses, such as GI Joe's. The only reason the park is designated residential was because of the mobile home park. Mr. Pfeiffer is concerned about the condition that prior to zone change becoming final, it's a conflict to impose the 480 trips per day limitation if the property is to be rezoned commercially. A Medium Density Residential recorded condition would create an encumbrance on the property affecting its value and redevelopment potential. He suggests that the City and ODOT readdress these conditions when a redevelopment plan is submitted. He understands some conditions are required for zone changes.

Chair Allen asked if Sherwood needs the additional acreage of commercial land and Mr. Pfeiffer could not demonstrate the need for the land.

? I don't remember that
Ed Sullivan stated he relied on the Economic Opportunities Analysis and the three scenarios contained within ~~and the Langer property~~. He thinks that with the actual development of the Langer properties, even with the storm drainage area, it would still leave enough land for commercial. He understands that we have to deal with the need for commercial but the Economic Opportunities Analysis provides the basis for the change.

Chair Allen asked if he knew the acreage breakdown of what would be developable as commercial in the Langer development and Mr. Sullivan responded no, but his understanding is that a large segment of it will be storm water improvements. Chair Allen added that anything south of thirty acres of storm water development would take up half.

Mr. Sullivan noted that since someone already asked for the record to be held open, he will look in to the matter further.

Commissioner Lafayette questioned Mr. Pfeifer about when the City requested him to go from high density residential to medium density residential and he replied 1989 because he was putting in fifteen more spaces. She doesn't understand why it would go backwards and he said it was due to the double wide standards.

Todd Mobley, Lancaster Engineering 321 SW 4th, Suite 400, Portland, OR 97204; Mr. Mobley stated he conducted the traffic impact study and coordinated with city staff and ODOT. He encountered a constrained transportation system in the twenty year analysis with a lot of congestion and a difficulty to accommodate increased traffic associated with worst-case commercial development. He ended up with a condition to limit the use on the site to what the existing zone would allow and that limitation negates any impact that could be associated with increased traffic on the site. The 480 trips was a result of our traffic study and we should rely on the development potential that could be realized with the existing zoning designation. The intent of this is to have the site generate no more trips than would be allowed under the existing zone. He hesitates to put too much stock in the 480 trips, it shouldn't generate any more trips than what should be allowed.

Chair Allen clarified that he is arguing that the condition should not be tied to a number but to what would be allowed by the zoning and Mr. Mobley concurred. Mr. Mobley added that the intent is what could be generated under the commercial zone doesn't exceed what you can do under the existing zone. He states the 480 trips is an assumed accuracy that may not be exactly correct.

Ed Sullivan added that the Transportation Planning Rule is not based on numbers but an increase over the existing allowed use. There can be other uses in the underlying residential zone and the notion is not to increase the impact but keep the existing traffic capacity and when more is necessary, you deal with that by conditioning approval of increased intensity with facilities to take care of the impact.

Chair Allen asked for an example of this and Mr. Sullivan replied a church in a residential zone is a conditional use.

Commissioner Lafayette asked about the condition and how it's worded. It says, "installed, funded or included in the capital improvement plan." We have other applications so how does this work if a turn lane is added, do you get credit for increasing the capacity? Mr. Sullivan responded yes but on-site mitigation doesn't count so if you do something and add the right of way, it doesn't count. But it will count if there is an increased capacity to the city. The rollback for the systems development charges is used to fund the capital improvement program which is five to ten years rather than the full twenty. The money goes in as the building permits are applied for and that fund is used to increase capacity city-wide and the capital improvement plan makes a difference in where the city chooses to make those improvements.

Commissioner Lafayette tried to think of an example such as a U-turn lane in someone else's mitigation, due to the CAP ordinance there was a huge agreement between ODOT and the existing property owners that 43 trips per acre would be allowed for commercial and everyone else would be excluded such as IP and Residential. You're saying that commercial will take the 43 trips? No, replied Mr. Sullivan who added that the capacity has to be on-line and we don't get to build at all over and above the trip capacity of the 46 units, or 480 trips, until somebody increases the capacity. We could do that ourselves or wait for the Capital Improvement Program to kick in.

Chair Allen clarified that had this been zoned commercially in the first place, it wouldn't be entitled to more than 250 trips based on the 43 trips per acre for PM peak. Mr. Sullivan states that he would have gotten a lot more had it been zoned commercial.

Commissioner Lafayette restated that with ODOT's calculations from years ago, there was a huge agreement at that time and CAP had two things come out of it: a limitation of 43 trips and mitigation that had to occur. So if someone increases capacity for their development, how do you get the benefit?

Mr. Sullivan replied only if the overall capacity to accommodate their development and ours.

Commissioner Lafayette gave the example of Home Depot going in on 99W and the capacity will increase. Their mitigation measures say that because they are putting Wendy's in the middle of Home Depot's parking lot, this will increase traffic so they'll have to do mitigation. They add a turn-lane to increase capacity and increase trips so if there net is zero, do you benefit from that?

No, replied Mr. Sullivan as there would have to be an increase in capacity that would accommodate our needs. The problem is mitigation comes in big chunks, not 10 trips worth of mitigation. He added that proportional share agreements could be set up ahead of time so each development pays a portion. He added that the SDC charges get put in a fund and the capital improvement fund directs where the money goes. No increased burden on the city's system is the end result. That's what these conditions are about, how to word it. Oregon's position is that you don't get the use until you have the capacity.

Mr. Sullivan wrapped up his comments by stating that Sherwood is a destination for travel but Highway 99W are not sufficiently improved to handle the traffic generated by the existing plus potential new uses. The city's strategy uses different monies to handle this. The transportation planning rule states that you don't get anything that will affect a transportation facility unless you have the improvements in place or limit the use. He continued to discuss SDC funding and the limitations of the transportation generation of a commercial use on the site until adequate

facilities are provided. Granting our request will have no adverse transportation impacts on the situation and gives us the opportunity to deal with public agencies to secure the necessary improvements. The redesignation is appropriate from a Planning point of view but not a transportation point of view. He asked for the Planning Commission to recommend approval with the condition.

Chair Allen opened the hearing to public testimony, beginning with proponents of the application. There were none.

He then opened the hearing to opponents. Robert James Claus had filled out a blue card but declined to comment.

Susan Claus came to the table, *but (no recordings are available - summary is from memory)*

Tape 2: Starts with November 27th will be the next Planning Commission meeting. If you want to have an opportunity to

- Indicated that this shouldn't have limits. Either approve it or don't
- Concern about CAP

Chair Allen

~~That~~ I need to see ^{more} minutes from Tape 2 to know where ~~we~~ we were at - I am hoping we were talking about when to continue this to...

APPROVED
MINUTES

City of Sherwood, Oregon
Planning Commission Final Minutes
November 27, 2007

Commission Members Present:

Chair Patrick Allen
Jean Lafayette
Dan Balza
Lisa Walker
Matt Nolan
Todd Skelton

Staff:

Julia Hajduk, Planning Manager
Stephanie Guediri, Recording Secretary

Commission Members Absent:

Adrian Emery

Council Liaison – None Present

City Attorney – Chris Crean

1. **Call to Order/Roll Call** – Stephanie Guediri called roll. Todd Skelton was initially marked absent but subsequently arrived at 7:07 PM.
2. **Agenda Review** - Chair Allen announced that the Commission would be hearing the Oregon Street Industrial Park public hearing and discussion in preparation for the Council session on strengths, weaknesses, opportunities and threats. There were no changes to the agenda.
3. **Consent Agenda** – Minutes from the November 13th, 2007 session were approved by vote:
Yes – 6 No – 0 Abstain - 0
4. **Announcements** – Julia Hajduk introduced the new Assistant Planner, Zoe Monahan. Heather will conduct a work session on commercial/industrial design standards with the Commission about the first week of January. The next Brookman Road Steering Committee meeting is December 12th. Julia announced that Tom Nelson accepted the position of the Economic Development Manager and will start on December 3rd. Chair Allen asked if there were any questions. There were none.
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 07-08; Oregon Street Industrial Park:**
Chair Allen read the rules for the public hearing process. He then asked Commissioners if there was any ex parte contact, conflicts of interest or bias to declare. Commissioner Skelton arrived just prior to Commissioner Allen asking for declarations.

Jean Lafayette asked if she needed to disclose her participation in the DEQ public meetings that were held but Chris Crean stated only to note that she was there. Matt Nolan stated he had ex parte contact with a co-worker who lives adjacent to the property in regards to making sure that

the co-worker was aware of the public hearing tonight. No members of the audience questioned a Commissioner's ability to participate.

Chair Allen opened the hearing at 7:08 PM.

Julia Hajduk, Planning Manager, explained that the parcels involved were part of a partition separating the property just north of the site. By doing that, a 50 foot wide private access easement was required as a condition. In reviewing the partition staff report, it appeared that the road was to be built at the time of the site plan approval. She added that she has another application submitted by the property owners to the north to build the access road which conflicts with the access shown in this application. Attorneys disagree on who has authority to submit an application. Our attorney advised that this is a civil issue. We need to make sure that it meets the code and does not preclude access to adjacent properties in accordance to code. Julia referred to exhibit A in the packet which is the applicant's submittal information. Exhibit B in the packed was submitted on November 16th. The applicant's additional submittal did not allow enough time for it to be reviewed thoroughly by outside agencies. Prior to the submittal of exhibit B, we were recommending denial due to certain conditions that weren't being met. Julia then referred to exhibit B and determined that it may be possible to condition but a thorough review was not yet done. She added that there are three main issues on this site:

1. Parking. The site is tight for parking and the parking provided is based on industrial use. The plans indicate this is an office park which requires a higher parking standard. Upon discussing this with the applicant, he indicated he understood that he would be limited to industrial uses which can be limiting to seeking tenants. Julia explained that at the industrial uses only, 1.6 parking spaces are required and with using the code provision that allows a reduction of 25% to accommodate cross-patronage, the applicant can reduce the required parking by 25% which in turn allowed us to condition compliance with several standards including providing the ADA parking spaces and addressing the street standards.
2. Access in the 50 foot easement. A private street still has to be constructed to a public street standard according to our code. Within the area they are showing, this can be accomplished with more parallel parking and a reduction in perpendicular parking. The Engineering Department is recommending that the street be public, but at this time, it is a private street. Also, Tualatin Valley Water District indicates that the water lines need to be in a public right-of-way, not an easement.
3. Storm Water. Clean Water Services requires that the Oregon Street improvements be included in the storm water treatment. The applicant is proposing taking the additional storm water off-site to the adjacent property to the east, an orphan site managed by DEQ. Lee Harrington, Senior Project Engineer, referred to the CWS code (chapter 1.03.15), specifically condition number 7, which indicates that paving and roadway construction needs to have water quality treatment. This is not clearly shown by the applicant's design. Julia added that since it's crossing property lines, at the very least it needs to be in a public easement which is why Engineering is recommending that it be public right-of-way.

Jean Lafayette requested clarification on page 13 of the staff report. The 25% reduction refers to operating on different days or at different times of the day. Do industrial offices have the same requirement?

Julia responded that it could be more than a 25% reduction if the applicant can demonstrate that they operate at different days and different times and show greater cross-patronage.

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

Patrick Lucas, 20512 SW Roy Rogers Road, Suite 150, Sherwood, OR. 97140. He has worked on this project since 1999 and the remedial activities were nearly complete until an underground rail car was discovered full of contaminants. Originally there were two-3 lot partitions: tax lots 400 and 500. He did it as an easement so he could have a setback. He didn't record the tax lot 500 partition due to Provident Development wanting to place a mini-storage there. There is one lot in the back and two properties served by the access easement. However, the mini-storage site didn't come through so he applied for a grading permit to construct a private road. He explained that the concrete slab has arsenic in the concrete and that DEQ gave him approval to use that concrete as road base. The grading permit application was denied 7 months later. In March of 2006, the Community Development Director at that time stated that the city had new standards and the applicant would need a new site plan as it had expired. After speaking with Planning staff, he reduced the size of the buildings and made parking outside of the easement. This makes 45 feet of travel lanes reduced to 34 feet in parts. He opposes dedicating right-of-way as he would lose building number 3, costing him one million dollars. He wants to keep the private easement. He added that the original design contained a retaining wall to get sewer service to tax lot 500. Planning staff opposed this idea, therefore he agrees to get rid of the retaining wall. DEQ agreed for the applicant to hard-pipe the storm water across tax lot 600. He has an agreement letter from DEQ that he can show the Commission.

Dave Wechner, 12011 NE 99th Street, Suite 1530, Vancouver, WA. 98682. He prepared a memo for this meeting (given to each Commissioner just before the meeting started). He described this memo as clarifications to the staff report and read each point in summary to the Commission.

Briefly, he outlined AKS's responses to easements, maintenance agreements, design standards, and parking. He continued with specific references to plats, retaining walls, landscape buffers, access, striping of crosswalks, and screening the storage area from the railroad tracks.

Chair Allen asked if Condition C.1.b. regarding retaining walls poses an issue for the applicant and Dave Wechner replied no. Chair Allen also asked about the 3 parcel standard on private streets and how it pertains to tax lots 900, 1000, and 1100. Dave replied that 900 and 1000 are served by a different access than 1100.

Jean Lafayette asked for clarification regarding outdoor sales and displays. Patrick Lucas stated that they wouldn't have outdoor displays. Jean asked if that can be added as a condition and Patrick agreed. Jean also asked for clarification on the tree issue and why they needed to be removed. Patrick stated that they are in the middle of the future right-of-way and he isn't willing to save them and postpone the development. Jean asked if it's 1 foot of right-of-way that we

were trying to gain that would wipe out all of the trees and Lee Harrington responded that it's true that we want the additional 1 foot of right-of-way but the trees aren't located within that. The trees are closer to the street side and in an area that would be curb or street as opposed to an area that would ultimately be the green strip that would normally hold street trees.

Lance Ludwick, Professional Engineer for AKS, 21550 SW Mountain Home Road, Sherwood, OR. 97140. He addressed the street tree issues. He clarified that Mr. Lucas wanted to keep them and asked staff to review the criteria of the TSP for a sidewalk design that would wind around the existing trees. The staff report did not comment on this. The trees are currently in the proposed sidewalk area.

Jean Lafayette asked if we would have to wipe out all of the trees to put in a sidewalk and Julia responded that's what was proposed and she didn't recall any conversation about trying to save the trees. Julia added that there are provisions in the code that allow modifications to street standards in order to save the trees.

Jean asked if the Oregon Self-Storage application had expired and Julia confirmed that it did.

Bill Blakesly, Owner, Billet Products, 20875 SW Chapman Road, Sherwood, OR. 97140. Mr. Blakesly was originally called up to testify during the applicant's time but Chair Allen requested that he testify as a proponent instead of using the applicant's remaining time.

Chair Allen opened the hearing to public testimony, beginning with proponents of the application. Bill Blakesly continued his testimony.

Bill stated he wanted to see the project approved due to the fact that Adams Street is now coming down his property line that he dedicated for the access 22 years ago. Adams Street will take a half-acre away from him. He added that Adams Street construction will change his property's entrance from the southwest side to the northwest side and this interferes with flow and storage for him. He wants to relocate his storage facilities to the 2 ½ acres on the subject's property.

Chair Allen stated that his plan relies on the rail line not being used frequently. Bill stated the rail line would be used frequently. Chair Allen stated Bill would be crossing the rail line regularly. Bill stated he would but just to park his fleet trucks and to place storage materials. Bill added that he was told by the designers of Adams Avenue that he would have access to turn left off of Adams and on to Oregon. He would also have access coming down Oregon to turn right on to Adams with a proposed entrance drive in to the yard about 100 feet off the corner. The main entrance would be up in the northwest corner would allow movement in either direction.

Chair Allen asked staff if the TSP called for the railroad crossing on Oregon to be closed and for Oregon to continue on the south side of the tracks. Julia wasn't certain about this. Chair Allen wanted to be informed at a later time about this.

Chris Crean, City Attorney, stated that staff was working with ODOT rail in getting a permit to rebuild the crossing to accommodate Adams as it goes through but as for Oregon Street, he isn't sure what the result will be.

Chair Allen asked if Adams would then cross the tracks and Chris responded that it will intersect with Oregon Street at some point and either Adams or Oregon will cross the tracks. Julia added that she will brief the Commission at a future meeting. Chair Allen stated that there was a lot of time spent on modeling traffic north and south of the tracks based on the redevelopment of the cannery site and Oregon Street not crossing the tracks. If the current TSP states there is no crossing of the railroad tracks, an amendment will be needed to the TSP. Julia will speak with Engineering about it and address it in a future work session.

Patrick Lucas stated that Bill Blakesly had an agreement with the Catholic Church to use the property next to his for parking. The previous City Manager ended that agreement by stating the Church's property was zoned residential. This is why his trucks are parked on Patrick's property.

Bill Blakesly added that he has 50 trucks coming in and out daily and half of them use Oregon Street and Tonquin to I-5 South. It's known that Adams Street has put a hardship on him not to have access to Oregon Street.

Chair Allen then opened the hearing to opponents.

Clarence Langer, 15585 SW Tualatin Sherwood Road, Sherwood, OR 97140. Mr. Langer was confused by the notice he received and Chair Allen and Julia clarified that it was the correct notice and when the accompanying map showed "west of Cedar Creek", staff meant to show "west of Rock Creek". Clarence indicated that the project is a good idea for the site. He added that in 2003, he testified about the DEQ clean up and it's still a problem. He disbelieves Mr. Lucas has a letter from DEQ allowing him to use contaminated concrete and wants to see the letter for himself. With the Adams Street improvements, Bill Blakesly will lose space. He added that he wants to know when the vote will take place and he hasn't heard anyone mention traffic impacts on Oregon Street.

Chair Allen responded that the standards for traffic were addressed in the staff report and there was no disagreement about them that has not been raised at this point.

Bill Monahan, Lawyer representing Provident Development Group, 2 Centerpointe Drive, Lake Oswego, Oregon 97035. He directed the Commission towards a letter from his office that outlines the concerns related to the initial submittal (included in the Commission packet). His concerns involve unanswered questions. He believes that since this is the first evidentiary hearing, the Commission is obligated under ORS 197.763 Section 6a to continue this hearing to a date certain. He wants to see the memo from AKS Engineer, Dave Wechner, that was submitted earlier that evening. The project has changed and the revised site plan has not had adequate review. The application causes access problems. The parking layout is a significant problem. There are 12 spaces adjacent to proposed building number 1 that are perpendicular spaces that would back out on to the access drive and the sidewalk area. He stated that staff noted that 51 spaces are on the application and that's adequate except we don't know what the proposed use is going to be. He added that the number of spaces can be reduced by 25%. Under Section 16.94.010.04 Multiple Mixed Uses, it says that the 25% reduction can occur when there are several uses occupying a single parcel, which this isn't. He believes that 17 spaces will be lost off of the access drive. He continued that foregoing the retaining wall should lead to a new grading plan which will result in a different site plan. Either the building size needs to be

reduced or the maneuvering of the trucks needs to be changed. His recommendation is that the Planning Commission require a new, revised plan and continue this hearing to allow for additional testimony on the new information that has been submitted and also for the new information the Commission can require the applicant to submit. He clarified that 6a states that prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application.

Chair Allen asked staff if the Commission had an obligation to keep the written record open but not continue the hearing on request.

Chris Crean verified that the subsection goes on to say the Commission shall grant such requests by continuing the public hearing, or, leaving the record open for additional written evidence, arguments or testimony.

Chair Allen will take Bill Monahan's request under advisement.

Since there were no more opponents, Chair Allen returned to the Applicant for rebuttal.

Dave Wechner referred to the two traffic studies in the Commission's packets along with a parking study stating that the configuration of the parking was recommended to be angled next to Oregon Street and all of the spaces are outside of the access easement.

Lance Ludwick stated that they agreed with staff's conclusion regarding Section 16.94.010.04.

Jean Lafayette clarified that she had the most current site plan that showed the 45 feet and 34 feet for the driveway and that Patrick Lucas's statement was that at the 34 foot driveway, the parking spaces there do not go in to the existing access easement. Patrick Lucas stated the actual travel lane was 34 feet and the access easement was 50 feet.

Julia was concerned that Jean was referring to an 8 ½ x 11 sheet of paper and Julia stated that she did not receive any updated 8 ½ x 11 sheets that were current. She asked Jean to refer to the full-size plans.

Patrick Lucas added that the travel lanes on Oregon Street are narrower than the private access easement travel lanes.

Jean wanted Patrick Lucas's final answer on keeping the street trees or not. Jean suggested to Patrick that the Planning Commission could say to move the sidewalk behind the trees and Patrick Lucas agreed.

Chair Allen asked for final staff comments.

Julia finished her comments by stating that since the record was requested to be left open, staff would like to provide additional information and responses for the revised plans as they did not have time to conduct a thorough review. Julia went on to discuss that in regards to the 50 foot access easement, there was a road with sidewalk and landscaping which basically was a local street on a private drive as approved with the original Provident application. This was approved previously but not built and this isn't consistent with what the applicant is now showing. In

response to Clarence Langer's comments, she will also review the Notice as staff strives to write them as perfectly as possible. She added that getting DEQ approval is a condition. Traffic impacts have been addressed. Regarding the issue of parking reduction, there are 3 structures on 3 parcels of land therefore the standard does apply. If this standard did not apply, staff would not recommend approval because staff couldn't reasonably condition compliance with all of the standards. The access private road is an issue. The staff report contains a variety of standards relative to access and the Commission has a history of requiring shared access where possible. Staff is recommending that a joint-access easement be provided to the adjacent property as well as the property to the north.

Chair Allen questioned the public ownership of the street and how the widths and set-backs would be affected taking out the buildings on one side. He also asked if the Commission could establish different set-back standards for this circumstance or because of public ownership, are we tied in to the set-back standards and do we create our own problem?

Julia responded that we couldn't create a situation that would be considered non-conforming. There is no side yard set-back except for when it abuts a residential zone and then it has to be 40 feet from the public right-of-way.

Chair Allen confirmed that the applicant then is correct. Julia confirmed it would affect the set-backs, however, as they are shown, the set-backs are 20 feet away from where the road would be. Julia also confirmed that you could park in the set-back, but you wouldn't be allowed to back out in to a public road. Julia will speak to the applicant about how they can meet this standard.

Chair Allen asked about Tualatin Valley Water District's requirement that the facility be under a public street.

Lee Harrington stated that Section 16.118.050 of the code states that new private streets shall be prohibited unless it provides access to two or fewer lots. The applicant shows the private street accesses 4 lots. The code goes on to read that unless specifically authorized, a private street shall comply with the same standards of a public street.

Jean Lafayette wanted to know who would provide the specific authorization and Lee gave an example like Paul Norr, Hearings Officer, interprets the code to mean that it requires a letter of concurrence from the City Engineer. This means that the applicant has to submit for that and the City Engineer will have to concur with the submittal. Without the concurrence, Paul wouldn't make the decision.

Chair Allen states that presumably then, the Commission would have leeway to interpret the code as well which Chris Crean confirmed.

Chair Allen called for a short recess at 8:25 PM in order for the staff, the Commission and the applicant to discuss the next meeting time for this project before the end of the 120 day period.

The Commission reconvened at 8:35 PM.

After discussion on the possible hearing dates, the following motion was made;

Jean Lafayette moved that the Planning Commission continue SP 07-08, keeping the written record open for 10 days, with all submittals in by December 7th at 5:00 PM, rebuttal to new information due by December 14th at 5:00 PM and final applicant submittal due by December 21st at 5:00 PM and the next hearing date will be January 8th, 2008.

Matt Nolan seconded.

Vote was taken:

Yes - 6 No - 0 Abstain - 0

Motion carried.

7. Comments by Commission - Chair Allen moved to the SWOT analysis. There is a Council meeting date set for December 12th from 6:00 PM to 7:00 PM which is the same night as the Brookman Road Steering Committee. Chair Allen will present the SWOT analysis to the Council and Julia will have a staff member attend also.

The following was discussed for the SWOT analysis:

S (Strengths): Outreach to community / community engagement during large scale long-range Planning activities

Commitment to training of the Commission

Full strength Commission

Long-range Planning

Master Planning/Sewer and Water

Increased legal presence at hearings (decreases appeals)

Strong pool of applicants for open Planning and Planning Commission positions

A burst of commercial/industrial development

W (Weaknesses): Newness of staff

More training needed for Commissioners (web-casts available)

Willingness of Commission to accept incomplete/haphazard applicant submittals

O (Opportunities): Expand communication vehicles

Continue scheduling joint sessions with Boards and Commissions

Make connections with neighboring jurisdictions and groups

General education for the public in the Sherwood newspaper

Leadership opportunities for local High School students to observe Planning Commission meetings and/or learn about Planning

Pause in residential construction

T (Threats): A burst of commercial/industrial development without design standards in place

Code: Where is it required that a use determines commercial design standards versus the zoning?

Increased legal nuances that require more legal analysis

8. Next Meeting - December 11th, 2007: Continuation of the Former Driftwood Mobile Home Plan Amendment (PA 07-01).

9. Adjournment – Chair Allen adjourned the session at 9:24 PM.

End of Minutes.