



City of Sherwood
PLANNING COMMISSION
Sherwood Police Facility
20495 SW Borchers Drive
December 13, 2005
Regular Meeting - 7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Consent Agenda: Minutes – September 13 & October 25, 2005**
4. **Brief Announcements**
4. **Community Comments** (*The public may provide comments on any non-agenda item*)
5. **Public Hearing:**
 - A. **Chapter 9 Plan Text Amendment (PA 05-04)**

The Commission will continue a hearing from October 25 to consider a plan text amendment to the Sherwood Zoning & Community Development Code (Chapter 9 – Historic Resources). The Commission will take public testimony and consider a staff report and recommendation on historic preservation standards and the Landmarks Advisory Board. Plan amendments require a hearing before the City Council for a final decision. (*Kevin A. Cronin, Planning Supervisor, Planning Department*)
 - B. **SP 05-02 Alto Chevron Diesel Island Addition- APPEAL**

The Planning Commission will hear an appeal by the applicant, John Alto. This site plan was reviewed through a Type II administrative process and was denied on November 8, 2005 because the proposal did not meet the 99W Capacity Allocation Program (CAP) trip limit. (*Heather M. Austin, Associate Planner, Planning Department*)
6. **Comments from Commission**
7. **Next Meeting:** January 10, 2006 – Annual Report 2005 – Area 59 – Parks Master Plan Focus Group
8. **Adjournment**

City of Sherwood, Oregon
Planning Commission Minutes
September 13, 2005

(Note: Tapes beginning in September 2005 have intermittently been affected by recording equipment echo problems that have not successfully been corrected. Where there is significant audible difficulty, minutes have been keyed from recording secretary's handwritten notes).

1. Call to Order/Roll Call

Chair Emery called the Planning Commission Meeting to order at 7PM.

Commission Members Present:

Adrian Emery
Patrick Allen
Jean Lafayette
Matt Nolan
Dan Balza
Todd Skelton
Russell Griffin

Staff:

Kevin Cronin, Planning Supervisor
Cynthia Butler, Administrative Assistant

1. Call to Order/Roll Call – Chair Emery called the meeting to order at 7 PM.

2. Consent Agenda – Minutes for June 14th and July 26th were approved. A correction was noted to the July 26th minutes to reflect that Commissioner Todd Skelton was shown absent and was present.

3. Agenda Review

4. Brief Announcements – Kevin Cronin said the Area 59 meetings have been postponed to October 13th for the project team and October 27th for the CAC, in order to have the traffic analysis from Hopper Dennis Jellison completed. Richen Park subdivision removed more trees than were approved and they have been sent a non-compliance letter for tree mitigation. Kevin said the Fiber Optics Conduit Standards, which are part of Chapter 6, Public Improvements in the Code, has been delegated to Senior Planner, Julia Hajduk. Julia expects to provide the plan text information at the next Planning Commission meeting on 9/27. The City is requiring the School District to submit a High School Master Plan to better coordinate planning for growth and development, initiated by a recent application for soccer fields and an interest expressed by the School District for further development of the property. Kevin said the Sunset Minor Land Partition, MLP 05-02 has been appealed to LUBA.

Commissioners expressed an interest in receiving an updated copy of the Code. Kevin reiterated that copies of updates have been circulated as changes have occurred, but that new copies plan to be distributed after completion of the codification process (adding citations) and other updates expected over the next several months are complete.

5. **Community Comments** – Chair Emery asked if there were any community comments. There were none.
6. **Chapter 9 – Historic Resources Update** – Chair Emery opened the discussion on the issue of the Landmarks Advisory Board (LAB).

Dan Balza asked for discussion on where the commission left off in regards to the LAB.

Patrick Allen said the Planning Commission was looking at historic resource issues in the current Code for areas that seemed insufficient, and address the issue of the existence of the Landmarks Advisory Board (LAB) in the current Code and how it related to current needs. Patrick said that the historic resources draft document generally addresses procedural issues of the LAB by referencing the guidelines, but does not appear to make substantive changes to the design guidelines. Patrick asked Staff to confirm that the current Code does have form-based code processes, and cited design guidelines such as reinforcing corners as an example.

Kevin Cronin confirmed.

Patrick Allen said the landmark review process includes designation of landmarks, establishing the criteria for designation, and criteria on protecting landmarks, but when land use action comes into play to change or demolish a landmark for example, that the Planning Commission and the land use process is engaged. Patrick asked Staff for clarification on what the Commission needs to accomplish regarding the LAB.

Kevin Cronin said the primary challenge to the LAB is recruitment and maintenance over time, and whether or not the LAB role is needed. Kevin also said that in order for the City to apply to the State Historic Preservation Office (SHPO) for “Certified Local Government” (CLG) status, which allows the City to apply for state and federal grants and other preservation programs, there needs to be some form of Landmarks Advisory Board. Kevin said the City has policies in place, but not the program.

Dan Balza said the new development in Old Town with the Civic Building and demolition of the cannery has sparked the need to look at what the City wants to preserve in terms of historic sites.

Patrick Allen said that he supports preservation, but said that a historic designation of a building is voluntary. Patrick also said that once a building is designated the ability to make changes with that building is restricted. Patrick gave an example of the earthquake that occurred about twelve years ago, which nearly destroyed the Molalla High School. Patrick said it took about 2 years for it to be determined that no one wanted the building and agreement was made to tear it down. Patrick said the process was complicated and drawn out. Patrick also said that if hypothetically 5 years ago the Rainbow Market had been designated a historic property, that according to the Code, the façade improvement could not have been done. Patrick gave further similar examples and stated that the historical designation is voluntary, and that once a property is designated it is difficult to make any changes except through due process.

Kevin Cronin said that there are no designated landmarks presently, but there are identified primary and secondary resources. Kevin said that in his review of previous ordinances adopted by City Council, that in 1994 the Council had an opportunity to identify landmarks while

reviewing the Goal 5 analysis, and there were no properties designated as landmarks at that time. Kevin said his review also did not find any property owners that had voluntarily requested their property to be designated as a landmark. Kevin also said that in addition to a willing property owner & possible developer, historic preservation includes looking at what the market is for reuse.

Jean Lafayette asked Staff for clarification on the levels of designation using the Robin Hood Theater as an example. Jean asked if the theater was designated a landmark, or primary or secondary resource, would there be 3 different levels of action allowed with each of these.

Kevin Cronin recapped the inventory process stating there are primary, secondary, and contributing resources. Contributing resources contribute some historical value, but not the level of quality found in primary or secondary. Kevin said that in 1989 the City of Sherwood inventoried properties and identified primary and secondary properties, but no contributing properties. Kevin reiterated there were also no landmarks identified, only inventoried resources. Kevin said that if a property owner petitions to designate their property as a landmark, the property owner does so through the Planning Commission based on the process outlined in Chapter 9 of the Code.

Jean Lafayette asked Staff what the difference was between the Old Town historical district and landmarks.

Kevin Cronin said that the Old Town historic district has protections in place for the primary historic resources. Kevin said any historic resources outside the Old Town district remains advisory, which make it difficult to provide findings. Kevin provided examples of historic properties in advisory status; the Salisbury house, which is part of Timber Crossing II, and the Elwert house, which is part of Woodhaven Crossing PUD. Kevin stated he was able to get the Richen house on the Renaissance Homes property off Sunset Blvd. preserved on a technicality, and in cooperation with the developer.

Jean Lafayette asked if landmark designation protected the property from being demolished and rebuilt by the property owner, without first submitting a petition for removal of the landmark designation.

Kevin Cronin confirmed, and stated that any rebuild would have to meet Old Town design standards outlined in the Code.

Patrick Allen asked Staff to clarify if ultimately landmark designation does not protect from demolition.

Kevin Cronin confirmed.

Patrick Allen asked Staff about potential material changes to such property, and asked for clarification that if the property was not in Old Town, any land marked property that successfully petitioned for removal of the designation would be required to meet historical materials standards when rebuilding.

Kevin Cronin said that landmarks on the National Historic Registry must comply with the Secretary of Interior Standards for historic preservation, but with local landmark status the City of Sherwood design standards apply. Kevin referenced the Draft Oregon Model Historic Preservation Ordinance document, dated November 2, 1999, provided to the Commission for comparison, and stated the City of Sherwood ordinance is great, but there are some areas that need to be addressed.

Jean Lafayette stated that she agreed that the designation of the Planning Commission as the Landmarks Advisory Board (LAB) would provide for a means to continue a process without the need to search outside for qualified LAB members, but asked Staff if it is possible within the existing bylaws to create a subcommittee consisting of possibly a commissioner and members from the community to do research and inventory, and make policy recommendations.

Kevin Cronin stated that he was uncertain if the bylaws give the Planning Commission the authority to create subcommittees, or if they would have to be appointed by the City Council.

Chair Emery stated that his discussions with the Council indicated that they were not against a possible subcommittee, but concern was that if one was established and a process was initiated, that the Planning Commission or a governing body was in place to be certain items were timely processed and that there was follow-through.

Jean Lafayette said that she sees these as 2 separate items; a land use action that would need to be processed in a timely manner, and a review of historic preservation in Sherwood and outlying areas. Jean stated she does not vision the Commission doing the review of historic preservation, but sees the Commission acting as a liaison with a group of interested parties that comprise a subcommittee. Jean asked to clarify then if the Commission has the authority to form a committee as a general rule, and then more specifically if there is authority according to section 9.301 in the Code.

Patrick Allen said that the Commission has done this before on an ad hoc basis, but if there is a committee that advises a political body, there are requirements such as notices, minutes, and records that must be met that make it more complicated.

Chair Emery stated that another concern of the City Council was that there may not be enough manpower to maintain an additional committee, and that it may be better to appoint committees as needed to cover a specific duration of time.

Patrick Allen suggested that possibly the Cultural Arts Commission might be an option to advise on preservation activities.

Kevin Cronin stated that it is an interesting idea, and stated that Ann Roseberry is the Staff liaison and that he will mention the idea to her for feedback. Kevin stated that the issue of timeliness on historical land use applications applies with the 120 day rule. Kevin said that separate from this are historical policy issues or recommendations, which Kevin stated is a process such as a plan text amendment.

Patrick Allen asked for more clarification.

Kevin Cronin used an example of one property applying for a zone change as a land use action, compared to a district designation as a policy discussion for creating a new historic district that would encompass more than one property.

Patrick Allen confirmed, but stated a policy discussion that determines a new historic district would affect properties, and in those terms could be a land use action.

Kevin Cronin stated that he would seek the advice of City Attorney, Pam Beery on that issue and report back.

Jean Lafayette was concerned about creating a system of time delays between conflicts with the 120-day rule that would likely discourage development.

Kevin Cronin stated he is reviewing Type IV and Type V application standards for land use actions within the Code to confirm the quasi-judicial and legislative processes.

Jean Lafayette discussed height standards and asked for clarification on the height of the new Sherwood Lofts building (old McCormick building) and the new Civic Center.

Group discussion ensued regarding the parapet on top of the Sherwood Lofts building.

Kevin Cronin said the new Civic Center is 2 stories high.

Dan Balza said the air conditioning units on top of the Sherwood Lofts building are too close to the edge.

Kevin Cronin stated there is approximately another 3-4 months of construction to be completed and that the contractor is screening the HVAC system before receiving a Certificate of Occupancy.

Dan Balza said that units themselves should be more toward the center of the building so that they are not visible from the street, and that it does not appear to be passing the 285 foot rule

Kevin Cronin said that a standard in the conditions of approval requires non-visibility of the HVAC system from the street when standing at 285 feet, which will be looked at.

Chair Emery asked to clarify that there is a recommendation to eliminate the LAB and confirm control to the Planning Commission for historical preservation. Adrian stated that he is in favor of a subcommittee or that the Cultural Arts Committee would participate.

Odge Gribble, Historical Society Director and long-time resident of Sherwood, was in the audience and asked the Commission to reference Page 3, Item 3 in the Draft Oregon Model Historic Preservation Ordinance. Odge said that the Historical Society would be a logical and beneficial participant of such a committee.

Group discussion was supportive.

Kevin Cronin said he would also discuss this option with the City Attorney, Pam Beery.

Matt Nolan referenced the Chapter 9, Historical Resources, draft revision, Page 13, Section 9.301, Item A, and reiterated the portion of this section that states, “the Commission may employ the services of a qualified architect or historian in the designation process”. Matt asked if the Historical Society could be added to the language in this section.

Group discussion agreed with the suggestion.

Patrick Allen restated that in this case, the Historical Society would make historical preservation recommendations to the Planning Commission and that the Commission may or may not forward these recommendations to City Council for further consideration.

Group confirmation ensued, and consensus was that depending on response from the City Attorney regarding the ability for the Planning Commission to create a subcommittee, and the addition of the Historical Society taking on this role, Commissioners agreed this was a viable option.

[inaudible general discussion about design guidelines approximately 2-3 minutes – intermittent tape echo issues and microphones not working]

Chair Emery stated that the information provided by Staff was very helpful and thorough. Commissioners confirmed.

7. Goal 5 / Tualatin Basin Update – Kevin Cronin stated that the Metro meeting is September 23, 2005. Kevin said that Washington County is making determinations on how to proceed with this last phase, and how optimum communication between departments will occur.

Chair Emery asked if there were any questions for Staff. There were none.

8. Comments from Commission –

Dan Balza asked Kevin what year the Richen home was constructed, and what preservation is planned.

Kevin Cronin said the home was built in 1925 and that there is an architect in Salem that has presented plans for review. Kevin said that he has allowed the developer under conditions of approval, to establish a sales office in the building as an incentive to do the preservation work.

Matt Nolan asked what is happening in the area next to the Richen Park development.

Kevin Cronin stated that it is his understand that the Public Works department is using that area temporarily as a staging area for fill generated by the various City project presently occurring, but that he recommends specific information be confirmed by Public Works.

Jean Lafayette asked Kevin if there was a Cannery development update.

Kevin Cronin said that the CDAC committee has been dissolved and suggested contacting Jim Patterson for further information about the Cannery.

Jean Lafayette asked Kevin if the issue of multiple Safari Sam’s signs had been addressed.

Kevin Cronin stated that 1 had been removed and the other is pending research by the Code Compliance Officer.

Patrick Allen asked Kevin to clarify if the conditions of approval for the Woodhaven Community Church stated that the facility would not be for large scale gatherings, but primarily for church programs.

Kevin Cronin stated that the plans for the church were amended approximately six months prior to current Planning Staff, with a notation by a former Planning employee that changes were not significant and did not come back to the Commission for a second review. Consequently, the final site plan was larger than the original single family home that was on the site. Kevin said he is not familiar with the conditions of approval regarding gathering size use, but that he would do some research and report back to the Commission.

Dan Balza said the additional issue is parking and traffic.

Kevin Cronin stated that he spoke about parking with Jim Patterson, who confirmed that there was consistently sufficient parking in Old Town on Sundays. Kevin said that if there are expanded events occurring at the church then impacts to traffic and parking may result. Kevin reiterated that decisions regarding this site plan were made prior to current Planning Staff and that these issues would not go overlooked under his direction.

Jean Lafayette moved that the Commission direct Staff to begin the plan text amendment process on Chapter 9 of the Code, Historic Resources.

Matt Nolan seconded.

Chair Emery asked if there was any further discussion about the motion. There was none.

Vote: Yes – 7 No-0 Abstain – 0

Motion carried.

9. Next Meeting – September 27, 2005 – Sherwood Oaks (PA 05-02/SP 05-09/LLA 05-02)

10. Adjournment - Chair Emery adjourned the meeting at 8:15 PM.

End of Minutes

City of Sherwood, Oregon
Planning Commission Minutes
October 25, 2005

(Note: Tapes beginning in September 2005 have intermittently been affected by recording equipment echo problems that have not successfully been corrected. Where there is significant audible difficulty, minutes have been keyed from recording secretary's handwritten notes).

Commission Members Present:

Patrick Allen
Jean Lafayette
Dan Balza
Todd Skelton
Russell Griffin

Staff:

Kevin Cronin, Planning Supervisor
Rob Dixon, Community Development Director
Gene Thomas, City Engineer

Commission Members Absent:

Adrian Emery
Matt Nolan

1. **Call to Order/Roll Call** – Vice Chair Allen called the meeting to order at 7 PM.
2. **Consent Agenda** – Minutes for August 9th & August 23, 2005 were reviewed by the Commission except for Commissioner Allen, who abstained from approval of 8/23 minutes and Commissioner Lafayette, who abstained from approval of 8/9 minutes due to absences at the sessions. Commissioner Skelton recommended a change in the text on Page 2, Paragraph 4, to more accurately reflect the intent of testimony given by resident Tony Honer, regarding his purchase of a furnace and its relation to development. Commissioner Skelton stated his recollection of the testimony was that Mr. Honer's comment was not meant literally and that the comment was to reflect the opposite meaning. Commissioners agreed, the change was noted and minutes were approved.
3. **Agenda Review**
4. **Brief Announcements** – [inaudibility] Kevin Cronin reminded Commissioners that tomorrow evening the SE Sherwood Neighborhood Open House would be held at the police facility at 7PM, and that Commissioners Lafayette and Nolan have volunteered to also attend. Kevin asked the Commission if they planned on having just one session in December on 12/13 due to the holidays. Commissioners confirmed by consensus.
5. **Community Comments** –
Chair Emery asked if any members of the community wanted to provide comments on topics not appearing on the agenda.

Eugene Stewart, PO Box 534, Sherwood, OR 97140 – Mr. Stewart stated that the new street design that includes a gutter in the center of streets did not occur on his street and asked for clarification. Mr. Stewart stated the gutter is near the sidewalk in front of his house.

Russell Griffin stated the same design has occurred at Railroad and Main streets in front of Commissioner Griffin's business. Russell said that he asked the Streetscapes project manager, Tom Pessimier, P.E. about this and was informed that the gutter alteration was required to maintain an accurate slope for drainage in these locations.

Rob Dixon stated that Tom Pessimier is the project manager and would have the most current details. Rob said he is certain that the explanation Tom gave Commissioner Russell would have been accurate, and encouraged anyone to contact Tom directly for concerns or questions.

Vice Chair Allen asked if there were any further community comments. There were none.

Vice Chair Allen opened the hearing at 7:20 PM.

6. Public Hearing: Chapter 9 Plan Text Amendment (PA 05-04) - Jean Lafayette read the Public Hearing Rules and Disclosure Statement.

Vice Chair Allen asked if there was any conflict of interest, ex parte contact, or bias.

Russell Griffin stated that he resides and works in the affected area, but that this will not impair his ability to make decisions based on findings and testimony.

Kevin Cronin [inaudible] said the task is to review and make determinations about restructuring or eliminating Landmarks Advisory Board (LAB) process as it exists in Chapter 9 of the Code. Kevin asked Commissioners if they wanted to begin the overhaul and audit process by subject or the review of each attachment.

Vice Chair Allen asked if there were any questions of Staff.

Russell Griffin asked to clarify the differences between a Sub-committee and a Super-committee, as described earlier by Staff.

Kevin Cronin stated that a Sub-committee would potentially report to the Planning Commission on separate meeting nights, and a Super-committee would meet prior to the Commission on the same night and follow-up during the Commission session. Kevin said that the committee may consist of 3-4 professional members, including an architect.

[inaudible] Discussion ensued regarding Page 13, Item A of the Chapter 9 Draft Revision, regarding the member composition of such a committee, and the highlighted section, "LAB members may also serve in absence of a Planning Commission member to make a quorum if needed."

Vice Chair Allen asked Staff for clarification and stated that the language regarding the LAB in the draft document does not appear to accurately reflect the intent, as Staff has described.

Kevin Cronin [inaudible] asked to come to agreement on intent and discussion to assist in clarifying the language, which occurred.

Vice Chair Allen asked Staff to clarify if State Historical Preservation Organization (SHPO) certification provides access to funds, and if so, if funds were available.

Kevin Cronin confirmed.

Vice Chair Allen asked for a dollar amount and from where funds are allocated.

Kevin Cronin said his understanding is that funds are generated from lottery dollars that are distributed as part of the Oregon Parks and Recreation fund. Kevin said funds are also generated from the U.S. Department of Interior.

Vice Chair Allen stated that although the programs mentioned exist, it is uncertain whether funds have actually been distributed, and asked Kevin if he had any dollar amounts that were distributed by SHPO in the last biennium.

Kevin Cronin said he did not have a dollar amount available.

Vice Chair Allen said that the decisions made by the Commission should be made on the best thing to do and not for possible funds, which often do not materialize.

Kevin Cronin agreed that making a decision from a policy standpoint should be the focus.

Jean Lafayette asked to clarify the design guideline document and policy differences between those relating to the Old Town Overlay District, the Cannery site, and the Smockville area.

Kevin Cronin stated that the Old Town Design Guidelines apply to all areas in Old Town including the Cannery site.

Jean Lafayette asked for clarification of the Design Standards for the Smockville area, and asked Staff if this refers to an area greater than the 9 square blocks in Old Town.

Kevin Cronin confirmed.

Jean Lafayette asked Staff to clarify the governing rule when these areas overlap, particularly on Oregon St.

Kevin Cronin reviewed the Old Town Overlay, by stating that it includes the Cannery and the Smockville portion. Kevin said the Smockville portion is part of the original plat, consisting largely of the area on the other side of the railroad tracks.

Jean Lafayette clarified that the entire Old Town Overlay District contains the Smockville portion, and within the Smockville portion Section 9.202.08 of the Code is specifically for the Cannery site. Jean further clarified that the remaining Smockville portion is governed by the new Smockville Design Standards, as proposed.

Kevin Cronin confirmed.

Jean Lafayette asked Staff if there is a conflict between the two, such as if the Old Town Standards in the Code specifies porches 6' deep, and the Smockville Standards specifies 5' deep, which standard applies.

Kevin Cronin stated that the interpretation would be for the Planning Commission based on location and other information.

Jean Lafayette suggested that some language regarding this should be incorporated in the Code.

Vice Chair Allen asked to clarify comments made by Commissioner Lafayette and Kevin Cronin and the proposed changes, and stated; the existing Old Town Standards are applying new standards to the Cannery portion outlined on Page 7, and instead of referencing in the Code that the remaining portion complies with the Smockville Standards, a reference has been created in Item M to reference another document. Patrick suggested amending the Code instead of referencing another document.

Kevin Cronin stated that is an option, but his thought was to keep it separate as an appendices.

Vice Chair Allen said this may lead to confusion on which document(s) are the Code.

Jean Lafayette said although it is clear that design standards in the Code are required, it is generally unclear if Old Town Guidelines are recommendations or requirements and that various separated documents add to confusion.

Vice Chair Allen stated this issue has been established and will be revisited, and asked if there were other questions for Staff.

Jean Lafayette referred to Page 5 of the draft revision of Chapter 9 regarding the 40 foot maximum height standard, and compared this to Page 8 of the Old Town Design Standards, and said there is a 5 foot bonus height allowed, changing the maximum to 45 feet. Jean also referred to the Old Town Design Standards that requires 6" average variations in height between the buildings, which conflicts with design standards in the Code. Jean referred to Page 10 for the previous example given on conflicting porch standards between the Code and Old Town Design Standards. Jean cited additional conflicting information on Page 11, Item G, of the draft revision of Chapter 9 regarding roof mounted equipment and cited the Sherwood Lofts example, "must be screened using one of the methods below, versus the Old Town Guidelines, "must be setback and screened." Jean stated she would like the requirement to contain both standards. Jean also referred to Page 22 of the draft revision, Chapter 9 document regarding incentives, and stated that in this section incentives are listed for secondary landmarks, but previously in the same document incentives are allowed for contributory landmarks as well. Jean recommended the text be the same in both sections.

Kevin Cronin confirmed.

Vice Chair Allen referenced the Smockville Design Standards regarding the remodel of structure exteriors, and asked if the recent façade improvements to the insurance building, Rainbow Market, and Stitch in Time, and asked if those improvements would have complied with these standards. Patrick cited the Rainbow Market changing the siding of the store as an example.

Kevin Cronin asked what exterior material was originally used.

Vice Chair Allen stated it was painted cinder blocks and the change was a real improvement. Patrick said he is concerned that the way the text in the Old Town Design Standards currently reads, the Rainbow Market changes appear to have been in violation of the standards.

Kevin Cronin [inaudible] reviewed some of the exteriors not allowed such as, dry-vit and stucco, and that exteriors must be historically compatible.

Vice Chair Allen recommends that the Code allows a change to a structure that is 50 years or older. Patrick stated that under the current standards the Rainbow Market would have been required to replace the old cinder blocks with new ones.

Kevin Cronin stated that would not be the case as cinder block does not comply with the Code.

Jean Lafayette reiterated that in this example the standards require the owner would have to use cinder blocks in lieu of another material.

Vice Chair Allen asked to clarify the exact language being reference, and stated that in the current Old Town Design Standards, top of Page 2, Remodeling of Existing Structures states, "elements that are original to a vintage, traditional, or historic structure (defined in this standard as primary or secondary, contributing, non-contributing-historic, or any structure 50 years old or older), and said that according to this standard the Rainbow Market would have been required to preserve the historic cinder blocks. Patrick asked Staff if there presently is any provision in the Code that would have allowed the Rainbow Market to change the materials.

Kevin Cronin said that the standard is designed to protect primary and secondary historic resources, and agreed it is all encompassing.

Russell Griffin referenced the latter part of the same paragraph on Page 2 that Patrick had referenced, that states exceptions are few, and "the Secretary of the Interior's Standards for Rehabilitation should be consulted in situations not covered by these standards."

Vice Chair Allen asked Staff to confirm that the portion read by Commissioner Griffin applies to landmarks on the National Historic Registry.

Kevin Cronin confirmed.

Vice Chair Allen cited examples of historic hammered tin sheds across from the old feed store, and off Sunset Blvd., and asked Staff if the Code should require property owners to recreate hammered tin sheds.

Kevin Cronin said the feed store is also an example of architectural and economic significance in addition to its historical significance in the community.

Vice Chair Allen agreed and recommends that the standards need to have language that makes allowances for similar determinations. Patrick said the Gerrigos Building would have qualified

for this standard. Patrick also stated that a building would not have to be 50 years old to be historic, but that it can automatically be considered historic if it is at least 50 years old.

Kevin Cronin stated he would not interpret the criteria for historic designation in that way.

Jean Lafayette said that it is possible that someone else would.

Kevin Cronin confirmed.

Vice Chair Allen also confirmed, and suggested the new applicable language addressing this issue should be moved closer to the front of the document, or addressed in each applicable section.

Vice Chair Allen asked if there were any further questions of Staff.

Jean Lafayette referred to the height standards and the bonus information appearing in Exhibit F, Page 8 of the Old Town Design Standards, and asked Staff to confirm if a building has an awning on the front of their building they receive an additional 5 feet bonus in building height.

Kevin Cronin confirmed, as proposed. Kevin stated that the bonus incentive is to encourage developers to utilize urban design elements.

Jean Lafayette stated she approves of incentive process, but that her concern was that building height standards do not become too tall. Jean referenced Page 9, Item DD, of the Old Town Design Standards, and suggested changing the language "excluded", to "prohibited".

Kevin Cronin confirmed.

Jean Lafayette referenced Page 12, Item C, regarding roofing, and asked Staff to clarify if the prohibited materials language was to protect from the use of inferior materials, and cited metal roofing as an example.

Kevin Cronin said the popular trend currently is to use corrugated metal and stated [inaudible] it is the application of the materials that can be of concern.

Vice Chair Allen asked if this standard would apply to a green roof.

Kevin Cronin stated it would not. Kevin said there is not currently a green roofing standard.

Vice Chair Allen opened the hearing to the public.

Eugene Stewart, PO Box 534, Sherwood, OR 97140 - Mr. Stewart said that there should be more notice to property owners for meetings. Eugene said he did not know about his meeting. Eugene first spoke about parking in Old Town. Eugene then referenced Page 15 of the draft revision Chapter 9 document, and stated that the LAB should not be removed from the Code. Eugene also stated that if there is not going to be a LAB, there should be a citizen's advisory committee that includes interested residents of the community to take on the process of a LAB, and that this committee could report to the Planning Commission.

Jean Lafayette asked Mr. Stewart if it was his recommendation to replace the LAB with a committee.

Eugene Stewart confirmed, and stated their used to be a citizen's advisory committee that served on historical preservation and he isn't certain how or why it was dissolved. Eugene also stated that it appears residents are not permitted to be members of such committees.

Dan Balza said that this was not the case and cited examples by stated there are members of the community on the Area 59 citizen's advisory committee, and residents on the SE Sherwood Neighborhood committee.

Vice Chair Allen asked if Mr. Stewart had further testimony regarding historical preservation.

Eugene Stewart had nothing new to add.

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

Vice Chair Allen closed the public hearing at 8:10 PM.

Kevin Cronin addressed the issue raised by Mr. Stewart regarding public notice process for Commission meetings and public hearings, and stated that according to the Code public notice for tonight's session was posted in 5 public places, including City Hall, and an article has appeared in the Archer section of the Sherwood Gazette. Kevin stated that the Code does not require mailed notice to property owners or published notice in a weekly newspaper (Tigard Times) for Planning Commission sessions. Kevin also stated that the issue of parking was not on the agenda tonight and should not be addressed. Kevin said the issue of creating a citizen's advisory committee is a possibility if the Commission chooses to do so.

Vice Chair Allen asked Staff if the text in the public notice states that the Planning Commission is considering amendments to Chapter 9, or if it provides more detailed information.

Kevin Cronin reiterated the description on the posted agenda notice.

Vice Chair Allen read the description on the agenda regarding Chapter 9, and suggested that future notices indicate the title of the Chapter being reviewed to better clarify to the public what the subject material covers.

Kevin Cronin confirmed.

Jean Lafayette asked if there was no parking detailed in Chapter 9.

Kevin Cronin stated that the City has not done a comprehensive parking study.

Vice Chair Allen stated that SURPAC suggested taking an inventory and doing an analysis of parking to make determinations on the amount of the parking needed.

Dan Balza referred back to Commissioner Lafayette's comments earlier in the session regarding the differences between the Old Town Design Standards and Chapter 9 of the Code on Historic

Resources, and agreed it was confusing. Dan agreed that it needs to be determined whether or not the appendices stand as they are or need to be integrated into the Code.

Jean Lafayette stated that she likes Exhibit F, Old Town Design Standards and that they reflect what the Commission was looking for when they previously reviewed Old Town Design Standards.

Kevin Cronin agreed and stated that they are form-based standards.

Jean Lafayette asked Staff if a proposed change would be required to go through legislative review.

Kevin Cronin confirmed, and stated it would require a plan text amendment and would follow the same Type V legislative process.

Jean Lafayette asked Staff to clarify if there would be any loss of the public hearing process on the draft revision Chapter 9 document, by amending the attached appendices.

Kevin Cronin [inaudible].

Jean Lafayette asked Staff what the process would be to make the Old Town Design Guidelines standards and integrate the Old Town Design Standards and Smockville Standards into Chapter 9 of the Code.

Kevin Cronin asked Commissioner Lafayette was suggesting imbedding the Old Town Design *Guidelines* pictures into Chapter 9.

Jean Lafayette said she meant that the Old Town Design *Standards* document would be integrated into Chapter 9.

Kevin Cronin said that presently the Old Town Design *Guidelines* are referenced in Chapter 9.

Vice Chair Allen stated that all standards and requirements should be in the Code and located so that anyone can go to one source for reference. Patrick also stated that an illustrated guideline which supports the standard should be referenced in the Code, but be a separate reference.

Kevin Cronin confirmed, and [audible difficulty] suggested that he codify the Smockville Design Standards in the same format and make one document with the Old Town Design Guidelines.

Commissioners agreed.

Vice Chair Allen reiterated that the Old Town Overlay standards protect Old Town, and there are standards that apply to the Cannery, and the Smockville Standards – and asked if the intent is to protect a larger area or to set standards for specific structures.

Kevin Cronin [audible difficulty] stated that protecting structures requires identifying them as primary or secondary resources.

Vice Chair Allen stated the coverage areas include both residential and commercial structures, but that the standards appear to apply to commercial resources.

Kevin Cronin stated that Page 12 of the draft revision Chapter 9 document includes residential.

Vice Chair Allen asked to confirm that Page 12 addresses the use of a residential structure as a commercial building.

Kevin Cronin confirmed.

Vice Chair Allen stated that he would like a copy of the list of primary and secondary resources.

Kevin Cronin stated that he would send it to Commissioners via email.

Jean Lafayette asked for clarification and recapped that the City has the Old Town Overlay District design standard within the Code, there are 152 properties in the primary and secondary inventory which are covered under the LAB, and there is also another set of more restrictive guidelines –

Vice Chair Allen stated that it is too much review.

Kevin Cronin stated that he recommends the super-group option of qualified members to assist in administering the Code. [audible difficulty]

Dan Balza stated that he supports creating one document and obtaining a historic preservation consultant. Dan asked if a vote was required.

Kevin Cronin stated that a consensus voice vote would be adequate. Kevin said he would need the support of the management team and confirm the fees.

Jean Lafayette asked what the fee requirements would be.

Kevin Cronin said \$250 currently exists in the fee schedule.

Russell Griffin asked to clarify the consultant would specifically be a professional consultant in historical preservation.

Kevin Cronin confirmed.

Todd Skelton supported the creation of one document and obtaining services of a consultant.

Russell Griffin also confirmed.

Vice Chair Allen stated that at least one more Commission meeting would be required before recommendations could be forwarded to the City Council. Patrick recapped issues requiring follow-up prior to the next meeting including: structural issues of the Code; applicability issues of the language; and engage Friends of Old Town (FOOT) and the Chamber of Commerce in

future discussions or a work session. Patrick stated the latter had not been discussed, but he feels is important in the process.

Kevin Cronin confirmed, and stated he would make the appropriate contacts at that point.

Jean Lafayette suggested meeting with those two groups after the next revision, and prior to the point at which the Planning Commission takes a vote.

Russell Griffin also reiterated the request that the text regarding subject content on future public hearing notices be more clearly defined. Russell said more detailed text goes above what the City is required to do according to the Code, but may provide more public outreach and generate response.

Kevin Cronin confirmed. Kevin stated that if the Commission would like to continue the hearing to a date certain, that the November 8th session will be the continuance of the Sherwood Oaks application.

Commissioners discussed schedules and suggested December 13, 2005.

Jean Lafayette moved to continue the public hearing on PA 05-04, Chapter 9 – Historic Resources to December 13, 2005.

Dan Balza seconded.

Vice Chair Allen asked if there was any further discussion. There was none.

Vote: Yes – 5 No – 0 Abstain - 0
Motion carried.

7. Comments from Commission –

Russell Griffin said he had a copy of the Downtown Streetscapes CD for Commissioners to review. Russell also said he would like the Commission to take a tour of the new Civic Bldg. and asked Kevin if that could be arranged.

Kevin Cronin confirmed he would check with Jenni Lipscomb and arrange a tour.

Dan Balza said the new Sunset Park looks great.

Rob Dixon [inaudible] stated that the ribbon cutting ceremony for Sunset Park is this Thursday, October 27th at 5:30.

Vice Chair Allen asked if there were any further comments. There were none.

8. Next Meeting – November 8, 2005 – Sherwood Oaks (PA 05-03; SP 05-09); Public Fiber Optics Standards (PA 05-05): Hunter's Ridge Modification (SP 04-09-A).

9. Adjournment - Vice Chair Allen adjourned the meeting at 8:45 PM.

End of Minutes

*For Record
Submitted @ mtg 12/13*

John Alto

From: John Alto [john@idmachine.com]
Sent: Wednesday, April 13, 2005 2:35 PM
To: 'Kevin Cronin'
Cc: hayes mccooy (hayes @aks-eng.com); Dorothy Alto (Dorothy Alto); Johnny alto (Johnny alto)
Subject: RE: planning issues meeting

Kevin

Thanks for getting back to me. I did receive the letter from Heather Austin. I did return our check to her and asked her to keep my application alive as there are two courses of action we are taking to address the City of Sherwood Engineering Departments' basis for denying issuing a Sherwood 99W CAP certificate related to our diesel island conditional use application.

5(b) of the existing ordinance reads "if the site contains existing uses, the net trips generated by these uses shall be included in the calculations of net trips generated from the site". Based on this rule we are contracting Charbonneau Engineering to do a traffic study at our site using procedures found in the current version of the ITE manual as specified by the Cap ordinance.

The second course of action we are challenging is Mr. Wise's interpretation of Sherwood's 99W Cap code. Mr. Wise's statement is "The Cap code can only consider the acreage of the tax lot. The landscaped areas mentioned in the study are not clearly part of the tax lot". The word lot is singular, while our application includes three tax lots, TL500, TL602, and TL 300.. Notwithstanding this error Section 4 (a) of the Sherwood 99W CAP states "The Trip Analysis generation for the activity shall be based on the ITE Manual." Page 8 of the 7th Edition of the Institute of Transportation Engineers Manual states "An acre as defined for this report is the total area of a development site". E(3)(c) of Sherwood 99W CAP ordinance states "square footage used to estimate trips in accordance with methods outlined in the ITE manual".

C(10) of the Sherwood CAP ordinance states "The trip limit multiplied by the acreage of the site containing the regulated activity calculated to two decimal points."

Section C does not contain a definition of acreage or any reference to a definition of acreage that is different from the definition found in the ITE Manual, the source document for the City of Sherwood 99W Cap ordinance 4(a).

Section G. 1(a) "Acreage calculations used to calculate net trips per acre in the Trip Analysis must use the entire area of the tax lot(s) containing the regulated activity, less 100 year flood plain area, in accordance with Firm map for Sherwood". Nowhere in this passage or anywhere else in the Sherwood 99W CAP ordinance can one find any words that limit the acreage calculations to the acres found only within the tax lots.

Mr. Wise quotes in the second bullet of his findings "The CAP can only consider the acreage of the tax lot. The landscaped areas mentioned in the study are not clearly part of the tax lot". With respect for Mr. Wise, I find nothing in the Sherwood 99W CAP code that strictly limits the acreage calculations to only those acres found within the tax lots. The Sherwood 99W CAP ordinance does mandate the tax lot acreage must be included, it does not mandate that the tax lot acreage is the only acreage that may be included. The 99W Cap, ordinance does not contain any language excluding area contained on a site which may not be included.

The acreage that Mr. Wise is attempting to exclude contain our permanent city approved signs, landscape irrigation equipment, and egress and ingress avenues. Indeed part of North Sherwood Blvd. runs through tax lot 500. All of our regulated activities are contained within the total acreage of the site and are used by our customers and our employees on a daily basis.

Another alternative we have is to place a 15,000 gallon above ground tank in the grassy area, close one of our existing fueling positions and relocate it next to the 15,000 gallon above ground tank. This scenario would meet all local existing fire codes and would not mandate a traffic study. When we get together Mr. Smith with Capital Financial Group has presented me with new information regarding his proposed bill board located on the B and G Motors, Darren Kang site which I would like to discuss with you.

4/15/2005



MEMORANDUM

Date: April 25, 2005

To: Eugene Thomas, P.E.
City Engineer, City of Sherwood
thomasg@ci.sherwood.or.us

copy: John Alto
Alto Automotive, LLC
john@idmachine.com

From: Frank Charbonneau, P.E.

Subject: Site Acreage Conformance to CAP Ordinance
Sherwood Chevron Expansion Project
Highway 99W at North Sherwood Blvd.

FL05115

We appreciated discussing Mr. Alto's project with you last week related to the concerns regarding the acreage determination applied in the trip analysis.

According to the City's letter dated 4/7/05 the proposed development will not meet the requirements of the CAP ordinance based on the site area for TL300, TL500, and TL602. However, if the additional frontage areas adjacent to the site are factored into the calculations it has been demonstrated that ordinance's standards are met. Therefore, this is a very critical issue and we are requesting that the City review their definition of the CAP acreage.

From our standpoint the CAP ordinance does not clearly define a site's acreage. Section 6.307 of the CAP references the transportation standards and definitions under which an application must comply to obtain approval. There are several references to a site's acreage.

- Section C., 10: acreage of the site containing the regulated activity.
- Section D., 4: trip limit for a regulated activity shall be 43 net trips per acre
- Section E., 3: acreage of the site containing the regulated activity
- Section E., 4: the trip analysis and trip generation for an activity shall be based on the ITE Manual. (the current ITE Manual defines an acre as the *total* area of a developer's site)
- Section G., 1: acreage calculations used to calculate the net trips per acre in the trip analysis must use the entire area of the tax lots containing the regulated activity, less 100-year flood plain area, in accordance with FIRM map for Sherwood

Based on these references we recommend that the City reconsider their position that the Chevron expansion project must apply only the tax lot area in determining conformance to the CAP ordinance. As submitted the traffic analysis did apply the entire tax lot area in the calculations plus the adjacent frontage areas that contain the driveway accesses, landscaping, and utilities essential for the business to operate. In other words the frontage area is considered part of the entire site on which the regulated activity currently operates and needs to be included in the area calculations. By definition the City's CAP ordinance does not limit the site's area to just the size of the tax lot(s).

We would appreciate your review of this recommendation and reconsideration that the application to add two diesel fueling pumps does meet the CAP ordinance.

Sherwood Planning Commission
November 21, 2005

This Appeal relates to file # SP 05-02 Alto Chevron Diesel Fuel Island. The Sherwood officially Denied our application on November 8, 2005.

The narrow focus of our appeal is the decision by the City of Sherwood's consultant Jeff Wise. Mr Wise ruling on 17 March 2005 was "

"THE CAP CAN ONLY CONSIDER THE ACREAGE OF THE TAX LOT"

There is no supporting language in the Sherwood CAP ordinance to support Mr. Wise's conclusion. The city of Sherwood's CAP ordinance does have three directives to precisely determine the area of a site containing the regulated activity is to be measured for regulatory purposes of the 99W CAP ordinance.

6.307 HIGHWAY 99W CAPACITY ALLOCATION PROGRAM(CAP)

C. Definitions

10. "site trip Limit" means the trip limit multiplied by the ACREAGE OF THE SITE CONTAINING THE REGULATED ACTIVITY

E. Trip analysis

3. Format

c. Square Footage used to estimate trips, IN ACCORDANCE WITH METHODS OUTLINED IN THE ITE MANUAL.

G. Other Provisions

1. Acreage Calculation For a Regulated Activity.

a. Acreage calculations used to calculate net trips per acre in the Trip Analysis must use the entire area of the tax lot(s) containing the regulated activity, less 100- year flood plain area, in accordance with FIRM map for Sherwood.

The 7th Edition ITE manual states

"AN ACRE AS DEFINED FOR THIS REPORT IS THE TOTAL AREA OF A DEVELOPMENT SITE"

Conclusion

The traffic report submitted to The City Of Sherwood and Mr. Wise did:

MULTIPLY THE TRIP LIMIT BY THE ACREAGE OF THE SITE CONTAINING THE REGULATED ACTIVITY

DETERMINED THE SQUARE FOOTAGE TO ESTIMATED TRIPS IN ACCORDANCE WITH METHODS OUTLINED IN THE ITE MANUAL

PRODUCED A TRIP ANALYSIS USING THE ENTIRE AREA OF THE TAX LOT(S) CONTAINING THE REGULATED ACTIVITY

The site occupied by our regulated activities is what it is. The ground occupied by our company was established in October of 1987. The City of Sherwood has improvements located on our property and we have improvements on the City of Sherwood's property. The ground we occupy is

the total area our our site and cannot be reduced in size soley for the purpose of denying our application.

This appeal is not a challenge to the 99W CAP ordinance. It is a challenge to Mr Wise`s unfounded ruling on our application. The 99W CAp ordinace does not contain any language stricly limiting the area to be calculated for trip limit purposes to the area found within tax lots of the regulated acitivity. We again ask the City of Sherwood to issue us a CAP certificate and building permit.

For Record -
Submitted @ netg,
12/13/05

LELAND CONSULTING GROUP



SHERWOOD CANNERY PROPERTY *Project Memorandum*

TO: Mr. Jim Patterson
Assistant City Manager
City of Sherwood

FROM: Rod Stevens, Leland Consulting Group

DATE: 13 December 2005

SUBJECT: Overview of the Sherwood Cannery District
Project Number: 4548.4

This memo provides a brief overview of our current development efforts on the Cannery District.

Development Strategy

At a recent meeting with you and the City Manager, we decided to proceed with a strategy of developing and selling the first phase. Under this strategy, we will seek preliminary land use approvals for the project as a whole, and then will sell off the land for "Phase I." Phase I will be about two-thirds of the site and is centered around the new intersection of Columbia and Highland, running down to Willamette Street. This phase will have approximately 34 units, although the final number may be a unit higher or lower depending on the site survey. The later phases, to the west will have the live/work units and storefront/office buildings.

Under this strategy, the City will subdivide the land and select a builder to buy the land and construct the improvements. The builder will be responsible for constructing the streets, sidewalks and townhouses in accordance with design controls that we will add as conditions, covenants and restrictions ("CC&Rs"). As owner of the land, the builder will also carry the risks and returns of building out the project. We hope to have the subdivision approved by mid to late summer and to close the sale immediately thereafter so that the builder can have the streets constructed and the townhouses underway before the beginning of the rainy season next fall.

Leland Consulting Group ("LCG") will continue to assist the City in developing this subdivision, acting as the City's contract project manager in overseeing design, subdivision application, developer selection, preparation of the CC&Rs, and in negotiation and closing of the sale of the Phase I land.

LELAND CONSULTING GROUP



Current Efforts

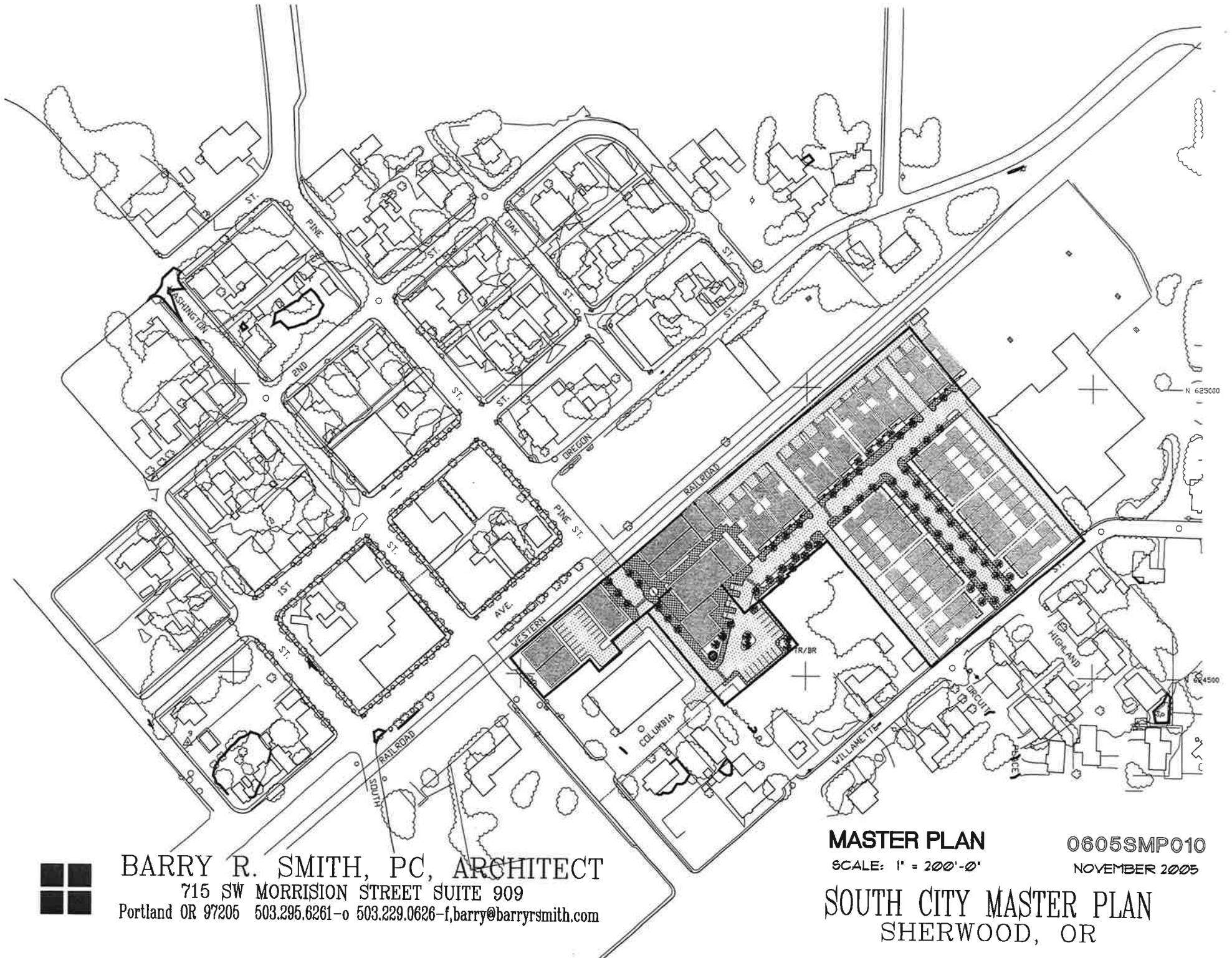
We are currently working in the following areas:

- Final urban design. We are working with architects and urban designers to complete the site plan for the entire Cannery District property. This will detail road profiles, sidewalks, setbacks, and the other details essential to making this a great place to walk and live. The final urban design will guide the engineers in preparing the subdivision plan. The architectural firm of Barry R. Smith and Associates is leading this effort, with assistance from Bill Dennis, who prepared the plan for Fairview Village.
- Survey. This is a critical path item that is essential to starting on the engineering drawings. We hope to have this work underway later this week or early next.
- Builder publicity. I have written an article on the project that will go in the January issue of the newsletter of the Homebuilders Association of Portland. We will follow this up with more publicity later.
- Budgeting and Schedules. I am working to turn the preliminary budget of costs and cash flows into a more detailed accounting report that we will use to help you monitor and control expenditures. This report will take the form of a one-page spreadsheet with a detailed page of accompanying notes.
- Contracting. LCG subcontracted the preliminary design efforts through our firm. We are working to get the designers, engineers and other outside professional firms under direct contract with the City.

Next Steps

- Renderings. After completing the final site plan and cross sections, we will prepare two or three renderings of the project that will show how people will experience the project at key intersections. These should be useful with your citizenry and with builders.
- Design Controls. We will begin preparing the CC&Rs that will help ensure that the new townhouses in this neighborhood fit into Old Town. The City may want to use these as the basis of design controls for parts of the surrounding neighborhood.
- Subdivision Application. As you decided at our last meeting, we will employ OTAK, Inc. to survey, engineer and make application for the subdivision on behalf of the City. We plan to have OTAK begin engineering in early January and to make the subdivision application as soon as possible thereafter.
- Developer Selection. We will begin advertising and telling builders about this project in earnest in January and will begin the formal builder selection in February, issuing a "Request for Qualifications (RFQ)." This process will probably take four to six weeks. We can design this process to give the City considerable discretion in how it selects a developer, and will use Steve Pfeiffer of Perkins Coie to assist us. Steve is one of the best land use attorneys in the state and the City has employed him before.

Let me state again how much I enjoy working with you and the rest of the City and community on this project. We hope to have Phase I under construction for you as soon as possible, probably later next year.



N 625000

624500



BARRY R. SMITH, PC, ARCHITECT
 715 SW MORRISON STREET SUITE 909
 Portland OR 97205 503.295.6261-o 503.229.0626-f, barry@barrysmith.com

MASTER PLAN

SCALE: 1" = 200'-0"

0605SMP010

NOVEMBER 2005

SOUTH CITY MASTER PLAN
 SHERWOOD, OR

RECEIVED

NOV 22 2005

BY CB



City of
Sherwood
Oregon

Home of the Tualatin River National Wildlife Refuge

NOTICE OF APPEAL

TAX LOT: 500 300 602
MAP NO: 25-1-300
CASE NO: SP 05-02

TO: SHERWOOD PLANNING COMMISSION

APPEAL BY: John F. ALTO AUTO Automotive Inc
(Appellant's Name)

ON FILE # SP05-02 at 21090 SW Poe Hwy Sherwood
(address/tax lot number)

The undersigned in the above-entitled matter does hereby appeal from that certain decision of the Sherwood City Planning Staff rendered on the 8 day of November, 2005, upon the following grounds: *(Please provide on a separate sheet the reasons why you think the Planning Commission should render a different decision than that rendered by the Hearing Authority.)*

AUTO Automotive Inc Date Signed: NOV 22, 2005.
Appellant
21090 SW Poe Hwy Sherwood 503-320-4767
Address Phone No.

To be filled out by City Staff

Received by: Cynthia Butler Date: 11-22-05
(authorized Staff member)

Fee: \$250.00 Receipt No.: 9503

NOTE: See Fee Schedule for Appeal Fee

APPEAL
Persons who are a party to the decision and who have a basis for an appeal based on an issue that has been raised, are eligible to appeal this decision not more than 14 days after the date on which the action took place. For the applicant, the 14 days are counted from the date the decision was mailed.

Sherwood Planning Commission

November 22, 2005

This appeal relates to File No. SP 05-02 Alto Chevron Diesel Fuel Island. The City of Sherwood officially denied our application on November 8, 2005.

The narrow focus of our appeal is the decision by the City of Sherwood's consultant Jeff Wise. Mr. Wise ruling on March 17, 2005 was "THE CAP CAN ONLY CONSIDER THE ACREAGE OF THE TAX LOT".

There is no supporting language in the Sherwood CAP ordinance to support Mr. Wise's conclusion. The City of Sherwood's CAP ordinance does have three directives to precisely determine the area of a site containing the regulated activity to be measured for regulatory purposes of the 99W CAP ordinance.

6.307 HIGHWAY 99W CAPACITY ALLOCATION PROGRAM (CAP)

C. Definitions

10. "site trip limit" means the trip limit multiplied by the ACREAGE OF THE SITE CONTAINING THE REGULATED ACTIVITY

E. Trip analysis

3. Format

c. Square Footage used to estimate trips, IN ACCORDANCE WITH METHODS OUTLINED IN THE ITE MANUAL

The 7th Edition of the ITE manual states "AN ACRE AS DEFINED FOR THIS REPORT IS THE TOTAL AREA OF A DEVELOPMENT SITE"

G. Other Provisions

1. Acreage Calculation For a Regulated Activity.

a. Acreage calculations used to calculate net trips per acre in the Trip Analysis must use the entire area of the tax lot(s) containing the regulated activity, less 100- year flood plain area, in accordance with FIRM map for Sherwood.

Conclusion

The traffic report prepared by Charbonneau Engineering Inc for Alto Automotive Inc. submitted to the City of Sherwood did:

MULTIPLY THE TRIP LIMIT BY THE ACREAGE OF THE SITE CONTAINING THE REGULATED ACTIVITY

DETERMINED THE SQUARE FOOTAGE TO ESTIMATE TRIPS IN ACCORDANCE WITH METHODS OUTLINED IN THE ITE MANUAL

PRODUCED A TRIP ANALYSIS USING THE ENTIRE AREA OF THE TAX LOT(S) AND THE TOTAL AREA OF THE DEVELOPMENT SITE CONTAINING THE REGULATED ACTIVITY

PROVIDE FACTUAL DOCUMENTATION THAT THE 99W CAP ORDINANCE TRIP LEVELS WILL NOT BE EXCEEDED

The site occupied by our regulated activities is what it is. The present ground occupied by our company was established in October of 1987. The City of Sherwood has improvements located on our property and we have improvements on the City of Sherwood's property. The ground we occupy is the total area of our site and cannot be reduced in size solely for the purpose of denying our application.

This appeal is not a challenge to the 99W CAP ordinance. It is a challenge to Mr. Wises unfounded ruling on our application. The 99W CAP ordinance does not contain any language strictly limiting the area to be calculated for trip limit purposes to the area found within tax lots of the regulated activity. We again ask the City of Sherwood to issue us a CAP certificate and building permit for this project.

We would welcome an on-site visit by the planning commission. You can contact me at 503-320-4767

Respectfully,

Alto Automotive, Inc.

A handwritten signature in black ink, appearing to read "John F. Alto". The signature is written in a cursive style with a large initial "J" and "A".

John F. Alto
President

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
December 13, 2005

Commission Members Present:

Vice Chair Patrick Allen
Jean Lafayette
Dan Balza
Matt Nolan
Todd Skelton
Russell Griffin

Staff:

Julia Hajduk, Senior Planner
Heather Austin, Associate Planner
Cynthia Butler, Administrative Assistant
Gene Thomas, City Engineer

Commission Members Absent:

Chair Adrian Emery

1. Call to Order/Roll Call – Vice Chair Allen called the meeting to order at 7 PM. It was noted that Commissioner Griffin was not present, but was expected.

2. Consent Agenda – Minutes: September 13th and October 25, 2005. Jean Lafayette moved to approve all minutes. Dan Balza seconded. Vote was taken:
Vote: Yes – 5 Abstain – 0 No – 0
Motion carried.

3. Agenda Review

4. Brief Announcements – Senior Planner, Julia Hajduk, stated that she was representing Staff this evening in place of Kevin Cronin who was absent. A review of packet materials was completed and Julia stated that a memo from Leland Consulting Group to Assistant City Manager, Jim Patterson regarding the Cannery site would be distributed. Julia said that any questions or discussion regarding the content of the memo could be directed at a later date to Kevin Cronin, Planning Supervisor. Julia recapped that City Hall will move to the new building Saturday, December 17th and be open for limited services on Monday, December 19th.

5. Community Comments (not on the agenda) – None.

6. Public Hearings:

Dan Balza read the Hearings Disclosure Statement.

Vice Chair Allen asked if there were any conflicts of interest, ex parte contact, or bias. There was none.

A. Chapter 9 – Historic Resources Plan Text Amendment (PA 05-04)

Julia Hajduk stated that this hearing is a continuation of the public hearing held on October 25, 2005 to consider a plan text amendment to Chapter 9 of the Sherwood Zoning and Community Development Code, Historic Resources.

Vice Chair Allen stated for the record that Commissioner Russell Griffin was in attendance. Upon recap of the current discussion, Russell Griffin stated that he owns a home and business in the Old Town area, but that it would not affect his ability to be impartial and consider the findings.

Julia Hajduk recapped the materials provided for Commissioners by Planning Supervisor, Kevin Cronin. Julia said that Kevin summarized Staff's recommendation that a Landmarks Advisory Board (LAB) would consist of the 7 Planning Commission members plus 3 additional historical resource professionals. The 3 historical professionals would provide recommendations to be considered by the Planning Commission, who would be the decision body.

Vice Chair Allen asked to clarify that the 10 member group including the Planning Commission members and 3 consultants would meet, and that the Planning Commission would reconvene for the Planning Commission to consider recommendations and make a decision.

Julia Hajduk confirmed this is Staff's current recommendation. Julia said there were questions about whether a property owner needed to give consent to be listed on the registry, and if they were required to petition to be removed from the registry. Julia confirmed with Kevin Cronin that any property currently listed on the registry remains and that an owner would need to petition for it to be removed from the registry. Julia also said that any additional properties added to the registry would be on a voluntary basis.

Vice Chair Allen asked Staff if the registry was compiled in compliance with any ORS standards that existed at the time, or if the registry was compiled prior to ORS standards.

Julia Hajduk was uncertain and stated that she would get that information.

Vice Chair Allen asked if there were any questions of Staff. There were none. Vice Chair Allen asked if there was any public testimony. There was none.

Vice Chair Allen closed the public hearing at 7:15 PM, and asked if Staff had any further comments.

Julia Hajduk stated that Kevin Cronin relayed if after discussion Commissioners had questions that she could not address, that Kevin could address them at the next meeting if desired.

Vice Chair Allen stated that he is inclined to elect this option, but that referenced Page 31 of the draft version Chapter 9 documents and stated; there first appears to be a style issue in language that states the Planning Commission shall act as the LAB, which conflicts in Item A regarding the 3 other members that join the Planning Commission. Patrick said that in B & C the language states that the LAB recommends to Council, reviews, takes actions and makes recommendations. Patrick said the language states that the LAB does take action. Patrick also said that on Page 39 there is language regarding variances to the alteration standards that states the LAB takes action on standards and the Planning Commission takes action on variances. Patrick asked if Julia wanted to address these or defer to Kevin at a later date.

Julia Hajduk stated that listing specific questions would be beneficial for Kevin to have available for detailed response at a later time.

Vice Chair Allen said that Item C specifically states that the LAB will review and take action or make policy recommendations on new building applications within the designated historic districts. Patrick would like clarification on the action taken by the LAB.

Jean Lafayette said that the interpretation does not appear to match the language.

Matt Nolan said that on Page 31, Section 9.301 appears to imply the LAB takes action and makes decisions, but that language regarding making determinations is allocated to the Planning Commission. Matt said the language appears to be inconsistent.

Vice Chair Allen referenced the top of Page 32, Section 9.401.01 the language states that the LAB and the Planning Commission shall make recommendations to the City Council on designation. Patrick said it appears that there would be voting done by the LAB and the Planning Commission. Patrick said on Page 33, Section 9.401.04, the language for standards for designation state that the potential or historic structure has a quality or significance in American or local history. Patrick asked for clarification on the meaning of “significance of American or local history”, and how that determination would be made.

Julia Hajduk said that her thought would be that the determination would be made through the LAB public process, but that she would clarify with Kevin.

Matt Nolan said that also on Page 33 there is language about primary, secondary and contributing significance, but he did not find definitions of these elsewhere in the document.

Vice Chair Allen said there are definitions near the end of the document on Pages 41 or 42, but that these are not there. Patrick said that on Page 36 regarding Appeals, the language states that a decision rendered by the Planning Commission regarding approval, approval with conditions, or denial of a permit for construction, removal, or demolition of a landmark may be appealed to the Council – is unclear who makes that decision. Patrick also asked for clarification on the International Building Code, whether it is required that a particular section of the Code is specified by date.

Julia Hajduk said that Kevin stated the language can read, “as amended or updated”, but that this has not yet been checked with the City Attorney, which will occur.

Matt Nolan said in the past it has been difficult to find qualified people to serve and remain on the LAB, and asked if establishing the 3 additional members for the LAB may risk quorum issues, or issues of ineffectiveness.

Vice Chair Allen asked if the City could qualify for the certified City designation if a technical advisory committee were created for the Planning Commission to refer to for professional opinion, but that the Planning Commission would act as the LAB and make decisions, not being dependent on the technical advisory committee as voting members.

Julia Hajduk asked if the possible difficulty mentioned earlier in finding qualified members for a LAB wouldn't apply to a technical advisory committee.

Vice Chair Allen responded that circulated materials could be reviewed by a technical advisory committee for making recommendations to the Planning Commission as part of the record, eliminating the need for the committee to commit to a number of hours on a regular basis or to be part of a quorum requirement.

Jean Lafayette said there are inconsistencies in the Code regarding height requirements, and referenced Page 5 that states height shall be 40 feet and a maximum of 4 stories, but 55 feet and a maximum of 5 stories in the Cannery area. Jean said the Design Standards are split into residential and commercial standards, the residential standards states 40 feet, but does not designate between the two different districts and does not specify the number of stories. Jean said the commercial standard states 40 feet and 3 stories, and does not reference 55 feet as in the Code.

Vice Chair Allen asked Jean to clarify the omission of the 55 feet reference for the Cannery site, and stated that he recalled it was referenced.

Jean Lafayette said that the 55 foot reference is in the Code, but is not in the Design Standards on Page 17 the only reference is 40 feet and 3 stories.

Julia Hajduk said Kevin will respond to this, but that her understanding is that whatever standard is the most strict is what applies.

Jean Lafayette said the preference would be to remove as many inconsistencies as possible while the documentation is being reviewed.

Consensus with Commissioners.

Jean Lafayette said that she will type up a list of the inconsistencies she has discovered and submit it later to Staff.

Julia Hajduk asked to clarify if it was the Commissioner's view that the language in the Code was more strict.

Matt Nolan said that in Item 5C the language states the height requirement is up to 55 feet, and on Page 17 there are different requirements.

Vice Chair Allen added that story references in some places read 3 or 4, or are omitted altogether.

Jean Lafayette said that Page 17 also references a minimum differential of 6 inches between adjacent buildings, which does not appear in the Code.

Vice Chair Allen asked to clarify that the language on Page 5 was referenced when the Commission worked on the Old Town Overlay.

Jean Lafayette confirmed.

Vice Chair Allen said the City of Talent standards that have been integrated in the City of Sherwood Code language may be a disconnect of information in that process.

Jean Lafayette said that Kevin presented exactly what the Commission asked from Staff, incorporate the standards in our Code into one document or reference.

Vice Chair Allen asked if Jean had further examples to discuss.

Jean Lafayette confirmed and stated that she would type up the list mentioned earlier in the interest of time and efficiency, and present it to Kevin at a later date by email.

Vice Chair Allen asked Commissioners for consensus to continue the hearing on Chapter 9, Historic Resources to a later date. Commissioners confirmed. Vice Chair Allen asked Staff for a recommended date.

Julia Hajduk referenced the calendar and discussion determined the 2nd meeting in February.

Jean Lafayette moved to continue the hearing for the Chapter 9 Plan Text Amendment, PA 05-04 to February 28, 2006.

Todd Skelton seconded.

Vice Chair Allen closed the public hearing on PA 05-04 at 7:35 PM.

B. Alto Chevron Diesel Fuel Island Addition – Appeal (SP 05-02) -

Jean Lafayette read the Appeal Hearing Disclosure Statement.

Vice Chair Allen asked if there was any conflict of interest, exparté contact or bias. There was none.

Vice Chair Allen opened the Appeal Hearing and reiterated that only the applicant can testify unless the Planning Commission has questions of the traffic consultant.

Heather Austin recapped the process to date, and stated that Jeff Wise from Hopper Dennis Jellison, who provided the traffic study for the City and referenced in the Staff Report, has stated that the application did not meet the CAP requirement, and that he is also available for questions. Heather also said that Section 6.307.D1 of the Code states, “All regulated activity shall require a trip allocation certificate prior to approval of the base application. Lack of a trip allocation certificate shall be the basis for denial of a base application.” Heather said the extended time periods were determined through communications with Mr. Alto, who chose to continue working with his engineer to find ways for meeting the CAP requirement. Heather also stated that she and City Engineer, Gene Thomas, and Tom Pessimier, P.E. for the City, met with Mr. Alto during the process to discuss options for meeting the CAP requirement. Heather said the Appeal was submitted on November 22, 2005 and that the final extension of the 120 deadline is December 16, 2005.

Dan Balza asked for clarification on the CAP, and stated that Mr. Alto has already installed a diesel pump on an existing fuel island and that traffic is currently accessing the site for this service. Dan asked how the traffic is impacted by separating out the diesel pump to its own island.

Heather Austin said that adding a diesel pump to the existing structure does not require site plan review and does not trigger a traffic study, but adding a fuel island does change the site requiring a site plan review and traffic study.

Russell Griffin stated that according to the traffic study the number of pumps determines the number of trips calculated for a specific site, which is then divided by total site acreage.

Jean Lafayette asked Staff to clarify how the 1.51 total acreage measurement was calculated.

Heather Austin said the calculation is based on Washington County tax map and tax lot information. Heather said there are 3 tax lots that comprise Mr. Alto's property.

Jean Lafayette asked for clarification on the discrepancy between Mr. Alto's numbers and Staff.

Heather Austin stated she believes the landscaping strip within the right-of-way is the difference in calculations. Heather indicated that Mr. Alto and Mr. Wise may want to speak to the question.

Jean Lafayette asked if the landscaping strip was part of the tax lot when the Chevron station was built and then deeded to the City.

Heather Austin was uncertain, but stated that if the landscaping strip in the right-of-way was dedicated, it would have likely been the standard for that time.

Jean Lafayette asked Staff to clarify by an example, that if she were to build on a minimum 5,000 square foot lot in the City of Sherwood, and it included a utility right-of-way, would she be allowed to count the right-of-way toward the total of her 5,000 square feet or would she be required to have 5,000 square feet in addition to the right-of-way measurement.

Heather Austin asked traffic engineer, Jeff Wise to speak to Commissioner Lafayette's question.

Jeff Wise, Hopper Dennis Jellison, 314 W. 15th St., Vancouver, WA 98660: Mr. Wise stated that to calculate the CAP for a site, all of the property in the site is included even if a portion of the site will be dedicated as right-of-way.

Jean Lafayette asked to clarify if Mr. Wise's description wasn't the opposite of what was determined in Mr. Alto's application. Jean said that based on Mr. Wise's explanation, Mr. Alto would be entitled to count the landscaping strip in the total acreage.

Vice Chair Allen asked if easements were being confused with right-of-way.

Jeff Wise that in this case there is no dedication of right-of-way of the site.

Vice Chair Allen asked to clarify with Mr. Wise that if a land use action resulted in a dedication of right-of-way, the entire site including any acreage to be dedicated would be included in calculating total acreage, but in this application there is no dedication involved.

Jeff Wise confirmed.

Vice Chair Allen recapped Mr. Wise's explanation for confirmation, with an analogy of a residential parking strip that a resident maintains, but does not own or pay taxes on.

Jeff Wise confirmed.

Jean Lafayette asked if in her earlier example of the minimum 5,000 square foot lot, whether or not the utility easement would be part of the 5,000 square feet.

Vice Chair Allen confirmed that it would not, it would be part of the public right-of-way.

Jean Lafayette asked Mr. Wise if all 3 tax lots were considered in calculating the total acreage of the site.

Jeff Wise confirmed.

Vice Chair Allen asked if there were any other questions for Mr. Wise. There were none.

John Alto, 24662 SW Ladd Hill Rd., Sherwood: Mr. Alto stated that the conflict may be that the Ordinance applies to existing and new developments. Mr. Alto said the site has existed as it is today since 1988, and that he is not claiming in the application any lands beyond the sidewalk, or that they do not landscape or maintain. Mr. Alto said that his business signs are located on the landscaping that he is claiming as part of their site. John said that the Ordinance does not limit the calculation of the site acreage to the tax lot, but states all of the tax lot area must be used in the calculation. Mr. Alto said that they included all of the areas that they maintain. Mr. Alto spoke to the history of the property and stated that his tax lots lost ground on 3 occasions; Hwy.99 widening, Sherwood Blvd., and Langer Drive widening. John said the Ordinance references the IT Manual, and that the Manual states that an analysis of an area is the total area that the site occupies. John stated that their site is larger than the tax lots and that to reduce the size to the tax lots for trip calculation is inaccurate. Mr. Alto said that he is not challenging the CAP Ordinance, but rather the narrow interpretation of how much of the land should be used in calculations. Mr. Alto requested to submit a memo from Charbonneau Engineering into the record, which was circulated to Commissioners.

Vice Chair Allen asked to recap Mr. Alto's argument and stated that Section 6.307 of the CAP Ordinance under definitions, states that the site trip limit is multiplied by the acreage of the site - and that Section G states that the calculation must use the entire tax lot, but does not restrict the inclusion of more than the tax lot.

John Alto confirmed.

Jean Lafayette asked Mr. Alto if the landscaping was ever part of the original tax lot and then deeded to the City.

John Alto stated that to the best of his knowledge the landscaping was part of the original tax lot and that when Sherwood Blvd. was developed there was an exchange between the Chevron owner at that time with the City that involved this area.

Jean Lafayette referred to Mr. Alto's earlier comments about losing land when Hwy 99 and Sherwood Blvd. were widened, and asked Mr. Alto if the land he lost was part of the landscaping or part of the total site.

John Alto stated it was part of the landscaping.

Vice Chair Allen asked to have a 10 minute break at 7:50 PM to read Mr. Alto's memo from Charbonneau Engineering and review Mr. Alto's letter.

< 10 minute break >

Vice Chair Allen reconvened the public hearing at 8 PM.

Vice Chair Allen referred to the site plan that was completed by AKS Engineering and was part of the packet provided by Staff. Patrick asked Mr. Alto to confirm the location of the Chevron monument sign and that the sign was located in the landscaping strip that is not part of the tax lot, which Mr. Alto confirmed.

Vice Chair Allen asked if there were any further questions for Mr. Alto. There were none. Vice Chair Allen asked Mr. Alto if he had any further comments prior to closing the public hearing.

John Alto stated that City Staff was very helpful and that his application may be the first existing business to expand under the existing CAP.

Vice Chair Allen closed the public hearing for the Alto Chevron Diesel Fuel Island Appeal, SP 05-02 at 8:05 PM.

Vice Chair Allen asked Staff for comments.

Heather Austin confirmed this may be the first case of expanding an existing business under the CAP Ordinance and that in addition to making a decision on this case, it is important for the Planning Commission to make a clear policy standard for how these applications will be reviewed in the future.

Matt Nolan asked Jeff Wise how the ITE Manual define site.

Jeff Wise stated that the ITE trip generation manual uses independent variables for calculations including acreage, square footage of a building, and the number of fueling positions, which was used in this case. The CAP Ordinance allows engineering studies to be used in place of the ITE Manual. Jeff stated that if the ITE Manual were used the addition of more fueling stations would have generated more trips than shown by the Charbonneau study. Mr. Wise stated that the Charbonneau study supplemented the ITE with studies from additional sites. Jeff also stated that the ITE Manual does not address specific use of diesel fueling stations, and the Charbonneau

study included data specific to trip generations for diesel fuel. Mr. Wise said that Mr. Alto's argument regarding the site area as defined by the ITE trip generation manual using acreage as the variable rather than the number of fueling stations is a different variable than used by the study completed by Mr. Wise.

Jean Lafayette asked Mr. Wise if he agreed or disagreed with the Charbonneau study.

Jeff Wise stated that the Charbonneau study was done in accordance with the Ordinance and they studied a number of different sites. Jeff stated that they do not raise any objection to the trip generation data supplied by Charbonneau.

Jean Lafayette asked Mr. Wise if the trip generation data supplied by Charbonneau was less than what the ITE manual dictates.

Jeff Wise confirmed. Jeff also stated that the ITE manual discusses fuel pumping stations without differentiating between diesel and other fuels.

Vice Chair Allen recapped that there is no disagreement about the numerator, it is the denominator that is the disagreement.

Consensus with Commissioners.

Russell Griffin asked Mr. Wise if he could determine what kinds of locations are studied to determine the trip count of 1.111, if they were downtown or rural for example or if it is statewide.

Jeff Wise stated it is not statewide, but the number for this study was specifically used for this project.

Vice Chair Allen said that the 3 locations used were the Chevron on Tualatin-Sherwood Rd., and two of them were on Fourth Plain Blvd. in Vancouver, WA, which are suburban locations. Patrick asked to clarify that Mr. Wise was not disputing the 1.111 number used for the calculations.

Jeff Wise confirmed that he was not.

Russell Griffin the discrepancy appears to be over whether or not the acreage outside of the tax lot can or cannot be considered. Russell asked to clarify if there was anything in the Code or the ITE Manual that states area outside of the tax lot cannot be considered.

Jeff Wise said that Section G under provisions in the Ordinance, it states "acreage calculations for the regulated activity", and "acreage calculations are net trips per acre and that trip analysis must use the entire area of the tax lots".

Vice Chair Allen stated that it would read much differently if it stated that no more than the area of the tax lot should be used in the calculation, which it does not state.

Jeff Wise stated that the section could be made more clear, and that from an engineering perspective it is assumed that the application encompasses the applicant's property, or tax lot.

Todd Skelton stated that the signage and driveway of the site should be part of the regulated activity and that it should not be excluded from the total area.

Heather Austin said that any development with a driveway apron is in the right-of-way. Heather stated that the sign is a confusion and that it may have existed before the dedication of right-of-way, or may have been an historical oversight in calculation.

Jean Lafayette said it is perceived that the signage is part of the site, and that if the landscaped area would have been counted previously it would be unfair to penalize the property owner by not counting it now.

Dan Balza asked if the language in Chapter 6, Section 6.307 of the Code that states the use of a tax map to identify the site means tax lot.

Vice Chair Allen stated that there is no definition of site in the Code.

Consensus with Commissioners.

Vice Chair Allen reiterated that Staff will be coming back at a later date to address the issue of site definition in the Code.

Heather Austin [inaudible] referenced that ODOT has jurisdiction over Hwy 99 and could address the landscaping and the sign, as an option.

Vice Chair Allen suggested that the Commission make the following 4 findings:

1. Site is undefined in the Sherwood Zoning & Development Code.
2. The Code language as written does not limit the site area to the tax lot.
3. The Code does direct/shall use of the ITE Manual that defines acre as the total area of a development site.
4. The legally permitted sign exists in the right-of-way within the landscaping area, and the sign is an integral part of the development.

Vice Chair Allen recommended to find for the Appellant and direct the application back to Staff for further processing.

Heather Austin stated that there was no documentation found to date supporting that the sign was legally permitted, but that Staff will continue to do research.

Discussion ensued regarding permanent signs and prior approval for signage.

Vice Chair Allen stated that if Staff determined that the signage was not legally permitted, they would be in the position to again deny the application for failure to meet the CAP. Patrick asked Heather if Staff was able to assert at this session that the sign was not legally permitted.

Heather Austin stated that Staff was not.

Vice Chair Allen stated that another alternative may be that the Planning Commission establish an additional finding that the sign is legally permitted.

Jean Lafayette added, based on the testimony provided.

Matt Nolan asked to clarify that if the sign has already been legally permitted on the site, that the property where the sign is located was determined part of the site.

Jean Lafayette agreed.

Matt Nolan stated that if this is the case, the precedent would have been determined some time ago and the Commission would not be required to make new findings. Matt stated that based on prior approval of the permitted sign the property was part of the site.

Vice Chair Allen stated that the findings as Matt described would establish that site and tax lot are not equivalent and that there are certain circumstances that site can exceed tax lot.

Commissioners agreed, and stated that a definition for site would be necessary prior to future applications of this nature.

Vice Chair Allen modified the 4th finding to read, "the sign is in the right-of-way landscaping area and based on applicant testimony, the Commission finds the sign to be legally permitted as an integral to the development site, rendering the landscaping area in this case part of the site."

Vice Chair Allen asked Staff to clarify protocol for a site plan that does not have the typical conditions, if the Commission finds for the Appellant and remands the application back to Staff.

Julia Hajduk stated that Heather reviewed the site plan and recommended some conditions could address those this evening, but that the Commission needs to make a decision this evening due to the deadline. Julia stated that if the Commission is not prepared this evening to approve with the recommended conditions, but wants to accept the appeal, perhaps a continuance for the conditions portion of the application could be established for Staff to return with a Staff Report to approve conditions.

Matt Nolan asked if the Commission would even be required to review the conditions.

Heather Austin referred to the Code that states the Commission can remand back to Staff and would not be required to review conditions of approval.

Vice Chair Allen asked Commissioners if there was consensus for finding for the Appellant, adopting the 4 findings, and remanding the application back to Staff. There was consensus.

Heather Austin read the conditions that Staff would be finding, which included 1) traffic study to address safety for traffic queuing on Hwy. 99 which is close for one-way movements 2) 25 feet of landscaping on the Hwy. 99 corridor, and 10 feet on Sherwood Blvd. remains when landscaping is removed for the diesel island.

Vice Chair Allen stated that the Commission would not typically review this application except for the CAP issue. Patrick said that he recommends remanding the application back to Staff to complete the conditions process and to find for the Appellant on the CAP definition issue.

Commission confirmed consensus.

Matt Nolan asked Vice Chair Allen to recap the 4 points under consideration.

Vice Chair Allen stated;

1. Site is undefined in the Sherwood Zoning & Development Code.
2. The Code language as written does not limit the site area to the tax lot.
3. The Code does direct/shall use of the ITE Manual that defines acre as the total area of a development site.
4. The sign is in the right-of-way landscaping area and based on unchallenged applicant testimony, the Commission finds the sign to be legally permitted as an integral to the development site, rendering the landscaping area in this case part of the site.”

Jean Lafayette moved that the Planning Commission find for the Appellant based on Staff Report findings of fact, public testimony, Staff recommendations, agency comments, applicant comments, findings as read by Vice Chair Patrick Allen, and remand the application back to Staff for further processing.

Matt Nolan seconded.

Vice Chair Allen asked if there was any further discussion. There was none.

Vote taken: Yes – 6 Abstain – 0 No - 0

Motion carried.

Vice Chair Allen closed the public hearing on the Alto Chevron Diesel Fuel Island Addition – Appeal (SP 05-02) at 8:35 PM.

7. Comments from Commission - Jean Lafayette stated that she attended the City Council hearing last week on the Sherwood Oaks project and that the Council heard a revised version of the application that the Planning Commission had reviewed. Jean stated that the applicant, Mr. Lucas proposed a modified version that proposing zoning for MDRL instead of HDR and it did not appear the Council understood this was not the application heard by the Commission. Jean said that members of the City Council approached her and asked why the Commission made their determination. Jean said this was exparté contact and advised Council members to disclose any discussion, but that the application was not what the Commission reviewed. Council members asked Jean for her opinion and Jean stated that if the application had been proposed as presented to the Council that she would have likely approved it. Council members appeared to have interpreted Jean’s comments that the Commission may have approved the modified version of the application and Jean stated that was incorrect, and that she could not speak for the Commission. Jean stated it was solely her opinion. Jean stated it was an extremely modified application that was continued to another date. Jean said that Council members asked her to testify at the next hearing.

Julia Hajduk confirmed there was a lot of confusion on a complex project that had multiple changes. Julia said Mr. Lucas submitted a letter the day the Council packets the day there were due, and that Staff did not have an opportunity to evaluate the information. Julia stated that what the Council had been prepared for was not what was presented.

Jean Lafayette stated she is not comfortable representing the Planning Commission, and wanted feedback from Commissioners. Jean said one Council member suggested that a letter from the Commission stating that the application before Council is very different from what the Commission reviewed may be helpful.

Matt Nolan stated that he had exparté contact with a Council member yesterday when he was asked about the project. Matt said based on this conversation it was not clear to him that the Council had seen a different application than what the Commission reviewed. Matt affirmed that he does not believe the Council is aware that what they are reviewing is essentially a different application. Matt said that the Council members he spoke too expressed that they would like someone from the Planning Commission to appear at the next hear to provide some explanation.

Julia Hajduk stated that it was her perception that it was the discussion that was significantly different over documentation.

Vice Chair Allen confirmed that the last 10 minutes of the original hearing for Sherwood Oaks the applicant made some comments about possibly changing their application.

Julia Hajduk stated that Staff needs some time to evaluate the modified application and make recommendations and comments.

Jean Lafayette also added that the document Mr. Lucas' submitted at the last minute and was part of 260 pages document within a 3-ring binder.

Vice Chair Allen said that Community Development Director Rob Dixon would like to address the issue.

Rob Dixon stated that he appreciates the thorough manner the Commission processes applications. Rob said that part of the difficulty is the concomitant process of denying the zone change, but approving the site plan. Rob said that it may have appeared that the Commission would have liked to approve the application, but felt it could only approve the site plan portion of the project and not the zone change. Mr. Dixon recapped that the zone change was denied because the applicant did not meet the criteria. Rob said this may have sent confusing signals to the Council for the approval of the zone change. Rob said that it his recommendation to the City Manager and Planning Department that this is not done any longer and that zone changes are considered separately as a general policy. Rob said that zone changes connected to specific site plans come into difficulty over time if a business leaves, the zone remains leaving long range planning in a piece meal fashion.

Jean Lafayette asked Mr. Dixon if he was seeking direction from the Planning Commission regarding concomitant zone changes.

Vice Chair Allen stated this is good discussion, but likely best saved for another time.

Rob Dixon agreed, and that further discussion at another time is worth doing.

Vice Chair Allen recommended that perhaps the best course would be for the Planning Commission to provide a letter to the City Council clarifying why Commissioners denied the zone change and approved the site plan. Patrick also stated that Commissioners providing subsequent testimony on an application sent to Council would possibly in itself be a land use action that would not provide public notice to the public or the applicant, and stated that Commissioners should not talk further to the City Council regarding the project.

Julia Hajduk stated that the Council did receive copies of all of the minutes so that they were aware of what was discussed.

Dan Balza stated that if Council understood that the Planning Commission did not deny or approve exactly what they are currently reviewing, that this should all that would be required to be said.

Vice Chair Allen stated that in the past the Commission did send a representative to Council meetings to be available, but that the Council discontinued this process and stated that with the record it was not required. Patrick re-confirmed that all of the record has been given to the Council and asked Staff for feedback.

Julia Hajduk confirmed that Council has the record with the developments and reasons for the findings.

Jean Lafayette stated that she does not want to testify at Council on behalf of the Planning Commission, possibly as a citizen, but would want feedback from the City Attorney.

Commissioners discussed the timeline for a letter and revisiting the issue again, and it was confirmed the next City Council meeting for the Sherwood Oaks project is February 7, 2006.

Vice Chair Allen suggested revisiting the issue at a January meeting. Commissioners agreed.

Vice Chair Allen asked if there were any further comments by Commission.

Jean Lafayette asked why some notices are not posted at the Albertson's grocery store reader board on Tualatin Sherwood Rd.

Heather Austin stated that there has been trouble posting at Albertson's due to large displays blocking the access & view of the outside reader board, and that Staff has discussed it with the store manager numerous times who is unwilling to move the displays. The YMCA has replaced this location largely for this reasons and the equally high visibility of the board location. Heather reiterated that the Code requires 5 conspicuous locations. This information was confirmed by the department Administrative Assistant who generally posts the notices.

Jean Lafayette stated this confuses the public who may be used to viewing notices at the location and occasionally does see them posted there. Jean said that this location should be clearly

discontinued for all City notices if this is not a reliable location so that public does not miss information or believe they are fully informed.

Heather Austin stated that sometimes the Albertson's location is the only reader board available if the Senior Center (one of the 5 locations) is closed by the time notice is required. Heather said that if the Albertson's reader board is accessible during those times it is used.

Commissioners expressed concern over using the board sometimes and not others.

Julia Hajduk stated this was good feedback and that it would be noted to be addressed for Kevin to be discussed at a later meeting.

Jean Lafayette asked if it could also be discussed that public notices be published in the Tualatin Times and not the Sherwood Gazette.

Vice Chair Allen said that this discussion could be combined with previous discussion with Kevin regarding the notice for the Historical Resources – Chapter 9 session.

Vice Chair Allen asked if there were any other comments.

Rob Dixon asked if there were another Commissioner that would like to service on the I-5 / Hwy. 99 Connector stakeholder working committee, which is an advisory group for which the Mayor is looking for a member appointment as an alternate or in the event that Adrian Emery opts not to continue. Adrian currently has multiple commitments. Rob stated that members do not have decision making authority, but that they provide an important advisory role. Rob said there are 2 representatives including a Planning Commission representative, which Adrian Emery is currently holding, and the Chamber of Commerce. Rob said there would be approximately 8-10 meetings with 1 meeting per month, Thursday evenings. Rob said that there is a lot at stake and it would be valuable for a Commissioner to attend.

Russell Griffin said that he has been keeping up on the related issues, did not have other conflicts at this time, and would like to service on the committee.

Jean Lafayette expressed an interest as well.

Vice Chair Allen suggested that both Jean and Russell be recommended to the Mayor as a member or alternate.

Rob Dixon stated he would like to talk to Adrian further, but thanked Commission Griffin and said he would get back to him after talking with Adrian.

Vice Chair Allen asked if there were further comments. There were none.

8. Next Meeting – January 10, 2006 – Annual Report 2005; Area 59 Master Plan; Parks Master Plan Focus Group

9. Adjournment – Vice Chair Allen adjourned the meeting at 9:10 PM.

End of Minutes