



**City of Sherwood
PLANNING COMMISSION**

**Sherwood Police Facility
20495 SW Borchers Drive**

June 1, 2004

Regular Meeting -7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Consent Agenda** – April 20, 2004 & May 4, 2004 PC Minutes
3. **Agenda Review**
4. **Community Comments** *are limited to items NOT on the printed Agenda.*
5. **Public Hearings:** (Commissioners declare conflict of interest, ex-parte contact, or personal bias) **Public Hearings** before the City Council and other Boards and Commissions shall follow the procedure identified in Resolution 98-743, adopted June 9, 1998 (copies available on table):
 - A. **SP 04-03/CUP 04-01 Safeway Fueling Station Site Plan (Pad #4) and Conditional Use:** a request by RHL Design Group (for Safeway) and Regency Realty to construct a four (4) pump fueling station with eight (8) fueling nozzles with attendant kiosk to be operated by Safeway, located at corner of Roy Rogers Rd and Borchers Dr, Tax Lot 100, Map 2S 1 29BC. The site is zoned Retail Commercial (RC) and the service station is a conditional use in the RC zone. *(Dave Wechner, Planning Director)*
 - B. **SP 04-08/CUP 04-02 Sherwood Civic Building Site Plan and Conditional Use:** a request by Thomas Hacker Architects for the City of Sherwood to construct an approx 31,000 square foot, 2-story, civic building, comprised of a City Library, City Hall space, meeting room and retail space, to be located at corner of N. Pine Street and Oregon Street (former Garrigus site), Tax Lot 6900, Map 2S 1 32BD. The site is zoned Retail Commercial (RC) and is located within the Old Town Overlay District. *(Dave Wechner, Planning Director)*
6. **New Business**
7. **Adjourn**

**ITEMS NOT COMPLETED BY 11:00 PM WILL BE CONTINUED
TO THE NEXT REGULARLY SCHEDULED MEETING**

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
June 1, 2004

1. Call to Order/Roll Call

Chair Adrian Emery called the Planning Commission meeting to order at 7:05 PM.

Commission Members present:

Patrick Allen
Dan Balza
Adrian Emery
Kevin Henry
Jean Lafayette
Matt Nolan

Staff:

Dave Wechner, Planning Director
Terry Keyes, City Engineer
Roxanne Gibbons, Recording Secretary

Commission Members absent:

Dan King

2. Consent Agenda

Jean Lafayette moved the Planning Commission accept the April 20, 2004 and May 4, 2004 Planning Commission meeting minutes as presented. Seconded by Patrick Allen.

Vote for Passage of Motion: 5-Yes, 0-No, 1-Abstain (Nolan)

3. Agenda Review

There were no changes to the Agenda.

4. Community Comments

There were no community comments.

5. Public Hearings

Chair Emery opened the public hearing on SP 04-03/CUP 04-01 Safeway Fueling Station Site Plan and Conditional Use.

Patrick Allen read the hearings disclosure statement and asked that Commission members reveal any conflicts of interest, ex-parte contact or bias.

Dan Balza announced he briefly discussed with a co-worker, who is also a Sherwood resident, where the fueling station was going to be located. This conversation did not cause him to have any bias.

Jean Lafayette announced when she was at City Hall, Gene Walker, Building Official, approached her and mentioned the orientation of the proposed fueling station in relation to the new condominiums and lighting. This conversation did not affect her decision-making process and she did not have any bias.

Dave Wechner referred the Commission to the Staff Report dated May 24, 2004, a complete copy of which is contained in the City Planning File SP 04-03/CUP 04-01. He noted:

- The applicant is requesting approval of a 4-pump gas station (8 fueling stations) with a 240 square foot attendant kiosk to be located in the Safeway shopping center.
- In 2000, the Commission heard an application for an 8 pump Safeway fueling station proposed for another pad on this site (City File SP 00-16/CUP 00-07). The Commission recommended approval of the application and on appeal, this decision was overturned by the City Council.
- The site is zoned Retail Commercial (RC). A fueling station is considered a service station under the Code and is a conditional use under the RC zone.
- The findings and criteria for site plan and conditional use are contained in the Staff Report.
- The previous decision conditioned that any changes to this particular building site would be heard by the Planning Commission rather than the Hearings Officer as a Type III application.
- The CUP criterion has changed since the previous application. The need for demonstrated market demand and public need for the use has been replaced with new criteria that includes Comprehensive Plan policies. The applicant has addressed these policies.
- Major issues identified in the Staff Report include:
 - Off-site light and glare of the site and how it may affect residents across Roy Rogers Road to the north. The site is currently being constructed as a mixed-use residential and commercial development known as Hunters Ridge.
 - Road improvements that will be reviewed by the City Engineer.
- In conclusion, Staff is recommending approval of the application with conditions.

Terry Keyes, City Engineer noted the following conditions related to improvements on Roy Rogers Road, which is a Washington County facility:

- The City requires 8-foot sidewalks, street trees and typical “acorn” style street lights.
- After completing the Staff Report, it was determined that an 8-foot sidewalk already exists along the site.
- The City is recommending street trees in the landscape strip and the applicant is proposing street trees be located outside the sidewalk, between the fueling station and the sidewalk. This is acceptable by the City.
- The City is recommending street lights be placed along the site on Roy Rogers Road.

The following items were submitted for the record:

- June 1, 2004 letter from Perkins-Coie in response to issues presented in the Staff Report dated May 24, 2004.
- Reference #1 through Reference #4, submitted by the applicant that included information on IESNA RP 33-99, recessed Scottsdale series and Encore flat series lighting.
- June 1, 2004, memo from Jeff Kleinman re: SP 04-03/CUP 04-01 (Safeway).
- June 1, 2004, paper from Gary Spanovich, AICP and Frank Charbonneau, PE re: transportation elements of the application.

- June 1, 2004, memo from David Ramberg, Economic Insight, Inc. regarding the Safety fueling station application.
- Photographs taken by George Johnston of Safeway fueling stations in Damascus and Madras, Oregon and a vacant Texaco station in Madras, Oregon.

Chair Emery asked if the applicant wished to provide testimony.

Mark Whitlow, representing the applicant, Perkins-Coie, 1120 NW Couch, 10th Floor, Portland, Oregon 97209, addressed the Commission. Mr. Whitlow introduced David Pickett, Interface Engineering; Diane Phillips, Safeway Real Estate Manager; Derek Burris, Safeway Fuel Representative; Duncan Wallace, Project Manager RHL; and Chris Brehmer, Kittelson & Associates. Mr. Whitlow thanked City Staff for the recommendation of approval and noted:

- Referring to Page 9 of the Staff Report and Condition 7B on page 18, the 35-foot additional setback standard. Section 2.302.01 of the Code requires additional setbacks along streets based upon the functional classifications of the street. The critical language of the code is that “additional setbacks shall be measured at right angles *from the centerline of the street.*” The Staff Report indicates that the proposal does not meet the additional 35-foot setback criterion because “the kiosk is proposed to be set back 30 feet from the *property line.*”
- The applicant submits that the additional setback requirements of Section 2.302 are different from normal setback requirements. The RC zone does not have a front yard standard, it has a zero setback. Why would one setback be measured from the property line or right-of-way line and another measured from the centerline? The applicant believes the additional measurement from the centerline anticipates facilities that have not been improved to their functional classifications.
- The Safeway shopping center has been fully built-out, except for this pad. Building #5, Starbucks, which is across the drive-isle from the proposed fuel station was built with the Safeway proposal and was sited by measuring the 35-foot additional setback from the centerline, not from the property line or right-of-way. Consistent and proper reading of the Code should deem the application as being in compliance with the 35-foot additional setback standard.
- Regarding agency comments on pages 4-5 of the Staff Report, off-street improvements on Roy Rogers Road and Condition C2, page 18 – The 8-foot sidewalk is already there. The applicant is proposing some street trees along the frontage of the site. What is before the Commission is a “pad development” internal to the approved shopping center (City File SP 99-17). Road improvements were conditioned with the previous application for the shopping center.
- It was originally anticipated that the use for this pad when built-out would be a use that was more intensive – conceptually shown as a bank with drive-thru. Traffic information was previously submitted to the City. The fueling station being proposed constitutes a net reduction in the off-site traffic impacts. Under the principles of the *Dolan case*, if they are not adding anything by way of net increase to the impacts, there is nothing to exact. There is no nexus or proportionality. The developer mitigated the impacts for the whole shopping center, including this proposed use that is less intensive. The application should not be conditioned for off-site improvements that the shopping center has already paid for.

- Since the Staff Report was written, the applicant has conferred with the City Engineer regarding the CAP Ordinance. The applicant believes the proposal is less intensive than the use for the site that was covered by the Traffic Impact Study when the center was approved. Therefore, the applicant is in compliance with the CAP Ordinance or is otherwise exempt from it.
- With regard to lighting, the General Commercial (GC) zone across Roy Rogers Road allows uses that are more intensive than what is allowed in the RC zone. The applicant has offered to lower the wattage, reduce the number of fixtures and lower the footcandles. The wattage under the canopy will be reduced from 400 watts to 250 watts (300 watts being average), the number of fixtures would be reduced from 16 to 12, the foot-candles under canopy on average would be reduced from 82 to 40. The Staff Report does not reflect these changes because it was already drafted. The document referred to in the Staff Report with regard to lighting is the 1999 edition. The applicant has referenced the 2001 edition.
- The 2001 edition suggests the pump island portion of the service station footcandles be at 30 on average under canopy and the applicant is prepared to meet this standard.
- In response to Ms. Lafayette question, the applicant will be applying for a separate sign application for the site. They are not proposing signage at this point and any signs shown on the plans are conceptual. The Commission could apply a condition that any signage is subject to additional review by the City Staff.

David Pickett, Interface Engineering, 708 SW Third Avenue, Suite 400, Portland, Oregon 97204, addressed the Commission. He referred the Commission to additional materials submitted, Reference 1, document from Illuminated Engineering Society of North America (IESNA) and Reference 2, Recommended Practices (RP), number 33. He noted:

- IESNA RP 2-01, gas service station, has a recommended light level of 30 footcandles for medium illumination. The lamp wattage has been reduced to 175 watts. The applicant feels this would be an appropriate illumination.
- The recessed Scottsdale series lighting was originally going to be used (Ref #3). Now the applicant proposes to use the Encore flat lens series (Ref. #4). The light will be flush to the canopy and shielded so there will not be any drop lens that will be illuminated. This will mitigate the glare.
- The Luminaire Schedule addresses the light trespass that was discussed in the Staff Report. The applicant has met the Staff Report criteria for light trespass.
- In response to Mr. Allen's question, IESNA is the standard that is published by the organization. It is recognized most in North America as the standard. The organization is made up of lighting professionals, scientists, engineers, and manufacturers that are joined by committees. Changes in standards are a result of technical studies of functions for better visibility for the type of function.

Mr. Whitlow addressed the Commission.

- The applicant talked to Staff about specific stations not to emulate. The proposed station will have wattage that is under the wattage of the Safeway station in Madras, Oregon which uses flush-mounted fixtures.

- The proposed fueling station is virtually one-half the size compared to the first station proposed by the applicant. It will be located on a different pad on the site.
- The existing buildings on the site will provide a buffer for the homes located along Borchers Drive.

Duncan Wallace, RHL Design Group, 1550 140th Avenue NE, #100, Bellevue, Washington 98005, addressed the Commission. Mr. Wallace confirmed that the attendant kiosk will have minimal lighting at the front where the cashier service is taking place.

Ms. Lafayette asked several questions about ingress and egress from the proposed station and safety issues related to traffic going in and out of Starbucks on a regular basis. She thought extending the landscape strip along the right-in from Roy Rogers Road would help. She referred to the applicant's elevation of the site.

Chris Brehmer, Kittelson & Associates, Inc, 610 SW Alder, Suite 700, Portland, Oregon 97205, addressed the Commission.

- They have looked at the driveway circulation extensively both in terms of getting a fuel truck in to the site and traffic coming in and out of the site.
- There is a right-in, right-out driveway from Roy Rogers Road to the site. Rather than bringing traffic into the main intersection, they can peel off into a right turn as soon as they enter the shopping center.
- To exit the pumps going out to the main drive isle there is enough sight distance to see both ways. He did not think there was going to be a traffic circulation problem.

Mr. Whitlow said this would conclude their initial presentation. They would answer any questions and reserve further response to their rebuttal.

Mr. Wechner responded to the applicant's testimony regarding additional setbacks, Section 2.302.01. The Commission should address the interpretations of both Staff and the applicant and make a finding. Staff would not disagree with using the latest edition of the IESNA standard. Regarding traffic circulation, directional arrows or additional striping could help traffic flow.

Mr. Keyes said the City Attorney should address the applicant's comments regarding *Dolan*.

Mr. Whitlow said the 35-foot setback does result in an additional setback on the site because otherwise they could build to the property line. The additional setback would be about 11 feet. The recommended lower wattage for the station lighting seems to be inconsistent with the requirement for acorn-style street lights along the front of the site.

Chair Emery noted that the acorn-style street lights are shielded and drive the light down. A good example of the acorn-style lights are those located along Sunset Boulevard in Woodhaven.

Chair Emery called for proponent testimony. There being none, Chair Emery called for opponent testimony.

Roger Harris (opponent), Attorney, representing the Hunter's Ridge Homeowners Association, 5000 SW Meadows Boulevard, Suite 400, Lake Oswego, Oregon 97035, addressed the Commission. The Hunter's Ridge HOA is the development directly north of the proposed site on Roy Rogers Road.

- The Hunter's Ridge project is located in the General Commercial (GC) zone and two more mixed-use buildings are proposed for the site. The first building is under construction.
- The HOA is opposed to the proposed application for several reasons:
 - The HOA felt the service station issue was settled three years ago when the first proposed gas station was eventually denied by City Council.
 - They proceeded with the Hunter's Ridge project under the assumption that a high-volume gas station would not be located directly across the street. This has been one of the selling points for the proposed condominiums and prospective ground floor retail space tenants.
 - The original Safeway shopping center plan proposed either a day-care center or drive-thru bank on this pad. These uses are substantially different than a fueling station.
- The HOA is concerned about the rental values for the commercial portion of the building.
- There is already a gasoline station in the neighborhood and that is the Shell Station.
- The HOA is concerned about traffic impact and lighting.
- If the application is approved, the HOA would suggest two conditions be attached to the approval. The right-turn in to the site from Roy Rogers Road should be extended from Borchers Drive. The street trees should be evergreen to help buffer the noise and lighting from the site, be at least 6 inches in diameter and 25-30 feet in height.
- The Commission should condition the applicant to include signage with the application. The lighting issue cannot be resolved without this information.
- In response to Ms. Lafayette's question about the acorn-style lighting, these lights provide an additional safety feature. The HOA is concerned about any additional lighting that is not necessary for public safety.
- In response to Ms. Lafayette's question about day-care centers generating more trips during the AM/PM peak hours, he is not an expert, but he agrees with this assessment.

Mr. Allen asked who made assurances to the Hunter's Ridge Homeowners Association that the use would be a day-care center or drive-thru bank.

Mr. Harris responded that he did not know if anyone specifically made assurances, but when an inquiry was made they were told that these uses were planned for the site. Some of the homeowners were told the application for a gas station was denied. These statements were not from City Staff, but from the people that are developing the site and the realtors who are listing the property.

Mr. Allen said the point today would be the same as when the developer of Hunter's Ridge was the applicant for the gas station. If you are going to be living next to a commercially zoned property, it would be prudent to check with the City to see what is allowed in that zone.

Eugene Stewart (opponent), PO Box 534, Sherwood, Oregon 97140, addressed the Commission. Mr. Stewart said his only concern is that the egress from the site to Roy Rogers

Road has a limited sight distance. You cannot see cars traveling toward Highway 99W until it is too late. They may be putting in too much landscaping and this will further decrease the sight distance. This is a safety issue.

Dorothy & John Alto (opponents), PO Box 1090, Sherwood, Oregon 97140, addressed the Commission. The Alto's own the Sherwood Chevron Station. Ms. Also noted:

- They have a vested interest and are semi-experts about traffic in and around service stations. They have operated their business for 31 years.
- People using a service station drive wherever they want regardless of driveways, width of driveways, directional arrows or signs on a fence. They drive where they want to go. They have had people actually drive diagonally through the pump islands.
- On a Friday in May 2004, during the peak hours, their business had a traffic count of 215 cars using their site in a 2 hours and 15 minute time period.
- Service stations have adequate lighting for security purposes as well as for attracting customers.
- Considering a community need for another gas station, Sherwood already has three service stations in the immediate area. All of their volumes have decreased. Two news stations have opened in the area since the last Safeway service station application – a Space Age Fuel near King City and a Chevron on Tualatin-Sherwood Road closer to Tualatin.
- The existing service stations in Sherwood are all able to take on more volume. You don't have to lose 50% of your business to go broke; you only need to skim off the first 20% to have a negative impact on your business. She did not want to see any of the stations in Sherwood close or go out of business.

Mr. Also said they have 12 fueling positions and they are certainly not pumping to capacity at this time. Their volume has fallen since the last application two years ago.

Jeff Kleinman (opponent), Attorney representing Enserv LLC (owner of Sherwood Shell Station), 1207 SW Sixth Avenue, Portland, Oregon 97204, addressed the Commission. Mr. Kleinman said they have an organized presentation for the Commission from Gary Spanovich and David Ramberg. Frank Charbonneau is not available at this time. He distributed a memorandum dated June 1, 2004, and asked that the record be left open for seven (7) days for additional written comments.

- He has reviewed the current application as well as the previous application made in 2000. He was familiar with the public need requirements in 2000 and the change in the ordinance requiring a demonstration of overall community need. The issues that the applicant seems to dwell on are minor, such as the *Dolan* issue pertaining to a couple of street lamps. The entire application, in their opinion, is demonstrably defective.
- The applicant has the burden of proof. This is a conditional use application and these types of applications are not taken lightly. Conditional use applications have a long list of criteria which apply. The applicant has not met its burden of proof on at least three of the criteria.
- The applicant has not proven its threshold argument that it is exempt from the City Capacity Allocation Program (CAP). The applicant argues that the trip generation at the proposed gas

station will not exceed the trips associated with the approved Sherwood Crossroad development. He believes that the CAP should be applied to the application.

- There is no way that the proposed gas station will not create a lot more traffic than a drive-thru bank. The applicant stated that by reducing the number of pumps from 16 to 8, the number of trips is reduced by one-half. This is totally incorrect. Frequently, pumps are idle. If you eliminate one-half of the pumps, it does not mean you are eliminating one-half of the business. It does mean that at peak times, especially if you are a discount store, perhaps selling below cost as Safeway is said to, you are going to have enormous fueling and traffic safety problems as a result of a very small, inadequate site with inadequate room for fueling and intense demand for gasoline.
- With regard to the vesting argument and traffic generation, the Staff Report states Staff will not dispute this at this time.
- It is untrue that the issue of need is no longer necessary to be shown by the applicant. Rather than a requirement of demonstrable public need and analysis of alternative available sites, the following language is in subsection C, "The granting of the proposal will provide for a facility or use that meets the overall needs of the community." This is the "need" portion. "...and achievement of the goals and/or policies of the Comp Plan." This is the overall needs of the community.
- The Commission has already heard compelling testimony from the Altos. The City does not have an overall need for more gas stations. The three existing stations in Sherwood have seen decreased volume in pumping.
- The Shell station is contiguous to the Safeway shopping center. What is the overall community need for another service station?
- Subsection D of the CUP criteria requires that surrounding property will not be adversely affected by the use or the adverse effects of the use on the surrounding uses of the neighborhood or City as a whole are sufficiently mitigated by the conditions proposed. Obviously, the Shell station which is directly contiguous is going to be adversely affected. This can't be mitigated. The applicant must show adequate mitigation on surrounding use for Hunter's Ridge.
- Subsection E of the CUP criteria provides that the impact of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features of the site. The next testimony will persuasively show that the applicant has not met the burden of proof that this particular site can accommodate the proposed fueling facility.
- In summary, three of the CUP criteria have not been met and the CAP ordinance must be applied.

Mr. Allen asked if it would be Mr. Kleinman's position that the net result of any CUP is that any commercial use that requires a conditional use effectively is precluded from entering the community if that same use exists somewhere else in the community? He asked if there was some threshold of economic impact that could be applied.

Mr. Kleinman said the answer is not to a mathematical certainty. In land use things rarely can be arrived at with mathematical certainty, but there are rules that can be applied. He does not read the CUP ordinance as being quite that Draconian. This case rises to the level Mr. Allen describes. Traditionally, under land use law, conditional use applications are very difficult for the applicant to meet the burden of proof. There is a much wider range of criteria. The City of

Sherwood has modified the CUP criteria, but there is still a need element. He discussed the three criteria in more detail.

Gary Spanovich (opponent), PO Box 1067, Canby, Oregon 97013, addressed the Commission. Mr. Spanovich was the former Transportation Planning/Engineering Director for Clackamas County. He will be joined by his colleague from Charbonneau Engineering. He is a transportation planner for Charbonneau Engineering.

- As a transportation planner and public works official with a 30-year career, he is most concerned about the public good in this case.
- He referred the Commission to photographs of the site showing traffic on Roy Rogers Road taken during the peak hours on Thursday, May 27, 2004. The peak hours at this location exist from 4:00 PM to 6:30 or 7:00 PM.
- The pictures show in front of the pad where the Safeway station is proposed, how traffic backs up from Highway 99W. This is the reality of what is happening and this is not a level of service (LOS) A, B, C or even D. This is a level of service E and F.
- The traffic analysis that has been submitted does not show the actual operating condition of what is out there. All you have is some reference to the 1999-2000 traffic study that was submitted with the original Safeway application that had a build-out scenario that included a bank pad.
- A service station and drive-through bank are two totally different uses. The ITE Manual has two different traffic trip generation characteristics. The ITE manual states a service station will generate about 1300 trips per day.
- The traffic analysis does not show a current year LOS analysis for this particular intersection or Highway 99W and Roy Rogers Road or the segment between. It is not accurate to state that the proposed use will not have an impact on traffic.
- The traffic study was accurate in saying the station would generate 1350 trips per day, but then it made some assumptions on drive-by traffic and internal trips, i.e., going to Safeway as a destination and then using the service station.
- Models and traffic studies are predicted. These are guesses. Now, the analysis should be done to find out what the existing LOS is and you can see from the photographs that traffic backs up during peak hours. This true impact of the service station will show that there is a need for infrastructure improvements on Roy Rogers Road.
- The proposed service station does fall under the City CAP ordinance because traffic backs up from one of the legs of the Highway 99W intersection and Roy Rogers Road.
- The Commission owes it to the citizens to receive information that clearly shows the impact of the proposed Safeway fueling station.
- Based on what he has reviewed, he would recommend denial of the application.

Ms. Lafayette asked what infrastructure improvements would resolve the traffic problem.

Mr. Spanovich responded that he was not asked to prepare a LOS analysis, so this would need to be done first. Relevant to the 1999-2000 Traffic Impact Study, the conditions are worse now than what it predicted. The impact of the Hunters Ridge development and proposed fueling station must be included in this analysis. The ITE Manual trip generation for a bank is listed at about 40.

Terry Keyes said he did not disagree with Mr. Spanovich. The intersection does fail, especially at the Roy Rogers Road and Highway 99W intersection. It may be improved somewhat when the additional lane is built in front of Albertson's. The problem is that the models for the Transportation System Plan show that this intersection should work better than it does. ODOT has structured the timing on the lights so that it makes it very difficult for it to work as smoothly as we would like. ODOT sets the timing so that everything is coordinated on 99W through Sherwood. Washington County controls the lights on Roy Rogers Road and Tualatin-Sherwood Road and these are just randomly timed. They are not coordinated with the lights on 99W. The issues that were brought up are things that Washington County would require because it is their facility. Washington County did not provide any updated comments on this application.

David Ramberg (opponent), Economic Insight, 3004 SW First Avenue, Portland, Oregon 97204, addressed the Commission. He provided one copy of his report. Additional copies will be mailed to the Commissioners. He noted:

- The location and size of the site seem to be inadequate for the proposed fueling station.
- The proposed fueling station is below average in size, especially when considering other gas stations sited in shopping centers.
- The 76 Station across Highway 99W is located on a 40,000 square foot pad. It appears the proposed Safeway fueling station will be located on a 12,000 square foot pad.
- The entrance to the proposed station from the pump with a queue of as few as 3 cars behind the car that would be pumping would appear to extend out into the entry driveway.
- If traffic is slated to come from near Building 3A and 3B, and then go through the gas station from the southwest corner, as few as 6 or 7 cars would start to block traffic that was parked at these two buildings. Furthermore, the southwest traffic pattern would probably have to be prohibited altogether because one of the other conditions is that the fueling truck would have to appear between 8:00 AM and 8:00 PM. The tanker truck may block or be blocked in by this traffic pattern from the southwest direction.
- The Kittelson & Associates trip generation comparison appears to be a scientific traffic assessment, but there are some serious issues regarding both the source and usage of the data that is presented. It appears that all of the data that supports the analysis outside of the ITE Trip Generation Manual, 7th Edition, came from Safeway Stores, who is affiliated with the application itself and is hardly an independent source.
- The data suggests that more than 1 out of every 3 cars using the gas station are also getting groceries is further suspect considering that it conveniently concludes the net traffic generation from a fueling station would be less than that of a bank. He did not do an independent analysis of their study.
- The actual data from the Trip Generation Manual states that a gasoline or service station will create 1345 daily trips versus a drive-in bank of 1040 trips. Kittelson & Associates manages to lower the net traffic number is by applying the 36% internalization number to the gasoline and service station. However, they do not apply that same methodology to the bank.
- The two methodologies would have to be identical for both sets of data for the comparison to be valid in the end. This would lead to an "apples to oranges" as opposed to "apples to apples" comparison.

Mr. Allen asked if this same problem would hold true if there were preferential member pricing for the proposed gas station that would distinguish it from a typical gas station as calculated in the ITE Manual?

Mr. Ramberg said he did not have enough information to make an informed opinion.

Mr. Spanovich stated that gas station traffic is of three trip types:

- Drive-by traffic that is already on the arterial and will just pull in and pull back out.
- Traffic using the gas station as a destination. This traffic goes out of its way to come to the particular use.
- Internal trips where there is a shopping center and a number of trips are made as part of the internal circulation.

The impacts on the system are mostly from the destination trips. He would suggest that discount gasoline, and normally Safeway discounts their gas by 3 cents per gallon if you use your Safeway card, more than likely this will be a destination-type gas station and the impact will be greater than what the analysis shows.

Mr. Ramberg continued with his testimony.

- An apples to apples comparison would be 370 more net trips per day for a gasoline service station than a bank. This removes the internalization numbers.
- By adding the internalization figures to the bank would be 291 more net trips for the gasoline service station. Either way the total number of net trips would be increased for the shopping center as a whole. The CAP ordinance should be put into effect.
- He explained how the petroleum industry is broken down and how gasoline is sold so the Commission could make a distinction between different types of ownership. There are basically two types of categories – branded and unbranded gasoline. Within these two categories are three kinds of ownership – company ownership structures, lessee-dealer structures and independents.
- For the benefit of the community, it would be in the best interest of Sherwood to maintain locally owned businesses because all of the benefits from the profits of that business would be accrued to the local community. It appears that the ownership structure of the Safeway fueling station would be a company-owned, unbranded gas station, in which the head corporation would be the primary benefactor of the business and most of the profits would be expatriated outside of the City.
- In conclusion, the adjacent Shell station would be a much better match for Safeway. It already exists, is sited and has easy access to Borchers Drive and Highway 99W. It would be much cheaper for Safeway to buy the station and build an access for from the corner of the Safeway store parking lot to this station.

Frank Charbonneau (opponent), Charbonneau Engineering, 9370 SW Greenburg Road, Portland, Oregon 97223, addressed the Commission. Mr. Charbonneau noted:

- He supports the testimony presented by Mr. Spanovich. They have discussed the project within the past couple of days. He has not had an opportunity to make a full evaluation of his own.
- If the record is held open, he would like an opportunity to provide this written evaluation. This would include further study on the existing conditions, traffic safety at the surrounding intersections and adjacent streets and the on-site circulation.
- He would also like to evaluate the trip generation according to the ITE rates.

George Johnston (opponent), family owns Shell Station, 21321 Old Kruger Road, Sherwood, Oregon 97140, addressed the Commission. He distributed photos of the existing Safeway fueling stations in Damascus and Madras, Oregon. He noted:

- His biggest concern is safety. The person who transports Safeway's fuel told him that they have to have a person at the site to unlock the tanks. They only have about a 2-3 hour window to unload the trucks.
- The trip generation, 1365 trips per day, is pretty close for a one-tanker load facility. The proposed fueling station is going to be a hyper-marketer that will be receiving three truck loads of fuel per day. Either they have to have about 45,000 gallons of fuel storage compared to the other hyper-marketer or they will need three tanker loads per day which they cannot do.
- The City of Sherwood growing, but his station is not doing that much volume. The reason is there are four other gas stations in the marketing area. In addition to the two previously mentioned, there is a new Chevron station on the end of Murray Hill. There is also the new Costco gas station in Wilsonville.
- The proposed site for the Safeway fueling station is too small for what they want to pump. He has been in the gas station business for 15 years, looked at a lot of sites, and has built two gas stations.
- If you have that much traffic on Roy Rogers Road and the fueling islands are full, how are you going to put out a fire. There is no access for the fire safety equipment.
- The photographs show how much traffic is generated at other Safeway gas stations. He also took pictures of a Texaco station in Madras that closed after the Safeway fueling station opened.

Chair Emery asked if there was any further opponent testimony. There being none, Chair Emery recessed the meeting at 9:10 PM for a 10-minute break. The regular meeting reconvened at 9:20 PM.

Mr. Wechner said because of the volume of material that have been submitted and what may be submitted after leaving the written record open for seven days, Staff would recommend continuing the application to a date certain. This would allow the applicant to prepare their rebuttal.

Chair Emery asked Mr. Whitlow if the applicant would agree to continue the public hearing, beginning with the applicant's rebuttal, to the June 15, 2004 Regular Commission meeting.

Mr. Whitlow said in view of the time this evening, the applicant would agree to the continuance as well as toll the 120-deadline for the two week period of time.

Mr. Kleinman said he had some concerns. Mr. Whitlow said the applicant's right to rebut is inclusive of the ability to put in additional information. That is what rebuttal is all about. The applicant also has the right to make final argument as stated in the statute.

Patrick Allen moved the Planning Commission continue SP 04-03/CUP 04-01 Safeway Fueling Station Site Plan and Conditional Use to the June 15, 2004 Regular Commission meeting for the purposes of receiving applicant rebuttal, final argument and further Staff comments on materials received, leaving the written record open for seven (7) days to June 8, 2004 at 5:00 PM, and the applicant tolling the 120-day deadline for 14 days. Seconded by Jean Lafayette.

Vote for Passage of Motion: 6-Yes, 0-No, 0-Abstain

**5B. SP 04-08/CUP 04-02 Sherwood Civic Building Site Plan and Conditional Use
Chair Emery opened the public hearing and called for the Staff Report.**

Jean Lafayette announced she had attended all of the public open houses for the civic building. This did not affect her decision-making process or cause her to have any bias. She also had a conversation with Ann Rosberry regarding one of the original plans, but not the plan being shown tonight.

Patrick Allen announced he participated in SURPAC meetings where this project was discussed extensively. However, those discussions and his participation were limited to the economic impact of the facility, its general location and he did not talk about issues related to the site plan or design.

Adrian Emery announced that his wife is the Director of Acquisitions at the Tigard Library. This does not influence his decision-making process.

Dave Wechner referred the Commission to the Staff Report dated May 26, 2004, a complete copy of which is contained in the City Planning File SP 04-08/CUP 04-02 Sherwood Civic Building Site Plan and Conditional use. He noted:

- The proposal is for a New City Hall and Library for the City of Sherwood to be located on a 1.4 acre site.
- The building has components for City Hall offices and library, a community meeting room space, and 1250 square feet of retail space in a two-story building.
- The landscape plan has been refined identifying plant species that were not included in the original plan submittal.
- The City Engineer will comment on how this building will tie into the downtown streetscape master plan and public facilities such as water and sewer.

- The required findings include compliance with the Old Town Design Standards. The applicant has addressed these in their submittal. Staff found that the application meets these standards.
- The conditional use criteria have been addressed in the Staff Report. The Urban Renewal Plan identifies the need for a civic building and library to serve downtown Sherwood.
- One of the issues that have come up in the public open houses is parking. The Cannery portion of Old Town states that parking shall be no more than 65% of the minimum. The Metro parking standards do not require parking standards for a library. The site plan shows parking that is in excess of the requirement.
- Oregon Street will be closed and become a pedestrian pathway with landscaping and a bike path. The main access to the site will be from Oak Street into a parking lot and the pedestrian access to the front of the building will be at Oregon and Pine Streets.
- The current library has 20 spaces in front of the library with 12 being used most of the time. The Robin Hood Theater parking lot will eventually become another building in downtown Sherwood.

Chair Emery asked if the applicant wished to provide testimony.

William Dann, Thomas Hacker Architects, 733 SW Oak Street, #100, Portland, Oregon 97205, addressed the Commission. He was joined by Steven Simpson, Thomas Hacker; and Bryan Cole, Walker-Macy landscape architects, 111 SW Oak Street, Portland, Oregon 97204. He noted:

- They have been delighted to be the architect for this project. This is the first library they have done that includes a civic building. The project was started with a list of goals that were developed by the committee that Sherwood put together to guide the process. He reviewed the goals in detail as related to the Sherwood design guidelines.
- He read a statement, "As a welcoming and inclusive center, the civic building will bring together government, library services, and the City of Sherwood with a high degree of public involvement in the community. The building will be central to the City's historic context while serving as a catalyst for urban renewal and set the standard for future development. The building will be well made, enduring and functional. The methods and materials of construction will provide lasting values. The facility will be efficient to maintain. The civic building will reflect the City of Sherwood's commitment to being well organized, efficient and approachable. It will express the spirit of a professional entrepreneur form of government."
- He referred the Commission to the site plan elevations identifying the building location, surrounding existing and future development and streetscapes.
- The building will have entrances from the parking lot and Pine Street.

Byran Cole discussed the development of the site plan.

- Vehicular access will be from Oak Street to the parking lot. The parking lot will have 41 spaces. There will be one standard disabled parking space and one van disabled parking space. There will also be over-sized parking stalls for City vehicles. The book drop will be located in the parking lot.

- Oregon Street along the front of the building will become a pedestrian way made of concrete paving with cobble.
- The plaza is in the front located along Pine Street. A small reading garden is located on the back side of the building.
- Samples of the building materials, cobble and pavers were shown to the Commission.
- Pre-cast benches will be located throughout the site.
- The reading garden will have a flag pole and be enclosed by a small brick wall with an ornamental grating.
- The plantings will be a mixture of evergreen, deciduous materials and perennial plants that meet the requirements of Chapter 5 landscaping.

Mr. Dann discussed the building plan layout. Within the vestibule you will come to a fairly low ceiling space that may have wood on it and be adjacent to a very high ceiling area. This space will be almost two stories high with very dramatic tree-formed metal steel columns and wood ceiling. He showed the Commission a picture of the Bend library that is similar in style. Most of the City Hall space will be located on the second floor. The community room is next to the reading garden on the first floor. The exterior of the building will be brick and “flashed” brick with pre-cast concrete panels. The building will have a very high performance glass that will block out UV light. He reviewed the Old Town Design Guidelines and how this building meets those guidelines.

In response to Mr. Allen’s question, Mr. Dann said the skylights will be set back from the front of the building. They will be at a 45 degree angle to catch the northern sunlight.

Ms. Lafayette said the application seems to be missing some key elements that would be required of other applicants. She asked if this would be setting a precedent for future applications.

Mr. Wechner said with regard to buffering, if a site plan application is adjacent to a 40-foot right-of-way that is being landscaped, the finding would be that it meets the buffering setback. This portion of Oregon Street is going to be a fairly unique feature. This will apply to future developments in the 2.5 block area along Oregon Street.

Mr. Keyes said Oregon Street improvements should be finished at about the same time as the civic building is completed. Engineering has recommended conditions to deal with the utilities.

Mr. Henry asked if the applicant could respond to fencing between the reading garden and the railroad tracks. Mr. Simpson said the fence material will be such that a book cannot be passed through it.

Ms. Lafayette asked how the signs that the applicant refers to as “artwork” meet Code requirement of 20% and how will this affect future applications? Mr. Wechner read the definition of signs, “An identification, description, illustration, or device which is affixed to or represented directly or indirectly on a building, structure or land which directs attention to a product, place, activity, person, institution or business.” The Planning Commission has some leeway to determine whether this is called art or a sign.

Chair Emery asked if there was any proponent testimony. There being none, Chair Emery called for opponent testimony.

Eugene Stewart, PO Box 534, Sherwood, Oregon 97140, addressed the Commission. Mr. Stewart noted:

- He asked why the Landmarks Advisory Board was not reviewing this application and providing a written recommendation.
- The Landmarks Advisory Board has a lot of merit.
- Oregon Street is being shown as changed. He asked if a land use decision had been made for this change. He said as a surrounding property owner he had never been notified of this change.
- He asked what authorization SURPAC had to make land use decisions.
- He would like to see some actual “numbers” on how this site plan application was going to help other Old Town businesses.
- The height of the proposed street trees will hide the building.

Mr. Keyes said the City adopted the downtown street standards two years ago and the draft TSP is also recommending this change. The 1991 Transportation Plan laid out an issue at the Oregon Street crossing by the fire station when Adams Street was built. The City provided a design alternative for the alignment that would meet the adopted 1991 plan. This included moving Oregon Street over to First Street. This is not a land use action and does not require landmarks approval.

Mr. Allen read from the Code regarding the Landmarks Advisory Board (LAB) and their powers and duties (Section 9.301.03). The purpose of the LAB is to recommend “designated” historic buildings and review any changes to those building that are “designated” landmarks in the City. The City of Sherwood does not have any “designated” landmark sites. The City has an Old Town Overlay District.

Chair Emery called for any further opponent testimony. There being none, Chair Emery asked if the applicant wished to provide any rebuttal testimony. The applicant declined any rebuttal.

Chair Emery closed the public hearing on SP 04-08/CUP 04-02 Sherwood Civic Building Site Plan and Conditional Use for Commission deliberations.

Ms. Lafayette restated that she was concerned about the City setting a precedent on allowed signage. The applicant has presented that the panels are artwork, but other similar construction might be considered signs. Her other concern was that the modern, impressionistic trees were not in compliance with Old Town design standards and created a more modern look than a traditional evergreen tree design.

Mr. Balza said after touring some of the other buildings designed by Thomas Hacker, he was more comfortable with the proposed site plan having a high quality of work that the citizens of Sherwood could be proud of.

Mr. Allen said he appreciated the applicant applying more architectural details to meet the Old Town Design Standards into the building design. He did have concern about how the skylight features will look.

Patrick Allen moved the Planning Commission approve with conditions SP 04-08/CUP 04-02 Sherwood Civic Building Site Plan and Conditional Use based on the applicant's testimony, Staff report, public comments and Commission discussion. Seconded by Kevin Henry.

Vote for Passage of Motion: 5-Yes, 1-No (Lafayette), 0-Abstain

6. New Business

The Commission thanked Dave Wechner, Planning Director, for his assistance during his employment with the City. He has resigned his position effective June 4, 2004.

7. Adjourn

There being no further business to discuss, Chair Emery adjourned the regular Commission meeting at 10:45 PM.

END OF MINUTES